



Closing Submission
on behalf of The National Federation of Sub-Postmasters
in Phase 2 of the Post Office Horizon IT Public Inquiry
Chaired by Sir Wyn Williams

Introductory remarks

1. In providing this Closing Submission the National Federation of Sub-Postmasters (NFSP) is grateful to the Inquiry and to its Chair for allowing these submissions to be made. As with other Core Participants in this Inquiry, these are not the final position of the NFSP, but a summary of the NFSP's position on the evidence which has been heard in Phase 2 and a way to look ahead at what may be relevant in the forthcoming Phase 3, and following phases.
2. The NFSP has noted and supports the submissions of the Core Participants as set out by Mr Stein KC in relation to the technical evidence of the way in which Horizon was to operate, how key aspects were designed out (the ability of sub-postmasters to interrogate the system) that there was an intention to use Horizon and 'evidence' from it to support civil and criminal actions against sub-postmasters and also on the contractual basis of a pfi project of such a scale.
3. The NFSP has been shocked, although with today's knowledge, sadly not surprised, to hear the evidence throughout Phase 2, from the Inquiry's expert Mr Cipione, and others, that the Horizon system could never deliver what was promised and what the NFSP understood from assurances at government and Post Office level would be delivered. The evidence in this phase suggests there may have been suppression within POCL with regard to the seriousness and scale of issues with the system. The evidence of David McDonnell, former development

manager at ICL, was that it was obvious to him that some of those involved could not design the relevant code and that there was reverse engineering, a lack of peer review and concluded the code was such that he had not seen anything like it. His evidence was that the product could not do what it was intended to do. It is submitted that Mr McDonnell's evidence is of considerable importance and concern to the Inquiry as the design of the system, alongside the procurement of it, is at the heart of the problem and all that flows from the reliance on it as a system that was indeed fit for purpose.

4. It is indeed a question for the Inquiry as to whether all of this is sheer incompetence – at government/procurement/contractual level, at design level and at implementation level – or if there is something more sinister involved in some areas, where there were some who knew there was something wrong but pressed on regardless, allowing things to go so far that it became impossible – until the group litigation shone the light on it all – to row back.
5. This project reaches the highest level – the office of the Prime Minister – and multiple Secretaries of State, who attended the Inquiry to give evidence. It might be a question for the Inquiry as the effect of the regular changes at this senior ministerial and the reliance on civil servants who may not have had the technical understanding of this project, in its scale, cost and technicality – it is suggested that the evidence of Sir Geoffrey Mulgan was illuminating on this point. In addition, Alan Milburn gave evidence that Ministers might not see all correspondence, as civil servants might triage it, including the letter which Colin Baker of the NFSP had written to him on 8th January 1999
6. It is submitted for the NFSP that it will be of critical importance to find out who knew what about what was wrong with the system and if, how and why that information was suppressed, allowing sub-postmasters, manager, assistants and Post Office employees to be prosecuted and their lives devastated as a consequence. It is understood this may be more of a focus in Phase 3, but informed by the evidence which has been heard in Phase 2.
7. It must be emphasized for the NFSP that it entered into the Horizon project, working groups, roll-outs and feedback, on which more later, in **good faith**. That has made the evidence on the technical failings, and institutional knowledge at ICL/Fujitsu and POCL of such failings, hard to bear, given the way in which the NFSP believed the project as presented to them was to be the saviour of post offices up and down the land.

The revolution which Horizon was meant to bring

8. The evidence of Colin Baker, General Secretary of the NFSP from 1991 to 2007 was that it known and understood across the network of post offices and sub-post offices across the UK that automation was needed, or there was going to be a huge loss of post office services in communities. This was confirmed in a variety of evidence from, for example, Tony Kearns of the CWU, Sir Ian McCartney, Alan Johnston, Colin Baker and John Peberdy of the NFSP. Without automation, it could be said that the service would wither and, in many areas, die. As John Peberdy of the NFSP said in his evidence, the concern that the Benefits Agency were going to move away from using the Post Office network meant that the aim of automation was to expand the range of services that could be available at a post office. He said that the Post Office needed bringing into the modern era [page 56, transcript 2 December 2022]. As Alan Johnston [page 60/61 transcript 1 December 2022] said, in his role as General Secretary of the CWU, he saw automation as the salvation of the post office counters network as the CWU was concerned about the number of closures of Crown Offices. It is submitted this is why the support for the introduction of the system for those on the ground ran so deep and explains the reluctance to publicly question the system, lest automation be taken off the table or delayed for years.

