

Witness Name: Diane Wills

Statement No.: WITN09940200

Dated: 22 August 2023

POST OFFICE HORIZON IT INQUIRY

SECOND WITNESS STATEMENT OF DIANE WILLS

I, Diane Wills, will say as follows:

Introduction

- 1 I am the Public Inquiry & Remediation Unit Legal Services Director at Post Office Limited ("**POL**").
- 2 This witness statement is made to assist the Post Office Horizon IT Inquiry (the "**Inquiry**") with the matters set out in the Rule 9 request addressed to me and dated 31 July 2023 (the "**Request**"), which are:

“1. Please explain the events which led to the three disclosure issues that have been identified, explaining in detail all relevant decisions and communications that led to the errors, and identifying those involved.

2. Please set out:

a. When the errors were discovered, by whom and in what circumstances.

b. Where you consider responsibility for the errors lies.

c. What steps have been taken since to remediate the errors.

3. Please explain the systems and processes in place to ensure the disclosure will be provided and to avoid future issues of a similar nature.”

3 I understand the reference in the Request to *“the three disclosure issues that have been identified”* as being to:

- (a) search terms;
- (b) family documents; and
- (c) de-duplication,

which are the 3 disclosure-related issues referenced at paragraph 5 of Sir Wyn Williams’ Directions in relation to late disclosure from POL dated 6 July 2023 (the **“Directions”**).

4 I have aimed to include within this witness statement evidence relating to all matters or issues described in the Request insofar as the relevant facts are

within my own knowledge. As explained below, the Request sought evidence relating to some matters or issues that are not within my own knowledge (in particular, those prior to my appointment as POL's Public Inquiry Director in January 2023). In those cases, to assist the Inquiry, I have sought to identify the people who I think will be best placed to provide evidence from direct knowledge.

5 I approve the contents of this witness statement as being complete and accurate to the best of my knowledge and belief.

6 Where my knowledge and belief, as set out in this witness statement, has been informed by another person or by documents that I have reviewed, I acknowledge that person or those documents.

7 Burges Salmon LLP and Fieldfisher LLP (together "**BSFf**") have assisted me in the preparation of this witness statement. BSFf acts for POL in relation to the Inquiry (other external advisers also act for POL – at present, Gregg Rowan of Herbert Smith Freehills LLP remains POL's recognised legal representative in the Inquiry).

Summary

8 To assist the Inquiry, I have set out summary responses to the matters in the Request here. My more detailed responses are set out below in a chronological order: Request 2.a. (discovery of the relevant issues); Request 1 (identification of the cause of those issues); Request 2.c. (steps taken to remediate those issues); Request 3 (adjustments/systems put in place to mitigate the likelihood

of similar issues arising in the future); and Request 2.b. (where I think responsibility for those issues lies).

- 9 Regarding Sir Wyn Williams' Further Directions in relation to late disclosure from POL dated 14 July 2023, particularly paragraphs 13-14, I would also like to say at the outset of my evidence that I have never instructed anybody within or acting for POL to withhold documents that the Inquiry has requested (other than documents that are legally privileged and not covered by POL's waiver set out in the Note to the Inquiry dated 15 November 2021) and I am not aware of anybody within POL or its external advisers doing so or being asked to do so.

Request 1

- 10 The relevant decisions and communications took place between POL's external advisers. POL did not direct these communications or take these decisions. Consequently, while I have set out below the details that I know, the witnesses from POL's external advisers will be able to provide closer accounts.

Request 2.a.

- 11 The 3 disclosure issues were discovered when POL and its external advisers were investigating why the Appendix 6 – Racial Characteristics document ("**Appendix 6**") [POL00115674] had not previously been disclosed.

Request 2.b.

12 As I have explained in relation to Request 1, the relevant decisions and communications took place between POL's external advisers. Accordingly, any responsibility primarily sits with POL's external advisers.

13 However, that does not change the fact that POL remains responsible for its own disclosure to the Inquiry. I hope that it is clear from the rest of this statement that POL takes that responsibility extremely seriously.

Request 2.c.

14 Remediating the 3 disclosure issues is a key priority for POL.

15 Before they had been identified, I was already engaged in bringing in additional resource and new systems that I believed would help POL to support the Inquiry.

16 Since the issues were identified, intensive effort has been focussed on remediation (which reflects the fact that it is of critical importance to POL because POL recognises its importance to the Inquiry and the core participants). With support from POL, POL's external advisers have committed very considerable resource to remediation and have made material progress through the work involved. Remediation in relation to the family documents issue is complete. Regrettably, work is ongoing in relation to other issues. De-duplication, in particular, remains a considerable challenge.

Request 3

- 17 POL is absolutely committed to mitigating the likelihood that similar issues will occur again.
- 18 POL with input from its new advisers, BSFf, and KPMG, is conducting a full and thorough system review and assurance process. Reasonably achievable improvements to the accuracy and robustness of POL's disclosure systems and processes will be made for the future conduct of the Inquiry.

