

Message

From: Ben Foat [Ben.Foat] **GRO**
Sent: 29/11/2019 00:16:45
To: Tim Parker [Tim.Parker] **GRO**; Tim.Franklin [tim.franklin] **GRO**; Carla Stent [Carla.Stent] **GRO**; Ken McCall [Ken.McCall] **GRO**; Cooper, Tom - UKGI [Tom.Coope] **GRO**; Nick Read [Nick.Read] **GRO**; Alisdair Cameron [alisdair.cameron] **GRO**
CC: Veronica Branton [Veronica.Branton] **GRO**; Watts, Alan [Alan.Watts] **GRO**; Emanuel, Catherine [Catherine.Emanuel] **GRO**; andrew.parsons [andrew.parson] **GRO**; Rodric Williams [rodric.william] **GRO**; Patrick Bourke [patrick.bourke] **GRO**
Subject: GLO - High Level Review Embargoed Horizon Judgment - DO NOT FORWARD - LEGALLY PRIVILEGED AND STRICTLY CONFIDENTIAL

All

Following my previous email which set out the summary of the embargoed judgment it may be helpful to set out slightly more detailed review of the judgment. The judge is still to draw together his findings into final answers to the 15 specific Horizon issues which he expects to do so early next week. We will provide a further comprehensive report once that is received.

Summary

- It has been found that the Horizon system in use today (HNG-A) is "*relatively robust*". This is a helpful finding as it substantially mitigates the immediate operational risk to the network. The judgment contains a number of helpful statements including: "It must be remembered that Horizon as it is today, or at least in the last couple of years, since it became HNG-A, is a very different system to earlier times... Modern Horizon Online as it is today is not the same as the system that was introduced in 2010". Moreover, "Findings in this judgment as to the performance and robustness of Legacy Horizon from 2000 to 2010, and then of Horizon Online (in both its forms, HNG-X and HNG-A) from 2010 to 2018 are *not* findings on the Horizon system as it exists at the date of distribution of the draft of this judgment, in November 2019... It is agreed by the experts that the Horizon System in its HNG-A form is now relatively robust. This judgment is a historical analysis of the Horizon system as it relates to the period in question in the group litigation, not a judgment upon HNG-A as it is today.
- However, the remainder of the Judgment appears adverse to Post Office. The robustness of the previous version of Horizon Online (HNG-X, 2010 to 2018) was "*questionable, and did not justify the confidence placed in it by Post Office in terms of its accuracy*" and Legacy Horizon (2000 to 2010) was "*not robust*".
- On a first read, it appears that the tone of the Judgment is generally better than the Common Issues but there is repeated and, in places stringent, criticism of Post Office and Fujitsu not properly and diligently investigating possible IT problems and being too quick to assume that fault rested with the SPM. This echoes the Judge's comments in the CIT about a lack of investigative support and transparency from Post Office.

Witnesses and evidence

- The expert evidence and approach of the Claimant's expert, Mr Coyne, was preferred to that of Post Office's expert, Dr Worden. Mr Coyne was found to be a helpful and constructive witness, whereas Dr Worden was found to have taken a partisan view of the evidence and his methodology flawed.
- The Judge accepted the primary evidence of fact from the Claimants' witnesses and has made at least one finding that a Claimant did suffer a loss caused by a Horizon failure.
- In respect of Post Office's witnesses, aspects of Angela's written evidence are criticised as being inaccurate but her oral testimony in Court is complimented and she is credited for being responsible for many of the positive changes in Horizon over the last few years. The other Post Office witnesses were found to be credible.
- In respect of Fujitsu's witnesses, the majority of Mr Godeseth's evidence was found to be reliable and corroborative of Mr Coyne's conclusions, although specific aspects of his evidence are described as highly

unsatisfactory. Mr Parker and Mr Dunks were found to be unsatisfactory witnesses. As an organisation, Fujitsu is criticised for seeking to keep the extent of its remote access powers from the Court.

- While the judge noted that Post Office's approach to disclosure is "improving", he criticised aspects of it and called for a change in approach to disclosure generally in the litigation.

Judge's findings on the Horizon Issues

- The judge has not yet tied his findings to the 15 specific Horizon issues which covers accuracy and integrity of data, controls and measures for preventing / fixing bugs, remote access, availability of information and report writing, access to and/or editing of transactions and branch accounts, branch trading statements, making good shortfalls and disputing shortfalls, and transaction corrections. The Judgment is being finalised by the Judge and we expect him to produce a further section to it setting out findings on each issue in the coming days.

Please note this judgment is subject to an embargo. The content of the judgment, including the information in my email, cannot be discussed outside the Post Office. Failure to adhere to this is a criminal offence. Please do not forward this email or discuss its contents outside of the Board and GE unless you have first discussed with me or the legal team.

Do let me know if you have any queries in the meantime.

Kind regards
Ben



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From: Ben Foat

Sent: Thursday, November 28, 2019 11:31:12 PM

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Subject: GLO - Mediation Day 2 and Summary of Embargoed Horizon Judgment - DO NOT FORWARD - LEGALLY PRIVILEGED AND STRICTLY CONFIDENTIAL

All

The mediation of the second day has drawn to a close. Given the progress made over the last two days, the parties have decided to maintain momentum and continue to mediate tomorrow for the full day.

The claimants spent the first part of the day working through the quantum methodology. Post Office explained why £19m - £27m was a rational and reasonable range. Subsequently, Post Office offered £32m "all up" inclusive of cost but given that £5.5m has already been paid in respect of costs for the CIJ, the net offer was in effect £26.5m, but optically it presented well to have the offer described at £32m. This approach is based on a 12 month allocation for post

termination losses. The Claimants argued that their methodology produces a total of £113m but offered £100m and reduced to £85m. The basis of their offer includes allocating 26 months for post termination losses. This is a promising start to the financial component of a potential settlement.

In addition to the financial settlement, we are working through the other elements of the settlement structure :

- An agreed acknowledgement statement recording the conclusion of the litigation;
- The process POL may take in respect of the convicted claimants;
- Agreed approach in respect of the Claimants who are currently Postmasters but wish to exit the business.

We received the embargoed Horizon Issues Judgment just after 4pm earlier today. Broadly, it has been found that the Horizon system in use today (HNG-A) is “relatively robust”. The judge notes that “This judgment is a historical analysis of the Horizon system as it relates to the period in question in the group litigation, not a judgment upon Horizon HNG-A as it is today”. This is a helpful finding as it substantially mitigates the immediate operational risk to the network. However, the remainder of the judgement is adverse to Post Office. The robustness of the previous version of Horizon Online (HNG-X, 2010-2018) was “questionable, and did not justify the confidence placed in it by Post Office in terms of its accuracy” and Legacy Horizon (2000 to 2010) was “not robust”. Our Horizon contingency planning will be implemented including preparing comms and further analysis on the implications in respect of the convicted claimants (Brian Altman QC has been instructed this afternoon). I will send a more detailed note on the judgment shortly. Please note this judgment is subject to an embargo. The content of the judgment, including the information in my email, cannot be discussed outside the Post Office. Failure to adhere to this is a criminal offence. Please do not forward this email or discuss its contents outside of the Board and GE unless you have first discussed with me or the legal team.

We will continue with the mediation tomorrow and will update you further but do let me know if you have any queries in the meantime.

Kind regards
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