

## **R v Tracy Felstead**

### ***Appointment***

On about 08/11/2001 I was appointed as an Expert Witness for the Defendant by Brady Eastwood Pierce & Stewart (“BEPS”) to make an independent assessment of the prosecution exhibits of transactions and logs, the original Horizon computer system evidence of transactions and logs from which the prosecution exhibits were produced, and the reliability and security of the Post Office Horizon computer system. I worked on the case until about 18/03/2002.

### ***Disclosure***

I recommended that a high priority should be to get disclosure from the CPS of the computer evidence relied on by the Post Office and the technical documentation of the Post Office Horizon system. I reviewed a prosecution bundle of hard-copy documents and advised BEPS that many of the exhibits were illegible, unnumbered, unidentified, and incomplete with pages missing or out of sequence. I attended a conference with counsel on 16 November 2011 to discuss Disclosure.

On 21 November 2001 I submitted my Requests for further information from the Prosecution (5 pages) and Requests for Disclosure (2 pages) of PO Horizon system material relating to the relevant accounting periods. This was an attempt to provide technical definitions (that is, to be read by the Prosecution expert) of the evidence that I needed to investigate that included Requests for:

- Transaction data
- Audit Trail data
- Event Log data
- Security Event Log data
- Horizon System Security Specification (including access control procedures)
- Support/fault/service incidents/reports/call records/logs

***Kingston upon Thames Crown Court Meeting 21/02/2002***

At some stage I was told that the Prosecution objected to some of my Disclosure Requests and I was instructed to attend Kingston upon Thames Crown Court to find a way forward. I have no record of what I was told was the status of the meeting - whether it was planned to be the first day of trial or whether it was a joint experts meeting or whether it was solely to discuss my Disclosure Requests. However I was under the distinct impression that my attendance was court-ordered.

The Disclosure material requested was not provided before the meeting on 21/02/2002 so I had nothing to examine and had not produced a report.

In preparation for the meeting and at counsel's request I produced a spreadsheet that showed the inter-relationship of the Disclosure Requests and ranked them in Importance to my investigation. I rated my Request for Horizon System Security Specification (including access control procedures) as 4/5 for importance and noted that it was the only way to understand/evaluate logon security and impersonation. My Request for Horizon Support/fault/service incidents/reports/call records/logs was in respect of *all* PO branch installations/implementations of the Horizon system in live operation at post offices.

I attended a number of meetings to discuss my Disclosure Requests at Kingston upon Thames CC together with:

- Prosecution lawyers (counsel and CPS legal staff)
- Defence lawyers (counsel and solicitor)
- Post Office representative (s)
- Fujitsu representative (s)

I estimate between 6 and 10 people were present. Unfortunately I have no notes of the meeting so cannot state the names of the participants.

As I recall no-one objected to my Disclosure Requests *per se*. But then the Post Office or Fujitsu presented its cost estimate to provide the evidence defined in my Disclosure Request and there was a major disagreement about who was to pay to produce the material requested – the Court, the CPS, the Post Office, Fujitsu, the Defence or some combination?

From memory the cost estimate quoted by Fujitsu was in the order of £20,000. I clearly remember thinking that the quoted cost was excessive and punitive.

A series of meetings took place with different sub-groups – technical, legal, Prosecution, Defence. I felt that the day had begun to look like a mediation (I had previously been CEDR's lead mediator for IT disputes). I got the strong impression that Fujitsu and the Post Office had never had a conversation before about who was to pay for providing evidential disclosure from the Horizon computer system in prosecutions instigated by the Post Office. I wondered what provision there was in their contract(s) for the provision of evidence in criminal trials. The outcome was that there was no agreement.

At some stage in the afternoon all the attendees were ordered into court. I was told that the judge was keen to move on - to dispose of the case that day (if it had started) or to stick to the existing trial timetable (I think scheduled for April 2002).

During exchanges with Defence counsel who I believe was seeking an order for disclosure of the material (including fault records) I had requested *in digital format* I recall the judge saying words to the effect that that he didn't believe that the Post Office would use a computer system that could make a mistake.

A very limited amount of material was disclosed to me on one CD on or after 21/02/2002 and I did attempt to examine it. But I received almost nothing to examine from the Disclosure Requests. I did not produce a report and exhibits. I don't know what happened after March 2002 and I don't know when the trial was. I

was shocked when I found out that the trial had taken place and the Defendant had been convicted.

My opinion at that time was that there was no evidence at all from the PO Horizon system to support the prosecution case and that this was a clear miscarriage of justice.

Over the years since 2002 I have seen the press coverage of the Bates/JFSA joint action and seen Tracy Felstead's case mentioned. I kept asking myself what more I could have done in 2002. So I decided to contact her and offer to help about a year ago and it took quite a while to get in touch. I see that her case has now been referred to CA by CCRC.

I am willing to attend court to answer any questions.

Michael J L Turner MA FBCS CIP MAE FEWI

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