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By Email Only: doug.paulley@kingqueen.org.uk

Doug Paulley

Carter-Ruck

Dear Sir

Our client: Dominic Lund-Conlon

We represent Dominic Lund-Conlon, who, as you know, is the accessibility and inclusion manager at the Rail Delivery Group (“RDG”).

Our client, with the support of his employer, has consulted us in relation to a blog post entitled “*Dominic Lund-Conlon / RDG tried to stop all booked assistance during Storm Eunice, and lied to the ORR*”, which was published by you on your blog on 18 March 2022, where it continues to appear.

Factual background and purpose of this letter

The Blog Post narrates your experience of train journey disruptions caused by Storm Eunice, during which your pre-booked assistance for a journey due to take place on Friday 18 February 2022 was cancelled by Govia Thameslink Railways (“GTR”). In the Blog Post, you provide your analysis of how the decision “*to cancel and refuse all bookings*” was made, and why, based on your assessment of documents obtained in response to a Freedom of Information Request (“FOIR”) you sent to Northern Trains Limited (“Northern”).

The Blog Post alleges that the statement published by GTR’s Head of Public Affairs on her Twitter account, stating that this course of action was agreed with other train companies, the RDG and the Office of Rail and Road (“ORR”) is “*demonstrably untrue*”.

Regrettably, and of understandable concern to our client, in setting out this narrative the Blog Post makes highly defamatory, yet entirely unfounded, allegations of dishonesty and professional misconduct against our client.

The purpose of this letter, therefore, is to explain to you the true position concerning the events which led to the decision to cancel and refuse to take pre-booked assistance bookings during Storm Eunice, and concerning our client’s role in this process.

RDG’s governance structure

Before turning to the exact chronology of events below, it is important to explain the governance structure of RDG, which provides the necessary context to understand the decision-making process which led to the taking of the decision to rearrange existing and refuse to take further pre-booked assistance bookings during Storm Eunice.

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As you may know, all train operating companies (“**TOCs**”) are members of RDG. RDG is a membership body, which is entirely separate from the industry regulator, the ORR, although the ORR accepts that RDG represents its members’ views.

RDG’s organisation comprises an internal governance structure, headed by its Customer Board. The Customer Board sits above the Customer Information Strategy Group (“**CISG**”), which itself heads two sub-groups: the Customer Information Group (“**CIG**”), which deals with issues related to customer information, and the Accessibility & Inclusion Group (“**A&IG**”), which deals with issues regarding compliance with licence-linked accessibility requirements (including the provision of pre-booked assistance to passengers, since compliance with accessible travel policies (“**ATPs**”) and in particular the delivery of passenger assist is one of the conditions for the ORR to grant each TOC its operating licence). The CIG and the A&IG have delegated authority from the CISG in relation to a number of matters (including, in the case of the CIG, the power to adopt a “Do Not Travel” recommendation).

Representatives from all TOCs sit in each of the CIG and the A&IG.

The sequence of events leading to the decision to cancel pre-booked assistance

On Thursday 17 February 2022, the Met Office issued a Red Weather Warning for Storm Eunice. Shortly thereafter, a meeting of the CIG took place, by way of a telephone call. During this call, the CIG agreed a course of action which included the nationwide issue of “Do Not Travel” notices for train operators, to be accompanied by a press release from RDG.

The issue of pre-booked assistance bookings was raised during the call. The CIG discussed the actions to be taken in that regard, considering the risk that TOCs would not be able to deliver the pre-booked assistance (whether because a train may be cancelled, or because the arrangement of alternative means of transport could not be guaranteed). It was agreed during the call that customers with pre-booked assistance bookings should be contacted by TOCs, to advise them to rearrange their journeys; and that no further pre-booked assistance bookings should be arranged for 18 and 19 February 2022.

The outcome of the CIG call, was recorded in an email circulated by an RDG employee (who is also one of our client’s line managers) after the call. The agreed press release, which confirmed the “do not travel” advice, was published by RDG shortly after the call.

Our client did not sit on the CIG call, which he was not required to do since he does not sit on the CIG generally. After the call, he was contacted by the RDG employee referred to above, who had joined the call, and who gave him instructions to implement various action points agreed during the meeting. This included briefing the A&IG members about the need to re-arrange assistance for the period of the red weather warning.

Our client did so by email, stating: *“I’m shortly to be sending you some urgent information about the next 72 hours and the incoming storm. Please be advised that there will be some clear [communications] regarding do not travel advice for Friday [18 February] within that email. In relation to this, there will likely be a need to contact customers who have requested assistance for travel on Friday”*. A copy of that email was included in the response sent to you by Northern in response to your FOIR, and features as “Email 1” in the email thread to which the Blog Post links, and which is available at the following URL: <https://www.kingqueen.org.uk/wp-content/uploads/2022/03/Emails-deciding-to-cancel-and-refuse-all-assistance-bookings-Storm-Eunice.pdf>.

