

Witness Name: Robert George Wilson

Statement No.: WITN04210100

Dated: 11 MAY 2023

**POST OFFICE HORIZON IT INQUIRY**

---

**FIRST WITNESS STATEMENT OF ROBERT GEORGE WILSON**

---

---

I, ROBERT GEORGE WILSON, will say as follows:

1. 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 dated 14<sup>th</sup> April 2023 (the "**Request**"). The statement covers private prosecutions taken by Post Office Ltd ("**POL**") and conducted by the Criminal Law Team ("**CLT**") the subject Inquiry.

**Relevant background**

2. I qualified as a Solicitor on 1st October 1980 following which I spent a short period of time as a Court Clerk in a Magistrates' Court before becoming a Prosecuting Solicitor for the Northumbria Police Force. When the Crown

Prosecution Service was created, I was transferred into the Service as a Crown Prosecutor. I next joined the CLT of POL as a Prosecuting Solicitor in mid-1986.

3. In May 2002 I was appointed Head of the POL CLT. I was responsible for advising the Business on criminal issues concerning compliance with all relevant laws and regulations together with updating and advising on the impact of prospective legislation. It was also my responsibility to advise and represent the Business. My main role was the responsibility for all criminal prosecutions brought on behalf of the POL. This involved managing and supervising a team of lawyers, legal executives and support staff. I was tasked with ensuring that the CLT were up to date with current legislation including any necessary training of the team e.g. Proceeds of Crime Act 2002. The CLT received prosecution case files relating to criminal investigations that had been conducted by the Security Team. I was responsible for the advice and the conduct of each case until its conclusion. My role included ensuring that cases submitted by the Security Team for advice were dealt with in a timely fashion and advice provided was clear with appropriate charges if a decision to prosecute was advised. I was also responsible for the daily management of the individuals in my team and their performance. The CLT relied on a number of agents who were instructed to undertake advocacy at court hearings in the Magistrates Court. The team also relied upon Counsel who represented POL in the Crown Courts throughout England and Wales. It was my responsibility to ensure that both Agents and Counsel were properly instructed and supported in their respective courts. I was also responsible for providing advice to the Business and Security Team covering the policies and procedure that should be adopted concerning all private prosecutions commenced by POL. I did not have any other relevant

roles whilst I was Head of the CLT.

4. On 1st April 2012 I left POL and moved into Royal Mail.

#### **The role of the Criminal Law Team**

5. The CLT's role so far as the policies and practices relating to the prosecution of Sub Post Masters (SPM), managers, assistants and Crown Office employees was to assess the evidence obtained, independently and consider whether the evidence was reliable and credible. The role also included looking at whether other material might affect the sufficiency of evidence and providing advice. Where there was a realistic prospect of conviction of the suspect the advice would address whether the prosecution was in the public interest. That advice was prepared by the CLT for consideration by the decision maker. The essential guidance relied upon by the CLT was that provided in the Code for Crown Prosecutors. Each lawyer in the team was provided with an up-to-date copy of the Code. The advice would be copied to the Security Team and authority would be obtained from the decision maker within POL to authorise a criminal prosecution. I believe that the role, policies or procedures changed significantly following the inception of the Crown Prosecution Service and the publication of the Code for Crown Prosecutors in 1986. The Code provided clear guidance on the general principles that should be followed when making decisions on prosecutions. In addition, the current prosecution policy and procedures would at the time of providing the advice be adhered to in order to maintain a consistent approach to each prosecution decision. In 1997 the Post Office Internal Prosecution Policy was published (POL00030659). The policy related

to employees and agents of POL. The policy was the first real step to place in a single document the prosecution policy. I believe that when I first came into the CLT the decision to prosecute was taken by Senior Investigation Managers in the Security Teams. The 1997 policy refers to the decision maker as being from the Personnel Department of each Business Unit following advice from the CLT. This later changed to a nominated representative in the Business and was contained in the Post Office Ltd-Security Policy Fraud Investigation and Prosecution Policy of 4<sup>th</sup> April 2010 (POL00030580). The Royal Mail Prosecution Decision Procedure in January 2011 (POL00030598) specified the decision maker as being the Senior Security Manager for POL.

#### **The rationale behind the practice of bringing private prosecutions**

6. Royal Mail Group Ltd (before the separation of the Post Office) and later POL (after the separation) had a practise of bringing private prosecutions against its agents and staff where they were suspected of financial crime rather than referring matters to the police and the CPS. Historically the investigation and prosecution of crime in Royal Mail Group can be traced back as far as 1683. (See "A Brief History of Investigations, Prosecution and Security in Royal Mail (LCAS0000124)). The Attorney Richard Swift was appointed Solicitor to the General Post Office. It is likely that he would have had some involvement in the prosecution of offenders in his thirty-year career. Since Richard Swift retired the various businesses that evolved from the General Post Office have continued to conduct private prosecutions. When the Crown Prosecution Service was created by the Prosecution of Offences Act in 1985 I understand that it remained

the position that an individual or entity had a right to conduct a private prosecution and that this should continue in relation to POL investigations. Investigators were often recruited from counters staff because of their familiarity with accounting documents and procedures. It was felt that such in-house knowledge of the accounting systems, practises and procedures was difficult to acquire overnight by police officers who had no knowledge of the workings of POL. It was therefore not felt appropriate to pass the investigation of crime within POL to the Police. Indeed, there were a number of occasions where a police officer had commenced an investigation into a POL related crime for example where a SPM had reported to the police a theft by one of their employees. More often than not contact would be made with one of the POL investigation teams and the case requiring investigation was handed over to a POL investigator. Similarly, where an investigation was conducted by a police officer and had been forwarded to the Crown Prosecution Service I recall that the CLT usually was asked by the Crown to accept their papers and take over the conduct of the prosecution. I do recall having to attend Court and take over the prosecution following an arrest and charge of an offender.

7. POL ceased the practice of bringing private prosecutions after I left its employment.

#### **Policies governing prosecution decisions and the conduct of prosecutions**

8. I have seen and considered a number of policies that were implemented during

the course of my tenure as Head of the CLT from May 2002 to 1st April 2012. I have referred to some of those policies below. Any policy implemented outside this period would not have received any input from myself.

