

No. 337/2020

26th June 2020

Dear Colleagues

POST OFFICE: HORIZON SCANDAL – BEIS SELECT COMMITTEE INQUIRY

Further to LTB311/20 Dated 11th June.

Branches and members will recall that on 10th June, Paul Scully MP, Small Business and Postal Affairs Minister announced there would be an “Independent Review” into the Horizon scandal (although this would not be led by a Judge). Darren Jones, Chair of the BEIS Select Committee wrote to Mr Scully on 16th June renewing the Committee’s calls for a judge-led inquiry, stating in his letter - ***“A statutory judge-led Public Inquiry needs to be able to establish the truth and give closure to those who have lost so much and who have waited for justice for so long.”***

Yesterday, the BEIS Select Committee published the response to Darren Jones’ letter from the Minister Paul Scully in which he indicates the review will not be on a statutory basis. In our view, a review which is not led by a judge has absolutely no teeth and this latest correspondence from the Minister makes it even more important that we lobby MPs to get behind EDM 593 which calls for a *“Judge-led public inquiry into the Horizon scandal”*. If Branches have not already done so I would ask them to write to their MPs at the earliest opportunity to urge them to sign EDM 593 (a model letter for this purpose was attached to LTB311/20). At the time of writing this LTB, 69 MPs from across all main parties have signed the EDM. A judge-led inquiry is the only way to ensure we get to the bottom of this national scandal.

BEIS Select Committee Inquiry – Letters of Response from Paula Vennells, Nick Read and Fujitsu

Due to Covid-19 the BEIS Select Committee made a decision not to go ahead with the second oral session of its Inquiry into the Horizon scandal and instead wrote to Paula Vennells (former CEO), Nick Read (current CEO) and Rob Putland (Vice President, Fujitsu). The responses, which were due by 16th June, were published yesterday, 25th June.

A copy of a statement from the BEIS Select Committee which contains links to the responses from the aforementioned witnesses (and also to the letter from Paul Scully) is attached to this LTB. In the statement, Darren Jones notes his concern that:

"The Minister's response gives little confidence that this review will be able to deliver justice for those who have waited for so long"

Darren Jones goes on to re-emphasise the need for a judge-led inquiry. He also states:

"The letters we have received from the Post Office Ltd, Fujitsu, and former CEO, Paula Vennells, will likely be seen by many as attempts to shift the blame to the others for the dismal failings which saw sub-postmasters and postal staff suffer so grievously and, in some cases, face prosecution."

In this regard, we echo the views of Darren Jones and below is a summary of our views.

Paula Vennells' Response

Paula Vennells, the former Post Office CEO's response runs to 18 pages and she states the following in her letter:

*"I am aware that there have been calls for criminal proceedings against Post Office and against institutions and individuals who were responsible for or involved with the investigation and prosecution of sub-postmasters who were affected by the defects in Horizon. **I wish to state for the record that I do not accept any personal criminal misconduct.**" [the bold is my emphasis]*

In answering the questions asked by the Select Committee as part of the Inquiry, Paula Vennells also appears in our view to deflect any further blame away from herself personally by apportioning responsibility for various aspects of the Horizon scandal towards Fujitsu, her predecessors, her prosecutions team, her legal advisors, Royal Mail and the government. Basically, it is everybody's fault bar hers. The following statements from Paula Vennells' letter provide examples of the apparent attempt to deflect responsibility:

Blame Fujitsu:

"The message that the Board and I were consistently given by Fujitsu, from the highest levels of the company, was that while, like any IT system, Horizon was not perfect and had a limited life-span, it was fundamentally sound. I believed that it was reasonable for the Board to rely on these assurances: Fujitsu was a respected global IT company"

"I understand from the judgments in the group litigation, that Horizon 1 and, to a lesser but still serious degree, Horizon 2, were compromised by bugs and defects. I deeply regret that this was not identified by Post Office sooner and that these problems were not resolved during my time as CEO."

Blame the Prosecutions Team:

"First I played no role in investigatory or prosecutorial decisions or in the conduct of prosecutions. There was full separation of powers, with the team responsible for prosecutions reporting to the General Counsel. It would have been inappropriate for me to involve myself in operational decisions made on a case by case basis."

