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NOTE OF INTERVIEW – BEN FOAT

DATE: 7 February 2024

Start Time: 9.00am

End Time: 9.56am

Investigator: Marianne Tutin, Devereux Chambers (MT)

Note Taker: Aparajita Arya, Devereux Chambers (AA)

Interviewee: Ben Foat, Group General Counsel (BF)

1

2 **[Introduction]**

3

4 **MT** At our last meeting, we touched briefly upon the last allegation in respect of the
5 alleged bonus multiplier error. Jane alleged there was an error that resulted in an
6 overpayment to Nick in 2022, which was not declared to RemCo. She also alleged
7 the same error took place in respect of payments to you and Angela. However, what
8 I wanted to ask you has since been clarified elsewhere, so I don't have any further
9 questions for you at this stage.

10 **BF** It is subject to whatever RemCo or Ben Tidswell have said. What I can tell you is that
11 Jane is absolutely wrong. For the 2022 bonus, I have an email where the 5 metrics
12 added up to 100%. When anyone gets a 4 or 5 rating, it is applied across the whole
13 100%. It isn't that you only get it for a certain metric. That has never been the case in
14 Post Office or Zurich. I would have expected people to inform me that that was the
15 case. I am not aware of what RemCo has done, but the apportionment issue is a load
16 of rubbish from my perspective.

17 **MT** For the financial year 2021/22, a different approach was in place. It was a
18 transitional year, moving towards to a new system. Since 2021/22, the metrics for
19 GE members are based on company performance alone and then a multiplier may
20 be applied based upon personal performance.

21 **BF** And they always were. If it relates to 21/22 then the Amanda Burton Report and
22 Simmons & Simmons reports are relevant. I have never gotten anything less than a 4
23 rating, at both employers. I have always exceeded expectations in the last 14 years of
24 my career. All I can tell you is about the information that is given to me. That
25 information I have to apply down to my teams. It is that the corporate measures
26 should all add up to 100%. The 4 rating is the multiplier. I think it was 1.1 in that year

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1 based on the 100% metric. With respect to the person making these allegations, I think
2 they are quite spurious.

3 **MT** From what I have seen with respect to the financial year 2021/22, there was a 20%
4 **weighting for personal metrics and an 80% weighting for corporate metrics. The**
5 **multiplier based on personal performance was then applied to the 100%. But there**
6 **was a discussion around whether the multiplier reflecting personal performance**
7 **should apply just to the 20% or to the 100%.**

8 **BF** If it is to do with the 21/22 financial year then the Amanda Burton Report and Simmon
9 **& Simmons Report is highly relevant but what I can say is that that would be**
10 **completely inconsistent with industry practice. The fact that you get a 4 rating,**
11 **logically it doesn't make sense. The whole point of being differentiated has to be on**
12 **the corporate metrics. This year, that is subject to the Amanda Burton report and all**
13 **of that. That is the only year in which they did the transitional arrangement. That**
14 **report has more evidence than what I can give on the issue. Even if RemCo decided**
15 **you can only have a multiplier in relation to the 20%, I would say, 'can someone please**
16 **show me where you communicated that to me?'**

17 **MT** Thank you, I have enough information in relation to the allegations regarding the
18 **approach to your bonus and Angela Williams' bonus. As for the allegation in respect**
19 **of Nick, I would like to know more around governance. In respect of POL's**
20 **relationship with government, from what I understand, there are the Articles of**
21 **Association, the Framework Document and the Managing Public Money guide. Have**
22 **I missed anything critical?**

23 **BF** No. There is an entrustment letter but it is not relevant to what you are looking at.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

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[REDACTED]

15 **MT** That's helpful. Can we go back to the notes of our last meeting and look at the
16 matters you said you would take away to consider?

17 **BF** Yes.

18 **MT** The first point was regarding whether there were any emails from Jane suggesting
19 to you there should be any EDI training for NEDs?