Background

- 19 I am a qualified solicitor. I was admitted as a solicitor on 1 October 1997.
- 20 I joined what is now called the Government Legal Department ("**GLD**") as a Lawyer shortly after I qualified as a solicitor. I worked as a government lawyer in a succession of increasingly senior roles between November 1998 and April 2022, working for 7 different government departments.
- 21 I was promoted to the Senior Civil Service (the most senior grade of the civil service made up of the senior management team) in September 2012, when I became a Deputy Director of the GLD's Employment Group.
- 22 In April 2016, I moved to become GLD's Head of Immigration & Asylum Law within Home Office Legal Advisers. In that role I led the Home Office legal team advising on asylum and non-EEA migration, dealing with drafting of secondary legislation, bill work, policy development and litigation support in legal

challenges at all levels of the domestic and international (CJEU and ECHR) court systems.

23 In March 2018, I was promoted to the position of GLD's Home Office Legal Director. In that role:

- (a) I was the principal legal adviser for the Migration & Borders system within Home Office, jointly leading a division of more than 115 lawyers.
- (b) I had oversight of responding to all legal aspects of what is often referred to as the "*Windrush Scandal*". This included oversight of the creation and implementation of the Windrush Compensation Scheme, strategic management of related litigation and personally advising the Home Secretary and Permanent Secretary of the Home Office in relation to the Windrush Lessons Learned Review.
- (c) I was the Senior Responsible Officer for the legal delivery of the UK's new immigration system following the end of free movement with the European Union.
- (d) I had legal oversight of the Home Office's interests on the impact of COVID-19 on border controls.
- (e) I was a member of the Home Office Executive Committee and GLD senior level committees.

My Appointment as POL's Remediation Unit Legal Services Director

- 24 I left the Government Legal Profession in April 2022 to join POL as its Legal Services Director in the Remediation Unit (previously known as the Historical Matters Unit).
- 25 My role as Remediation Unit Legal Services Director was (and still is) to develop and lead an in-house legal function to ensure the delivery of timely and fair compensation to Postmasters affected by the failings of the Horizon IT system, as well as support on all criminal appeals arising from that system.
- 26 In that role, I advise POL's Group Executive, the Director of the Remediation Unit and other senior individuals and attend all key governance committees to provide legal advice and oversight of legal advice on the development of POL's policies and procedures in relation to matters within the remit of the Remediation Unit.
- 27 Between my appointment in April 2022 and January 2023, my interaction on Inquiry matters was limited to supporting POL's Public Inquiry Team and its external legal advisers in preparations for the compensation hearings and supporting the Remediation Unit in considering proposed changes to its approach on issues raised through those hearings.

My Appointment as POL's Public Inquiry Director

- 28 In December 2022 I was promoted to lead POL's Public Inquiry Team with effect from January 2023.

- 29 I perform that role alongside but separately from my role as POL's Remediation Unit Legal Services Director. Given the relative maturity of the Remediation Unit legal team, it was agreed that I would spend approximately 75% of my time on Inquiry matters, with the remaining time spent in continuing to lead the Remediation Unit's legal team. While the teams operate separately, there is close working on compensation matters and criminal appeals given the relevance of these matters to the work of the Inquiry.
- 30 Prior to my promotion to the role, POL's Public Inquiry Team was led by Fintan Canavan, who was on secondment from DAC Beachcroft LLP.

Role of POL's Public Inquiry Director

- 31 As Director to the Public Inquiry Team, I am the overall accountable director within POL for its Inquiry programme. I have decision-making authority delegated to me personally and I am also a voting member of POL's Inquiry Steering Committee ("**ISC**"), which I chair. On other matters, I seek input and/or approval as required from the Group Executive or Board.
- 32 My function in this role is focussed on delivery. I am not acting as a lawyer in this role; I seek and receive relevant legal advice rather than providing it to others.
- 33 POL is firmly committed to being transparent and facilitative. One of POL's corporate priorities is "Rebuilding Trust". Amongst other things that "*means giving every possible assistance to the Inquiry as it assesses all the evidence*

available to establish what went wrong and ensure these failings cannot be repeated" [WITN09940201].

- 34 My focus has been in 3 main areas:
- (a) Delivering work that assists the Inquiry (e.g., overseeing the delivery of POL's responses to any written requests for disclosure and ensuring witnesses are appropriately supported).
 - (b) Ensuring that POL has a good understanding of how the Inquiry operates and of the issues that are being identified during the Inquiry process. The Public Inquiry Team is the conduit of information and knowledge between the Inquiry and POL's wider business. POL is determined to learn lessons and implement solutions and improved practices at the earliest opportunity.
 - (c) Ensuring the ISC and POL's Group Executive and Board are appropriately aware of and consulted on risk issues relating to the Inquiry as they are identified. This is obviously essential to thorough risk governance and has, I believe, supported my case for expanding the resources of the Public Inquiry Team (which I discuss below).

POL's External Advisers

- 35 POL does not have the in-house capacity or specialist capability to manage the very significant disclosure exercise required to support the Inquiry. To put the matter into context, I have been informed by KPMG that approximately 60 million documents have been harvested by POL's eDisclosure services

suppliers from POL's files for the purposes of the Inquiry, the post-conviction disclosure exercise and the Group Litigation. A project of this nature requires significant personnel and specialist knowledge and skills.

