

Message

From: Rodric Williams [GRO]
Sent: 03/10/2019 08:45:05
To: Andrew Parsons [/o=Exchange-Org/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=ad9ed344815e47e4aaa3c0e7e1740919-Andrew Pars]; Kenneth Garvey [GRO]
CC: Emanuel, Catherine [GRO]; Amy Prime [/o=Exchange-Org/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=ab722dda3a9453eaed5751238a59562-Amy Prime]
Subject: RE: IMPORTANT - Horizon Issues Trial Disclosure - PRIVILEGED & CONFIDENTIAL - DO NOT FORWARD [WBDUK-AC.FID26896945]

Yhanks – it'll go to NRF (cc'ing my in-house colleague Ken Garvey).

From: Andrew Parsons [GRO]
Sent: 03 October 2019 08:40
To: Rodric Williams [GRO]
Cc: Emanuel, Catherine [GRO]; Amy Prime [GRO]
Subject: FW: IMPORTANT - Horizon Issues Trial Disclosure - PRIVILEGED & CONFIDENTIAL - DO NOT FORWARD [WBDUK-AC.FID26896945]

Rodric

On Ben's point re FJ, are you going to send this to NRF? Or do you want WBD / HSF to look at this?

A

Andrew Parsons

Partner

Womble Bond Dickinson (UK) LLP

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From: Emanuel, Catherine [GRO]
Sent: 02 October 2019 22:09
To: Ben Foat [GRO]; Rodric Williams [GRO]; Shikha Hornsey [GRO]; Gary Walker [GRO]; Sherrill Taggart [GRO]; Kenneth Garvey [GRO]
Cc: Andrew Parsons [GRO]; Amy Prime [GRO]; Watts, Alan [GRO]
Subject: RE: IMPORTANT - Horizon Issues Trial Disclosure - PRIVILEGED & CONFIDENTIAL - DO NOT FORWARD

I agree with Rod's summary. He has raised the FJ point, which WBD and HSF will certainly give thought to.

As Tony de Gaar Robinson said on our call, it is increasingly a part of POL's case in the litigation that FJ has let it down.

From: Ben Foat [GRO]
Sent: 02 October 2019 20:49
To: Rodric Williams [GRO]; Shikha Hornsey [GRO]; Gary Walker [GRO]; Sherrill Taggart [GRO]; Kenneth Garvey [GRO]
Cc: andrew.parsons [GRO]; Amy Prime [GRO]; Watts, Alan [GRO]; Emanuel, Catherine [GRO]
Subject: RE: IMPORTANT - Horizon Issues Trial Disclosure - PRIVILEGED & CONFIDENTIAL - DO NOT FORWARD

Thanks Rod.

The obvious question which needs to be considered is our right of action against FJ for this error. It appears from the note below that FJ has incorrectly advised us of the position which we have relied upon when drafting the EDQ. We should consider what POL did to assure and satisfy itself that the statements / works of our outsourced providers were accurate. In some situations there is very little that can be done when it is wholly outsourced but in others (regulated environments; material risks) we ought to have controls / oversight (including, by way of example, indemnities etc). External lawyers should be asked (if not already) as to what right of action POL has against FJ for this error as it needs to inform a broader strategic decision around how Post Office should deal with FJ. Could you let me know when you would receive the above advice.

Thanks again for all your hard work on this.

