

To: Andrew Parsons [a [REDACTED] **GRO**]
From: Rodric Williams [r [REDACTED] **GRO**]
Sent: Tue 06/11/2018 6:51:41 PM (UTC)
Subject: Suggested text to PV

Andy – as discussed, can you please take a look at the bullets below and email or call me with any comments:

Paula,

Ahead of tomorrow's Opening Submissions in the Group Litigation Common Issues trial, I promised you some headline bullet points on what the parties may say, based on the lengthy written legal submissions already filed with the Court:

- Before the Claimants "open", we will probably have to deal with some incidental case management issues, including agreeing a process for addressing the Judge's plans for a third trial in May 2019.
- Patrick Green QC will then speak to open the Claimants' case. We anticipate his key themes to be that:
 - o it is unfair to place significant legal burdens on postmasters when they are not in full control of all branch operations.
 - o the postmaster contracts should be interpreted in a wider context which reflects what the Claimants say actually happened when running a branch.
 - o additional terms need to be implied into the contracts to reflect better the long-term, interdependent relationship between Post Office and postmasters, and to counteract an imbalance of power in favour of Post Office.
 - o Post Office has been evasive in explaining our case on implying terms into the postmaster contracts.

(In our written submissions, we anticipated the Claimants would make the final point, and sought to neutralise it given the lengths we went to in correspondence, formal court documents and in meetings to explain our case.)

- David Cavender QC will speak for us in the afternoon. His main themes will be that:
 - o the law is clear: the words on the page of the contract should be followed, with extra terms implied only when "necessary".
 - o the Claimants have not explained why it is necessary to imply into the contract the terms they seek, whether by reference to the text of the contracts or any commercial imperative.
 - o the Claimants instead try to re-write (with hindsight) the contracts for their own benefit, in a manner which goes against well-established legal principles.
 - o fundamentally, postmasters are business people and agents of Post Office, who are in charge of their branches and have control of branch operations. There is therefore nothing unfair about making them responsible for their conduct of branch operations, which includes making them responsible for branch losses.

I will provide an update following the conclusion of tomorrow's proceedings. Please let me know if you require anything further in the meantime.

Kind regards, Rod



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