

FOR USE OF COUNCIL MEMBERS ONLY

NATIONAL FEDERATION OF SUBPOSTMASTERS

REPORT OF A
VIRTUAL MEETING OF THE
COUNCIL

held on

16 JUNE 2020

via

MICROSOFT TEAMS

PLEASE NOTE

Items that are totally confidential and not to be discussed outside of the Council have been 'boxed' and shaded in pink (as is this note).

Report of a Virtual Meeting of the Council held on Tuesday, 16 June 2020 via Microsoft Teams

| | | |
|----------------|--|---|
| Those present: | Tim Boothman Susan Edgar Calum Greenhow Christine Donnelly Uel Houston Saj Hussain Nilesch Joshi Susan Jude Paul McBain Stuart Rogers, BEM Bharat Visani Cat Chick Deb Proud David Sanghera | Chair Vice Chair Chief Executive Spar W H Smith Rymans |
|----------------|--|---|

| | | |
|----------------|--|---|
| In attendance: | Robert Clack Wendy Burke Keith Richards Peter Hall Paul Simmonds | Director of Commercial & Retail NC Facilitator & Operations Officer Security & Network Transformation Head of Policy & Research (part) Director of Operations |
|----------------|--|---|

The Chair welcomed everyone to the meeting with a warm welcome to Cat Chick of Spar who was attending her first Board meeting.

1. MOTION

THAT the authorised signatories relating to the investment portfolio and bank accounts held in the company's name at **IRRELEVANT** **IRRELEVANT** be updated to reflect the following:

The following new signatories to be added to the mandate:

Andrew Neil Watts
Calum Brian Greenhow

Both of whom have indicated their willingness to act as such and provide specimen signatures and any required identification to **IRRELEVANT**

The removal of the following signatories from the mandate:

George Thomson
James Nott
Philip Bloor

The motion was duly proposed and seconded and passed at vote **DECISION**

3. CEO REPORT

(a) Historical Shortfall Scheme (HSS)

Background

- As Board members aware of the scheme and understand what we are doing to help and support colleagues impacted by this. Nilesh Joshi would update in more detail later.
- Now in the lea of the court cases and GLO. Concern raised in relation to the settlement agreed between claimants and PO. £58 million agreed but the solicitors took their cut along with the equity company so very little was left for the claimants. On average they would receive around £20,000 in compensation, which fell short of the loss they incurred.
- It was important to know that this situation did not purely affect subpostmasters. From a Freedom of Information request recently, from 1997 to 2015 there were 796 prosecutions, of which 44% related to Crown office staff, not spms. The NFSP position is that not only should those impacted have their reputation restored but all their losses repaid including consequential losses.

Aim of the scheme

- To bring finality to colleagues, both past and present, who believe that they suffered a shortfall as a result of Horizon.
- There would be an independent panel of three consisting of:
 - o Alex Charlton QC, forensic accountant
 - o Susan Blower, retail expert
 - o Sunder Sandher
- Appointed by PO and they would act independently and consider each case that came to the HSS. Decisions would not be made by PO, decisions would be made by the panel solely.
- If a colleague feels the decision of the panel is incorrect, they will have 28 days to apply via the Dispute Resolution Procedure, which would result in a Good Faith Meeting either by telephone or face to face.
- If the Good Faith Meeting proves unsuccessful, the colleague has a further 28 days to write asking for an Escalation meeting.
- If there is still no resolution, then the colleague has a further 28 days to request that their case goes to mediation via Wandsworth Mediation Service, which is a charity run by Stephen Ruttle QC and was involved in mediating the £58 million settlement at the end of the GLO last year.

- If it still can't be resolved, even at that stage, if the sum is below £10,000 then the case can go to the Small Claims Court. If it is above £10,000 the case would be referred to arbitration under the Arbitration Act, 1996.

Who can Apply?