9. POL drafted a number of policies governing the investigation of crime impacting on POL, the prosecution process and related areas. The policies were owned in the main by the respective Security Directors at the time of implementation. My role was to advise the Security Director and critique the content of those policies. I was also required to review the existing policies and advise on any changes that may be needed. Each policy that was developed was reviewed annually but was not necessarily changed each year. I was responsible for seeing that any stipulations included in the policies were adhered to.
10. The POL prosecution policy is a guide setting out the criteria to be considered before undertaking a prosecution together with the roles and responsibilities applicable to investigators, the CLT and decision makers within the various POL teams. The purpose of the policy is to make it clear that acts of dishonesty where property or assets are acquired illegally may result in a criminal prosecution when the criteria for prosecuting offenders is met. The Post Office prosecution policy appears to have evolved over a considerable period of time with little formal evaluation or review until 1997 when the then Security Director implemented the Post Office Internal Prosecution Policy (POL00030659). The rationale behind the prosecution policy is to set out the general principles that should be followed when making decisions on prosecution cases. The policy states that "the Post Office's policy is normally to prosecute its employees or agents who commit acts of dishonesty against the Post Office property or assets or the property or assets of Post Office customers and clients while in Post

Office custody and where it is deemed to serve the public interest.” When I joined POL in 1986 the decision to prosecute was taken by the Security Team on advice from the CLT. The final decision to prosecute remained with the Security Team. This changed at some point prior to me becoming the Head of the CLT. The decision to prosecute became the “nominated representative in the Business with consideration to the advice provided by the CLT”. This change can be seen in The Royal Mail Group Ltd Criminal Investigation and Prosecution Policy dated 1st December 2007 (POL00030578). A further change in responsibility for making the decision to prosecute can be seen in the Royal Mail Group Prosecution Policy created in September of 2008 updated in April 2011 (POL00030800) where the Head of Human Resources or their representative became the decision maker. Another change to the policy was made “in the event of any disagreement with prosecution advice or prosecution and conduct decisions anywhere in the UK the Head of Criminal Law Team and the Head of the Investigation Team will consider the case and provide guidance and advice to ensure that Royal Mail maintains a consistent prosecution policy”. Following this policy, the Royal Mail Security Procedures and Standards-Prosecution Decision Procedure of January 2011 (POL00030598) determined that the Senior Security Manager in POL would be the prosecution decision maker. So far as the criteria on which to base a prosecution was concerned this has remained in place since the inception of the Crown Prosecution Service. The Code for Crown Prosecutors requires that there must be sufficient evidence to prosecute the defendant and the prosecution must be in the public interest. These principles are followed in each of the prosecution policies.

11. The Post Office’s approach to suspected theft, fraud and false accounting was

to normally prosecute where appropriate. See above RMGP (POL00030578), and RMS-PandS-PDP (POL00030598). The Royal Mail Group Ltd Criminal Investigation and Prosecution Policy of Nov 2010 (POL00031008). The Post Office Ltd Anti-Fraud Policy of February 2011 (POL00104855) stated that POL would not accept "any level of fraud..." or misappropriation and will actively investigate with appropriate intervention being undertaken. The CLT approached each case of theft, fraud and false accounting by first assessing whether there is enough evidence against a suspected offender. The lawyer advising would need to consider whether that evidence could be used in court and was reliable and credible and ascertain whether there was any other evidence that might affect the sufficiency of evidence. Further the lawyer would need to be satisfied that there was a realistic prospect of conviction. Consideration would then need to be given as to whether it would be in the public interest to prosecute.

12. I was appointed Head of the Criminal Law Team in May 2002. At that time I had a compliment of lawyers in the team made up by a qualified Barrister and Solicitors. The team also had a number of support staff dealing with purely administrative work. At some point I was able to acquire two qualified Legal Executives. During my tenure the grade of Principal Lawyer was introduced which resulted in two of my lawyers being promoted into the grade.
13. The CLT was responsible for overseeing the conduct of all criminal prosecutions from the inception of the case to its conclusion. This involved advising on the sufficiency of evidence and drafting the appropriate charges for consideration by the designated decision maker. In cases where a decision could not be determined the lawyer would be required to itemise other lines of inquiry and

evidence that was needed whether it pointed toward a prosecution or away from a prosecution. If advice was that prosecution was the appropriate course of action then following authorisation being granted to prosecute the conduct of the case would remain the responsibility of the CLT until its conclusion. This included serving advance information on the defence solicitors and Magistrates' Court, service of committal papers on these parties if appropriate and instructing counsel to advise on evidence and draft the indictment in the Crown Court.

14. The role of the Financial Investigation Unit was to identify and restrain assets and proceeds of crime with a view to commencing confiscation proceedings where appropriate. The Financial Investigator ("FI") would become involved if the Security Team investigating criminal offences believed that there was evidence of assets being available.

15. From my recollection the only teams that were involved in criminal prosecutions within the Post Office were the Security Team and the Financial Investigation Unit.

16. I was responsible for supervising or reviewing the conduct of the CLT prosecutions.

17. I had no specific training or qualifications in the role of reviewing the conduct of the CLT prosecutions other than my experience as a qualified solicitor.

18. There was no supervision of the private prosecutions by any outside body. At the conclusion of each case I would receive a report on the outcome of the proceedings from the person attending court in the CLT office area. I would also receive a report from my agents in the agents area. Prosecuting counsel would also report the outcome of proceedings. Where any comments were made by Magistrates or a Judge I would ask for a full note of the comments or if

necessary obtain a court transcript. In the event the defendant was acquitted following trial I would contact prosecuting counsel and ask for a full report with a view to understanding the reason for the acquittal. Any adverse criticism of any aspect of the private prosecution would be dealt with by me. I cannot recall receiving any major criticism emanating from a Crown Court Judge or Magistrates' court that required me to address the issue in writing with the complainant Court.

19. There was no independent oversight exercised in respect of the conduct of prosecutions.

20. The Post Office prosecution policies did not differentiate between Crown Office employees and Sub-Postmaster (SPM's) and their managers. This remained the position throughout my role as Head of the CLT.

21. When I left POL on 1st April 2012 I moved into RMG and thus I ceased to have a role in respect of the POL prosecution policy. The separation resulted in the requirement to generate a separate prosecution policy for each business.