36 Based on my interactions with individuals who have been working for POL for longer than I have, my understanding is that it was for those reasons that POL took decisions to appoint external advisers, who have that capacity and those specialist knowledge and skills. Even though it has instructed these external advisers, POL recognises that it remains accountable for disclosure to the Inquiry.

37 POL has committed very significant resources with the aim of delivering a successful disclosure programme for the Inquiry and has been working with 3 principal firms of external advisers. When I refer to POL's external advisers in this statement I am referring to those firms (POL has more recently instructed BSFf and, I understand, previously instructed Consilio as an eDisclosure services provider).

38 Peters & Peters Solicitors LLP ("**P&P**") is a specialist law firm focussed on contentious business crime, investigations and fraud matters. I understand from colleagues that P&P has been working in relation to the Inquiry since the outset and was already instructed by POL beforehand in relation to other matters, such as the criminal appeals.

39 Herbert Smith Freehills LLP ("**HSF**") is a major international law firm, which specialises, amongst other things, in conducting complex litigation. POL

instructed HSF in April 2019 in relation to the Group Litigation and, following entry into the Settlement Deed, in relation to the Historical Shortfall Scheme as well as to provide some advice on request in connection with the Inquiry. HSF was instructed in relation to the Inquiry in September 2021 when Andrew Lidbetter was appointed as POL's recognised legal representative for the purposes of the Inquiry.

40 I have frequent contact with lawyers from HSF, particularly with Gregg Rowan, POL's recognised legal representative for the Inquiry (having replaced Andrew Lidbetter in that role). For example, I receive email updates and requests for instructions on matters such as the proposed wording of communications with the Inquiry and for the final sign-off of closing submissions and the written submissions for compensation hearings. I attend twice weekly standing meetings with the 3 partners responsible within HSF for leading the Inquiry work as well as regular detailed strategy meetings. These meetings are used to discuss priority issues and risks as they are identified and to establish matters that require escalation to the ISC, Group Executive or Board. Gregg Rowan has also been asked to give evidence to the Inquiry. As HSF are POL's solicitors of record (along with P&P) with authority to progress disclosure, he will be able to provide close detail about POL's disclosure exercises.

41 I have had more limited contact with the solicitors from P&P who are leading on Inquiry matters for POL than I have with HSF. As the Legal Services Director to the Remediation Unit, I attend a weekly call that involves the P&P partners responsible for both the Inquiry and criminal convictions appeals (where P&P

are POL's main external legal advisers). In relation to most Inquiry matters I deal with HSF in the main.

42 POL engages directly, on a face-to-face basis, with P&P in relation to criminal appeals work that is relevant to the Inquiry through the Prosecutions Working Group, which is made up of senior lawyers from POL's Public Inquiry Team, HSF, P&P and counsel. I understand from colleagues that the Prosecutions Working Group was established to make sure there was an interface that allowed Inquiry and wider implications (e.g., in relation to criminal appeals) to be considered and dealt with directly. I am updated about what was discussed and agreed after each of these fortnightly meetings and I have, on occasion, attended them.

43 HSF and P&P had a broad, general authority from POL as its instructed representatives to progress disclosure, in conjunction with KPMG International ("**KPMG**"), without reverting to POL for specific instructions.

44 KPMG is a major international professional services firm. I understand from colleagues that KPMG has been engaged by POL since 2021 to provide forensic and eDisclosure services on behalf of POL in relation to the Inquiry.

45 POL's external solicitors provide instructions directly to KPMG. Within POL, the Operations & Strategy Director of POL's Public Inquiry Team is responsible for the Public Inquiry Team's relationship with KPMG and provides me with updates on key strategic issues. Given the practical need for KPMG to work with external solicitors on a day-to-day basis, POL does not have visibility over

all communications between the external advisers but expects any issues or strategic questions to be raised with the Public Inquiry Team. For example, when there were questions around resourcing the disclosure process in late January-early February 2023, the Operations and Strategy Director convened a meeting with the partners at KPMG and HSF to seek a solution. To address the identified need for additional eDiscovery support, POL worked with KPMG through Spring 2023 to onboard additional offshore KPMG resource and to put in place an out of hours working and overtime model, which was stood up by May 2023.

46 Because of the issues that have been identified, POL has had to look much more carefully at its relationships with all its external advisers. I am driving forward remediation of those issues, which is absolutely a priority issue for POL. As part of that, POL has engaged in various ways with its external advisers to better inform its understanding of how the issues arose, what is required to mitigate and how best to avoid similar issues arising in the future. That work is ongoing, but I set out in this statement my current understanding based on the information provided to date.

47 Paul Tombleson, a partner at KPMG, has been called to give evidence and will be able to provide an account of KPMG's activities and responsibilities from direct knowledge.

Request 2.a.

"When the errors were discovered, by whom and in what circumstances."