- Anyone who has operated a post office between 1 January 2000 and when the current HNG-A Horizon software and hardware was installed during 2017-18.
- Those who were part of the GLO cannot apply, nor can those with a criminal conviction as it is only the Courts that can have the conviction overturned, but they can go to the CCRC. Currently 61 cases before the CRC currently, of which 47 had been referred back for retrial, 7 upheld
- All applications must be in by midnight on 14 August 2020.
- It was not a lot of time but PO want to bring about fast results and people are refunded in the correct manner.
- Some cases can be very complex in calculating what colleagues have submitted to the scheme. Consequential loss can become very complex. Chair of NC and CEO had been talking to Hudgells, a no win, no fee, solicitors so we would refer cases to them. If they felt there was an opportunity to win they may take it forward.
- It is important that colleagues have the right to ask for help and support through the process.

Complex Cases

- Nilesh Joshi would explain exactly what the NFSP were doing for colleagues, however first an explanation of some of the complex cases, not just in terms of what went wrong but in calculating what a colleague submits to the scheme.
- When consequential loss is taken into account it becomes very complex. How do you calculate loss of reputation, loss of liberty and a criminal conviction, loss of business or loss of an asset such as a home?
- In these situations, the NFSP may refer the colleague to Hudgells Solicitors, who operate on a no win, no fee basis may take the case forward. It is important that colleagues with such complex cases have the right support to help them through the process.

Recording & Support

- It is important for those sending links to colleagues to encourage them to also complete the NFSP form and ensure Nilesh Joshi is copied in and kept updated. It is important that the NFSP keep a central record.

- Some of the accusations made against the NFSP particularly by the BEIS Select Committee was that I was having to answer questions as we did not know what did or did not happen. We could subsequently go away and find out some information. There was no record if it was dealt with by a Branch Secretary or others around the country. Want to be able to show that the NFSP has changed and has a different way of looking at things, and can prove we have offered help and support to colleagues. Interesting that the majority of forms returned so far demonstrates that they did not originally come to the NFSP for help.

Nilesh Joshi

- The scheme relates to the period 1 January 2000 and 31 December 2017 and the two previous Horizon versions.
- Important to make sure spms understand that the scheme is designed for issues caused by Horizon. Some claims through where we can see it is nothing to do with Horizon. Any issues post December 2017 need to contact the NFSC. They could apply to the scheme would be referred back to NBSC. There was a task force in Chesterfield to look at cases and monitor branches.
- Challenge was if someone was carrying surplus cash, why would PO keep sending extra cash to the tune of £100k-£200k. Issues should be picked up early.
- How the NFSP deal with this will give members confidence as to how we will support them.
- Historically we could have done things differently. The support given was amazing but we did not have data which states what individuals were dealing with the case. We need to be better at doing that.
- Processes now in place to ensure as we carry on from here how do we capture data on a national basis? Important there is an audit trail, a clear understanding of what spms can expect from us, what the scheme looks like. Is it honest and transparent? Is it looking at cases in a pragmatic way? As it progresses through different levels, we expect spms to contact us so we need to capture everything so we can support that.
- We have agreed internal process and what kind of journey there should be internally and to make sure we have created a template. This has already been sent to the Board. The Word document should be copied and pasted to create the email which can be personalised. Important spms understand there are two separate links, one of which will come to us. They have to submit their claim direct to PO.
- We have learnt from running the trial, and hope it is now right. Let Nilesh know if you think there should be changes.

