

Witness Name: Ken McCall

Statement No.: WITN10020100

Dated: 10 June 2024

POST OFFICE HORIZON IT INQUIRY

FIRST WITNESS STATEMENT OF KEN MCCALL

I, Ken McCall, will say as follows:

INTRODUCTION

1. I am a former Independent Non-Executive Director ("**NED**") of Post Office Limited ("**POL**") and held the position of Senior Independent Director ("**SID**") between 21 January 2016 and 25 January 2022.
2. 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 5 April 2024 (the "**Request**"). I instructed Latham & Watkins (London) LLP to assist me in preparing this statement.
3. I have addressed the questions in the Request honestly and to the best of my recollection, knowledge and belief. However, the matters covered by the Request go back up to eight years and, in places, I have found it difficult to recall exact details, dates and the sequence of events. Furthermore, a number of the

questions relate to the period when POL was dealing with unprecedented operational challenges caused by the Covid-19 pandemic, including the periodic and partial closure of, up to 3,000-4,000 branches, as well as the aftermath of *Bates & Others v Post Office Limited* (the "**GLO Proceedings**"), and I have found it particularly hard to recall events during this period. My recollection has been partly helped by the documents provided by the Inquiry.

4. In total, the Inquiry has provided me with 91 documents (consisting of 1,713 pages). Those documents which I expressly refer to in this statement are listed in the Schedule.

BACKGROUND

5. I started my career working for TNT, an international mails, express and logistics company headquartered in the Netherlands. My first roles at TNT were based in the UK and I worked in five different locations before moving to the Netherlands. I eventually became Chief Executive Officer ("**CEO**") for Asia, the Middle East, Africa & India, and then CEO for China, during which period I spent 10 years living in Singapore and 4 years in Shanghai.
6. In 2007, I left TNT to join DHL, where I held various management roles in the Express division for the UK and Europe. In 2010, I then moved to Europcar Group, which provides car and van rental, ride-hailing and other mobility services. I became Deputy Group CEO in 2016 and held this position until March 2019. Again, given the international nature of Europcar Group's business, I spent a great deal of time living and working overseas. In particular, during my tenure as Deputy Group CEO, I would typically work at least four days each

week in continental Europe, mostly in Paris but also in Germany, Italy and Belgium.

7. While at Europcar Group, I held a non-executive position at listed fashion retailer SuperDry, where I was a member of the Audit and Remuneration Committees.

POL CORPORATE GOVERNANCE AND ROLE AS A NED

Appointment as a NED

8. In the second half of 2015, I was approached by an executive search firm about the possibility of joining the board of POL (the "**Board**"). My second term as a NED at Superdry was due to end in 2016 and I was looking for a new non-executive opportunity. I believed the role at POL would play to my strengths in logistics, networks and distribution.
9. I do not recall there being a formal application process. After expressing an interest in the role, I attended an interview with POL's then-Chairman, Tim Parker. Mr. Parker explained that he was refreshing the Board and that he wanted to recruit individuals with specific skills. We discussed my career history, in particular my experience in parcels and mails, and Mr. Parker indicated that I would be a good fit for POL.
10. I attended a further interview with Baroness Neville-Rolfe, who was, at the time, the Parliamentary Under-Secretary of State for the Department for Business, Innovation and Skills ("**BIS**") and the government minister responsible for POL. I understood that POL was already interested in appointing me and this second

interview was to 'rubber stamp' the decision. The interview took place at the BIS offices at 1 Victoria Street and I was accompanied by Richard Callard, the Board representative for UK Government Investments ("**UKGI**"). The interview lasted between 45-60 minutes. Like Mr. Parker, Baroness Neville-Rolfe asked me various questions about my previous experience: all generic questions that I would expect to be asked in any interview.

11. Neither interview involved any substantive discussion of POL's business and operations, or any challenges facing POL. At that time, I had no knowledge of the Horizon IT system ("**Horizon**"); any bugs, errors or defects affecting Horizon; any issues with Horizon's integrity; any complaints about Horizon; or the ability of Fujitsu employees to alter transaction data without the knowledge or consent of sub-postmasters ("**SPMs**"), and none of these matters were brought to my attention during the recruitment process. I am now aware that, when I was recruited to join the Board, there were already allegations of problems with Horizon in the public domain, including reports in the national press.
12. I regret not carrying out more thorough due diligence on POL before I was appointed to the Board. The diligence I did carry out was limited to trying to understand POL's place in the parcels market and its cooperation with Royal Mail. I would ordinarily have carried out greater financial diligence to ascertain, for example, the levels of cash and leverage in the business but that information was not publicly available. Perhaps naively, I did not think it necessary to undertake significant research on what I perceived to be a trusted institution that had been around for hundreds of years and was owned by the

UK government. Looking back today, I cannot be certain why I was not aware of public reports of problems with Horizon. I suspect the main reason was that, as explained above, I was spending a large proportion of my time outside the UK for work and so I was not following UK news as closely.