Kind regards
Ben



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From: Rodric Williams
Sent: 02 October 2019 19:47
To: Ben Foat [GRO]; Shikha Hornsey [GRO]; Gary Walker [GRO]; Sherrill Taggart [GRO]; Kenneth Garvey [GRO]
Cc: andrew.parsons [GRO]; Amy Prime [GRO]; Watts, Alan [GRO]; Emanuel, Catherine [GRO]
Subject: RE: IMPORTANT - Horizon Issues Trial Disclosure - PRIVILEGED & CONFIDENTIAL - DO NOT FORWARD

Ben - to update the position following our call with Counsel this afternoon:

- Counsel confirmed that we should proactively correct the error in our EDQ about the existence of previous versions of KELs.
- This will be done via letter to be sent to the Claimants' solicitors asap tomorrow, which is currently being re-drafted with Counsel to mitigate some of the criticisms that could be levelled at us.
- The consequence of the EDQ error is that we should offer the previous versions of the KELs to the Claimants, regardless of whether they were strictly ordered to be disclosed or are relevant (they may turn out not to be).
- Fujitsu has been instructed to facilitate this (they need to run a special script to remove them from their systems in a legible format).
- We will provide a further update once we have the draft letter.

HSF/WBD – please feel free to add anything to this.

Rod

From: Rodric Williams

Sent: 02 October 2019 12:03

To: Ben Foat [GRO]; Shikha Hornsey [GRO]; Gary Walker

[GRO]; Sherrill Taggart [GRO]; Kenneth Garvey

[GRO]

Cc: andrew.parsons [GRO]; Amy Prime [GRO]; Watts, Alan

[GRO]; Emanuel, Catherine [GRO]

Subject: IMPORTANT - Horizon Issues Trial Disclosure - PRIVILEGED & CONFIDENTIAL - DO NOT FORWARD

Ben – I set out below an overview of a significant development in the GRO. Given this involves Fujitsu, I am also sending this to Shikha (whom I have also briefed verbally) and Gary Walker from IT, and Sherrill and Ken from Legal (WBD and HSF are cc'ed).

Issue

- Post Office appears to have provided disclosure of "Known Error Log" entries (KELs) for the Horizon Issues trial on an incorrect basis.
- The KELs were key documents in the trial as they documented for helpline staff known issues in Horizon with workarounds and fixes.
- Fujitsu had informed us that KELs were overwritten when updated, such that no previous versions were kept and only current versions could be disclosed.
- This was communicated to the Claimants in an Electronic Disclosure Questionnaire (EDQ) in December 2017, and disclosure was given on that basis.
- Fujitsu told us yesterday that previous versions of KELs do exist (the scale of which is being confirmed), such that the scope of disclosure as represented and provided was wrong.

Risk & Mitigation

- Post Office needs to notify the Claimants of the extra KELs urgently (a more detailed explanation can follow).
- We can assume they will then bring this to the attention of the Managing Judge as part of their overarching criticism of Post Office's disclosure.
- In addition to the damage to our creditability, the worst outcome could be that the Judge seeks further evidence from the experts as to whether previous KEL versions would have affected their evidence.
- Post Office should however explain to the Claimants that the fault for this lies with Fujitsu and the incorrect information they supplied to us.
- We have a conference with Leading Counsel from the Horizon Trial Tony Robinson QC at 430pm today to consider what else needs to be done (e.g. do we need/want to go direct to the Court with this).

Input Required

- Given the wider commercial relationship with Fujitsu, the lawyers need to know how hard we can lay blame with Fujitsu.
- The draft letter to the Claimants notifying them of the position currently says:

".... we have made further enquires with Fujitsu to confirm that previous versions of the KELs that have already been disclosed are no longer held. As you aware, Post Office's EDQ (which was based on information provided by FJ) stated that "[t]he KEL only contains the current database entries and is constantly updated and so the current version will not necessarily reflect the version that was in place at the relevant time. The previous entries / versions of the current entries are no longer available". We were however informed by Fujitsu yesterday morning that this position may be incorrect and that previous versions of the KELs may be available. Post Office relied on the information provided by Fujitsu at the time of filing its EDQ that such documents were not available and urgent investigations are ongoing to understand the extent to which previous versions of the KELs are held by Fujitsu.

- Shikha/Gary – are you happy with this (bearing in mind a more detailed explanation is likely to be required in due course)?

I'm at my desk or on my phone GRO if you would like to discuss.

Thanks, Rod



Rodric Williams

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