### **Prosecution and charging decisions**

22. During my tenure as the Head of the Criminal Law team the process that was applied in relation to prosecution and charging decisions following the preparation of the advice and drafting of charges was firstly to send the advice to a single point within the Personnel Department of each Business unit so that a decision to prosecute could be considered (see above POIPP (Dishonesty))

POL00030659). The role of decision maker changed within POL (but not Royal Mail) (see above RMGP POL00030598) to the Senior Security Manager. I believe that RMGPP (POL00030800) nominated the decision maker in Royal Mail as the Head of Human Resources. I understand that following the advice being sent to the decision maker in POL they were required to consider whether it was in the public interest to initiate a prosecution, issue a caution or take no further action. The decision maker was required to consider the Code for Crown Prosecutors when determining the public interest test. The decision was required to be made within 5 working days and put in writing, returning the papers to the casework management team who would then initiate criminal proceedings if authorised to do so. In the event that the decision maker did not reply within the stipulated 5 days a further letter would be written to the decision maker informing them that in the event a decision had not been reached within a further 5 working days then the decision to prosecute would follow the CLT's advice. In the event of advising a caution or no further action the case work management team would instruct the investigator to deal with this aspect of the case. This process was encapsulated in the RMSPandS (POL00030598). In April 2011 The Royal Mail Group Prosecution Policy (POL00030685) added an additional process in the event that the decision maker disagreed with the legal advice prepared by the Criminal Law Team. In this situation the Head of the CLT and the Head of the Investigation Team would be required to consider the case and provide guidance and advise to the decision maker with a view to endeavouring to ensure that the prosecution policy was applied consistently. This change had been included in the policy because in a small number of cases the advice provided by the CLT to prosecute a suspected offender on criminal

charges had been rejected and the suspect had been returned to duty. In such circumstances a prosecution could not proceed.

23. When I first took over the role as Head of the CLT I believe that nominated representatives in the business made the charging decisions in respect of SPMs' managers and assistants alleged to be responsible for shortfalls shown on the Horizon IT system. The role of decision maker changed for POL and moved from being the Head of Human Resources (see RMGP POL00030800) to the Senior Security Manager (see RMSPandS POL00030598). My understanding is that this change was put in place to ensure consistency in the decision-making process.

24. The decision to prosecute and charge the alleged offender was taken at the same time. I do not believe that this changed during my role within the CLT. The legal advice to prosecute and charge was prepared by lawyers in the CLT. However due to a reduction in the number of the lawyers in my team and the absence of a lawyer who had been granted special leave, I was authorised to outsource POL legal advice on prosecutions to a firm who already dealt with the advocacy of some of our cases in the agent area. Messrs Cartwright King agreed to receive investigation files directly from investigators, prepare the advice, draft charges and submit the files for authorisation. Following the charging of the offender, the firm acted as our representatives in the Magistrates' Court and Crown Court until the conclusion of the case. I cannot recall when Messrs Cartwright King commenced this work for POL.

25. Legal advice on prosecution and charging decisions was prepared by Solicitors or Barristers employed in the CLT. No one else was authorised to provide such advice until the need to outsource some of this work to our agent Messrs

Cartwright King. New recruits to the CLT were supervised by a senior lawyer before being allowed to sign off on any advice that they had prepared. This period of training was usually for 6 months, and supervision of the new recruit would be rotated between a number of different senior lawyers within the CLT. Only qualified lawyers within the CLT were entitled to provide legal advice in relation to prosecution and charging decisions during my tenure as Head of the CLT with the later exception referred to above when Cartwright King undertook prosecutions on POL's behalf.

26. The qualifications held by those providing legal advice were those applicable to a solicitor or barrister. There was no specific training provided relating to preparing legal advice on prosecution and charging decisions other than for new recruits to the team.

27. The test applied by those making the prosecution and charging decisions was that contained in the Code for Crown Prosecutors. The decision maker was supplied with an up-to-date copy of the Code. The factors to be considered in relation to the evidential test included whether the evidence was relevant, admissible, reliable and credible so that it was sufficient to provide a realistic prospect of conviction. The decision maker was not required to consider the evidential test. An advice from the CLT would only be sent for a decision to be made if there was deemed to be sufficient evidence to justify a prosecution. The decision maker would be required to reach a decision in relation to the public interest test. So far as the public interest test was concerned a number of factors may weigh in the decision maker's mind. Those factors included the seriousness of the offence, whether there was a breach of trust, the size of any loss to the Business and whether other parties such as members of the public had

suffered. In addition, there may be factors concerning the offender that would be pertinent to consider such as their age and any health considerations. ( see RMGLCandPP POL00030578, Royal Mail Group Prosecution Policy Oct 2009 POL00031011, POSPFIP 4th April 2010 POL00030580, see RMSPandS POL00030598, see RMGPP POL00030685, see RMGP POL00030800).

28. I note that policies were developed in November 2013 and January 2016. I was not employed in POL on either of these dates.

29. I have considered a number of documents relating to legal advice I provided to the Security Team in 2010 and 2011. (letter dated 19th May 2010 POL00015014, letter dated 25th May POL00047155, letter dated 17th May POL00047158, letter dated 21st May 2010 POL00047159, Draft Charge POL00047160, letter dated 10 January 2011 POL00008792, Schedule of Charges POL00008793, letter dated 21 March 2011 POL00017656, Schedule of Charges POL00017657, letter dated 6 June 2011 POL00009413, Schedule of Charges POL00009414, letter dated 5 July 2011 POL00056596, Schedule of Charges POL00056597, letter dated 21 July 2011 POL00009537, letter dated 6 June 2011 POL00009413, Schedule of Charges POL00009538, letter dated 7 September POL00011337, and Schedule of Charges POL00011338). Other advices were prepared by myself in 2010 and 2011 that were similar to the examples above but that were pertinent to the particular evidence being considered by me.

30. I provided such advice to the Security Team throughout my period as Head of the CLT.

31. The Code for Crown Prosecutors was a document that a decision maker had a copy of and was required to consider when making the decision to prosecute.

The successive prosecution policies all referred to the need to consider whether it was in the public interest to prosecute. I would consider that it was in the CLT's role to provide advice on the public interest stage of the prosecution test. The references in my advice to the sums of money in issue in support of prosecution as weighing against a caution as an alternative were intended to assist the decision maker so far as the public interest test was concerned. As a matter of policy, the prosecution decision-maker was expected to consider the public interest test themselves with guidance from my advice and be determined from the nature of the charges accompanying the advice. I do recall providing training at some point to decision makers but accept that it was not always possible to include every individual who took on the role in such training. Had a prosecution not been in the public interest I would have explicitly drawn this to the decision-makers attention and recommended alternative action or no action to be taken.