13. I do not specifically recall when I found out about the existence of complaints from SPMs about Horizon. I believe it would most likely have been in mid- to late-2016, in the early stages of the GLO Proceedings. I also do not remember exactly when I became aware that Fujitsu was able to remotely access and alter transaction data in Horizon. However, I have been referred to an email I sent to Veronica Branton, the Company Secretary, on 22 April 2020 where I state that I recall learning about remote access shortly before the second judgment in the GLO Proceedings (**POL00104107**). On this basis, I expect I became aware of remote access in November or December 2019.

Role and responsibilities as a NED

14. I was formally appointed to the Board on 21 January 2016. My role and responsibilities as a NED of POL were set out in my appointment letters. I received one letter dated 2 December 2015 for my first term (**POL00362996**) and one dated 22 January 2019 for my second term (**POL00363008**). At a high level, my role as a NED was to be part of a board developing POL's strategy to achieve financial self-sustainability and to work with the management team to deliver that.
15. As the SID, I had certain additional responsibilities. In particular, I led an annual evaluation of the Chairman's performance and produced a formal feedback

review. I describe this process in more detail at paragraph 60 below in relation to the 2019/20 review cycle. In line with the UK Corporate Governance Code, I was also expected to act as a sounding board for the Chairman and an intermediary for the other NEDs.

16. I have been asked to summarise my views on the responsibilities of a board in the operation of a government-owned company, both in general and in relation to certain matters specified by the Inquiry, namely: IT, accounting systems, civil litigation and compliance with the Equality Act 2010. In any company, whether government-owned or not, there is a fundamental distinction between the executive management and the NEDs which is relevant to a number of the questions I have been asked by the Inquiry. Our role as non-executives on the board is to help determine the company's future direction and strategy. In other words, we are focused on what the company might look like in several years' time and how we can create a sustainable and future-proof business. We are entirely distinct from the executive management, who have to be integrated in the granularity of their respective business units.
17. In relation to IT matters, a non-executive board will concentrate on issues such as system security, cyber risk and possible concerns about the future direction of technology. In POL's case, as I describe in more detail at paragraph 29 below, this involved extensive consideration of how to upgrade and modernise outdated IT infrastructure and renegotiate very onerous outsourced contracts. The board will not consider the specifics of individual bugs or defects, which is generally the responsibility of the specialists in the IT team, save to the extent that those bugs or defects have a material impact on the day-to-day running of

the company. Equally, in relation to accounting matters, a non-executive board and, in particular, the members of its audit committee, will get into the detail of the company's accounting practices and will help to make sure that its external auditors are comfortable that the figures in its financial results are accurate. However, their remit is not to monitor the error rate of the accounting system branch-by-branch or transaction-by-transaction.

18. Typically a non-executive board would have high-level oversight of the conduct of any civil litigation brought by or against the company but only if and when it became material. Each company will have its own materiality threshold and unless a civil claim met that threshold, I would not necessarily expect the board to be made aware of it or updated on its progress. I would also expect the board to consider topics such as equality, diversity and anti-discrimination proactively and at a similarly high-level. For example, at POL there was a desire to get the right balance on the Board and ensure gender diversity, and if external search agencies were ever engaged to recruit new NEDs, we required them to provide a diverse list of candidates. I recall that the Remuneration Committee ("**RemCo**") also spent time looking at the gender pay gap at POL and considering the results.
19. I have been asked to summarise my views on the responsibilities of a board of directors specifically in connection with the bringing of private criminal prosecutions. It is difficult for me to express any firm views on this subject because, other than POL, to my knowledge none of the companies I have worked for have brought private prosecutions. When I joined POL, I did not have any knowledge of the private prosecutions it had brought against SPMs for

offences such as theft, fraud and false accounting. Though I cannot recall exactly, I believe the first time I became aware of these historic prosecutions was in April 2016 when a letter of claim was served on POL that would eventually develop into the GLO Proceedings. I do not recall any active criminal prosecutions at POL during my time on the Board. My understanding is that, since around 2015, POL had not commenced any new criminal prosecutions related to Horizon and this policy remained in place throughout my tenure. It is possible that POL still carried out private prosecutions unrelated to Horizon, but I do not recall any specific cases. I would not necessarily expect to have been made aware of isolated criminal prosecutions at Board meetings, unless they were sufficiently large or serious to be escalated.

