

Message

From: Cowley, Ruth [GRO]
Sent: 09/10/2019 14:45:09
To: Andrew Parsons [/o=Exchange-Org/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=ad9ed344815e47e4aaa3c0e7e1740919-Andrew Pars]; Kenneth Garvey [GRO]
CC: Rodric Williams [GRO]; Sherrill Taggart [GRO]
Subject: RE: Legally Privileged - Legal Advice - GLO - Disclosure Incident [WBDUK-AC.FID26896945]

Huge apologies - this only just dropped in. Joining now.

From: Andrew Parsons [mailto:[GRO]]
Sent: 09 October 2019 15:26
To: Kenneth Garvey; Cowley, Ruth
Cc: Rodric Williams; Sherrill Taggart
Subject: RE: Legally Privileged - Legal Advice - GLO - Disclosure Incident [WBDUK-AC.FID26896945]

Done

Details:

[GRO]

(UK)

English (United Kingdom)

Conference ID: 5929466

Andrew Parsons
Partner
Womble Bond Dickinson (UK) LLP

d: [GRO]
m:
t:
e:

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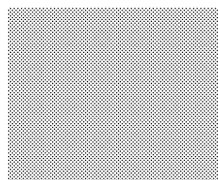
From: Kenneth Garvey [GRO]
Sent: 09 October 2019 15:22
To: Cowley, Ruth [GRO]; [GRO] Andrew Parsons [GRO]
Cc: Rodric Williams [GRO]; Sherrill Taggart [GRO]
Subject: RE: Legally Privileged - Legal Advice - GLO - Disclosure Incident

Great – can one of you circulate a dial-in for now?



Kenneth Garvey
Head of Legal, IT and Procurement

Legal Department



Finsbury Dials
20 Finsbury Street
London EC2Y 9AQ

M: **GRO**



The Post Office Legal Team was recognised as the In-House Commerce & Industry Team of the year at the Lawyer Awards 2019

From: Cowley, Ruth [mailto:**GRO**]

Sent: 09 October 2019 15:10

To: andrew.parsons**GRO**; Kenneth Garvey

Cc: Rodric Williams**GRO**; Sherrill Taggart

Subject: RE: Legally Privileged - Legal Advice - GLO - Disclosure Incident

I'm free now.

From: Andrew Parsons [mailto:**GRO**]

Sent: 09 October 2019 15:03

To: Kenneth Garvey

Cc: Cowley, Ruth; Rodric Williams; Sherrill Taggart

Subject: RE: Legally Privileged - Legal Advice - GLO - Disclosure Incident

Ken

Just tried to call. I'm in calls from 15:30 to 17:00 but around now and after.

A

Andrew Parsons

Partner

Womble Bond Dickinson (UK) LLP

d: **GRO**
m:
t:
e:

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From: Kenneth Garvey **GRO**

Sent: 09 October 2019 14:42

To: Andrew Parsons

Cc: Cowley, Ruth **GRO** **GRO**; Rodric Williams **GRO**; Sherrill

Taggart **GRO**

Subject: FW: Legally Privileged - Legal Advice - GLO - Disclosure Incident

Hi Andy – Could you join a call this afternoon with NRF and I on the audit work-stream which is coming out of the Board update? I am preparing an actions update for Ben to send to the Board by 5pm today and need to include something on this within it.

Thanks
Ken



Kenneth Garvey
Head of Legal, IT and Procurement

Legal Department
Finsbury Dials
20 Finsbury Street
London EC2Y 9AQ

M: **GRO**



The Post Office Legal Team was recognised as the In-House Commerce & Industry Team of the year at the Lawyer Awards 2019

From: Cowley, Ruth [mailto:**GRO**]
Sent: 09 October 2019 13:21
To: Kenneth Garvey [mailto:**GRO**]
Cc: Knapper, Mike <**GRO**>; Rodric Williams <**GRO**>
Sherrill Taggart <**GRO**>
Subject: RE: Legally Privileged - Legal Advice - GLO - Disclosure Incident

I can move meetings save for 2.30-3.15.

thanks

From: Kenneth Garvey [mailto:**GRO**]
Sent: 09 October 2019 13:10
To: Cowley, Ruth
Cc: Knapper, Mike; Rodric Williams; Sherrill Taggart
Subject: RE: Legally Privileged - Legal Advice - GLO - Disclosure Incident

H Ruth

Yes – We are providing a further update to the Board by 5pm today and this will be one of the actions to update on.

