
From: Christopher Saul [GRO]
Sent: Mon 20/01/2020 5:49:44 PM (UTC)
To: Robert Webb [GRO]
Cc: Robert Swannell [GRO]; Manson, Justin - UKGI [GRO]; Watson, Richard - UKGI [GRO]; Cooper, Tom - UKGI [GRO]; Morley, Candida - UKGI [GRO]; Smith, Ceri - UKGI [GRO]; Lambert, Lucie - UKGI [GRO]
Subject: Re: UKGI - Disputes and Litigation Checklist

Yes indeed - and, as Tom mentioned, potentially as support for the UKGI nominated director.
Chris

Sent from my iPhone

On 20 Jan 2020, at 17:17, Robert Webb [GRO] wrote:

Sounds good; happy to be a critical friend. It can operate effectively as a sounding board and as a moderator for the occasional risk session. We did it at BA
Rob Webb

Sent from my iPhone

On 20 Jan 2020, at 13:02, Robert Swannell [GRO] wrote:

Many thanks to you both, Chris and Rob. Very helpful indeed. If you are not very careful you may well find yourselves being roped in as Critical Friends!

Rob, I am not sure the doggerel will make it to the final draft of the protocol but its clear that navigation prowess is a sine qua non for Critical Friends!

Justin, I completely agree too on the reputation point. Since we have a reasonably clear agenda at our next Board could you/Richard write a short paper as an introduction to this protocol for a short discussion at the Board. I think that given the focus on NDA and POL it would be welcomed and timely.

With best wishes

Robert

With best wishes

Robert

From: Manson Justin <[REDACTED]>
Date: Monday, 20 January 2020 at 11:03
To: Robert Webb <[REDACTED]>, Chris Saul
 <[REDACTED]>
Cc: "Watson, Richard - UKGI" <[REDACTED]>, Robert Swannell
 <[REDACTED]>, Tom Cooper <[REDACTED]>,
 Candida Morley <[REDACTED]>, Ceri Smith
 <[REDACTED]>, "Lambert, Lucie - UKGI" <[REDACTED]>
Subject: RE: UKGI - Disputes and Litigation Checklist

This is very helpful and I think really take our protocol to deal with these issues to a much more effective place. And I agree with all these comments and I do think Chris is right to point out the role of the board. So, while we should ensure that UKGI has the necessary right to information and capacity to step-in, I think we should explicitly include the non-execs in these rights and capacities alongside us. As the shareholder/Secretary of State representative, we do have a particular axe, but we will often need the support (and should actively seek the support) of the non-execs to put pressure on management to take issues seriously. One other point, is that I think reputation deserves the same prominence as monetary quantum as a consideration in deciding that potential litigation is "substantive".

From: Robert Webb <[REDACTED]>
Sent: 20 January 2020 10:07
To: Chris <[REDACTED]>
Cc: Watson, Richard - UKGI <[REDACTED]>; Robert Swannell
 <[REDACTED]>; Manson, Justin - UKGI <[REDACTED]>;
 Cooper, Tom - UKGI <[REDACTED]>; Morley, Candida - UKGI
 <[REDACTED]>; Smith, Ceri - UKGI <[REDACTED]>; Lambert,
 Lucie - UKGI <[REDACTED]>
Subject: Re: UKGI - Disputes and Litigation Checklist

Thank you for the draft protocol. It plainly provides the frame for a doorway through which UKGI can step into the room where disputes and litigation look to become material or irrationally toxic. If I have an addition it would be to strengthen the role and rights of the critical friend described in paragraph 5, and to provide for an earlier point of entry for that figure.

No one suggests that legal teams in these disputes are cost making or acting in bad faith but the fact is that they sometimes over believe in the centrality of their own disciplines, placing them too centrally into the life of the business and also trying to forecast outcomes with a false precision.

