

Privileged & Confidential
Alan Bates & Others –v- Post Office Limited

A. Issues of fact that are being appealed irrespective of whether we agree with them (we may disagree), but on the basis that the Court has extrapolated a finding from an individual case to a general position

1. Post Office required SPMs to make good shortfalls at the time of balancing.
2. Post Office treated even disputed amounts as debts to be recovered.
3. SPMs could not effectively investigate shortfalls because of the limitations in Horizon.
4. Post Office placed the burden on SPMs to prove that a Transaction Correction was incorrect if they did not wish to accept it.
5. Post Office issued Transaction Corrections after (a) the end of the relevant Branch Trading Period and (b) the end of the 42/ 60 day period in which SPMs could generate reports through Horizon covering the relevant transactions.
6. The introduction of Horizon made it harder for SPMs to analyse transaction records.
7. The introduction of Horizon made it harder for SPMs to investigate apparent shortfalls.
8. It was easier for Fujitsu to get transaction information than either Post Office or SPMs.
9. It was possible for Fujitsu/ Post Office to alter transaction data, and this was discussed internally at Post Office.
10. There is no evidence that an SPM has ever been able to prove that a shortfall was due to a Horizon fault.
11. Post Office has identified Horizon-generated errors, which SPMs have not been able to identify.
12. SPMs who asked for further training were denied it.
13. Post Office has greater access to transaction data than SPMs.

There are further examples of post-contractual or other legally irrelevant findings and observations made by the Judge but the difficulty is that, unlike with his express matrix findings, it is generally not clear whether (let alone how) the Judge relied on these further findings and observations (insofar as they went beyond what was in the matrix) to reach his conclusions on the Common Issues.

B. Issues of fact being appealed on the basis that we disagree with them

1. Findings as to Mr Bates' receipt of his contract at the time of appointment.
2. Post Office's supposed "*volte face*" on the accounting processes
3. Post Office's supposed "*volte face*" on the construction of Clause 12.12.
4. Post Office supposedly wanting findings only if they are in its favour.
5. Criticism of evidence given by Mr Beal.
6. Criticism of evidence given by Ms Van Den Bogerd.
7. Post Office's supposed improper redaction of documents.
8. Unjustified criticisms of Post Office's conduct in the litigation.

Herbert Smith Freehills LLP
16th May 2019