POL corporate structure and POL Board

20. When I joined the Board, POL was owned by the UK government through UKGI and BIS, which later became the Department for Business, Energy and Industrial Strategy ("**BEIS**") and I understand this is now the Department for Business and Trade. For consistency, I refer to this government department as BEIS in the remainder of this statement.
21. UKGI had a representative on the Board and I understand this was common practice across all of its investments. When I was first appointed, the UKGI representative was Richard Callard and in 2018 he was succeeded by Tom Cooper. The role of the UKGI representative was to oversee the Board from UKGI's perspective as shareholder and brief UKGI on the performance of the business. UKGI would then share these updates with BEIS and the postal

minister. I recall finding it unusual that POL essentially reported to both UKGI and BEIS, whereas I understood most other government investments reported to only one of the two.

22. Given that the government owned and partly funded POL, it exercised significant influence over POL's finances. POL periodically prepared a funding plan in cooperation with UKGI, who could advise on how various proposals might land with the government. I recall the funding plan being prepared every three years, but there are references in some of the documents provided to me by the Inquiry to five-year and even one-year plans. Having considered these documents, I would say that the funding plan was usually a three-year plan but that the government may sometimes have stipulated a different timeframe. The funding plan comprised, in part, a 'network subsidy payment' to support the provision of services of general economic interest by otherwise loss-making branches, often in more rural areas. I recall that the network subsidy payment was approximately £200 million per year when I joined the Board and it had declined to £50 million per year when I left. The remainder of the funding plan was equivalent to a capital expenditure budget to support investments POL wished to make in its business, such as modernising its IT systems. I also recall funding being sought from the government for redundancy payments in connection with a restructuring programme, and for payments to SPMs under a financial redress scheme set up in 2020, which I discuss further below at paragraph 54.
23. I was never directly involved in submitting funding plans to BEIS for approval as Al Cameron would predominantly take this forward in his role as Chief Finance

and Operations Officer ("**CFOO**"), together with Paula Vennells as CEO. The funding plans would come to the Board in various iterations for approval and, once finalised, the Board would approve submission of the final version to UKGI for their comments and then to BEIS.

24. I recall two occasions when I had to meet directly with BEIS to discuss RemCo matters. On one of those occasions, the RemCo had recommended a 2-3% base salary increase for the CEO and CFOO in line with the wider employee increase and inflation, which BEIS considered for around 10 months and then ultimately rejected. On the other occasion, the RemCo had proposed changes to the comparator group against which the salaries of POL's executives were benchmarked. Previously, this group comprised only large banks or financial institutions which the RemCo believed was wholly unrealistic. We suggested a more representative group which I can see from the minutes of the Board meeting on 24 November 2016 (**POL00027185**) was 40% mails, 40% social purpose and 20% financial services (including mostly challenger banks).
25. POL had two wholly owned subsidiaries: Post Office Management Services Limited, which was an insurance broker, and Payzone Bill Payments Limited, which provided bill payment services. POL also had a 50/50 financial services joint venture with the Bank of Ireland. I am not aware of any changes to POL's corporate structure during my time on the Board. I recall that POL's telecoms business was sold in March 2021, but I understand this did not have any impact on the corporate structure outlined above.

