

## STRICTLY CONFIDENTIAL & SUBJECT TO LEGAL PRIVILEGE

### BRIEFING NOTE ON THE CURRENT STATUS OF CLAIMS INVOLVING HORIZON

#### Overview

Post Office Ltd (POL) uses the Horizon system to provide support for its over the counter products and services throughout its network of 11,500 branches. POL continues to receive challenges to the Horizon system. It is commonly alleged that (a) Horizon contains inherent defects resulting in transactions being misstated and that the system creates losses which are not the result of genuine accounting errors and (b) the associated processes are insufficiently robust to enable subpostmasters to reconcile errors.

There are no reported cases where data stored on the Horizon system has been found to be an inaccurate record of actions taken in branch. There are currently five civil claims by former subpostmasters in respect of Horizon. Only one of these cases is the subject of actual litigation.

POL has rigorously tested the Horizon system, using independently assured processes and it has been found to be robust. Horizon has been in successful operation for in excess of 10 years across the Post Office® network (upgraded in 2010) and during that time in excess of 20,000 subpostmasters have used it to successfully perform millions of financial reconciliations. The National Federation of Subpostmasters has also expressed its full confidence in the accuracy and robustness of Horizon.

Information regarding the involvement of James Arbuthnot MP in this issue is set out in the Appendix to this document.

#### Challenges to the Horizon system

Subpostmasters have contractual liability for losses and are required to make good losses. It is a common tactic for subpostmasters who are accused of stealing from POL to assert in response that those losses are not genuine but are the result of an unspecified error with Horizon in order to avoid liability.

The Justice For Subpostmasters Alliance (JFSA), which was set up in 2009 to represent the interests of alleged "victims" of the Horizon system. The JFSA has been in communication with the Department for Business, Innovation and Skills regarding the operation of Horizon.

The integrity of Horizon has been the subject of considerable media interest, including two features in the BBC's "Inside Out" programme (aired in February 2011). Articles criticising Horizon have also appeared in Private Eye and Computer Weekly.

The integrity of Horizon has been the subject of legal challenge. In the case of Post Office Ltd v. Lee Castleton, the Court ruled that the losses claimed were real deficiencies and that the Horizon system provided irrefutable evidence that Mr Castleton had failed to properly manage the branch.

Horizon has also been the subject of a number of requests for information under the Freedom of Information Act.

#### Current (potential and live) litigation involving Horizon

There are currently five claims by former subpostmasters. These claims arise out of the termination of the subpostmasters' appointments following the identification of discrepancies between the branch accounts and the actual cash position in branch.

Each has made a claim for wrongful termination of contract based on (a) alleged failings in Post Office Ltd's internal processes (i.e. the mechanisms in place which enable subpostmasters to check discrepancies and a lack of adequacy training and support) and (b) inherent defects in the Horizon system. These allegations are also used to support claims for negligence, breach of duty and misfeasance in public office. Each claims damages in the sum of circa £150,000.

The number of potential cases remains unclear. Articles in the press suggest that Shoosmiths had consulted on 55 cases, with a further 150 cases pending.

#### Status of the current claims

Letters before action were received in respect of four of the five claims in August and September 2011. These claims remains at the pre-action stage (i.e. there are no live court proceedings) Post Office Ltd has responded robustly to the initial allegations made in each of those cases and liability has been strongly denied.

The approach to date has been to deny liability at a 'high level' rather than seek to respond to the claims on a point-by-point basis. This strategy has been based on the fact that the claims are so wide ranging that it is almost impossible to deal with them, and would be very expensive.

Two of the subpostmasters have already admitted to and been convicted of false accounting and, therefore, can have no claim for wrongful termination of contract in those circumstances. A third has admitted to false accounting (but was not convicted) and liability has been denied on the same basis. The fourth claim has been denied on the basis that it has been made out-of-time and, therefore, the subpostmaster is prevented under the Limitation Act from progressing the claim further. It may be that if one or more of the subpostmasters decides to continue to pursue their claim(s) it will be necessary for Post Office Ltd to respond on a substantive basis.

The last correspondence regarding these four claims was in December 2011. Since that date, Legal Services are not aware of any further steps having been taken in order to progress the claims.

