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Dear Colleagues

POST OFFICE: HORIZON TRIAL – JUDGEMENT FINDS IN FAVOUR OF CLAIMANTS

Further to LTB 703/19 dated 11th December. A week has now elapsed since Justice Fraser handed down a further judgement following the second trial known as the "Horizon" trial and once again the Judge found in favour of the claimants. In the judgement, Justice Fraser said the legacy Horizon IT system was "**not remotely robust**" and that "**there was a significant and material risk of inaccuracy in branch accounts as a result of bugs, errors and defects in the Horizon System**".

The Judge also noted the following:

"The approach by the Post Office to the evidence of someone such as Mr Latif demonstrates a simple institutional obstinacy or refusal to consider any possible alternatives to their view of Horizon, which was maintained regardless of the weight of factual evidence to the contrary. That approach by the Post Office was continued, even though now there is also considerable expert evidence to the contrary as well (and much of it agreed expert evidence on the existence of numerous bugs).

*This approach by the Post Office has amounted, in reality, to bare assertions and denials that ignore what has actually occurred, at least so far as the witnesses called before me in the Horizon Issues trial are concerned. **It amounts to the 21st century equivalent of maintaining that the earth is flat.**" [the bold is my emphasis]*

As a consequence of this latest development in this long running saga, there has been considerable media attention on the Post Office and in particular on the management style adopted by Paula Vennells the former CEO who was in post from 2007 as the Network Director and then from 2012 until earlier this year as the CEO.

The Sunday Times yesterday featured in its main paper and in the business section major articles on the Horizon situation and in doing so focused their attentions on how the Post Office has dealt with this matter in recent years. The main article is headlined "**Post Office's computer glitch destroyed shopkeepers' lives**".

The second article headed "**Curate behind the Post Office witch-hunt**" can be accessed via the following link:

<https://www.thetimes.co.uk/article/curate-behind-the-post-office-witch-hunt-6f8pdpprk?shareToken=21972ebb8f0cbba980a8fb2cb0d5f14c>

Additionally, the Daily Mail has today run a feature article on page 8 entitled "**Post Office boss who still won't deliver an apology...**" The link is as follows:

<https://www.mailonsunday.co.uk/news/article-7819763/Former-Post-Office-boss-wont-say-sorry-postmasters-wrongly-jailed-glitch.html>

What is irrefutable is that Paula Vennells obstinately and consistently argued that the Horizon system was fit for purpose and as such all claims by Postmasters for justice were dismissed by the Post Office. This position was demonstrated at a 2015 BIS Select Committee where Paula Vennells gave evidence and robustly supported the Horizon system.

Also, the aggressive defence at all the court cases during 2018 and 2019 including the various appeals and the attempt to recuse the judge are predicated on the basis that the Post Office vigorously rejected the claimant's arguments that Horizon was flawed. It is also true to say the Post Office has only admitted its failings after spending many millions of tax-payers' money in unsuccessfully attempting to defend itself.

Branches will also be aware that earlier this month, an out of court settlement was reached between the Justice for SubPostmasters Alliance and the Post Office in regard to the Group Litigation brought by 557 Postmasters in relation to the flaws in the Horizon computer system. The total amount the Post Office has agreed to pay in compensation is £57.75m.

As reported in LTB 703/19 dated 11th December the Post Office gave an apology of sorts. However, this doesn't go far enough after so many years of what can only be described as a travesty of justice against so many innocent Postmasters that were simply trying to serve their communities. The Post Office has also issued a further communication (attached) following its defeat in the second trial and their comments in this regard are underwhelming. Incredibly, the Chief Executive fails to acknowledge that the Judge's decision went against the Post Office.

The latest decision of the Judge quickly followed the out of court settlement which has understandably led to a significant amount of media coverage. This includes an interview on BBC news with the journalist Nick Wallis who has been following the case extensively including attending all court hearings:

<https://twitter.com/rebeccajonesbbc/status/1206652545768161282?fbclid=IwAR3qfC8bcZrGw-6Y7hZ0CF0utVtNdJ29fGov-Fi5A3HIxwyJ0UHWzrB0ySw>

In addition, below are links to several press & media articles on this matter.

<https://www.bbc.co.uk/news/business-50806745>

<https://www.postofficetrial.com/>

<https://www.lawgazette.co.uk/news/post-office-attacked-and-disparaged-sub-postmasters-judge-finds/5102542.article>

<https://www.computerweekly.com/news/252475611/Subpostmasters-proved-right-on-IT-system-failures-as-calls-for-full-public-inquiry-mount>

<https://www.computerweekly.com/blog/Computer-Weekly-Editors-Blog/The-Horizon-scandal-is-over-but-the-fight-continues-an-inquiry-into-the-Post-Office-is-essential>

https://www.theregister.co.uk/AMP/2019/12/18/post_office_trial_fujitsu_horizon_judgment/?fbclid=IwAR0fLeIAdXNq4tWey7G067OMiwt0SIHXcPmdByi2up5ZxyF-pGNqCS_jcyk