32. The CLT did provide advice to the Security Team on investigation steps prior to the decision to prosecute being reached. This may include reasonable lines of inquiry to be taken. ( letter dated 18 May 2011 POL00046228, letter dated 5 July 2011 POL00046230, letter dated 5 July POL00056596).

33. There were occasions when counsel's advice was sought prior to a decision to prosecute being reached. The CLT did not seek advice from external lawyers. Seeking advice from counsel on certain matters continued throughout my role in the CLT. Such advice was occasionally sought in complex cases.

### **The conduct of prosecutions**

34. A number of pieces of legislation governed the conduct of POL prosecutions

including The Magistrates' Court Act 1980, The Police and Criminal Evidence Act 1984, The Prosecution of Offences Act 1985, The Criminal Procedure and Investigations Act 1996, The Regulation of Investigatory Powers Act of 2000, The Proceeds of Crime Act 2002 together with the relevant codes of practice. The Code for Crown Prosecutors was a document that was central to the governing of the conduct of criminal prosecutions along with the succession of Royal Mail Group Prosecution Policy's and Royal Mail Group Procedures and Standards.

35. Prosecutions were conducted by POL throughout England and Wales. When I was appointed the Head of the CLT the lawyers in the CLT conducted advocacy in London and the South East of England. Solicitor Agents were employed solely to conduct advocacy in the Magistrates' Court in the remaining areas of England and Wales not covered by the CLT. Occasionally in a sensitive case or where there was some other need identified, a lawyer in the CLT would prosecute in a court outside the office area. Where the defendant was committed for trial at Crown Court counsel would be instructed to represent POL until the conclusion of the case. In the agents area the lawyer responsible for the case would send to the agent the committal papers, a copy of the draft indictment and a copy of instructions to counsel. The instructions to counsel would request that advice be provided on the evidence and that counsel would settle the Indictment. The agent would attend counsel to assist at each hearing in the Crown Court until the conclusion of the case. The agent would report the outcome of the proceedings to the instructing lawyer. The CLT also used a set of chambers in London to conduct advocacy in the Magistrates' Court when the team was short of lawyers to cover hearings. At some point during my tenure

as head of the CLT we had a deficiency of lawyers in the team to cover all of our cases. Due to this deficiency a decision was made to approach a set of agents to undertake prosecutions on behalf of POL. Discussions took place with our agents Messrs Cartwright King who agreed to assist the CLT. Following the agreement Cartwright King received files directly from investigators in the agent area and provided advice, drafted charges for the decision makers consideration and in the event of a prosecution ensuing conducted the prosecution case to its conclusion in the Crown Court. (letter dated 16th November 2010 POL00047197, Back sheet of Counsel's Brief POL00051459, letter dated 19th May 2010 POL00015014, letter dated 21st May 2010 POL00047159, letter sending Advance Information to Clerk to the Justice's POL00054985, letter dated 15 October 2010 POL00055567, letter dated 29th September 2010 POL00055298, and letter dated 12 August 2010 POL00055162).

### **Disclosure**

36.No guidance in relation to disclosure obligations was given in any prosecution policy documents. I believe that the Policy and Standards team within POL security were responsible for providing written guidance and training with input from myself. It was felt that as the Code for Crown Prosecutors did not provide guidance on disclosure that this should be dealt with in a separate document.

37.The POL disclosure obligations on the prosecutor were to disclose to the

accused material which has not previously been disclosed to the accused and which might reasonably be considered capable of undermining the case for the prosecution against the accused or of assisting the case for the accused. There was also a duty to serve on the defence solicitors a schedule of non-sensitive unused material and provide copies of the listed material where practicable.

38. My role concerning disclosure of material relating to cases I had conduct of was to keep disclosure under review throughout the life of the case. The investigation manager with conduct of the case, or I believe in some circumstances another investigator not involved with the investigation, would assume the role of disclosure officer. The lead lawyer would never be the disclosure officer. (Schedule of Non-Sensitive Unused Material POL00055495).

39. I provided advice to the disclosure officer in relation to disclosure at each step of the prosecution case following a not guilty plea or election for Crown Court trial. Once witness statements and a copy exhibit bundle had been prepared, I would receive a schedule of non-sensitive unused material from the disclosure officer listing all relevant material which was not the subject of the trial papers. The material listed would also be copied if practicable. In addition, there may be material described as capable of assisting the defence or undermining the prosecution. In this instance the defence solicitors would be notified of such material and the schedule of non-sensitive material would be served with trial papers. Occasionally I would be told that there was sensitive material in existence. From my memory I believe that such material was not always shown to me but that I may be informed of its nature. Where such sensitive material was determined to undermine the case or assist the defence a decision would be taken to discontinue the proceedings. The notification regarding disclosure

and service of any schedules would be dealt with prior to trial when exhibit bundles and witness statements were served on the defence and Court. The standard procedure at this stage would be to ask the defence solicitors to serve a defence statement which when received would be copied to the disclosure officer so that disclosure could be reconsidered. Advice would be provided to the disclosure officer if necessary. If this generated further material requiring disclosure then this would be complied with, and a further schedule of non-sensitive material would be prepared by the disclosure officer which again would be served on the defence solicitor together with any copies of such material if practicable. All of the schedules would be copied to counsel having conduct of the case. The position of disclosure would be continually reviewed until the conclusion of the case and the disclosure officer would be reminded of this obligation in writing. (see above POL00047159, POL00009537, letter dated 12 October 2010 POL00047166, letter dated 15 October 2010 POL00055546, letter dated 28th April 2011 POL0008525).

40. Advice would be provided by the CLT on evidence that should be obtained in the initial advice when charges were drafted. On receipt of witness bundles, copy exhibits and disclosure schedules further advice on evidence would be given if appropriate.
41. Counsel was instructed to advise on evidence once the case was committed for trial to the Crown Court. External Lawyers were not used by the CLT (except for Messrs Cartwright King as referred to above). Occasionally where the case was complex or for any other reason, counsel would be instructed at a preliminary stage to provide advice on the investigation or more detailed advice addressing any issues in the case. (Instructions to Counsel POL00055527, Instructions to

Counsel POL00055521, letter dated 12 October 2010 POL00055526, Back Sheet of Brief to Counsel POL51459).

