

**From:** Aldred, Tom - UKGI  
**Sent:** Fri, 22 Nov 2019 15:55:47 +0000  
**To:** Watson, Richard - UKGI; Scott, Joshua - UKGI; Cooper, Tom - UKGI; Creswell, Carl (Professional Business Services, Retail & Post Directorate)  
**Subject:** FW: URGENT Court of Appeal Order A1/2019/1387

POL/HSF have provide the update (below). I think when we send to ministers we should point out that the judgment was again very critical of POL. That doesn't come across at all in Ben's email.

Tom Aldred, Post Office Shareholder Team, UKGI

T: [GRO] I M: [GRO]

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**From:** Ben Foat <[GRO]>  
**Sent:** 22 November 2019 15:53  
**To:** Tim Parker <[GRO]>; Tim Franklin <[GRO]>; Carla Stent <[GRO]>; Ken McCall <[GRO]>; [GRO]; Cooper, Tom - UKGI <[GRO]>; Nick Read <[GRO]>; Alisdair Cameron <[GRO]>; Aldred, Tom - UKGI <[GRO]>  
**Cc:** Veronica Branton <[GRO]>; Watts, Alan <[GRO]>; Emanuel, Catherine <[GRO]>; andrew.parsons <[GRO]>; Rodric Williams <[GRO]>; Patrick Bourke <[GRO]>  
**Subject:** URGENT Court of Appeal Order A1/2019/1387

All,

I am sorry to say that the Court of Appeal today refused Post Office's application for permission to appeal. A copy of the Order and Coulson LJ's written reasons are attached.

The key points to note are:

- The judge considered that Fraser J's conclusions were too difficult to disentangle from his findings of fact at trial - "no-one knows more about this case than Fraser J".
- He also considered that some points taken on the permission application are points that could and should have been taken at trial.
- On good faith, he emphasised that the duty is not a demanding obligation. The various terms he found to exist as an incident of good faith were based on the judge's findings of fact; given Post Office did not engage with the detailed terms at trial, it was too late now to take points about their breadth.
- The judge described Post Office's arguments on the construction of the notice periods in the contracts as "better". However, he says "Even if I thought Grounds 6 and 7 in isolation had a realistic prospect of success, there would be no point in granting permission unless I also felt that their grounds in respect of the alternative cases as to true agreement (Ground 9); incorporation (Grounds 14-15); and UCTA (Grounds 16-20) also had a realistic prospect of success."
- There is again some criticism of Post Office in the judgment, but not about the way its application was pursued in the Court of Appeal ("None of this is a criticism of Ms Davies

QC who was not involved in the trial or the application for permission to appeal to the judge in May, and who argued the points at the oral application for PTA with real skill and tenacity. But because of all that had gone before, she always had something of an uphill struggle.").

We will continue to support the Operations team to implement the CIJ which has already been progressed. Further work continues in this area.

Comms are in place (both reactive and proactive).

GLO will be discussed on Tuesday at the Board so we will provide you with further detail after the weekend.

Do let me know if you have any queries in the meantime.

Kind regards  
Ben



**Ben Foat**

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**From:** Civil Appeals - Associates <GRO>  
**Sent:** 22 November 2019 14:07  
**To:** HSF Post Office <GRO>  
**Subject:** URGENT Court of Appeal Order A1/2019/1387

Good afternoon,

Please see attached Court of Appeal Order in the matter of: Post Office Limited –v- Alan Bates and Others for your attention.

Kind regards,

Ismothara Priya  
Civil Appeals Associates' Office  
Royal Courts of Justice  
Strand, London WC2A 2LL

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