20 **BF** Yes. I say that I can't find any email where she mentioned EDI training for NEDs. There
21 are however EDI emails. It was actually sent with Laurence in my team, advising her of
22 a number of successors. I couldn't find anything about her wanting to do EDI training
23 for all the NEDs.

24 **MT** When was the correspondence with Laurence?

25 **BF** I can't remember but I think it was January.

26 **MT** That is about the time she said she had this discussion. Would you be able to forward
27 me the correspondence?

28 **BF** Yes.

29 **MT** Jane said that Nick sent both of you an email from Roshana Arasatnam about a
30 mentoring opportunity. Were you able to find it?

31 **BF** Yes. But it wasn't actually from Roshana. It was a programme for ALBs to nominate
32 someone for a lead reviewer opportunity.

33 **MT** What is ALB?

34 **BF** It's the acronym that's given when they are separate from government. I can't recall-

35 **MT** Arm's length bodies?

36 **BF** Yes. What I did find was an email from the BEIS Partnership team asking for
37 nominations around the Lead Reviewer role. Nick forwarded the email to me and Jane,
38 saying 'both, do you want to give this some thought. We may choose not to send
39 anyone, but conversely it might be an interesting opportunity for one of our
40 colleagues'. Jane replied copying everyone 'Ben, I am unsure if you or I should take

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1 the lead on the nominating process. It seems like a people development opportunity,
2 but let me know'. I replied 'happy for you to take a lead and support where you think
3 appropriate'. What's not part of that is that I had previously written to Jane and Nick
4 about leadership behaviours. We don't have a leadership framework. Every other
5 company I have worked at have those frameworks. This is why Nick had written to us.
6 I think the lead reviewer role was more in my area in terms of subject matter expertise,
7 but I think Jane is right that it is a people issue. If Nick has done something wrong, I
8 would say he has done something wrong. In this case, I think he thought this is a
9 people process as well and so he said 'both of you can you deal with it'. I will send you
10 the correspondence. You can see the tone and the language, you can see there is no
11 sense of me marking her homework. She did get Nick's consent to instruct external
12 legal panel without my awareness. I said to her 'you can do that if I am conflicted'.
13 There will be times where I can't be involved. There is a reason why our legal policy
14 said that you have got to have an internal lawyer or me aware of the instruction. I
15 can't be accountable for overseeing legal risk management or budget if people can
16 just instruct law firms directly. I spoke to Ben Tidswell about this. From an
17 accountability perspective, I felt quite vulnerable. That is an illustration where I think
18 Nick made a wrong decision, but in her favour. It illustrates him giving her room to
19 operate which you wouldn't be able to do at Zurich.

20 **MT Would you be able to send the correspondence that you reference and the earlier**
21 **email regarding the leadership behaviours?**

22 **BF** Yes.

23 **MT I had asked if you were able to clarify why it was that Nick originally had oversight**
24 **of Project RoseOne and why there was the change to Ben Tidswell?**

25 **BF** Nick only initially had conduct. One of Jane's direct reports resigned citing conduct
26 issues. At that juncture, it was a conduct issue (and not a Speak Up issue). Following
27 that policy, Nick and I were involved. In a relatively short amount of time, we got
28 numerous Speak Up and conduct complaints (you can see JB's correspondence about
29 that). At that juncture, JB, Sarah Gray, myself, and Pinsents were all agreed that this
30 needed an external investigator to look at these kinds of issues. The person's seniority
31 in the business and the allegations was such that it warrants an investigation. All of
32 that was given to Ben Tidswell. When those issues got raised, it triggered the Speak
33 Up policy. That's why it did not go straight to Ben Tidswell immediately.

34 **MT I have also seen a couple of grievances raised by members of Al Cameron's team in**
35 **2020 and more recently. They were investigated internally as part of a grievance**
36 **process. Was there a reason why the matters regarding Al were investigated**
37 **internally? Why not bring in external investigators?**

38 **BF** I was not made aware at the relevant time of those investigations.

