

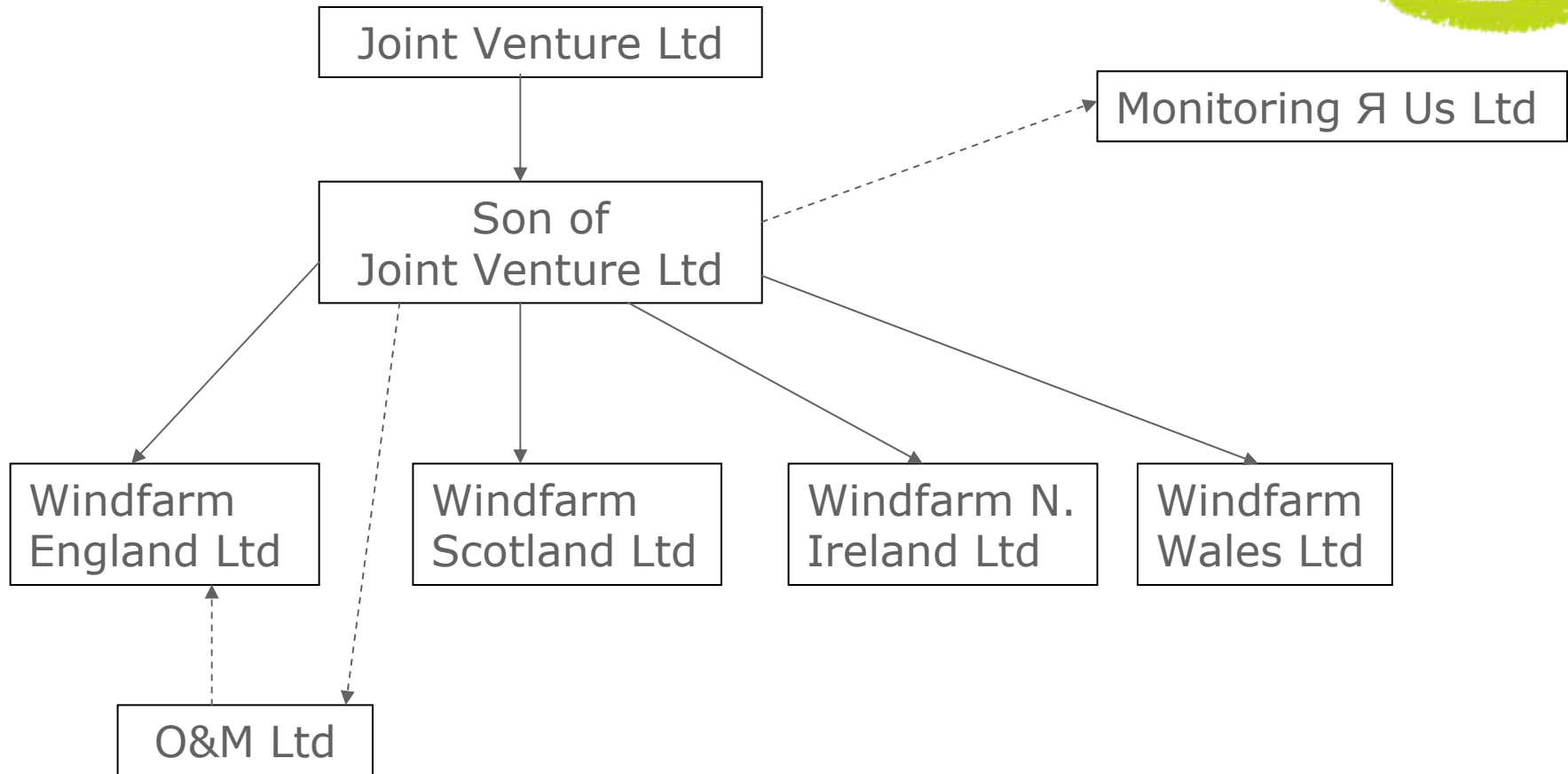


Challenges in the New Energy Economy

Hilary Ross
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Bond Pearce

Sometime in the not too Distant Future ...



O&M Ltd

- Contractual Duties:
 - Draft operations and maintenance manuals
 - Control and carry out operations on site
 - Maintain site plant, etc
 - Carry out performance tests
 - Carry out regular inspections
 - Report on a regular basis



Monitoring J Us Ltd

- Contractual Duties
 - Act as representative of Son of Joint Venture Ltd
 - Fulfill following duties:
 - Establish and maintain Operational Control Centre
 - Monitor safety compliance/performance on site
 - Carry out annual assessment



2 Years Later ...





The Investigation

- Investigated by Police & HSE
- CPS prosecute corporate manslaughter cases
- May not be familiar with operation of wind farms
- Blurring of roles due to electricity regulation – contractual duty and legal duties
- CDM frame of reference for expectations
 - Monitoring Ȧ Us Ltd “clients” agents and control access to site
 - O&M Ltd – “principal contractor”but
 - Monitoring Ȧ Us Ltd – auditing function = contractor on site

Issues Highlighted by Investigation

- Annual audit identifies covers missing from electrical panel
- Sent by Monitoring Я Us Ltd via email to O&M Ltd
- Copied to many high ranking people internally with Monitoring Я Us Ltd
- Monthly reports silent as to issue
- Email policy to clear at every 3 months
- Operational meeting minutes highlights missing electrical covers shortly before accident
- Risk assessment for audit
- Risk assessment “approved” by high ranking person who had seen original audit
- Monitoring Я Us Ltd employees not entirely clear on role of different parties
- Inconsistent language used by both parties to describe roles of parties
- Accident investigation report prepared. Very wide in its terms



Avoiding Problems

- Identify duties of each party
- Be clear on different roles of parties whilst performing duties
- Health & Safety to liaise with Legal – work out what procedures needed to fulfill contractual duties
- Ensure contracts use consistent terminology as used by team
- Be absolutely clear on each party's role
- Communicate role to staff at all levels
- Ensure duties performed
- Define information needed and its format
- Ensure joined-up approach to information
- Ensure system to identify action points, track progress and **escalate**



Avoiding Problems cont..



- Ensure key documents preserved
- Ensure right people get right information (avoid round-robin emails)
- Take utmost care with accident investigations
- Privilege only applies in limited circumstances in England
- Keep lines of communication open but be **careful**



Final Thoughts ...

- Never ever exceed contractual duties
= greater risk to safety and greater risk of liability
- Avoid accumulating information for information's sake.
Important points get lost
= greater risk to safety and greater risk of liability

Hilary Ross

Partner

Direct: +44 (0)0845 415 6036
hilary.ross@bondpearce.com



Bond Pearce

