

From: Permanent Secretary [GRO]
Sent: Thur 05/12/2019 11:19:24 AM (UTC)
To: Cooper, Tom - UKGI [GRO]; Fleming, Joshua - HMT [GRO]; Creswell, Carl (Professional Business Services, Retail & Post Directorate) [GRO]
Cc: Watson, Richard - UKGI [GRO]; Aldred, Tom - UKGI [GRO]; Scott, Joshua - UKGI [GRO]; Permanent Secretary [GRO]
Subject: RE: GLO - Mediation and General Update - DO NOT FORWARD - EMBARGOED JUDGMENT REFERENCED - LEGALLY PRIVILEGED AND CONFIDENTIAL

Tom, Carl, all

Taken Alex off the chain.

Best times today would be 15:15 or 17:45 – grateful if you let me know what would suit, and will speak to Alex when he’s back in the office.

Many thanks,

Oliver

Oliver Page | Private Secretary to Alex Chisholm, Permanent Secretary

E: permanentsecretary [GRO] T: [GRO] M: [GRO]
Department for Business, Energy and Industrial Strategy

From: Cooper, Tom - UKGI <[GRO]>
Sent: 05 December 2019 10:02
To: Chisholm, Alex (BEIS) <[GRO]>; Fleming, Joshua - HMT <[GRO]>; Creswell, Carl (Professional Business Services, Retail & Post Directorate) <[GRO]>
Cc: Watson, Richard - UKGI <[GRO]>; Aldred, Tom - UKGI <[GRO]>; Scott, Joshua - UKGI <[GRO]>; Permanent Secretary <[GRO]>
Subject: RE: GLO - Mediation and General Update - DO NOT FORWARD - EMBARGOED JUDGMENT REFERENCED - LEGALLY PRIVILEGED AND CONFIDENTIAL

Alex

Comments in red below

Tom

Tom Cooper
Director

UK Government Investments

1 Victoria Street | London | SW1H 0ET

T: [GRO]
M: [GRO]
E: [GRO]
PA: [GRO]

From: Chisholm, Alex (BEIS) <GRO>
Sent: 05 December 2019 08:08
To: Cooper, Tom - UKGI <GRO>; Fleming, Joshua - HMT <GRO>;
Creswell, Carl (Professional Business Services, Retail & Post Directorate) <GRO>
Cc: Watson, Richard - UKGI <GRO>; Aldred, Tom - UKGI <GRO>; Scott,
Joshua - UKGI <GRO>; Permanent Secretary <GRO>
Subject: Re: GLO - Mediation and General Update - DO NOT FORWARD - EMBARGOED JUDGMENT REFERENCED -
LEGALLY PRIVILEGED AND CONFIDENTIAL

Tom, Carl copy Oliver

Thanks for update, and well done for continuing progress.

I take the point about not making this subject to a new shareholder process. However I would like to brief the shareholder in the shape of current SoS. Is today the right time to do so? Or tomorrow?

- We'll get something up today

On the detail of the agreement I don't see anything particularly of concern but would be good to step through it with you both and Patrick, Tom, Ben to understand nuances and identify risks. One such nuance is that I would prefer it refer to ongoing consultative or advisory role rather than consultancy as latter has connotations (at least to me) of paid role as part of financial settlement, which I understand is not in fact intended.

- Agree re wording. We can take you through it although we need to have the call with POL's lawyers first. Given the announcement timing is uncertain we'll need Oliver's help to schedule something with you at short notice. Perhaps late afternoon today?

The big issue from AO and Ministerial perspective will be extent to which this is comprehensive vs likely to be followed by further expensive and confidence-dissipating settlements. Will need best advice on this.

- I spent time on this yesterday. I've been told categorically that all the civil claims will be settled by this agreement. It's quite a risk for the claimant committee because they will be responsible for deciding who gets what by way of compensation (and this could easily be disputed as all the claims are different). But that isn't POL's problem. So the remaining risks for POL are 1. New claimants emerging that aren't included in the current group (eg the list of 77 names); and 2. Whatever comes out of the CCRC which is a separate process and POL has no control over

Of course we would like to see Comms as we will be asked for our reactions. Here the extent to which this reflects on HMG as shareholder and/or policy holder is a sensitivity, also how historic the issues, also extent to which POL on a new footing with a new culture and MO, also how the settlement is financed and how this relates to public subsidy and future funding and financial strength.

