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I would support the inclusion of legal advice within the scope of the Post Office Horizon IT Inquiry. Specifically, I would recommend the Inquiry obtain copies of submissions made by and on behalf of the Post Office to the Law Commission regarding the treatment of computer evidence. These documents would assist the Inquiry in assessing how legal advice relating to computer evidence contributed to the prosecution of subpostmasters on the basis of evidence generated by Horizon.

Policies developed and influenced by the Post Office, around the reliability and sufficiency of evidence generated by Horizon, and IT systems more generally, were a significant factor in allowing the prosecutions of subpostmasters and should be investigated in more depth.

In particular, I would support the investigation of legal advice provided to the Post Office regarding supporting the repeal of Section 69 of the Police and Criminal Evidence Act 1984 (PACE). This change in the law on 14 April 2000¹ allowed the Post Office to prosecute subpostmasters on the basis of Horizon IT evidence, without the Post Office being required to certify the reliability of Horizon.

The Post Office submitted a response to the consultation run between 1995 and 1997 by the Law Commission “Evidence in Criminal Proceedings: Hearsay and Related Topics” in support of this repeal². The Post Office could not find the text of this consultation response following a search under the Freedom of Information Act³.

Bond Pearce solicitors, now Womble Bond Dickinson, also submitted a response to the Law Commission consultation “The Hearsay Rule in Civil Proceedings”. The Commission concluded by recommending that computer evidence be admissible with no special requirement for demonstrating the reliability of the IT system which created it⁴. Given the involvement of Womble Bond Dickinson in the Horizon trials, it is possible that their submission to the Law Commission was made on behalf of the Post Office.

¹ The commencement of Section 60 of the Youth Justice and Criminal Evidence Act 1999

² See paragraph 13.15 of “Evidence in Criminal Proceedings: Hearsay and Related Topics” (June 1997) available at https://www.lawcom.gov.uk/app/uploads/2015/03/lc245_Legislating_the_Criminal_Code_Evidence_in_Criminal_Proceedings.pdf

³ https://www.whatdotheyknow.com/request/submissions_to_law_commission_re_2

⁴ See paragraph 4.43 of “The Hearsay Rule in Civil Proceedings” (September 1993), available at <https://www.lawcom.gov.uk/app/uploads/2016/02/LC.-216-THE-HEARSAY-RULE-IN-CIVIL-PROCEEDINGS.pdf>