In relation to the fifth claim, court proceedings were commenced in June 2011. Post Office Ltd succeeded in having the claim struck out. The subpostmaster subsequently applied for permission to appeal that decision, which was refused. The subpostmaster has the option of requesting that the refusal be reconsidered at an oral hearing. Post Office Ltd has yet to receive notification that a request has been made.

Prepared by Legal Services  
12 March 2012

## APPENDIX ONE

### Involvement of James Arbuthnot MP – Conservative MP for North East Hampshire

James Arbuthnot was Opposition Chief Whip throughout the 1997 Parliament, who made a comeback as a Shadow Minister for two years, and finally opted for the more rarefied life of the committee corridor in 2005.

In June 2011, he became the first member of the current Parliament to announce that he would stand down at the next election.

#### Post Office related information

His constituency contains 19 Post Offices® including 1 Post Office Local – Bramley.

October 2007 – campaigned against Post Office® closures in Hampshire. There were 2 Post Office® closures in 2008 under the Network Change programme. There were also 2 Post Office® closures in 2005 under Urban Reinvention.

April 2009 – backed a report by the National Federation of Sub Postmasters (NSFP) calling for "*bold and decisive*" action to reverse the continued decline of the UK's post office network.

December 2009 – attended a meeting with senior Post Office Ltd officials to discuss the Horizon system following claims by subpostmasters in his constituency that losses were due to the system (Odiham and South Warnborough Post Office® branches). The functionality of the system was explained at a high level and Post Office Ltd was robust in its position on the integrity of the system.

A representative from the NFSP also attended and was also very supportive in terms of the integrity and robustness of Horizon.

Although the Post Office Ltd and the NFSP representatives were quite clear in terms of the system and processes, the general sense was that Mr Arbuthnot remained sceptical on this issue.

October 2011 – From James Arbuthnot's website:-

*"James fights for local postmistress*

*James has been involved in a long-running campaign for fair treatment of Post Office staff following allegations of fraud. Private Eye No. 1298 reports the case of Jo Hamilton from South Warnborough, whose conviction for false accounting James continues to oppose.*

*The magazine reports, 'James Arbuthnot, expresses a widely-held view when he says: "I find it very difficult to believe that all these sub-postmasters and sub-postmistresses are suddenly found to be dishonest, if the alternative is that it may be a public sector computer system which has gone wrong. We've heard of that before."*

January 2012 – wrote to the Minister and Moya Greene on concerns over the closure of Odiham Post Office due to 'irregularities' and questioned the Horizon system.

The response (from Paula Vennells) explained that a temporary subpostmaster had been put in place at Odiham and that the branch had only been closed for a few days. She apologised for the inconvenience. She explained that Post Office Ltd could not go into the specifics of individual contractual cases and highlighted the huge volumes of transactions managed by the Horizon system and that Post Office Ltd had no reason to doubt the integrity of the system. This correspondence is included at the end of this brief.

27 February 2012 – we understand that Mr Arbuthnot chaired a meeting at Portcullis House to discuss the Horizon system, and presumably wider JFSA claims. Norman Lamb was invited, but BIS declined the invitation.

Post Office Ltd has not had any feedback from this meeting.

Historically, Post Office Ltd is aware of two cases in Mr Arbuthnot's constituency where there has been an allegation against the Horizon system – outlined below;

- South Warnborough. Josephine Hamilton's contract as a subpostmistress with the Post Office was terminated in 2006 after a loss of £36,644.89 was discovered during an audit at her branch in South Warnborough. She agreed to repay the money. She

ALL  
5/2

pleaded guilty to 14 charges of false accounting at her trial at Winchester Crown Court in February 2008. She was sentenced to 12 months community service and received a supervision order

- Odiham – Raised the case of Mr David Bristow, Subpostmaster at Odiham, who was claiming that the Horizon system was responsible for losses at the branch. The case of Odiham involved significant losses (£42K). Errors at the branch were fully investigated and there was nothing to indicate system problems. The termination of the Subpostmasters contract was progressed in January 2009 at which point he tendered his resignation and a temporary agent was put in place (Note: The most recent correspondence on Odiham – Jan 2012 – included at the appendix deals with a separate recent case against the temporary subpostmaster at Odiham Mr Paul Kemp.)

The most recent general development of which Post Office Ltd is aware is that JFSA has asked for a meeting with Norman Lamb – as the new Minister – to express their concerns