

## RESTRICTED – POLICY AND COMMERCIAL

To Edward Davey  
From Mike Whitehead  
Date 5 October 2010

### Meeting with Alan Bates: Chairman of Justice for SubPostmasters Alliance (JFSA)

#### Purpose

(Rescheduled) meeting with Alan Bates (JFSA) on Thursday 7 October at his request to discuss the JFSA's claims that endemic flaws in POL's Horizon system have resulted in a number of subpostmasters having their contracts wrongly terminated by POL and in many cases prosecuted for false accounting.

#### Attendees

Alan Bates JFSA Chairman (and former subpostmaster whose contract was terminated by POL in 2003). He will be accompanied by 2 lawyers: Amanda Glover, Department Head for Legal Disputes at Shoosmiths (a national firm of solicitors) and Issy Hogg, partner at Coomber-Rich (Basingstoke based solicitors who have defended a number of subpostmasters who have been prosecuted by POL in recent years).

Mike Whitehead (ShEx).

#### Background to the meeting

Mr Bates has written twice requesting a meeting with you (Annex A). In response to his first letter of 20 May, the request was declined on the grounds that the issues raised were operational and contractual matters for POL. His second (more confrontational) letter of 8 July was followed by reports that Channel 4 were planning to run a news item on the JFSA campaign. We then recommended offering a meeting in response to this 2nd request for presentational reasons against the background of potential publicity (C4 News item) playing heavily on Government Minister 'refusing to meet victims of Govt owned Post Office Horizon IT system which has systemic faults resulting in wrongful accusations of theft/false accounting'. The JFSA has also mounted a substantial lobbying campaign with MPs and several (George Osborne, Priti Patel, Keith Simpson, Valerie Vaz, Alun Michael) have written to you or tabled PQs on behalf of constituents who are members of the JFSA.

#### Our objectives

Tactically we would advise that you seek to establish at a very early stage whether legal action against POL is imminent/planned. If so, it would be prudent to adopt a 'sub judice' approach in the comments you make.

- Emphasise that the issues raised by the JFSA are operational and contractual matters for POL.
- Make clear that, as the shareholder, Government has an arm's length relationship with the company and does have any role in its day to day operations.
- Establish whether, as reported, the JFSA is committed/planning to initiate legal action against POL.
- If so, note that it will be for the relevant legal process to decide on the JFSA case and that the issues are effectively sub judice.

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- Demonstrate that you are prepared to hear the JFSA's side of the story (JFSA claim both POL and officials are covering up the problems with Horizon) but make clear that it you are not in a position to offer substantive comment.
- Avoid committing to set up an independent/external review of Horizon.

#### **JFSA objectives**

- To press for Govt to require a fundamental change in the way sub post offices are managed by POL.
- To press for an independent investigation into the reliability and integrity of the Horizon system
- To press for a new and fairer contract between POL and subpostmasters which reflects the use of IT systems in sub post offices.
- To press for an ombudsman or independent third party to hear appeals in cases of disagreement between POL and subpostmasters.
- To press for the establishment of a new representative body for subpostmasters as an alternative to the cosy relationship between POL and NFSP.

#### **Issues or elephant traps**

A report in 'Accountancy Age' on 5 August indicated that the JFSA was intending to bring legal action against POL and to file Court papers in the coming weeks. POL has advised that no such action has yet been initiated. **However we recommend that you should be primarily in listening mode on the basis that any statements or comments made at the meeting may be subsequently quoted in any legal process involving the JFSA or its members.**

Avoid any commitment to adopting any of the JFSA's objectives in the terms these are set.

Substantial changes to subpostmasters' contracts and the branch operating model are a key element of POL's 2011-16 business strategy.

An independent review/audit of the integrity of Horizon would be expensive (and time consuming). POL's view is that if there were systematic integrity issues, as claimed by JFSA, there would have been a higher incidence than is claimed, there would have instances of Crown offices being affected as well as sub post offices as the identical system is used.

Subpostmasters are contractually entitled to be accompanied at appeal hearings by an NFSP representative or friend. Appeals are heard by a senior POL manager not previously involved in the case and legal avenues are also available if the subpostmaster continues to feel his contract has been wrongly terminated.

The NFSP is a recognised trade union subject to all relevant legislation. Subpostmasters are free to form any other association they wish.



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Agenda Item:	Issues to raise and points to make:
<p><b>JFSA's concerns and accusations</b></p>	<ul style="list-style-type: none"> <li>▪ Noted the JFSA concerns as expressed in Alan Bates' letters and representations from MPs. But willing to hear the JFSA 's side of the case about Horizon.</li> <li>▪ Emphasise that the JFSA's concerns relate to operational and contractual matters.</li> <li>▪ Govt has an arm's length relationship with POL and does not have any role in the day to day operations of the network.</li> <li>▪ Aware of reports that JFSA is planning to initiate legal action against POL. If this is so, it will be for the relevant legal process to decide on the JFSA case and any remedy and in effect the issues are 'sub judice'.</li> <li>▪ In any case I am not in a position to offer any substantive comment.</li> <li>▪ POL continue to express full confidence in the integrity and robustness of the Horizon system which has been operating for 10 years and typically processes 230 million transactions a month from over 30,000 counter positions in nearly 12,000 post office branches.</li> </ul>

### **JFSA background**

The JFSA was established by Alan Bates, a former North Wales subpostmaster whose contract was terminated at 3 months notice by POL in 2003 following a total break down in the relationship. Its website claims around 100 members but details only 8 specific 'case studies'.

