

17/11/99

Electronic *memo*

To David W Miller/POCL/POSTOFFICE([] GRO), David X
Smith/POCL/POSTOFFICE([] GRO)
cc Ruth Holleran/POCL/POSTOFFICE([] GRO) John
Meagher/POCL/POSTOFFICE([] GRO) Min
Burdett/POCL/POSTOFFICE([] GRO)
Hard Copy To
Hard Copy cc
From Keith K Baines/POCL/POSTOFFICE
Date 17/11/99 09:22
Subject Meeting with Richard Christou

Dave,

There has not been an opportunity to review tactics in the light of the demand position document and the legal advice (which I had from Jeff yesterday, and which he will write up and e-mail to Dave Miller this morning.)

Negotiating position

We need to be clear that our demand position - as the document stood after my and Jeff's comments - but which may change after Dave Smith's - we are not merely re-instating the roll-out criteria which we agreed last time round. We are also seeking to impose additional obligations on Pathway, which are likely to cost them, and which in other circumstances we would only get at extra cost to us through change control. I don't have a problem with that approach, but we need to be clear that that is what we are doing. It has a look of additions from wish lists that were not tabled last time round, and I expect ICL will see it as such.

The most significant areas where we are asking for additions are:

Help desk service levels. We are asking Pathway to meet the service level of 80% of calls answered in 20 seconds on the peak day, rather than as a weekly average in the 24/9/99 agreement. (The contracted SLA is for a monthly average.) This will require a higher level of resource, and is more likely to fail because there is less opportunity to average out random fluctuations.

Help desk staffing - we are asking for a right of audit of staff in place. This is different for the output-based approach in the contract generally, and is in addition to the explanation of Pathway's resourcing model which was attended by our experts prior to 24/9/99 and which at the time they said was satisfactory.

Rectification Plan for AI 376 - we are asking for an open ended commitment to add any additional activities to the development plan for the integrity control that may emerge from a joint review. This must put the plan at risk, given that it was already tight. (I clarified with Min that this is what we are asking for - it is more than adding the activities to develop operational procedures that we had identified as missing.

We are asking for analysis of the early faults which were not analysed prior to 24/9/99. Last time round, Pathway argued - and we did not disagree - that it would be wasteful of resources to go further back and analyse the earliest incidents, when most of these were probably attributable to root causes already found and fixed.

Legal Advice

The key point is that we acquire a right to suspend roll out on the 24th November, if one or more of the criteria is failed - as seems certain now. If we do not exercise that right, then over time, we may by behaviour give it up. Jeff's view is that the safest way is to give notice immediately after the 24th, or even before, that we are suspending roll-out, and then negotiate a way forwards. The risk with this is that Pathway may then start to stand down activities that make the 24 Jan resumption impossible, even if we do agree changes that would make us comfortable with it. My view is that this risk is worth taking, provided we make it clear to ICL that when we serve notice of suspension of roll-out, we are leaving open the option to agree new plans that would meet the original dates.

Jeff's proposal on the mechanism for the new agreement is a 3rd supplementary, which would include confirmation that the criteria had not been met - in the same way as previously we had confirmation that the acceptance criteria had not been met.

At the risk of being repetitious - we also need to be clear that the criteria for 24/11 are not about fault. We should not be saying that ICL have failed, rather that the criteria have not been satisfied. The point of the criteria in the 2nd supplementary was to safeguard POCL against an unsustainable roll-out, not to impose penalties on ICL.

I'm in the HMT meeting all morning, but can be called out if you need to discuss.

Keith