



**POST OFFICE LIMITED GROUP LITIGATION SUB-COMMITTEE MEETING**  
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**MINUTES OF A MEETING OF THE GROUP LITIGATION SUBCOMMITTEE OF POST OFFICE LIMITED HELD ON THURSDAY 21 FEBRUARY 2019 AT 20 CLEARKENWELL GREEN, LONDON, EC12 0DP AT 11.00 AM**

Present:	Tim Parker (by phone)	Chairman <b>(TP)</b>
	Paula Vennells (by phone)	Group Chief Executive <b>(PV)</b>
	Ken McCall (by phone)	Senior Independent Director <b>(KM)</b>
	Tom Cooper (by phone)	Non-Executive Director <b>(TC)</b>
	Alisdair Cameron	Group Chief Financial and Operating Officer <b>(AC)</b>

In Attendance:	Jane MacLeod	Company Secretary <b>(JM)</b>
	Veronica Branton	Head of Secretariat <b>(VB)</b>
	Anthony de Garr Robinson	QC <b>(A d-GR)</b>
	Rodric Williams	Head of Legal, DR and Brand <b>(RW)</b>
	Rob Houghton	Group Chief Information Officer <b>(RH)</b>
	Andrew Parsons	Womble Bond Dickinson <b>(AP)</b>
	Mark Underwood	Portfolio Director <b>(MU)</b>
	Angela Van Den Bogerd	Business Improvement Programme Director <b>(AvdB)</b>

ACTION

**1. WELCOME AND CONFLICTS OF INTEREST**

A quorum being present, the Chairman opened the meeting.

**2. Upcoming Horizon trial**

Anthony de Garr Robinson briefed the Sub-Committee on the Horizon Trial.

Fifteen questions would be addressed at the trial covering three core sets of issues: whether the Horizon System was robust; the causes of shortfalls in branches, including whether Fujitsu was “manipulating” the data behind the scenes; and miscellaneous. The key issue was the robustness of the Horizon system and our view was that it was critically robust. The claimants’ expert had identified system errors but his report lacked balance. There would a number of additional lines of attack but we would keep bringing attention back to the key issues. The claimants would seek to criticise PO Limited for not providing sufficient documents and for Fujitsu’s ability to change branch data.

We were not seeking to prove that the system could not be improved or did not have any bugs but would emphasise that it recorded data accurately in most cases. No-one had found a fundamental flaw in the System; it had been well designed and managed by the same provider throughout. When there had been system issues the systems and processes to address these had worked well in practice. Several of the bugs identified by the claimants’ experts were not in fact system bugs and several would not have affected branch accounts. Several bugs had been triggered by an unusual combination of events. For the vast majority of the time, Horizon was a very reliable system.

The claimants’ expert was arguing that there could be thousands of undetected bugs in the Horizon system. Our expert argued there could not be a sufficient volume of bugs in the system to have generated the losses being alleged by the claimants. The error rate was low when assessed against the number of users and 50 million transactions a week.

The claimants had lodged a supplemental report on 1 Feb 2018 which was longer than the original report. We had decided not to ask for an adjournment because we thought this would be detrimental to the Judge’s perception of our case. Fujitsu were working at speed to provide evidence to address the points raised in the supplemental report. This should be completed in the next week.

The key risks in the case were:



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- 1) That the bar we have set ourselves was very high as we had said that the Horizon System was robust and very unlikely to cause significant losses. We had to be able to support this starting position. Not meeting that bar would have a serious impact on PO Limited's operating procedures and would open up 18 years of previous decisions. The claimants alleged an of asymmetry of information
- 2) Witnesses. The quality of witness evidence was important. There would always be a risk of witnesses breaking under cross examination. Our expert relied on statistical analyses which required some assumptions to be made but had noted that all his assumptions were extremely conservative. His report also included a qualitative analysis. It had proved difficult to obtain all the technical analysis we needed from Fujitsu and some information had been inaccurate and had needed to be replaced. Fujitsu were fully engaged now and were working swiftly to provide the information needed following the lodging of the supplemental report
- 3) Most of the issues related to legacy Horizon. It was an old system and some obscure questions had been raised about how it had operated. Several points made by the claimants' expert or given emphasis to, had only been raised in the last month. We had considered whether to submit our own supplemental report
- 4) Remote access risk. The claimants had posited the theory that Fujitsu had interfered with branch data in secret. PO Limited and Fujitsu's case on remote access had changed over time. Initially Fujitsu had said that remote access was not possible. The Deloitte audit had found that it was. The claimants' expert was arguing that the scope for remote access was even greater than now stated. The Court was likely to want to test this fully. We should be in a position to provide more evidence on each and every remote access tool by the time the trial began
- 5) Risk mitigation: the legal team was seeking to build this into our case. We had drawn a distinction between the current Horizon System and the legacy Horizon system which had been in place before 2010. We had set out markers on why the case had been unfair to PO Limited including: a) that the evidence laid by the claimants was contrary to what the Judge had requested b) the length and new content of the supplemental report.

Our opening submissions would be reasonably short. We anticipated receiving criticism on some aspects of the Horizon System but thought our arguments were strong.

### **3. Questions**

Whether we were less optimistic than we had been a few weeks ago because of the supplementary evidence and the approach of the Judge?

A d-GR reported that we remained reasonably optimistic but somewhat less so than before Christmas.

It was also noted that there was a limit to the planning we could do before we had the judgement from the Common Issues Trial. We would also get indications as we went through the Horizon Trial and could take a view on whether we needed to "dial up" the work on any of the risk mitigations.

TP requested an update on the risk mitigation. This would be provided and JM also suggested that the Sub-Committee should be taken through the risk mitigation activities being considered by the business.

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The communications plan would be circulated again to everyone on the call.

MD?

What would we do if we had not been able to obtain all the evidence on the counter measures taken to correct the bugs that had been identified in the supplemental report in advance of the Horizon Trial? It was reported that most of the bugs that had been identified in the supplemental report had had a really small impact. The issue was less one of whether counter measures had been implemented and more one of whether these had been picked



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up as part of business as usual (BAU) or because an error had been raised via the Helpline. The latter had only been the case in a relatively small number of cases.

Whether an accusation was being made that PO Limited had been involved in instructing Fujitsu to change transactions? It was noted that only Fujitsu could change data and there was no suggestion that PO had operated a policy to get Fujitsu to manipulate the branch data. The claim was that we had lied about Fujitsu's ability to change branch data. It was noted that it was hard to capture the number of instances in which data had been changed, especially in the legacy Horizon System because of the way that data was captured. We could not distinguish easily between maintenance access and making changes to branch data. However, Fujitsu had been clear that branch data had only been changed on very rare occasions.

Where was the line drawn between a bug and a systemic system error? It was reported that there was no legal test that one applied for this purpose. The practical question was how likely it was that a set of Horizon accounts had been distorted by a bug in any given instance.

It was reported that appeals were rare in expert witness trials because the findings were factual rather than arguing points of law.

The meeting closed at 12.15 pm.

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**Chairman**

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**Date**