

To: Rodric Williams [GRO]; Watts, Alan [GRO]; Massey, Kirsten [GRO]
Cc: Ben Foat [GRO]; Watson, Richard - UKGI [GRO]; Henderson, Tom [GRO]
Sent: 2019-05-28T07:48:45Z
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Subject: RE: Post Office Group Litigation - SUBJECT TO LEGAL PRIVILEGE - DO NOT FORWARD
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Tom Cooper
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From: Rodric Williams [mailto:[GRO]]
Sent: 21 May 2019 12:37
To: Cooper, Tom - UKGI [GRO]; Watts, Alan [GRO]; Massey, Kirsten [GRO]
Cc: Ben Foat [GRO]; Watson, Richard - UKGI [GRO]; Henderson, Tom [GRO]
Subject: RE: Post Office Group Litigation - SUBJECT TO LEGAL PRIVILEGE - DO NOT FORWARD

Thanks Tom.

I see we have a call scheduled for 4pm to discuss the facts raised by the Lead Claimants in the Common Issues trial. I therefore attach a table of facts for Abdullah which we can work through to see if this provides the information you are seeking.

On the other points raised in your email:

- In the appeal, we are currently challenging the issues of fact in the first list of the attached “one-pager” because even if they are true for an individual claimant (they may not be), that does not make it true for every postmaster who has run a Post Office branch.
- The key point here is that we do not want to accept adverse factual findings which bind the entire Claimant Group when they have not been fully investigated and interrogated.
- The process of fully investigating and interrogating the factual position should take place through the trial/s to determine whether we breached the postmasters’ contracts, when a fully informed view can be taken on the facts.
- The Judge was therefore wrong to delve prematurely into the factual position in the way he did in the Common Issues judgment, which is the overarching “procedural unfairness” ground of the appeal.

- On the issues of fact in the second list of “one-pager”, we are challenging Bates’s contract formation because it relates to an admissible pre-contractual matter, namely what documents Bates had when he entered into his contract with Post Office.
- This contrasts to other issues raised in the judgment, such as the content of Mr Abdullah’s branch accounts, where it is not always clear whether the Judge is making a finding, but which are often post-contractual and out of scope in the Common Issues trial.
- The other matters raised in the second list relate to the performance of Post Office witnesses and trial conduct, which are relevant for later trials where those and other Post Office witnesses may give evidence, and/or go to how much Post Office may have to pay to the Claimants for their legal costs of the Common Issues trial.

Overall, the full content of the appeal, including the scope of the factual challenges, will be reviewed after the hearing on 23 May 2019 when we ask the Judge for permission to appeal.

I hope that is helpful but please let us know if not. Alan, Kirsten, Tom H – please supplement or comment on the above as necessary.

Kind regards, Rod

From: Cooper, Tom - UKGI [mailto:] GRO
Sent: 17 May 2019 07:41
To: Rodric Williams < GRO >; Watts, Alan < GRO >; Massey, Kirsten < GRO >
Cc: Ben Foat < GRO >; Watson, Richard - UKGI < GRO >
Subject: RE: Post Office Group Litigation - SUBJECT TO LEGAL PRIVILEGE - DO NOT FORWARD

Thanks Rod

If there are items in your first list (1-13) that are generally true, why would we appeal them?

On B, it bothers me that the only fact in the lead cases we can point to where we seem to have concrete evidence that Fraser got it wrong is whether Bates saw the contract. Are there no others?

Take as an example Abdulla where Fraser says there were some errors in the make-up of the outstanding balance at the time he was audited and terminated. If it turns out that (for example) he didn’t owe the post office any money at the time he was terminated then he should not have been terminated or prosecuted. The consequences of that are far greater than any issues in the Bates case it seems to me.

So if you’re saying we don’t need to challenge these findings at this stage, I’d like to understand why we’re picking out the Bates contract point as being so special.

In general, I still want to go through the lead cases on a call and I assume the table that Ben outlined in his earlier email is still being prepared so we can go through them?

Tom

From: Rodric Williams [mailto: [REDACTED] GRO]
Sent: 16 May 2019 17:08
To: Cooper, Tom - UKGI < [REDACTED] GRO >
Cc: Ben Foat < [REDACTED] GRO >; Watson, Richard - UKGI < [REDACTED] GRO >
Subject: Post Office Group Litigation - SUBJECT TO LEGAL PRIVILEGE - DO NOT FORWARD

Tom,

Further to your telephone conversation with Ben yesterday, please find attached a “one pager” listing the issues of fact being appealed from the Common Issues judgment because an individual claimant’s experience has been extrapolated to a finding applicable to the entire postmaster community, and those being appeal because we disagree with them (i.e. because they were not open to the Judge on the evidence and/or are perverse).

Please let us know if you need anything further in this regard.

Separately, we have raised with the external legal team the issue of the costs of the recusal application given its stark dismissal by the Court of Appeal. We will let you know how this progresses.

Kind regards, Rod



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