Blame the Lawyers:

"Second, I am not a lawyer. Post Office relied on lawyers (both internal and external) for advice in relation to criminal matters, and lawyers held the operational responsibility for investigating and prosecuting criminal misconduct. My main role, and the role of the rest of the Board, was to set policy, informed by legal advice."

Blame Royal Mail:

"It was explained to me that the practice [the Post Office's prosecutions policy] was an inheritance from Post Office's days as a division of the Royal Mail; that it was a long-standing arrangement that had been reviewed by Royal Mail management in the past"

Blame the Government:

"The UKGI directors were fully engaged in the discussions [regarding Horizon] and Post Office (including myself and each subsequent Chair) had conversations with their senior line director and the Chief Executive of UKGI too from time to time."

With regards to the final quote above in which Paula Vennells confirms that Government officials were fully engaged in the Horizon discussions, Darren Jones responded by stating:

"The letters indicate that UKGI was engaged in discussions with the Post Office Ltd about Horizon. This highlights once again concerns about a lack of effective oversight from Government. Now more than ever, we need to be confident that Government can meet its responsibilities as a company shareholder."

Nick Read's Response

In his response to the Committee, Nick Read concentrates on what he views as his pivotal role in "resetting the relationship" between the Post Office and Postmasters. Unsurprisingly, given his fairly new appointment (September 2019), Nick Read responded by referring in some of his answers to Judge Fraser's judgement in the Horizon court case as he does not have first-hand experience of the history of the issues. Or by simply stating *"I am not able to comment on matters before my time."*

This can be seen in his answers to questions including – *"...can you confirm that local Horizon terminals could be accessed centrally and altered? If so, when was Post Office Ltd aware of this?"*

Answer: "I first became aware of the position as found by the High Court when the Horizon judgment was handed down. As I was not involved at the time, I do not wish to speculate how Post Office's knowledge of remote access issues evolved over time."

"the position as found by Fraser J was that Post Office could read transaction data or data in branch accounts remotely (i.e. centrally) but could not modify that data remotely without the knowledge and/or consent of the postmaster. Fujitsu was, however, able to modify transaction data or data in branch accounts without the postmaster's knowledge and/or consent..."

Nick Read is also at pains to point out to the Committee that one of his main focuses is to ensure Postmasters are fairly rewarded, which he states: *"was one of my immediate priorities. Remuneration had already been increased, shortly before I joined, by £20 million. To my mind that was not enough, so we increased it again by £17 million"*. Whilst this may look good on paper, Postmasters will simply not receive the £37m promised to them as they are paid on a transactional basis and pay is variable. Whilst the value they receive for some transactions may have been increased, the impact of Covid-19 has been that the number of transactions has fallen significantly which will have a huge impact on Postmaster remuneration. In addition, banking products and travel products have seen massive falls (the Post Office stopped selling travel insurance in March and bureau has ground to a halt) which impacts negatively on Postmaster remuneration despite the increase in the rate per transaction.

It follows there is a real prospect we may be faced with a set of unplanned closures as the Covid-19 financial support provided by the Post Office to Postmasters ceases at the end of June. Furthermore, some Postmasters will be taking a double hit on their remuneration fees and their retail takings. Indeed there is every possibility that for many this could be the catalyst that causes Postmasters to quit.

This is why we have written to Nick Read to formally propose that the Post Office works jointly with the CWU to develop a new and more relevant remuneration structure which will minimise the rate of attrition of Post Offices closing. Nick Read has rejected this proposal and evidently doesn't want to work collaboratively to solve these serious problems.

Fujitsu Response

In his response, Rob Putland, Senior Vice President, Fujitsu appears to apportion responsibility and blame totally onto the Post Office. This can be evidenced by the following examples from his letter:

Q. - "The Judge in Bates v Post Office Ltd said that in giving evidence Fujitsu gave "a very one-sided picture which was to omit any reference

to important contemporaneous documents that criticise or demonstrate any deficiencies with Horizon". How do you respond to this criticism?

A. - Fujitsu was not a party to the Bates v Post Office Ltd litigation. All decisions relating to the prosecution of sub-postmasters and the conduct of the Bates litigation were made by the Post Office. Whilst Fujitsu employees gave evidence, it was the Post Office who determined all aspects of its case including the choice of witnesses, the nature of their evidence and the associated documents. Nonetheless, we take Mr Justice Fraser's criticisms extremely seriously and we have now stopped the provision of any new witness evidence to the Post Office. [the underlining is my emphasis]

Q. - "Do you accept that local Horizon terminals could be accessed and altered centrally?"

A. - Yes, local Horizon terminals could be accessed and altered centrally."

Q. - "Why did it take a highly expensive court case to establish these facts?"

A. - This is a matter for the Post Office; they determined the litigation strategy and their conduct towards the sub-postmasters."