The NFSP are dismissive of the JFSA's claims. They have suggested that if there were systemic faults with Horizon as claimed, there would be incidents of 'overages' as well as 'shortages'. NFSP are also of the view that in some of these types of cases the subpostmaster genuinely is not to blame but that a member of his/her family or other employee is. Contractually however the subpostmaster is personally liable.

### **Horizon system and POL process on accounting irregularities**

#### **Integrity of the Horizon system**

The Horizon system has been in place for over 10 years. In a typical month the system conducts around 80 million customer sessions with 230 million transactions across the system. This is delivered through around 35,000 counter positions in around 12,000 Post Offices which perform weekly and monthly accounting balances. Around £175m per day is settled to over 700 client companies who use Post Office Ltd – a substantial flow of data to and from organisations with regularly audited accounts. Over its extensive period of operation the system has proved robust. The cases identified by JFSA where there is some kind of allegation in respect of the system are a miniscule proportion of the many millions of accounting events that subpostmasters have done within the system. Furthermore around 15% of POL's transactions have been conducted over Crown Office terminals which run exactly the same system yet no issues have been identified. If there were any systematic



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integrity issues within the system they would have been evident over the past 10 years. NFSP and CWU have expressed confidence in the system.

The system is currently being updated to 'Horizon Online'. This is to achieve benefits in running costs and change management. It is not being done because there are any doubts about the robustness of the original Horizon system.

The integrity of both Horizon and Horizon online is built on tamper proof logs, real time back ups, and absence of 'backdoors' so that all data entry or acceptance is at branch level and is tagged against the log-on ID of the user. This means that ownership of the accounting is at branch level and it is impossible to make changes to branch accounts remotely.

Critically, Horizon creates a separate audit file of every transaction done with every record written to the log having a unique incrementing sequence number. This is retained remotely for seven years and cannot be altered in any way. Therefore, in any legal case relating to the system or allegations that data was missing, this audit log can be produced to identify exactly what was recorded onto the system in the branch concerned at the time concerned.

Subpostmasters are trained on the system, there is material to support in branch and helplines are available. If an error occurs through a user mistake – there is a full system in place for investigation and error resolution. If there is a local disconnection of the system at a branch for any reason, IT controls detect the outages and raise recover alerts to the branch to check and update the accounts.

As with any large organisation, Post Office Ltd has and continues to implement a range of mechanisms whereby accounting processes and outputs are regularly reviewed to ensure ongoing accuracy.

### **Action taken with subpostmasters for accounting irregularities**

Post Office Ltd has a regular system of auditing subpostmasters' accounts. If irregularities are discovered, then a formal and thorough investigation is triggered and, if necessary, action can be taken in accordance with the subpostmaster's contract. Subpostmasters have the right of representation throughout internal disciplinary procedures – and if the case leads to summary termination of contract, there is the right of appeal to an appeals manager who considers the case. Again there is a right to representation through this process – this role is often undertaken by the NFSP.

In certain cases, following consultation with legal advisors, a decision may be made by POL to pursue a criminal case. Since 2005 there have been 230 criminal cases that have proceeded to Court. Of these 169 have been found guilty and 18 defendants cautioned. Of the remaining 43, 1 was found not guilty but this was nothing to do with any Horizon challenge. 42 cases were not carried forward for a variety of reasons (but there is no suggestion that any of these reasons were related to concerns about Horizon).

As there is a legal contract between the subpostmaster and Post Office Ltd, if a subpostmaster believes that his/her contract has been terminated inappropriately; he/she can also refer the process into the legal system.

No court has ever ruled that there have been problems with the Horizon system.



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ANNEX A

*Invitation + advice needed*

## Justice For Subpostmasters Alliance

Mr Edward Davey MP  
Minister for Postal Affairs  
Department for Business, Innovation & Skills  
1 Victoria Street  
LONDON  
SW1H 0ET

Alan Bates

**GRO**

20<sup>th</sup> May 2010

Tel: **GRO**

Dear Mr Davey

I am writing to you with regard to your position as Minister for Postal Affairs on behalf of the Justice For Subpostmasters Alliance (JFSA).

We are an independent group of ex and serving subpostmasters who have suffered at the hands of the Post Office and their Horizon system ever since it was first installed. Our website [jfsa.org.uk](http://jfsa.org.uk) outlines how we came about and our aims, as well as offering sample cases that were provided by some of the group. Currently the group numbers close to 100, though we continue to be joined by others who have learnt of JFSA and have found that there is nowhere else to turn for help.

In every instance the Post Office acts as judge, jury and executioner and the individual is deserted by their reputedly representative organization The National Federation of Subpostmasters. Invariably these cases all stem from the flaws of the Horizon system the Post Office introduced and which they refuse to admit has ever suffered from a single problem.