- 48 I first became aware of Appendix 6 in mid-May when it was being discussed within POL in the context of Eleanor Shaikh's freedom of information request. The language in the document is abhorrent.
- 49 I was not leading on POL's internal response at that initial stage as Ben Foat, POL's Group General Counsel, was engaging closely and so were several other senior individuals from the Public Inquiry Team, Assurance and Complex Investigations and Data Protection and Information Rights Teams.
- 50 One of the Heads of Legal in POL's Public Inquiry Team also quickly brought Appendix 6 to HSF's attention so that it could be assessed whether it had been produced to the Inquiry and, if not, whether it needed to be.
- 51 While it was evident to me that the document would be of interest to the Inquiry, it was not immediately evident to me how or why it had not previously been disclosed or that its non-disclosure indicated that there were potentially wider issues with POL's disclosure.
- 52 Those wider issues only started to become clear in the weeks after the document was identified and produced to the Inquiry. I understand from HSF that they started to identify that there were potentially wider considerations in June 2023; they were proactively investigating why Appendix 6 had not been disclosed earlier and dealing with the Rule 9 request dated 5 June 2023.
- 53 Throughout May and June, POL's work on this initial response to the identification of Appendix 6 was being led by Ben Foat and senior individuals from the Public Inquiry Team. I was engaged, particularly through the twice-

weekly meetings with HSF, and I was updated by colleagues as the emerging picture became clearer, but I trusted my colleagues to deal with the issues arising. I became much more directly involved in the remediation work after the Directions were made.

Request 1

“Please explain the events which led to the three disclosure issues that have been identified, explaining in detail all relevant decisions and communications that led to the errors, and identifying those involved.”

54 Prior to becoming POL’s Public Inquiry Director in January this year, I was not involved at all in POL’s Inquiry disclosure processes.

55 Since I came into post, the disclosure produced has been processed through systems that were embedded before I was appointed. Significant steps have now been and will continue to be taken to remediate issues, learn lessons and improve robustness going forward, as set out below.

56 I was not involved in deciding the search terms for electronic searches for documents or in deciding technical eDisclosure matters such as if/how to de-duplicate documents or the approaches that should be taken towards processing and reviewing the families of documents that responded to electronic searches. Those matters were decided upon by POL’s external advisers and the witnesses called from those firms will be able to provide evidence on those points. POL has also engaged with its external advisers to

understand and remediate the issues that have arisen and I give an overview of my understanding of the position below.

57 I understand from POL's external advisers that the search parameter and review strategy decisions that resulted in Appendix 6 not being produced to the Inquiry until after it came to the surface in connection with Eleanor Shaikh's freedom of information request were taken during the first half of 2022, significantly before I took on a post in POL's Public Inquiry Team.

58 My understanding, based on discussions with colleagues and information provided by POL's external advisers, is that POL employees/contractors were not involved in data-strategy discussions at a detailed level. In general:

(a) POL was updated about some of its external advisers' search parameters and review strategy choices as part of business-as-usual client reporting. My understanding is that POL's external advisers' decisions about search parameters and review strategies largely developed iteratively in response to feedback and knowledge obtained through document searches and document review. POL employees/contractors were not substantively involved in discussions about those detailed matters because POL's external advisers had the specialist experience and resource and, because they were conducting the disclosure exercise on a day-to-day basis, had the detailed knowledge required to make those choices, whereas POL did not.

- (b) POL employees/contractors with relevant knowledge provided information to POL's external advisers that will have informed POL's external advisers' searches for documents. For example, POL employees/contractors have:
 - (i) identified potentially relevant repositories of electronic documents;
 - (ii) participated in fact-finding sessions to provide the external solicitors with relevant information about POL operations and processes; and
 - (iii) provided documents that they already knew about or could readily locate.
- (c) POL employees/contractors were sometimes involved in the capture of hard-copy documents, which obviously requires presence on site and knowledge of where hard-copy documents are physically stored (although POL's external advisers have also been involved in that work).
- (d) My understanding from discussions with colleagues is that Fintan Canavan and some others with relevant responsibilities had an ongoing dialogue with POL's external advisers to seek to ensure that the searches for documents and document review strategies were reasonable in all the circumstances and comprehensive, thorough and rigorous. POL wanted to achieve cost and process efficiencies if they were achievable alongside fully meeting its obligations to the Inquiry and

its ambition to drive improvement going forward. Transparency has been the Board's strategic objective throughout the Inquiry. Still, it is obviously important for there to be a constructive dialogue around cost, value for money and resource, given the impact on the wider business and the public purse. That does not take away from the fact that POL was and is fully committed to facilitating a rigorous review process by the Inquiry by conducting a thorough disclosure process.

- (e) POL wanted (and continues to want) the searches to be appropriate for compliance with the Rule 9 requests and to support the Inquiry by responding to each Rule 9 request within the relevant request timeframes set by the Inquiry (although it has requested extensions where they were considered to be necessary and will continue to do so).

I believe that there has been diligent focus from those involved in assisting the Inquiry.

59 I deal more specifically with the each of the issues below.

Search Terms

60 Search terms are a functionality within an eDisclosure platform by which documents containing key words or phrases are returned to be manually reviewed. I understand, at a high level, that:

- (a) search terms are typically selected based on what is known about the data or anticipated to be within the dataset and then tailored using

feedback from search results and manual review of samples of documents; and

- (b) Relativity (the eDisclosure platform POL's external advisers have been using) allows for search terms to be much more sophisticated than the equivalent of pressing CTRL+F.

