

Business and Trade Committee

Oral evidence: Post Office and Horizon – Compensation follow-up, HC 477

Tuesday 16 January 2024

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Business and Trade Committee members present: Liam Byrne (Chair); Douglas Chapman; Jonathan Gullis; Antony Higginbotham; Ian Lavery; Anthony Mangnall; Julie Marson; Charlotte Nichols; Mark Pawsey.

Justice Committee member present: Sir Robert Neill.

Questions 1 - 41

Witnesses

I: Dr Neil Hudgell, Executive Chairman, Hudgell Solicitors; the Rt Hon Lord Arbuthnot of Edrom.

Examination of witnesses

Witnesses: Dr Neil Hudgell and Lord Arbuthnot of Edrom.

Chair: Welcome to today's session of the Business and Trade Committee, where we are looking at the follow-up work that the Committee needs to undertake to pursue the rightful compensation for those who were wrongly treated in the Post Office Horizon scandal. I need to first make a short statement about the House's sub judice resolution.

There are relevant active legal proceedings relating to Horizon before the courts. In December 2022, Mr Speaker exercised his discretion in respect of all matters sub judice to allow reference to those proceedings as they concern issues of national importance. That waiver is ongoing and applies not only to speeches made by Members on the Floor of the House, but to remarks by both Members and witnesses in today's oral evidence session. Nevertheless, I urge Members and witnesses to exercise caution in what they say and to avoid referring in detail to cases that remain before the courts. I also urge Members and witnesses to bear in mind that Sir Wyn Williams's Post Office Horizon IT inquiry is ongoing.

With that, I welcome Lord Arbuthnot and Neil Hudgell to the Committee today. Would you like to say a word of introduction for the record, and then we will get into the questions?

Lord Arbuthnot of Edrom: I am James Arbuthnot. I was the MP for Jo Hamilton when I was the MP for North East Hampshire, and I am a member of the Horizon Compensation Advisory Board.

Dr Hudgell: Good morning. My name is Neil Hudgell. I am the solicitor who represents 77 convicted sub-postmasters, 150 affected by the Horizon shortfall scheme, and potentially another 200, so across a cohort of about 400 people affected directly by the Post Office scandal.

Q1 **Chair:** Thank you. Lord Arbuthnot, may I start with you? We have now had a very high-profile drama and a promise of emergency legislation. What do you think that emergency legislation needs to include if we are to get real justice for the sub-postmasters?

Lord Arbuthnot of Edrom: The Horizon Compensation Advisory Board recognised that one of the major blockings of getting people compensation was the fact that of the 900-plus convictions of sub-postmasters over the years, only 95 of those convictions had now been overturned; all the rest were not able to get or claim any compensation. The first thing that needs to be done—this is a mass problem that the British legal system has never had to deal with before and it needs a mass solution. Precisely the terms of that mass solution and the extent to which it involves, for example, judges in overturning the convictions are a matter yet to be fully hammered out. However, the Minister has committed, and I entirely trust his commitment, that the Government will be working with the Horizon Compensation Advisory Board to work out the best terms for something that is frankly uncomfortable for the British constitution—namely, to have the legislature taking a part in overturning judicial decisions. That is the



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first thing: overturning mass numbers of convictions. [*Interruption.*] You held up your hand up to stop me.

- Q2 **Chair:** After years of delay, dither and obfuscation, what is now, in your view, a reasonable timeframe for finally making sure that everybody is recompensed for what they are owed?

Lord Arbuthnot of Edrom: This has gone on for more than 20 years. If we can sort it out by the end of the year, that would be a welcome change. Let's hope we can get it sorted out before August, but currently there is the Bill, which has its Second Reading in the House of Lords this afternoon, to extend the time under which compensation can be paid.

