

Message

From: Alisdair Cameron [GRO]
Sent: 29/06/2019 08:12:44
To: Tim McCormack [GRO]
Subject: Re: The error , Catch 22 and Some other thoughts ,....

Tim thanks so much, I have a half written email to you in my drafts so this is very timely.

I appreciate that the last years have made it very difficult to have easy and open conversations but I do think that a shared desire to do the right thing for Post Offices gives us many shared views.

I also understand why you will work straight through to prosecutions etc but my belief is that if we and Postmasters are communicating openly then these issues should not lead to that. I am delighted you liked the approach, that is how it should always be - and quicker - transparent and open as well as fixing and solving issues so no one is anxious or out of pocket.

What would therefore also be best is people telling us what is happening and I am sure you will have seen the extra investments in field teams to build more trust and dialogue. You know that I think we have work to do on culture, that is no secret.

You also raised the scanning issue but in checking back we can find no issues or differences arising - if we are missing something please encourage people to bring it to my attention.

Obviously I can't talk about the litigation and I won't - but I promise that we won't let our thinking be dominated by continuity of advice or positioning.

I talk to a lot of Postmasters and how we engage them in the running of the business as we drive to alignment and shared interests based on mutual trust is absolutely something I am thinking about. It won't be a quick process.

With that caveat, I would therefore be delighted to meet Helen - let me know if that is what she would like also.

I don't know how long I will be doing this job, maybe only a few more weeks but do feel free to communicate any any time.

Kind regards Al

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From: Tim McCormack [GRO]
Sent: Saturday, June 29, 2019 8:34 am
To: Alisdair Cameron
Subject: The error , Catch 22 and Some other thoughts ,....
Dear Al

May I first point out the obvious that I am aware that my thoughts and opinions are of little or more likely no consequence at all given my position. I hope though that you may take some of what I am about to say into consideration.

First may I congratulate your team on how they have handled the error that was reported to you last week. The MBS that was issued was good to see and reflects I think

a clear change in attitude towards dealing with such matters. I note that your team are speculating, as I did with you, that the error is down to malfunctioning hardware. It certainly wouldn't surprise me if this were the case. (this is something you might like to hear a little bit more about perhaps - as a member of various forums I have access to 2 or more thousand SPMRs and assistants posts and over time I can see patterns emerging that are being continually re-confirmed)

It seems to me that in your position you have unfortunately inherited quite a mess, not least the present trial and the consequences of the potential outcome.

At some point in the past a decision was taken to defend this matter at all costs. That original decision has been subsequently confirmed and as the CEO now you are clearly responsible for the continuation of the trial and unfortunately the consequences.

There comes a time though in any trial where the decision to continue against all odds becomes a bad one and as the trial has progressed I have considered more and more the possible rationale for POL to do so. You clearly rely on advice on this matter and one of my thoughts has been who has been providing that advice and how would they benefit. From the legal team's perspective, offering advice to continue and to incur additional costs through delay and appeals benefits both sides financially. While it is certainly a high profile case, neither legal team will sustain permanent damage to their reputation should they lose while walking away with a considerable amount of money. In fact a cynic might suggest that the losing team will rely on the pressure of their clients to continue in the face of mounting evidence against them as an excuse for their failure.

I would assume though that the original decision to defend this trial was taken on the proper grounds that the claimants had no grounds and no prospect of success. Surely now it is becoming clearer, through disclosure, that that original premise is now flawed.

There is no better example of this than this week's error. As I mentioned previously, this hitherto unreported error causes a significant gain for the Subpostmaster and as we know, according to their contract, gains may be removed by the SPMR for their own account. Notwithstanding this though, attempting to keep this money causes POL a loss obviously but it is also a crime under the Theft Act, known as Theft by Finding. The only recourse POL would have to recover this money from a SPMR if he insisted it was rightfully his or he knew nothing about such an amount, would be through the courts. This would become then the complete reversal of the current trial. POL would HAVE to prove in court that an error in Horizon existed. They would have to prove all countermeasures had failed. They would have to require the court to interpret the applicable causes of the contract and the implied terms.

It is indeed a Catch 22 situation. Yet it gets worse and this is the key point if you consider what you would need to have in place to prevent this happening.

Should the SPMR's assistant who accepts the REM pocket the cash what could POL do then? You can't use the contract to recover the money from the SPMR because it was a gain although he personally did not gain from it. If you did try to do that then the SPMR joins the present claimants and no doubt wins. If you tried to prosecute the assistant

then you have no evidence whatsoever that he did so other than he processed the REM correctly.