However, more than that is detail beyond my knowledge and technical expertise.

61 I understand from POL's external advisers that search terms were used in connection with responding to many of the Inquiry's disclosure requests, particularly where there was not someone within POL who already knew where the relevant documents were or might be. Of course, search terms have not been the only way of locating disclosable documents; where POL's external advisers have identified other approaches that they assess as being better, I understand that they have taken those other approaches.

62 Search terms were selected by HSF or P&P (or through collaboration between the 2 firms) and implemented on Relativity by KPMG. POL was not involved in substantive discussions about what search terms should be used (although I have been informed by colleagues that some lists of the search terms were shared with POL).

63 I understand from P&P and HSF that both firms were involved in deciding the search terms in relation to Rule 9 requests 11 and 14, with HSF having primary responsibility in respect of some of the questions and P&P having primary

responsibility in respect of others. The search terms used to seek to identify POL's policies and procedures relating to prosecutions and criminal investigations (i.e., broadly those relevant to questions 15 and 46 of Rule 9 request 11 and question 18 of Rule 9 request 14) were significantly informed by work P&P had done in connection with the post-conviction disclosure exercise (utilising their pre-existing knowledge and understanding of POL's documents). I understand that there was also liaison between HSF and P&P in relation to appropriate search terms, particularly in relation to questions 15 and 46 of Rule 9 request 11.

- 64 I understand from POL's external advisers that Appendix 6 was not returned by any of those search terms (or, indeed, any other search terms that have been implemented). From information that I have been provided with by POL's external advisers as part of the remediation process, I understand that this is because the document is really quite exceptional and does not contain any of the words that would normally be seen in a policy or procedural guidance.

Family Documents

- 65 Families of documents are groups of associated documents. I understand from POL's external advisers that, most commonly, a family of documents will be an email and its attachments, but it might comprise a document embedded with other documents or something else. I understand that families can be made up of many documents (e.g., multiple email attachments could themselves have multiple attachments and so on).

- 66 In this witness statement, I use the phrase “family documents” specifically to describe those documents associated with a document returned by a search term implemented on the Relativity platform but not themselves returned by any search terms. I.e., if a search term locates 1 out of 5 email attachments, the family documents will be the other 4 attachments and the covering email.
- 67 I have been informed by HSF and P&P that, across the Inquiry’s disclosure requests, various approaches have been taken to reviewing family documents.
- 68 Depending on the nature of the relevant disclosure request and what HSF or P&P considered to be reasonable in the circumstances, in some instances HSF or P&P reviewed whole families of documents (using the above example, the covering email and all 5 attachments) and assessed whether each (or all) should be produced to the Inquiry.
- 69 However, in other cases, HSF or P&P only reviewed the documents that were returned by search terms (using the above example, the 1 attachment but not the other 4 attachments or the covering email).
- 70 POL was not involved in the operational decisions about review approaches for family documents. Those were taken under HSF’s and P&P’s general authority to progress disclosure.
- 71 I understand from HSF and P&P that the review approach in relation to the Inquiry’s Rule 9 requests 11 and 14 was generally not to review family documents (although reviewers had the functionality to do so if they had

considered it to be helpful or necessary and responding to a few questions involved some consideration of family documents).

De-duplication

72 I have no detailed knowledge of or expertise in eDisclosure matters and de-duplication is very technical. However, the issues were explained to me at a high level to assist my understanding of the work needed to remediate and, based on this, I have tried to respond to the Inquiry's request as best I can. I have also been assisted by BSFf in understanding technical terms and concepts. I have set out in this section simple explanations of those terms and concepts as I understand them.

73 De-duplication is a computer process used in eDisclosure to reduce the number of documents that fall to be manually reviewed or produced by excluding more than 1 copy of the same (or similar, depending on how de-duplication is implemented) document. I understand that forms of de-duplication are a common eDisclosure practice and are generally viewed as uncontroversial.

74 Although it is a common process, I understand from POL's external advisers that de-duplication was not applied as standard in connection with the Inquiry's disclosure requests. However, POL's external advisers have applied de-duplication in connection with responding to some of the Inquiry's disclosure requests. I understand that the decision whether to de-duplicate or not would have been taken by POL's external advisers on a request-by-request basis with specific consideration of what was most appropriate in relation to each

question. POL was not involved in making the operational decisions about de-duplication.

75 The main method used to identify duplicates is MD5# analysis, in which an algorithm assigns documents with an MD5 value (which has been described to me as the equivalent of a digital fingerprint) and where 2 documents have the same MD5 value they are identified as duplicates. There is also textual de-duplication, which looks to see whether 2 documents contain the same text. I understand from POL's external advisers that they have primarily used MD5# analysis.

76 De-duplication can be applied at more than 1 stage, including:

- (a) before the document review stage, to reduce the number of documents that fall to be manually reviewed; and
- (b) at production stage (after documents have been reviewed and relevant documents identified), to avoid producing multiple copies of the same document.