If I may resume my rant, the first item was overturning convictions, which will not be easy because people are not coming forward. The second item has to be to speed up the payment of compensation or redress, as Alan Bates would like it to be known, with justice. That needs to be done. I think some of the measures that the Minister announced in Parliament last week will certainly help. They will free up civil servants to allow them to concentrate on getting the money out of the door. It is essential for these people, who are living hand to mouth—some of them are still bankrupt—that this money is paid as soon as possible. I hope it is a matter of weeks, rather than months. In some cases, it will be a matter of months, but it must not be a matter of years. It must not spill into next year.

- Q3 **Chair:** Neil, could you take us through how many people, in your understanding, have actually received anything? We have tried to put the picture together from public records. Frankly, it is impossible to tell how many people have actually had what they are due.

Dr Hudgell: There are a lot of moving parts to this, and obviously different schemes produce different outcomes. My understanding, in rough numbers from the historical shortfall scheme, is that the majority of the original applicants have been paid out. There is a significant issue with that, in that most of those were paid out without the benefit of legal advice. It is something that exercises us greatly, but it is one of those things where there is so much to go at, where do you prioritise? Within the convicted cohort of clients that we have, three of the 73 have been fully paid out.

- Q4 **Chair:** Just three?

Dr Hudgell: Three, and then—it is a slightly moving number—between 28 and 30 have accepted the fixed £600,000 proposal. Most of the others have had some form of interim compensation, but not final conclusion.

- Q5 **Chair:** Let me just check this. Years after the key landmark cases, only three of those convicted have had a full and final settlement.

Dr Hudgell: Correct. I have some insight as to why that is the case. To my mind, there are three key factors at play here. It sounds perverse to say this, but I am not sure that enough resource is thrown at it in terms of the right resource in the right areas. For example, with the overturned



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conviction cases, it is routinely taking three to four months to get a response to routine correspondence on—

Q6 **Chair:** Three to four months?

Dr Hudgell: Yes. In the Horizon shortfall scheme, it is taking six months to get a panel decision on a small number of cases, which is indicative of maybe not enough people sitting on those panels. Equally, a really big issue—I cannot lift the bonnet here; I can only draw conclusions from what I see—is that there are too many layers of bureaucracy. We have had examples of situations where decisions have needed to go through four layers of decision making to get an outcome. We can agree something in principle with the Post Office or lawyers. It goes through various iterations, and either comes back morphed into different form or does not come back at all.

Building on what Lord Arbuthnot says, there is a need to streamline things here and produce a quicker process. I agree that there is a capability to resolve these matters in the course of this year, but there is another factor that comes into play: we need to give the sub-postmasters the benefit of the doubt on key matters. As it stands at the minute, we are faced with requests for information that go to finite detail in relation to heads of loss that have no supporting documentation, either because of the passage of time or because the poor sub-postmaster was locked out of the Post Office 15 or 20 years ago and all the documents are in there. The Post Office have or held the documents, and now those people have been held to account on things that they have no support for.

I would say as well that there are some extreme examples here of document requests or information requests. I look at the Post Office and their spend of £100 million on defending the indefensible, yet I am being asked to provide evidence of a client who has been to probation and spent money on £900-worth of travelling expenses over 15 years ago, so the proportionality is not there. There is a really good opportunity now to change that dynamic, and that is on the back of the mass acquittal process. We now seem to have a situation where, depending on the devil in the detail, someone can almost self-certify that they are not a criminal and open the door to £600,000 in compensation. If that self-certification is good enough in that forum, it is certainly good enough for innocent people who have been badly wronged to self-certify that, "It has cost us this, this and this." That forensic trawl therefore should be relaxed and the benefit of the doubt given to those poor people.

Q7 **Chair:** Do you think that the bureaucracy is basically dragging its feet in providing redress?

Dr Hudgell: That is the only logical conclusion that I can come to. As I say, I am not here to pillory people. I think that we have very good relations, at face value, with the people we deal with in both the Business Department and the Post Office, but it then seems to go into this machine, this abyss, and morph back out months later in a different form.