Can you confirm times to speak?

Thanks
KG



Kenneth Garvey
Head of Legal, IT and Procurement

Legal Department
Finsbury Dials
20 Finsbury Street
London EC2Y 9AQ

M: [REDACTED] GRO



The Post Office Legal Team was recognised as the In-House Commerce & Industry Team of the year at the Lawyer Awards 2019

From: Cowley, Ruth [mailto:[REDACTED] GRO]
Sent: 08 October 2019 23:37
To: Kenneth Garvey [REDACTED] GRO
Cc: Knapper, Mike <[REDACTED] GRO>
Subject: Re: Legally Privileged - Legal Advice - GLO - Disclosure Incident

Thanks. Would it be helpful to speak tomorrow morning?

Ruth Cowley | Partner
Solicitor, qualified in England & Wales
Norton Rose Fulbright LLP
3 More London Riverside, London, SE1 2AQ, United Kingdom
Tel: [REDACTED] GRO | Mob: [REDACTED] GRO | Fax: [REDACTED] GRO
[REDACTED] GRO
NORTON ROSE FULBRIGHT
Law around the world
nortonrosefulbright.com

On 8 Oct 2019, at 21:28, Kenneth Garvey [REDACTED] GRO wrote:

Hi Mike/Ruth – FYI below from our GC re audit.

Thanks
KG

<image004.png> **Kenneth Garvey**
Head of Legal, IT and Procurement

Legal Department
Finsbury Dials
20 Finsbury Street
London EC2Y 9AQ

M: [REDACTED] GRO

<image005.jpg> **The Post Office Legal Team was recognised as the In-House Commerce & Industry Team of the year at the Lawyer Awards 2019**

From: Ben Foat
Sent: 08 October 2019 18:24
To: Rodric Williams [REDACTED] GRO; Kenneth Garvey
Cc: Sherrill Taggart [REDACTED] GRO; Shikha Hornsey
Subject: FW: Legally Privileged - Legal Advice - GLO - Disclosure Incident

We need to speed up on the audit of FJ... see Nick's email. We need to have an understanding of:

1. Our right to audit

2. The scope of the audit- what aspects of the court case process will they look at and the general controls around FJ
3. The extent to which we need to access FJ or are able to use the information already provided to date
4. The existing resource and controls around FJ (we may need to engage with people like Julie Thomas)
5. Appoint the external party (Deloitte or which ever one)
6. Updating on timetable and when we are likely to have some assurance over their processes and what they have done to date in the Court Case support.

We need to have done 1-6 by next week.

Shikha – obviously you will need to be co-owning this particularly the broader issue of controls around FJ.

<image001.png>

Ben Foat

Group General Counsel
Ground Floor
20 Finsbury Street
LONDON
EC2Y 9AQ

Mobile: **GRO**

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From: Nick Read

Sent: 08 October 2019 18:17

To: Ben Foat <**GRO**> Alisdair Cameron <**GRO**>
David Parry <**GRO**>

Cc: Veronica Branton <**GRO**>; Shikha Hornsey
<**GRO**>

Subject: RE: Legally Privileged - Legal Advice - GLO - Disclosure Incident

Agreed.

Lets move quickly, please.

From: Ben Foat <**GRO**>

Sent: 07 October 2019 15:46

To: Alisdair Cameron <**GRO**>; David Parry

<**GRO**> Nick Read <**GRO**>

Cc: Veronica Branton <**GRO**>; Shikha Hornsey

<**GRO**>

Subject: RE: Legally Privileged - Legal Advice - GLO - Disclosure Incident

Not to overly complicate things – I agree that I can sponsor the Audit for the purposes of GLO but to Carla's point about oversight and controls in place specifically in relation to FJ I would suggest that Shikha.