77 I have been told by POL's external advisers that they have de-duplicated documents at both stages.

78 There are also 2 relevant levels at which de-duplication can be applied:

- (a) family-level de-duplication – duplication is analysed as between complete families of documents, excluding duplicate families and

ensuring only 1 copy of a family survives computer processing to be manually reviewed or produced; and

- (b) item-level de-duplication – only 1 copy of a document survives computer processing to be manually reviewed or produced, even if it appears in different family contexts.

I now understand that item-level de-duplication is rarely used in eDisclosure because it can have significant, unpredictable and potentially undesirable impacts on document review.

79 I understand from POL's external advisers that item-level de-duplication was applied in connection with responding to some of the Inquiry's disclosure requests between 18 February 2022 and 20 June 2023 (since then, only family-level de-duplication has been applied). Item-level MD5# de-duplication was applied in connection with responding to Rule 9 requests 11 and 14.

80 I understand that instructions to de-duplicate were given to KPMG by HSF and P&P and were implemented by KPMG. I understand from HSF and P&P that they did not intend item-level de-duplication to be applied in connection with the document searches associated with responding to Rule 9 requests 11 and 14 (or at all). My current understanding is that item-level de-duplication was applied as the consequence of either a miscommunication by HSF/P&P (who have told me that they did not intend it to be applied) or a misunderstanding by KPMG (who have explained that they understood that their instructions were to apply item-level de-duplication).

81 Based on investigations, I understand instructions from HSF were typically sent to KPMG by a lawyer at senior associate level. I understand that KPMG use a project email address, so POL does not know all individual KPMG recipients. However, I understand that individuals with Manager or Assistant Manager job titles were typically those responding to relevant instructions. Of course, there would have been hundreds if not thousands of times when POL's external advisers communicated without POL being involved in those communications. Gregg Rowan and Paul Tombleson will be able to provide further details of their firms' normal working practices.

Request 2.c.

What steps have been taken since to remediate the errors.

Restructuring POL's Public Inquiry Team

82 When I joined POL's Public Inquiry Team, it was apparent that additional resources would better ensure the team's ability fully to support the Inquiry.

83 I inherited a very highly motivated team who had been under-resourced for a long period of time. The team was staffed to deal with the scope of the Inquiry as it was when the POL Public Inquiry Team was set up. The scope of the Inquiry had grown significantly by January 2023 and Phase 2 of the Inquiry (which concluded in December 2022) had very clearly demonstrated that more resource was needed to process the volume of work and for matters such as ensuring that POL's external advisers could be connected quickly to the people in the wider business that they needed to speak to. The POL Public Inquiry

Team had been going above and beyond for months and it was simply no longer sustainable.

84 The team needed dedicated legal and project management resource to bolster the ongoing disclosure process, including the harvesting of potentially relevant material and acting as a point of contact for the wider business to ensure that POL's full data universe would be considered for disclosure at the relevant point. I wanted to be confident that we would be able to provide the right level of support for witnesses. I also wanted to bring in more internal voices so that the Public Inquiry Team could bring the wider POL perspective to POL's engagement with the Inquiry and so that insights from the Inquiry could be better fed back into the wider business. Greater resource would also help to ensure that work would be done at the right level of seniority and that work that would be best done in-house could be.

85 The Board approved increases to the overall budget for the Inquiry programme and to the team's size in March 2023 and in June 2023.

86 I have also restructured the Public Inquiry team to ensure greater individual accountability and the clarity of reporting lines. There are now distinct "pillars" of work, each led by a senior lawyer at Head of Legal level, supported by more junior lawyers, project managers and general business and policy support. There are clear, identified escalation routes to the Public Inquiry Team's Operations and Strategy Director and, ultimately, to me as the overall accountable Director.

- 87 Supporting the Inquiry and ensuring POL makes improvements in relation to the issues underlying the Inquiry are significant, business critical challenges for POL. In that context, it is essential that I can ensure effective delivery through others within the Public Inquiry Team and wider business, so that I can spend more time doing the things that it is appropriate for me, as the overall accountable director, to do, such as providing oversight and a constructive challenge function, chairing the ISC and reporting regularly to POL's Group Executive and Board.
- 88 Whilst the recruitment process continues, the Public Inquiry Team is now better equipped than it was in January 2023. Every member was specifically recruited for POL's work to assist the Inquiry and proactively support the wider business to learn lessons from the issues explored by the Inquiry; they are all wholly committed to and invested in these projects.
- 89 The work of the Public Inquiry Team is additionally supported by subject matter experts in other teams within POL (such as retail, communications and Assurance and Complex Investigations). This collaboration further supports POL's work to assist the Inquiry and supports POL in learning lessons. In each case, the subject matter experts from other POL teams are connected to the Public Inquiry Team by a designated liaison officer within the Public Inquiry Team. This ensures that we better understand the wider business and the wider business better understands the work of the Public Inquiry Team, which helps to assure greater alignment of objectives and effective working practices. This has always been the case, but I have implemented greater structure by

ensuring there is a clear audit trail and agreed accountability at each stage of responding to any written requests for disclosure. While the input of subject matter experts was previously sought in responding to such requests, there is now a specific subject matter expert consultation step at the outset of consideration of all new disclosure requests and greater input from the subject matter experts across POL throughout the review process.

