

Witness Name: David William Miller

Statement No.: WITN03470200

Dated: 28 February 2024

POST OFFICE HORIZON IT INQUIRY

SECOND WITNESS STATEMENT OF DAVID WILLIAM MILLER

I, DAVID WILLIAM MILLER, will say as follows:-

1. I make this statement in response to the request for information from the Inquiry, pursuant to Rule 9 of the Inquiry Rules 2006, dated 29 November 2023. I can confirm that I am legally represented and had legal assistance in drafting this witness statement.
2. When reading this statement, the following should be born in mind:
 - a) I am 74 years old;
 - b) I am being asked to recollect matters which occurred over 20 years ago;
 - c) I have no contemporaneous documents in my possession (other than those provided by the Inquiry);

- d) Some of the documents provided by the Inquiry are not documents that I would have seen at the relevant time. Their disclosure by the Inquiry is the first time I have seen them.
- e) I have watched a considerable amount of the Inquiry on YouTube.

Knowledge of the integrity of Horizon

- 3. My recollection is that I left the Horizon Programme Director role at the turn of the year 1999 to take on a new role - Managing Director Post Office Network which came about as part of the Group wide 'Consignia' reorganisation.
- 4. At this stage my view of Horizon was that it was a new, very large and complex system which was under constant review and improvement by Fujitsu. I never considered Legacy Horizon perfect but thought that any problems with the system were subject to control procedures leading to resolution.
- 5. I did not have any involvement with / oversight of such issues after I stepped down as programme director. I only became aware of the significant Horizon issues in respect of prosecutions / civil proceedings once I had read the Hamilton & Others v Post Office Criminal Court of Appeal judgement. I then read parts of Fraser J judgements in the group class action against the Post Office.
- 6. I was shocked and very disappointed by the full extent of the Horizon issues

evidenced in the judgements.

7. After stepping down as Horizon Programme Director I did not brief anyone from the POL or RMG boards, investigation teams, legal teams or any other person responsible for the conduct of prosecutions or civil proceedings because (1) I thought that any problems with the system were subject to control procedures leading to resolution and (2) I was unaware of the full extent of the Horizon issues until I read the judgements I have referred to.

8. I was not a member of the POL Board until November 2001, so I do not know what the Board discussed before that date. After that date I cannot recall issues with the reliability of Horizon being raised at board meetings.

My post-Horizon Director roles

9. Between December 1999 - July 2001 I was Managing Director Post Office Network. In that role my responsibilities were (1) management of all post offices in the UK and Northern Ireland via three Sales and Service General Managers, (2) Operations Directorate including Network Change and cash distribution, (3) Automation Directorate including Horizon but also including other system changes, (4) Customer and Network Directorate including relationships with other parts of Consignia, Internal Communications and social network policy, and relationships with NFSP, and (4) Personnel including relationships with directly employed staff.

10. This role lasted for 18 months, reporting to Stuart Sweetman. During the last 6 months I was on sick leave having both hips replaced. Just before I returned to work in August 2001 the Consignia Group Board decided that the reorganisation had not worked and reconstituted Post Office Ltd. I was appointed Operations Director. The temporary MD of Post Office Ltd was Paul Rich who covered the role until David Mills arrived as Chief Executive in early 2002.
11. As Operations Director I had the Retail Line including sub-postmaster relations, cash distribution and a role to help David Mills understand the business and assisting in recruiting new Directors as required. As the scope of the changes needed became apparent David Mills changed my job title in about 2004 to a Chief Operating Officer role which focused on some of the major changes needed to stay solvent.
12. POL had agreed with the Government to reduce the size of the non-rural network by 3000 and MP's had voted to provide £150m specifically to do that. In addition, POL needed up to £200m investment from a financial services partner to develop new business lines to replace the Benefits Agency work. I was very closely involved with both of these projects.
13. I reported to Paul Rich who was temporary MD of Post Office Ltd until David Mills arrived. I reported to him until late 2005 when he left the organisation. I became the temporary MD for approximately two or three months until Alan Cook (David Mills replacement) arrived I then reported to him until I retired

on the 28th July 2006.

