

FREETHS

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11 October 2019

Second Letter

Our Ref: JXH/1684/2113618/4/CO

By Email: andrew.parsons **GRO**

Dear Sirs

POST OFFICE GROUP LITIGATION HORIZON ISSUES TRIAL: UNDISCLOSED KELs

We write in response to your letter of 3 October 2019, in which (amongst other things) you informed us under item 3, headed "*Previously disclosed KELs*" (on p.2), that previous versions of disclosed KELs are available and that statements made in the EDQ to the contrary were incorrect – in particular, the following statement was incorrect:

"The previous entries /versions of the current entries are no longer available"

We agree with your assessment of the seriousness of this matter and wish to give informed consideration to its consequences and how the parties should proceed.

We anticipate that the Court may also wish to hear from the parties as to how they propose the Court should proceed, in all the circumstances, including the Court of Appeal permission hearing on 12 November 2019 and the obvious advantages of the Horizon judgment being handed down before that hearing.

It is obviously very important to understand precisely how this has happened.

In order for us to give the matter informed consideration, we would be grateful if you would provide the following information, to which we expect you are giving anxious scrutiny in any event:-

1. A full and candid account of how this occurred, including:
 - a. the requests made to Fujitsu, to whom they were made and by whom they were made, and the dates upon which they were made;

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- b. the responses from Fujitsu, providing equivalent detail above;
- c. what information had been requested from, or provided by, Fujitsu to the Post Office when it pleaded the following in the Generic Defence (also repeated in Parsons 4 at §33):

"To the best of Post Office's knowledge and belief, there is no issue in the Known Error Log that could affect the accuracy of a branch's accounts or the secure transmission and storage of transaction data."

- 2. An explanation of the script(s) which were previously used to extract the KELs which have been disclosed (prior to your letter of 3 October), including:
 - a. explaining how those script(s) were intended to capture the relevant KELs (including, latterly, the deleted KELs); and
 - b. providing copies of the scripts in fact used to do so, in each case.
- 3. An explanation of how version numbers work, including for example:
 - a. KEL spar5831I (updated as at 13 September 2019) on its face states that it is version 5, when the version updated as at 12 September 2019, is stated to be version 3: does each update create a new version?
 - b. if that is correct, why are there updated versions of KELs in the trial bundle, which still state that they are version 1? (e.g. {F/133}, {F/157}, {F/193}, {F/292} – contrasted with KEL acha959T {F/1700} referred to by Mr Coyne, stated to be version 19)
- 4. How many individual KEL additional documents you believe exist and how many of those documents are likely to be prior versions of the 370 or so KELs already in the trial bundle?
- 5. Clarification of whether the Post Office will still maintain its case as set out in its Written Closing or whether it proposes to withdraw any of its submissions and if so which.

We note that Fujitsu is writing a new script to extract those KELs. We have reminded ourselves of the importance of the script actually used in confidently capturing the relevant documents.

Please also confirm your client's agreement to pay the costs of this exercise, as you helpfully did in relation to the missing three pages of submissions.

We look forward to hearing from you as soon as possible and will be better placed to reach an informed view as to how to progress and answer the questions which you have posed.

Yours faithfully

GRO

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Please respond by e-mail where possible