



Q & A on the High Court judgement in Bates vs Post Office Ltd

The recent High Court judgement by Mr Justice Fraser in the Bates vs Post Office Ltd case could have far-reaching implications for Post Office Ltd and the relationship it has with its agents. This Q & A is intended to clarify some of the issues it has raised and the NFSP's involvement in the case:

What is the ongoing Bates vs Post Office Ltd case about?

Bates vs Post Office Ltd is a group litigation, involving more than 500 subpostmasters, who are suing Post Office Ltd (PO) over losses incurred at sub post offices since 2000 after the Horizon IT system was introduced into nearly 12,000 post office branches.

There are expected to be four separate cases – the first dealt with the contractual relationship between PO and subpostmasters; the second case focuses on the Horizon system; the third and fourth cases will then deal with individual claims.

What is the current status of the case?

Mr Justice Fraser delivered his verdict on the first case on March 15, 2019. He was highly critical of PO and the culture of secrecy around the Horizon system. He accused PO of “oppressive behavior” in pursuing sums of money that could not be accounted for by subpostmasters and accused a senior PO Director of being deliberately misleading in her evidence.

On March 21, PO made an application to have the judge removed from the case on the grounds that he was not impartial. The case has been suspended until April 3. If the application is successful, the case will have to re-start with a new judge; if it is unsuccessful, Mr Justice Fraser will continue to hear the case.

What is the NFSP's view on the judgement?

We understand the reasons for some of the judge's criticisms of PO. In our experience, when PO has investigated subpostmasters, it hasn't always been open-minded and on many occasions failed to share important data relating to an investigation.

More generally, we believe the training provided to incoming subpostmasters is inadequate and needs to be improved. Currently, it focuses too much on upselling techniques rather than on essential operational information. We have challenged PO on these points at several meetings and made recommendations for improving the process. We also believe the process for dealing with subpostmasters who are leaving the business needs to be more efficient.

We hope PO responds positively to the judge's criticisms by improving the way it operates in these important areas.

Why was the NFSP mentioned in the judgement?

The NFSP is a professional trade association representing more than 8,000 subpostmasters, who operate more than 9,300 post offices, and the only body recognised by PO to act on behalf of subpostmasters. We were not involved in the case and were given no opportunity to provide a statement or give evidence in court. As a result, inaccurate information about the NFSP went uncorrected and, on this basis, the judge was unfairly critical of our organization. We believe it is important to set the record straight.

What were the judge's criticisms?

Mr Justice Fraser stated that the NFSP put its own interests above those of its members in relation to compensation arrangements for subpostmasters leaving the business during Network Transformation (NT). In fact, we successfully negotiated substantial settlements for around 3,500 subpostmasters who wanted to leave the network during NT whilst protecting their investments.

Our membership voted overwhelmingly in 2015, at branch, regional and national level, to negotiate a new relationship with PO. We are a professional trade association and the fact that we receive funding from PO has never stopped us negotiating the best possible deal for our members. Moreover, the funding enables us to provide practical support through our Mails Segregation and Retail teams and to offer advice and support to subpostmasters.

The judge said he did not believe there had been any “appreciable” negotiation between PO and the NFSP over the new NT contracts. In fact, we were heavily involved in the negotiation process and had substantial input into improving the contract terms for subpostmasters.

In addition, the judge found it suspicious that the NFSP website had been amended during the case, and that the Grant Framework Agreement (GFA) had been published on the site, suggesting this was done to bolster PO’s position. However, we have taken no position on the case and remain impartial. The simple fact is that the GFA had long been publicly available on our website and was only removed in September 2018 as part of an ongoing refresh of the site. It was reinstated in November 2018 because the terms of the GFA had been highlighted in court and – in the spirit of transparency – we felt it was important they could be seen by anyone interested. There was never any intention to conceal or mislead. The GFA was always intended to be a public document.

Is the NFSP independent from Post Office Ltd?

Yes. Funding from PO allows us to provide practical support to subpostmasters more efficiently than they could, but it does not prevent us from challenging or criticizing PO and we often do so. The terms of the GFA are not as restrictive as Mr Justice Fraser suggested in his judgement. The NFSP is led by subpostmasters and we always act in the best interests of our fellow subpostmasters.

Has the NFSP’s status as a trade association, funded by Post Office Ltd, prevented it from supporting the Justice For Subpostmasters Alliance?

No. The claims being brought under the current litigation are historic cases and almost of all of them pre-date the Grant Framework Agreement; at the time, the NFSP was a trade union funded by member subscriptions.

Why is the NFSP not supporting the claimants?

Most of the cases date back to the early 2000s – before the NFSP became a trade association. Some of the claimants contacted the NFSP and we offered support and advice at that time. Many chose to take their own courses of action and act independently, including those who pursued a legal route. However, we have never tried to stop subpostmasters getting involved in the group litigation. Our position has always been that we will await the outcome of the cases and not pass judgement ourselves.

How does the NFSP represent subpostmasters?

We are an apolitical, non-partisan organisation. This means we have good relationships with a wide range of stakeholders in the industry and with decision-makers in government. These relationships give us influence, which we use for the benefit of our members.

We have long-standing experience and expertise and a strong organisational infrastructure, which means we provide practical advice and support to our members in the following ways:

- Our Negotiating Committee works month-in-month-out to raise issues with PO that our members bring to us, and to push for solutions that benefit subpostmasters;
- We are in regular contact with 4,000 sub post offices to help support them with mails segregation and other post office issues. Because of our work on mails segregation, subpostmasters shared a bonus payment of £900K for 2017/18 and we are pushing PO to reward the network for hitting the Letters/Large Letters target in 2018/19;
- Our Retail Team have helped boost subpostmasters' income at hundreds of offices around the country. Free retail support and consultancy is available to all NFSP members – as is access to exclusive deals from our trusted commercial partners;
- We have Branch and Regional networks that bring local subpostmaster communities together;
- We provide a monthly magazine filled with post office and retail information, an Annual Conference, HR support, a holiday relief cover service, a trauma helpline, free insurance services, and much more including the NFSP Benevolent Fund – a registered charity set up to help subpostmasters and their families who fall on tough times.

We do all of this at no cost to NFSP members.

We are an inclusive, member-focused organisation. We concentrate on furthering our members' interests at all times. We strongly believe we are best equipped to support and represent subpostmasters and will continue to do so to the best of our abilities.