39 **MT I appreciate the CFO might not be in the same position as the CPO in terms of having**
40 **potential oversight of investigations.**

41 **BF** The CFO is a statutory role. Jane was in probation. I wasn't aware of the investigations
42 that have been set up. I hope that going forward, that is now being addressed. There
43 are other GE members where there is conceptually a Speak Up issue that have been

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1 referred to an external investigator. Apparently, Owen did an internal review for Al
2 Cameron. I did not find out right until the end. [REDACTED]

3 [REDACTED] This is a problem with HR working in a siloed approach. The industry
4 practice is that HR should work with Legal in terms of resolving these issues. Those
5 cases, I was not made aware of until right at the end of the process or after the process
6 had concluded. I can't say much at that stage as it has already happened. [REDACTED]

7 [REDACTED] he Al Cameron issue is a different issue. It is quite
8 complex and there is an interplay with UKGI which does not exist in Jane's case. I think
9 the point is, there are other examples where if there is a Speak Up against the GE
10 member, they have been externally investigated.
11

12 **MT Forgive me, there was one point I meant to ask earlier when discussing governance.**

13 [REDACTED]

14 [REDACTED] We

15 are working very collaboratively and cooperatively with DBT in terms of that. I would
16 just refer to the words in those documents, when I am saying 'my interpretation'. The
17 Framework Document is not legally binding – I am saying that because that's what it
18 says in the document. I don't want people to have the impression we don't consider
19 it. We absolutely do. Nothing gets signed off without our shareholder. Even in our
20 view, things that don't require shareholder sign off, we get sign off.

21 **MT Thank you. There was one other point to check. Jane said she had a conversation**
22 **with you on 25 April, just before the POL conference, where she raised complaints**
23 **about being treated differently by Nick which she linked to her gender. Did you find**
24 **any emails or notes about that?**

25 **BF** I went through my emails. I couldn't find any Teams Messages. On the emails, there is
26 a 19 April email and my response. She wrote to me on 27 April. She was upset about
27 the issue generally. But at that stage, there is no reference to gender. I am happy to
28 send what I found.
29

30 **MT What was she upset about?**

31 **BF** The investigation into her. She did not think these matters should be investigated and
32 that it should all be done internally. Her view was that she came in and was trying to
33 reform the organisation and her own team, and all the claims were fictitious. As
34 General Counsel, you just accept that at face value. In my role, I have to make sure
35 they are investigated appropriately. She was very annoyed with the fact that it would
36 be an external investigation. She wanted legal representation. We agreed to it. The
37 external investigator said he/she could be present, but couldn't speak. She thought
38 the allegations were false and she did not think there should be an investigation on
39 the basis we were proceeding with.
40

41 **MT Did she reference Nick in the correspondence?**

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- 1 BF No. I sent an email to the Chairman for awareness. But Nick was not driving the
2 investigation. Generally speaking, where this ended up going, it was not appropriate
3 for Nick to drive it. Can you imagine, with the public inquiry, if we don't treat Speak
4 Up allegations thoroughly? That would just be the old Post Office. On a human level, I
5 understand it would be upsetting for her. You will see from my emails with her that I
6 was trying to be friendly and supportive while also doing my job and being impartial.
- 7 **MT Please do forward me these emails to me. Can you do so by lunchtime please? I am**
8 **speaking to Nick tomorrow.**
- 9 BF Yes. I will do so by lunchtime.
- 10 **MT I want to circle back to my questions regarding Henry. I had asked you about**
11 **whether you had heard him use any old fashioned or insensitive language to**
12 **describe women or individuals from BAME backgrounds in particular. With the**
13 **benefit of time or the fact that he has now departed, do you have anything to add**
14 **to your original answer?**
- 15 BF I would maintain the view that his behaviours were not appropriate. I would never act
16 in the manner in which he has conducted himself on several occasions. That said, I
17 couldn't recall any specific misogynistic or racist language that he has used. One can
18 be very aggressive without employing discriminatory characteristics.
- 19 **MT I have now seen the Project Pineapple email and the comments he makes about you.**
20 **You must have seen those emails at around the time we last spoke and I can only**
21 **imagine the pressure you were under. Can I check when you learned of that email?**
- 22 BF It was after our meeting. I will send the emails to you. We met on Tuesday. It was on
23 Thursday that it got sent to me. Nick accidentally sent it to a number of people. My
24 comments in our previous conversation were without my awareness of the Project
25 Pineapple. I think he wrote the document before I gave evidence but I did not become
26 aware of it until Thursday. I did not need to see the Project Pineapple email.
- 27 **MT It's come to my attention that Henry was trying to disrupt this investigation and stop**
28 **it from proceeding. Is that right?**
- 29 BF Yes.
- 30 **MT Did he put you under any particular pressure to stop the investigation?**
- 31 BF Yes.
- 32 **MT How did that pressure manifest?**
- 33 BF He used different expressions. He said I was not a commercial enough GC. He said at
34 WH Smith this would have been dealt with and gone. He made varying commentary
35 around that. I am aware he put pressure on Amanda Burton. She came to Lorna and I
36 one evening and said she had a conversation with Henry, who was quite upset.
- 37 **MT When were these conversations with you?**
- 38 BF From the get-go.
- 39 **MT Did they increase at all in January?**

