

Message

From: Jane MacLeod [GRO]
on behalf of Jane MacLeod [GRO] > [GRO]
Sent: 26/07/2016 20:37:39
To: Parsons, Andrew [GRO]
CC: Rodric Williams [GRO]
Subject: RE: Strictly Private & Confidential - Subject to Litigation Privilege [BD-4A.FID26859284]

Thanks Andy

This wording still feels a bit inflammatory. I'm not sure the following is necessarily any better and the line between the legal and 'publicity' issue is a fine one

My suggestion is:

1.3.4 Access to databases. Database and server access and edit permission is provided, within strict controls, to a small, controlled number of specialist Fujitsu personnel. Our current understanding is that although it may be possible theoretically to use these permissions in a way that could affect a branch's accounts, it is unclear why any such permissions would be used by those specialists in such a way. Any such use of these permissions in this way would, in any event, be logged and be subject to compliance with the specified controls. [We have asked Fujitsu to advise whether such permissions have ever been used in this way.]

Thoughts?

Jane



Jane MacLeod

General Counsel
 Ground Floor
 20 Finsbury Street
 LONDON
 EC2Y 9AQ

GRO

From: Parsons, Andrew [GRO]
Sent: 26 July 2016 18:14
To: Rob Houghton; Jane MacLeod
Cc: Rodric Williams; Patrick Bourke; Thomas P Moran; Tom Wechsler; Mark R Davies; Melanie Corfield; Angela Van-Den-Bogerd
Subject: RE: Strictly Private & Confidential - Subject to Litigation Privilege [BD-4A.FID26859284]

All

The description of the situation in points 1 – 3 in Jane's email accurately records our current understanding. To tackle this issue, there are two work-streams ongoing:

1. Deloitte are investigating the key questions of (a) whether FJ can alter or delete records and if so (b) would this leave a visible audit trail (to Post Office, FJ and/or SPMR).
2. We (BD / POL) are putting together a chronology of statements made by (i) FJ to POL and (ii) POL to others.

We can then assess whether there have been any inaccurate representations of the position and, if so, what impact this may have on the claims.

This work will not however be complete before Thursday's deadline for responding to Freeths (the due date for Deloitte's work is mid-August and even then I suspect there may be follow-up enquiries that go beyond August). I agree with Rob's suggestion that it would be preferable to understand the complete picture before saying anything, but unfortunately time is against us. I also have in mind Tony's strong advice about being transparent on this point as far as possible.

As to the Letter of Response, we can remove the wording in square brackets as per Jane's email. Doing so however may make it seem like Super User access can definitely be used to affect branch accounts, when this is not 100% certain. I have therefore proposed some alternative wording in the attached.

In terms of Paula contacting FJ, I can see this would help ensure that FJ continue to engage promptly and fully, subject to two caveats:

1. I would not mention Bullet 5 in Jane's email. If FJ get a sense that Post Office is holding FJ responsible for past statements, this may cause FJ to become defensive, making it more difficult to get information out of them.
2. Paula needs to stick tightly to the remaining 4 bullets so not to accidentally waive privilege in circumstances where there is a (perhaps remote) possibility of a claim against FJ.

All comments on the attached wording are welcomed.

Kind regards
Andy

Andrew Parsons
Partner

Bond Dickinson

Direct: **GRO**
Mobile:

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From: Rob Houghton [GRO]
Sent: 26 July 2016 15:10
To: Jane MacLeod; Parsons, Andrew
Cc: Rodric Williams; Patrick Bourke; Thomas P Moran; Tom Wechsler; Mark R Davies; Melanie Corfield; Angela Van-Den-Bogerd
Subject: RE: Strictly Private & Confidential - Subject to Litigation Privilege

Before we do anything – I would suggest that we get a definitive view from Deloitte on the below.

- In essence therefore the difference would appear to turn on whether FJ can alter or delete records (a) at all; and (b) if the answer to (a) is yes, and it does so, is there a visible audit trail? My understanding of Deloitte's initial findings is that the answer to (a) is yes and to (b) is 'not necessarily'.