ACTION

- Have analysed some data already, and will keep you in the loop with local knowledge, etc., as there will be historic issues you may be aware of. Important the whole Board engages and ensure as soon as someone contacts you, they are sent the links. We have made it as simple as possible. If you need any support contact Nileshe or Sharon. If they need support, we can offer that. However, we have to be mindful of what advice we can give. Need to be careful what we can ask them to put on the form. We only have one side of the story.
- Deadline is midnight on 14 August so spms need to get their claims in as soon as possible.
- A question that has arisen is the timeframe for everything. These were part of the judgement and they agreed a timeframe. Not something imposed by PO, they had to do it based on the GLO judgement.
- One question raised related to spms not keeping historic records and if an estimated figure or figures from accounts would be accepted, this would be answered in the slides. Another question was whether it applied to ex-spms and if the NFSP had checked old records.
- Had to be remembered that it was not just spms who were prosecuted it was also staff. Anyone who suffered a loss as a result of Horizon could apply to the scheme. On records it is not about if the judgement was right or wrong it is made. Any information we have would only refer to that. This is something completely different and new.
- We can prove that some of the things we could not challenge before could now be challenged. That is the whole point of the scheme. It is structured where you have a completely independent body who would look at the case, get all the information together and pass on to the Review Panel to review and make a decision. The PO or the NFSP are not part of the process.
- Looking at how the scheme will work. Going forward this will give us much more credible and tangible data to work with
- How far back does historical data go with Fujitsu and PO? Do they have the ability to go into historic files to establish facts?
- Looking at how records were kept not everything was digital. In 1997 Horizon was put into Crown offices before being rolled out to the network. For a long time, there was data maintained in manual form. There were different systems that could not talk to each other. It will be a laborious task. PO cannot just give spms the dates of shortages. However, PO could look for given identified shortages which was much quicker. PO need a clue as to where to look. It is a mixture of digital and manual data.
- Again, it stressed that 14 August was the deadline for claims, and spms shouldn't leave it until the last minute.

- At a previous meeting given a list of all the known faults on Horizon. Did all those faults result in a loss for spms and were they reimbursed? If any new bugs are identified will spms get automatic reimbursement?
- That question has been asked. A bug is a code. However, if you use it one way it will not show up but another way it will show up.

Back to Calum

- CEO now has a copy of the expert witness statements and was working through them. Indicates a lot of the times as soon as it was identified it was rectified. However, we can say 557 went to court because the accusation by Post Office was that there was a bug but it did not impact them.
- Going forward being put in place, because we want an assurance if a bug is identified the NFSP are informed immediately so when it comes to representing a member you have the list available and if it transpires that they are describing meets with the bug it gives you confidence you can represent the member properly.
- We want to be in a situation where if you are dealing with a colleague you are aware of bugs, defects and what outcomes have been reached.
- Have also called for Horizon to be audited on an annual basis and the results of that audit are transparently distributed. Important it is clear as far as Horizon is concerned operators can have confidence in the system and its robustness going forward. When something goes wrong it is rectified and dealt with.
- Recently there were issues in relation to Horizon and people not being able to log on. Plan is to keep CEO, Chair of NC and Chair informed if there are problems to keep the Board and members updated.

Back to Niles

- Need to point out. If a member contacts you and wants to discuss their claim and what to put in, even if you know that falls outside the scheme, please do not discourage them from submitting a claim, let PO come back to them and point them in the right direction.
- Presentation attached as Appendix A.
- Purpose of the scheme is to take a pragmatic view not all fact based. Spms should just do the best they can with the claim form even if they don't have records. Some do have information. Some settled with cash will be difficult to prove.
- On to other elements of the scheme.

- When people are filing a claim, they need to be mindful of any consequential losses, however although it is a pragmatic approach rather than legal approach the reference point would be the recognised legal principles. If it is going to proceed, that is important to remember. When you follow all the steps, at the end of those steps you have the legal step you can take. Personal viewpoint is, if the case did not stack up and you didn't have evidence, if you went to court you would have to provide evidence. What are your chances of winning the case? Many no win, no fee solicitors out there. Clear from conversations they are not interested in small claims, only those over £10,000 and they want to be involved from the start.
- PO will pay for lawyers involved in this and the arbitration however if they take the legal route the spm will have to pay and they may not win and would be liable for additional costs including PO costs.

