

Witness Name: The Right Honourable Sir Anthony Hooper

Statement No: WITN00430100

Dated: 8 March 2024

POST OFFICE HORIZON IT INQUIRY

**FIRST WITNESS STATEMENT OF
THE RIGHT HONOURABLE SIR ANTHONY HOOPER**

I, The Right Honourable Sir Anthony Hooper, will say as follows:

INTRODUCTION

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 26 September 2023 (the “Request”).

BACKGROUND

2. Prior to my appointment as Chairman of the Working Group for the Initial Complaint Review and Mediation Scheme (“the Mediation Scheme”), I taught law at various universities in England and Canada, practiced at the Bar of England and Wales

primarily in crime, became a High Court judge in 1995 and a Court of Appeal judge in 2004, retiring in 2012.

3. I understand that my appointment as Chairman was initiated by the JFSA and MPs and approved by POL. The Terms of Reference **[POL00022307]** set out the objectives of the Working Group and its rules of procedure. I believed, as apparently did the representatives of POL and the JFSA, that the objectives were achievable.
4. In the event of a disagreement between POL and JFSA, the two members of the Group, I had a casting vote. The principal disagreement between POL and JFSA related to the issue of mediation. The position of JFSA was that all or substantially all applicants accepted to the scheme should be entitled to have their cases sent for mediation so that the SPMs could explain their claims to and discuss their claims with POL. POL's view was that a case should not be sent to mediation unless there was a realistic prospect that mediation would lead to a claim being settled. At first I agreed with POL but after representations from JFSA about the history of the scheme, I believe that I largely cast my vote in favour of mediation.
5. It became clear to me before POL in March 2015 terminated the Working Group that the objectives of the Working Group were unlikely to be achieved, a view shared by JFSA and various MPs.
6. As I made clear to Paula Vennells and I believe Alice Perkins, it was in my view unlikely that the cause of the losses suffered by was, as POL alleged, theft by SPMs from POL. Most if not all the SPMs were of excellent character. The fact of a loss would be known to POL within days or weeks. No sensible person would steal from POL, knowing that POL would identify the loss so quickly leading to the SPM being prosecuted/dismissed. Whilst I was probably unaware of the true magnitude of the

complaints by SPMs about Horizon causing the losses, it seemed unlikely that all or most of the complaints were unfounded. Whilst, as POL alleged, some losses could be due to errors made in entering transactions, the many high value losses made that unlikely. Some losses could be due to employee theft, but again that was an unlikely cause of so many high value losses. As the work of the Group proceeded, it became clear to me that POL had not properly investigated losses, preferring instead prosecution/civil action/dismissal. Whilst in my first meeting with Paula Vennells, I had suggested that convicted SPMs not be included in the scheme, I changed my mind afterwards. The Minutes show that convicted applicants were accepted and see also **[POL00109982]**. My concerns about POL were heightened by the seeming unwillingness of POL (as the Minutes show) to provide the Working Group and particularly SS with explanations about surpluses, other than an acceptance that after 3 years, surpluses were taken into the general accounts. Given the value of the losses sustained by SPMs and on the assumption that the losses were not caused by theft, where had the money gone? My concerns increased when I learnt that SPMs did not have to disclose explained gains.

7. The achievement of the objectives of the Working Group became effectively impossible when POL refused to accept that losses could be caused by Horizon and the apparent unwillingness of POL to accept any responsibility for the losses. One case stands out in my memory. An SPM had been invited, if not persuaded, to take over a branch which had been suspended. He was not told that the reason for the suspension was a big loss (some £60,000, I recollect). Within a very short time the branch suffered a further large loss and was, as I remember, suspended again and the SPO lost a large sum of money. To me it was clear that whatever the contract between the SPO and the PO said, the SPO deserved to be compensated not

having been told of the reasons why the branch had earlier been suspended. I learnt, probably from Alan Bates or Second Sight, that the mediation had failed. Towards the end of the life of the Working Group some mediations took place. It was decided, probably by POL, that the Working Group was not to be told about the results of the mediations until about 25 mediations had concluded and then the Working Group would only be told about the results in general terms. At about that time I understood, informally, that none of the mediations had been successful.

8. The subsequent refusal by POL to accept that Horizon could be the cause of losses continued for many years. By the time POL found itself as a respondent before the Court of Appeal Criminal Division, it had changed its position. As the Court said ([2021] EWCA Crim 577):

70. In its Respondent's Notice, POL accepted Fraser J's findings that there were about 30 bugs, errors and defects in the Horizon system, which did not operate simultaneously and which affected both Legacy Horizon and Horizon Online, and that there was a significant and material risk on occasions of branch accounts being affected in the way alleged by the claimants by bugs, errors and defects. It also accepted that POL failed to disclose to SPMs and to the courts the full and accurate position in relation to the reliability of Horizon. In relation to its duties as a private prosecutor, POL accepted that in cases where the reliability of the ARQ data was essential to the prosecution case, it had a duty to assess that data; and that in view of the limitations on the extent to which SPMs could investigate discrepancies in Horizon, POL had a duty to investigate to ensure that the evidence was accurate and to pursue reasonable lines of enquiry raised by the SPM. It was further accepted that Fujitsu had the ability to insert, inject, edit or delete transaction data or data in branch accounts; had the ability to implement fixes in Horizon that had the potential to affect transaction data or data in branch accounts; and had the ability to rebuild branch data. All of this could be done by Fujitsu without the knowledge or consent of the SPM.

9. The Court earlier explained what ARQ data was:

15. Fujitsu held audit data (“ARQ data”), which contained a complete and accurate record of all keystrokes made by an SPM or an assistant when using Horizon. It was therefore possible to refer to the audit data to track every transaction recorded on Horizon.

10. The failure of the Working Group was not due to any structural weakness in its organisation or work. Its failure to achieve its objectives was solely due to the failure of POL to accept what it was later to accept before the CACD. I am not in a position to say whether the management of POL knew or suspected at the time that the Horizon system was unreliable. The evidence from the subsequent litigation, civil and criminal, would suggest to me that the management over many years deliberately failed fully and properly to investigate the cause of the losses notwithstanding the obvious unlikelihood that SPMs were stealing from POL. That failure ruined the lives of countless SPMs and must never be forgotten or forgiven.

Statement of Truth

I believe the content of this statement to be true.

Signed: **GRO** _____

Dated: 8/03/24_____

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<u>No.</u>	<u>URN</u>	<u>Document Description</u>	<u>Control Number</u>
<u>1.</u>	POL00022307	Initial Complaint Review and Mediation Scheme - Terms of Reference for the Working Group	POL-0018786
<u>2.</u>	POL00109982	Letter from Paula Vennells to Anthony Hooper regarding Post Office's approach to mediation	POL-0111131