My Role in Remediating Issues

90 Gregg Rowan and Paul Tombleson will, I believe, provide the full details about the specific steps taken to remediate the issues that have arisen. POL's role is to ensure that work is done as thoroughly, accurately and swiftly as possible. POL's instructions to its external advisers have been clear that remediation is a priority and that they should use the remediation process as an opportunity to identify possible disclosure improvements. I have set out in this section details of what I have done and am doing to drive that work forward.

91 Since April 2023 and the Directions at the beginning of July 2023, I have been progressively more actively involved in disclosure matters.

92 A revised Rule 9 request process was agreed with the external advisers and is now being used [WITN09940202]. That process seeks to ensure that everybody understands their roles and accountabilities and clarifies at what points things should be escalated to me (or others) for decision (e.g., there is a "hot docs" escalation workflow that facilitates proactive further investigations where they are appropriate).

- 93 The ISC, which I chair, meets at least fortnightly and disclosure (remediation and going forward) is part of the regular agenda. During meetings, we track project management data that captures all live disclosure activity and risks. I report monthly to the Group Executive and Board on key issues – which has frequently involved reporting on disclosure matters – and now also report weekly to the Group Executive and to the Board on progress against the remediation activity and on changes being made to strengthen the overall disclosure processes. Through this I have sought to ensure awareness at the most senior level within POL of the disclosure processes and the issues that POL and its external advisers are facing. My intention is to ensure that those involved in implementation have the maximum level of support for the full extent of their activities. The Board has been very clear that resolving the immediate issues and strengthening processes for the remainder of the Inquiry are key priorities. While the associated costs are rightly subject to intensive scrutiny, at no point during my appointment has there been any refusal or reluctance to provide the budget required for these purposes.
- 94 As the Inquiry knows, POL has engaged BSFf to advise and assist it in relation to the Inquiry for all matters from Phase 5 onwards and it has asked Sir Wyn Williams to designate Chris Jackson of BSFf as its recognised legal representative with effect from 1 September 2023 (although HSF will continue to assist in relation to the remainder of the Phase 4 hearings, by way of transition). In the meantime, we have sought the assistance of the BSFf team to provide additional support and advice to POL in relation to Phase 4

remediation issues as necessary, although the Phase 4 remediation work itself is being carried out by HSF, P&P and KPMG.

95 Additionally, at my request, 2 senior lawyers with disclosure expertise from the BSFf team are working directly and closely within POL's Public Inquiry Team to provide day-to-day embedded support to assist POL to engage closely with the Phase 4 remediation work. They bolster the team's resources and I have specifically tasked them with clarifying the unit's decision-making. They brief me and the Public Inquiry Team's Operations and Strategy Director daily on all ongoing remediation issues, they collate advice and sense check decision making and they log decisions once taken. They also provide updates to Ben Foat and support the provision of weekly updates to the Group Executive and Board and frequent updates to the ISC.

96 The Public Inquiry Team is also advertising for a disclosure-specialist lawyer, who, once engaged, will enhance the team's capability to engage in the granularities of disclosure processes.

97 Since December 2022, members of the Public inquiry Team have chaired regular meetings with both HSF and KPMG. Those meetings covered a series of progress related points, including priorities. Given the increase in disclosure activity, since early 2023 there has been a separate meeting on "pipeline activity" chaired by POL. This is attended by HSF and KPMG staff and is used to cover progress on all live disclosure requests, issues and risks and resourcing. Alongside this, POL has been working with KPMG and HSF to

identify any efficiencies or improvements, including how the disclosure process was delivered and resourced.

98 Additionally, since 7 July 2023, daily disclosure remediation calls have been taking place between the external advisers and members of POL's Public Inquiry Team. These allow progress against all aspects of the remediation work to be closely monitored. The Public Inquiry Team's Operations and Strategy Director has also held separate, regular discussions with Paul Tombleson and I receive daily updates through the processes I have outlined above and use those to establish where issues require further escalation.

99 For example, I have arranged meetings for POL's Chief Executive Officer with KPMG's UK Head of Retail and HSF's Chief Executive Officer to ensure that the full weight of the parties involved is put behind the remediation process.

100 POL has also authorised additional KPMG and HSF resourcing to increase staffing levels to assist with remediation work.

101 These steps, taken together with the very clear messaging from POL (at the most senior levels) that full compliance with our disclosure obligations is a critical priority, has resulted in improvements and, overall, more robust disclosure processes. I recognise that steps should have been undertaken earlier.

102 It is extremely disappointing that despite the very intense focus on remediation from all relevant teams, it was not possible fully to meet the Directions.

Request 3

Please explain the systems and processes in place to ensure the disclosure will be provided and to avoid future issues of a similar nature.

103 Modern disclosure processes often involve working with electronically stored information that is in such large amounts that it is hugely challenging to manage. That was and remains the case here. As above, KPMG have informed me that approximately 60 million documents have been captured and are held in electronic format.