14. In the above roles I had very little involvement with the RMG legal department except to discuss sub-postmasters contract business restrictions. As far as I recall, POL did not have an independent legal department whilst I was working for the organisation. POL / RMG IT was dealt with at POL Executive team level where it was a separate Directorate. I was not involved in any of the detail in respect of POL IT, so would not deal with them save at Director level to discuss strategic issues such as whether/how horizon would be replaced. I have no memory of a POL / RMG 'problem management team'. POL / RMG Security worked to Group although they were described as 'embedded' in POL. I met Tony Marsh regularly for approximately an hour and he had access to me at any time.

15. I was aware that POL was, from time to time, involved in the investigation and prosecution of sub postmasters for criminal offences arising from alleged shortfalls in branch accounts, but I did not know any of the detail and was not involved in the oversight of investigations or prosecutions.

16. Likewise, I was aware that POL would, from time to time, pursue postmasters for the recovery of alleged shortfalls branch accounts, including through civil proceedings, but again I did not know any of the detail and was not involved in the oversight of such action.

17. In terms of civil actions, I was unaware of the detail of the policies, guidelines and practices followed by POL / RMG when bringing a case against a sub-postmaster. Nor was I aware of how audits of sub-postmaster's branch accounts were conducted - the auditors were part of Finance – I was not aware of the conduct of such procedures.
18. In terms of practices and policies adopted by POL in respect of suspending or terminating sub postmasters' contracts. When I was Head of Retail Network, I was involved in a few cases involving the termination of sub-postmasters contracts and would have checked the relevant policies at the time but otherwise did not have a detailed knowledge of them. As a Board Member I did not get involved in the detail of specific cases.
19. In terms of criminal prosecutions any relevant policies were with Group and were never part of my remit. I was unaware of the detail of the group policies until I watched the Inquiry.
20. I did not pass on information about the reliability of the system because (1) my role was taken over by David Smith who had worked with me and was aware of the issues and (2) I believed that the issues were being addressed going forward.
21. In none of the above roles did I manage or arrange the distribution of information relating to the ongoing reliability of the Horizon System within POL - this was the responsibility of the IT Department.

POL corporate governance

22. My understanding and recollection was that my main responsibility and focus was whether POL was a going concern between November 2001 and July 2006. This was discussed regularly and frequently because Board Member had legal duties if they formed the collective view that POL was not going to meet its liabilities.
23. I do not recall the POL Board having oversight of criminal prosecutions - this was dealt with by the Security and Legal departments (who were part of Group). In hindsight, this seems to be a significant oversight by the Board.
24. There would have been POL Board discussion of civil litigation if it was material to the financial position of the company or its reputation, but I do not recall this happening.
25. The POL Board took an interest in the future development of its IT and agreed business cases as appropriate. The day to day running of its systems was left to the POL IT Department and Fujitsu.
26. Any proposed changes to major accounting systems would be discussed at the Board as business cases. Preparation of accounts year on year was the

responsibility of the Finance Department, with the Board signing off the accounts.

27. It was expected that any serious breach of the Race Relations Act would be reported upwards to the Board for urgent discussion - but I can't remember the precise process for how this happened – I think it was via Company Secretariat. I was not aware of this ever happening.
28. The corporate structure of POL and RMG when I joined POL as a director was that POL was led by a Chief Executive who had a number of direct reports who were both Executive Team and Board Members. The direct reports were Operations, Finance, Personnel, IT, Marketing and Network Banking. POL was a wholly owned subsidiary of RMG. The CEO of POL was an RMG main board member.
29. In terms of how the POL Board operated when I became a director, the Board met frequently (although at irregular intervals) during the financial year. There was an External Chair plus one other external member, both of whom were part time. The style of the Board was inquisitorial, focused on performance of Executive Directors, company viability, strategy and major programmes. The Board did not focus on day-to-day matters.
30. The Chair and Chief Executive determined the agenda of Board meetings, but all members could suggest items to be tabled at any meeting.
31. The board meetings were regularly attended by the Chairman, POL Executive Directors, External Directors and the Company Secretary from RMG.