42. In the event that a discrepancy between Horizon generated cash and stock positions and the actual physical position determined by branch office staff was discovered by an audit and charges of theft, fraud and/or false accounting were contemplated on this discrepancy all relevant information or evidence would be sought from the investigator. No direct contact or provision of information was provided to those parties advising on the Horizon IT system. Where a discrepancy was discovered, the Investigator would seek evidence to prove the loss which may entail acquiring evidence from transaction logs, ARC, back up files or any other applicable data. Any evidence establishing which counter clerk was responsible for the relevant transaction would also be obtained.
43. Further information about the Horizon IT system would be requested by external solicitors or counsel from time to time. Where the defence were seeking to clarify issues the CLT would endeavour to co-operate. I have seen a memo seeking three civil litigation files which a defence team had specifically requested in order to gain a "flavour" of the Horizon issues in those cases. I believe these files would have been obtained and copied to the defence team. ( letter dated 10th November 2009 POL00053481).
44. I preferred to use counsel who were familiar with Horizon procedures in POL prosecutions. Having conducted previous trials counsel would understand the issues more readily and consequently be able to advise on points raised by the defence more easily than counsel with no knowledge of the system. It meant that counsel could discuss the technical side of the case in conference with the investigator and provide an informed advice on the prosecution without the need

to have to explain basic principles of the Horizon system. ( letter dated 2 June 2011 POL00021335). When the Horizon IT system was first implemented, I instructed senior counsel who had undertaken a number of prosecutions for POL to provide an advice for the CLT applicable to the new system. I understand it included specific wording to cover the production of computer records ( S69 of the Police and Criminal Evidence Act 1984), and wording to cover the production of business records (S 11 of the Police and Criminal Evidence Act 1984). Counsel instructed had also received training on a computer terminal that would be used by SPM's, counter clerks and staff conducting transactions with members of the public. I cannot now recall the full extent of the advice prepared by counsel but recall that it was a detailed advice.

45. Following the receipt of the Defence Case Statement in order to ensure compliance with disclosure obligations I would first consider the statement and where any clarification of the content was required, I would write to the defence solicitor seeking a better understanding of any issue. In the event the statement was clear, a copy of the defence statement would be forwarded to the disclosure officer and where appropriate draw to their attention any key issues, provide advice and seek a review of any material that was previously determined to be not relevant to the investigation. A copy of the defence statement would be forwarded to counsel instructed and agent, if an agent was instructed. In the event that the defence statement identified further disclosure material then an additional schedule would be prepared and served on the defence solicitor. Copies would also be sent to prosecuting counsel and any agent instructed. ( letter dated 8 November 2010 POL00055718, letter dated 8 November 2010 POL00055717, letter dated 8 November 2010 POL00055720, email dated 18

November 2010 POL00055783, letter dated 18 November 2010 POL00047168, letter dated 29th September POL00055298).

46. Where it is alleged in a Defence Case Statement that a discrepancy was as a result of the Horizon IT system then the investigator would be required to identify who in Fujitsu could address the issue and obtain relevant evidence to explain the discrepancy. If the issue had concerned ARQ, which I believe was the record of keystrokes made, then these logs would be obtained and disclosed on the defence.
47. An allegation in a Defence Case statement that there was a discrepancy in the Horizon IT system would trigger an obligation to disclose any known bugs, errors or defects in the Horizon IT system.
48. I have considered a number of documents relating to the case of R v Seema Misra. The letters and emails relate to various stages of the prosecution but do not give a complete picture of the case (letter dated 29th September 2010 UKG100014627, email dated 22/12/2009 POL00053723, letter dated 5th March 2010 POL00054303, Attendance note of 15th July 2010 POL00054999, email dated 16/03/2010 POL00054430, email dated 21/10/2010 POL00055590).
49. Where applications for disclosure concerned "a huge amount of Horizon data" my view would have been that such a request should be complied with. From my recollection whilst there were a number of challenges to the veracity of the Horizon IT system and the amount of data being disclosed was voluminous CLT would endeavour to ensure that disclosure requests were complied with. The only case I can recall where the extent of the defence requirements for disclosure was such that it was referred to a Judge because of the volume and I believe, the relevance of some of the requested material, was in the case of R

v Seema Misra. As far as my own view is concerned applications for data were not resisted by the CLT unless as in the Seema Misra case I believe it was considered that some of the data falling within the application was not relevant, which is why CLT sought a hearing before the Crown Court Judge dealing with the case for a ruling on the issues raised.

50. I do not know why Penny Thomas was reluctant to authorise Gareth Jenkins to talk to the Defence expert. I am also unaware of the reason why this should have impacted on the relationship between PO and Fujitsu. (Attendance note in the case of Seema Misra POL00054999).

### **Experts**

51. The guidance given to expert witnesses called on behalf of POL was the same as that of a non-expert witness namely that the witness statement should be truthful and if it were proved otherwise, they could be liable to prosecution. Experts are obliged to provide objective, impartial, unbiased, evidence on the matters within their field of expertise. The duty of the expert is to the court and not the party who is instructing them. The expert witness statement declaration of truth is the same as contained in a witness statement. The declaration being "This statement is true to the best of my knowledge and belief, and I make it knowing that, if it is tendered in evidence, I shall be liable to prosecution if I have wilfully stated in it anything which I know to be false or do not believe to be true." Clearly this declaration is self-explanatory in that it signifies the meaning and importance of their declaration and of the content of their witness statement.

52. The CLT did not prepare a generic witness statement for expert witnesses. I

cannot recall comparing witness statements generated by anyone at POL or Fujitsu for use in criminal cases so am unable to say whether a generic statement had been developed by either POL or Fujitsu for their witnesses. (email dated 16/06/2009 POL00051927).

53. I am unaware of any policies or guidelines being in place regarding the provision of evidence by employees of Fujitsu whilst I was in the CLT. (email dated 16/6/2009 FUJ00122670).

54. The only witnesses we were able to use to obtain evidence in support of the prosecution where a defendant was attributing a discrepancy on audit to problems with the Horizon IT system were Fujitsu employees. I believe that Fujitsu owned and had control of the data. I do not recall that Gareth Jenkins who was held out to be an expert witness on the Horizon IT system was ever challenged about his credentials as an expert or whether he should be allowed to be called by POL as an expert because of his employment role within Fujitsu. I understand that some experts emanate from bodies who employ and pay the expert. Gareth Jenkins was aware that his duty was to the court and not to the CLT who instructed him or Fujitsu who paid him.