26. The Board met every month as a minimum, but meetings could be, and were, held more frequently if required. In particular, I recall a large number of additional meetings being held when the Board met to review historic convictions of SPMs for theft, fraud or false accounting that had been referred to the Criminal Cases Review Commission ("**CCRC**"), which I describe at paragraph 67 below. In addition, there was an annual Board strategy meeting which lasted two to three days. The topics discussed at these strategy meetings varied year-on-year but were always 'big picture' topics related to the business, such as whether POL should continue to be in the insurance and telecoms sectors, or how it could improve the profitability of its banking business. Board meetings generally took place in person between 08:30 and 17:00 at POL's headquarters in Finsbury Dials. If a meeting had to be convened at short notice for an urgent decision, the Board would instead meet remotely via conference call. In line with government guidance at the time, Board meetings were also held remotely during the peak of the Covid-19 pandemic.
27. Mr. Parker, as Chairman, would lead the meetings. Mr. Parker was inclusive and open, ensuring that no one person dominated a meeting, but was equally very focused, which was important for a business as broad and complicated as POL's. I always felt there was a constructive atmosphere around the Board table.
28. The agenda for each meeting was determined by the Chairman, the Company Secretary and the CEO. They all typically attended each meeting, together with the NEDs, the CFOO and any members of the executive management team who were delivering updates. Occasionally external parties such as POL's

lawyers, auditors, management consultants and other professional advisors would also attend if their input was sought on a particular issue. In advance of each meeting, a Board pack was circulated via a secure online platform. The Board pack comprised 'pre-read' materials including minutes from the previous meeting, proposed Board resolutions, financial results and the CEO report, which was a summary of day-to-day business updates and current projects. We might also be provided with reports from a particular business unit that would be presenting at the meeting and these reports were sometimes supplemented by slides on the day.

29. Board meetings featured business-as-usual updates from various teams within POL, which normally included the IT team led by Chief Information Officer ("CIO") Rob Houghton. Mr. Houghton was extremely competent, and the Board had great respect for him. The Board would generally expect updates on any IT issues which had disrupted POL's network and business, such as any major systems outage. When I joined the Board, there were also frequently updates on wider, ongoing projects to modernise POL's IT infrastructure and renegotiate legacy IT contracts. It appeared to me that when POL separated from Royal Mail in 2012, POL inherited IT systems and contracts that were onerous and required re-negotiating. The UK is the only country to my knowledge that has broken up its national post office into two parts. POL and Royal Mail were previously a fully integrated business with one set of systems which I expect it would have been very challenging to split apart. As a result, the IT systems POL had in place when I joined in 2016 were in need of updating. Equally, certain of POL's IT functions appeared to have been outsourced to third-party providers

on terms that left POL paying considerably more than the Board believed it should have been.

30. None of the Board members was an IT specialist, although I recall that Shirine Khoury-Haq and Lisa Harrington both had prior experience working in the IT and technology sectors. Indeed, I myself had Board responsibility for the business priorities of the IT function at Europcar Group. We understood the fundamentals of how POL's various systems operated and I recall, for example, attending a demonstration of how the Horizon system worked at the POL head office. The Board also recognised when it was appropriate to take expert advice on IT matters and I recall POL hiring external IT consultants to review its IT strategy. I have been provided with a copy of the Board minutes for 23 November 2017 (**POL00021552**), which note that IT consulting firm Actinista had carried out a review of POL's IT strategy and presented to the Board on their findings.

31. The General Counsel ("**GC**"), originally Jane MacLeod and later Ben Foat, would provide updates at Board meetings on behalf of the legal team as and when required. To the best of my recollection, these updates were generally verbal. However, I have been referred to two briefing papers shared following the first judgment in the GLO Proceedings but prior to POL's application to recuse Judge Fraser (**POL00111876**, which is undated but appears to have been shared in advance of a Board meeting on 12 March 2019, and **POL00103473**, which is also undated but appears to have been prepared for the Board meeting on 20 March 2019), I have also been referred to some email correspondence briefing the Board on major developments in the litigation (for

example, **POL00103412**, sent on 8 March 2019, and **POL00043341**, comprising emails sent on 28 November 2019, 29 November 2019 and 9 December 2019). As well as this, I believe I saw some technical reports on, for example, property leases, but I do not otherwise recall reports or information packs being shared with the Board that were 'legal' in nature.

32. The Board had several subcommittees, namely the Audit, Risk and Compliance Committee ("**ARC**"), the RemCo and the Nominations Committee ("**NomCo**"). The purpose of each subcommittee was defined in its terms of reference. In general terms, the ARC focused on POL's financial reporting and its risk management systems; the RemCo made recommendations as to executive remuneration; and the NomCo made recommendations to appoint individuals to the Board and its subcommittees. In early 2018, the Board also established the Postmaster Litigation Advisory Board Subcommittee ("**GLO Subcommittee**") to receive legal advice in relation to the GLO Proceedings, which I return to in more detail below.
33. The ARC met once every two months. Its membership changed over the six years I was at POL; it was chaired by Carla Stent and I recall that Mr. Callard, Mr. Cooper, Mr. Parker, Ms. Khoury-Haq and myself were all members at some point. The RemCo met four times a year. I chaired the RemCo and I recall Mr. Parker, Mr. Cooper and Ms. Harrington being members. The NomCo met on an ad-hoc basis as required, but not less than once a year. All of the NEDs were members and we usually met immediately after a scheduled Board meeting.

