

Message

From: Tim Parker [GRO]
on behalf of Tim Parker [GRO]
Sent: 16/03/2019 16:44:16
To: Jane MacLeod [GRO]; Alisdair Cameron [GRO]
CC: Patrick Bourke [GRO]; Mark R Davies [GRO]
Subject: Re: Call with Kelly Tolhurst CONFIDENTIAL & SUBJECT TO LEGAL PRIVILEGE

Thanks Jane, a good summary

Tim Parker

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From: Jane MacLeod [GRO]
Sent: Saturday, March 16, 2019 3:17 pm
To: Tim Parker; Alisdair Cameron
Cc: Patrick Bourke; Mark R Davies
Subject: Call with Kelly Tolhurst CONFIDENTIAL & SUBJECT TO LEGAL PRIVILEGE

Tim, Al

Below is my high level summary of the call today. Given I missed the last minute or so, please let me know if there were any immediate actions (I have highlighted actions below but most of these are generic) or if the language should be more nuanced.

Kind regards,

Jane

Participants: Kelly Tolhurst MP, Tom Cooper (UKGI), Gavin Lambert (BEIS), Tim Parker, Al Cameron, Jane MacLeod, Others?

- TP started by commenting that Post Office was surprised by the legal outcomes of the judgment, however our intention is to be seen to be fair and not defensive as regards the criticisms levied against Post Office by the judge. We acknowledge that we can do better and will look at our procedures and practices to ensure this happens. We're looking at the potential financial impact of the case (which could be as much as £100m should the outcomes be adverse to Post Office). We are considering the legal issues raised and considering whether we

should appeal. Information is being collated for the Board meeting next week. The media coverage has been modest so far. Although the judgment is news, it is complex and can't easily be distilled, and the fact of the case has been public knowledge for some time.

- KT stated that the judgment was disappointing, and was pleased to hear that we were taking it seriously, and that we would be addressing the operational impacts. She noted that as responsible minister she would be held to account and that she was expecting UQs on Monday, and there were BEIS Orals scheduled for Tuesday in any event. She was concerned about the criticisms over culture and practices and noted that there was considerable noise around franchising and agent pay, and therefore these issues would be conflated. To that end she is meeting 10 Labour MPs on Monday – a meeting that was originally set up to discuss franchising.

She noted that at the meeting last year (PV, AC, JM, MD) we had not indicated that the scale of liabilities would be as severe as now indicated; and that we had stated we were expecting a different outcome, so she expressed concern about the quality of advice we were receiving and wanted reassurance as to the independence of the team who had now been involved for some time. She asked for information on the resulting actions from the judgment and who would be leading on these.

She noted that there needed to be significant communication and information sharing from Post Office to Government, and noted that Government would need to be involved in, and potentially sign off, decisions around funding of the outcome, **and therefore she wanted more frequent formal briefings.**

She noted that where agents have been treated badly, then her position is that we want them to have justice.

She recognised the good work that Post Office has done to improve its financial position, but was concerned that the impact of an adverse outcome from the litigation could undermine this.

- TP responded:
AC is in charge, and expressed that PO was fortunate to have him. He has been with the business for 4 years so knows the business well, but does not come with legacy issues.

We have 2 QCs advising us on the litigation and is satisfied with the quality of advice we are getting from them, and that they are appropriately representing us in Court. We are considering our appeal options and are getting an independent QC involved on that advice. We are also considering the role of the judge himself and whether he has demonstrated bias such that we should consider recusal. Lord Neuberger is reviewing this. Nevertheless it is inherent in court processes that the outcome can be unpredictable. We were surprised by the outcome and that is why we are considering whether we should appeal.

We understand that politicians and others will seek to conflate operational issues such as agents pay and franchising with the judgment but we need to try and keep them separate. CWU and Labour MPs will be concerned that franchising has an impact on union membership. We are looking at all aspects of our the relationship with agents and we recognise the concerns around transactional based pay. We are seeking to simplify and automate transactions as this is fundamental to sustainability. and the increased workload driven by the Banking Framework will be recognised in the remuneration paid to agents.

The criticism in the judgment covers activity over 15-20 years and that is difficult to deal with. However we are listening and we do think that we have made improvements over the last few years. The operational management is reviewing as a matter of urgency how we deal with disputes and our control of cash etc.

Tom is a diligent board member. **We will make sure there are regular updates so that the Minister knows what is going on.**

- KT acknowledged the different issues but emphasised that there is a lot of noise around the treatment of individuals. She stated that she was not frightened of defending Post Office but she needed our reassurance that criticisms are being followed up and actioned.

She asked about the next trials and wanted to know what the plan was to ensure she was kept up to date and that could be through officials or directly, so that she could have 'closer oversight'. AC replied that **we would be happy to update her directly and however frequently as was required**, so that not everything was intermediated.

KT asked about the Board and when it was meeting to review the impact from the judgment.

- TP replied that we have a board call on Monday evening at which we will discuss issues around the Judge's bias and how that could impact subsequent trials. Although his initial reaction is that this is not something the Board is likely to want to do, the Board must act in the best interests of the Company so we need to consider that option seriously. If we are to make the application, we understand that it must be made urgently and should not be delayed. The Board has also asked for updated views on appeal, and will be wanting updates on what is being done to address the criticisms around culture.
- AC stated that we have made improvements over the last few years but there is more that can be done, and there is lots of opportunity to make further changes, simplify and automate etc. the main emphasis in the short term is to focus on improvements as to how we made 'differences' – in particular the speed and transparency of our processes.
- KT queried whether there would be a change in the litigation strategy and whether we were sharing advice received?
- JM commented that the litigation strategy was around addressing the issues raised by each trial given the way the judge had set up the topics to be addressed at each trial, and described these. TC commented that there was concern as to whether PO reviewed whether litigation itself was the right strategy. JM noted that the litigation process required parties to consider mediation/settlement and that as we had flagged in the meeting last year, once the Horizon trial had finished in early May we would be looking to understand the possible outcomes and whether there were settlement options that could better delivered the outcomes which the litigation process was designed to achieve. She noted that the Board received regular updates on the litigation, and that updates were provided on a regular basis to the UKGI team. KT queried whether UKGI received copies of the advice, and JM confirmed that the two key pieces of advice (Merits Opinions from May and October) had both been shared with the UKGI legal team. **Action to ensure that UKGI receives updates on advice received.**
- AC commented that following the judgment we have brought in new lawyers (Norton Rose) to look at certain aspects and we have instructed additional QCs.
- KT then asked about the Banking Framework discussions, and AC updated her on progress – all indications are that all banks will sign up, although 4 banks have/will make tactical withdrawals as they are not yet through their internal governance processes, but we expect them to rejoin. KT offered support if there were any difficulties or stumbling blocks.
- KT then queried the impact of PV leaving and **requested an update on the recruitment for PV's replacements and how we would address potential criticism around her departure, and the timing of that.**
- **AC offered to free up time on Monday/Tuesday to help with briefings for KT if that would be helpful.**

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