



<b>GLO CONTINGENCY PLANNING GOVERNANCE</b>	
<b>Finsbury Dials / Telephone Conference</b>	
<b>7 November 2019 ; 16:00pm</b>	
<b>Attendees:</b> Andy Parsons (AP), Alan Watts (AW), Rodric Williams (RW), Belinda Fox (BF1), Angela Van-Den-Bogerd (AVDB), Stuart Nesbit (SN), Melanie Corfield (MC), Julie Thomas (JT), Nick Beal (NB), Zoe Brauer (ZB), and Kate Emanuel (KE), Patrick Bourke (PB), Aimee Daughters (AD), Mark Underwood (MU), Ben Foat (BF),	
<b>Apologies:</b> Amanda Jones (AJ), Kirsten Massey (KM)	

**Agenda**

<b>1</b>	<b>Horizon Issues Trial</b>
<b>2</b>	<b>Update on Common Issues Appeal</b>
<b>3</b>	<b>Further Issues Trial</b>
<b>4</b>	<b>Update on Settlement/Mediation</b>
<b>5</b>	<b>Claimant Case Reviews</b>
<b>6</b>	<b>Comms Update</b>
<b>7</b>	<b>Costs Update</b>
<b>8</b>	<b>AOB</b>

<b>1</b>	<p><b><u>Horizon Issues Trial</u></b></p> <ul style="list-style-type: none"> <li>- J.Fraser has requested further information on authorities and highlighted that the judgement is to be expected soon.</li> <li>- BF - Unlikely to release embargo judgment until we have responded to this information, is there a view on timing of response?</li> <li>- AP – Can respond by tomorrow morning (8 November), latest without looking as if we are unreasonably withholding a response.</li> <li>- All agreed response should be sent first thing on the 8 November.</li> <li>- To note – authority that J.Fraser makes reference to is based on a Court of Appeal case where a judgment was so badly written, the Court of Appeal ordered a retrial and provided the ‘building blocks’ for a well written judgment.</li> </ul> <p><b><u>Comms Plan for Judgment</u></b></p> <ul style="list-style-type: none"> <li>- Comms plan highlights the need for strict confidentiality around the embargoed judgment.</li> <li>- When we get the embargoed version of the judgment, can it be communicated that the draft judgment has landed without disclosing the content?</li> <li>- AP – yes that is possible, but still remain cautious on who actually needs to be told the judgment has landed.</li> <li>- The protocol highlights the defined client group to which the embargoed judgment can be shared with.</li> <li>- Comms plan currently around 100 pages in length. Very mindful of not responding to every angle proposed by the press in order to stick to the main comms message.</li> </ul> <p><b><u>Costs Liability</u></b></p> <ul style="list-style-type: none"> <li>- Reminder that once the judgment is handed down, it becomes clearer who the winner or loser is and what costs Post Office might have to cover.</li> <li>- Costs on Horizon Trial is £3.4 million, would expect an interim payment of £3m to be payable within 21 days of the consequential hearing.</li> <li>- AP to send overview of costs to SN.</li> </ul> <p><b><u>KEL Issue Update</u></b></p>
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## Minutes of Meeting

