



# Briefing Paper

Meeting on 17 October 2018

with

Kelly Tolhurst MP, Parliamentary Under-Secretary for the Department for Business,  
Energy and Industrial Strategy (BEIS)

and

Alex Chisolm Permanent Secretary for the Department for Business, Energy and  
Industrial Strategy (BEIS)

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## Table of Contents

	<u>Page</u>
1. Executive Summary	2
2. Background to the Litigation	6
3. Key issues at Trial in November	9
4. Operational Improvements already Underway	11
5. Contingency Planning	12
6. Communications Strategy	14
7. Settlement Options	17
8. Next Steps	18

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# 1. Executive Summary

## Context

- 1.1 Post Office Limited has been requested to provide a briefing to the Parliamentary Under-Secretary of the Department for Business, Energy and Industrial Strategy ('BEIS') and to the Permanent Secretary for BEIS on the upcoming "Common Issues" trial in the Post Office Group Litigation, *Alan Bates & Others v. Post Office Limited*, in the Queen's Bench Division of the High Court of Justice of England and Wales, before Mr Justice Fraser commencing on Monday 5 November 2018.

## What is the case about?

- 1.2 The case represents the culmination of a series of campaigns by disaffected postmasters and others (including a number of MPs on both sides) who believe that Post Office wrongly attributed branch losses to those postmasters and that as a result, they suffered financial and reputational harm. A theme of these campaigns is that flaws in Horizon (the in-branch point-of-sale IT system) were the cause of these losses.
- 1.3 The Managing Judge has determined that the case will be heard in a series of trials. The first, which is to be heard in November, will address a series of 'Common Issues' - essentially, to determine as a matter of legal construction, the proper meaning of the contract between Post Office and its agents, and whether certain additional terms should be implied into the contract.
- 1.4 Post Office's external Counsel believe that Post Office has the stronger arguments on most of the Common Issues, nevertheless they caution that Post Office is unlikely to be successful on each and every one of the Common Issues, given the judicial tendency to provide a degree of balance between the parties. In their view the areas likely to be most problematic for Post Office are the clauses dealing with suspending and terminating postmaster contracts (including the length of notice to be provided), withholding remuneration during periods of suspension, and imposing liability for branch losses - which turns on the question of whether a shortfall of cash or stock in branch causes an actual 'loss' to Post Office.

## What will be the impact of the decision?

- 1.5 Neither the Common Issues trial in November 2018 nor the Horizon Issues trial in March 2019 will address questions of breach, causation and loss - therefore there will not be any award of damages as a result of either of these trials.
- 1.6 Post Office has a continuous programme of operational improvement and the outcome of the case will not affect that approach. In conjunction with our external legal team, management has assessed the likelihood of adverse outcomes and the operational and financial impacts of such decisions. While there are a number of areas which Counsel consider to be more problematic, Post Office management believe that the operational impact of an adverse outcome on these issues is manageable. Those arguments which would have the greatest adverse impact on Post Office, are assessed by Counsel as being less likely outcomes.

- 1.7 Nevertheless, Post Office has developed contingency plans against the possible outcomes and is currently aligning these with the operational improvement programmes, and developing other risk based mitigation plans.

How much attention will it attract?

- 1.8 While we do not expect there to be any material 'new news' to emanate from the trial, there are some reporters and media outlets who have been covering these issues over a long period, and significant interest from the group of 561 claimants. We are therefore preparing for significant adverse media attention during and after the trial.
- 1.9 Nevertheless, and consistent with the management of media around the Panorama programme in 2015, and the BIS Parliamentary Select Committee enquiry in 2015, Post Office believes that with an effective communications strategy this media interest will be short lived; and that our planned response should materially defuse any adverse impact.
- 1.10 We are also taking steps to increase our proactive media campaign to highlight the wider story of the Post Office's commercial success and innovative future.
- 1.11 We are therefore launching brand campaigns in the Midlands and London/SE during October and November, and we will attempt to generate media interest in positive stories on the Banking Framework, the acquisition of Payzone which is expected to complete before the end of October and digital innovation, as well as the annual Christmas campaign.

