

GIN Members' Newsletter

An update on key issues for in-house Counsel in Guernsey as at 13 July 2020

1 Royal Court strikes out human rights claim against the GFSC

Christopher Edwards was instructed last year to defend the Guernsey Financial Services Commission (GFSC) against claims made by a former director of a regulated trust company. The director – who had been fined £50,000 and prohibited from performing the functions of director, controller, partner or manager for five years – claimed that the GFSC had carried out its enforcement process in a manner contrary to Guernsey's Human Rights legislation.

The Royal Court found in favour of the GFSC and struck out the former director's claim. You can read a more detailed summary here ['The GFSC Enforcement Process: To the Senior Decision Maker – and Beyond'](#).

2 Update on the recent changes to the Beneficial Ownership regime

The States of Guernsey has approved proposals to amend the beneficial ownership framework introduced in Guernsey in 2017. The changes have brought some much needed clarity to the scope of the Registrar's enforcement power and where it overlaps with those of the GFSC. [Frances Watson](#) and [Jonathan Stevens](#) have done a more detailed briefing of the changes that you can find in this legal update ['Changes to Guernsey's Beneficial Ownership Regime'](#).

3 Board Meetings in lockdown

Some of you may be grappling with the substance issues arising from Directors resident elsewhere not being easily able to attend a meeting in Guernsey. We talked about this in our second newsletter - ['Practical tips on holding board and shareholder meetings during the pandemic restrictions'](#).

Although the times were very different, the historians amongst you might be interested in what happened during the war years - the last time that travel to the Bailiwick was restricted. ['Operating Guernsey companies during the Occupation \(1940-1945\)'](#).

4 Regulatory Updates

In previous issues we have highlighted where the GFSC has been flexing its rules to allow business to adapt to the restrictions imposed by the COVID-19 crisis.

However, it has also shown it is willing to flex its muscles in respect of misdemeanours – for example in its enforcement action against [Criteria Wealth Management Limited](#) which was found to have been carrying on business beyond the scope of its licence. For more details, please see our legal update titled ['GFSC issues public statement and imposes civil penalty for failure to fulfil the minimum criteria for licensing'](#) prepared by [Helen Wyatt](#) and [Annaliese McGeoch](#).

Helen and Annaliese have produced a second update on the ['Amendments to Guernsey's Banking Deposit Compensation Scheme'](#) which summarises recent changes to the scheme including provision for negative interest rates and a change to the aggregate cap on contribution.

5 Guernsey Commercial Property

Going forward, residential conveyancing will no longer be part of our suite of legal services. Commercial Property however remains one of our core offerings and the very experienced team of Kate Dewsnap, Alison Wood and Laura Bougourd will be working even more closely with their Corporate colleagues - the vast majority of their work is usually part of a larger corporate transaction.

The team is the largest team of lawyers focussed entirely on Commercial property in Guernsey and are determined to be the leaders in finding solutions to the ever more complex problems that this area throws up. Look out for a legal briefing for commercial landlords on issues arising out of the COVID-19 crisis.

6 Employer and Employee matters

The States of Guernsey are continuing the payroll co-funding scheme until at least the end of September for those businesses still experiencing significant economic downturn.

The following sectors have been singled out as the most likely to require the continuation of the 80% or 100% of minimum wage support:

- Retail outlets
- Restaurants and other food and drink business (excluding takeaways)
- Event companies such as those working in weddings or corporate events
- Travel agents and tour operators
- Arts, entertainment and recreation which act as tourist activities

The relevant media release from the States of Guernsey is [here](#)

7 Other COVID-19 Resources

In our [second newsletter](#), we shared a Farrer & Co cross-border briefing with a contribution from a network of international firms, summarising what each country has done in response to the COVID-19 pandemic. The briefing has been updated for the third time, and includes sections on critical topics including company law, employment law and tax. You'll find the Mourant entries in the BVI, Cayman, Guernsey and Jersey sections [here](#).

8 Training

Tired of online training courses? Well, now that business life is getting back to normal, our lawyers are getting back to providing training and seminars. Here's a list of upcoming non-virtual events we would love to see you at. If you want to know more please email your usual Mourant contact or book via the links below.

Date	Topic	Speakers	Audience
4 August	Understanding Privilege	Rachel Guthrie and Hana Plsek	NED's Members Only Book here
10 September	ACCA Channel Islands Conference Guernsey Law Update	Sandra Duerden and Greg Coburn	All financial services professionals
23 October	GTA 2020 Compliance CPD Series	Rachel Guthrie and Hana Plsek	All financial services
12 November	BPP 2020 Trust and Corporate Service Providers CPD Seminar Series: Navigating the dangers of litigation: key lessons for Trustees (Guernsey)	Abel Lyall	All financial services professionals Book here

9 Diversity and Inclusion

Diversity and Inclusion have been prominent on the business radar for a number of years now. With the Black Lives Matter movement and the changes in working practices that will inevitably arise in the post-COVID-19 world, the composition of our workforce, the way we interact with each other and the search for the best talent will only become more important.

This article on '[Diversity still matters](#)' from McKinsey summarises rather well just how important diversity should be to the modern business.

10 New Ways of Working

Whilst we may be returning to normality in Guernsey many of you will continue to work with teams from elsewhere who will be different stages of lockdown. This article - '[Laughter will keep your team connected – even while you're apart](#)' - from the Harvard Business Review might help you use laughter to make the next Zoom call a more productive one.

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