55. I believe that where there was a challenge to the Horizon data a statement from Fujitsu would be obtained. The only witness I recall providing such expert evidence was Gareth Jenkins. I do not recall however whether he gave evidence in other cases following him giving evidence in the Seema Mistry case but believe he probably did. (letter dated 19th August 2010 POL00055189).

56. I do not recall how common it was for the prosecution and defence experts to meet to produce a joint report to narrow the issues following the Seema Misra case but believe that it did happen where the Court dealing with the case were

aware that experts were involved, and it was felt that issues in the case could be narrowed. I understand that a joint report would normally be ordered at a Plea and Case Management hearing. ( email dated 21 September 2010 POL00015953).

### **Plea negotiations**

57. There are examples in a number of prosecutions where plea bargains were struck before trial whereby the PO would offer no evidence on a charge of theft in exchange for a guilty plea on a charge of false accounting. (email dated 16/11/2010 POL00055772, letter dated 17 November 2010 UKG100014698, letter dated 17 November 2010 POL00055781, letter dated 18th November 2010 POL00055807, letter dated 16 December POL00055896).

58. I did not draft charges of theft in order to put pressure on defendants to offer guilty pleas to charges of false accounting. Charges of theft were only drafted when the evidence was such that it was believed that there was a realistic prospect of conviction of the offender in relation to the theft charge.

59. I considered that a plea to false accounting would not be acceptable if it was put on the basis that the Horizon IT system was at fault because I did not believe that this was true and as such felt such a plea could not be properly accepted. ( email dated 17/11/2010 POL00055783).

60. I do not recall how many cases were settled where a shortfall had been repaid. However, I do not believe it to have been a common occurrence. ( letter dated 29th September 2010 POL00055298, letter dated 5 November 2010 POL00055704, letter dated 1st December 2010 POL00055854, letter dated 2

December 2010 POL00055858, letter dated 15 December POL00055890).

### **Criminal enforcement proceedings**

61. I have considered a number of relevant documents (see point 7), regarding criminal enforcement proceedings.
62. Steps to restrain a suspect's assets were taken where there were reasonable grounds for suspecting that the person had benefitted from their criminal conduct, a criminal investigation had been started and there was a real risk that the asset would be dissipated if a Restraint Order was not obtained. (Post Office Ltd Financial Investigation Policy 4th May 2010 POL00030579, Royal Mail Group Security-Procedures and Standards September 2010 POL00026573, Post Office Ltd Financial Investigation Policy 2nd February 2011 POL00104853).
63. The decision to take criminal enforcement proceedings was taken following a discussion between the Financial Investigator ("FI") and a lawyer in the CLT. The factors under consideration included whether there were reasonable grounds to believe that a person had benefitted from criminal conduct or, it was thought that the defendant had been or would be convicted or committed for sentence in a Crown Court for a criminal offence from which the defendant had benefited. In addition, a provable loss to the business, or personal benefit to a suspect offender exceeding £5000 in value was required. In addition, there would have to be indications that the defendant had assets that could be used to service any future Confiscation Order.
64. Once a decision was reached to pursue a financial investigation the FI would

serve a S18 POCA 2002 "Request for Information" on the defendant either contained within a Restraint Order or upon conviction in the Crown Court. Any response to the s18 request would be analysed with any information known at that time. The FI would consider the need for any further financial information and pursue any appropriate course of action. A decision would be reached as to whether the defendant benefited from a "Particular" or "General" course of criminal conduct. The FI would then prepare a Prosecutors Statement of Information pursuant to s16(3) for general criminal conduct or s16(5) for particular criminal conduct. In the event that the defence solicitor's respond to the s16 statement the FI may decide to prepare a response. The next step in the process would be to prepare confiscation forms, a compensation order and a discharge of restraint (where applicable). The FI would attend the confiscation hearing at the Crown Court with the confiscation forms and make application for a confiscation order. The CLT would advise and assist the FI once a decision had been reached to pursue this course of action. The CLT would instruct counsel and advise agents where appropriate and liaise with the Crown Court. In addition, any developments would be communicated to all relevant parties to ensure the application for confiscation was dealt with as expeditiously as possible. (Flow chart POL00084988, Security & Investigation Debt Process POL00084989, letter dated 6th May 2009 POL00051382, letter dated 17th February 2010 POL00054145, letter dated 17th February 2010 POL00054147, email 30/06/2010 POL00054927, email dated 3 June 2011 POL00018884, letter dated 10 December 2010 POL00055877, letter dated 1st November 2010 POL00016273).

### **Relationship with the Civil Law Team**

65. I have had sight of a number of emails sent between the Civil Law Team and the CLT where the integrity of Horizon IT was under consideration. (email dated 01 December 2006 POL00069892, email dated 05 December 2006 POL00070166, email dated 04 December 2006 POL00070175).

66. The CLT and Civil Law Team were separate teams. Any liaison between the two teams was rare and on a superficial basis only. The CLT would not disclose any witness statements or records of interview on the Civil Law Team however where there was a simple request asking the CLT to confirm whether the team was prosecuting in relation to a particular Sub Post Office we would confirm if this were the case. Bearing in mind the duties on the CLT in respect of confidentiality in relation to any criminal prosecution there was no sharing of evidence with the Civil Litigation Team. ( letter dated 10th November 2009 POL00053481).

67. My understanding of the case against Mr Castleton is that this was a civil action to recover unauthorised losses in the sum of 26k which were missing from the Bridlington SPSO between January and March 2004. I was contacted by solicitors representing the PO in the civil action as Mr Castleton had alleged that the losses were fictitious and caused as a result of problems with the Horizon IT system. Mr Castleton intended to call a witness, Mr Singh, who had been prosecuted by the CLT. The case was concluded when no evidence was offered against Mr Singh. This course of action was taken because a number of exhibits had been removed from the papers by another agency and they could no longer be traced. The lack of the missing exhibits resulted in a decision being taken to

offer no evidence against Mr Singh. The solicitors acting on behalf of POL in the civil proceedings against Mr Castleton had requested that I attend court to explain why the prosecution had not been proceeded with. I agreed to attend court although I was not required to do so. This case therefore had no impact on any assessment of the integrity of the Horizon IT system. Accordingly, it had no impact in relation to later prosecutions as it had simply involved missing exhibits. ( see above POL00053481).