#### Engagement with Major Stakeholders

- 1.12 Post Office management has regularly apprised the Post Office Board of developments in the case since its commencement, and over the last 12 months has maintained a regular dialogue with UKGI to ensure that the Shareholder was aware of developments. At this stage Post Office believes that any remedial actions will be within the authority of the Post Office Board as set out in the Articles of Association. However it is possible that certain outcomes could trigger a request for shareholder involvement. These could include settlement discussions (which Post Office believes are unlikely to be attractive to the Claimants unless they exceed c£30m), and consequential impacts such as a loss of confidence in the Post Office such that significant numbers of agents withdrew from the network, thus impacting the Network size criteria.

#### Settlement

- 1.13 The Post Office Board has regularly considered whether settlement options should be explored. While the financial and operational impact of an adverse outcome would be material, settlement prior to the Common Issues and Horizon trials would not, of itself, resolve the wider underlying issues, and Post Office would remain open to similar complaints from current and former postmasters who were required to make good branch shortfalls; this number would be material. Further, settlement would not resolve the issues of confidence in the Horizon system which are now beginning to have an operational and financial impact on the branch network.
- 1.14 While we are not expecting sudden changes in our need for support, whether that be political, financial or otherwise, Post Office has been asked to consider what, if any, support it may need during and subsequent to the upcoming trials.

Whilst we believe that our existing rules of conduct around delegated authorities coupled with the current levels of engagement are appropriate, we may need support in escalating conversations as required.

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## 2. Background to the Litigation

- 2.1 Transactions at Post Office counters are undertaken on the Horizon IT system. Post Office estimates that c50,000 people use the system each day across the network and that around half a million employees, agents or employees of agents have performed transactions on it since it was introduced in 1999.
- 2.2 In 2012 a small number of (mostly former) postmasters, under the banner of the "Justice for Subpostmasters Alliance" (JFSA) and with support from some MPs led by then MP (now Lord) James Arbuthnot, claimed Horizon had caused losses (shortfalls in physical cash against cash holdings recorded on Horizon) which postmasters had had to make good. In some cases postmasters had been prosecuted for these losses (usually for false accounting, theft or both); while, in other cases, they claim that it led to their contracts with Post Office being terminated causing them financial loss and other personal harm including bankruptcy, divorce, emotional distress, and in one case, suicide.
- 2.3 In response to these assertions, Post Office appointed independent forensic accountants Second Sight to perform a 'top down' examination of Horizon. Second Sight issued a report in July 2013 which concluded there was no evidence of system-wide (systemic) problems with the Horizon software but identified some areas where Post Office could have done more to support individual postmasters.
- 2.4 As a result Post Office set up a Branch Support Programme which led to the introduction of important new measures in areas such as branch operation practices, processes and support. Further, in the autumn of 2013 Post Office established the 'Complaint Review and Mediation Scheme' as an avenue for postmasters and counter clerks (both former and serving) to raise individual concerns. The scheme was set up in consultation with MPs, the JFSA and Second Sight and was overseen by a working group, chaired by a former Court of Appeal Judge.
- 2.5 From 150 applicants, 136 were accepted into the scheme. Many cases were based on allegations which were vague and or not supported by the evidence and no evidence of systemic flaws in the system was found; rather the investigations (by both Second Sight and Post Office) found that the most likely reason for losses in the majority of cases was "errors made at the counter" by the postmaster and or their staff.
- 2.6 The process of resolving cases became challenging in an environment increasingly driven by JFSA campaigning for large financial settlements which were not justified by investigation findings, and or for the scheme to be used as a platform for overturning postmasters' criminal convictions, which is something only the criminal courts could deliver (37 cases in the scheme involved criminal convictions).
- 2.7 Post Office has never publicly discussed the detail of the individual cases that were put forward (we promised confidentiality) and was therefore constrained in its ability to counter fully some of the media and Parliamentary criticisms generated by the JFSA's campaigning, which centred on some undoubtedly sad, but highly selective, histories of a small number of cases.
- 2.8 In the spring of 2015, following completion of all of our investigations, Post Office took the decision to offer mediation for all cases which remained in the

scheme except those that had been subject to a previous court ruling. This accelerated the scheme and also ensured that the commitments made to applicants at the outset were met.