Q8 **Chair:** So we have the biggest miscarriage of justice in British legal



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history. We are years on from the key landmark case, and we still have red tape preventing redress for the victims.

Dr Hudgell: It all appears over-engineered to me.

Q9 Douglas Chapman: Thanks for joining us this morning. Lord Arbuthnot, I noticed in your CV that you were previously Chair of the Defence Select Committee. I am sure that during your time serving on that Committee you saw a whole range of procurement contracts that had gone awry. Where does this one sit in terms of the seriousness of the impact it has had on not just sub-postmasters, but on confidence in the Government's own procurement process?

Lord Arbuthnot of Edrom: This one sits quite separately. There was something that the Defence Committee described as "a fiasco", which was the FRES—the future something effects service—which cost many billions, but this one has such human implications that spread throughout the country—for people who had been the leaders of their communities to be humiliated in front of those communities—that this is of a totally different order.

Q10 Douglas Chapman: Regarding the £7 billion-worth of contracts that Fujitsu has received from the Government since 2012, what do you think the expectations might be on the part of the sub-postmasters in terms of any future contracts being awarded? Is there another Horizon, in your view, sitting somewhere in some other Government Department where the same supplier has been implicated?

Lord Arbuthnot of Edrom: Well, there could be. Will you forgive me if I tell you that I have concentrated mostly on this one, because it is just me—I do not have a secretary or anything? I have concentrated just on this, but I hope that Fujitsu would accept that it has played a part in the devastation visited upon the sub-postmasters. It might also like to accept that it should play a part in the redress that the sub-postmasters need now.

Q11 Douglas Chapman: Dr Hudgell, we have heard a lot about compensation and what is coming forward from either the Government or others. Where do you think Fujitsu sits in terms of its obligation to provide compensation to the people who, as we have just heard, have had their lives destroyed? It has really undermined the whole procurement process for future suppliers as well.

Dr Hudgell: I think it is fair to say that Fujitsu has a role to play. At the end of the day though, this is not about a flawed IT system in many senses. It is about decisions made on the back of that flawed IT system. Who made those decisions? Who is responsible for that? Fujitsu is certainly part and parcel of that.

It links back, in a sense, to why we need closure this year. Part of that for the good people here is accountability. Post Office have seen this: we have in excess of 100 psychiatric reports for people diagnosed with all sorts of depressive illnesses, post-traumatic stress disorder, paranoia—everything you can possibly think of. There are two things that come out of those



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reports that Post Office are aware of. One of them, to bring about an improvement in mental health, is accountability, and Fujitsu is part of that. The other thing is closure to this litigation and closure to this compensation. There is clear medical evidence that draws a link between the mental health of sub-postmasters and this ongoing trauma around the whole Horizon scandal.

Sir Robert Neill: Perhaps I should say, Chair, that Dr Hudgell and I know each other professionally because he and his firm have given evidence to the Justice Committee in relation to other, completely separate, policy matters. It is good to see you again, Dr Hudgell.

Dr Hudgell: You, too.

- Q12 **Sir Robert Neill:** Perhaps you can help me with this. At the relevant time, there was a code for prosecutors in place. That code, I think I am right in saying, applies to private prosecutors just as much as it does to a public prosecutor, such as the Crown Prosecution Service. Am I right in thinking that that code, among other things, sets out an obligation on the prosecutor to be fair and even-handed in their approach at all times?

Dr Hudgell: Correct.

- Q13 **Sir Robert Neill:** Is it also right that a private prosecutor, just like a public prosecutor, is bound by the Attorney General's guidelines, as they then were, on disclosure?

Dr Hudgell: Correct.

- Q14 **Sir Robert Neill:** And disclosure obligations include revealing to a defendant any material that may undermine the prosecution case or assist the defence.

Dr Hudgell: Correct.

- Q15 **Sir Robert Neill:** And therefore, the Post Office, acting as prosecutor, would have been bound by both of those obligations.

