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**Post Office Limited
Postmaster Litigation Subcommittee**

**MINUTES OF A MEETING OF THE POSTMASTER LITIGATION SUBCOMMITTEE OF
POST OFFICE LIMITED (THE "COMPANY" OR "POL") ON TUESDAY 15 MAY 2018
AT 11.30 AM AT 20 FINSBURY SREET, LONDON EC2Y 9AQ**

Present: Tim Parker Chairman **(TP)**
Paula Vennells Group Chief Executive **(CEO)**
Alisdair Cameron Chief Financial and Operations Officer **(CFOO)**

In Attendance: Anthony de Garr **(AdGR)**
Robinson, QC
David Cavendar, QC **(DC)**
Andrew Parsons Partner, Womble Bond Dickinson **(AP)**
Jane MacLeod General Counsel & Company Secretary **(JM)**
Tom Cooper UKGI **(TC)**
Veronica Branton Minute Secretary **(VB)**
Patrick Bourke Corporate Affairs Director **(PB)**
Rod Williams Head of Legal: DR & Brands **(RW)**
Mark Underwood Head of Portfolio: Legal, Risk & Governance **(MU)**

Apologies: Ken McCall Senior Independent Non-Executive Director **(KM)**

These minutes contain legally privileged information which was discussed with both internal and external counsel in attendance. **ACTION**

1. General Update on Litigation Strategy

The Chairman welcomed David Kavanagh, QC, and Anthony De Garr Robinson, QC, to the meeting.

David Kavanagh explained his thoughts on the interim opinion on the Merits Case

Overview of litigation

561 claims, existing and previous PMs . Damages for loss of office and in assoc with other businesses they ran at PO. 23 contractual issues in Nov phase 1 phase 2 Horizon phase 3 – breach, causation and loss to apply to a range of the specific cases sometime in 2019 (breach and causation will look and limitation and settlement). Judge has strong views on where he wants to go with this

Work out in common issues trail what the contract means. Phase 2 work out how the computer sustye worked. Phase 3 – apply the finding s of the 1st trail to the cases brought

CI trial – what kind of relationship those docs in the round constitute . We say business to business but could be interpreted differently. Not straightforward because of the drafting og the contracts esp the older ones.

Idea of good faith into contracts, esp relational contracts (emg long ter arrangements). New law. Unclear what a general duty of good faith would mean.

The way these claims are running isn't particularly normal. They may re-jig their case to make it better. Overall view is that the PO has the better of args in most 23 args. Don't

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think it likely that the good faith claim will be upheld but is material there for him to do so (bit of a one sided contract. Etc) but in that case would advise PO to appeal.

1. Stirling & Maitland – says you can do nothing to impede performance by the other party. May impact on the duty to give training and assist PMs in understanding shortfalls.
2. Necessary cooperation

Common opinions – earliest judgement date likely to be January

Duty to account – claim is that it's for the PO to show reasons for shortfalls. PO says only PMs ran the branch and the burden is on them to show reasons for shortfall. Standard requirements for an agent. PMs say they acting under duress when signing their trading accounts (but not a common issue would come out in phase 3). Adequacy and training would come out in the breach trial.

Right to suspend and terminate – natural justice arg. 3 month/ 6 month termination right not seen as reasonable should be 12 months. Expressed term of a business to business contract is our argument. Suspension must be based on reasonable grounds. Not generally difficult to fulfil that requirement. But may be cases where there weren't reasonable ground for suspension

3 months a short period for termination of a contract of this type. Vulnerable may be hard to defend. Sometimes the contract was not signed or had no chance to read before signing.

Does court take into account that they're dealing in cash. Yes, that would be a factor that the court would take into account.

Might say that in no circumstances is there scope for us to be malicious in termination??

Not many cases where you would want to suspend somebody without having reasonable grounds.

Going to future preparing for first two trials.

Has there been a loss for which they're making a claim?

Ist two stages, stages to the final trail. Judge was keen to hive off the horizon trail. If we can show it's a generally dependable system it strengthens our case in the third trail putting a requirement on claimant to show how the computer system didn't work.

Preps for common issues trail in Nov. Don't see there's anything to settle at the moment. But always need to consider the option of settlement (other side keen on this). Ordered mediation. At some point may be an issue with the funder.

Into second trail in March. Little scope to make useful connection between the two trials given the timescales. Ordered mediation will overlap with preparation of the Horizon trial.

Herd mentality with group funding. Once you start to pick people off there will be splits within the group.

Mediation would normally be at a high level but your would normally be able to identify categories of cases. There will be good and bads cases in the mix. Have v little information about the individual claims which makes it difficult to break them into different categories. V resistant to giving us this information. We might get better infor in the mediation than we have been able to in the proceedings.

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In relation to PMs who were terminated the claims on terrible consequences of this (eg bankruptcy) there is a cap based on the period of six months of whatever the termination period is. They're not disagreeing with this. Cap to the amounts they can claim. Not facing massive loss of an uncapped sum.

Al – cap we continue to impose conditions on current PMs if we lose the case in court? Wouldn't have to do something the next day but would be taking a risk if you didn't take steps to do something materially different if that is what the judge is proposing.

Should we be thinking about changes in advance of the judgement? Would that affect the case? Think that could be managed though the other side would try and make use of it. Wouldn't be helpful to the legal argument but could be helpful commercially. Could keep the existing terms but decide not to apply them?