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	<ul style="list-style-type: none"> <li>- KEL Tracker table is finalised, no further update.</li> </ul>
<b>2</b>	<p><b><u>Common Issues Appeal</u></b></p> <ul style="list-style-type: none"> <li>- BF – Can an executive summary of the 21 basis for appeal be produced by Monday morning, to include what the findings are likely to be.</li> <li>- If appeal decision is not handed down on the day, indication that it will be very shortly after.</li> <li>- RW to discuss with PB comms for appeal and also give thought to attendance/operationally how the day will work.</li> </ul>
<b>3</b>	<p><b><u>Further Issues Trial</u></b></p> <ul style="list-style-type: none"> <li>- This is a trial about loss, what heads of loss are recoverable in principle and which aren't.</li> <li>- Claimants have provided high level principles but these are not supported by calculations or any figures.</li> <li>- The losses claimed are both creative and substantial.</li> <li>- Two big elements – loss of income/earnings (remuneration and profit of retail), litigation funding (unusual type of claim).</li> <li>- Assumption is that the litigation funding will be in the tens of millions. No legal precedent can be found for this type of claim, approach will be to deny these claims on point of public policy.</li> <li>- The litigation funding claim puts it into focus that it's not just about Postmasters, but about a litigation funding company.</li> <li>- Counsel currently drafting defences, template defence to be sent to WBD/HSF 8 November so that Post Office have something to review by end of next week.</li> <li>- There is a question in regards to content, do we respond to factual allegations that the claimants have included?</li> <li>- There are two options - either we choose not to respond to factual allegations as this trial has no evidence and not about facts, <u>or</u> we contest all of the facts and put our own narrative there. The advantage of responding is it allows us to put narrative in front of J.Fraser, however there is a risk that it encourages him to make factual findings.</li> <li>- Legal advice is to not encourage this, and minimise the scope of responding to the factual evidence.</li> <li>- BF – what response will J.Fraser be expecting, will he be surprised if we don't respond to the factual evidence?</li> <li>- AP – the court orders are clear the trial is not about facts or evidence, the IPOCs expressly provides that Post Office is not taken to accept any facts that it does not dispute</li> <li>- AP – The starting point of this trial is the assumption is that Post Office factually is in breach of the contract, and then J.Fraser investigated what losses would flow from the breach. It makes breach a hypothetical question in order to deal with the question of loss.</li> <li>- BF – how will the media or journalist respond to not responding to factual allegations?</li> <li>- Mel – risk is that it will be misunderstood and look as if Post Office have agreed with the facts. May be necessary to release a statement to reinforce that this trial is about principles not the breach.</li> <li>- AdvB – without witnesses does the trial lose media attention?</li> <li>- SteerCo think this will be the case.</li> <li>- Is there scope to produce a briefing note or a version with factual elements as an add on?</li> <li>- BF – this is a matter for Board SubCo next Wednesday, to be added to the agenda.</li> </ul> <p><b><u>Security for Costs</u></b></p> <ul style="list-style-type: none"> <li>- Reached the point where we need to make a decision on security for costs for the FIT.</li> <li>- Advice is not to go for security for costs, current view is less than 50% that it will be awarded.</li> <li>- SN - If the claimants got a costs order against them and couldn't pay, could they keep going forward?</li> <li>- AP – This would be dependent on the reason for them refusing to pay, so hard to say at this point, but there are initial actions that could be taken on non-payment.</li> </ul>

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	<ul style="list-style-type: none"> <li>- If security for costs waived now, likely to waive for entire proceedings</li> <li>- The risk is that claimants won't tell us how much their insurance cover there is, if Insurance company find the claimants have been lying this is likely to invalidate a claim and given the funders are based in Jersey we can't ascertain whether they have assets or what their financial standing is.</li> <li>- We put a security for costs application in before and the claimants backed down provided we took part in costs budgets</li> <li>- BF – what has changed since then?</li> <li>- AP – we know more about J.Fraser now and where his head is at in regards to the trial, however every day that passes increases the risk of not being awarded security for costs.</li> <li>- Ben to defer the decision to Board SubCo, to be added to the agenda.</li> </ul>
<b>4</b>	<b><u>Mediation Update</u></b> <ul style="list-style-type: none"> <li>- Shareholder has provided the requirements we need to meet in order to get approval for a settlement figure.</li> <li>- CH – we are relatively comfortable with this, given the cost evaluation.</li> <li>- RW will be provided with a paper on this by the end of the day (7 November)</li> <li>- Criminal cases can change figure dramatically, something to be aware of.</li> <li>- CFO – Letter – Post Office has to articulate how it is funding any settlement arrangement. If BF can have this on Monday to give AI and Nick chance to take them through before Board SubCo.</li> <li>- UGKI have requested a call for 5pm on Monday 11 November.</li> <li>- HSF going to go and speak to mediator about having a second mediator involved, same standing to be able to move matters forward and get something useful out of the day. To report back when appropriate.</li> </ul>
<b>5</b>	<b><u>Individual Claimant Case Reviews Update</u></b> <ul style="list-style-type: none"> <li>- Little behind schedule, Monday 18<sup>th</sup> expected to be finalised.</li> <li>- Thus far, 334 files down. There are several files with missing documents, a second check will be undertaken.</li> <li>- Plan is to extract work product into CLIVE, provide a one line about each claimant which will help with choosing test cases and Part 36 Offers.</li> </ul>
<b>6</b>	<b><u>Comms Update</u></b> <ul style="list-style-type: none"> <li>- Discussed above</li> </ul>
<b>7</b>	<b><u>Costs Update</u></b> <ul style="list-style-type: none"> <li>- Discussed above</li> </ul>
<b>8</b>	<b><u>AOB</u></b> <ul style="list-style-type: none"> <li>- BF – If he could be provided with all materials due to go to the Board SubCommittee. RW to receive them piecemeal and then send to Ben as a pack.</li> </ul>

Author of Minutes:

Date: 7 November 2019