The evidence is there to be found by anyone in a position of being able to unlock doors instead of placing barriers in the way of those pursuing the information. Our organization has access to a number of specialists who could provide the questions and analyze the resulting data if required. Though an independent external investigation instigated at Ministerial level would be the most appropriate, and would without any doubt easily find evidence of the error ridden system.

I am sure that you appreciate that there is not a single computer system that does not from time to time suffer from errors, especially when at the size and the level of complexity of the programs associated with the Horizon system. The Post Office blindly state that there are not, nor have there ever been any system errors, so subsequently anything wrong is entirely the responsibility of the subpostmaster as that is what they have agreed to when signing their contract. This is a contract that was produced in 1994 and does not address nor identify new technology, but they are still using it to intimidate and prosecute subpostmasters.



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The weight of evidence we have been collating over the years continues to grow and gain in standing, it is only the flat refusal of the Post Office to allow experts to examine the system which is holding back this major scandal from breaking. But with the growing numbers in JFSA and the support we are now finding from the IT community and the media it is just a matter of time until the real truth about the Post Office and Horizon is exposed.

Over the years I have personally submitted written details of all this to the select committee of the DTI, and then on two other occasions to that of BERR, and put simply, the information has either been buried or disappeared. Others of JFSA have followed the route of contacting their MP's who would take the matter up with the Post Office on their behalf. Subsequently they are stonewalled or 'handled' by the Post Office often with off the shelf answers where they only change the name and address.

In writing to you on behalf of the group, I am asking for a meeting where we can present our case to you. Much has appeared in the press over the last few days that Government is going to change, I only hope that is true. If it is, the abuse of subpostmasters that has been going on under the protection of the previous Government may well come to an end.

I look forward to hearing from you.

*Your sincerely*  
**GRO**

Alan Bates  
Chairman  
Justice For Subpostmasters Association

Email: **GRO**

[jfsa.org.uk](http://jfsa.org.uk)

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# Justice For Subpostmasters Alliance

Mr Edward Davey MP  
Minister for Postal Affairs  
Department for Business, Innovation & Skills  
1 Victoria Street  
LONDON  
SW1H 0ET

8<sup>th</sup> July 2010

Alan Bates

GRO

Tel: GRO

Dear Mr Davey

I have to say your response to me dated 31<sup>st</sup> May 2010 regarding the very serious issues I had raised was not only disappointing but I actually found your comments offensive. It seems that though there are new politicians in post, the Government has not changed. The letter you sent is little different to the one I received seven years ago from the minister responsible for post offices at that time, and so many more lives have been ruined in the interim because of that same attitude.

It's not that you can't get involved or cannot investigate the matter, after all you do own 100% of the shares and normally shareholders are concerned about the morality of the business they own. It is because you have adopted an arm's length relationship that you have allowed a once great institution to be asset stripped by little more than thugs in suits, and you have enabled them to carry on with impunity regardless of the human misery and suffering they inflict.

You can listen to your civil servants telling you these issues are really an operational matter for POL to deal with. You can even listen to POL telling you Horizon is wonderful, that there has never ever been a problem, it is inherently robust and these are just a few malcontents trying to cause trouble. Or you can meet with us and hear the real truth behind Horizon and what the Post Office is actually up to.

Your civil servants and POL will not tell you about POL staff harassing sick ex-subpostmasters demanding written promises of money or they'll send the police around. They won't tell you that POL watches post offices heading into trouble, fails to provide any help, and then waits until the problem shows a loss of £20,000+ so that the postmaster then falls foul of the Proceeds of Crime Act. They won't tell you that when someone wants to sell their post office and has a suitable buyer POL will turn down the applicant to drive that business into the ground. You won't hear about subpostmasters endlessly requesting audits of their offices and having to wait for up to five years for someone to turn up, in offices turning over £5m a year. Neither will they tell you of the cases where POL have run an audit, closed a post office bankrupting the owner who loses his business, house and family, holds a pending court case over him for 18 months, then drops the charges and walks away. Nor will they tell all about how they are stopping subpostmasters selling on the post office side of their business in order



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to recover their original investment. They won't even tell you that the Horizon system is designed to entrap subpostmasters so that they can easily finish up in prison, just by trying to open up the day after a trading period balance.

This is just a taste of some of the practices your company is carrying out in your name, day after day. They brandish a big legal stick, fail to provide evidence in court and rely on the clause in the 1994 contract, about a subpostmaster being liable for any loss from their office however it occurs, yet it is their shoddy Horizon system that is the root cause of all this. POL themselves lose thousands of pounds from each of the Crown offices that they run using Horizon, though their staff are not treated as guilty until proven innocent, but a subpostmaster is!

The whole of this scandal is teetering on the edge of a precipice at this point in time, but it is still not too late for you to reconsider convening a meeting to discuss the issues involved, if you are prepared to keep an open mind.

Yours sincerely

**GRO**

Alan Bates  
Chairman  
Justice For Subpostmasters Alliance

Email:

**GRO**

[jfsa.org.uk](http://jfsa.org.uk)