One of the necessary skills for a modern board is to "Sniff", in good time, areas where the company's activities might catch the downside wave of public opinion. I started my professional life with my head of Chambers acting for the Distillers company against the thalidomide children. Distillers won every legal battle but as soon as public opinion saw the case they folded. This is an oft replicated parable. If the Zeitgeist of the time is right, issues which were previously tolerated suddenly catch fire; # me too, gender pay equality, fossil fuels, climate change, meat consumption, plastics in the ocean. It is the job of the CEO and board to sense these in advance and pre-empt or correct. Issues like Jimmy Savile or MPs expenses should not have to come out of a clear blue sky.

In this area the “critical friend” can help in a way which is wider than second-guessing or giving external perspective to a potential actual dispute. There is a role for a friend who can see the company’s business as others see it. One current debate shows that shareholders are by no means now the only stakeholders and many other stakeholders expect the company to behave according to what they believe the law should be. Current compliance alone may no longer be enough.

“ Here lies the body of Edward Quail;
He died defending the right of sail.
He was right, so right, as he sailed along
But just as dead as if he’d been wrong“

Best of luck! It would be good to know what the Board think on 29 Jan

Rob Webb
Sent from my iPhone

On 17 Jan 2020, at 15:38, Chris

<GRO> wrote:

Richard

Many thanks for this.

I certainly take your point that there is a delicate line to be walked with each asset in terms of the amount of oversight which UKGI has - as substantive conduct of the matter will need to remain with the asset’s management and board.

I will come back to you with comments (as will others of course).

Best regards

Chris

On 17 Jan 2020, at 14:06, Watson, Richard - UKGI

<GRO> wrote:

Chris,

It was good to meet you on Tuesday and thanks very much for your draft checklist, which I attach for info for others who were at Tuesday’s meeting. Your thoughts on general governance procedures will be considered by our corporate governance team but you will see I have drawn on your thoughts on litigation procedures to pull together the attached draft UKGI Disputes and Litigation Protocol document.

In relation to section 4 (Contents of the protocol) I think there are some quite difficult considerations (including in terms of handling with the asset) around some of the bullets, particularly the extent of our/the Department's rights to manage or control the conduct of litigation and have private audiences with relevant advisors. Obviously some of the considerations will vary depending on the nature of the dispute or claim but we and the relevant Department will obviously need to consider these carefully on a case by case basis.

I would be grateful for any comments/thoughts from you and copyees.

Kind regards

Richard

Richard Watson | General Counsel
UK Government Investments

1 Victoria Street | London | SW1H 0ET

T: [REDACTED] GRO
E: [REDACTED] GRO
W: <https://www.ukgi.org.uk/>

From: Robert Swannell <[REDACTED] GRO>
Sent: 15 January 2020 15:57
To: christopher.sau[REDACTED] GRO
Cc: Manson, Justin - UKGI <[REDACTED] GRO>;
Watson, Richard - UKGI <[REDACTED] GRO>;
robswebb[REDACTED] GRO
Subject: Re: UKGI - Disputes and Litigation Checklist

That's really helpful Chris and very much appreciated and thank you for your wisdom yesterday too.

The plan is for Richard to revise our post NDA protocol and circulate a revised version to you and Rob. I would expect to share it with our Board.

Richard – do you think there is any prospect of getting this drafted and settled for the 29th January Board. It could be attached to Justin's CEO Report. If not, then in March.

With best wishes

Robert

From: Chris Saul

<[REDACTED] GRO [REDACTED]>

Date: Wednesday, 15 January 2020 at 10:49

To: Robert Swannell <[REDACTED] GRO [REDACTED]>

Cc: Manson Justin <[REDACTED] GRO [REDACTED]>,

"richard.watson" <[REDACTED] GRO [REDACTED]>

<[REDACTED] GRO [REDACTED]>, Robert Webb

<[REDACTED] GRO [REDACTED]>

Subject: UKGI - Disputes and Litigation Checklist

Dear Robert

It was very nice to see you and the team yesterday and interesting to talk through some of the possible learnings from the NDA/POL experiences.

I promised to type up my notes in light of our discussions. I thought that it might be most useful to do that in the form of a draft Checklist and it is attached.

Very best regards

Chris

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<UKGI - Disputes and Litigation Checklist.pdf>

<UKGI - Disputes and Litigation protocol.docx>

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