I'll pick up the audit point and progress it with Johann.

Happy to discuss.

Kind regards
Ben

<image001.png>

Ben Foat

Group General Counsel
Ground Floor
20 Finsbury Street
LONDON
EC2Y 9AQ

Mobile: [REDACTED] GRO

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From: Alisdair Cameron

Sent: 07 October 2019 15:41

To: David Parry <[REDACTED] GRO>; Nick Read <[REDACTED] GRO>; Ben Foat <[REDACTED] GRO>

Cc: Veronica Branton <[REDACTED] GRO>

Subject: RE: Legally Privileged - Legal Advice - GLO - Disclosure Incident

I think we agree and said so, so Tom is right. My gut feel is that only Ben and team can be sponsor. We can probably source Deloitte to do the work as we have the internal audit contract with them. I don't know what form our contractual rights are in but Johann could help scope it?
Thanks Al

<image002.png>

Al Cameron

Chief Financial Officer

20 Finsbury Street
London
EC2Y 9AQ

[REDACTED] GRO

From: David Parry <[REDACTED] GRO>

Sent: 07 October 2019 13:49

To: Nick Read <[REDACTED] GRO>; Alisdair Cameron <[REDACTED] GRO>

Ben Foat <[REDACTED]>

Cc: Veronica Branton <[REDACTED]>

Subject: FW: Legally Privileged - Legal Advice - GLO - Disclosure Incident

Hello All,

Please see below action as suggested by Tom Cooper. Someone from Exec needs to audit FJ and also advise the Board when the results of the audit will be known.

Kind regards

David

<image003.png>

David Parry
Senior Assistant Company Secretary
Company Secretariat
First Floor, Finsbury Dials
20 Finsbury Street
London
EC2Y 9AQ

[REDACTED]

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From: Thomas Cooper

Sent: 07 October 2019 13:05

To: David Parry <[REDACTED]>

Subject: Re: Legally Privileged - Legal Advice - GLO - Disclosure Incident

David

There needs to be an action for a member of the management team to get the audit of FJ done. It would be helpful also if the Board could hear back when we know when the results of the audit will be known.

Tom

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From: David Parry <[REDACTED]>

Sent: Monday, October 7, 2019 10:32:09 AM

To: Ben Foat <[REDACTED]>; Tim Parker <[REDACTED]>; Carla Stent <[REDACTED]>

[REDACTED] Tim.Franklin <[REDACTED]>; Ken McCall <[REDACTED]>

[REDACTED] Thomas Cooper <[REDACTED]>; Watson, Richard -

UKGI <[REDACTED]>; Tom.Aldred <[REDACTED]> Alisdair

Cameron <[REDACTED]>; Nick Read <[REDACTED]>

Cc: Veronica Branton [GRO]
Subject: RE: Legally Privileged - Legal Advice - GLO - Disclosure Incident

Dear All,

Further to Ben's email below, please find attached draft minutes from Thursday's Board call.

Any amendments/changes, please let me know.

Kind regards

David

<image003.png>

David Parry
Senior Assistant Company Secretary
Company Secretariat
First Floor, Finsbury Dials
20 Finsbury Street
London
EC2Y 9AQ

[GRO]

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From: Ben Foat

Sent: 04 October 2019 18:00

To: Tim Parker [GRO]; Carla Stent [GRO]; Thomas
Tim.Franklin [GRO]; Ken McCall [GRO]; Thomas
Cooper [GRO]; Watson, Richard - UKGI [GRO];

[GRO]; Alisdair Cameron [GRO]; Nick Read
[GRO]

Cc: David Parry [GRO]; Rodric Williams [GRO];
Kenneth Garvey [GRO]; Sherrill Taggart
[GRO]; Mark R Davies [GRO]; Shikha Hornsey
[GRO]; Watts, Alan [GRO]; Emanuel, Catherine

Subject: Legally Privileged - Legal Advice - GLO - Disclosure Incident

All

Attached is our actions tracker which shows the progress we are making on GLO KELs Disclosure incident.