32. Due to the passage of time, I cannot recall any detail about the Board's, subcommittees, their membership or their terms of reference. I recall there was an audit committee and risk sub-committee but I was not member of either.
33. Executive Directors submitted functional reports to each Board meeting highlighting matters of significance. There was a Risk Register review at each meeting.
34. The level of IT expertise of those attending Board meetings varied. For example, Ric Francis had previously worked in Safeway Supermarkets as the IT Director. There would also have been others who had some experience but I cannot now recall that with any detail. My own IT experience was limited.
35. All members of the Executive team were on the Board and so were able to report to the Board. If they could not attend any given meeting, they would file a report and if necessary, would send someone to attend in their absence for the relevant part/all of the meeting.
36. The Chair and CEO of POL sat on RMG Board but I don't know about the onward relationship with / reporting lines to the DTI.
37. POL' s corporate structure seemed to me to be adequate at the time. However, in retrospect I have concerns about the degree of autonomy enjoyed by Security and Legal and the lack of POL oversight.

- 38 I cannot recall any material change to the corporate structure of POL or the operation of the Board up until my departure in 2006.
- 39 I did not have any detailed understanding of the formal processes by which DTI exercised oversight over POL except that it was done via Group, particularly in terms of strategic decisions about the size and shape of the PO network, how that impacted directly on the size of financial subsidy and therefore POL's overall budget. I am unable to comment on the adequacy of Government oversight.
- 40 At a lower level a lot of work was carried out by my department directly with DTI about the Rural Network. Similarly, the issues around deploying Network Reinvention which closed 3000 urban Post Offices at the cost of £150m. I was personally responsible for this project and during its course, over 2 years, had regular meetings with Officials and Ministers. I felt that DTI put in the work to help inform these decisions.
- 41 When the Chair of POL / Non-Executive Director were appointed the CEO and COO of POL were given the opportunity to meet candidates and comment. The final decision on appointments was with Chair Group Board. I do not know why these roles were deemed necessary except to say that the impetus came from Group.

- 42 From the best of my memory the Risk and Compliance Committee was created because Sir Mike Hodgkinson (Chairman POL) had been used to operating with one at Heathrow Airport where he had been Chief Executive. The top team of POL was supportive of the idea.
- 43 I cannot now remember what the remit of the Committee was beyond controlling the company's Risk Register.
- 44 As far as I recall I was not a member of the committee.
- 45 I am not aware that the Committee monitored POL's compliance with legal or ethical obligations in terms of financial shortfalls, prosecutions or civil proceedings.
- 46 In terms of POLB04/119I of **POL00021486** I can't remember but I don't think the Board did discuss the issue of POL's prosecutorial function in respect of sub postmasters on 15 December 2004.

Audit / ARQ data

- 47 Looking at document **FUJ00171979** (ICL report on Horizon Data Centres dated January 2001) I was on sick leave from 1 February to 31 July 2001 so I was not involved with this matter.

- 48 I originated the requirement for access to ARQ data to be made available, but I was not involved subsequently and had no involvement in negotiations regarding rights of access to data held by Fujitsu, in order to pursue prosecutions or civil proceedings.
- 49 I do not recall being aware of any reluctance within POL in investigations to make requests for ARQ data. I understood that although budgets were tight the view in POL would have been that if ARQ data was needed it should be requested.
- 50 I was not involved in the issue of incomplete ARQ data identified in the email – **POL00114566**.

IMPACT Programme

- 51 I had no involvement with the design and implementation of the IMPACT Programme. I was aware of it and its progress was reviewed at the Executive team. The Programme was originated and run initially by David X Smith who handed it over to Peter Corbett, the Finance Director.
- 52 As far as I recall I was not made aware of any issues regarding the IMPACT Programme by the Security & Investigations Team.
- 53 In respect of changes to the suspense account rules, by which sub postmasters would no longer be able to place disputed discrepancies in a local suspense

account and roll into a new trading period, I don't think the POL Board discussed this when I was present.

Wish You Were Here error notices

- 54 Looking at **POL00157433** and **POL00172836** – an email from Tony Marsh and attached spreadsheet – I have no recollection of this issue, so cannot assist as to what the issue was, or what steps were taken to deal with it.

Board Meeting on 20 August 2003

- 55 Looking at **POL00021483**, Tony Marsh worked for the Group Security Director with a dotted line to me. He was designated Head of Security in POL. I met him regularly and he had access to me at any time if I was available. I had a good working relationship with him and I trusted him.
- 56 As far as I can recall at no time when I was present did the Board discuss the prosecution of sub-postmasters or the reliability of Horizon data as the basis for prosecution.

