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POST OFFICE LTD

NOTE TO POL

SECURING DATA FOR FUTURE PROSECUTIONS

Background

1. In February 2014 I was instructed to draft a Memorandum of Understanding between POL and any third party supplier of its IT system, (presently Fujitsu Services Ltd. (“the supplier”)), along with an explanation of why it was essential to POL that the integrity of the Horizon audit data was not compromised as part of any storage replacement programme. I was instructed that the draft Memorandum of Understanding should:
 - a. Ensure that the supplier retained all Horizon data; and
 - b. Set out the duties and obligations Post Office Ltd has as a prosecutor;
 - c. Identify the nature and scope of the data that Post Office Ltd necessarily relies upon for the prosecution of its cases;
 - d. Seek the supplier’s understanding and agreement to revealing any and all material or information that might undermine the integrity of the system; and to the requirement for the disclosure of such material or information in the course of criminal proceedings, as may be required.
2. I am now asked to consider whether in fact these matters are adequately provided for within the contractual relationship between POL and Fujitsu.

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3. I am informed that the Fujitsu commercial and legal team had considered the terms of the proposed MoU against the existing contractual arrangements between POL and Fujitsu, together with a new no-cost CT and the Transitional Support Services agreement.

Opinion

4. In terms of the protection of, and provision to, POL of data required for future prosecutions, I am satisfied that the Fujitsu commercial and legal team's view is the correct one. In particular I am content that clauses 25.3, 25.8 and 25.9 of the contract deals appropriately with the concerns raised in this context.
5. My one area of uncertainty however resides in the interpretation of the term "Records" as it appears in the clause. I am concerned that the term should include all information, in whatever form, which relates to or is associated with any aspect of the Horizon Online system or its operation, functioning, communication or connectivity, and which may: indicate the presence (past or present) of a defect, 'bug' fault or virus; or tend to suggest that any data produced may be inaccurate, false or otherwise unreliable; or that any balance produced by the system may be inaccurate, false or otherwise unreliable; or which might indicate a failure, error, inadequacy or insufficiency in the presentation of data.
6. Subject to that qualification, I am satisfied that the terms of the contract, CT and TSS adequately deal with the concerns raised by POL in February and to which the draft MoU was addressed.

Simon Clarke
Senior counsel

2nd July 2014