- Agree with you and we'll coordinate with Carl and Comms on it. We should be on the front foot here because it's a good result for everybody. I hope nobody thinks it's a good idea to hold it up.

Timing-wise this looks as if it would be announced in parallel with judgment on 16/12 - is that right?

- It will be before or simultaneously with the judgment. After would be sub-optimal. POL want to announce asap after an agreement is reached because it will leak from the claimant side and we all want to be as much in control of the narrative as possible

Oliver in my office (copied) is following all this for me.

Best

Alex

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From: Cooper, Tom - UKGI <[REDACTED]>
Sent: Wednesday, December 4, 2019 10:13 pm
To: Fleming, Joshua - HMT; Creswell, Carl (Professional Business Services, Retail & Post Directorate)
Cc: Watson, Richard - UKGI; Chisholm, Alex (BEIS); Aldred, Tom - UKGI; Scott, Joshua - UKGI
Subject: Fwd: GLO - Mediation and General Update - DO NOT FORWARD - EMBARGOED JUDGMENT REFERENCED - LEGALLY PRIVILEGED AND CONFIDENTIAL

FYI

Sent from my iPhone
Begin forwarded message:

From: Ben Foat <[REDACTED]>
Date: 4 December 2019 at 20:48:22 GMT
To: "Cooper, Tom - UKGI" <[REDACTED]>
Cc: Nick Read <[REDACTED]>, "Watts, Alan" <[REDACTED]>, "Emanuel, Catherine" <[REDACTED]>, Rodric Williams <[REDACTED]>, Patrick Bourke <[REDACTED]>, Veronica Branton <[REDACTED]>
Subject: GLO - Mediation and General Update - DO NOT FORWARD - EMBARGOED JUDGMENT REFERENCED - LEGALLY PRIVILEGED AND CONFIDENTIAL

Hi Tom

Mediation Update- Settlement Deed

As indicated in my previous email, the parties have focused on the non-financial aspects of the settlement over the last two days. Attached is the draft settlement agreement which is still a work in progress. Broadly, the non-financial aspects of the settlement include:

- **Agreed joint statement** by the parties which recognises the past experience of the claimants and our desire to learn the lessons and improve our relationship with postmasters as well as noting that the parties have engaged with each other in good faith in this mediation process
 - POL's approach in respect of the **convicted claimants** and its undertaking to comply with its ongoing duties. This points out that although the proceedings are comprehensively settled Post Office has not made any payment to or of the benefit of the convicted claimant. Post Office undertakes to take advice from a leading criminal barrister and as a minimum to act upon and follow the legal advice it receives in respect of what position it should take if a convicted claimant obtains permission to appeal. If the convicted claimant's conviction was overturned as a result of the breaches by Post Office of which complaint is made in the action, Post Office will issue an apology. We make it clear that there is no admission to liability or wrong doing by virtue of this agreement.
 - POL's support in respect of claimants who wish to **exit the business** post settlement
 - POL to withdraw proof of debt or claim in respect of **insolvent claimants** as part of the settlement
- A support programme for claimant SPM and SPM in similar position of the claimants including

mental health support for claimants

- POL to consult claimant group on the change process and for them to have some form of **consultancy role** advising the business, which could include input to consideration of the future of the Post Office, but no right to determine issues or make decisions. This gives rise to the creation of a “Idea Sharing Group” of which Post Office would listen and consider on a quarterly basis for no less than 12 months post settlement.
- POL would also set up a **historic shortfall group** to deal with any shortfalls which arose between 2000 and the effective date of the settlement deed with an internal escalation and ultimately arbitration as a resolution forum (rather than the public court process)
- POL not to enforce SPM debts pending implementation of the settlement agreement
- Emergency funding for hardship cases which is to be taken out of the funds of the settlement and administered by the claimant group.
- POL agrees to consider the giving of a bibliographical reference to postmasters which confirms the duration of their tenure and their appointment as a postmaster with the confirmation that they are agents and not employees.
- Claimants solicitors and funders not to solicit new claims

Given the amount of detail, could I suggest that we take you and Richard through these points tomorrow over the phone. We are bound to have some down time tomorrow in between offers. I will draft a separate email to Richard Watson covering just the mediation settlement update later tonight copying you in.

