

From: Watson, Richard - UKGI
Sent: Fri, 11 Oct 2019 09:02:39 +0000
To: Aldred, Tom - UKGI
Cc: Cooper, Tom - UKGI; Culshaw, Robin - UKGI; Scott, Joshua - UKGI
Subject: RE: Legally Privileged - Legal Advice - GLO - Disclosure Incident

As discussed lets agree a plan/timetable for updates when we meet later

Richard

Richard Watson|General Counsel
UK Government Investments

1 Victoria Street | London | SW1H 0ET

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

From: Aldred, Tom - UKGI <Tom.Aldred [GRO]>
Sent: 11 October 2019 09:49
To: Watson, Richard - UKGI <[GRO]>
Cc: Cooper, Tom - UKGI <[GRO]>; Culshaw, Robin - UKGI <[GRO]>; Scott, Joshua - UKGI <[GRO]>
Subject: RE: Legally Privileged - Legal Advice - GLO - Disclosure Incident

Thanks Richard

We should get an update for Kelly. She is meeting Nick Read on 17 Oct and Nigel Boardman on 23 Oct, and has asked for briefing on the latter by midday 16 Oct.

Should we aim to send an update on both sparrow and starling for 16th?

Tom

Tom Aldred, Post Office Shareholder Team, UKGI

T: [GRO] | M: [GRO]

From: Watson, Richard - UKGI <[GRO]>
Sent: 11 October 2019 09:11
To: Aldred, Tom - UKGI <[GRO]>
Cc: Cooper, Tom - UKGI <[GRO]>; Culshaw, Robin - UKGI <[GRO]>; Scott, Joshua - UKGI <[GRO]>
Subject: FW: Legally Privileged - Legal Advice - GLO - Disclosure Incident

To note the latest update regarding the disclosure incident.

Kind regards

Richard

Richard Watson|General Counsel
UK Government Investments

1 Victoria Street | London | SW1H 0ET

T: **GRO**

E: **GRO**

W: <https://www.ukgi.org.uk/>

From: Ben Foat <**GRO**>
Sent: 10 October 2019 21:02
To: Tim Parker <**GRO**>; Carla Stent1 <**GRO**>
Tim.Franklin1 <**GRO**>; Ken McCall1 <**GRO**>
Thomas Cooper <**GRO**>; Watson, Richard - UKGI <**GRO**>
<**GRO**>; Aldred, Tom - UKGI <**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 <**GRO**>; Ben
Cooke <**GRO**>
Subject: Legally Privileged - Legal Advice - GLO - Disclosure Incident

All

Attached is our actions tracker which shows the progress that we have made this week on the GLO KELs disclosure incident.

In summary:

1. The Court and the Claimants have been notified of the incident but as yet have not responded.
2. A draft CEO to CEO script and reserved rights letter to Fujitsu has been drafted. Nick has a call with the SVP at Fujitsu on next Tuesday, 15th October. Legal advice as to whether POL has a claim against Fujitsu as a result of this incident and more generally in respect of the GLO proceedings is expected on 14 and 18 October respectively.
3. Approximately 14,000 KELs have been received from Fujitsu which is being analysed. We should understand the extent to which the previous versions differ from the final versions by 14 October and finalise a review of those previous versions of KELs which have been referred to in the GLO by 17 October. Once this exercise is complete we will be in a position to consider the potential impact to the substantive issues before the Court in the Horizon trial.
4. Arrangements for appointing an auditor to examine FJ's performance of the Court Support Services required under the contract together with the broader controls around

the FJ relationship are being progressed. The scope of the audit is currently being mapped out.

5. Draft comms has been prepared by the Comms Team in the event that this incident becomes public (most likely through the Court process).

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

Kind regards
Ben



Ben Foat

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

Mobile : GRO

This email and any attachments are confidential and intended for the addressee only. If you are not the named recipient, you must not use, disclose, reproduce, copy or distribute the contents of this communication. If you have received this in error, please contact the sender by reply email and then delete this email from your system. Any views or opinions expressed within this email are solely those of the sender, unless otherwise specifically stated.

POST OFFICE LIMITED is registered in England and Wales no 2154540. Registered Office: Finsbury Dials, 20 Finsbury Street, London, EC2Y 9AQ.

From: Ben Foat

Sent: 04 October 2019 18:00

To: Tim Parker GRO; Carla Stent1 GRO
 Tim.Franklin1 <GRO>; Ken McCall1 <GRO>;
 Thomas Cooper <GRO>; Watson, Richard - UKGI
 <GRO>; Tom.Aldred <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 <GRO>
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 Stent1; Tim.Franklin1; Ken McCall1; 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 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.



Ben Foat

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

Mobile :

GRO

This email and any attachments are confidential and intended for the addressee only. If you are not the named recipient, you must not use, disclose, reproduce, copy or distribute the contents of this communication. If you have received this in error, please contact the sender by reply email and then delete this email from your system. Any views or opinions expressed within this email are solely those of the sender, unless otherwise specifically stated.

POST OFFICE LIMITED is registered in England and Wales no 2154540. Registered Office: Finsbury Dials, 20 Finsbury Street, London, EC2Y 9AQ.

This email and any attachments are confidential and intended for the addressee only. If you are not the named recipient, you must not use, disclose, reproduce, copy or distribute the contents of this communication. If you have received this in error, please contact the sender by reply email and then delete this email from your system. Any views or opinions expressed within this email are solely those of the sender, unless otherwise specifically stated.

POST OFFICE LIMITED is registered in England and Wales no 2154540. Registered Office: Finsbury Dials, 20 Finsbury Street, London EC2Y 9AQ.

"Post Office Limited is committed to protecting your privacy. Information about how we do this can be found on our website at www.postoffice.co.uk/privacy"

This email has been scanned by the Symantec Email Security.cloud service.
For more information please visit <http://www.symanteccloud.com>