Press and Media Focus

The published letters, in particular those from Paula Vennells and Fujitsu, received significant media coverage yesterday and today, with articles in the Daily Mail, Computer Weekly and via the Blog by the journalist Nick Wallis (reported in the recent Panorama show). The articles can be accessed via the following links:

<https://www.dailymail.co.uk/news/article-8461207/Ex-Post-Office-boss-Paula-Vennells-sparks-outrage-blaming-scandal-tech-workers.html>

<https://www.postofficetrial.com/2020/06/paula-vennells-breaks-her-silence.html>

<https://www.postofficetrial.com/2020/06/fujitsu-tries-to-dodge-blame-bus.html>

<https://www.computerweekly.com/news/252485190/Former-Post-Office-CEO-and-Fujitsu-play-the-blame-game-in-Horizon-IT-scandal>

Of particular note is the comment from Karl Turner, Labour MP for Kingston Upon Hull East and Shadow Minister for Legal Aid, who has been particularly vocal on this matter. The quote attributed to Karl Turner by the Daily Mail is as follows:

"The obfuscation in her evidence is an utter disgrace. Vennells has chosen to throw everybody under the bus to save her own skin. She is responsible for ruining postmasters' lives and she ought to face up to some responsibility."

Next Steps in the Horizon Inquiry

In terms of next steps on the part of the BEIS Select Committee, Darren Jones confirms:

"The BEIS Committee will now consider how best to follow up on the issues raised in this correspondence and what recommendations we wish to make to Government to ensure that something like this can never happen again."

In conjunction with the General Secretary's Office we will also be considering our next steps in terms of further discussions with the Minister and formal correspondence to Nick Read in response to this Inquiry. We will also be considering further correspondence with the BEIS Select Committee Inquiry and will work with the Committee to provide any assistance or information should we be asked to do so.

Justice Committee Inquiry - Private prosecutions: safeguards

Following a request from the Criminal Cases Review Commission (CCRC), the Parliamentary Justice Committee has instigated an inquiry into:

"the effectiveness of existing safeguards and the merits of additional safeguards that could be used to limit the potential for the right to bring private prosecutions by large organisation to cause miscarriages of justice".

The full details are as follows:

"This inquiry will examine whether there are sufficient safeguards in place to limit the likelihood of injustices resulting from private prosecutions brought by organisations that act as the investigator and the prosecutor but are also the victim of the alleged offence.

The Justice Committee has set up this short inquiry following a request from the Criminal Cases Review Commission (CCRC). The CCRC asked, on 3 June, if the Committee would, following the referral of 47 Post Office Horizon cases for appeal, undertake a review of the "circumstances and safeguards where an organisation is allowed, as the Post Office was in these cases, to act a prosecutor when it is also the victim and the investigator of an alleged offence"....

The Committee will not be investigating individual cases, nor will it investigate Post Office and Horizon which is the subject of an ongoing inquiry by the Business, Energy Industrial Strategy (BEIS) Select Committee and a forthcoming independent review....

The Chair of the Justice Committee, Sir Bob Neill, MP stated

"The Post Office Horizon cases are a clear example of a large organisation acting as investigator and prosecutor of alleged crimes in which they were also the victim. There is a real risk that organisations in such circumstances will be faced with a conflict of interest that could call into question their ability to conduct an objective investigation and prosecution.

The Criminal Cases Review Commission's referral of 47 Horizon cases for appeal demonstrates a real need to re-examine the question of safeguards in this area of criminal justice."

It should be noted that the CCRC normally receives around 1,400 applications for reviews every year. Since 1997, the CCRC has referred around 3% of applications to the appeal courts. With regards to the Horizon cases the CCRC has so far referred 47 out of the 61 it received (an incredible 77%) to the appeal courts, with a further 7 still under consideration. Seemingly there is an unusual amount of clear evidence of injustice in these cases.

As you would expect, we will be submitting written evidence to this important inquiry – the deadline is 1st July. Further developments will be reported.

Yours sincerely

Andy Furey
Assistant Secretary