

FOR USE OF COUNCIL MEMBERS ONLY

NATIONAL FEDERATION OF SUBPOSTMASTERS

REPORT OF A
MEETING OF THE
COUNCIL

held on

20 & 21 JANUARY 2020

at

HOLIDAY INN CAMDEN LOCK
LONDON

2. CEO REPORT

(a) **Court Case Update (papers circulated) (CEO presentation included as Appendix A)**

- CEO was not a lawyer or an IT specialist. There was a very technical judgement document amounting to 1,500 paragraphs and nearly 600 pages over 4 different sections.
- Justice Fraser was looking at 8 areas covering 15 issues and 29 bugs, errors or defects within Horizon that could have affected operator's accounts. Was the Horizon system robust? So what now?
- As the presentation is attached, detailed notes are not going to be provided.
- First ran through the various key people involved in the case with their background.
- Trial was not about innocence or guilt. It was about whether Horizon has issues that could have affected operator's accounts.
- 8 areas that needed to be looked at. 15 issues the trial was concerned with.
- From the discussion following the presentation, various points arose.
- HR4UK looking at the various contracts and CEO would report back on their findings. Need to be sure that if a spm has dismissed a member of staff due to shortages that they cannot come back and claim unfair dismissal due to the judgement, however subject to confirmation, it was understood that any unfair dismissal claim had to be brought within 3 months of that dismissal. HR4UK looking at staff contracts and would report back.
- As to who was paying the £57.7 million awarded, it was confirmed as PO but there was some discussion as it is all government money, therefore the taxpayer.
- Made very clear that the NFSP would not get involved in retribution and vengeance, but would work hard to ensure nothing similar would happen in the future. It was about building relationships, not destroying them. There were others who were choosing to take that route.
- Also made clear that the NFSP was told all the way along that Horizon was robust and accepted that in good faith.
- In the new contracts there was no right of appeal, however that was a process the NFSP wanted put in place. The NFSP had the right to challenge PO and go to mediation if required.
- Some doubts cast as to how open and transparent PO were being about the past. If it had been handled differently they would not have ended up in the current situation.
- Run through of the 29 actual bugs, errors and defects identified during the court case all of which had occurred over a 14 year period (but not necessarily at the same time or for the whole period).

ACTION

- Crucial that those who had invested in a post office were once again in possession of a marketable business as the court case had damaged their value and credibility.
- Both the NFSP and its officials who had acted in good faith were covered should anyone attempt litigation against the organisation or an individual re the Horizon debacle.
- NFSP must have a clear structure in place that is clear and concise to enable openness and transparency. If there is a problem it will be investigated properly and our member has the confidence that they have been treated with respect, they are innocent until proven guilty, and we can access all the information required. NFSP must know who will be involved with cases out in the regions, and ensure there is a clear structure in place. Information will need to be recorded on the CRM so anyone else who deals with a member will have notes on what has gone before, and will also allow Nilesch Joshi, as Legal & Regulatory to monitor situations centrally and ensure there is fairness and transparency across the UK. Important that our representatives acquire all the information they require in advance of any hearing, not at the last minute.
- There was a discussion on what the NFSP could/should have done but the only way was to move forward rather than look back. Not all the cases were either members or ever came to the NFSP for help. The NFSP acted in good faith and could only go on the information given. The evidence is now available however it was not at the time.
- The NFSP had the opportunity to use the situation to improve things from now on.
- Questionnaire to be sent to Board members to get the contact names and details for any official who deals with interviews. First step in setting up a formal process.
- Felt that cases should be dealt with within regions rather than passing them on to Shoreham, and there was always advice available to assist when dealing with a case locally.
- Information would only be for the use of Nilesch Joshi so there would be no chance of a data protection breach.
- View that those who deal with contractual issues should receive training.
- We want resolution rather than prosecution and it was crucial that the NFSP had the correct records should such an event ever occur in the future. It will also give the opportunity to challenge PO if it was felt they were being unreasonable in the future.
- For the NFSP to be able to keep a watching brief on the Case Review Team, it was crucial that Directors kept Nilesch Joshi informed of any cases or information they hear about and keep clear records.