Dr Hudgell: Correct.

- Q16 **Sir Robert Neill:** And it is also true that that obligation to review cases as evidence unfolds and to review your disclosure obligations carries on from the start of the investigation until the conclusion of the trial.

Dr Hudgell: And beyond.

- Q17 **Sir Robert Neill:** Indeed, potentially, if appeals issues are raised.

Dr Hudgell: Correct.

- Q18 **Sir Robert Neill:** I get the sense that there was a wholesale disregard of disclosure obligations. You have seen some of the files. Were they complied with, as far as you can see?

Dr Hudgell: I have seen some of the files. I have heard some of the evidence. I would like to tread carefully as, of course, the statutory inquiry is ongoing at the moment. Considering some of these issues in the current



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phase, I think anybody who has seen some of the recent evidence in the inquiry will draw their own obvious conclusions from that.

- Q19 **Sir Robert Neill:** When you gave evidence to the Committee back in December 2021, you referred to the number of false confessions that had been referred to. I think you mentioned that was a theme, which we now know was picked up in the television series. Again, you are an experienced lawyer and you have come across these cases before. What is it, do you think, that caused innocent people to make false confessions—confessions that were not true of something they had not, in fact, done in these cases? You and I might have a reason, as lawyers, as to why. For the record, what do you think?

Dr Hudgell: I think there is a raft of reasons. I think that the main one is probably inequality of arms. You are facing this big beast in the Post Office, with all the machinery that sits behind it. You have some poor person who is being accused of doing something hideous who that does not have that. You then obviously go on to a situation where there is a court process and a plea bargain that, again, is based on entire inequality of arms. Who is going to find x thousands of pounds to obtain computer evidence at a time when they are not in employment? It is all power to the elbow of removing from an institution such as Post Office the right to prosecute and to be the victim, judge, jury, executioner and, obviously at the end of it, beneficiary.

Lord Arbuthnot of Edrom: The Horizon Compensation Advisory Board put out a paper with the minutes of the meeting that we held on 10 January, talking about the implications of the psychological effects on sub-postmasters and sub-postmistresses of the behaviour of authorities. There is a paragraph titled “The exploitation of fear through irresponsible conduct”, which is worth reading.

- Q20 **Sir Robert Neill:** Does either of you happen to know whether all or most of these postmasters and postmistresses were legally represented at the time they were interviewed? They would have been by the time the cases came to trial, of course, but what about when they were first interviewed?

Dr Hudgell: Not necessarily legally represented, but there would have been union representation.

Lord Arbuthnot of Edrom: My impression is that very few were.

- Q21 **Sir Robert Neill:** We talked about the duty to be fair and even-handed that applies to prosecutors. It applies to investigators as well, but we know that there was a financial incentive to Post Office investigators in these cases. That seems to sit ill with the obligation to be fair and even-handed as an investigator and prosecutor.

Dr Hudgell: I have thought about this quite a bit. It was very culturally ingrained that there was a new IT system brought in that was going to catch out a nation of dishonest people. I think the narrative from there



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was to collect evidence to support that and to ignore anything to the contrary. I think that was one factor.

- Q22 **Sir Robert Neill:** Which in itself would be a departure from the disclosure obligations.

Dr Hudgell: Correct.

Lord Arbuthnot of Edrom: The Second Sight interim report referred to the primary motivation of the investigations being asset recovery, rather than the investigation of what might have gone wrong.

- Q23 **Sir Robert Neill:** And therefore the approach that should be applied to a criminal investigation may not have been followed.

Lord Arbuthnot of Edrom: Indeed.

- Q24 **Sir Robert Neill:** Dr Hudgell, you mentioned the question of computer evidence. There was a time in the early '90s, as I recall, when the obligation was on the prosecution to prove, in effect, the computer evidence. Now, apart from a fairly basic statement that the computer was working and so on, it is quite difficult to challenge computer evidence, isn't it? Is that something that needs to be looked at? Are there particular challenges around computer evidence?