9. It is submitted that the need for automation and the support for it to save the UK's post office network forms the backdrop to the procurement, development of and introduction of Horizon. But, what was happening behind the scenes, in relation to, for instance, procurement, design, cost, was unknown to those on the ground, including the CWU and NFSP. As mentioned above, those on the ground entered into the project with good faith, with the genuine aim and understanding that automation, in the form of Horizon, was what would save Crown and sub-post offices.

10. In considering the automation of the post office network, it is submitted that it will be important for the Inquiry to understand the different types of office where post office services were offered and the numbers of such offices involved:

- Crown Offices which were run under the auspices of the Post Office and where staff would often be members of the CWU [as explained by Tony Kearns of the CWU in his evidence on 29 November 2022]
- Sub-Post Offices which were run as businesses by individuals and which would often have a shop or similar independent business running alongside and where sub-postmasters could be members of the NFSP, although not all were [as explained by Colin Baker and John Peberdy in their evidence on 30 November and 2 December 2022].

Horizon Working Group

11. The Horizon Working Group (HWG) was established by Sir Ian McCartney whose evidence was that he always felt it was important to hear about the “lived experience” of those on the ground and not only from those who were responsible for the product itself. He saw a role for the CWU because they had been involved in the earlier mechanisation of Royal Mail delivery services and had experience of some difficult discussions at that time. Sir Ian considered it was important to ensure they felt they could give from their perspective how IT should work. He wanted the CMA there, being the managers on the floor working with the CWU members and as management their duty is to put across the view of the company and it was important that management expertise was reflected. He saw the NFSP as important, not just because of 20,000 outlets but years of experience and knowledge of a customer base, operation of the facility and their knowledge in terms of what would be required to sustain their business. BEIS0000346 gave the terms of reference, and described the group as a ‘valuable forum’. It was to include ICL, POCL, Government Ministers, including the Secretary of State and relevant civil servants.
12. It is submitted that the basis of and reasons behind the HWG was well intentioned by Sir Ian, however, the evidence of Colin Baker, Tony Kearns and John Peberdy was that the unions saw it as a higher level group, not one where the nitty gritty of technical or teething problems on the ground would be discussed with those operating at the highest level in government, the Post Office and ICL. It is submitted that this was entirely reasonable on their part. As Colin Baker said [transcript page 28, 30 December 2022] about the Horizon Working Group and what issues he raised, he said it was a “high level group”. John Peberdy acknowledged in his evidence that the NFSP wanted to bring what influence they could to the HWG because: *“Nobody wanted to shut a village post office. Nobody wanted to shut a post office. So any method to keep them open, and*

bearing in mind the Government had made a pledge to keep a nationwide network of post offices." [Transcript page 61, 2 December 2022].

