

Draft read out note of POL meeting in HoC on 17th October 4-4:45pm

Attendees (as per briefing)

Introductions

Perm Sec

- Legal case
- PO settlement considerations
- Communications
- Impact on PO (no money set aside)

Paula Vennells (Chief Exec, POL) [PV]

Context – tone empathy but honesty

Postmasters many lost jobs, valued staff, corporate vs individual but cannot allow dishonesty

Thousands operated under system for decades since claims come through

Improvements to be made

Oops for GLO means can get resolution for ongoing

Common issues trial – if adverse finding, then appeal as important for PO to get right

If mediation and settlement, then PO open to conclude

Jane MacLeod (Group Director Legal, Risk and Governance, POL) [JM]

141 applied to go through mediation scheme

Many refused as JFSA wanted to settle, so some did not accept;

Perm Sec

Would mediation be reconsidered?

JM

Many be extended period of mediation from May?

PV/JM

Elaborate main strands to PO preparations: Resolution – Operation – Comms

Contingencies depends on outcome of common issues trial

Most important is that PO continues to service community and manage

Digitalisation will also improve service further

Comms – will be noisy, depends on other news issues; has been around but depends

November common issues trial may be affected

PO approach to when to comment – only no bias unchallenged, so balance is not to fuel the fire; so

no comment whilst in legal process until decided

Unions kept close; may want to use to advantage

Manage internal comms tightly as these soon become external

Resolution and court cases

Perm Sec

Unfair Contract Terms Directive risk?

JM

Contract issues? Legal categorisation PO and agents? Line is relational contract

Separate line in judicial cases. Is this the appropriate construction?

Key question is whether the contracts should it be construed with implied terms for duties of PO to postmasters.

2 terms implicitly addressing issues according to PO (not the claimed 21 terms) – may concede on two

Some implied terms go to heart of principal-agency construction

The judge comes from a construction background so may be helpful to PO argument

Advice unlikely to change agency-principal law

Perms Sec.

If discussion important to understand implications of case outcomes; need to see Counsel advice

Gareth Evans (BEIS Legal) – needs to see risk assessment; not clear from paper Counsel advice

JM – may interim merits opinion updated over summer; Counsel confirm stronger/better but haven't given % because of complexity of issues; believe strong case but comes to interpretation of contract and approach judge takes

Perm Sect. aware of another Magnox case – happier to settle than Govt/ different incentives; so experience is to look at same info and draw own conclusions

PV

Happy to share information from Counsel

Jane will give liaison with legal?

The external challenge on advice provided will be welcome

Perm Sec Gareth and Richard looking at it from govt. side (TLA also with time if needed)

Just need to see how to coordinate

Privilege issues also being considered

Kelly Tolhurst (KT)

Important to have access so as to answer questions

Odds against us being a case of big against

Perm Sec BEIS orals – will be noise, lots of history/emotion; so answering questions important as govt embarrassment

Daily responsiveness by PO needs to be coordinated

Gavin speak to Comms to give quick response

Yesterday nothing tabled for PO but there were 5 questions

Don't want to have govt manage on spot so PO will want to support comms

KT

Additional funding requirements?

Would PO have enough to cover? Important that dept is aware as could be significant?

Potential liability

Alisdair Cameron, Group Chief Financial Officer, POL [AC]

Three strands of concern for PO

- Funding of network
- Cost of trial
- Potential claims

Difficult to put price/figure

AC

3m trial (2 QCs) this year, more next budget ((financial yer so March))

Already suffering financial suffering, already seeing losses from postmaster theft (5m this year, last 2m); could have been higher so being managed; being spotted 81%

In horizon and being managed; more in fraud analysis team

Can move resource to manage

Network/potential claims? No value;

Settlement £3m?

JR

Case management – hedge fund want to cover at least x3 based on internal rate of return but estimate

Common issues trial about contract construction; horizon in March

Quantification in to damages claim no assessment

Could win on material points, but could lose on payments on suspension; so always

AC

Would not ask BEIS for more but would fund additional claimants (could be more than 3m) but would manage it

May not be able to keep up network or banking (as shut branches), but ...

No provision for this – supplementary estimates can only be made in a month?

If to settle in March for a hurry e.g.? could for 3m; if for less 5m in exec team/if above need board approval

Perm Sec

PO considered whether provision should be made?

AC

View no as no expectation of loss, needs to go through three trials to quantify

Perm Sec: networks

AC

Burden of proof with Postmasters

Perm Sec

If turned over if PO had to prove loss?

AC

Business model thrown out?

May be able to identify where postmaster has got themselves in a muddle; different if they are stealing//but would first have to prove

Not prosecuting that is why losses arising

Without judgment don't have means

With judgement can change contracts

CCTVs? Behind counter – so other measures can be in place

Perm Sec – retrospective aspect if judge decides should not have been operating as PO have (going back over 20 years!!!)

May be unaware

AL

½ bn transactions (costs...)

May not always be postmaster actions/losses

Most likely difficulty with network numbers

5m? how many postmasters? AL – 111 PO shut which drove the loss, mainly because of theft? Could be lost out of control, not clear exactly – but mostly theft

Network size? 11, 566 currently, growing over year irrespective closures; 11,500

not striking at heart of the business model

Perm Sec: Operation contingencies?

PV

Related to possible outcomes; depends e.g if contracts changed how much that would affect

Worst case scenario but most postmasters honest

Risk been managed over years because not able to prosecute

2 – 5m increase, processing 60bn case round the country so proportional

JR

Criminal Cases review comm – will wait for case plays out.

Litigation and CCRC both looking at horizon

CCRC been working for 3 yrs and investigations coming to close ¼ next year but surprising decision before court case

Tom UKGI

Working capital facility increase as result of trial?

AL – looking over next 3 years closing banks means more cash so looking at (200m) working capital facility being reviewed

Public Spending review post 2021 when funding runs out – can manage but of course if moves to tens of millions different

Perm Sec

Cabinet been asked to look at this so ppl have access at local level

Would be ideal if Banks should pay for that responsibility

KT: Banks should be paying for PO services; risk no social responsibility

When is this being renewed?

PV want to send this review shortly

Perm Sec: Important for HMT and DWP – joined up discussion, PO also keen

Conversation with BOE note circulation scheme – keen to be paid based on number of places funding, rather than amount

KT

Speaking for SoS if there are problems political pressure must be exerted

Important to have information/proposal and ammunition to defend it

AL

Consideration being given to the impact on banking

- Price paid to PO
- Security cash flow
- Balance sheet funding

The last two elements not necessarily covered by BOE

KT keen to understand more – receive more information

Briefing paper can be sent (Cabinet paper good start but maybe for Minister more; also info being put together on PO role in banking....)

Keen to that banks take responsibility and held responsible for corporate social role

Perm Sec summary

Agreed next steps/key outcomes of meeting:

1. Share legal advice with govt (mindful of any legal privilege)
2. govt ongoing comms (briefing) – Gavin - speaking to BEIS, Comms, UKGI tomorrow
3. Draft paper for Cabinet on strategic issues
4. Follow up meeting with ministers and briefing Gavin prepare for someone to take this on as potentially onerous

KT/Perm Sec: Maybe dear colleague letter? when something to saypositive news would be good

AL

Meeting chief cashier in next few weeks.

Perm Sec reiterated that it is important to share info possible; use dept; Gavin's team sponsoring this...