
From: Andrew Parsons [GRO]
Sent: Wed 08/05/2019 9:28:33 PM (UTC)
To: David Neuberger [GRO]
Cc: Anthony Grabiner [GRO]; David Cavender [GRO]; Rob Smith [GRO]; Tom Beezer [GRO]
Subject: DEN 36 Re: Post Office

David, Tony

Thank you very much for the quick turnaround and helpful comments. We will review with David Cavender and work these into the draft documents.

Kind regards
Andy

From: David Neuberger
Sent: Wednesday 8 May, 22:17
Subject: RE: Post Office
To: Andrew Parsons
Cc: Anthony Grabiner, David Cavender, Rob Smith

Dear Andrew,

Yes, that entirely reflected my view when Tony and I talked. On looking at the draft skeleton again, the high level executive summary may be already included in paras 15-23, but it is not entirely clear to the reader that paras 15-18 are concerned with Section C challenges (until one gets to para 19, and it is not immediately clear that paras 21-23 are an outline of the Section D and E challenges. I suggest that para 15 explains the three heads of challenge and goes on to say that paras 16-19 (now 15-18) summarise the case on the Section C challenge, and paras 20-22 (ex 20-23) the Section D and E challenges. As to the contents of those paragraphs, I wonder whether it is worth specifically mentioning in what is now para the fact that if the category of relational contracts exists, it is clear that they must be long-term contracts, and these were contracts freely determinable by either party on three/six months notice. (incidentally in what is now para 16 is it right to say that PO was "criticised" for relying on Chitty?).

When it comes to summaries, after what is now para 29, I think we should include a new paragraph summarising our grounds as to why the judge was wrong (i) paras 30-58, (ii) paras 59-74, (iii) paras 75-96, in each case perhaps high-lighting one or two of our most telling points

I have a few comments on the draft Notice of Appeal and they are on the attachment to this email. It is also a long document, but I can well see why.

With best wishes,
David

Andrew Parsons
Partner
Womble Bond Dickinson (UK) LLP

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-----Original Message-----

From: Anthony Grabiner [GRO]
Sent: 08 May 2019 19:57
To: andrew.parsons [GRO]
Cc: David Neuberger [GRO]; David Cavender [GRO]; Rob Smith [GRO]
Subject: Post Office

Dear Andrew,

I've been through the draft skeleton and I've discussed it with David N.

It's a very long document but that's a reflection of the length of the judgment, the large number of points that need to be addressed and the poor quality of the judgment. It's more difficult to deal on an appeal with a bad judgment than a good one.

David and I think the draft covers the points. We do not think that concessions should be made, eg on the implied terms, because, as previously advised, we think the co-operation and Stirling v Maitland implications are effective and would be readily implied in this case without the need to manufacture further terms which is what the Judge in his wisdom has done.

We wonder if it might be possible to incorporate a high level executive summary for the benefit of the CofA reading the document. It's always useful to give them a guide as to where the document is going and what the key points are.

We haven't addressed the bits of grammar and typos which should be sorted out before the draft is finalised.

Regards,

Tony

Lord Grabiner QC
One Essex Court
Temple
London, EC4Y 9AR

[GRO]

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