

Andy Green  
Nominet UK

By Email Only

9 November 2021

Dear Andy

### **Russell Haworth Severance Deal**

I refer to the severance package paid to Russell Haworth that appears in the accounts to be presented at the AGM next week.

In summary, the accounts show that Haworth was paid around £300,000 in lieu of notice and for loss of office. Unless I am misreading it, it does not show whether he received anything in respect of any bonuses, which I will therefore leave as an open question for present purposes.

### **The Facts**

1. Nominet CEO Russell Haworth resigned on 21 March 2021, the day before an EGM would have removed him from the board.
2. On 19 March 2021, the Nominet board provided Haworth (and other executive directors facing potential removal) with a letter, agreeing to waive a crucial clause in their employment contracts.
3. That clause - part of clause 21.1 (i) - gave Nominet the right to terminate Haworth's employment contract without compensation in the event that he was removed from the board in accordance with the company's articles.
4. From the text of the letter it is clear that both parties accepted that that provision would be in play if Haworth and the other directors were removed from the board at the EGM, which is what happened.
5. It was therefore a significant right that Nominet agreed to waive, without securing any binding consideration in return.
6. Two days later, Haworth resigned, on 21 March 2021.
7. Nominet released a statement confirming that he did so with the consent of the board. That consent was essential to avoid the other relevant part of clause 21.1(i).
8. Based on the accounts, a generous severance package was agreed at that time, since it appears in the accounts to 31 March 2021.
9. That other part of 21.1(i) says that if Haworth resigned he would lose his right to any payout, unless he did so with the prior consent of the board or did so at their request.
10. So for a second time in two days, the Nominet board waived a crucial right in their dealings with Haworth. They again massively weakened Nominet's bargaining position with him.
11. Again, on the face of it, they got nothing in return. He secured a payoff that is more than the maximum he could have achieved had he been 100% successful at an employment tribunal.

12. He got his full 6 months pay in lieu of notice. He was also paid around £120,000 for loss of office, when the statutory maximum is around £90,000. As I said, It is unclear whether he also got any bonus payments.
13. In the event, the directors were removed at the EGM. Without the secret side letter, Haworth would have been facing the possibility of being removed as CEO with no compensation payment. The same would have been true when he resigned, again if he hadn't been given the consent granted by the Nominet board.
14. Instead he received at least £300,000 that it appears he need not have been paid.
15. Even if he retained a right to a payout, his potential claim was far from certain and it makes no sense that the company agreed to pay him more than he could have received had he won on every part of his claim at a tribunal. Even after waiving the key rights, it should have been able to negotiate a reduced payout to offset the litigation risk that Haworth faced at a tribunal.
16. The other two directors who were removed from the board were given similar waivers from Nominet, increasing the company's final potential exposure from these secret waivers.
17. Stephen Page and Rob Binns signed the secret waiver with Haworth.

## **Conclusion**

The waiver gave away one of the strongest parts of Nominet's armory in dealing with the executive directors. It was given away without getting anything back in return. It could have been used to secure a guarantee that Haworth stayed on for an agreed minimum period (which is what the letter purports to want for Nominet); or it could have been used as significant leverage to reduce any payment to him if he was going to leave. It did neither.

Instead, within 2 days of giving up that key right, Nominet had consented to Haworth leaving and paid him at least £300,000. Aside from failing to negotiate any reduction for his notice period; there is no obvious reason to have given him around £30,000 more than the statutory maximum he could possibly have achieved at a tribunal for loss of office.

Based on what I have seen, I cannot see a case for the directors acting in Nominet's best interests in this situation. They gave away the two significant rights in Haworth's contract and got nothing back in return. The company then ended up paying him in excess of what he should realistically have expected to achieve, even after they had done that, including more than the statutory maximum for part of it.

This is obviously a very serious situation. Specifically for the two directors who signed the waiver; but also for the entire board at that time, who must have approved it.

If elected to the board, I will instigate an immediate independent review of this transaction. I would urge you to publicly support that.

I also think that the board members remaining from that time should consider their positions.

Yours sincerely

**Jim Davies**