### **Cases against SPMs**

68. I have commented on the case of Alison Henderson having had sight of some of the correspondence. I cannot recall the case at all. I do however recall some details of the Seema Misra case and trial. My recollections relate to the requests concerning disclosure which ultimately resulted in the matter being placed before a Judge where an order clarified the extent of the prosecutions disclosure duties and disclosure was complied with. I also recall being informed of some details of the trial as it progressed through the Crown Court. I have no other recollections of any of the persons named although some of the names are familiar to me although I do not now have a recollection of their case.

69. I do not recall any other particular cases in which I had a role which I consider relevant to the matters being investigated by the public inquiry.

70. Looking back I did not have any concerns about any criminal cases in which I was involved.

### **Knowledge of bugs, errors and defects in the Horizon system**

71. I have seen an email chain POL00055410, from Alan Simpson to myself dated 8th October 2010 and timed at 14.16 hours. The email requested that I dial into a meeting that afternoon. At the time I understand I was in an office meeting and accordingly was unable to dial into the telephone meeting. At the end of the office meeting I saw the email and copied the email to two colleagues in the CLT. I do not recall the email or recall what actions I took following the conclusion of the office meeting. I do however believe that I would have followed up the email and contacted Mr Simpson.

72. I do not know what the issue was that had been reported by Fujitsu and concerned Mr Simpson.

73. I do not know what the repercussions in future prosecutions Mr Simpson envisaged.

74. I cannot recall whether the concerns resulted in any change to the investigation and disclosure in Horizon data cases.

75. I have seen instructions drafted by me on 12th October 2010. There is no reference in those instructions to the Fujitsu report referred to in Mr Simpson's email of 8th October. I cannot recall whether counsel was made aware of the recent report from Fujitsu. (see above POL00055521).

### **Wider challenges to the integrity of Horizon**

76. I have seen an exchange of emails in February to March 2010 in which it is suggested that there should be a 'general' due diligence exercise on the integrity of Horizon. ( email dated 08 Mar 2010 POL00054371). I believe the

report that was published in August 2010 prepared by Rod Ismay the Head of Product and Branch Accounting for POL was the outcome of the exercise on the integrity of Horizon. The report was entitled “ Horizon in Response to Challenges Regarding System Integrity.” (POL00026572). The report stated that Horizon (both Legacy and Online) was robust and that prosecutions which had given rise to adverse comments were cases in which “we remain satisfied that this money was missing due to theft in the branch.”

77. I understand that the IT magazine article on Horizon may have been attached to the string of emails referred to in the answer to paragraph 75 above. In this event I would have seen the magazine article but cannot now recall my reaction to it. I assume that it was as a result of this article and from other concerns that were being raised about the Horizon IT system that Rod Ismay produced his report in August 2010. (POL0054371).

78. I have considered the report prepared by Rod Ismay “Horizon Response to Challenges Regarding System Integrity.” The report in essence vindicates the past prosecution of offenders by CLT and whilst expecting further challenges to the Horizon IT system does not anticipate that those prosecutions should desist. Rod Ismay considers that his report was an objective report. The report maintains that £1000's of pounds were discovered missing at audit nevertheless the author remained satisfied that this money was missing due to theft at the branch. It is not believed that the account balances against which audits were conducted were corrupt. Emphasis is placed on tamper proof logs, real time backups, and absences of “backdoors”. This last reference is explained as data entry being at branch level that was tagged against the logon ID of the user. The ownership of accounting was assessed as being “truly” at branch level. An

independent IT consultancy described the Horizon on-line architecture as “first rate”. The report maintains that failures do occur, but POL had controls over these failures. Transaction backups were in place on a backup server updated as each transaction was completed. Further, branch balancing was securely recorded and was traceable. The Horizon infrastructure was robust from a security point of view and access prospective. Horizon was resilient as it was able to continue customer service and hold data in a queue in the event of incidents. The report considers that known IT issues had not arisen in any legal cases. The report refers to three Landmark cases namely Clevelleys in 2001, Castleton in 2004, and Alderley Edge in 2010. It is noted that third party experts had been involved in the Horizon design, testing and roll out. Whilst maintaining that the majority of branch audits were satisfactory it is conceded that there was a 0.01% correction level per month with 230 million transactions taking place in that period. Consideration was given to obtaining an independent report, but this was discounted. Following consideration of the report I did not have any concerns about the contents. The report in my view vindicated the continuing prosecution of offenders where appropriate.

79. I cannot now recall the three “landmark cases” describe in Rod Ismay’s report.

The first case on the list in 2001 took place when I had a 2 year spell in a team that was not involved in any way with the prosecution of offenders.

80. I do not believe that challenges to the integrity of Horizon changed my advice regarding any approach to investigation and disclosure of Horizon data cases.

I endeavoured to maintain a consistent approach by adhering to requirements contained within POL prosecution policies and guidance, legislation and their codes and the Code for Crown Prosecutors.

Reviewing decisions to prosecute and Post Office investigations

81. My role in reviewing a decision to prosecute following representations made by MP's would be to consider all of the case papers independently and fully apply the principles as set out in the Code for Crown Prosecutors whilst following the POL prosecution policy guidelines. Any decision I would reach would be free from any improper or undue pressure or influence from any source. (Letter to MP POL00007640).

82. I was not involved in any investigations carried out by Cartwright King, Simon Clark, Brian Altman KC or Jonathan Swift KC.

Other matters

83. There are no other matters that I would wish to draw to the attention of the Chair of the Inquiry.

Statement of Truth

I believe the content of this statement to be true.