Dr Hudgell: I think there is a wider question about challenging everything. We have made certain assumptions about this entity, the Post Office, and if there is one big lesson to take from it all, it is to assume nothing. I have some issues at the minute with specific cases, where three or four years ago I may have assumed that these things could not have happened, but forgery of documentation and creation of fictitious accounts to dismiss people are now firmly in my sights as more likely to have happened than not. I do not think you can assume anything now when it comes to the behaviour that has gone on over the last 20 years, because every week there is a new revelation. One of the many things that has come from the dramatisation is the increasing number of whistleblowers that are prepared to come out and start to spill the beans when before they did not necessarily have, not the bravery, but the ability to do so.

Lord Arbuthnot of Edrom: There is a presumption of the reliability of evidence produced by a computer, which was brought in at the recommendation of the Law Commission. I hope that if this case produces nothing else, that presumption will quickly be changed. Quite what it should be changed to is up for discussion, but it needs to be changed, because it is clear that very, very few—if any—computer programs are entirely reliable.

- Q25 **Chair:** You said that many of the claims under the Horizon shortfall scheme and the historical shortfall scheme were submitted without any kind of legal advice. Obviously, the ITV drama has created a much bigger profile for the issue. Do you think that there are many, many more people who suffered who are now going to come forward with legitimate claims for redress?



Dr Hudgell: Up to this morning, we have had in excess of 200 inquiries related to Horizon shortfall.

Q26 **Chair:** New inquiries?

Dr Hudgell: New inquiries. Equally, we have had in excess of 20 that have asked us to re-look at settled HSS cases. As I said earlier, my gut feel on this is that there are a significant number of under-settled matters. I take some of that intelligence from a small cohort of cases in which we have secured substantially increased offers that are still unsatisfactory. In one case, an offer went from £120,000 to £220,000. Another case has similar-ish numbers, but on average there has been at least a 25% increase. There is real strong concern that there are a number of under-settled matters, because the vast rump of those cases were settled without legal advice and, in fact, settled at a time when interim payments were not routinely offered. That changed, as did the application to request further information. It is a misconception to say that the smaller cases were settled off first, because you may have a shortfall loss of a few thousand pounds, but if that in turn gives rise to a suspension, termination and loss of business, the consequential losses are significantly more than the original losses claimed.

Q27 **Chair:** The Post Office is making some play of the fact that 85% of people who have claimed under the Horizon shortfall scheme have had money paid out. What you are telling us is that there are potentially hundreds more victims still out there and that many of the victims have been short-changed on the settlements they have received.

Dr Hudgell: Yes, both are correct. It may be a question to ask: "Of the 85% who have settled, how many of those settled with legal advice?" I think that would be a fair question to ask.

Q28 **Sir Robert Neill:** On a final topic, we have talked about legislation to overturn these convictions en masse, Lord Arbuthnot, but where does that leave the positions of two classes of people? The first is those who appealed their convictions successfully through the court process. It has been suggested by some commentators that we run the risk of devaluing, in effect, the overturning of their appeals through the normal appellate process by this route. That is a fair observation, isn't it? How do we deal with that in a proportionate manner?

Lord Arbuthnot of Edrom: This solution is not a comfortable one, in many different ways. It is, as the Minister put it, "the lesser of two evils". We need to get these convictions overturned as a matter of speed. I do not think that those successful appeals, where convictions were overturned in front of the court, would be devalued in any way. That is my own view, but we have to deal with this, and we have to deal with it quickly.

