

Message

From: Jane MacLeod [GRO]
Sent: 27/11/2016 22:04:43
To: Parsons, Andrew [/o=Exchange-Org/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=ad9ed344815e47e4aaa3c0e7e1740919-Andrew Pars]; Rodric Williams [GRO]; Mark Underwood [GRO]; Patrick Bourke [GRO]; Rob Houghton [GRO]; Thomas P Moran [GRO]
CC: Prime, Amy [/o=Exchange-Org/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=ab7222dda3a9453eae5751238a59562-Amy Prime]; Lukas, Elisa [/o=Exchange-Org/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=f3b6e101da614ce09447519b332f50d1-Elisa Lukas]
Subject: RE: Letter to Freeths - legally privileged [BD-4A.FID26896945]

Thanks Andy

I have no substantive comments, however please note the following:

- Have we had any indication to date from Freeths as to how governance of their claims is managed? In para 15.6 (and others in that section) you discuss security for costs – all of which are fine. However I would like to understand how we can tactically use governance questions as part of the ‘separation’ assessment. There already seem to be a series of ‘groupings’ that we argue should be treated differently (postmasters/Crown employees/ assistants, criminal v non-criminal, individuals v corporates, etc etc) and I wonder whether we should somehow infer that we want to know that the cost conflicts between these different groups have been addressed?
- In 10.6 we make the point that there are a number of criminal cases that have not been referred to the CCRC; can we also emphasise the point that none of the criminal cases have been appealed (so that any ‘stay’ should be for the longer of (i) a CCRC decision to refer the matter or (ii) an appeal? – I think that works
- 9.2.4 there is a statement “If any Claimants are saying that Fujitsu staff *have misused their access rights* so as to create false shortfalls in their branch accounts,” - should this be ‘any’ access rights (given the discussion in the next section)?
- 9.3.1 – can we say that this witness statement was provided to Second Sight (if it was)?
- The issues raised in 9.3.5 read as if they are different to the issues discussed in 9.17 – 9.19. Are they? If not we should not separate them out. I note that Deloitte have not been able to say categorically that PO staff cannot change the system, but it does seem odd if we allow the possibility that PO could change the operating details of an outsourced service. Can we therefore address this and the administrator access point together? The language in 9.3.5 (and to a lesser extent 9.4-9.11) is difficult and reads in a slightly alarmist way.
- Is it possible to say in 9.3 in relation to the line of questioning points (and the following is not suggested drafting):
 - In each of these cases, we were responding to specific – often narrowly constructed questions. In each case we sought to answer the specific question that was put to us [, and did so based on enquiries in PO and FJ]
 - In light of the ongoing challenges [and the wording of the allegations within the Freeths’ correspondence] we have therefore considered the question more widely. As is entirely normal in all [IT] systems, there are a limited number of system administrators within FJ who technically have access to Horizon databases in a way which theoretically could allow a change to branch accounts. There are a significant range of controls in place to limit access to the databases and the stored data and ...(using wording from 9.18) to make it very difficult (and in many cases impossible) to add, amend or delete data without leaving an audit trail in the system. These controls will of course be subject to further investigation and evidence in the course of these proceedings should your clients choose to pursue these allegations on a properly particularised basis.

- [then go on to set out the arguments in 9.4-9.11]
- In this context is it possible to tone down the 'regrets language' eg in 9.3.5, 9.5, and 9.6 to something along the lines of 'with the benefit of hindsight it is now possible to construe those statements as deficient in that they did not address the question of administrator access. In each case PO was seeking to address the question that had been raised. PO did not intend to make any misleading statements nor was it wilfully or deliberately reckless in doing so. The Post Office personnel responsible for those statements believed the statements when they were made in the context in which they were made. What was said reflected what they understood the position to be after making relevant enquiries. ~~{Unfortunately, they did not pick up on the issue of Fujitsu administrator access as Post Office would have liked.}~~'

Otherwise, I have no specific comments. Thanks to the BD team for getting this out over the w/e.

Jane



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Mobile number: [GRO]

From: Parsons, Andrew [GRO]

Sent: 27 November 2016 09:38

To: Jane MacLeod [GRO]; Rodric Williams [GRO]; Mark Underwood [GRO]; Patrick Bourke [GRO]; Rob Houghton [GRO]; Thomas P Moran [GRO]

Cc: Prime, Amy [GRO]; Lukas, Elisa [GRO]

Subject: Letter to Freeths - legally privileged [BD-4A.FID26896945]

All

Please find attached a draft Letter to Freeths in response to their last substantive letter (copy also attached). This incorporates comments from Tony and Rod.

The majority of this letter addresses legal and procedural points. The key substantive area is section 9 on Remote Access (in particular, Rob, I'd be really grateful if you could review this section).

Following feedback from Deloitte, we cannot definitively say that PO (as distinct from FJ) never had the ability to change Horizon data because Deloitte and the current staff at FJ just don't have enough knowledge of Old Horizon to confirm this. This was a point made in an early draft but it has now been removed.

We have (I hope) now found a formulation of words that avoids having to overtly throw FJ to the wolves and avoids any risk of waiving privilege in any documents, but still gives us a fair story to tell. We have also toned down the admissions of making incorrect statements, though they are still there. I hope this might make it easier to get this letter cleared through GE and FJ.

We have a call scheduled for 5pm tomorrow with Tony which we can use to run through any comments. Comments by email before then are also welcomed.

The final version of the letter will be thoroughly proof read before sending so please ignore any typos.

Kind regards
Andy

Andrew Parsons
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