- 2.9 The JFSA encouraged applicants not to take part in mediation but nevertheless 50% of cases where a mediation took place were resolved. Mediations were overseen by the Centre for Effective Dispute Resolution (CEDR).
- 2.10 Although a total of 41 applicants to the scheme were able to resolve their complaints, the JFSA was not satisfied with the outcome and continued its campaign against Post Office.
- 2.11 In recent years, the focus of the complaints by postmasters has expanded from issues with the Horizon IT system, to the alleged "unfairness" of the contract between Post Office and postmasters, and there has been significant lobbying by the JFSA of Parliament and through the media. Post Office considers that these disputes are now best resolved through the Courts.
- 2.12 In February 2016 it was reported that a group of postmasters had secured funding for group legal action and in April 2016, a High Court claim was issued against Post Office.
- 2.13 In March 2017, following a preliminary High Court hearing, a Group Litigation Order was made, following which statements of case were filed by the claimants and Post Office setting out their "generic" cases (i.e. as apply to the entire group of claimants). At a subsequent Case Management Conference in October 2017, the Managing Judge appointed to oversee the Group Litigation, Mr Justice Peter Fraser, determined that the litigation would proceed in at least three stages:
  - (i) a 20 day 'Common Issues' trial starting on 5 November 2018, the purpose of which is to determine issues common to all the claimants, focussing on the legal relationship between Post Office and postmasters, the proper interpretation of certain terms in the standard contracts Post Office enters into with postmasters, and whether further terms proposed by the claimants should be implied into those contracts;
  - (ii) (ii) a second 20 day trial starting on 11 March 2019 on 15 "Horizon Issues" concerning technical aspects of the Horizon system, which will be determined primarily on expert evidence (as opposed to individual users' experiences); and
  - (iii) (iii) one or more further trials which would address issues of breach, causation, loss and damages. On 27 September 2018 Mr Justice Fraser suggested that hearing time would be made available in May 2019 for such a further trial, the scope of and timetable for which is currently under consideration and has not yet been agreed.

#### Criminal Cases Review Commission (CCRC)

- 2.14 The CCRC has advised Post Office that it is nearing the completion of its reviews (commenced in 2015) into 33 Post Office prosecutions of former postmasters (31 of whom are claimants in the Group Litigation).
- 2.15 However, given that the CCRC's reviews touch on issues similar to those in the Postmaster Litigation (in particular with respect to Horizon), delivery of the CCRC's findings is likely to be delayed by the litigation.

- 2.16 We continue to liaise with the CCRC, respond to its requests for information, and seek information about the status of its investigations, mindful always of the need not to interfere with the independence of the CCRC's work.

#### Governance

- 2.17 Post Office has provided regular updates to the legal team within BEIS and UKGI on the procedural aspects of the litigation and therefore these are not further repeated here.
- 2.18 Governance of the litigation since it commenced in 2016 has included the following:
- (i) An internal 'steering group' mandated by the Post Office Group Executive to oversee the litigation. This has included representatives from across the business including those responsible for management of the agency network, the Head of Agents' Development & Remuneration, IT (in relation to Horizon issues), Finance, Communications, as well as internal and external legal counsel.
  - (ii) Regular briefings being provided to the Post Office Group Executive.
  - (iii) Regular updates being provided to the Post Office Board; in January 2018 the Board established a Board Litigation Subcommittee to oversee the progress of the litigation. That committee comprises the Chair, the shareholder appointed director, and the Senior Independent Director.
  - (iv) In addition, the CEO and CFOO have met with Post Office's external counsel<sup>1</sup> on several occasions, and external counsel briefed the Board Litigation Subcommittee in person following the issue of their Interim Merits Opinion in May 2018.