Signed:

**GRO**

Dated: 11th May 2023

**Index to First Witness Statement of ROBERT GEORGE WILSON**

<b>No.</b>	<b>URN</b>	<b>Document Description</b>	<b>Control Number</b>
1	POL00030659	Post Office Internal Prosecution Policy 1997	POL-0027141
2	POL00030580	Post Office Ltd-Security Policy Fraud Investigation and Prosecution Policy April 2010	POL-0027062
3	POL00030598	Royal Mail Prosecution Decision Procedure 2011	POL-0027080
4	LCAS0000124	A Brief History of Investigations, Prosecutions and Security in Royal Mail	VIS00010364
5	POL00030578	Royal Mail Group Ltd Criminal Investigation and Prosecution Policy 2007	POL-0027060
6	POL00030800	Royal Mail Group Prosecution Policy 2008	POL-0027282
7	POL00031008	Royal Mail Group Ltd Criminal Investigation and Prosecution Policy	POL-0027490
8	POL00104855	The Post Office Ltd Anti-Fraud Policy 2011	POL-0080487
9	POL00030685	Royal Mail Group Prosecution Policy 2011	POL-0027167
10	POL00031011	Royal Mail Group Prosecution Policy	POL-0027493
11	POL00015014	Letter dated 19 <sup>th</sup> May 2010	POL-0008206
12	POL00047155	Letter dated 25 <sup>th</sup> May	POL-0043634
13	POL00047158	Letter dated 17 <sup>th</sup> May	POL-0043637
14	POL00047159	Letter dated 21 <sup>st</sup> May 2010	POL-0043638
15	POL00047160	Draft Charge	POL-0043639
16	POL00008792	Letter dated January 2011	POL-0001984
17	POL00008793	Schedule of Charges	POL-0001985
18	POL00017656	Schedule of Charges	POL-0010848
19	POL00017657	Schedule of Charges	POL-0010849
20	POL00009413	Letter dated 6 June 2011	POL-0002605
21	POL00009414	Schedule of Charges	POL-0002606
22	POL00056596	Letter dated 5 July 2011	POL-0053075
23	POL00056597	Schedule of Charges	POL-0053076
24	POL00009537	Letter dated 21 July 2011	POL-0002729
26	POL00009538	Schedule of Charges	POL-0002730
27	POL00011337	Letter dated 7 September	POL-0004529
28	POL00011338	Schedule of Charges	POL-0004530
29	POL00046228	Letter dated 18 May 2011	POL-0042707

30	POL00046230	Letter dated 5 July 2011	POL-0042709
32	POL00047197	Letter dated 16 <sup>th</sup> November 2010	POL-0043676
33	POL00051459	Back sheet of Counsel's Brief	POL-0047938
36	POL00054985	Letter sending Advance Information to Clerk to the Justice's	POL-0051464
37	POL00055567	Letter dated 15 October 2010	POL-0052046
38	POL00055298	Letter dated 29 <sup>th</sup> September 2010	POL-0051777
39	POL00055162	Letter dated 12 August 2010	POL-0051641
40	POL00055495	Schedule of Non-Sensitive Unused Material	POL-0051974
41	POL00047166	Letter date 12 October 2010	POL-0043645
42	POL00055546	Letter dated 15 October 2010	POL-0052025
43	POL00008525	Letter dated 28 <sup>th</sup> April 2011	POL-0001717
44	POL00055527	Instructions to Counsel	POL-0052006
45	POL00055521	Instructions to Counsel	POL-0052000
46	POL00055526	Letter dated 12 October 2010	POL-0052005
47	POL00053481	Letter dated 10 <sup>th</sup> November 2009	POL-0049960
48	POL00021335	Letter dated 2 June 2011	POL-0014527
49	POL00055718	Letter dated 8 November 2010	POL-0052197
50	POL00055717	Letter dated 8 November 2010	POL-0052196
51	POL00055720	Letter dated 8 November 2010	POL-0052199
52	POL00055783	Email dated 18 November 2010	POL-0052262
53	POL00047168	Letter dated 18 November 2010	POL-0043647
55	UKGI00014627	Letter dated 29 <sup>th</sup> September 2010	UKGI025420-001
56	POL00053723	Email dated 22/12/2009	POL-0050202
57	POL00054303	Letter dated 5 <sup>th</sup> March 2010	POL-0050782
58	POL00054999	Attendance note 15 <sup>th</sup> July 2010	POL-0051478
59	POL00054430	Email dated 2010	POL-0050909
60	POL00055590	Email dated 21 October	POL-0052069
61	POL00051927	Email dated 16/06/2009	POL-0048406
62	FUJ00122670	Email dated 16/6/2009	POINQ0128884F
63	POL00055189	Letter dated 19 <sup>th</sup> August 2010	POL-0051668
64	POL00015953	Email dated 21 September 2010	POL-0009145
65	POL00055772	Email dated 16/11/2010	POL-0052251
66	UKGI00014698	Letter dated 17 November 2010	UKGI025491-001
67	POL00055781	Letter dated 17 <sup>th</sup> November 2010	POL-0052260
68	POL00055807	Letter dated 18th November	POL-0052286
69	POL00055896	Letter dated 16 December	POL-0052375
71	POL00055704	Letter dated 5 November 2010	POL-0052183
72	POL00055854	Letter dated 1 <sup>st</sup> December 2010	POL-0052333
73	POL00055858	Letter dated 2 December 2010	POL-0052337
74	POL00055890	Letter dated 15 December	POL-0052369
75	POL00030579	Post Office Ltd Financial Investigation Policy 2010	POL-0027061

76	POL00026573	Royal Mail Group Procedures and Standards 2010	POL-0023214
77	POL00104853	Post Office Ltd Financial Investigation Policy 2011	POL-0080485
78	POL00084988	Flow Chart	POL-0082046
79	POL00084989	Security & Investigation Debt Process	POL-0082047
80	POL00051382	Letter dated 6 <sup>th</sup> May 2009	POL-0047861
81	POL00054145	Letter dated 17 <sup>th</sup> February 2010	POL-0050624
82	POL00054147	Letter dated 17 <sup>th</sup> February 2010	POL-0050626
83	POL00054927	Email dated 03/06/2010	POL-0051406
84	POL00018884	Email dated 3 June 2011	POL-0012076
85	POL00055877	Letter dated 10 December 2010	POL-0052356
86	POL00016273	Letter dated 1 <sup>st</sup> November 2010	POL-0009465
87	POL00069892	Email dated 01 December 2006	POL-0066455
88	POL00070166	Email dated 05 December 2006	POL-0066729
89	POL00070175	Email dated 04 December 2006	POL-0066738
90	POL00055410	Email dated 8 <sup>th</sup> October 2010	POL-0051889
91	POL00054371	Email dated 08 March 2010	POL-0050850
92	POL00026572	"Horizon in Response to Challenges Regarding System Integrity"	POL-0023213
93	POL00007640	Letter to MP	POL-0000832