What is missing in all of this and is I believe the most important part of the longer term solution to the problems highlighted in the trial is the absence of POL controlled CCTV imagery. Installing such CCTV equipment in each branch is not as far fetched an idea as you might imagine. You are after all doing that already in some branches. The best example I have is London Transport who operate 10,000 buses each of which have 10 cameras installed. They think it is cost efficient to do this and I think it is in POL's best interest's to do so too. There can be no doubt whatsoever had CCTV imagery been available from the inception of Horizon there would be no trial today!

The contractual issues that have been raised in the trial so far need to be addressed and there is also the imminent CWU employment tribunal to consider. I believe that the best option for you is to issue a new contract to all subpostmasters that covers all the points of contention, is clear and unambiguous with no need for implied terms. With regard to the worker status element I think there is a need to address that from a political perspective given that it is likely that at some time in the short to medium term you could be faced with a Labour Government. My solution would be to accept that there is an element of personal service required in each contract and define that. You could provide each contact holder with a set number of hours per week to cover personal service obligations - say two or three hours. That would limit your exposure to future claims and provide an expense that could be budgeted for and incorporated into transaction remuneration payment calculations.

The Catch 22 continues if you agree that these suggestions have some merit because while the trial progresses the changes you can make to the operation of POL are curtailed by the prospect of the changes being used as evidence of the shortcomings in the past to which the claimants look to support their cases.

I know I don't have all the facts that you have but I have probably got a greater insight to the views and prospects from a claimant's perspective. There is no greater evidence of their prospects of winning this case than what is revealed in the transcript of the Seema Misra trial. Absolutely appalling behaviour from those concerned in bringing her case before a court and failing to disclose material evidence which has now been produced in court in this trial. I would dearly love to convince you that this is the case but it would need some time which I doubt you have.

Some time ago I wrote a piece on my blog about the email chain from Paula produced in court where she asked her team what was the truth about remote access to branch accounts. I took the view that it was a sincere request and not as others had suggested a request for an excuse to provide to the select committee. My views didn't go down well but I still think that the truth no matter how difficult it was, was what she was after. What came back to her, revealed in the emails, was an attempt to provide her with the answer they thought she wanted to hear. I think that is one of the problems still facing you. Your team and those below them believe in a truth that is not supported by the evidence. The road to perfection cannot exist if employees believe that everything works as it should. I think it should be self evident now that the opinions that originally

supported POL's refusal to accept the Claimant's issues are not backed up by fact and are tarnished by the culture of treating SPMRs with disdain.

So there comes a time when you, now as CEO, has to re-affirm your intent to continue fighting this litigation and in doing so commit more substantial amounts in legal fees. It would take a brave man now to consider the option of halting the proceedings in favour of a settlement but if you did put that forward as a preferred option to the board then at least you would be protecting your position should the end result be as I expect. I can only hope I suppose!

Finally there is one challenge that I know you are keen to address and that is the culture within POL. The most irritating aspect of that from a SPMRs point of view is the "them and us" attitude. I recall meeting with Sue Huggins at Old Street and at one point she declared in a response to an idea of mine about SPMRs - "We won't let them" - this while I as a SPMR was sat in front of her - sounds trivial but it really stuck in my craw.

That culture is propagated by the incestuous nature of employment within POL and the career progression from Crown Office counter clerk to management. There is as far as I know no former SPMRs in such a role in your organisation and that really needs to be addressed. I acknowledge of course there is a wide range of expertise within SPMRs past and present ranging from none at all to some really capable individuals. There is one lady in particular who would make such a difference to your organisation. Even news of her appointment to a senior management role would be met with great approval and give a huge confidence boost to the morale of the network. I don't know if you have come across her in the past but her name is Helen Baker - no relation to Mark. She is a former EC member of the NFSP and was also chairwoman of the CWU SPMR branch. Notwithstanding HR rules, if there was a suitable position for her in your team, she would be the perfect candidate. I would respectfully suggest that employment opportunity or not you sit down with her and hear her views. I can guarantee that you will be delighted to have done so.

Sorry for this long email - perhaps you will just assign it to the bin maybe not - I would be delighted if you gave it some consideration particularly with regard to Helen. I am meeting her tomorrow in London as we will both be attending the trial for the closing arguments. I won't be mentioning what I have suggested though.

I nearly forgot .. with regard to the error .. it was interesting to note on the chat forums a similar thought to my own that may have allowed for an earlier detection of this. It seems to both of us that there is a reconciliation report missing - one that should reconcile amounts accepted into Branch Accounts from REMS against amounts sent out from the Cash Centres on a daily basis - I can't actually believe that one does not exist but then again this is POL I am now pretty certain that this error caused the discrepancy of £10k that was reported on the chat forums some months ago so it has been going on for some time.

Kind regards

Tim