<sup>1</sup> Womble Bond Dickinson (led by partner Andrew Parsons) are Post Office's solicitors in this matter, and Anthony de Garr Robinson QC and David Cavender QC – both of One Essex Court, together with their respective juniors, Owain Draper and Gideon Cohen are representing Post Office in Court.



### 3. Key Issues at the Common Issues Trial

- 3.1 The Common Issues trial will not address issues of breach, causation or loss. Instead, the trial will determine the correct legal relationship between Post Office and its agents:

*"It has been set down for the express purpose of determining a list of 23 Common Issues in the context of Group Litigation, involving 561 Claimants who contracted with Post Office over a period of many years. The trial is to be conducted by means of Lead Claims. Six have been selected. But the Common Issues are not directed to determining the specific cases of the Lead Claimants alone. Rather, the Common Issues were defined by the Court, with the agreement of the parties, as generic issues "relating to the legal relationship between the parties" being Post Office and wider group of 561 Claimants, whose engagements spanned around 20 years."*<sup>2</sup>

- 3.2 The claimants have sought to have implied into the contract 21 additional terms which would imply a range of additional duties including – most importantly, a duty to investigate branch losses and determine their cause before requiring an agent to repay them.
- 3.3 The most important Common Issues concern the liability of agents for "losses". The claimants argue that Post Office needs to show that a postmaster's actions have caused Post Office to suffer a net economic detriment, not just that a branch's accounts ostensibly show a shortfall. Post Office's position is that if a shortfall is shown in the branch's accounts then, absent any cogent evidence to the contrary, the postmaster is liable for that shortfall given they are responsible for conducting the transactions recorded in those accounts, and for the Post Office cash and other assets used in those transactions.
- 3.4 Post Office has accepted that two additional terms should be implied into the postmaster contracts and which therefore obviate the need to imply the 21 terms sought by the claimants. Post Office's additional terms are that each party would:
- (i) refrain from taking steps that would inhibit or prevent the other party from complying with its obligations under or by virtue of the contract; and
  - (ii) provide the other party with such reasonable cooperation as was necessary to the performance of that other's obligations under or by virtue of the contract.
- 3.5 These terms in themselves present risk, given that the litigation covers events that happened over a significant period, during which a very large number of agents have worked with Post Office, such that it would be difficult for Post

<sup>2</sup> Quoted from the Claimants' skeleton argument ahead of the Case Management Conference to be heard on 10 October 2018.

- Office to assert with certainty that it never acted contrary to (i.e. breached) these terms.
- 3.6 Post Office's external Counsel believe that Post Office has the stronger arguments on most of the Common Issues. However they also caution that the areas likely to be most problematic for Post Office are the clauses dealing with suspending and terminating postmaster contracts (including the length of notice to be provided), withholding remuneration during periods of suspension, and imposing liability for branch losses. Counsel also note that Post Office is unlikely to be successful on each and every one of the Common Issues, given the judicial tendency to provide a degree of balance between the parties.
- 3.7 Witness evidence at the Common Issues trial will refer to Post Office's standard practices for contracting with new postmasters, and the circumstances of 6 'Lead Claimants'. This evidence should address what the parties understood about the contract and running a Post Office branch prior to entering into the contract.<sup>3</sup> Witness statements will not be read out in Court, and the Judge has stipulated a maximum of half a day for cross examination of each witness. There are 6 witnesses for the claimants, and 14 for Post Office.
- 3.8 To date, the claimants have only generically stated the remedies they are seeking from the Group Litigation, and in particular, have not formally quantified the level of the financial damages they are seeking from Post Office.