That email was being sent as an urgent communication, in the context of an unprecedented set of circumstances which required actions to be taken without delay.

In this context, our client apologised for the short form of the email, stating: *“Please accept my apologies for the short lines to this email.”*

In his follow up email to the A&IG (Email 2 of the thread), our client circulated a link to the RDG press release and stated: *“If you are the first TOC on a [customer’s] journey that is affected, please make contact with them soonest to rearrange journeys where applicable.”*

In response to that email, one of the members of the A&IG asked for clarity as to what this meant for existing pre-booked assistance journeys (whether those should be cancelled) and future journeys (whether new bookings should be refused). As these points raised issues concerning passenger assist, which is one of the conditions of obtaining the required licences from the ORR, our client suggested emailing the ORR *“to set out the situation”*. That course of action was approved. The relevant emails feature as Emails 3-7 in the email thread to which the Blog Post links. As will be apparent from those emails, there was no suggestion that our client would *“ask”* the ORR what ought to be done. Instead, the intention was to place the ORR on notice of the position as agreed during the CIG call, in order that it could share any concerns it may have concerning the TOCs’ compliance with their ATPs.

Our client proceeded to contact the ORR, and did so by way of a telephone call to his usual ORR contact. Our client explained the situation, the decision taken by the CIG, and explained he wanted to inform the ORR about the decision to rearrange pre-booked assistance and to refuse to take new bookings for a period of time. Our client’s contact at the ORR acknowledged this notification and welcomed our client notifying them. He did not raise any concerns about it.

Our client followed up with an email to the ORR, the contents of which he pasted in an email to the A&IG members, which features as Email 8 of the thread to which the Blog Post links. That email referred to the cancellation of pre-booked assistance and the refusal to take new bookings as a matter of fact, being the course of action taken by all TOCs. This statement of fact reflected the CIG’s decision agreed during the CIG call earlier that day, without reference to our client’s previous call to the ORR.

Defamatory imputations

On the sole basis of the above email, taken entirely out of context, the Blog Post alleges that our client was responsible for taking the unjustified decision to cancel pre-book assistance and to refuse new bookings during Storm Eunice; that this alleged misconduct impacted seriously on disabled travellers; and that he handled the matter in a dishonest way, lying about it to the ORR.

These allegations, which are seriously defamatory of our client, are of the utmost gravity, striking at the heart of our client’s professional reputation, honesty and integrity. They are particularly egregious given that they suggest a neglectful or even contemptuous attitude on our client’s part towards disabled travellers, when in fact our client takes his role extremely seriously and prides himself on his tireless work to drive forward an equitable experience for customers.

In the light of the contents of this letter, it should also be apparent to you that these highly unpleasant attacks on our client’s conduct and integrity are entirely untrue, and your characterisation of them unjustified and grossly unfair. The true position is that our client followed the instructions given to him to implement a decision taken by train operators during a meeting of the CIG, checking in as appropriate with the ORR regarding the consequence of these decisions on pre-booked assistance bookings.

The fact that, as noted in the Blog Post, some TOCs ultimately did not cancel pre-booked assistance and continued to accept new such bookings – despite the course of action agreed by the CIG, on which representatives of all TOCs sit – has no bearing on the utter falsity of the allegations made against our client. As has been explained above, our client was simply implementing a decision taken by the CIG and liaising

about its consequences regarding pre-booked assistance bookings with the A&IG and the ORR. The fact that some TOCs ultimately did not implement the decision taken by the CIG is plainly outside of our client's control. To rely on this to suggest that our client was lying to the ORR is a gross distortion of the true position, and, misrepresented, it seems, in order to support the entirely false narrative given about our client in the Blog Post.

We understand that you have also complained to the ORR about these events. We further understand that in their response to you dated 14 March 2022, the ORR confirmed that they were satisfied that the rail industry (i.e. the CIG) had justifiable concerns about its ability to honour any pre-booked assistance during Storm Eunice. They also confirmed that they had received assurances that the requirements in ORR's guidance regarding passenger information were being followed by TOCs, in accordance with the methods that they had outlined in their respective ATPs. The Blog Post, which was published *after* you received the ORR's response, fails to reflect this, and as such it can only be seen as a personal attack on our client. Not only are its contents false and defamatory, they are also highly offensive to our client, who is proud to hold a role within RDG in which he helps, on a daily basis, to promote accessibility and inclusion for all passengers.

Conclusion

Our client is sympathetic to the difficulties that numerous passengers – including you – experienced because of the disruption caused by Storm Eunice. However, as will be clear from this letter, our client acted at all times abiding by the highest professional standards, and liaising appropriately with all stakeholders. He cannot leave the publication of false allegations of dishonesty and misconduct unchallenged, and wishes to ensure that you are made aware of the true position. He trusts you will be more careful in addressing such matters in future, to ensure that your account of events is not distorted, as it was in the Blog Post.

Our client's rights are reserved.

Yours faithfully



Carter-Ruck