



POST OFFICE LIMITED BOARD MEETING
Strictly Confidential

MINUTES OF AN ADDITIONAL MEETING OF THE BOARD OF DIRECTORS OF POST OFFICE LIMITED HELD ON MONDAY 07 DECEMBER 2020 AT 20 FINSBURY STREET, LONDON EC2Y 9AQ BY CONFERENCE CALL AT 09:00 AM¹

Present:	Tim Parker	Chairman (TP)
	Nick Read	Group Chief Executive Officer (NR)
	Ken McCall	Senior Independent Director (KM)
	Tom Cooper	Non-Executive Director (TC)
	Carla Stent	Non-Executive Director (CS)
	Zarin Patel	Non-Executive Director (ZP)
	Lisa Harrington	Non-Executive Director (LH)
	Alisdair Cameron	Group Chief Finance Officer (AC)
In attendance:	Veronica Branton	Company Secretary (VB)
	Ben Foat	General Counsel (BF)
	Richard Bussell	Linklaters (RB)

Action

1. Welcome and Conflicts of Interest²

A quorum being present, the Chairman opened the meeting. The Directors declared that they had no conflicts of interest in the matters to be considered at the meeting in accordance with the requirements of section 177 of the Companies Act 2006 and the Company's Articles of Association.

2. Funding / Historical Shortfalls Claims Scheme

Al Cameron introduced the conversation on funding, noting that we were in a period of uncertainty. The position would become difficult if we became insolvent but having net liabilities did not mean that we could not pay our debts. We also had to consider our Going Concern position. However, Government funding of £227m was a significant show of support and we believed that Government would not let us go insolvent but the decision on the support for the Historical Shortfalls Scheme claims and the wider GLO funding would not be received until February 2021.

The contracts with the DVLA and Viridian were the only ones where there was a right to terminate where Post Office Limited (POL) had a net liability. The Smith & Williamson Report had flagged that we were not reporting Security Headroom in a way which met the requirements of both the BEIS Working Capital Fund and the Inter-Creditor Agreement between BEIS, POL and Santander. There were two reporting requirements that were inconsistent, although we had been audited on our previous reporting. We were working through the precise requirements of the contracts for future reporting.

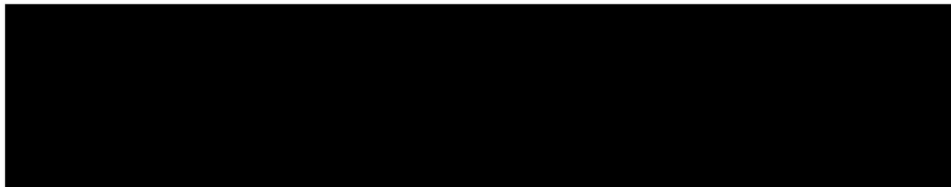
It would be wrong to behave as if we were insolvent now as we were not. If we were we would seek to monetise our businesses such as Digital Identity. We were taking all of the steps we should be as directors to assure ourselves of the trading position. We would talk to the Bank of England and NatWest about the current position in December 2020 but would not talk to our other creditors until the New Year because at that point we would be closer to a resolution. POL had had a net liability position previously and we would need to accept a degree of uncertainty on an ongoing basis as we only had a one-year funding position. There was a danger of overreacting as well as underreacting given the support we

¹ Participation in the meeting was entirely via Microsoft Teams from participants' personal addresses. In such circumstances the Company's Articles of Association (Article 64) require that the location of the meeting be deemed as the chairman's location. However, it was not deemed appropriate to record personal addresses on the Company record. As such, the Registered Office is recorded as the meeting location.

² This meeting is an addition to the scheduled meetings so standard items such as minutes and matters arising have been carried over to the 26 January 2021 meeting.

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were receiving from Government and we understood why they wished us to defer making HSS de minimis payments while the issue of interest payments was resolved.



Tim Parker set out the decisions and outcomes sought from today's discussions, including [REDACTED] he then invited questions.

A number of points were raised, including:

- Zarin Patel noted that she was comfortable with the proposal to wait until the New Year to have conversations with creditors beyond our conversations with the Bank of England and NatWest but she asked whether: 1) there were any implications for pension scheme arrangements; 2) whether there were any requirements for notifying regulators; and, 3) whether she was correct in thinking that the sale of the Telecommunications business would support our net liability position in January 2021. Al Cameron reported that there were not any pension related considerations; he did not think that there were specific regulatory reporting requirements but that position would be checked; and he confirmed that the sale of the Telecommunications business would have a positive impact on our net liability position and that we had entered into exclusive negotiations with Shell Energy on its planned purchase of the business
- Al Cameron noted that we had sought the three-month filing extension that had been permitted to companies because of Covid-19 but thought it better not to defer publication further. We had to recognise that there would be ongoing uncertainty and we needed to describe our position and be as transparent as we could. Zarin Patel noted that to do this we needed to have worked through the "bridge to certainty"; for the HSS this included how we could quantify the claims and make the business case for the payments. Al Cameron noted that this was a balancing act between the risk and cost of a second litigation and the public money that would be entailed in making the HSS claims and what measures we could take to avoid paying for fraudulent claims. There had been a separation made between historical matters and the current business operations but we had to remain involved in the Historical Matters Business Unit's (HMBU) work to some extent. [REDACTED]
- Carla Stent noted that we had to have some degree of pragmatism and balance the situation with the commercial reality. The "bridge to certainty" was very important. Publication of a net liability position without certainty of funding would leave us in a difficult position and we needed to be cautious. The Government had advised that it wished POL to have an incentive to monitor and contain the costs associated with the litigation and its aftermath. We needed to do everything we should have done as directors and for those with a professional qualification as an accountant or a lawyer there were particular standards to meet. [REDACTED] We needed to consider the reporting position on Security Headroom, including having side letters in place and aligning reporting with the requirements of the contracts. We needed to progress the actions from the Smith & Williamson Report quickly. Conversations with the creditors other than the Bank of England and NatWest could be deferred until January 2020 but we needed to continue to work with Government to get clarity on funding for the HSS and the GLO

Action: AC



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- Lisa Harrington noted that we would be taking a different approach as a Public Limited Company but we should nonetheless be taking a rigorous approach to exceptional spend, reviewing this continually and having Board oversight of this process
- Tim Parker noted that we needed to resolve issues such as interest payments and test the approach taken to calculating the HSS claims before we could take further decisions on the HSS. The HMBU was intent on getting payments made but this needed to be aligned with the wider business interests
- Tom Cooper explained the BEIS perspective. Much of the public sector existed with funding uncertainty during spending review periods. The letter from the Board on the HSS had been helpful because it had provoked work at BEIS and UKGI on understanding how the HSS worked. The question of the payment of interest as part of the claims was an issue, as had been the unquantified claims, because the approach taken could set precedents for future claims and this could affect the overall cost of the scheme which had not yet been approved. The payment of quantified claims was likely to be approved if we could pay simple rather than compound interest. We needed some benchmarking to be undertaken to make sure that the payment sums for legal costs were reasonable.

The resolution of the McColls claim was an illustrative example because they had submitted no evidence to support their application. This showed that the range of claim values could be very wide and how the initial claims were dealt with might set a precedent. BEIS did not understand why the interest issue had not been recognised earlier and a question had been asked about the level of management and Board oversight. TC thought it would help assurance provided to the Board and to BEIS if we could strengthen the legal oversight and we might want to engage a lawyer who would report directly to the Board. Carla Stent observed that interest was often dealt with as part of settlements. Tom Cooper explained that Government needed to assure itself that paying these claims represented Value For Money (VFM) and one approach was to reference the HSS figures against the GLO settlement figures, which included simple interest, not compound interest. We would need to look at the unquantified claims and how the claim values were calculated afresh. Tim Parker noted that we wanted to avoid more litigation and settle with HSS claimants reasonably but this did not prevent there being a second litigation if a law firm or backer thought this offered a better prospect of higher settlement figures. Tom Cooper thought we had a “bar bell” set of potential outcomes currently and it would be a bad outcome if people were either paid too much or too little through the HSS and the key was to achieve a reasonable middle ground. Additional legal oversight would be helpful for our own assurance but in addition BEIS would need to have confidence that we had addressed the “bar bell” issues, albeit that there would be some level of risk associated with the claims payments

- Tim Parker noted that if we had a cap on the payment envelope for the claims we should be able to settle the majority, accepting that a cap could generate some negative PR if it was viewed as reeling back from having a totally independent panel; however, this should reduce the number of very high claims accepting that some claims might end up going to court if they could not be resolved through the HSS. Tom Cooper thought it likely that BEIS would want to retain the Independent Panel and would not want to take on the role of assessing the claims themselves. Tim Parker noted that a common sense outcome would be to seek to settle as many claims as possible satisfactorily for both parties and we needed to determine what had to happen to achieve this aim. Nick Read noted that we had to be cognisant that individual settlements did not rule out further litigation. 112 people had enquired when their claims were going to be paid; whilst not a groundswell at the moment, the anniversary of announcing that we would set up a scheme would be 11th December 2020. Some form of cap looked sensible recognising the prospect of, say, the top 10% of claims going to Court