<sup>3</sup> The precise scope of the witness evidence that can be referred to during the Common Issues trial, and the issues to which that evidence can relate, was the subject of a hearing before Mr Justice Fraser on 10 October 2018. Mr Justice Fraser has indicated that he will provide his written ruling on this early in the week commencing 15 October 2018.

## 4. Operational improvements already underway

### Background

4.1 Post Office continually looks at how it can make improvements to the way its network operates and is managed – so as to benefit not only Post Office, but also its agents and customers. The following improvements are due to be operational within the next 12 months:

- (i) Updating and streamlining the Agent Onboarding process to bring this in line with other Franchisors.
- (ii) Using the new data and insight from our Contact Centre to better understand branch issues, so as to better support agents to resolve issues.
- (iii) Bringing Agent Loss data and activity together to enable early interventions to prevent an escalation of losses and to resolve disputed losses sooner.
- (iv) Introducing an online interactive help facility, Agent Portal, to link branches to “help” support when they need it.

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## 5. Contingency Planning

### Potential Impacts on the Business of Common Issues/Terms being implied

- 5.1 To ensure Post Office understands the risks associated with any adverse finding(s) at the Common Issues trial in November, Counsels' Merits Opinion assessed the likelihood of the claimants' challenges to the postmaster contract being successful, and Post Office has assessed the impact that could have to its business.
- 5.2 From this risk assessment we have determined that an adverse ruling could, in certain circumstances, have a material impact on Post Office's current operating practices. As such, we have developed contingency plans to ensure Post Office is best placed operationally to respond to any adverse judgment.
- 5.3 The Common Issues fall into 8 groups, the most significant of which concern the "construction" (i.e. interpretation) of the postmaster contract terms and whether some 21 terms should be implied into those contracts.
- 5.4 Those terms considered more likely to be construed or implied by the Court against Post Office ('likelihood' assessment) are in fact those which have a lower business impact ('impact' assessment). Conversely those that are less likely to be construed or implied by the Court against Post Office have a higher business impact.

### Likelihood Assessment

- 5.5 There are four areas of business activity which Counsel has assessed as being very likely or more than likely to be affected by the Court's judgment: Co-operation; Exercise of Powers; Suspension; and Training. Post Office's assessment is that whilst these would involve a change to working practices and increase costs, the business impact would be manageable.

### Impact Assessment

- 5.6 From our high level business assessment of 'impact', three areas have been identified as of greatest concern: Shortfalls; Liability for Losses; and Post Office as Agent.
- 5.7 Whilst the legal assessment is that Post Office has a strong case on these areas, the business impact of an adverse finding would be material. In particular, if the burden of proof were to shift so as to require Post Office to show positively the root cause of branch losses before they could be recovered from a postmaster, it would take much longer before a postmaster made good those losses than is the case today, increasing annual operating costs and resulting in additional business exposure to agent losses and a significant cash flow risk.
- 5.8 In the event of an adverse judgment, a retrospective risk will always exist. Accordingly, the contingency planning explores how Post Office could mitigate the risk of claims being made in respect of the current/future situation.
- 5.9 We have identified the following key mitigating actions to address the consequences of adverse rulings:

- (i) Contract Variation – addresses any findings regarding the clarity of contractual terms. Note: Changes to the contract(s) would only be made if the judgment were to go against Post Office.
- (ii) Losses Investigation – we are developing an end to end investigation process from the point of an issue or discrepancy being flagged or identified, to the findings of a subsequent investigation being produced and shared with the postmaster. This would involve a full 'root cause analysis' being performed by Post Office, building on the approach already adopted by Post Office's current Support Services Resolution Team (SSRT) as 'best practice' for losses investigation across Post Office.
- (iii) CCTV – in conjunction with the investigation approach, behind the counter CCTV could provide further mitigation for the implied term. Note: due to the cost and operational complexity (e.g. data storage and privacy issues), CCTV would only be installed in all post offices if the judgment were to go against Post Office

