
From: David Oliver [GRO]
Sent: Thur 13/03/2014 5:32:53 PM (UTC)
To: Band, Christa [GRO]; Belinda Crowe [GRO]; Swil, Jonathan [GRO]
Cc: Chris Aujard [GRO]
Subject: RE: Following discussions at Post Office

Christa,

One more thing. ExCo discussed the legal advice and the scoping today.

The following points were of particular interest to ExCo (I realise we have covered some of these with you but thought helpful to convey):

- Triaging of cases.
- Segmentation of the cases.
- What client side advice/insight you might be able to bring to bear (there was interest from the board as to what approach, standard life was cited)
- Precedent – where there was a quite extensive discussion of what precedent different approaches might set including how we avoid setting a precedent and whether our approach and liability would be effected by how the organisation has previously enforced the contract
- The option of closing the scheme down altogether and allowing applicants to pursue through the courts if they were so minded.
- Whether the public status of the organisation and the public purpose statement meant that actually the organisation should make a goodwill payment.
- How Post Office might deal with a single outlying case if they found one where they felt that consequential losses were justified.

Regards

David

David Oliver
Programme Manager
Initial Complaint and Mediation Scheme

[GRO]
Mobile [GRO]

From: Band, Christa [mailto:[GRO]]
Sent: 13 March 2014 10:21
To: Belinda Crowe; Swil, Jonathan
Cc: David Oliver; Chris Aujard
Subject: RE: Following discussions at Post Office

Belinda

Thank you – this is helpful and we have the point.
Christa

From: Belinda Crowe [mailto:[GRO]]
Sent: 13 March 2014 09:48

To: Swil, Jonathan; Band, Christa
Cc: David Oliver^(mailto:); Chris Aujard; Belinda Crowe
Subject: RE: Following discussions at Post Office

Jonathan/Christa

I know we have discussed this but could you ensure that, your paper expressly addresses the following:

How best can we start to manage the expectations of the applicants claiming high levels of compensation?
When/how could we inform Applicants that our intention is not to consider consequential losses? It was never our intention to so do.

You have the Scheme documentation and the information given at the training event for advisors which may be relevant here. i.e: this was not stated in the Scheme documentation so what would be the implications of setting out our position now? What might be the impact in relation to the Working Group and also the Chair.

This may come up in discussion with Paula next week so please could you come along ready to answer these points specifically.

Happy to discuss if helpful

Best wishes
Belinda

Belinda Crowe
148 Old Street, LONDON, EC1V 9HQ

GRO Postline: **GRO**

GRO

GRO

From: Belinda Crowe
Sent: 12 March 2014 14:27
To: Swil, Jonathan
Cc: Band, Christa; David Oliver^(mailto:); Chris Aujard; Belinda Crowe
Subject: RE: Following discussions at Post Office

Jonathan

Chris said that we would get back to you with some comments on format for the Board paper. Having discussed internally the view is that the Board would prefer a paper to a powerpoint presentation.

I understand that you will want to prepare a very detailed note and [a letter containing] an executive summary. We can take a view, when we see what you have prepared, whether both the detailed paper and the executive summary needs to be presented to the Board. We can pick that up with Christa on Monday.

Best wishes
Belinda

Belinda Crowe
148 Old Street, LONDON, EC1V 9HQ

GRO

Postline:

GRO

GRO

GRO

From: Chris Aujard
Sent: 12 March 2014 08:57
To: Swil, Jonathan
Cc: Belinda Crowe; Band, Christa; David Oliver^[GRO]
Subject: RE: Following discussions at Post Office

Thanks Jonathan – Please do correct me I have got this wrong, but I think what you are saying is that:

- 1) Any claim for wrongful termination of contract will be limited by reference to the amount to which the SPMR would otherwise have been entitled during the three month notice period.
- 2) Claims in respect of “other categories of alleged liability and loss” (e.g., wrongful “loss recovery”) would not necessarily be so limited.

To get a complete picture, I really do need to understand what, if anything, would be the legal basis for the “*other categories of alleged liability and loss*”. Not being a litigator I struggle to see what type of action could be brought, or if one could be brought, that the facts would support the claim. Is there anything that you can think of? Please do pick up the phone if you want to throw round any ideas. The place I want to be in is one where I can give the board a complete view of the realistic legal position (not the that which might apply in theory).

Many thanks

Chris

From: Swil, Jonathan [mailto:^[GRO]]
Sent: 11 March 2014 18:44
To: David Oliver^[GRO]
Cc: Chris Aujard; Belinda Crowe; Band, Christa
Subject: RE: Following discussions at Post Office

David

We have considered your question below.

We agree that insofar as a SPMR's claim is for loss suffered as a result of the wrongful termination of his contract, the maximum damages he could claim are likely limited to the pay to which he would otherwise have been entitled during the three month notice period.

Section 1, clause 10 of the contract entitles Post Office to determine the contract on giving a SPMR three months' notice. It also entitles termination for breach of a condition of the contract or non-performance of obligations or services under it. Accordingly, it does not matter for what reason the SPMR's contract is terminated, provided three months' notice is given. If no or less than three months' notice is given, then Post Office would need to establish that the SPMR had breached a condition or not performed an obligation or services. If Post Office cannot do that, then it will be in breach to the extent of the insufficient notice and the losses flowing from that breach would likely only be the pay lost during the or the remainder of the notice period. In some cases, such damages may well be less than three months pay because of the general duty to mitigate loss (i.e. in this case, to find a new source of income) and/or any savings of costs that would otherwise ordinarily be incurred by the SPMR in his Post Office business if his contract had not been terminated prematurely.

The claims in respect of other categories of alleged liability and loss e.g., wrongful “loss recovery” by Post Office, are a separate matter.

Kind regards

Jonathan

From: David Oliver [mailto:] GRO
Sent: 11 March 2014 12:33
To: Swil, Jonathan
Cc: Chris Aujard; Band, Christa; Belinda Crowe
Subject: RE: Following discussions at Post Office

Jonathan,

Thanks. Following up our conversation:

- Yes on the structure please stick to our revised structure.
- On timing Chris would like a review meeting on Monday and then a draft on Wednesday.
- On Second Sight as discussed please focus on any legal risk and forward looking not an analysis of how we engaged them.

Separately grateful for an urgent answer to the question – is there anything you have seen to call into question Bond Dickinson’s advice that Post Office’s liability with respect to a SPMR who has been summarily dismissed is framed by the contractual notice period? Please let us know asap if you have a different view. In other words are the claims for consequential loss completely out of court?

Regards

david

David Oliver
Programme Manager
Initial Complaint and Mediation Scheme

Mobile GRO
GRO

From: Swil, Jonathan [mailto:] GRO
Sent: 10 March 2014 18:44
To: David Oliver
Cc: Chris Aujard; Band, Christa; Belinda Crowe
Subject: RE: Following discussions at Post Office

David

Thanks for this. I'm generally free to discuss anytime tomorrow morning after 9.30am. Let me know what time suits you.

Kind regards

Jonathan

From: David Oliver [mailto:] GRO
Sent: 10 March 2014 18:35
To: Swil, Jonathan
Cc: Chris Aujard; Band, Christa; Belinda Crowe

Subject: Following discussions at Post Office

Jonathan,

Thanks for the paper. We have cut down further and reshaped to fit house style. Can we discuss tomorrow morning once you have had a chance to review?

Thanks
David

David Oliver
Programme Manager
Initial Complaint and Mediation Scheme

GRO

Mobile GRO

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