13. Colin Baker, Tony Kearns and John Peberdy all gave evidence that they saw the HWG as a high level group and only one of the mechanisms for raising issues. While the Inquiry has been interrogating the opportunity that the HWG presented for the technical issues being experienced during the trials to be raised, as Colin Baker said, the meetings were about Horizon and what he was hearing about were screens dropping off and the HWG did not seem to be the place for raising the on the ground technical issues. That said, the CWU and NFSP's evidence was that the HWG was a mechanism to be involved in a group where the parties responsible for the project were round the table. It is submitted that the HWG was a higher level group and the unions were right to feel it was not one for discussing the detail of what was happening on the ground. Asked by counsel to the Inquiry about whether or not he should have cut through to the HWG and raised the more detailed issues there, Colin Baker said: *"This was the Horizon Working Group, chaired by Government. Those sort of discussions were left for management of the Post Office, and those that were responsible to delivering the programme."* This was echoed by John Peberdy who said that he did not accept the NFSP could have done more to question the Horizon system overall, he said that they did as best they could to highlight the issues that were being brought up by members in the trials. His concern then was that the system freezing meant information was being lost in balancing and that sub-postmasters were having to make up the difference as it was not (as was understood then) a real loss for the Post Office because the sub-postmaster would make up the difference. Of course, that later turned out not to be the case and prosecutions followed, but at the time, this was Mr Peberdy's concern.

14. It is submitted that the important point is what the NFSP and others were doing about those problems on the ground. Colin Baker's evidence was that he and others on the NFSP National Executive were hearing from members about difficulties experienced in the trials and that much of his focus was on taking these issues directly to Post Office. And it is perhaps worth noting here that Paul Rich on the 21 October 2022 commented on the NFSP, and there is a minute of the Post Office which highlights that the involvement of the NFSP would be kept to a minimum, saying at transcript page 50 that the NFSP *"certainly weren't in the Post Office's pocket. They were vociferous if they thought there had been substantive complaints by those sub-postmasters who had used the system because of these sort of*

issues I'm sure they would not have been alerted to it and they would not have been slow in coming forward with those."

15. Colin Baker, Tony Kearns and John Peberdy were all able to explain the particular issues which arose with balancing and confirmed that there had always been issues with balancing prior to Horizon. This could be as simple as not including some stamp sales. He explained the contract which sub-postmasters had, which was they were responsible for losses and often put their own money in to balance. While it is with the benefit of hindsight it may be seen that balancing on Horizon, or rather difficulties with balancing on Horizon, were a problem, on the evidence it is submitted that at the time it could not be determined at the time what was human error and what was system error. As Colin Baker said it was ever thus, did not appear to be the great issue that it was to become and was one of a melee of things, such as frozen computer screens, which were showing as issues. It is submitted that it is not to minimize what did become a very significant issue in criminal prosecutions, but that what the NFSP and others were seeing was not something that foreshadowed what was to come.
16. Both Colin Baker and Tony Kearns explained their organisational networks where issues about balancing were dealt with locally and would not generally come to 'head office'. It is a question for the Inquiry as to whether the dots were capable of being joined by the unions at this much earlier point and thereby prevented what ultimately took place. But, as Colin Baker said, this was a 'slow burn, not a big bang'. [Page 61 transcript, 20 December 2022]: *"It didn't start with the Big Bang, as I explained before. It was a slow, a gradual increase in the numbers of sub-postmasters. And I only get to hear numbers of sub-postmasters. And I only get to hear what is fed to me. Now, there's three classes of sub-postmasters, can I put it that way? There are those that are members of the Federation and would refer it to the branch secretary and who we hope would refer it. There are non-members, who wouldn't, obviously, because they're not members. And a third category is those that felt embarrassed that they had losses in their Post Office and weren't saying anything. And so we had to amass pass this information the Federation headquarters, via the branch secretaries and the Executive Council. If that didn't happen, we wouldn't get to know about it. And so, at this point, 1999, it wasn't the real problem that it is now."* This also matched the evidence of Tony Kearns of the CWO who outlined something similar for his organisation. It is submitted that it is an important point that not everyone involved in balancing losses or prosecutions was a member of a union, whether the CWU or the

NFSP. With a network of thousands of post offices and sub-post offices, how possible would it really be to join those particular dots?