It hinges on the DBAs superuser ability to access and modify tables within FJ and we need Deloitte/ FJ/ POL to have a very direct conversation on this. All the FJ statements are probably true through normal tools and capabilities. The challenge is whether the DBAs have extra privilege. Before we go too far down this line we need to absolutely assure ourselves from Deloitte and FJ. Have we got any further detail from Deloitte yet?

R

From: Jane MacLeod
Sent: 26 July 2016 14:45
To: Parsons, Andrew
Cc: Rodric Williams; Patrick Bourke; Thomas P Moran; Tom Wechsler; Mark R Davies; Melanie Corfield; Angela Van-Den-Bogerd; Rob Houghton
Subject: Strictly Private & Confidential - Subject to Litigation Privilege

Andy

I briefed our Group Executive this morning on the progress on the litigation and the planned positioning of the various issues in the response letter due to be sent to Freeths at the end of the week. In particular, I commented on the issues around the response to the remote access issue.

As expected there was significant concern around the apparent change in emphasis from previous public statements, the resultant adverse publicity this may create, and the impact this may have on new ministers etc, who will not have been briefed. The conclusion to the discussion was that we should include a statement in the letter as planned, however we should re-consider the phrasing of this.

In responding to Freeths, we need to be cognisant of the following:

1. What did Fujitsu actually tell us about remote access?
 - I haven't as yet seen any further analysis on what statements we have received from FJ, however Mark U found the email trail (below) last week.
 - My (layman's) interpretation is that what FJ said below is narrower than what we now believe to be the case, and narrower than what we are now proposing to saying. The FJ response below says you can add records (which would be visible via the audit trail) but infers that records can't be changed or deleted.
2. What we have previously said publically?
 - Mark collated a range of statements (attached) which can be summarised by the statement made to Panorama "Neither Post Office nor Fujitsu can edit the transactions as recorded by branches. Post Office can correct errors in and/or update a branch's accounts by inputting a new transaction (not editing or removing any previous transactions)".
 - In essence therefore the difference would appear to turn on whether FJ can alter or delete records (a) at all; and (b) if the answer to (a) is yes, and it does so, is there a visible audit trail? My understanding of Deloitte's initial findings is that the answer to (a) is yes and to (b) is 'not necessarily'.
3. Assuming the above is correct, we must then consider how to position our statement in the response to Freeths.

For the avoidance of doubt, I understand the proposed statement to be:

"Database and server access and edit permission is provided, within strict controls, to a small, controlled number of specialist Fujitsu personnel. Use of these permissions is logged but rare. [Enquiries are continuing as to whether this particular form of access could be used to affect a branch's accounts, and if so, whether this has happened.]"

The challenge is whether we include the final sentence in square brackets. While this is the key issue from a legal perspective as it goes to causation, the statement flags that we are concerned enough about it that we are doing further work on it. So, my question is do we really need the final sentence? If as a result of the Deloitte work we discover that the actual position is different from that which we have said already, then we will need to correct it in any event. Do we gain anything by flagging the fact of this work now?

Separately, Paula has suggested that she speaks to the UK CEO of Fujitsu (Duncan Tait), and my suggestion would be that she:

- alerts him to the fact and timing of the response letter
- notes that the question of remote access is still a live issue and major concern to the claimants

- notes the work being undertaken by Deloitte to review access rights and controls,
- expresses the desire that FJ [continue to] work constructively with Deloitte, and
- flags that if the Deloitte work uncovers a different position to that which FJ and PO have publicly stated over the years, then we will need to consider carefully how to manage the impact given that ultimately, the outcome of such work will become public.

I'd be grateful for your thoughts.

PO team – the above is to keep you informed. In light of the sensitivity of the issues please do not forward Any questions should be addressed to Andy, Rod or me in order to preserve privilege.