Issue more where we've terminated for cause and we don't have a cause. Swings and roundabouts because if we give six months we'd be expecting six months' notice in return.

Contracts entered into between businesses. But significant upfront investment from the PO which they only recoup over a significant period of time. But how many people does this apply to (ie termination on 3 months' notice at an early stage).

Al more concerned about the requirement for us to account for the losses. If we lose on that then can we keep giving money to PMs?

The clause in the contract could be redrafted to make clear that the requirement extends to paper losses. IT would be tricky if Horizon to has shown to have inserted to put fictitious figures into branch accounts which weren't then picked up by our reconciliations process this could be v difficult.

Tim – think we should be proceeding on the basis that our position is right. Sequential trials and issues, continue to receive updates and advice. From our perspective there are no decisions we are being asked to take now? Will come back to us before the trial.

One of the big milestones will be when they decide to serve their evidence. Once we've seen this we'll have a much clearer idea of where they're seeking to go and we've plugging in our feedback on this provisionally for September 2018.

Not within our power to stop these two trial phases going ahead.

Two cards to play – contract isn't what it claims to be. Card 2 – Horizon flawed and causes rouge figuries to go into branch accounts. Knockout blows because they apply across the board. Things like training have to be proved on a more case by case basis with variations across both time and area. Looking in detail at 561 cases costly and less attractive to a funder.

Don't think the court's IT expert has got to grips with Horizon yet.

Tom – why is Horizon a killer blow? Aren't things like training/ failure to provide adequate training as problematic.

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Any view on how many of the 23 claims they're likely to win? 5 or 6 significant issues where it's not straightforward (go away and provide a summary?) Need to manage the comms angle and work out the implication.

Do a piece of work on impact of losing any of the 23 terms. Aiming to bring this back in about July. Looking at mitigations and what we could do now in addition to what we do if we did lose. Interesting to hear QCs views on most contentious of the 23 issues.

Not more business to be conducted at this point.

Unsettling at the moment. Would pay off actually settle the case. Would probably end up with new litigants.

With rather be PO than the claimant. But will be some difficult issues and reasonable claims. Eg contracts not signed, guidance and support imperfect. But don't have a sense of an avalanche of valid claims coming our way.

Will need to take a view of things that may not be costly in financial terms but are in PR terms

Tactical issue to be wrestled with in the next few months. Stirling & Maitland. They will be asking for a totally different model of the world to us (ie not business to business). Judge will have to identify a point in the spectrum. Args about a vulnerable group of people and judge may wish to concede some points. Normally would arg to give way on your weakest points but may wish to leave some for the judge to give way on. Need to be mindful of how much of this is just to general line about big business oppressing the little man and how much more significant.

Have to take advice and offer up things are required. Need to be aware if they are playing the comms in a particular way. Need to be willing to stand up and not give way just because there is bad publicity

Don't know how much they are funded up to. Don't think original funding was enough and this is being renegotiated currently. The funding is held offshore. Remember this for our comms.

ARA about to be signed. Discloses fact of the litigation but doesn't but in any provision for this but we are expecting some cases to go against us. Should we be providing for it now. Impossible to value it at the moment.

Protocol – sharing info with UKGI. Drafts have been going backwards and forwards. Rod having a meeting this pm. Getting close to having something we're happy with. Sequence of meetings eg board has to be briefed in advance of the shareholder. Being flexible about how those briefings occur.

Have conversation about the scope of the briefing required we believe it's v imp to maintain privilege and that we should prepare the briefings. Potential issue that could arise out of this? Issue potential loss of privilege depending on how the information is shared / dealt with.

Briefing to ministers which are transmitted onwards/ FoIAs etc.

Tom - Main issue is to build confidence with ministers and stiffen their backs for loss on some of the points.

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Briefings won't cover the detail but will help it to be understood better.

Paula happy to go and talk to the main people at BEIS. Face to face briefing sharing the colour the most helpful thing.

Protocol

- 2. Opinion on the Common Issues**
- 3. Next Steps, including Contingency Planning**
- 4. UKGI Protocol**
- 5. Minutes**
- 6. Any Other Business**

3.4 Application for security for costs

The proposed application for security for costs was noted. Mr Parsons advised that an application for security for costs was not unusual and that based on the ongoing discussions, he believed that a consensual agreement could be reached without the requirement for a court order.

4. Protocol for engagement with UKGI

The request from UKGI for regular briefings on the progress and status of the litigation was discussed and it was noted that UKGI and Post Office were discussing a draft protocol to enable such information to be shared. The Committee noted that such briefings could involve legally privileged information and that it was important for such privilege to be maintained.

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5. Contingency planning

The Committee requested work to be undertaken on contingency plans should the outcome of either or both of the two trials be adverse to Post Office Limited.

It was reported that A VDB was leading on this work and that the Committee would receive regular updates.

6. CCRC

It was noted that 33 former Postmasters had applied to the Criminal Cases Review Commission ('CCRC') to review the terms of their convictions. Mr Williams noted that Post Office was cooperating fully with the CCRC and we believed that they were nearing the end of their investigations. Nevertheless, Post Office considered it unlikely that a decision would be made public before the conclusion of the Horizon trial. The Committee noted that the outcome of the CCRC work could be that cases were referred to the Court of Appeal.

7. AOB

Next meeting.

It was noted that at the next meeting on 15 May 2018, Post Office's appointed QCs would attend to discuss the progress of the case.

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Chairman

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Date