34. There was no formal, 'dotted line' reporting between executive management and the Board. Executive management reported to the Board through Board meetings and subcommittee meetings. For example, as Chairman of the RemCo, I worked closely with the group people director at RemCo meetings; and the CFOO reported to the Chair of the ARC at ARC meetings. If a member of the executive management team who was due to provide an update at a Board meeting was unable to attend, typically another member of their team would attend in their place.
35. I have been asked to confirm the extent to which myself or the Board dealt with or had oversight of the "problem management team" and the "security and/or investigation department" at POL. I do not recall ever hearing about a "problem management team" during my time on the Board. Although I do not remember having any direct contact with a "security and/or investigation department", I was aware that POL had internal investigators who would have looked into shortfalls at branches. The only discussions I recall about investigations were in relation to historic cases, for example, in the context of the GLO Proceedings and the Board's review of cases referred to the CCRC. As I have already noted, I believe POL did not commence any new criminal prosecutions related to Horizon during my time on the Board. It is possible that investigations into shortfalls were still being carried out, even if no prosecution was ultimately brought, but I do not recall being made aware of any current investigations.

OVERSIGHT OF THE CONDUCT OF THE GLO PROCEEDINGS

36. I have been asked to provide my account of how the Board oversaw POL's conduct of the defence in the GLO Proceedings. I recall the GLO Proceedings beginning to 'snowball', and the Board had to quickly react and change how it exercised oversight. By way of illustration, having reviewed the documents provided by the Inquiry, it appears that when POL first received a letter of claim in the GLO Proceedings on 28 April 2016, there were 91 Claimants (**UKGI00006685**, an email from Ms. Vennells to myself and others on 2 May 2016) but by at least 24 May 2018, this figure had grown to approximately 560 Claimants (**POL00021555**, minutes of a Board meeting on 24 May 2018). I recall the Board being advised that the claim was funded by a litigation funder and that their model would be to move quickly to get other Claimants involved.
37. Initially, Ms. MacLeod delivered updates to the full Board on the status of the GLO Proceedings, which soon became a standing agenda item. These updates were necessarily limited to high-level news and 'headlines': how many Claimants had joined the claim; whether there was going to be a class action; and similar key issues and milestones. From a very early stage there was a huge amount of detail in the GLO Proceedings that the Board would not have time to review, and it was not the Board's role to do so. Looking at the Board minutes I have been provided with by the Inquiry, the notes of Ms. MacLeod's updates appear quite light. It is not clear to me now why the Chairman did not request more detail in the minutes. What I do recall is that the Ms. MacLeod was very preoccupied with preserving legal privilege and it is possible the

minutes were deliberately succinct for that reason. With the exception of the documents noted at paragraph 31 above, I do not recall being provided with written reports or briefing papers regarding the GLO Proceedings.

38. As the GLO Proceedings gathered pace, and the volume of updates increased, it became clear we needed a sub-group who could have primary oversight of the litigation. It would be unwieldy to continue to discuss the full details with the whole Board; we needed a smaller team that could get on a call quickly if there was an urgent update. In this sense, the decision was driven by functionality. I have been provided with the minutes of a Board meeting on 29 January 2018 (**POL00021553**) at which the Board resolved to establish the GLO Subcommittee. Its members were Mr. Parker, as Chairman, myself as SID, and Mr. Cooper as UKGI representative, and it was regularly attended by the CEO, the CFOO and the GC. The full Board continued to receive updates on the GLO Proceedings, but the GLO Subcommittee went into greater detail. I should also note that the ARC had oversight of the accounting treatment of the GLO Proceedings, including POL's legal costs and any award of damages or, in the event, payments under a settlement agreement.