Civil proceedings against Ms Wolstenholme (Cleveleys)

- 57 Looking at **POL00142503**, **POL00118229** and **WITN00210101**, I was made aware of this case by Mike Granville, who was the Head of Section in charge of sub-postmaster contracts because Ms Wolstenholme was

challenging her employment status which if she had succeeded would have fundamentally changed POL's business model. I cannot comment on what he may or may not have known.

58 This was some time around about 2001. However, I was not made aware at that time that Ms Wolstenholme was challenging the Horizon System.

59 My first formal involvement with the case was that I was asked to sign off the compensation payment to Ms Wolstenholme in 2004, in the absence of Peter Corbett, who was on holiday. Rod Ismay's note to Donna Parker (my PA at the time) secured a slot in my diary for Tony Marsh. We met for approximately 10-15 minutes. To the best of my memory, he told me there was an issue with the expert advice which had led our counsel to say that the case was unlikely to succeed. It was clear that he did not think much of the expert. The view was that we should cut our losses and pay up. He said something about Horizon – I cannot recall specifically what he said but I remember checking with him whether there were issues with Horizon (I said something like; "you are not saying there are issues with Horizon are you, Tony?") He said that there were no issues and I got the impression it was a one-off case. During the meeting, he produced some paperwork to authorise payment which I signed.

60 As far as I recall I was not given a copy of the expert report or counsel's advice nor did I request it – I definitely did not read it at the relevant time. Had I known what the sub-postmaster was saying about the system and the details of expert

report then I would have asked further questions/raised concerns with others.

- 61 Knowing what I now know about Horizon and the way it was used to wrongly prosecute and bring civil claims against sub-postmasters I very much regret not reading the expert's report and counsel's advice – had I done so I would have taken action to address the issues raised. I acknowledge that by not reading them there was a missed opportunity.

S90 Release

- 62 I cannot recall my what my involvement was, if any in the S90 release.
- 63 Looking at **POL00028984**, I do not remember the specific individuals mentioned in the email chain. It maybe that one or two were in my department further down the chain of command but I have no specific recollection of them. I was not aware of the matters raised in this email, whilst I was employed by POL.

Horizon Online

- 64 The email from David X Smith dated 25th March 2001 attaching the document entitled Horizon Beyond 2005 in **POL00104333** was sent to my work email address whilst I was on sick leave. However, it reflected the discussions I had been involved in with others in relation to forward planning for the necessary continuation of Horizon beyond 2005. My involvement in the development of

Horizon Online was in 2006 when acting MD for a couple of months in between David Mills and Alan Cook. I also signed off the document **RMG00000041** which was prepared for me by Ric Francis the IT Director and his team who were developing Horizon online.

General

65 To the best of my knowledge, there are no other matters that I can think of that will assist the Chair.

Statement of Truth

I believe the content of this statement to be true.

Signed:

GRO

Dated:

28 february 2024 .

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<u>No.</u>	<u>URN</u>	<u>Document Description</u>	<u>Control Number</u>
1.	POL00021486	Minutes of the POL Board Meeting on the 15 th December 2004	POL0000019
2.	FUJ00171979	ICL report on Horizon Data Centres dated January 2001	POINQ0178160F
3.	POL00114566	File on audit record requests	POL-0113672
4.	POL00157433	Email from Tony Marsh, copied to David Miller, on 1 July 2003	POL-0145765
5.	POL00172836	Spreadsheet attached to Email from Tony Marsh, copied to David Miller, on 1 July 2003	POL-0168289
6.	POL00021483	Minutes of the POL board meeting on 3 August 2003	POL0000016
7.	POL00142503	Email from Rod Ismay to Donna Parker and others	POL-BSFF-0001779
8.	POL00118229	Advice on evidence and quantum by Mr Brochwicz-Lewinski dated 26 th July 2004	POL-0120149
9.	WITN00210101	Report of Jason Coyne in POL v Wolstenholme	WITN00210101
10.	POL00028984	Email chain ending with an email from Brian Trotter to Sandra MacKay on 6 March 2006	POL-0025466
11.	POL00104333	Fax to David Miller on 25 th March 2001 with attachment	POL-0103916
12.	RMG00000041	David Miller's Report on the Extension of Horizon services contract including system replacement dated January 2006	VIS00009022