

CONFIDENTIAL AND LEGALLY PRIVILEGED
POST OFFICE GROUP LITIGATION
19 November 2019



Decision paper: Deletion of data held on Fujitsu Telecoms

1. SUMMARY

- 1.1 A decision is sought as to whether data held by Fujitsu on Fujitsu systems dedicated to the use of delivering the Post Office HomePhone and Broadband Managed Services should be deleted or preserved in light of the ongoing duty to preserve documents which may be relevant to the Group Action and/or Project Starling.
- 1.2 This question is being raised as part of Post Office's GDPR compliance under which there is a duty to only retain personal data if needed. It is a legitimate basis under, and an exemption from, the GDPR to preserve personal data if it is needed for litigation purposes.

2. FUJITSU TELECOMS

- 2.1 We have been informed by Ian Mills of Fujitsu that the data which is sought to be deleted is data from 2013 onwards which contains the records of Post Office telecom sales. For example, the product(s) purchased by current and previous customers, customer invoicing details, and customers personal details (such as address, name, etc). This data also contains the FAD code of the branch at which the product(s) were sold. As explained further in paragraph 2.3 below, it is proposed that the FAD code data will be maintained with the remainder of the data being deleted.
- 2.2 Post Office pay branch agents for any customers who sign up through the branch network directly or through a referral via online or a contact centre. The FAD code is recorded as part of a sale and used to reconcile branch sales. Post Office pay the branch for the one off sale and also as a monthly on going back book basis and the FAD code data is used to generate these payments.
- 2.3 This FAD code data (which is held within the records that are proposed to be deleted) may therefore be used for the reconciliation of branch sales which could impact on branch accounts. However, the FAD code has not been designated for deletion and will therefore be maintained. Further, the FAD code data is also held in a separate location by FJ. FJ hold a record of the FAD code against a sales order in their MI Data Warehouse, which is held indefinitely and is made available to Post Office via MI reporting. This data will be maintained and not effected by the deletion of data in Fujitsu Systems. This data may also be used for the purposes of reconciling branch accounts.
- 2.4 We also understand from Fujitsu that there is no additional cost to Post Office maintaining the data which is proposed to be deleted – the continued hosting of this data would be covered as part of the fully managed service which is provided by Fujitsu to Post Office.
- 2.5 It should be kept in mind that at this stage the Claimants have not yet pleaded their case on Post Office's back office reconciliation processes and the scope of their claim is therefore unknown.

3. RECOMMENDATION

- 3.1 The decision of whether to delete the data needs to be weighed against:
 - 3.1.1 the risk of data being deleted which may be relevant for future trials; and

3.1.2 there being no additional costs to maintaining the data for the next 12 month.

- 3.2 It is unlikely the above data will be needed in the Group Litigation. Given that the Claimants have not yet pleaded their case on Post Office's reconciliation practices, we cannot rule out the possibility that this data may be needed or may contain more relevant and probative information than we are currently aware of. We therefore believe the data should be preserved (with that decision reviewed in 12 months' time). This is a highly conservative course of action and thus a weak (but legitimate) justification for preservation of personal data from a GDPR perspective. However, even if this step is not GDPR compliant, it is highly unlikely that the ICO would investigate this matter or take any enforcement action as that would trespassing on Court's requirements to preserve documents for litigation.