

CONFIDENTIAL AND LEGALLY PRIVILEGED
POST OFFICE GROUP LITIGATION
Steering Group: 10 October 2019



PROCESS FOR FURTHER ISSUES CLAIMS

1. BACKGROUND

- 1.1 On 25 October 2019 the Claimants will serve particulars of claim for four test cases - Abdulla, Bates, Sabir and Stockdale. These claims will set out the losses claimed to have been suffered and form the foundation for deciding the issues at the Further Issues trial: namely whether those losses are recoverable in principle and, if so, what is the correct way to quantify each loss.
- 1.2 Post Office has until 25 November 2019 to draft its Defences. Both Helen Davies QC and Tony Robinson QC, plus junior Counsel, have been retained for this work due to it needing to be conducted in a short space of time. Our recommendation is that Helen is the Counsel who appears in Court and at trial for Post Office due to her having a clean slate with the Judge. However, the period for the Defences overlaps with the hearing for permission to appeal the Common Issues judgment (12 November) and so we advise that Post Office keeps both leading Counsel engaged at this stage to ensure sufficient capacity in the legal team. This recommendation is going to the board sub-committee who have expressed an interest in inputting on this decision.
- 1.3 We do not currently know what the Claimants will allege. Some basic information is provided in their Schedules of Information but not enough for us to fully understand the claims that will be advanced. We have nevertheless sought to be as prepared as possible. Substantial work has gone into investigating the background to each case and legal research done into points of law that might be in dispute. A conference with Counsel is arranged for 18 October 2019 to further consider these matters in advance of the claims landing.
- 1.4 Because we are unsure what the Claimants may allege, we have already raised with the Judge the possibility that the claims may be inappropriate or lack sufficient clarity. Post Office may need to challenge the claims suitability for trial or raise some requests for further information. Of particular concern is that the Claimants may try to rely on some highly contentious background facts in a trial that is supposed to proceed on assumed facts, with no witness evidence on contested points. To cater for this, the Court has scheduled a hearing for 7 November at which Post Office may raise any concerns or make any applications.

2. ACTIONS FOR POST OFFICE

- 2.1 Once the claims land, Post Office will need to make a number of quick decisions, including:
 - 2.1.1 Should the claims be challenged / further information sought at the hearing on 7 November 2019.
 - 2.1.2 Should Post Office plead back to all factual issues or limit its pleading to only the disputed points around loss.
- 2.2 We have set out below a provisional timetable of steps / decision-points. This may need to be revised once we see the claims.

Date	Step

Friday 25 October	Claims served
By Wednesday 30 October	Initial assessment and recommendations from the legal team
31 October / 1 November	Likely decision window for Post Office to decide on strategic way forward. <i>Does Post Office wish to schedule any meetings with SteerCo, GE or the board sub-committee in this window?</i>
Monday 4 October	Deadline for Post Office to file any applications before the 7 November hearing
Thursday 7 November	Provisional date for Court hearing
Monday 18 November	Draft Defences provided for Post Office sign off <i>Does Post Office wish to schedule any meetings with SteerCo, GE or the board sub-committee in this window?</i>
Monday 25 November (4pm)	Deadline for filing Defences

- 2.3 In addition to Post Office's internal governance approval of the Defences, they will need to be signed under a statement of truth. This is a statement that the signor believes the Defences to be true. Past Defences have been signed by Jane MacLeod. WBD can sign the Defences on behalf of Post Office, but only if we have instructions from Post Office that the Defences are believed to be true. We would recommend that Post Office identifies now who will be the person authorised to sign off the Defences so that arrangements can be made for that person to be briefed in advance and available for final sign off on Monday 25 November.

3. UPDATE ON OTHER MATTERS

- 3.1 A settlement meeting between the lawyers is being held on the morning of 10 October. A verbal update will be provided on this at the Steering Group meeting. At present, the mediation is expected to take place on 27-28 November. The review of all cases is underway and a report back on the findings is due in November.
- 3.2 The permission hearing for the Common Issues Appeal is still scheduled for 12 November 2019. Helen Davies QC will shortly be providing a note on her proposed approach to that hearing.
- 3.3 In relation to the Horizon Issues trial:
- 3.3.1 The Managing Judge has indicated that the Horizon Issues Judgment will not be provided before the end of October 2019.
- 3.3.2 Fujitsu have revealed that they failed to provide Post Office with a number of Known Error Logs that were at the heart of the trial. This has been notified to the Claimants and the Court. A review is underway of the undisclosed documents and an audit of Fujitsu's disclosure is being scoped. This is a potentially very damaging development as it could substantively effect the Horizon Issues and the Judge's views on Post Office's level of transparency. It may also cause a delay to the Horizon judgment, which in turn could cause a delay to the mediation and the Claimants serving their claims for the Further Issues trial.

- 3.3.3 We have been granted permission to file 3 pages of submissions that were accidentally omitted from our closing submissions.
- 3.3.4 The Judge has begun to ask the parties small questions about the Horizon Issues by email. This is the same as his approach in the Common Issues. The legal team are addressing these questions.