

From: Cooper, Tom - UKGI[/O=HMT/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=8D968D43E33749AE9E59F9C9350E69D5-COOPER, THOMAS (TCOO)]

Sent: Wed 20/03/2019 9:46:14 AM (UTC)

To: Clark, Mpst (BEIS) [REDACTED] **GRO**

Cc: Tolhurst, Mpst (BEIS) [REDACTED] **GRO**; Aldred, Tom - UKGI [REDACTED] **GRO**; Clarke, Stephen - UKGI [REDACTED] **GRO**; Clark Spad, Mpst (BEIS) [REDACTED] **GRO**; Permanent Secretary [REDACTED] **GRO**; Evans, Gareth (BEIS) [REDACTED] **GRO**; Watson, Richard - UKGI [REDACTED] **GRO**; Lambert, Lucie - UKGI [REDACTED] **GRO**; Fox, Joshua - UKGI [REDACTED] **GRO**; Watson, Craig (Advanced Manufacturing and Services) [REDACTED] **GRO**; Vandini, Cecilia (Advanced Manufacturing and Services) [REDACTED] **GRO**; Beckett, Richard (Finance & Portfolio) [REDACTED] **GRO**; Lambert, Gavin (Advanced Manufacturing and Services) [REDACTED] **GRO**

Subject: Re: Official Sensitive: Post Office Litigation Update

Stephen
Please could you take care of this with help from Richard and Josh.

Tom

Sent from my iPhone

On 20 Mar 2019, at 09:39, Clark, Mpst (BEIS) [REDACTED] **GRO** wrote:

Hi Tom,
SoS has asked to see a summary of the court judgement. The Perm Sec said that p.1122-1135 of the judgement provided a an 'executive summary' sort of thing – grateful if you could share those pages on this chain.
Thanks,
Bex

Rebecca Lowe, Private Secretary to the Rt Hon Greg Clark, Department for Business, Energy and Industrial Strategy

Tel: [REDACTED] **GRO** | Mobile: [REDACTED] **GRO**
Email: [REDACTED] **GRO**

From: Tolhurst, Mpst (BEIS) [REDACTED] **GRO**

Sent: 19 March 2019 18:19

To: Cooper, Tom - UKGI [REDACTED] **GRO**

Cc: Aldred, Tom - UKGI [REDACTED] **GRO**; Clarke, Stephen - UKGI [REDACTED] **GRO**; Clark Spad, Mpst (BEIS) [REDACTED] **GRO**; Permanent Secretary [REDACTED] **GRO**; Evans, Gareth (BEIS) [REDACTED] **GRO**; Watson, Richard - UKGI [REDACTED] **GRO**; Lambert, Lucie - UKGI [REDACTED] **GRO**; Fox, Joshua - UKGI [REDACTED] **GRO**; Watson, Craig (Advanced Manufacturing and Services) [REDACTED] **GRO**; Vandini, Cecilia (Advanced Manufacturing and Services) [REDACTED] **GRO**; Beckett, Richard (BEIS) [REDACTED] **GRO**; Lambert, Gavin (Advanced Manufacturing and Services) [REDACTED] **GRO**

Subject: RE: Official Sensitive: Post Office Litigation Update

Hi Tom,

I would suggest picking this up once we have an update following any discussions between SoS/Kelly this evening.

Kelly has a debate tomorrow afternoon so it is likely it would be early evening if a call is to take place.

Please let me know if and when the decision to make an application has been made.

Thanks,
Jess

Jessica Tysoe

Private Secretary to Kelly Tolhurst MP
1 Victoria Street, London, SW1H 0ET

GRO GRO GRO

From: Cooper, Tom - UKGI GRO
Sent: 19 March 2019 18:12
To: Tolhurst, Mpst (BEIS) GRO
Cc: Aldred, Tom - UKGI GRO; Clarke, Stephen - UKGI GRO; Clark Spad, Mpst (BEIS) GRO; Permanent Secretary GRO; Clark, Mpst (BEIS) GRO; Evans, Gareth (BEIS) GRO; Watson, Richard - UKGI GRO; Lambert, Lucie - UKGI GRO; Fox, Joshua - UKGI GRO; Watson, Craig (Advanced Manufacturing and Services) GRO; Vandini, Cecilia (Advanced Manufacturing and Services) GRO; Beckett, Richard (BEIS) GRO; Lambert, Gavin (Advanced Manufacturing and Services) GRO
Subject: Re: Official Sensitive: Post Office Litigation Update

Should I put Tim Parker and Al Cameron on notice for a call tomorrow then? Please note that Tim Parker is out of the country at the moment and he might be hard to reach especially at short notice.

Tom

Sent from my iPhone

On 19 Mar 2019, at 17:15, Tolhurst, Mpst (BEIS) GRO wrote:

Hi Tom, and thanks to Stephen for his email earlier,

I briefly discussed this with Kelly over the phone and as expected she has concerns. Immediately she said she would raise with SoS, I have flagged this to his office, and I believe she has already contacted him.

She agreed that they shouldn't do anything until after the decision has been made at the board meeting/call tomorrow and it is likely that she will want another call with Tim Parker and Al Cameron after this to ask them to explain their reasoning behind their change of mind.

I will keep you updated on any outcomes of her discussion with SoS.

