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Tuesday 5th March 2024

Dear Sir Wyn,

**Re: Post Office – Post Office’s Closing Written Submissions on Phase 4
Mrs Oyeteju Adedayo – Complaint**

I write on behalf of Mrs Oyeteju (“Teju”) Adedayo. She has given evidence to you on human impact: 21 February 2022 (from 1.22). I represent Mrs Adedayo in connection with her claims to damages/compensation. Having previously been represented by others (on compensation and in the Inquiry), she is now represented by Messrs. Hodge Jones & Allen in the Inquiry. This letter has been provided in draft to HJA and to Mr Edward Henry K.C. who have agreed with it, but the letter and any errors in it are mine not theirs.

Mrs Adedayo has contacted me in a state of anxiety and acute distress, her having read the Post Office’s written submissions on Phase 4 of the Inquiry. Through tears, she told me “they left me penniless” and “they have ruined my life” and “now they are saying this publicly”. Mrs Adedayo has requested that I formally make complaint to you on her behalf about these matters and I do so. So far as the submissions concern her, these appear not only to be impermissible (as to reliance upon the opinion of Jonathan Laidlaw K.C.) but also professionally improper.

Given what I refer to below, the Post Office’s submission at paragraph 38.5 is most concerning: *“Given the possibility that Ms Adedayo’s case may be subject to litigation, the Inquiry should exercise caution before making findings in circumstances where, unlike a future court, it has not heard evidence tested by cross-examination”*.

I am aware of the attempt by the Post Office to submit expert evidence on criminal evidence and procedure in the form of opinion expressed by Mr Jonathan Laidlaw K.C.. I am also aware that the Inquiry declined to admit Mr Laidlaw’s evidence. I have read the statement of 29th February 2024.

Mrs Adedayo’s appeal in the Crown Court was a *venire de novo*. The Post Office, in effect, offered no evidence. That it now maintains that it considered it not to be in the public interest to retry Mrs Adedayo is entirely beside the point. It is not entitled to cast the aspersions that it does at paragraph 38.2, given its decision not to seek a re-trial.

I shall keep my observations brief. Ms Bernard, an investigator employed by the Post Office who was responsible for the investigation of Mrs Adedayo, gave evidence to the Inquiry on 10 November 2023. Ms Bernard’s evidence was that she did not believe Mrs Adedayo’s

account given in what is referred to as a ‘confession’ in a document signed on 5 September 2005 (Transcript 66/4). Ms Bernard considered it to be a confused account (as indeed it was) (Transcript 59/11, 59/12). Ms Bernard said that she believed that she herself had not made a witness statement in connection with her investigation of Mrs Adedayo. Surprisingly, her view was that it was up to Mrs Adedayo to resolve any confusion in relation to the account that she had given (Transcript 77/1-15).

It would appear that Mrs Adedayo was prosecuted on the basis of a ‘confession’ that she had made to a member of the Post Office’s audit team, in circumstances of considerable distress to her at the time of their visit on 5 September 2005, that *the Post Office’s own investigating officer did not believe to be true*. The corollary is that Mr Bernard believed the putative ‘confession’ to be untrue. Ms Debbie Stapel, a barrister and former senior member of the Post Office criminal legal team, gave evidence to the Inquiry that, had the Post Office sought to rely upon Mrs Adedayo’s ‘confession’, had she not entered a guilty plea, it would have been ruled inadmissible (paragraph 109 of Ms Stapel’s statement/Transcript p 61). By a letter to Herbert Smith Freehills dated 11 December 2023 I enquired whether the Post Office contended that Ms Bernard’s evidence, that she did not believe Mrs Adedayo’s confession, would have been apparent to Mrs Adedayo prior to November 2023.

In December 2022 Mrs Adedayo reached a settlement of her claims for a modest sum bearing no relationship to the actual loss and injury that she and her family had suffered as a result of her malicious prosecution by the Post Office and her wrongful conviction. The low settlement was ostensibly on “public interest grounds”.