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## 6. Communications Strategy

### Media and Communications Management Pre and During Trial

- 6.1 While we do not expect there to be any material 'new news' to emanate from the trial, and we are well prepared to rebut the same allegations as those made during the Scheme, on Panorama, and at the Select Committee in 2015 - we expect the claimants to seek to maximise publicity around the opening of the trial and for its duration. A freelance journalist, Nick Wallis, who has followed the story for many years and is close to campaigners, has crowd funded to enable his attendance at every day of the Common Issues trial, set up a website for his reporting and has publicised via social media that he has, so far, two national news organisations interested in his reporting. He has been successful in the past in securing coverage on various BBC TV and radio programmes, in the Daily Mail and elsewhere. The issue has also been closely followed by Computer Weekly magazine and Private Eye. Nick Wallis has also recently been in touch with Post Office to let us know that he is planning some pre-trial coverage, most likely featuring 'case studies' of some of the claimants.
- 6.2 We expect significant activity on social media, broadcast outlets and daily national and regional newspapers when the trial begins. The amount of media coverage will depend, in part at least, on how successful Nick Wallis' is in securing commissions, as well as the attempts of the claimants and their representatives to generate interest in the issue. The news agenda at the time of the trial will also be a factor but we expect coverage in any event. The unions are likely to provide public comment and may connect it to other issues such as the future of the DMB network and ongoing pay talks. MPs and peers who have previously supported the claimants, and those with constituency cases, are also likely to comment. The principal risks in the pre-Christmas period are that substantial media coverage is triggered, with wider issues drawn in to occasion Post Office significant reputational challenge. Our communications approach is designed with this eventuality in mind.
- 6.3 Our media and communication strategy objectives are centred on (1) underlining how seriously the Post Office, as a responsible business, takes the issues in the trial and the opportunity to resolve them through the legal process (2) making clear our robust defence of our position and (3) ensuring colleagues across the business are able to address questions during the trial.
- 6.4 Our tactics, tone, behaviours and messaging throughout the trial will reflect these areas as we seek to contain negative publicity from the trial and minimise reputational damage for Post Office. We are deploying external expertise through an agency with substantial experience of handling disputes such as this.
- 6.5 Whilst we will not provide a 'running commentary' for media outside of the hearing, we will proactively ensure that our position is reflected in external coverage and be prepared for rapid rebuttal where necessary. A statement and set of clear lines to take will be in place and kept under continual, daily review. We will keep our focus on the 'bigger picture' to counter balance negative accusations from the claimants and to provide perspective about the case. It will not be appropriate for us to proactively directly comment on issues being heard by the court: this could both cause irritation to the Judge which would be unhelpful but also 'fan the flames' of coverage, as well as potentially compromising our legal position/ strategy.

- 6.6 We will engage with our stakeholders and partners in advance of the trial to raise awareness and set out our position and approach and there will be comprehensive, proportionate internal communications which ensure colleagues are informed and equipped with information, including background facts and 'Q&As'.
- 6.7 Throughout, we will monitor and assess coverage across all media channels and assess customer sentiment through social media and insight channels.
- 6.8 In addition to managing media and communications directly related to the trial we will implement a proactive communications plan featuring positive Post Office developments which give proper context. This will include a brand campaign which, through newspaper advertising, radio, video on demand and social media, will reach c12 million people across the Midlands, London and the South East and drive awareness of the scale of the Post Office offer to customers - providing some balance to any negative perceptions that may be caused by media reporting on the Trial. There will also be a social media campaign highlighting the work of our best branches and a Christmas trading marketing campaign. A series of positive news announcements and 121 interviews with selected senior journalists are being planned, linked to business developments - for example the Payzone acquisition; a new bank joining the Banking Framework; further franchising and new branches in the network. We will also work with credible 'third parties' such as the NFSP and individual agents to amplify particular messages.