Dr Hudgell: I think I have to disagree slightly with Lord Arbuthnot, on the basis of what I am told by some of my clients. They are relieved, and they welcome the news that there will be a form of fast track for those who are genuinely innocent. I think they pick up on the commentary around the



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collateral damage of some genuinely guilty people being able to access acquittal and compensation, and some do feel a cheapening of their exoneration as a result. They have been through a process that has taken upwards of three years, and therefore that is a feeling that some of them hold. While there is a general groundswell of support for the exoneration of the poor people that dared not come forward because of the process involved, there are obvious complications that come from that.

- Q29 **Sir Robert Neill:** We know that about a third of the cases that were referred to the Criminal Cases Review Commission were rejected and it would not take them to the Court of Appeal. We also know that the Court of Appeal, having heard the case in full, dismissed the appeal in three or four cases. How should the legislation handle those classes of individuals? Are there lessons to be learned as to whether the test that the Criminal Cases Review Commission applies should be reviewed?

Lord Arbuthnot of Edrom: I think the Criminal Cases Review Commission referred cases to the Court of Appeal on two grounds. The first was that the reliability of Horizon data was essential to the prosecution and conviction of the Post Office applicant, and it was not possible for the trial process to be fair. The second was that the reliability of Horizon data was essential to the prosecution, and it was an affront to the public conscience.

Since those cases were referred to the Court of Appeal, things have come out within the public inquiry about the investigators' behaviour and about the Post Office's entire approach to the ethics of prosecution, which I believe take us way beyond the application of Horizon data. Therefore, I think this needs to be considered with great care. Those whose cases were overturned may need to be told, "You have to go back to the Court of Appeal, but you will do so with Government assistance, with legal aid, so that these things can be overturned by the Court of Appeal." I think that is still up for bottoming out, and we have not come to any firm conclusion on it.

- Q30 **Anthony Mangnall:** Lord Arbuthnot, could I ask you to comment on last week's announcements from the Minister and how you feel about them?

Lord Arbuthnot of Edrom: I feel very good indeed about them, because this is a mass problem that required a mass solution. His announcement on the overturning of convictions—precisely how that is done we have yet to bottom out—was very welcome. I cannot remember when I first called for it, but it was a little time ago. His announcement on the simplification of redress or compensation was also most welcome.

- Q31 **Anthony Mangnall:** I will come on to the point about simplification of compensation. Where we are at the moment, there is a complete breakdown in trust in nearly every part of the system. Do you think the Minister's announcement is going to give trust and confidence to those who are claiming? You said at the beginning, and just said again, that it is a mass solution to resolve the situation. How do you bring forward those people who have absolutely no faith in the system, and perhaps



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have no confidence in signing a letter saying they did no wrong, for fear of prosecution later?

Lord Arbuthnot of Edrom: Those are good points, and there will be some who will continue to refuse to come forward. I beg them to come forward. As for the signing of the letter, it may be quite difficult to draft such a letter for those who were maybe said to have committed false accounting. Do they sign to say that they did not? I don't know. It is difficult, but we will hammer it out one way or another.

- Q32 **Anthony Mangnall:** Where do you see the role of Parliament in this? What we are about to do, legislating to overturn convictions, is unprecedented. Indeed, this whole situation is unprecedented, and it is horrific. Does this set a dangerous precedent, for Parliament to start overturning convictions? How does the judiciary respond, and what happens in future cases?

Lord Arbuthnot of Edrom: It does set a precedent, but in such extraordinary circumstances that it is hard, I hope, to see that precedent being repeated. As I understand it, the largest number of cases that had previously come before the Criminal Cases Review Commission on any one issue was 10. When we are talking of a thousand, produced by one organisation doing private prosecutions in a way that was quite abysmal, I think that is quite difficult for us to see repeated.

How will the judiciary respond? I don't think the judiciary is at all happy with its own part in these events, but I don't know exactly how the judiciary will respond. I hope they will accept that these cases need urgent overturning, because we can't have more people going to their graves with convictions still on their records.

