

To: Andrew Parsons [GRO]; Rodric Williams [GRO]; Kenneth Garvey [GRO]; Sherrill Taggart [GRO]
Cc: Jonathan Gribben [GRO]; Amy Prime [GRO]; Michael Wharton [GRO]
From: Ben Foat [GRO]
Sent: Wed 09/10/2019 6:30:31 PM (UTC)
Subject: RE: Fujitsu / KELs issue - privileged [WBDUK-AC.FID26896945]

Hi Andy

My comments below. Thanks for helping us to progress the audit urgently.

Kind regards
Ben



Ben Foat

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From: Andrew Parsons [mailto:[GRO]]
Sent: 09 October 2019 17:52
To: Rodric Williams [GRO]; Kenneth Garvey [GRO]; Sherrill Taggart [GRO]; Ben Foat [GRO]
Cc: Jonathan Gribben [GRO]; Amy Prime [GRO]; Michael Wharton [GRO]
Subject: Fujitsu / KELs issue - privileged [WBDUK-AC.FID26896945]

All

Please find below an update on the Fujitsu / KELs issue. Sorry for the long email – I have tried to pull all the strands together in one place.

1. We have received 14,000 KELs from FJ.
 - a. It appears in several cases the KELs only go back approximately 3 versions and so we do not have a complete copy of all back-versions. We are investigating this and asking FJ to confirm that this is because the missing KELs are not held by FJ.
2. KEL review
 - a. Stage 1 - From a textual analysis of the KELs undertaken so far, our understanding is that the previous versions of the KELs are on average **91% similar to the disclosed documents**. This analysis is ongoing to ensure all versions of the KELs in the trial bundle have been captured and it should be noted that the textual analysis does not pick up documents which are less than 85% similar.
 - b. Stage 2 – review of the back-versions of the KELs used in the Horizon Trial to determine whether the differences are material. We currently believe that there are around 650 KELs to be reviewed. This figure should be confirmed tomorrow. The review should be completed by mid-next week.
 - c. Stage 3 – review of all back-versions of KELs (including those not used in the Horizon trial). Tony Robinson has some concern about doing this because if we find any adverse documents, we will be required to disclose them to

Freeths. At present, we have offered to disclose the KELs to Freeths but they have not taken up that offer. Tony is considering this point further.

3. Audit of Fujitsu

- a. Scope of Audit: We have spoken to Johann (PO internal audit). He believes that Deloitte should be able to assist with this within their current framework arrangement with Post Office. In the email exchange with the board, the focus was placed on auditing "*Fujitsu's disclosures*" which we have taken to mean their disclosures of documents in the litigation. On this basis we have prepared the attached draft scope for the audit, which breaks the disclosures down by risk level. Please could we have your comments on this? Does this meet the board's expectations?

Andy – the scope of the audit is two fold:

- (1) Auditing the scope of litigation services (Court Support Services contractually required by FJ to POL) (ie checking that what they have advised to date and the controls around that is accurate and effective)
- (2) Auditing the broader FJ relationship though this is just as much about POL controls around FJ (rather than just FJ performance of its broader contractual / legal obligations owed to Post Office)

b. Our next steps are:

- i. Liaise with Johann to confirm that Deloitte can deliver this scope of work.
- ii. Seek Tony Robinson's advice on commissioning this audit and the risks of doing so (eg. finding problems that lead to further disclosures). We will ask for Tony to put this in writing because I suspect PO / the board may wish to consider this before commissioning the audit.

- c. Having spoken to Ken, I understand that the board may want a wider audit of FJ from a commercial perspective. That is beyond WBD's capability. Is someone in PO picking this up?

This is what Deloitte/external auditor should be doing (see my comment above). Ken Garvey needs to work with Ben Cooke and Shihka in IT with this because the CIO (Shihka) is the accountable person for this supplier though I am accountable for making sure the audit is done.

4. Who should do the audit?

- a. This will likely be most easily and quickly done using existing Deloitte resource and existing PO audit processes. Deloitte could then be commissioned as soon as the scope of work is settled.
- b. I understand that Rod had some concern about using Deloitte due to their historic involvement. I share that concern but believe it can be mitigated by Deloitte using a ring-fenced team who are not apprised of any earlier work.
- c. Do you want us to provide some alternative names?

5. Privilege issues

- a. If the audit is limited to what we propose in the attached and Deloitte use a ring-fenced team, we believe that litigation privilege will apply to this work. A wider audit of Fujitsu will not be protected by privilege. We will ask Tony to address this in his note.

6. Feedback from the Court / Claimants – nothing yet.

7. Responses to Ben's 6 points in his email yesterday.

- ii. ***The scope of the audit- what aspects of the court case process will they look at and the general controls around FJ***
See attached.

- iii. ***The extent to which we need to access FJ or are able to use the information already provided to date***
The auditors will definitely need access to FJ's systems.

- iv. ***The existing resource and controls around FJ (we may need to engage with people like Julie Thomas)***
I understand that this relates to point 3c above so is outside of WBD's knowledge.

- v. **Appoint the external party (Deloitte or whichever one)**

See point 4 above.

- vi. **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.**

This will need to come from Johann / Deloitte once appointed

I'd be grateful for your input on the points in red above. We will provide regular further updates as more information becomes available.

Kind regards
Andy

Andrew Parsons
Partner
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