
From: Gill Lindsay
Sent: 12 April 2010 18:07
To: Nick Smith
Cc: Alastair Maclean
Subject: FW:

Nick

I have pushed for today and received the information you had asked for and were awaiting from Tie and updated Marshall as TMO. Marshall will be at Haymarket from next week. I have briefly discussed and advised on some matters today and he will put in place a regular meeting with us at Haymarket to support his role and support our challenge and support of Tie.

Alastair I have copied for visibility during Nicks leave - no action required.
Gill

From: Gill Lindsay
Sent: 12 April 2010 17:58
To: Marshall Poulton
Subject: RE:

Thanks Marshall.

I have just now received from Tie a further opinion from McGrigors following further consultation with Richard Keen QC which adjusts the position contained in the earlier detailed draft McGrigors opinion received in March. Essentially the advice is now that there is no over riding time limit to challenge the Wilson decision (and that the particular time limit would apply only in the circumstances where both parties had agreed that the matter was to go to litigation and then did not proceed within that particular timescale). This supports the initial advice provided by DLA that there was not fixed time limits in respect of further potential litigation. This advice note also recommends engaging further QC opinion from London from a specialist commercial QC, Helen Davies, to consider the substantive matters in consultation with Richard Keen, available during this week reporting next.

This is very helpful. I will ask for further developments to brief you. It would be good to reach a position where we are confident that we have this and other advice/developments as they arise - this note has been in place since 31 March.
Gill

From: Marshall Poulton
Sent: 12 April 2010 16:17
To: Gill Lindsay
Subject: RE:

Thanks for this Gill, I'll chase this up for you.

Marshall

From: Gill Lindsay
Sent: 12 April 2010 16:15
To: Marshall Poulton
Subject: FW:

Marshall

I have resent as my mail box earlier was full!. Tie have now helpfully sent the less urgent material but not the urgent material yet.
Gill

From: Gill Lindsay
Sent: 12 April 2010 14:52
To: Marshall Poulton
Subject:

Marshall

Good to meet today. Just let me know when it would be good to start more regular meetings with Nick and I between next week and mid June, during the period of the particular support re TMO and additional issues before next IPG, now 27 April. As you know FCL has been changed to monthly and cancelled last month and now tomorrow.

As discussed, much work has been undertaken legally in terms of a very detailed review by McGregor's with I understand detailed support from DLA support.

On 1 point of important detail, Nick has been seeking and not yet received some materials, the most pressing being a legal opinion supporting the Tie business decision, not to appeal the Wilson decision, with ref to McGrigors detailed opinion. Paras 10.5 - 10.7 and others refer to this decision, states that " "however in arriving at those declarations he reaches certain conclusions in relation to the interpretation to be given to Pricing Assumption No 1.... There is a risk that Mr Wilson's conclusions in relation to the interpretation of Pricing Assumption No1 form part of his decision , and are therefore binding - until the dispute is finally determined by legal proceedings (or agreement). Para 36.5 states " if the latter interpretation is correct, that would require court proceedings to be raised and served in relation to the dispute referred to Mr Wilson by no later than 14 April 2010 (bring 70 Business Days after his decision was issued). The Report also states that the matter will be referred further to Richard Keen QC.

Essentially Nick has not yet been provided with any updated legal view which McGrigors were considering by 31 March in accordance with the list of work tasks received nor as may have been commented on by Richard Keen. I have asked Tie, Susan Clark for this on the phone today and she has advised she will endeavour to obtain and provide asap but the time limit will expire on 14 April and the Council and TMO has no further diligence on why this decision has been made, despite request.

Additional outstanding material (of lessor immediate concern) is DLA advice referred to in McGrigors Report and further updated advice from Richard Keen. Susan has helpfully advised today that she will locate the DLA advice and provide to us and that there is no further written draft from Richard Keen as at today's date.

I will call Susan again early Tuesday.
Gill