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- 1 BF Yes. He was abusive on the phone. There was a call in December where he was so
2 offensive. My technique is to just let the person talk. At a certain point, I said to him it
3 was not appropriate to speak to me in that manner. He hung up on me. I sent an email
4 to Nick and Karen.
- 5 **MT When was the conversation between Henry and Amanda Burton?**
- 6 BF I can't recall but it would have been towards the end of last year.
- 7 **MT Do you think Henry didn't want the investigation to proceed because he didn't want**
8 **me to making findings against him?**
- 9 BF I don't know. I was shocked that any Chairman of a public organisation would consider
10 his approach to be technically right, and by the manner in which he treated people. I
11 am the Chairman of a travel currency business myself and have never come across this
12 behaviour before.
- 13 **MT In your view, do you think he was motivated by the desire for me not to make any**
14 **findings of fact, particularly about the Green Park meeting?**
- 15 BF It is speculation. He would know what he said to her. Only he can really answer that. I
16 don't know. It would be in his self-interest but I don't want to speculate.
- 17 **MT What was your understanding about why he didn't want the investigation to**
18 **proceed?**
- 19 BF It was multifaceted. He obviously had come from a place where it was appropriate to
20 deal with investigations and issues in the manner that he was describing. I would query
21 whether there was some self-interest in it but I don't want to speculate. That is a
22 matter for him. He did put pressure on people to sweep it under the carpet. Multiple
23 people felt that.
- 24 **MT Those multiple people were you, Karen, Amanda, and Lorna?**
- 25 BF Yes.
- 26 **MT It sounds like Nick became aware of Henry trying to prevent the investigation in**
27 **December 2022?**
- 28 BF Nick has been aware of this throughout. When we first discussed the matter, early on
29 in the investigation, Ben Tidswell, Henry and I were on the call, the Chairman made
30 inappropriate questions about who spoke up; as in the Whistleblower. I think he was
31 trying to ascertain if it was Al Cameron. At the time, there was an issue between Jane
32 and Al Cameron.
- 33 **MT Did you ever have any sense that Nick shared Henry's approach to the investigation?**
- 34 BF I think Nick knows that an investigation has to be done in such circumstances and has
35 commented that an investigation must be done. I think he knows that the right
36 decisions were taken. But of course, understandably, the falling-out of Jane suing the
37 company etc, takes time and resource out of the company. Nick understands the
38 importance of all being done. On a human level, we have to have empathy for people
39 subject to allegations. I think Nick's view is that what we have done is the right process.
40 But it's not pleasant for him. Nick has never said to me to get rid of this.

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- 1 **MT** Finally, did you know if Nick ever took any steps to speak to Henry about his
2 behaviour and his approach to the investigation?
3 **BF** I don't know.
4 **MT** That's all I have to ask you. Thank you very much for your time this morning.
5 **BF** Thank you.
6 [End]

Signed (Interviewee)	
Dated	