In summary:

1. we have made the necessary communication to the Court and Claimants solicitors in the terms discussed yesterday. We have not had a response from them at this time.
2. Fujitsu (FJ) have commence extracting the KELs. The process is estimated to take 1 day, assuming no technical issues are encountered through the extraction process. We have proceeded expeditiously with extraction and disclosure and, if we feel it necessary to be sure we have provided everything, quality assure independently of Fujitsu the KELs later, but make that

clear in our communications with the Claimants. This ensures disclosure is not delayed by any initial quality assurance exercise.

3. A review team has been stood up to review and assess the impact of the KELs when they are received from FJ.
4. We are finalising the CEO to CEO script and reserved rights letter to FJ complaining about this incident. This will cover our request for audit as agreed by Board yesterday. This should be ready by Monday.
5. External GLO lawyers are examining how the KEL disclosure, and FJ's involvement more generally, could be addressed in the existing GLO proceedings. In addition, the legal team will provide advice w/c 7 Oct on any potential claim POL may have against FJ (contractual or otherwise) flowing from FJ's mishandling of the KELs disclosure.
6. The horizon contingency planning team have been made aware and Comms preparations are underway with Mark Davies' team.
7. The IT team are engaged on this issue and we will work with IT to support them in any necessary governance and management control review and will, in due course, report back on what further controls could be introduced in respect of FJ.
8. The insurance position for the GLO as a whole is being considered by POL's broker Lockton. However, given that this event arises out of POL's conduct of litigation rather than its normal business operations, it seems unlikely that insurance cover will be available for it (assuming it gives rise to any quantifiable loss to POL) but we will confirm the position.

Please do let me know if you have any queries.

Finally, thank you for your time yesterday. Have a lovely weekend.

Ben Foat
General Counsel
Post Office Limited

GRO

From: Ben Foat

Sent: 03 October 2019 15:48

To: [Tim Parker](#); [Carla Stent](#); [Tim.Franklin](#); [Ken McCall](#); [Thomas Cooper](#); [Watson, Richard - UKGI](#); [Tom.Aldred](#); **GRO**; [Alisdair Cameron](#); [Nick Read](#); [David Parry](#)

Cc: [David Parry](#); [Rodric Williams](#); [Kenneth Garvey](#); [Sherrill Taggart](#); [Mark R Davies](#); [Shikha Hornsey](#)

Subject: Legally Privileged - Legal Advice - GLO - Disclosure Incident

Importance: High

All

A meeting has been put into your diary for 4pm today.

The purpose of the meeting is to inform the Board and UKGI that a disclosure incident has arisen in respect of the GLO proceedings and to advise you of how we are managing the issue. The Board is asked to note the incident and to approve the approach which will be discussed on the call (which is broadly set out below).

In short, it appears that Post Office failed to disclose potentially relevant documents in the GLO proceedings (specifically in respect of the Horizon Trial). You will recall that we are currently awaiting the Court's judgment in respect of those proceedings.

Context

Fujitsu had previously informed Post Office that the “Known Error Logs” (KELs), which were key documents in the Horizon Issues trial because they documented, for helpline staff, the known issues in Horizon with the work around and fixes, were overwritten when updated such that no previous versions were kept and only current versions could be disclosed. Post Office relied on that information when completing the Electronic Disclosure Statement which was subsequently communicated to the Claimants in December 2017. However, Fujitsu has now advised Post Office this week that past versions of the KELs do, in fact, exist. Consequently, the scope of disclosure as represented and provided was inaccurate.