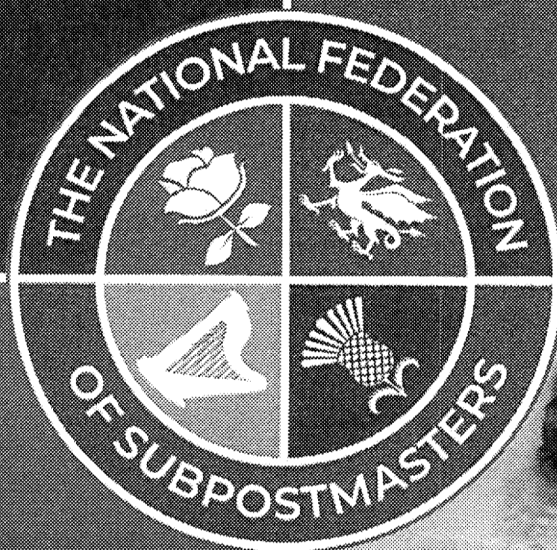
ACTION

ACTION

ACTION

- Clarified that PO lost the court case 40-0, they did not win a single point. NFSP has to build a relationship going forward, there are people who want to destroy the organisation by creating chaos and asking for a Judicial Review. It was about unity not vengeance and retribution, and the NFSP had to learn from the mistakes of the past to move on stronger.
- NFSP mantra had to be based on building relationships and trust back up again with members. Reason for the CEO touring all the regions to ensure everyone was in the same place.
- Should questions be asked of PO as to what/where all the money from their suspense accounts had gone (unallocated money from the Horizon issues)? Opportunity would be there to ask at the next meeting with PO.

ACTION



January Board – Horizon Trial

Calum Greenhow

Camden IHG
January 2020





Key Points

- Who are the key people involved in the trial?
- Horizon Trial concerns itself with 8 areas covering 15 issues
- Are there bugs, errors or defects within Horizon that could affect Subpostmasters accounts?
- Is the Horizon system robust?
- So what now?



Key People Involved in the trial

- Justice Fraser
 - Cambridge Law Degree
 - High Court Judge since 2015
 - Officiates in the Technology and Construction Court



Key People Involved in the trial

- Anthony De Garr Robinson QC – on behalf of Post Office Ltd
 - Oxford & Harvard Law degree
 - Queen's Counsel since 2006
 - Has been in the Legal 500 for over 20 years
 - Practices out of One Essex Court chambers



Key People Involved in the trial

- Patrick Green QC – on behalf of Claimants
 - Cambridge Law degree
 - Queen's Counsel since 2012
 - Practices out of Henderson chambers



Key People Involved in the trial

- Dr Robert Worden – IT special witness for Post Office Ltd
 - PHD in Theoretical Particle Physics from Cambridge University
 - Discovery Forensics since 2010, which specialise in IT project disputes, information security and computer crime



Key People Involved in the trial

- Jason Coyne – IT special witness for Claimants
 - Partner at IT Group
 - Consultant in Technology, Digital Forensics and e-Discovery



Key People Involved in the trial

- Torstein Godeseth
 - Chief Architect at Fujitsu
 - Head of Application Support & Maintenance



Key People Involved in the trial

- Angela Van Den Bogerd MBA, MCIPD
 - People and Change Director for Post Office Ltd
 - Role focuses on the people side of change, job roles and organisational structures

What was the premise of the Horizon Trial?

- Purpose – does Horizon have bugs, errors or defects?
- The Trial ***Did Not*** Consider if-
 - Subpostmasters or Assistants make mistakes?
 - Subpostmasters or Assistants commit fraud?

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- Horizon Trial concerns itself with 8 areas covering 15 issues

The 8 areas:-

1. Accuracy and integrity of data
2. Control and measures for preventing/fixing bugs and developing the system
3. Remote Access
4. Availability of information and report writing
5. Access to and/or editing of transactions and branch accounts
6. Branch statements, making good and disputing shortfalls
7. Transaction corrections
8. The meaning of the word "robustness"



- **Horizon Trial concerns itself with 8 areas covering 15 issues**

The 15 issues are:-

1. Question - **To what extent was it possible or likely for bugs, errors or defects of the nature alleged to have the potential (a) to cause apparent or alleged discrepancies or shortfalls** relating to Subpostmasters' branch accounts or transactions, or (b) **undermine the reliability of Horizon** accurately to process and to record transactions as alleged?
2. Question - Did the Horizon IT system itself alert Subpostmasters of such bugs, errors or defects as described in (1) above and if so how?
3. Question - To what extent and in what respects is the Horizon System "robust" and extremely unlikely to be the cause of shortfalls in branches?
4. Question -: To what extent has there been potential for errors in data recorded within Horizon to arise in (a) data entry, (b) transfer or (c) processing of data in Horizon?
5. Question - How, if at all, does the Horizon system itself compare transaction data recorded by Horizon against transaction data from sources outside of Horizon?