Thanks,

Jane



Jane MacLeod

General Counsel
Ground Floor
20 Finsbury Street
LONDON
EC2Y 9AQ

GRO

From: Mark Underwood

Sent: 19 July 2016 11:13

To: Patrick Bourke; Jane MacLeod; Rodric Williams

Cc: Parsons, Andrew

Subject: FW: Strictly Private & Confidential - Subject to Privilege arising from M008 - Rivenhall

In reading through the LOR and pulling together bits for it, I stumbled across the below email for James Davidson (then of Fujitsu)

I thought I would share as it may prove useful further down the line – depending where we get to with Deloitte on 'Remote Access'.

Mark

From: Mark Underwood1

Sent: 08 December 2015 12:42

To: Mark Underwood1

Subject: FW: Strictly Private & Confidential - Subject to Privilege arising from M008 - Rivenhall

From: Davidson James

Sent: 17 April 2014 16:27

To: Rodric Williams

Cc: Harvey Michael; Newsome Pete

Subject: RE: Strictly Private & Confidential - Subject to Privilege

Rodric,

Please see Fujitsu's response below.

Summary:

- There is no ability to delete or change records a branch creates in either old Horizon or Horizon online. Transactions in both systems are created in a secure and auditable way to assure integrity, and have either a checksum (Old Horizon) or a digital signature (Horizon Online), are time stamped, have a unique sequential number and are securely stored via the core audit process in the audit vault
- Whilst a facility exists to 'inject' additional transactions in the event of a system error, these transactions would have a signature that is unique, sub-postmaster id's are not used and the audit log would house a record of these. As above, this does not delete or amend original transactions but creates a new and additional transactions
- This facility is built into the system to enable corrections to be made if a system error / bug is identified and the master database needs updating as a result, this is not a unique feature of Horizon
- Approvals to 'inject' new transactions are governed by the change process, 2 factor authentications and a 'four eyes' process. A unique identifier is created and can be audited for this type of transaction within HNGX, Horizon would require more extensive work to investigate as explained below.

1. Can Post Office change branch transaction data without a subpostmaster being aware of the change? *No*
2. Can Fujitsu change branch transaction data without a subpostmaster being aware of the change? *Once created, branch transaction data cannot be changed, only additional data can be inserted. If this is required, the additional transactions would be visible on the trading statements but would not require acknowledgement / approval by a sub-postmaster, the approval is given by Post Office via the change process. In response to a previous query Fujitsu checked last year when this was done on Horizon Online and we found only one occurrence in March 2010 which was early in the pilot for Horizon Online and was covered by an appropriate change request from Post Office and an auditable log. For Old Horizon, a detailed examination of archived data would have to be undertaken to look into this across the lifetime of use. This would be a significant and complex exercise to undertake and discussed previously with Post Office but discounted as too costly and impractical.*
3. If not, where is the evidence for this conclusion? *See Answer 2*
4. If so:
 - a) How does this happen? *See above*
 - b) Why was this functionality built into the system design? *To allow for data to be corrected if there were any defects found in the system*
 - c) Why would Fujitsu need to use this functionality? *As above and under instructions from Post Office Ltd.*
 - d) What controls are in place to prevent the unauthorised use of this method of access? *This is achieved through a number of industry standard controls (RBAC, 2 factor authentication etc) which are robustly audited under ISO 27001 / IAS 3402, Link, PCI.*
 - e) When has branch data been accessed in this way in the past? *See above*
5. In relation to the Winn/Lusher email:
 - a) What is "message store"? *This is the repository (or database) where all transactions were written to in the old Horizon system*

- b) Can this be used to access and change branch records? *It can be used to access the records. Data cannot be changed, but new data could be inserted into it. Any such inserted data would be tightly controlled by operational processes explained above.*
- c) What is the "impact" of this change on branch records? *The impact would depend on exactly what records were inserted.*
- d) Would the subpostmaster be aware of this change? *Yes, via the trading statement but spm's are not required to approve the change, this is provided by Post Office.*
- e) Why would this method of access be used? *To correct errors if a software defect is identified.*
- f) What controls are in place to prevent misuse of this method of access? *As above.*

Regards,

James Davidson
Post Office

Fujitsu

Lovelace Road, Bracknell, RG12 8SN

Mob: [redacted] GRO

Email: [redacted] GRO

Web: <http://uk.fujitsu.com>



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From: Rodric Williams [redacted] GRO
Sent: 17 April 2014 15:25
To: Davidson James
Subject: RE: Strictly Private & Confidential - Subject to Privilege

Thanks James.

