

**Update: Supplemental Evidence for the Horizon Trial****1. BACKGROUND**

- 1.1 The Horizon Issues Trial will take place in March 2019. As part of the trial, the Court will determine 15 issues relating to the Horizon system. Due to the technical nature of the issues in dispute, the vast majority of these issues will be the subject of expert opinion evidence. However, some of these issues require factual evidence either because they are purely factual or in order to set a foundation for the expert's opinions.
- 1.2 Post Office submitted witness evidence in relation to those factual points in the form of witness statements from Torstein Godeseth (Fujitsu), William Membrey (Fujitsu), Dawn Phillips (Post Office) and David Johnson (Post Office).
- 1.3 The Claimants also submitted their witness evidence on 28 September 2018. The Claimants have served 3 statements from witnesses who have previously criticised Horizon: Richard Roll (ex Fujitsu employee who appeared on Panorama), Charles McLachlan (defence expert in the Misra prosecution) and Ian Henderson (Second Sight). Their evidence largely repeats allegations that they have raised before.
- 1.4 The Claimants have also served 6 statements from postmasters (not the Lead Claimants) who allege to have suffered problems with Horizon. These allegations range from specific problem transactions to general allegations of defects in the system. These allegations are largely new and need to be investigated. We were given no prior notice of these allegations.
- 1.5 The nature of this evidence gives rise to further questions about admissibility. Factual witnesses should not be giving opinions on the merits of Horizon (as per McLachlan and Henderson). MacLachlan's evidence strays dangerously close to re-opening issues determined in the Misra trial and could potentially be an abuse of process. The 6 individual postmasters have given evidence of their personal experiences despite the Judge indicating that he did not want to hear this type of evidence. Consideration is being given to whether Post Office should raise a complaint with the Court about this evidence being relied on at trial and Post Office have written to the Claimant's solicitors to raise these problems and demand an explanation as to why this inadmissible evidence has been included.

**2. POST OFFICE'S RESPONSIVE EVIDENCE**

- 2.1 Post Office's reply evidence (to the Claimants' witness evidence) is due to be served on 28 October 2018. Regardless of any complaint under point 1.5 above, we need to investigate rapidly the allegations made and prepare responsive evidence. This will require assistance from Post Office internal teams (primarily SSRT) and Fujitsu.
- 2.2 Kathryn Alexander has a team who are providing comments on the statements and are reviewing the call logs to NBSC and transaction data. They are also preparing a Quick Shortfall Analysis for each Claimant. Fujitsu are reviewing the statements to provide comments in relation to the allegations made about the Horizon system in the statements.
- 2.3 The legal team are also reviewing the statements to produce a Request for Further Information that will be sent to the Claimants' solicitors requesting further information regarding a number of points in the witness statements that are vague and/or do not provide enough information.

### **3. FUTURE ACTIONS**

- 3.1 The Claimants' expert is due to submit his report on 16 October 2018. Post Office's expert, Dr Worden, is due to submit his expert report on 30 November 2018.
- 3.2 Once the legal team have reviewed the Claimants' expert's report it will be clearer what reliance he has placed on the Claimant's witness evidence and by which point Post Office should have received a response to their letter to the Claimants' solicitors. With this information, the legal team can then consider whether Post Office should make an application to the Court to strike out parts of the Claimants' evidence that are not admissible. The legal team will provide the Steering Group with a decision paper seeking a formal decision on this in due course.
- 3.3 In the meantime, Post Office should continue to prepare supplemental witness evidence in response to all the allegations made in the Claimants' witness statements on the assumption that the Claimants' evidence is not struck out. We do not believe it will be possible to prepare Post Office's reply evidence by the 28 October, due to the Claimants raising wholly new issues without any prior warning. It is therefore very likely that Post Office will need to seek an extension of time and at this stage we do not know whether the Claimants will or will not agree to this. Again this matter will be brought back to the Steering Group for a decision at an appropriate time.