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- Al Cameron thought it would be helpful to be clear on what we meant by VFM because there were two elements: 1) the payment of the HSS would be less costly than a second litigation based on our judgment of the range of costs associated with each 2) We could settle the HSS for less than the current estimated settlement figures
- Ken McCall thought that there should be four or five actions undertaken and reviewed regularly by the Board to help with the “bridge to certainty”. It was a difficult set of circumstances for Government but we might want to provide it with some options or choices to help progress the funding decisions. It was difficult also for the Board if we did not know what the Shareholder wanted us to do. Tom Cooper thought the test cases would be a critical for the size of the claims. If most of the claims were medium sized, of say between £5k or £10k on average, that average figure would make a significant difference to the overall costs. The question of how these claims would be resolved in practice and whether they represented VFM was critical. Tim Parker noted that all we could do was work out that these claims were reasonable and that the settlements proposed were reasonable; we could test the Herbert Smith Freehills’ assumptions but we were not going to get to a position of complete certainty. TP added that we could not start making the HSS payments until we knew Government had confidence about how the Scheme would operate. Carla Stent noted that this made the “bridge to certainty” harder if the assurance provided by the Independent Panel was not regarded as sufficient and wondered whether a BEIS person be involved with the Panel’s work. [Lisa Harrington left the meeting]. Tom Cooper reported that BEIS was not concerned about de minimis payments as a principle and was supportive of the Independent Panel in principle. However, we did not have processes in place currently to provide comfort on the “bar bell” issue. Tim Parker noted that for greater certainty on costs we would need a greater degree of certainty on the costs associated with the majority of the cases. Al Cameron noted that we had said we would come back in January 2021 with a better view on the quantification of the claims; we needed to set out the choices now, e.g. simple versus compound interest
- Ken McCall thought there was danger in seeing the McColls settlement as a benchmark for the difficulty of resolving claims. The McColls arrangement was different and was in part an assessment of what might happen with one of our critical partners and the cost of replacing them or court action being taken by them. Tom Cooper explained that he had been using the McColls example as a way to illustrate that POL’s assessment work meant that we could have paid more than McColls had claimed.

Tom Cooper described the position at BEIS. There was a clear intention to fund POL, they understood the sums involved and the potential liabilities and they understood the consequences of the approach they were taking. BEIS would not have committed £227m in funding were they not supportive of POL; however, there were process issues to work through for the HSS. HM Treasury approval of the £300m contingent liability figure associated with the HSS was expected later this week and BEIS should then be able to release the comfort letter. In terms of funding HSS claims overall, this would be considered at an investment committee in BEIS in mid-January 2021 and that approval was likely to be at the end January or early February 2021. TC agreed with Al Cameron that we should not defer the publication of the 2019/20 Annual Report and Accounts unless absolutely necessary. Al Cameron noted that we would need to be able to quantify the provision to include it in the Annual Report and Accounts; this would have to be worked through at the Audit Risk and Compliance Committee (ARC) on 26th January 2021 and with PwC; this was not only a question of including a number.

Tim Parker summed up the discussion and decisions. The Board **AGREED** that:

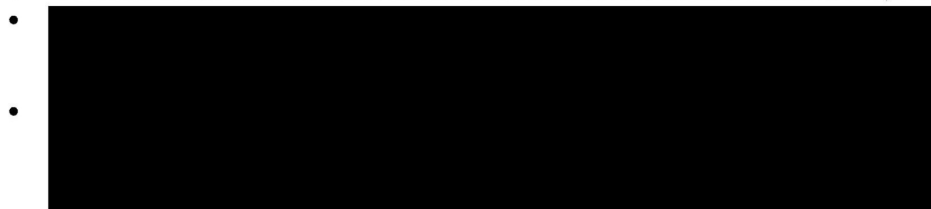
- the business should continue to operate as it was currently with tight controls on spending. There was uncertainty about funding but we had support from Government



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- Al Cameron would have conversations with NatWest and the Bank of England in December 2020 but wait until the New Year to have conversations with other creditors unless the situation changed
- we would act on the advice and recommendations from the Smith & Williamson report
-

Actions:
Executive/
AC/ BF/ TP



- we would consider the "bridge to certainty" further and what was necessary to obtain greater certainty
- the outcome of exceptional spend being undertaken by the Investment Committee on 7th December 2020 would be provided to the Board for consideration
- the Board would meet again before Christmas to further review of the position, preferably after the HM Treasury approval had been secured and we knew whether BEIS then required confirmation in writing from HM Treasury.

3. Any Other Business

There being no other business the Chairman declared the meeting closed at 10.15 hrs.

4. Date of next scheduled meeting

26th January 2021.

GRO

01/02/2021 19:19

CHAIRMAN