

From: Fleming, Joshua - HMT
Sent: Sun, 1 Dec 2019 20:50:32 +0000
To: Cooper, Tom - UKGI; Alex Chisholm
Cc: Watson, Richard - UKGI; Aldred, Tom - UKGI; Carl Creswell; Scott, Joshua - UKGI; Duffy, Philip - HMT
Subject: RE: Mediation

Thank you for the update Tom. I will not be contactable tomorrow, so please speak to Phil (cc'd) if you need HMT approval for a proposed settlement.

Regarding the additional 77 postmasters, presumably if there is a settlement along the lines set out below, that could trigger further claims from other postmasters, notwithstanding the undertakings from Freeths. Do you have an estimate of the size of further claims that could potentially be brought by these 77 postmasters?

Thank you

Josh

Joshua Fleming | Deputy Director | Corporate Finance, Business, Energy and Industrial Strategy Team | HM Treasury

GRO
 PA | Anna Kmiecik | GRO | Anna.Kmiecik | GRO

From: Cooper, Tom - UKGI <Tom.Cooper@GRO>
Sent: 30 November 2019 16:49
To: Alex Chisholm <Alex.Chisholm@GRO>
Cc: Watson, Richard - UKGI <Richard.Watson@GRO>; Aldred, Tom - UKGI <Tom.Aldred@GRO>; Carl Creswell <Carl.Creswell@GRO>; Fleming, Joshua - HMT <Joshua.Fleming@GRO>; Scott, Joshua - UKGI <Joshua.Scott@GRO>
Subject: Fwd: Mediation

Sent from my iPhone

Begin forwarded message:

From: Ben Foat <Ben.Foat@GRO>
Date: 30 November 2019 at 16:23:57 GMT
To: "Cooper, Tom - UKGI" <Tom.Cooper@GRO>
Cc: Alan Watts <Alan.Watts@GRO>, "Watson, Richard - UKGI" <Richard.Watson@GRO>
Subject: Re: Mediation

Hi Tom

They are just names on list (not claimants or even clients of Freeths). It was a comment made to Nick (in the absence of lawyers when he had his discussion with the claimants representatives). I understand that Alan Bates made reference that there was this list where other postmasters had similar experiences to the claimants in these proceedings. We do not have any other details - not even their names.

What we were thinking is that would request a copy of the list on the basis that the settlement agreement would need to make reference to them ie regarding the undertaking not to solicit etc apply explicitly to that list and all others. In this way we can ascertain the list. They may refuse to give the list over without the consent of those listed as apparently some were afraid to advise post office of the shortfalls. There may be, however, another way to get the list through Alan Bates (perhaps through offerings a moratorium not to take recovery action and work with the postmaster to find out what is not working for them).

We are discussing on Monday how best to go about this and will revert back.

Kind regards
Ben

Ben Foat
General Counsel
Post Office Limited

Ben.foat@postoffice.co.uk **GRO**

From: Cooper, Tom - UKGI <Tom.Cooper@postoffice.co.uk> **GRO**
Sent: Saturday, November 30, 2019 3:08 pm
To: Ben Foat
Cc: Alan Watts; Watson, Richard - UKGI
Subject: Re: Mediation

Ben

Do you have any more info on the 77 additional claimants mentioned in your email?

Tom

Sent from my iPhone

On 30 Nov 2019, at 11:25, Ben Foat <Ben.Foat@postoffice.co.uk> **GRO** wrote:

Morning Tom

- Overall, the parties made significant progress. The claimants last offer last night was £65m plus the £5.5 costs which POL was liable for in respect of the Common Issues Judgment. My sense is that we will be able to get them even lower. Our last offer remains at £40m.

- We are proposing to go back to the mediators over the weekend through Herbert Smith Freehills (HSF) where we instruct them that a 4th day of mediation on Monday would be helpful.
- Tactically I don't want your (or Tim's) formal approval yet but to contact Tim, yourself and Nick on Monday to obtain authority for £50m plus the previous £5.5m common issues judgment costs (which POL is already liable for – we can't argue these as they are already court ordered). The legal view is that settlement at that point would be an excellent result in respect of these proceedings. Our next offer on Monday is likely to be £45m plus the £5.5m costs.
- Settlement will be made by the parties signing a "Settlement, release and discharge" which will cover:
 - Financial settlement (as a global amount – not assigning individually – particularly because of the convicted claimants)
 - Release and discharge of these [civil] proceedings (which will cover the convicted claimants, but as discussed, will be difficult to cover malicious prosecutions).
 - Agreed statement by the parties (which we will review from both a legal and comms perspective)
 - POL's approach to the convicted claimants (not that we "consent" to their applications to the Court of Appeal to have their convictions overturned but more to do with our approach ie that we would take external QC expert advice on our ensuring that we comply with our legal obligations (for eg. disclosure obligations in respect of a published Horizon issues judgment to the CCRC).
 - POL would assist those claimants who wish to exit the business post settlement.
 - POL would waive or withdraw the proof of debt for those insolvent claimants.
 - Freeths and the litigation funder to give an undertaking not solicit or act for any further claimants against Post Office.

We are working on this draft document over the weekend. There is likely to be legal debate to ensure we are protected on the above points though there is likely to some degree of residual risk with the above points.

- Nick spoke to client representatives again and it was revealed that there was a "further list" containing 77 other postmasters who were not clients of Freeths but were known to have had similar problems as the claimants. The above mentioned undertaking will go some way to prevent any further claims but as discussed at Board we do need to be realistic that Post Office may receive a further tranche of claims after the successful resolution of these proceedings. It will however be better managed through an established process and the "clive"

quantum template so as to minimise disruption to Post Office's
BAU activity.

I will email you separately to update you on other GLO matters shortly.

I'm available this weekend if you want to discuss.

Have a great weekend in the meantime.

Kind regards
Ben



Ben Foat

Group General Counsel
Ground Floor
20 Finsbury Street
LONDON
EC2Y 9AQ

Mobile : GRO

From: Cooper, Tom - UKGI <Tom.CooperGRO>
Sent: Saturday, November 30, 2019 9:18:09 AM
To: Ben Foat <Ben.FoatGRO>
Cc: Alan Watts <Alan.WattsGRO>; Watson, Richard - UKGI
<Richard.WatsonGRO>
Subject: Re: Mediation

Great. Thanks

Sent from my iPhone

On 30 Nov 2019, at 09:10, Ben Foat <Ben.FoatGRO>
wrote:

Hi tom

I'm drafting an email to you now. You should have it in
about 5 minutes.

Kind regards
Ben

Ben Foat
General Counsel
Post Office Limited

Ben.foat: GRO

From: Cooper, Tom - UKGI <Tom.Cooper: GRO >
Sent: Saturday, November 30, 2019 9:08:55 AM
To: Ben Foat <Ben.Foat: GRO >; Alan Watts
<Alan.Watts: GRO >
Cc: Watson, Richard - UKGI
<Richard.Watson: GRO >
Subject: Mediation

Ben, Alan

Grateful if you could let us know where things stand currently.

Tom

Sent from my iPhone

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