Working Group Update (various subjects together)

- Meeting with Postal Affairs Minister day before, with Nick Read and various other individuals from PO.
- Opportunity to meet the new Minister. Paul Scully. Initial evidence seems more engaged than his predecessor. Kelly Tolhurst set up the Group and it was quite clear reshuffles, etc., her interest in the PO was not there. Paul Scully seems to be engaged.
- Made clear he understands the needs of spms and in relation to this whole situation, wants to put it right.
- Set up Independent Review. Differs to a judge led enquiry. Difference in the level of cost and time. A judge led enquiry can take longer, sometimes years, and can cost up to £6 million. Also, the individuals themselves as witnesses may need legal advice, etc. Independent Review looks at what has gone wrong but also looks at what changes have been made.
- Takes a historic as well as future view, which is really important. Quite surprised that some have taken a negative view on the announcement of the Independent Review. Stress Minister wants to make it right as does Nick Read and it is a good start. What the independent review would look at what went wrong with Horizon covering 5 areas.
 - Understand and acknowledge what went wrong in relation to Horizon, leading to the Group Litigation Order, by drawing on evidence from the Horizon judgments and affected postmasters' experiences and identify what key lessons must be learned for the future;

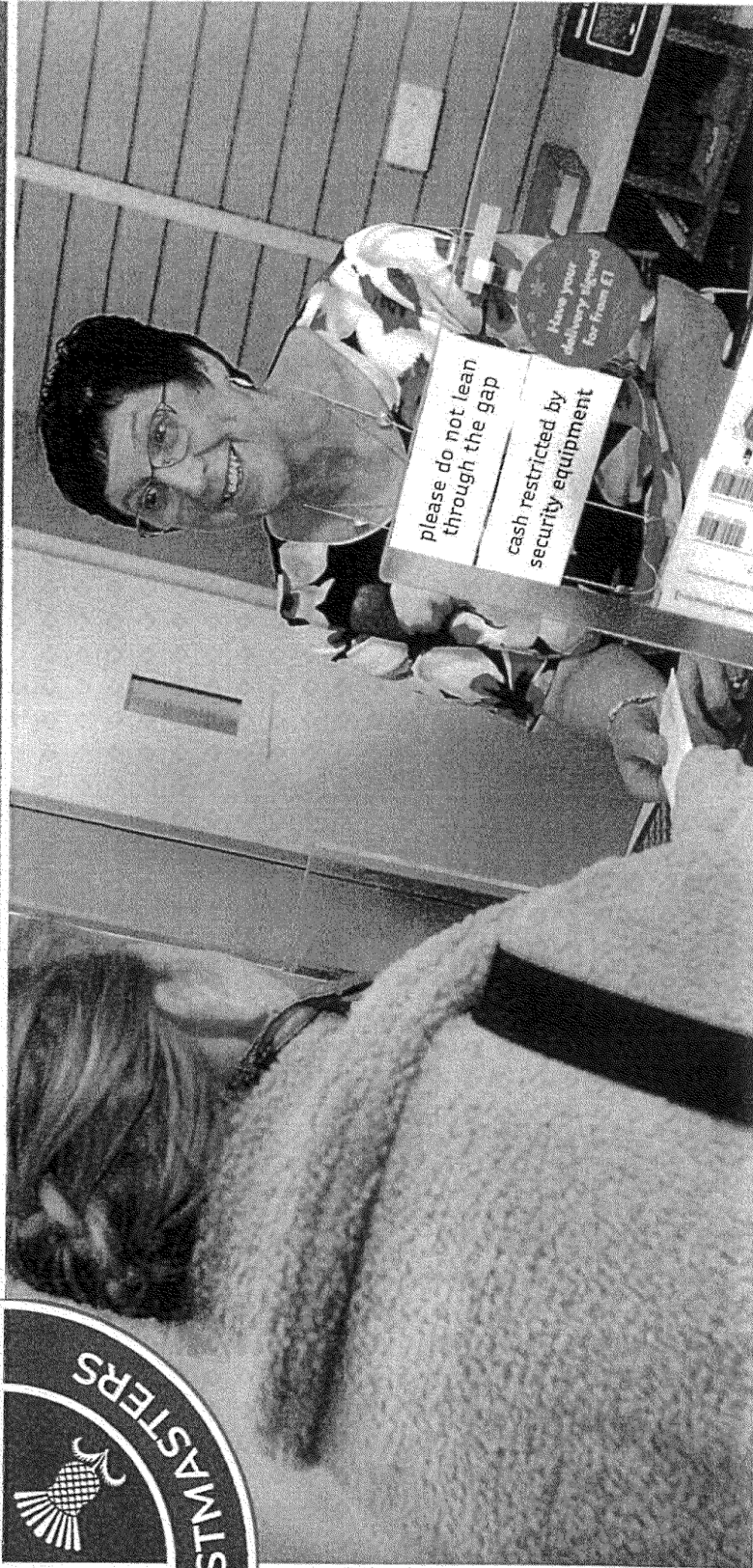
- Assess whether the Post Office has learned the lessons from the criticisms made by Mr Justice Fraser in the "Common Issues" and "Horizon Issues" trials and those identified by affected postmasters and has delivered or made good progress on the organizational and cultural changes necessary to ensure a similar case does not happen in the future;
- Assess whether the commitments made by Post Office within the mediation settlement – including the historical shortfall scheme – have been properly delivered;
- Assess whether the processes and information provided by Post Office to postmasters are sufficient to i) enable both parties to meet their contractual obligations; and ii) to enable postmasters to run their businesses. This includes assessing whether Post Office related processes such as recording and resolving postmaster queries, dispute handling, suspension and termination are fit for purpose. In addition, determine whether the quality of the service offer for postmasters and their relationship with Post Office has materially improved since the conclusions by Mr Justice Fraser; and
- Examine the governance and whistleblowing controls now in place at Post Office and whether they are sufficient to ensure that the failings that led to the Horizon case issues do not happen again.
- Does have a backward looking 'what went wrong' but also what have PO done now. The trial has identified what went wrong. We want to know that colleagues impacted have the reputation restored and losses refunded. Stressed the need to past and present colleagues to have their reputations restored as well as their losses refunded.
- Challenged them to look at Fujitsu's part in this. They supplied a faulty software programme which was the root cause of the problem. Any settlement reached should be passed to those impacted.
- PO and Government said that was being considered but that was currently confidential. We would prefer the Government to look at the situation and seek redress from Fujitsu who have remained very quiet and nobody seems to be going after them. Justice Fraser has referred their witness statements to the DPP. Serious investigations going on into their part in this. On behalf of members we are pushing for government to seek redress from Fujitsu and pass on any settlement (without legal fees) to those impacted.

