



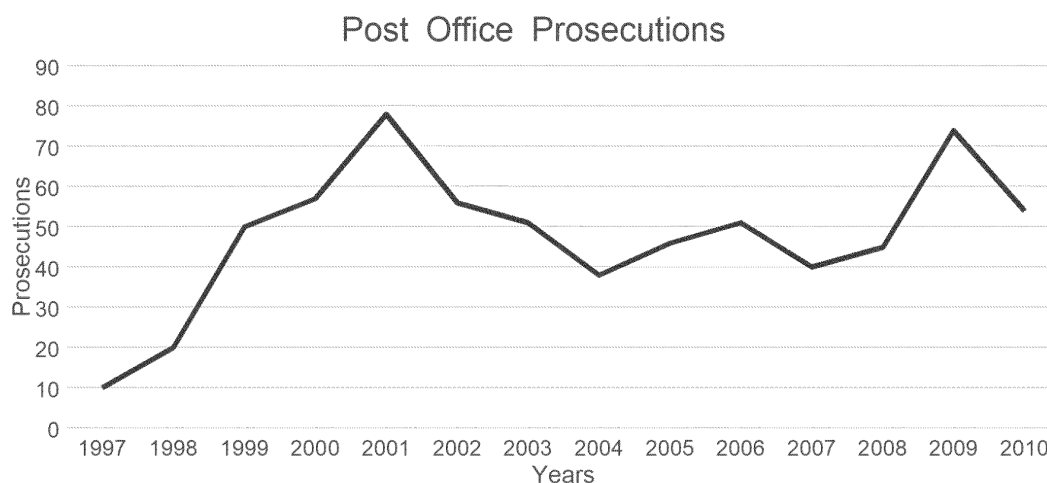
Case Study 2

Ethics and Values Workshop

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Please read the following and then discuss with your group. At the end of the session, the document must be returned to Fujitsu Legal.

- FSL support for Post Office prosecutions against subpostmasters for false accounting, theft and fraud is a practice that dates back to the early 2000s. FSL's obligation to provide prosecution support to the Post Office, including witness statements confirming the integrity of Horizon data provided, was inserted into agreements with the Post Office from March 1997 onwards. FSL's support was required so that the evidence from the Horizon IT System could be used in court under the requirements of the Police and Criminal Evidence Act ("PACE") 1984.
- The requirements under PACE were repealed from law in 2000 and there was then a presumption in court that computers were in working order, and so the evidence was assumed valid. Therefore, from 2000, there was no further need for FSL employees to provide accompanying witness statements with data provided to the Post Office.
- However, FSL employees continued to provide these witness statements because the Post Office said it would subpoena / force FSL in any event. A compromise was reached in that FSL began to charge the Post Office for this service.
- FSL viewed the provision of these prosecution support services to the Post Office as a commercial service to the benefit of the account. FSL relied almost entirely on its engineers and software architects, who, as the developers of Horizon, may have seen their role as defending the Horizon system and the lucrative Post Office Account.
- There was substantial growth in the number of Post Office prosecutions and in turn, the witness evidence given by FSL employees, in the 2000 to 2010 period. The Post Office took a very aggressive approach to discrepancies in subpostmasters' accounts, pursuing hundreds of prosecutions.



- The Post Office relied on Horizon data in bringing these prosecutions and, in turn, relied heavily on FSL in providing accompanying witness statements. During this period, FSL Post Office Account employees

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raised concerns regarding witness evidence on a number of occasions, however, the standard practice of taking instructions from the Post Office and its lawyers without oversight from FSL prevailed.

Examples of Concerns Raised

2008

- An issue was raised in relation to the audit data extraction (“ARQ”) process and the accompanying witness statements by FSL. An FSL Post Office Account Security Analyst raised concerns regarding the integrity of the ARQ data that had been, and was being provided to the Post Office, due to the manual processes used to extract the ARQ data. This had implications for the integrity assurances given by FSL employees in witness statements.
- This was presented to the FSL Post Office Account Head of Service Management and the Operations Director. They then notified the Post Office about the incident and set out various steps that should be taken to address the issues. They also provided the Post Office a revised standard witness statement, which contained additional wording disclosing the issue.
- A Casework Manager at the Post Office responded: *“I personally do not see the need for these if there are no problems identified with the data relating to the case in question. Why inform anyone about a problem we’ve had within the network, but possibly only at one branch, if it bears no relation or relevance”. “I would say Business As Usual re witness statements ie don’t include the two additional paragraphs on the last page. If any issues materialise in due course, we can address them - suggest the ARQs for these 4 cases are assessed first”.*
- Nothing further was done regarding this issue and the standard witness statement was not revised.

2010

- An FSL Engineer for the Post Office Account, Gareth Jenkins, was asked for witness evidence in connection with an accountant’s report. Mr. Jenkins flagged that further investigation was needed *“[h]owever I’m also aware that this is potentially highly political. Therefore I’m not sure how best to address this. We don’t really want to be seen to be undermining a POL prosecution!... I think we need some management guidance on this”.* An FSL Security Analyst flagged his concerns to the FSL Post Office Account business team, noting *“this issue needs to be discussed at senior management level and guidance provided. These issues have far reaching implications”.*
- A few days later, the FSL Security Analyst additionally flagged the concerns to the FSL Post Office Account Operations Director and the CISO noting: *“We are aware that there have been articles in the press concerning the integrity of the Horizon system and that this is a highly political issue. Guidance is therefore asked of senior management before Gareth delivers either documentary evidence or contacts the prosecution barrister; do we in fact require input from our (Fujitsu) legal team?”.*
- The concerns were passed to the FSL Legal team, but not senior management. There was no material escalation or consideration of these concerns and issues. As a result of Mr. Jenkins’ assistance in prosecutions and the evidence he provided, he is now the subject of an investigation by the Metropolitan Police for perjury.

Discussion Points

With the benefit of hindsight, how could this have been handled differently with the customer?

- Do we have the right reporting, escalation and governance processes to ensure these types of issues would now be given appropriate attention?
- How do you think the account defined their stakeholders, and how could this be improved?
- Reflect on the management of the customer relationship, the role and voice of individual FSL employees, and consider whether this would be handled differently today?

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Disclaimer - these case studies are based on facts and events that occurred within FSL over the past 25 years. However, some of the names of FSL employees have been anonymized and some of the events and roles have been modified or composited for the purpose of this exercise to encourage discussions around key themes that have arisen during the course of Project Holly and the Post Office Horizon IT Inquiry.