Rodric Williams I Litigation Lawyer



148 Old Street, LONDON, EC1V 9HQ

GRO

GRO

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From: Davidson James [redacted] GRO
Sent: 17 April 2014 14:02
To: Rodric Williams
Subject: RE: Strictly Private & Confidential - Subject to Privilege

Rodric,

Just to update, I have a response in draft following a review the technical guys. I have passed this to legal for review and expect this back this pm. Will advise as soon as I have the go ahead to release.

Regards,

James Davidson
Post Office

Fujitsu
Lovelace Road, Bracknell, RG12 8SN
Mob: [REDACTED]
Email: [REDACTED]
Web: <http://77UK.FUJITSU.COM>



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Please consider the environment - do you really need to print this email?

From: Rodric Williams [REDACTED]
Sent: 14 April 2014 15:
To: Davidson James
Subject: Strictly Private & Confidential - Subject to Privilege

GRO

James,

Could Fujitsu please answer the questions below so that we can respond to a specific challenge put to us by Second Sight in connection with a Mediation Scheme complaint, namely that:

"the Andy Winn/Alan Lusher email in the case of Ward [...] explicitly states that Fujitsu can remotely change the figures in the branches without the SPMs' knowledge or authority".

The Winn/Lusher email is attached. The part of the email in question is:

"Fujitsu have the ability to impact branch records via the message store but have extremely rigorous procedures in place to prevent adjustments being made without prior authorisation - within POL and Fujitsu these controls form the core of our court defence if we get to that stage."

Questions:

6. Can Post Office change branch transaction data without a subpostmaster being aware of the change?
7. Can Fujitsu change branch transaction data without a subpostmaster being aware of the change?
8. If not, where is the evidence for this conclusion?
9. If so:
 - a) How does this happen?

- b) Why was this functionality built into the system design?
- c) Why would Fujitsu need to use this functionality?
- d) What controls are in place to prevent the unauthorised use of this method of access?
- e) When has branch data been accessed in this way in the past?

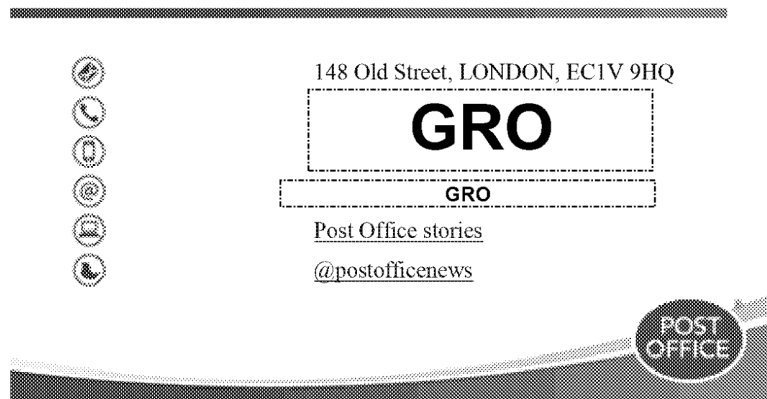
10. In relation to the Winn/Lusher email:

- a) What is "message store"?
- b) Can this be used to access and change branch records?
- c) What is the "impact" of this change on branch records?
- d) Would the subpostmaster be aware of this change?
- e) Why would this method of access be used?
- f) What controls are in place to prevent misuse of this method of access?

Please let me know if it would be easier to address these in a phone call in the first instance.

Kind regards, Rodric

Rodric Williams I Litigation Lawyer



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