Issue

1. **Concealment and Procedural Breach** - Post Office’s credibility and the perception around Post Office’s approach to managing the litigation will likely be criticised (ie Claimants’ previous overarching criticism of Post Office not being transparent, seeking to conceal and not providing full disclosure); and
2. **Potential Impact to the Court’s findings** - Whether the previous KELs (the volume is not yet known) could cause the experts to change their evidence and/or impact the substance of the case before the Court. You may recall that the Claimants have advanced a case theory of “tip of the ice berg” which suggests that there are more errors than is fully known. However, it may be that the further disclosure of the previous KELs does not impact the evidence or the substance of the matter before the Court but we are unable to advise on this until the disclosure of the previous KELs is made by Fujitsu;

Actions/ Next Steps

Post Office is obliged to notify the Claimants of the error. This is likely to result in the Claimants notifying the Justice Fraser as part of their overarching criticism of Post Office’s disclosure. The GLO Legal team (externals and in-house lawyers) are, together with the CIO and her team, have notified the Claimants solicitors and the Court of the error and explained that it arose from incorrect information from FJ.

Management next steps:

1. **Communication to relevant parties:** we have written to the Claimant solicitors and the Court today advising them of the issue. In that communication, Post Office has made it clear that it relied on FJ when it made its inaccurate disclosure statement and has offers to provide the previous KELs to the Claimants upfront;
2. **Disclosure of the KELs:** FJ has already been instructed to provide the previous KELs to us which we will need to assess and disclose to the Claimants. This process is not as simple as it is not a matter of drop and dragging files across but rather the data needs to be specifically extracted from their systems. Consequently, it may take some time given the volume. We have asked FJ for an ETA on this but suggest that this be escalated by the CEO.
3. **Analysis of the KELs:** We need to have an understanding of whether the KELs (the scale of which is to be determined) would likely affect the evidence that was provided at Trial. We may wish to instruct our Court expert to assist us with this analysis;
4. **Impact to the Trial:** Justice Fraser may reconvene the Court and seek further evidence from the experts as to whether previous KEL versions would have affected their evidence. If this occurs Post Office may be liable for the costs of the hearing (for both sides);
5. **POL response to FJ:**
 - a. **CEO escalation:** irrespective of the Legal analysis below, this matter should be escalated to the CEO at FJ on a reserved rights basis to express POL’s disappointment with this incident and to remind FJ of their ongoing obligation in respect of Court Case Support Services and indeed the previous the discussion between Duncan Tait (FJ board director) and the previous POL CEO Paula Vennells in which she flagged a serious concern about the fragility of FJ witness statements which had either been disproved and or changed. I will forward an email from PV that refers to this conversation which I

received earlier today. This escalation should be followed with a letter which reserves Post Office's legal rights in respect of this incident.

b. **Legal advice:** Legal is preparing an advice on:

i. POL's potential right of action against FJ in these circumstances though we appreciate that the issue needs to be considered in a broader context (supporting the future GLO case; broader commercial impact; business continuity gap / alternative provider etc). One of the areas that we have already been considering is whether FJ should be joined to the proceedings depending on the outcome of the Horizon Judgment which is a separate question.

ii. POL's unilateral right to exercise audit and/or appoint a third party to review and test FJ evidence to date. There is a right to appoint a third party to audit the Court Case Support Services obligation.

6. **Impact to the Judgment / Horizon Contingency Planning:** The Horizon Contingency Team will factor in the likely adverse comments that Fraser J may make as a result of this issue and what specific findings he could make around POL processes in respect of Horizon and its processes in respect of this issue.
7. **Stakeholder management:** we will notify and continue to update the Board and UKGI on the incident via email. The POL Comms Team has been made aware of the issue (as the Claimants are likely to complain to the Court and if Court is reconvened, there is a risk that the issue could become public. A Comms statement will be prepared as appropriate.
8. **Lessons Learnt / Controls over outsourced arrangements:** I have asked the team to ascertain what Post Office did to assure itself that the information provided by FJ (its outsourced supplier) was accurate and what controls were/are in place to provide such assurance. One of the areas that we have already been considering is whether FJ should be joined to the proceedings depending on the outcome of the Horizon Judgment.

Input Sought

Board is asked to note the incident and approve the approach outlined above and/or to make any further recommendations.

I will continue to update on the progress of the matter by email after the call.

Please do let me know if you have any queries in the meantime.

<image001.png>

Ben Foat

Group General Counsel
Ground Floor
20 Finsbury Street
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Mobile : **GRO**

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