104 POL's data is stored in a range of places and formats (both electronic and hard copy). Potentially relevant data has been created over decades and POL has gone through many changes over those years. POL is a large and complex business with many arms and pockets of activity (leading to data and knowledge silos).

105 Those factors mean that POL's data landscape is extremely complex. Ben Foat has spoken about some of these information governance difficulties in his interim disclosure statements.

106 I recognise that there is a balance between providing the Inquiry with extremely wide-ranging access to repositories of documents (as POL expressed willingness to do at the end of Ben Foat's Second Interim Disclosure Statement dated 18 October 2022) [POL00114173ds], which would inevitably result in the production of vast numbers of wholly irrelevant documents, and so which may not be of assistance to the Inquiry.

- 107 Taking the alternative approach and seeking to produce to the Inquiry only those documents that are relevant to its disclosure requests, unfortunately, carries some risk that a relevant document will be filtered from the manual review pile or otherwise not be identified. POL is committed to mitigating that likelihood however it reasonably can.
- 108 POL is working very hard with BSFf and its other external advisers to ensure that reasonably achievable improvements are made for the future conduct of the Inquiry. A full and thorough system review and assurance process is being conducted by POL with input from its new advisers, BSFf, and KPMG against the electronic discovery reference model (EDRM). I have exhibited a diagram of the EDRM with some additional explanation to this witness statement [WITN09940203 and WITN09940204]. This is a full structural review that goes beyond the issues that are the subject of this hearing and ties in with other workstreams of which the Inquiry is aware.
- 109 Due to the response timeframe for the Request, this extensive work is ongoing in parallel with the preparation of this evidence. POL will ensure that the Inquiry is kept informed about the steps that will be implemented to adapt and improve POL's disclosure systems and processes in relation to the 3 disclosure issues and more broadly. BSFf will write to the Inquiry as soon as practicable and ahead of the 5 September 2023 hearing to provide an initial update. I am absolutely committed to ensuring that this work, combined with other steps outlined above, is a success in mitigating the likelihood of future issues of a

similar nature and the impact on the Inquiry if they occur. POL will improve accuracy wherever it reasonably can.

110 POL's Group Assurance team is separately working with POL's external advisers and individuals within POL who have been involved in disclosure (including the Public Inquiry Team) to look at disclosure issues that have been identified with a view to providing a continuous, objective review of potential improvements that could be made to POL's disclosure systems and processes.

Request 2.b.

"Where you consider responsibility for the errors lies."

111 I have aimed to respond directly to the Inquiry's request as best I can by identifying the party or parties that, based on investigations to date, I consider responsible for the decisions underlying each of the issues.

112 In summary, the relevant decisions that led to the specific, identified issues stem from decisions taken by POL's external advisers. To the best of my knowledge and understanding, POL did not direct these decisions to be made. However, this does not change the fact that POL remains responsible for its own disclosure to the Inquiry. To reiterate, I have never instructed anybody within or acting for POL to withhold documents that the Inquiry has requested (other than documents that are legally privileged and not covered by POL's waiver set out in the Note to the Inquiry dated 15 November 2021) and I am not aware of anybody within POL or its external advisers doing so or being asked to do so. I hope that what I have said in this statement emphasises that POL

takes that responsibility seriously, deals with any issues as they arise and is continuously improving and seeking to improve how it undertakes its obligations to the Inquiry.

Search terms

113 As set out above in response to Request 1, the search terms intended to locate POL's policies and procedures relating to prosecutions and criminal investigations were selected by P&P and HSF. Responsibility for their suitability logically sits with them.

114 I do not have the knowledge or technical expertise to express a view on whether they were suitable or on whether anybody designing the searches, who did not already know that Appendix 6 existed and the nature of its content, reasonably could have selected additional search terms that would have returned that document.

Family documents

115 As set out above in response to Request 1, HSF did not require or instruct its reviewers to review family documents (although reviewers had the functionality to review family documents and so could do so where they considered it would assist them). To the extent that documents were not identified and produced to the Inquiry because of that decision, primary responsibility logically sits with HSF.

116 I do not have the knowledge or technical expertise to express a view on whether that review approach was appropriate. I understand that HSF consider that it was.

De-duplication

117 Logically, responsibility sits with POL's external advisers who took, communicated and implemented the de-duplication decisions. Based on my understanding of the positions of those external advisers, it is not possible at this stage for POL to say which specific external adviser may be primarily responsible for the relevant decisions.

118 As I have mentioned above, I view clear decision making, clear communication and clear recording of decisions to be critical to governing a matter as complicated as the Inquiry. Implementing improved processes in this regard is one of my absolute priorities.

Statement of Truth

I believe the content of this statement to be true.

Signature:

GRO

Date: 22 August 2023

Index of Referenced Documents

No.	URN	Document Description	Control Number
1	POL00115674	Appendix 6 – Racial Characteristics	POL-0115834
2	WITN09940201	Post Office Priorities 2022-2023	
3	WITN09940202	Rule 9 Request Process	
4	POL00114173ds	Second Interim Disclosure Statement on behalf of Post Office Limited dated 18 October 2022	POL-0113561
5	WITN09940203	Electronic Discovery Reference Model	
6	WITN09940204	EDRM Diagram Elements	