

PRIVILEGED AND CONFIDENTIAL

Claims against subpostmasters (spmr's) who have raised Horizon issues in the past - key benefits and risks

The Former Agent Debt Team is considering whether to start (or re-start) actions against spmr's which had been put on hold because of concerns about the allegations made about Horizon by the relevant spmr. This note summarises the key risks and benefits of doing do (aside from the obvious benefit of recovering sums due).

Benefits

- This would demonstrate POL's confidence in Horizon and its other systems and processes and send a strong message to the spmr community.
- Where the spmr has sent a letter before action via Shoosmiths, this would put POL on the front foot in that it would be actively pursuing the debt rather than leaving it to the spmr to start Court proceedings and counterclaiming for the debt.
- POL would have some control over the Court in which the claims were issued (see below).

Risks

- If POL is pursuing claims in several County Courts, there is a risk that POL could lose some, as the quality of judges is variable. POL could mitigate this by issuing its first claim in a good County Court (such as London, Birmingham or Manchester) and arguing that the other claims should be heard in the same Court as it would be familiar with the issues. This would not be guaranteed to succeed, however.
- POL could be accused of acting prematurely (and potentially penalised on costs) if it were to start Court proceedings against Darlington and Walters whilst the "pre-action" dialogue with Shoosmiths was ongoing.
- Arguably, bringing more claims increases the risk of systemic problems coming to light (such as training or support failures). However there is little that can be done to minimise the risk, apart from analysing the claims carefully at the outset, and bringing them in batches, with the strongest first, as suggested.
- There will be quite a lot of work to do to prepare each case as described above and in my email of 20 December 2011, and to work with the solicitors as they progress the claims. Therefore this may place some strain on the FADT and POL legal resources.

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