In December 2023 I wrote to Herbert Smith Freehills (copied to Hodge Jones & Allen) an open letter. I suggested that in the light of Mr Atkinson K.C.’s and Ms Bernard’s evidence it was clear that Mrs Adedayo should never have been charged with theft and that she was the reason why *in terrorem* she pleaded guilty to false accounting. I further suggested that Mrs Adedayo agreed to settle her claims against the Post Office on a false basis and under a mistake of fact or of law and that the settlement was liable to be set aside, as a matter of right. I pointed out that an alternative basis for avoiding the December 2022 settlement agreement was misrepresentation by the Post Office - of various kinds.

On 11 January 2024 I was pleased to see that the Horizon Compensation Advisory Board, at its tenth meeting on 10 January 2024, recorded at Item 4 of the Board Minutes that: *“In response to questions from the Board, the Minister confirmed that his announcement would lead to full compensation for those people whose convictions had been overturned in the Crown Courts because the Post Office had decided that it would not be in the public interest to hold a retrial”*. While the wording is not felicitous, it is clear that the Minister confirmed to the Supervisory Board that the Post Office would no longer rely upon “public interest” reasons for suppressing the level of compensation offered to Post Office victims. Further, the Post Office would not hold its victims to low settlements reached on those grounds. That is to say, the Post Office would not rely upon the very argument now advanced in its written submissions on Phase 4 at paragraph 38.

I had understood that the Post Office accepted that those who had previously reached negotiated settlements on “public interest grounds” would not be held to them and

they would be entitled to claim full compensation under the Overturned Convictions compensation scheme (for that is what the Minister said). That was confirmed by the Post Office’s solicitors. The intimation/threat at paragraph 38.5 of the Post Office’s submissions, that Mrs Adedayo’s case “may be subject to litigation” remains to be explained, being at odds with the position recorded in the HCAB minute of 10 January 2024 and since then confirmed by the Post Office’s solicitors (*viz* settlements previously reached would be treated as interim payments on account of damages).

It is objectionable that the Post Office, having changed its position on “public interest” reasons for negotiating low settlements of claims against it, now in its written submissions to the Inquiry submits that “*this is the sole case study where POL does not accept that the conviction was unsafe...*”. The submission is inconsistent with its changed position on damages for malicious prosecution. The essence of a civil claim for malicious prosecution is that prosecution was for an improper or collateral purpose or motive. That the prosecution was resolved in the claimant’s favour is a necessary condition for a claim. It is not open to the Post Office to qualify or to attempt to qualify the effect of the quashing of a conviction. What the Post Office “accepts” is irrelevant.

A clearer example of inconsistency in approach is difficult to envisage. Not for the first time, the Post Office appears to want to have its cake and eat it. The Post Office has conceded that Mrs Adedayo is entitled to claim damages for malicious prosecution, to the full extent of her losses, as a matter of private law, yet in the Inquiry the Post Office seeks to contend that her conviction was properly obtained. The positions are logically and legally irreconcilable. Forensic terminology should not diminish or detract either from the offensiveness of the Post Office’s submission or from the serious distress that it has caused my client.

Because the Post Office’s submission in relation to Mrs Adedayo appears inconsistent with its public averments that it is a reformed institution, it being willing to advance arguments without regard to directions from the Inquiry, to the legal or factual basis for them, and in disregard of foreseeable distress thereby caused to its victims – almost 20 years after the events in question, I am copying this letter to Minister Hollinrake. I am also copying the letter to Professor Chris Hodges, Chair of the Horizon Compensation Advisory Board.

Yours sincerely,

GRO

Counsel for Mrs Oyeteju Adedayo

Sir Wyn Williams
Chair
Post Office IT Inquiry

c.c. Minister Hollinrake DBT
Professor Chris Hodges, Chair, Horizon Compensation Scheme Advisory Board
Hodge Jones & Allen, Mike Schwartz