Criminal Cases Review Commission

Justice Fraser now considers this case to be closed and therefore the third and fourth trials scheduled for next year will not go ahead. However there are currently about 35 cases going through the Criminal Cases Review Commission – the CCRC has the power to refer the cases of prosecuted Postmasters back to the appeal courts. A Computer Weekly article specifically on the review by the CCRC can be accessed by using the following link:

<https://www.computerweekly.com/news/252475773/Criminal-Courts-Review-Commission-to-review-Horizon-judgment-swiftly>

Involvement of the Director of Public Prosecutions

In addition, Justice Fraser said **"Based on the knowledge that I have gained, I have very grave concerns regarding veracity of evidence given by Fujitsu employees to other courts in previous proceedings about the known existence of bugs, errors and defects in the Horizon system"**. As a consequence he will be supplying a dossier to the Director of Public Prosecutions for further investigation. Furthermore, a number of Postmasters were given permission to pursue the Post Office on charges of malicious prosecution.

Call for a Public Inquiry / Parliamentary Scrutiny

Computer Weekly contacted BEIS for a comment on the government's plans for those Postmasters who had been wronged. A BEIS Spokesperson responded as follows:

"We welcome the announcement that a resolution has been reached between the parties to settle this long-running litigation and the steps they have taken through the mediation talks.

"We stand by to support the organisation as it looks forward to moving ahead and shaping a modern and dynamic Post Office."

Clearly this is not good enough and in view of the seriousness of this matter, the Union is now calling for a public inquiry into the whole Horizon debacle. In this regard, we will be writing to the Minister for Postal Affairs to outline our grave concerns in relation to the appalling treatment of Postmasters by Post Office management and will call for a comprehensive investigation in the form of a public inquiry.

This inquiry should also investigate the actions of the National Federation of SubPostmasters (NFSP) who have done absolutely nothing to support their members in relation to the outrageous treatment they have suffered due to the Horizon system which has proven to be not fit for purpose. Indeed, during a previous BIS Select Committee Inquiry in February 2015, George Thomson, former General Secretary of

the NFSP stated he believed the Horizon system was "*fantastically robust*". Mr Thomson noted that "*Systemically, it is very strong. However, there are one or two issues where money went missing and postmasters have felt that it had to be Horizon, while in a lot of cases it could have been errors or, in fact, members of staff misappropriating money*".

The NFSP's cosy relationship with the Post Office was highlighted in Judge Fraser's ruling in the first trial – the "Common Issues" trial on 15th March 2019 when he stated:

"It is obvious, in my judgment, that the NFSP is not remotely independent of the Post Office, nor does it appear to put its members' interests above its own separate commercial interests."

"The Post Office effectively controls the NFSP".

Furthermore, in a statement following the latest ruling, the NFSP is seemingly trying to re-write history by repositioning themselves as follows:

"By implication of this verdict, PO has misled the NFSP for years about the reliability of the Horizon system.

As outlined by Justice Fraser, the NFSP raised concerns to PO about problems our members have experienced with the system; repeatedly we were told that the system was robust, and that user error is the primary cause of problems.

The fact that Justice Fraser considers the current version of Horizon to be robust is welcome news – this will be a relief to serving subpostmasters. However, government must also ensure that, going forwards, the status of Horizon is monitored and reported on transparently. It is vital that every subpostmaster should feel confident that the investment they have made in their post office business is not reliant on a flawed system. This will engender trust in the system and PO.

Above all, PO must change the way it deals with the subpostmaster network. The NFSP has long argued that subpostmasters must not be treated as 'guilty until proven innocent' in the case of a loss or shortfall. Unfortunately, there was an authoritarian culture within PO for many years – something which was, ultimately, the root cause of the GLO and the reason so many postmasters lives have been disrupted and adversely affected".

Lord Arbuthnot, former MP for North East Hampshire, who previously led a cross-party parliamentary group of MPs looking in to this matter on behalf of their affected Postmaster constituents, has also now called for judge-led inquiry. Lord Arbuthnot stated:

"The subpostmasters have been vindicated in every respect. It is an excellent Christmas present, but won at great cost. The cost falls partly on the taxpayer but also heavily on the subpostmasters themselves, who will have their damages reduced by the amount the litigation funders will (justifiably) deduct.

"Now that these battles are being won, it is time to turn our attention to how it all came about and went so far. We need an inquiry and, since the Post Office has repeatedly given inaccurate information including to me, it needs to be led by a judge. It may be that the best person to conduct the inquiry would be the

*judge who already has such extensive knowledge of the details, Sir Peter Fraser.
He has done much of the work already."*

There is no doubt this appalling situation amounts to a national scandal. How can a government-owned organisation treat so many people so badly for so long? There are exceptionally serious questions to ask of the Post Office leadership and indeed government for that matter. Whilst the legal process may have come to a conclusion with the out of court settlement, this shouldn't in any way detract from public scrutiny of what has gone wrong here. The Union will consequently be vigorously pursuing in the New Year, a Public Inquiry via all parliamentary avenues. The Post Office Board and its former Chief Executive have to be accountable for their actions and the outcry for justice is not going to go away.

Further developments will be reported.

Yours sincerely

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