- Q33 **Anthony Mangnall:** Dan Neidle wrote a particularly interesting thread about the Horizon shortfall scheme last week, in which he said that the compensation scheme ran to 14 pages, required legal advice that he estimated would cost in the region of £10,000—that is what he would quote someone to provide that advice—and that had slightly obscure phrases such as “consequential loss”, the definition of which was found in appendix 1. Why are we still putting up with a system that is just so deliberately opaque when it comes to helping people to get the redress that they need? Why is a system like that even coming out to try to help people when it is not really doing the thing that it is meant to do?

Dr Hudgell: I can only concur with you. It is not driven from this side of the fence. On this side of the fence, we want simplification and speed of outcome. It is a source of frustration in all the schemes that there is inconsistency and, as I described earlier, over-engineering in all respects.

- Q34 **Anthony Mangnall:** One final question: can either of you explain to me why the Horizon system is still in use? There were debates in 2014 and 2015. I think that Andrew Bridgen led a Westminster Hall debate in 2015, when it was rumoured that IBM was going to take over the system. There were then rumours that Amazon was going to take over the system. Why is taxpayers' money still going towards Horizon? Why is it still in place?



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How can the Post Office continue to run using a system that has clearly betrayed so many people?

Lord Arbuthnot of Edrom: What an excellent question. Luckily, you will have the Minister in front of you later.

- Q35 **Jonathan Gullis:** Lord Arbuthnot, the Sir Wyn Williams inquiry into this scandal is ongoing. You have raised your disappointment about the role of auditors not being considered as part of that. Why do you believe that auditors should be part of the process?

Lord Arbuthnot of Edrom: Because the auditors either noticed or should have noticed that there was a potential liability building up in the Post Office that was likely to give rise to costs of—we now see—£1 billion. If the auditors failed to realise that, was it because they weren't looking at the right things, or was it because they were ticking boxes? Or did they realise that and not bring it to the right people's attention with sufficient oomph? I don't know.

- Q36 **Jonathan Gullis:** Overall, what do you hope the inquiry will achieve? What is the desired outcome of the people that you have been working with?

Lord Arbuthnot of Edrom: I actually have faith in the inquiry. I hope that it will get to the bottom of who knew what and when, and of what actually happened. I think that we are only halfway to finding that out. Then, I hope that it will make some serious recommendations. So many things have gone wrong here. Possibly, the adversarial system of our court processes is one of those. The notion of private prosecutions is another, and the presumption that computer evidence is reliable is another. There are a lot of recommendations that I hope will come out of the inquiry. Given the way that Sir Wyn Williams and Jason Beer KC are doing their job, I think they will.

- Q37 **Jonathan Gullis:** Out of interest, Lord Arbuthnot, if I am not mistaken, you worked as Minister of State for Defence Procurement, so you are obviously used to having to look for external contractors for Government contracts. Do you think that it would be appropriate for the Government to cease any new contracts being given to Fujitsu until the inquiry has concluded and they have paid their part back to the victims—and therefore back to the British taxpayer—for the role that they have likely played in the Horizon scandal?

Lord Arbuthnot of Edrom: There are some areas where a single supplier is the only viable option, and we must not cut our noses to spite our faces, as it were, but I do think that Fujitsu's reputation has been seriously damaged by this, and that will play a major part in future procurement issues.

- Q38 **Charlotte Nichols:** I have a quick point of clarification for Dr Hudgell. You said in your earlier answer that some of the claimants feel that a mass exoneration could mean that there was collateral damage of potentially genuinely guilty parties within that group. If such people exist, how do you ascertain who they are when the evidence against everyone



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was obviously so problematic?

Dr Hudgell: It is not an easy question. There has been plenty of commentary around the fact that there are inevitably genuinely guilty people caught within that group. It's a really tricky one.

Q39 **Charlotte Nichols:** But is that just on balance of probability, or do you have reason to believe specifically that there are potentially guilty people within that group?