HSS NFSP Support

Nilesh Joshi



16 June 2020





Purpose

- How can we support members better – High Court ruling was very critical of the NFSP
- Better records of data captured
- Clear view of the HSS from postmasters perspective
- Clear understanding of how we will support the postmasters
- Audit trail
- Ongoing support for the postmasters as the claim progresses



Progress so far

- Agreed internal process to capture and use the data in a meaningful way to help support postmasters with their claims
- Create easy to use template for the directors to engage with the claimants
- Monitor types of claims and outcomes
- Ensure Directors remain part of the local support
- Tested the process with the NC team
- Tested the template with the claimants
- Roll out the template to Directors - To be sent out to both new claimants and the ones who have already filed a claim that you're aware of



So far.....

- Encourage PM to use the NFSP link **as well** as submitting their claim to the Historical Shortfall Scheme
- Refer Claimants to Nilesch or Sharon for further help and guidance
- Post Office will only review claims received by midnight 14 August 2020



Role of the directors

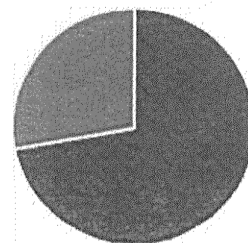
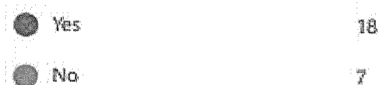
- Please use the template provided to ensure we capture information centrally in a meaningful way
- Contact either myself or Sharon with any follow ups
- Do not discourage anyone from putting their claim in
- Due to short deadline for the submission, please send out the link immediately
- Copy either Sharon or Myself when you send a link out to claimants so we can monitor their progress



Results so far

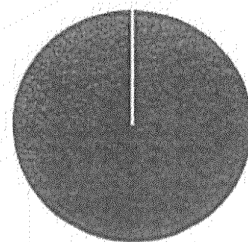
8. Are you currently a member of the NFSP?

