

FREETHS

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02 October 2018
Third Letter

By e-mail only: Andrew.parsons@freeths.co.uk **GRO**

Our Ref: JXH/1684/2113618/3/CO
Your Ref AP6/364065.1369

Dear Sirs

THE POST OFFICE GROUP LITIGATION DEFENDANT'S DISCLOSURE – THE PEAK SYSTEM

We write further to your letter dated 27 September 2018 providing disclosure of the Peak System.

We do not propose to waste time setting out the history of this issue in detail as it is known by both parties, however, for the record, we would like to clarify the following.

Your client purports that there has been an "open invitation" for Mr Coyne to undertake further inspections of the system. The court ordered your client to make reasonable endeavours to provide two days access to the system. When we were seeking to arrange access for two days in June 2018, your Jonathan Gribben would only agree to a 1 day visit in the first instance (despite what had been ordered by the Court) stating that "*two hours for each system [the PEAK and TFS] should be sufficient*" and that "*it is not an absolute obligation to provide 2 days' access*". Mr Gribben also stated that it was not an opportunity for the experts to ask any questions of the Fujitsu personnel and that any requests should be put in writing. Given the restrictions placed on Mr Coyne by you, Mr Coyne focused his requests for information in his RFI (again, as ordered by the Court). Your client declined to respond to a number of those requests on the basis that Mr Coyne had not set out why they were relevant to the Horizon Issues. Your client has changed its position and seemingly now believes that the full PEAK system should be disclosed, rather than responding to the narrow requests made by Mr Coyne.

This extremely late disclosure of 220,000 documents, two weeks before Mr Coyne's report is due to be served, appears to us to be calculated to disrupt the Claimants' expert finalising his report.

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2 October 2018
Third Letter
Page 2

The Claimants' position is fully reserved in relation to the impact that this may have on the directions timetable, including the service of Mr. Coyne's report.

Furthermore, we note that you have withheld 3,866 documents on the basis of privilege, which you are currently reviewing. We find it hard to understand on what basis these documents, being technical documents created and held by Fujitsu could be privileged. Please provide disclosure of these documents as a matter of urgency.

We note from your letter dated 1 October 2018 that you have requested that Mr Coyne provides your client with documents referred to in his report, in advance of the deadline for him to file and serve the same (being 16 October, and not 12 October as stated in your letter). As you will appreciate, given your client's late disclosure of 220,000 additional documents, this will not be possible in advance of the deadline for Mr Coyne's report.

Yours faithfully

GRO

Freeths LLP

Please respond by e-mail where possible