- Horizon Trial concerns itself with 8 areas covering 15 issues

The 15 issues are:- continued

6. To what extent did measures and/or controls that existed in Horizon prevent, detect, identify, report or reduce to an extremely low level of risk the following: a. data entry errors; b. data packet or system level errors (including data processing, effecting, and recording the same); c. a failure to detect, correct and remedy software coding errors or bugs; d. errors in the transmission, replication and storage of transaction record data; and e. the data stored in the central.

7) Question: Were Post Office and/or Fujitsu able to access transaction data recorded by Horizon remotely (i.e. not from within a branch)?

8) Question: What transaction data and reporting functions were available through Horizon to Post Office for identifying the occurrence of alleged shortfalls and the causes of alleged shortfalls in branches, including whether they were caused by bugs, errors and/or defects in the Horizon system?



- Horizon Trial concerns itself with 8 areas covering 15 issues

The 15 issues are:- continued

9. Question: At all material times, **what transaction data and reporting functions** (if any) **were available through Horizon to Subpostmasters** for: a. **identifying** apparent or alleged **discrepancies and shortfalls** and/or the causes of the same; and b. **accessing and identifying transactions recorded on Horizon?**

10 Question: Whether the **Defendant and/or Fujitsu** have had the ability/facility to (i) **insert, inject, edit or delete transaction data or data in branch accounts;** (ii) implement fixes in Horizon that had the potential to affect transaction data or data in branch accounts; or (iii) rebuild branch transaction data: a. at all; b. without the knowledge of the Subpostmaster in question; and c. without the consent of the Subpostmaster in question.

11. Question: If they did, **did the Horizon system have any permission controls** upon the use of the above facility, and **did the system maintain a log of such actions and such permission controls?**



- Horizon Trial concerns itself with 8 areas covering 15 issues

The 15 issues are:- continued

12. Question: If the Defendant and/or Fujitsu did have such ability, how often was that used, if at all?

13. Question: To what extent did use of any such facility have the potential to affect the reliability of the Branches' accounting positions?

14. Question: How (if at all) **does the Horizon system and its functionality:** a. enable Subpostmasters to compare the stock and cash in branch against the stock and cash indicated on Horizon? b. enable or require Subpostmasters to decide how to deal with, dispute, accept or make good alleged discrepancy by (i) providing his or her own personal funds or (ii) settling centrally? c. record and reflect the consequence of raising a dispute on an alleged discrepancy, on Horizon Branch account data and, in particular: (i) **does raising a dispute with the helpline cause a block to be placed on the value of an alleged shortfall;** and (ii) is that recorded on the Horizon system as a debt due to Post Office? d. enable Subpostmasters to produce (i) Cash Account before 2005 and (ii) Branch Trading Statement after 2005? e. **enable or require Subpostmasters to continue to trade if they did not complete a Branch Trading Statement;**

15. Question: How did Horizon process and/or record Transaction Corrections?

- Two principles (my emphasis)
 - As a human being I reserve the right to make a mistake and
 - No computer system is 100% reliable or infallible.





- Are there bugs, errors or defects within Horizon that could affect Subpostmasters accounts?
- The Judge via the Horizon trial identified 29 bugs, errors or defects
 - 20 were accepted by the Post Office
 - 8 where Post Office did not them
 - 16 last a couple of months
 - 13 were present for years,, 1 for 14 years and another for 10 years

CG1



- **Is the Horizon system robust?**

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



However

“The issue is not whether such bugs, errors or defects did in fact cause such discrepancies or shortfalls in the claimants’ accounts specifically. That separate or different issue – the effect upon claimants’ branch accounts – is a more claimant specific one. It will have to be determined at some stage, for any of the claimants whose individual claims come to trial in the future. It may require expert forensic accountancy evidence. It was not ordered to be dealt with in the Horizon Issues trial.”



So what now?

- Via Director for Legal & Regulatory
 1. Structure
 2. Training
 3. Recording on CRM
 4. Transparency of information
 5. How to conduct an interview
 - Pre-meeting
 - Information gathering
 - Understanding contract and law
 - Escalation
 6. Required resources
 - Legal advice etc