Public Announcement – Mediation Outcome

Patrick has flagged to me that there could be a question from the shareholder as to whether it would be feasible to have the mediation settlement subject to HMG approval. This suggestion would be very difficult for a number of reasons:

- There would be a very high risk that it would derail the mediation process in two ways:
 - The parties have embarked on a process in good faith that each side had the authority to mediate and seek to resolve the matter on agreed terms. For Post Office to now advise on Day 6 of the mediation that any agreement would then be subject to further approval by the HMG risks being seen as having not operated in good faith.
 - If there is a further hurdle for the Claimants to clear to achieve settlement, tactically they may wish to not proceed to their best and final offers in the mediation because there is either a further round of negotiation with the government or they may think they can secure a greater financial settlement from HMG. I am not speaking to the accuracy of that assertion but the risk around that perception.
- It may not be in HMG interests to be seen publically as making this decision.

Happy to discuss tomorrow on our proposed call.

GLO Timetable / Next Steps

There is an incredible amount of work that is being traversed at the moment covering the mediation, operationalisation of the common issues judgment and the Horizon judgment contingency planning and operationalisation. With that in mind, it may be helpful to set out a timetable of next steps:

5/12/19 – Thursday

1. Mediation Day 6 resumes covering:
 - a. Settlement deed (non-financial aspects of the settlement)
 - b. Financial settlement – offers and concessions
2. Update call to UKGI on the settlement deed, financial offers, timetable going forward and next steps
3. Working group to review the submission to the Court in respect of the Horizon Issues

embargoed judgment – this is currently being reviewed and collated

4. Working group to review Justice Fraser's remaining section of the judgment which ties his finding to the 15 Horizon issues – this still has not been handed down so our expectation is that tomorrow it will be and the parties will need to review and revert back by 3pm Friday unless his Honour gives the parties further time given we are yet to receive that part of the judgment
5. End of Day Mediation Update Report to be given to Tom, Tim and Nick covering both financial and non-financial components of the settlement and proposed approach on comms
6. If settlement occurs, a note to Board will be drafted following notification to Tom, Tim and Nick.

6/12/19 – Friday

1. Potentially Mediation Day 7 if needed – probably further negotiation / drafting in respect of the settlement document
2. Submission to the Court on the Horizon Issues judgment responding to typographical issues – by 3pm
3. End of Day Mediation Update Report to be given to Tom, Tim and Nick covering both financial and non-financial components of the settlement and proposed approach on comms
4. If settlement occurs, a note to Board will be drafted following notification to Tom, Tim and Nick

9/12/19 – Monday

1. Internal POL GLO Litigation Activity meeting POL 4pm

10/12/19 – Tuesday

1. Board GLO Sub-Committee
 - a. Agenda needs to cover:
 - i. Mediation update
 - ii. CIJ operations plan – new contracts programme and revised processes; timetable
 - iii. HIJ contingency plan and operations plan – embargoed judgment is to be handed down on 16 December
 - iv. Convicted claimants process – progress re Brian Altman QC
 - v. Comms / PR timings – announcement / timings re proactive and reactive comms
 - vi. Budget implications – review Change budget
 - vii. AOB

(GLO is on the agenda of the January Board with a clear focus on the operational requirements / consequence arising from both judgments and the mediation process)

12/12/19 - Thursday, Election Date

1. GE December Meeting – GLO paper (covering the above)

16/12/19 – Monday , Horizon Issues Judgment becomes public

1. Reactive Comms is ready

We will do our best to accommodate your availability tomorrow and with that in mind, when would suit both Richard and you to have a call tomorrow?

Do let me know if you need anything further in the meantime.

Kind regards
Ben

Ben Foat

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

Mobile : GRO

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