[More Details](#)



9. If you're currently not a member, were you a member at the time of the shortfall?

[More Details](#)

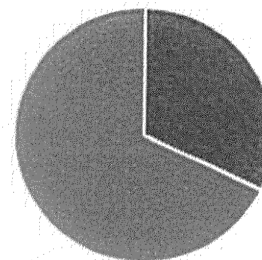




Results so far

10. Did you contact the NFSP at the time of the shortfall?

[More Details](#)



11. If yes, whom within the NFSP did you contact?

[More Details](#)

9
Responses

Latest Responses
"cannot remember"
"do not remember."

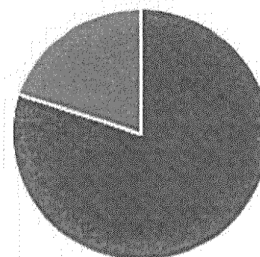


Results so far

12. Have you contacted the NFSP recently regarding the Historic Shortfall Scheme?

[More Details](#)

| | |
|--------------------------------------|----|
| <input checked="" type="radio"/> Yes | 20 |
| <input type="radio"/> No | 5 |



13. If yes, who have you spoken to?

[More Details](#)

20
Responses

Latest Responses

"cc; email"

"Wendy Burke"

"No reply received."



Results so far

14. Who was your contracts manager at the time?

[More Details](#)

25

Responses

Latest Responses

"Unknown"

"Paul Williams"

"Do not remeber."

15. What were the values and dates of any shortfalls incurred?

[More Details](#)

25

Responses

Latest Responses

"£1,887.89 / £516.26"

"Numerous shortfalls over a 12 year period totalling £34974"

"£ 1,500.00 were short. "



Results so far

16. Describe what happened. eg product design, mis-key, training issue etc.

[More Details](#)

25
Responses

Latest Responses

"Shortfalls on balancing"

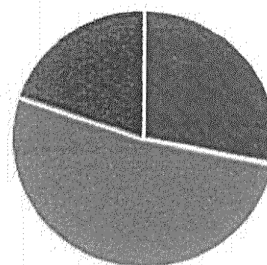
"Constantly short"

"Showed 13 dockets cashed and not one docket."

17. Do you have any Horizon data, receipts, reference numbers, letters or reports from the incident

[More Details](#)

| | |
|-----------------------------|----|
| <input type="radio"/> Yes | 7 |
| <input type="radio"/> No | 13 |
| <input type="radio"/> Maybe | 5 |





Results so far

18. Are you able to provide this evidence if required ?

[More Details](#)

21
Responses

Latest Responses

"Yes"

"Yes"

"Yes."

19. Was the incident reported to the Police?

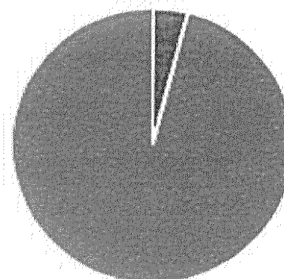
[More Details](#)

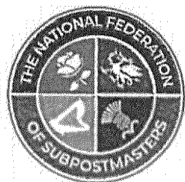
● Yes

1

● No

24





Results so far

20. Are you able to provide this evidence if required ?

[More Details](#)

11

Responses

Latest Responses

"No. "

21. Additional Information that you feel may be useful

[More Details](#)

15

Responses

Latest Responses

"POL are being disingenuous as they have computer records of all o..."

"I have sent 10 attachments to support my claim"

"I was sacked and post office was given to another postmaster who..."

CG1



- **Is the Horizon system robust?**

- Legacy 2000 – 2010 – not remotely,
- Online (HNG-X) 2010 – 2017 questionable not to justify the confidence that PO placed in it and HNG-A
- 2017 to present – is robust