Dr Hudgell: A bit of both. One of the issues is: what does that number look like? It may be a tiny number, and it may be a price worth paying. My job today is to convey to this Committee the feeling of a number of my clients, which, I will reiterate, is that they are generally overwhelmed, in a positive way, that there will be exoneration of those who are genuinely innocent, in a wider context than the narrow interpretation of Horizon as intrinsic to the prosecution—based on the whole prosecution strategy and behaviour of Post Office. Inevitably, this isn't an easy subject, and it comes with a number of caveats. I guess that the devil is very much in the detail of how this all unfolds.

Q40 **Ian Lavery:** Dr Hudgell, you mentioned that a lot of the victims are suffering from paranoia and post-traumatic stress disorder. We have seen people spat at in the streets and their kids spat at in school. We have seen the likes of Seema Misra, Janine Powell and others incarcerated; we have seen Jo Hamilton, who was threatened with jail. We have seen suicides. We have seen all these difficulties.

In a normal compensation case, you would have future and past loss of earnings—you have *Smith v. Manchester*—and pain and suffering. I wonder how you would look at pain and suffering on this scale for different individuals who suffered differently as a consequence of this situation. It must be extremely complex. I have to say, £75,000 on this issue is not just paltry; it's an absolute insult.

Dr Hudgell: There is a lot to your question. The £75,000 relates to the HSS. There's a £600,000 package that relates to the overturned conviction cases. Every case is determined on its own merits, and every case is determined in accordance with ordinary principles of English law, so every case will never be compensated to account for the losses that people genuinely suffered.

As I say, in terms of the go-forward, the whole idea around the £600,000 package was a creative solution that was suggested that swept up a number of cases; for example, for someone who was close to retirement and would therefore have a small loss of earnings claim, that sort of offer would be attractive. These are some of the things we need to look at to solve these problems and find creative, simple solutions. Within the way these compensation claims have been assessed, there is an allowance for exemplary damages to reflect the conduct of Post Office.

There's another wider point that you raised—it has just occurred to me to mention—which is that it is not just the sub-postmasters here who suffered greatly. There's another class of people who cannot be



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compensated in any way: the spouses, children and parents of the sub-postmasters; the spouses who have miscarried or committed suicide because of the stress of things; the kids who have behavioural disorders and who ended up out of school early, and whose adult life is now shattered because of that; parents who have died estranged from family members; generations of sub-postmasters, where grandad has believed the Post Office over grandson and then has sadly died before that relationship can be repaired. There's a whole raft and category of people who are not compensatable, which is another strand of this scandal that needs to be looked at, in the same way as people who were not sub-postmasters but suffered financial loss directly are not compensatable at the moment either. The scandal is in the thousands, but it could be in the tens of thousands.

Q41 **Mark Pawsey:** May I ask Lord Arbuthnot, who is a very experienced politician and has been dealing with this matter for 20 years, why it has taken us so long to get to where we are today?

Lord Arbuthnot of Edrom: I do not want to say, "Pass." It is a difficult subject. You have people who have been convicted or pleaded guilty to a crime up against the most trusted brand in the country. I think that is at the heart of it. The Post Office failed to realise that the most trusted brand in the country was the most trusted because of the relationship that the sub-postmasters had with their communities. It was not the most trusted because of the brilliance of its management, the price of its stamps, or the sparkling nature of its publicity machine. It was the relationship between the sub-postmasters and their communities. When they were vilified and humiliated, the brand then rolled into overdrive, and I think that may be it. It is a complicated subject as well—computer stuff. It is very difficult.

Chair: Thank you so much, both of you. You have told us today that a tiny number of people have had redress. You have told us that red tape is dragging out the process for months. You have told us that there are hundreds more potential victims out there. You have told us that many of the victims who have had redress may have been short-changed. You have told us that the legislation is potentially welcome and that Fujitsu have a role to play in providing some compensation. You have set the stage very well for the evidence that we are about to hear, and we are very grateful to you for coming and speaking to us this morning.