

POSTMASTER LITIGATION BOARD SUBCOMMITTEE

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**Minutes of a meeting of the Postmaster Litigation Subcommittee held on Thursday, 20 June 2019
at Finsbury Dials, 20 Finsbury Street, London, EC2Y 9AQ at 16.30**

Present:

Tim Parker (Chairman)
Ken McCall (by telephone)
Tom Cooper
Alisdair Cameron

In attendance:

James Drummond (Deloitte)
Ben Foat (General Counsel)
Andrew Griffin (Deloitte)
Andrew Harding (Womble Bond Dickinson)
Elizabeth Hallissey (Senior Assistant Company Secretary)
Andrew Parsons (Womble Bond Dickinson)
Tony Robinson QC (*Minute 1*)
Alan Watts (Herbert Smith Freehills)
Rodric Williams (Head of Legal)

1. Horizon Trial Update

ACTION

Tony Robinson QC provided an update on the Horizon Issues Trial, which had restarted on 4 June 2019. He had been asked to provide a review of the trial and his opinion on the likely outcome.

Tony Robinson explained that the cross examination of the Claimants' expert witness had gone well and it had become clear that the documents did not say what the expert witness had claimed. However, there had also been issues with Post Office witnesses and one witness in particular, the Chief Architect of Horizon, could be perceived as not credible to the court after he gave evidence. This was an issue as he was a central witness from Fujitsu. Fujitsu had also provided information used by Post Office at a Parliamentary Select Committee a number of years ago to confirm that there was no remote access to Horizon, which was incorrect.

The Committee discussed the stance and behaviour of the Judge towards Post Office witnesses throughout the trial.

The Claimants' expert witness had agreed that the Horizon system was robust. However, he had displayed bias against Post Office in his evidence. The Committee discussed the evidence given by Post Office's Expert Witness and Tony Robinson explained elements of his evidence could have given the impression that he had not thoroughly investigated the Horizon issues and that the data in his report was unreliable, with imprecise calculations.

Further to questions from the Chairman, Tony Robinson explained that an objective judge would see that the Horizon system was robust and reliable almost all of the time. Both expert witnesses were unsatisfactory but the documents demonstrated the reliability of the system. However, he cautioned that preparations should be made for a similar judgment to the Common Issues Trial. It remained difficult to predict the judgment due to the abstract nature of the case. He expected the Judge to criticise Post Office but find that each individual Claimant's case should be assessed on its own merit, because, although there is insufficient evidence to suggest that the system was not robust, the Judge could not say it worked perfectly at all times in all cases.

Tony Robinson left the meeting.

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**2. Deloitte – Day 1 Readiness Update****ACTION**

The report, which was tabled at the meeting, was noted and James Drummond and Andrew Griffin provided an overview of the progress of the project to date, including the identification of business impacts of likely and worse-case legal scenarios. Next steps included validating the response and mitigation suggestions with operational units, supporting individual units through a focused planning process, defining the 'new normal' for the business and developing rehearsals before the judgment.

An update on the emerging themes was provided. There were four impact areas identified including postmaster relations, Horizon compliance, political and regulatory and commercial partners. Each of these impact areas had sub-sections and there were 32 different impacts. A mitigation and response plan had been drafted and there were 39 activities across the business which included back office resourcing, stakeholder engagement and additional training. It was planned that all mitigation work would be on track for completion at the end of July 2019. In 2 weeks a planning process would commence to understand the commercial and regulatory potential breaches, and how to mitigate these risks and remain as compliant with third party contracts as possible, following receipt of the final judgment.

In response to questions from the Chairman, James Drummond explained that there would be an initial communication to current Postmasters to explain a new collaborative communication channel to discuss Horizon questions. There would then be a longer term 3 month communication plan. The Chairman said it was important to ensure that a bigger issue was not inadvertently caused with Postmasters that did not exist. Postmasters generally thought that Horizon was reliable and there had been little coverage to date of the trial. Ken McCall agreed and suggested that the communications should focus on increased support to Postmasters with an easier communication process. The Committee agreed that it was important to keep the communications positive on how the vital system operated.

Alisdair Cameron added that it would be more useful to provide examples and answers of frequently asked questions in order to further help Postmasters use the Horizon system effectively.

In response to a question from Tom Cooper, Andrew Griffin said that the essential mitigation work included ongoing Postmaster relationships and proactive communication. Tom Cooper highlighted that if additional resources and capacity were required to change processes, this would be more difficult than the communication activities. Alisdair Cameron explained that work had already commenced to update processes.

Ben Foat explained that a report was due to be submitted to the Post Office Limited Board in July 2019 that provided details of an old process against the updated process. It would enable clarity on improvements made to processes that may be directly referenced in the judgment. The Chairman highlighted the importance of a defensible, sustainable reconciliation process that would meet the directions of the judgment.

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**3. Common Issues Judgment Appeal**

ACTION

The Skeleton Argument outlining the basis of appeal would be amended and re-submitted by 27 June 2019 in accordance with the Court of Appeal's order of 18 June 2019. There was no further update.

4. Claimants' Schedule of Information

The Committee discussed the Claimants' schedules of information. The Chairman asked for an explanation as to why the Post Office Limited Board had not been made aware of the schedules in 2017. Andrew Parsons said that the schedules had been submitted to court in mid-2017 for the first 198 Claimants. Further claimants were added and the schedules re-done with the final schedules received at the end of 2017. The schedules included financial claims totalling £224 million. This figure had not been communicated to the Post Office Limited Board.

Andrew Parsons said that he had not been aware that the Board had not received the information contained in the schedules, including the total value of the financial claims. He had not provided this information when asked about a claim estimate when discussing the requirement for a provision in the statutory accounts as this estimate was widely understood to be inaccurate and unreliable, and he thought this information was known within Post Office. The Committee discussed that last year's statutory accounts would not have required a provision, but the position had now significantly changed due to the trials held in November 2018 and March 2019. The chairman expressed dissatisfaction at the assumption that the Post Office Limited Board had all the required information, and noted that approaches may have been changed with the additional information.

Andrew Harding said that a rolling brief would be sent regularly to the Sub-Committee in the future to ensure that no information was assumed. Tom Cooper requested information on the breakdown of the claimants including those that had been previously prosecuted. Appropriate remediation actions could not be agreed without all the facts.

WBD/HSF

5. Report and Accounts

Alisdair Cameron reported that a meeting with the Company's external auditors, PricewaterhouseCoopers (PwC) had been scheduled for the following week to discuss the requirement for a provision in the FY 2018-19 report and accounts related to the ongoing Postmaster Litigation.

Following further discussion, it was agreed that a separate meeting was required to determine the requirement for a provision whilst the trials continued and to discuss the impact of a provision on any future mediation. The meeting with PwC would be delayed, up to 10 days, until these elements had been discussed by members of the Sub-Committee.

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6. Next Meeting

The arrangements for the next meeting would be agreed and circulated to all attendees.

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There being no further business, the meeting ended at 17.35.

Chairman..... Date.....

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