17. It is submitted that this will principally be a question for Phase 3, but in considering it here on the evidence available, the unions would have to know about things they did not know about—for instance, the Post Office intention to use Horizon as evidence to prosecute, that the Horizon system could and would give wrong information, that this could and would be used against sub-postmasters and Post Office employees. It is submitted that it is a leap, at this stage, to go from reporting issues and trying to have them resolved to a large scale prosecution of sub-postmasters and Post Office employees.
18. It can be seen from the various reports and minutes of meetings of the NFSP that, for their part, they worked tirelessly to engage with Horizon and to bring the issues affecting their members to the attention of the Post Office and Government. David Miller and Alan Johnston were among those who attended conference, special meetings and NEC meetings of the NFSP. The issues were brought to them, either through such meetings or directly by Colin Baker and John Peberdy. Their evidence was, as was that of Tony Kearns, that they relied on the assurances of the Post Office that the issues they brought would be or had been dealt with. It is submitted that they had no reason to believe that this was not the case, and that despite all of the work to feedback on the trials that Post Office would go ahead with what may be found to be knowledge that the system was not fixed. The NFSP trusted what they were being told (see, for instance, Colin Baker, transcript page 60, 30 December 2022 – *“I had no choice but to believe them, because they were masters of it all”*). It might be said with hindsight that trust was misplaced, even abused. As Colin Baker, Tony Kearns and John Peberdy all said, the unions wanted automation, it was to be the saviour but not at any cost. Colin Baker and others repeatedly emphasized in their evidence that they wanted the system, but they wanted it to be right, not rolled out at any cost.
19. Colin Baker’s evidence was that he knocked on doors and took the concerns his members were bringing to the Post Office, to people such as David Miller. His description to it becoming his ‘life’s work’ and ‘beating the drum’ for sub-postmasters was emphasized in his evidence at page 16 and 17 of the transcript of 30 December 2022, where he said he’d speak to anyone, go anywhere, use any channels to find out what was happening, but this was predominantly Post Office Counters Limited, who always “reassured” him. He said he did not know at the time how many people were actually involved in the project, that he was never allowed anywhere near ICL

Pathway and that the NFSP (like the CWU) had no say in the procurement, design or sign off of Horizon.

20. It is submitted that the words of Sir Geoffrey Mulgan [transcript page 149, 1 December 2022] are most pertinent here, given the efforts which Colin Baker and John Peberdy to raise the issues sub-postmaster were reporting from the trials and at meetings attended by Post Office:

“A year or two after this I was responsible for doing a big review of how Government handled risk of all kinds, and a very common pattern in risk is that people lower down it hierarchy spot problems and risks but then it's filtered out as communication goes up to the top of the hierarchy and I expect in retrospect this was exactly a case like that, where many of the people on the ground involved knew some of the problems and the flaws, but for different reasons, as communication went up through the many, many levels of very hierarchical organisations, the DTI, Post Office, DSS and so on, that got filtered out. [emphasis added]

21. It is submitted that this is exactly what happened. The NFSP was banging the drum, was knocking on doors, was reporting the issues and was being reassured they were all being dealt with. They believed that what they were feeding back to Post Office was making its way to those they did not have access to, for instance, ICL Pathway. But, it transpires that was not the case.
22. In closing, the NFSP submits that it was, as John Peberdy said, a small cog in a very big wheel. Certainly it was one with important information which it fed back, all as described in the evidence. But when compared to the might and size of ICL/Fujitsu, UK Government Departments and the Post Office, a small organisation doing what it could to feedback but where it had no decision-making role and no access to those who were designing the very systems which its members had to use. It is submitted that the role and actual influence of the NFSP to change things was more limited than thought by some. It is submitted that a comparison between, for instance, ICL/Fujitsu and an IT PFI project being rolled out across the UK on the one hand, and those on the ground on the other, is a difficult one to make. It is submitted that Sir Ian's good intentions with the HWG could not, in reality, square that circle.
23. Looking ahead to Phase 3 and the operation of Horizon, it is submitted that the evidence from Phase 2 about the Horizon system and how those on the ground were actually dealt with, will be key. The NFSP will continue to support the Inquiry in all of its work in that phase in order for the

light to be shone on a system that the evidence suggests was not fit for purposes, reassurances about which were false and which was rolled out anyway, regardless of the human cost to come.

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