#### Media and Communications Management Post Decision

- 6.9 An embargoed judgment will be provided to the legal team 2-7 days in advance of it being handed down by the Court. There might be provisions made by the Judge which limit the embargoed Judgment being shared beyond the legal team. In preparing communications in advance we will have to work within the legal parameters that are set which could of course be very limiting. In addition, the judgment could be complex and will need careful legal consideration which will take some time. Our communications stance must reflect this.
- 6.10 For the purposes of communications planning we are assuming scenarios where all or parts of the Judgment (which would not be 'stayed' by Appeal) could mean potential changes to the relationship/contracts with agents.
- 6.11 Our communications will align with this work and comprehensive plans are being produced for all scenarios, including any potential settlement scenarios.
- 6.12 There are essentially two broad phases to post-trial communications: the immediate aftermath of the Judgment and, later, in support of any contractual or operational changes that need to be made.
- 6.13 Post Office is unlikely to be in a position to provide a detailed statement either externally or internally when the Judgment is handed down because of the complexity of this legal area and to ensure we preserve our legal position as the litigation continues.
- 6.14 We will therefore provide measured, factual information and responses for our stakeholders, agents and employees, with strong rebuttals of any misleading / inaccurate media coverage. Our proactive positive news agenda will continue providing context.

- 6.15 As we move forward, detailed communications plans and messaging will be produced for all the business's mitigations of impacts following the Judgment.

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## 7. Settlement options

7.1 Settlement has been considered throughout the litigation and at each meeting of the Board Litigation Subcommittee. However, to date management and the Board have been of the view that settlement will not satisfactorily address the issues at stake.

7.2 There are a series of issues which make settlement problematic at present:

- (i) The Claimants' costs are funded by Therium Capital Management Limited, an off-shore hedge fund which specialises in litigation funding. Our expectation is that based on the known level of costs incurred by the Claimants (in excess of £10 million), Therium would expect to recover a multiple of at least 3 times the costs under any settlement or award, and that their 'fee' would be paid before any amounts are paid to the Claimants themselves. As the Claimants have not yet been required to articulate their claim for damages, Post Office has no clear view of the scale of the amount that might be acceptable through a settlement. Note that the Court has previously advised both parties that it expects them to attempt mediation – possibly after judgment has been given on the Common Issues and before the start of the Horizon Issues trial in March 2019, and if not, after judgment in the Horizon trial.
- (ii) A settlement is only binding on the parties to the action. While it is usual that the terms of a settlement are confidential, the fact of a settlement is unlikely to remain confidential. This is likely to be construed by media and followers as a capitulation by Post Office, and is therefore likely to give rise to further claims by other former or current agents who believe they have been wrongly treated.
- (iii) Settlement will not resolve the questions posed by the claimants as to the correct interpretation of Post Office's obligations under the contract or the robustness of Horizon. This would mean that agents will continue to challenge the veracity of data from Horizon which is relied on by Post Office in recovering losses, which will at least perpetuate the current issues faced by Post Office where branch losses are increasing significantly. It is unlikely that, absent litigation funding, any single agent would be able to afford the necessary legal costs to have the Horizon issues fully determined; whereas the current group litigation structure and funding allows those issues to be addressed.
- (iv) Post Office currently enjoys the confidence of both customers and 'clients' to whom it provides services. An outcome which does not address the robust operation and resilience of Horizon risks undermining that public and commercial confidence in Post Office.



## 8. Next steps

- 8.1 During October and November Post Office will prepare for trial, implement the media and communication strategy described above, and continue with contingency planning and implementation.
- 8.2 Regular updates will be provided to the various governance fora including the Post Office Board and the Board Litigation sub-committee; as well as to the UKGI legal team in accordance with the agreed protocols.
- 8.3 As stated earlier, Post Office is not currently requesting any specific support from its shareholder or from BEIS as sponsoring department. However this position will be kept under review both during and after the trial, and where any such support is required this will be routed through the current channels.

Post Office Limited

11 October 2018

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