
From: Jane MacLeod [GRO]
Sent: Sun 14/04/2019 6:57:25 PM (UTC)
To: Ruth Cowley [GRO]; [GRO]
Glenn Hall [GRO]
Cc: Ben Foat [GRO]; Diane Blanchard [GRO]
Subject: FW: Postmaster Litigation - Update CONFIDENTIAL AND SUBJECT TO LEGAL PRIVILEGE - DO NOT FORWARD

Ruth, Glenn

It would be helpful have a discussion with you tomorrow (Monday) if possible on the developments below, as well as on 'ways of working'. I am keen to ensure that the Board has confidence that you have been properly briefed, and that we ensure that we have an opportunity to discuss matters ahead of the board so that if there are points of difference, we are both aware of them in advance.

I can rearrange my diary tomorrow to suit – and if it would be more convenient, I can come to your offices.

Kind regards,

Jane

Jane MacLeod

[GRO]

From: Jane MacLeod
Sent: 14 April 2019 18:05
To: Alisdair Cameron [GRO]
Cc: Rodric Williams <[GRO]>; Mark Underwood ([GRO]
<[GRO]>; Angela Van-Den-Bogerd <[GRO]>; Ruth
Cowley [GRO] [GRO]; Glenn Hall
[GRO]
Subject: Postmaster Litigation - Update CONFIDENTIAL AND SUBJECT TO LEGAL PRIVILEGE - DO NOT FORWARD

Al

As you will recall from Thursday evening's briefing, we filed the application with the Court of Appeal in relation to the recusal application late on Thursday afternoon. We received a response from the Court of Appeal on Friday which provided as follows:

1. No stay of Horizon trial until permission to appeal the recusal decision is granted. This is not unexpected and doesn't change our position;
2. Claimants have until Thursday 25 April to file their submissions in relation to the Recusal appeal; and
3. Appeal on Common Issues is not currently before the Court of Appeal so is immaterial as regards the recusal application – see commentary below.

In relation to 3, we had flagged in the covering letter to the Court of Appeal that we were considering an Appeal on the Common Issues judgment, although the letter acknowledged that (a) the hearing for permission to appeal before Mr Justice Fraser had been scheduled for 16 May 2019; (b) if PO did appeal, then the Court of Appeal may wish to coordinate the management of the two appeals; and (c) PO hoped to furnish the Court of Appeal with draft Grounds of Appeal for the Common Issues Judgment before the end of April.

Following receipt of the letter from the CoA, Lords Neuberger and Grabiner have been in discussion over the weekend

and believe that, if we propose to appeal on the Common Issues judgment, we should seek to file the appeal documentation as early as 25 April, and that the consequence of this is that we would appeal directly to the Court of Appeal without first approaching Mr Justice Fraser. They remain of the view that a joint hearing of the Appeals is the best option, and they recommend that we write to the Court of Appeal this week stating that we expect the Appeal documentation in relation to the Common Issues judgment to be filed on 25 April, so that the Court of Appeal can consider whether the two applications should be heard together.

I have asked WBD to discuss a series of procedural questions with Lords Neuberger & Grabiner relating to these options – particularly as regards the direct approach to the Court of Appeal, and it's possible that the best way to understand the implications will be to have a call with them – possibly tomorrow as we know they are both available then, although I appreciate that you are at the NFSP conference.

One of the actions arising from Thursday evening's discussion was to set up a further session ahead of the Board sub-committee, and it would be useful to work through these options at such a meeting ahead of the Board sub-committee after Easter, however please note that David Cavender is not available this week, and I do not expect that either of Lords Neuberger or Grabiner will yet be as close to the detail of the specific grounds of appeal, their background and significance, as David is.

If the two appeals are heard together then we will need to reconsider the question of representation, and my proposal would be that we jointly instruct Lord Grabiner and David Cavender in relation to both appeals, with Lord Neuberger playing a 'behind the scenes' role (as currently envisaged) to advise on the scope and presentation of the grounds of appeal.

I will keep you updated on progress, and am obviously happy to have a conversation on any of the above should that be helpful.

Jane



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