Kind regards,

Jess

<image003.png>

Jessica Tysoe
Private Secretary to Kelly Tolhurst MP
Parliamentary Under Secretary of State
Department for Business, Energy and Industrial Strategy
1 Victoria Street, London, SW1H 0ET
GRO | GRO
www.gov.uk/beis | <https://twitter.com/beisgovuk>

From: Aldred, Tom - UKGI <GRO>
Sent: 19 March 2019 16:24
To: Clarke, Stephen - UKGI <GRO>; Tolhurst, Mpst (BEIS) <GRO>
Cc: Clark Spad, Mpst (BEIS) <GRO>; Permanent Secretary <GRO>; Clark, Mpst (BEIS) <GRO>; Evans, Gareth (BEIS) <GRO>; Watson, Richard - UKGI <GRO>; Fox, Joshua - UKGI <GRO>; Lambert, Lucie - UKGI <GRO>; Fox, Joshua - UKGI <GRO>; Watson, Craig (Advanced Manufacturing and Services) <GRO>; Cooper, Tom - UKGI <GRO>; Vandini, Cecilia (Advanced Manufacturing and Services) <GRO>; Beckett, Richard (BEIS) <GRO>; Lambert, Gavin (Advanced Manufacturing and Services) <GRO>
Subject: RE: Official Sensitive: Post Office Litigation Update

Jess

We spoke. To confirm, POL have a Board call tomorrow at which they will take the decision. The strong legal advice is that the minister should not be involved in this decision. We advise the best time for a call with POL would be after a decision has been taken, so that POL could explain their reasoning for the change of mind (if that is the case), since the weekend's call with the minister

Tom

Tom Aldred, Post Office Shareholder Team, UKGI
T: GRO | M: GRO

From: Clarke, Stephen - UKGI
Sent: 19 March 2019 15:49
To: Tolhurst, Mpst (BEIS) <GRO>
Cc: Clark Spad, Mpst (BEIS) <GRO>; Permanent Secretary <GRO>; Clark, Mpst (BEIS) <GRO>; Evans, Gareth (BEIS) <GRO>; Watson, Richard - UKGI <GRO>; Fox, Joshua - UKGI <GRO>; Lambert, Lucie - UKGI <GRO>; Fox, Joshua - UKGI <GRO>; Watson, Craig (Advanced Manufacturing and Services) <GRO>; Cooper, Tom - UKGI <GRO>; Aldred, Tom - UKGI <GRO>; Vandini, Cecilia (Advanced Manufacturing and Services) <GRO>; Beckett, Richard (BEIS) <GRO>; Lambert, Gavin (Advanced Manufacturing and Services) <GRO>
Subject: Official Sensitive: Post Office Litigation Update

Official Sensitive and Subject to Legal Privilege – do not forward outside this distribution

Jess,

As discussed with Tom and Craig, see below an update for the Minister on POL's response to Friday's judgement. I also attach POL's first report on the second (Horizon Issues) trial that started on 11 March.

"As you know POL have been considering possible grounds of appeal. One of those grounds is that the judge has acted in a procedurally unfair way by making findings of fact which are not relevant to the determination of the common issues trial and upon which there had not been full disclosure between the parties, both of documents and witness evidence. Part of POL's argument on appeal is that the judge has improperly allowed his findings on post contractual events to influence his ruling on what the terms of the contracts were between POL and Postmasters. That is legally impermissible. Linked to this unfairness issue is a real concern that the Judge made findings of fact in such a way as to betray a prejudice to POL which means it would no longer be fair for the Judge to continue to hear the proceedings in the current and any future trials. As you are aware, the judge is currently hearing the second trial, which started on 11 March, and POL feel that the findings in the first trial may adversely impact the fairness of the litigation. Given all the above, POL appear likely to make an application for the judge to take no further part in the litigation (i.e. to recuse himself from proceedings).

Applications for recusals such as this are rare, especially in circumstances that do not involve a conflict of interest on the part of the judge, but rather are based on procedural unfairness. If such an application is made, it is likely to generate significant media attention. However, POL have taken additional legal advice from very senior barristers who have not had any prior involvement in the case and so have an independent viewpoint. While the legal advice could change, the current legal advice is a clear recommendation in favour of seeking a recusal. Tom Cooper's feedback from the recent POL board call on this topic is that the board are not enthusiastic about making this application but feel there is no option given the additional legal advice received. This is particularly the case given that the second trial is currently being heard by the same judge and includes testimony from witnesses who have been discredited in the first judgment.

The advice from BEIS Legal and UKGI Legal is that BEIS officials/Ministers and the shareholder NED should not be involved in POL's formal decision-making on the recusal application, although they may participate in discussions and hear the advice from POL's legal team. A final decision on whether to make this application is likely to be made on Wednesday 20 March. If POL decide to proceed we will let you know and provide defensive lines. If you require further detail on the legal arguments underpinning the application for recusal we can arrange a call to include Post Office."

Stephen Clarke | Post Office Shareholder Team

UK Government Investments

Corporate finance and governance in government.

1 Victoria Street | London | SW1H 0ET

T: GRO |
E: GRO

This email and any files transmitted with it are intended solely for the use of the individual(s) to whom they are addressed. If you are not the intended recipient and have received this email in error, please notify the sender and delete the email. This footnote also confirms that our email communications may be monitored to ensure the secure and effective operation of our systems and for other lawful purposes, and that this email has been swept for malware and viruses.

This email has been scanned by the Symantec Email Security.cloud service.
For more information please visit <http://www.symanteccloud.com>

This email has been scanned by the Symantec Email Security.cloud service.
For more information please visit <http://www.symanteccloud.com>