39. Ms. MacLeod, as GC, had day-to-day conduct of the GLO Proceedings. At both Board level and GLO Subcommittee level, Ms. MacLeod was the 'glue' that connected POL to its legal advisors. Initially, these were barristers Anthony de Garr Robinson QC and David Cavender QC (both now KC), and law firm Womble Bond Dickinson. I recall POL seeking advice from a number of other eminent barristers over the course of the GLO Proceedings, including Lord Grabiner, Lord Neuberger and Helen Davies QC (now KC), and two other major

City law firms, Norton Rose Fulbright ("**NRF**") and Herbert Smith Freehills ("**HSF**").

40. The Board and the GLO Subcommittee were very active in participating in meetings, and questioning and challenging the advice we received until we were satisfied with the proposed strategy. We genuinely thought POL was employing the best possible people and receiving the best possible guidance. My recollection is that POL was not reticent to spend money to try to make sure it was taking the right approach. Although Board members could and did ask questions, it would have been very hard to depart from the advice of who we perceived to be some of the most senior and experienced lawyers in the country.

41. I have been referred to the minutes for the Board meeting of 30 October 2018 (**POL00021558**) which include a note that "[t]he claimants' IT expert had found that Horizon was not a robust system but this assessment was founded on identifying a large number of small problems with the system which our expert was confident could be rebuffed". I cannot recall this exact comment. I remember that the Claimants in the GLO Proceedings alleged there were problems with Horizon, although it was perhaps not emphasised to the Board that there were a "large" number. I do not believe the Board took any specific action in response to the Claimants' expert evidence at this stage. I now realise that, by this time, several reports had been commissioned by POL into possible issues with Horizon and I have been provided with copies of certain reports dating back to 2013. Except as set out in this statement, I had no knowledge of any of those reports until they were provided by the Inquiry. I certainly had no knowledge of those reports at the time of the 30 October 2018 meeting and so

the findings of the Claimants' expert would have been, to me, just an isolated comment. It may have been different if this was already a consistent theme repeated in Board meetings over a longer period but, at this point, it does not appear that it was. My understanding was that the GLO Proceedings were well-established and the question of whether there were problems with Horizon would all play itself out in that litigation. The Claimants' expert evidence supported their case, POL's expert evidence supported its case, and the judge would have to decide which he preferred.

42. Given POL's size and prominence, the GLO Proceedings inevitably led to concerns being raised by journalists and MPs about Horizon and about the historic treatment of SPMs. The media and public relations aspect of the GLO Proceedings was, so far as I can recall, overseen by a small group of individuals including Mark Davies as Communications Director, Ms. Vennells as CEO, and Ms. MacLeod as GC. I believe that Mr. Cooper would have also provided input if there was a government dimension because he served as POL's interface with UKGI and BEIS. In some instances, the Chairman may also have been consulted on, and asked to be involved in, external communications. As a government-owned company, my expectation would be that the government as shareholder would ultimately determine what, if any, public announcements or comments POL made during the course of the GLO Proceedings. Mr. Davies would provide updates to the Board on particularly significant media coverage, but the Board would not generally be asked for their views on POL's response (if any).

COMMON ISSUES JUDGMENT

Response to the Common Issues judgment

43. The GC briefed the Board via email of the outcome of the first, 'Common Issues' trial ("**CIT**") on 8 March 2019 (**POL00103412**). I can recall being shocked at losing so badly when the advice from POL's barristers had consistently been that we had the better of the arguments on most of the 23 separate issues under consideration. Against that very clear and confident advice, it was almost inconceivable that we had lost on all material points. I also did not appreciate, and I do not believe the Board as a whole appreciated, how great an impact the CIT could have on POL's day-to-day operations. The GC had presented the CIT as a purely technical case about legal definitions. As a result, it was not given the attention it perhaps deserved and I do not believe the Board properly understood the contractual issues in dispute at the time which, in hindsight, was an error. In reality, the CIT was a pivotal case, the outcome of which required POL to completely re-think its relationship and contractual arrangements with the SPMs.

44. The judgment in the CIT kick-started a series of radical changes at POL and the Board very quickly turned its attention towards the workstreams that needed addressing. I can recall eight or nine workstreams in total, which I believe were overseen by Dan Zinner with support from Amanda Jones and Julie Thomas. The most urgent workstream was updating the SPM contracts to take account of the criticisms made by Judge Fraser in the CIT judgment, not least because, as I recall, we had around 30-60 new SPMs due to sign on shortly. There was

always a live pipeline of new potential SPMs who POL recruited to take over branches from those who had, for example, retired, and making sure the new contracts were compliant with the CIT judgment was a very high priority.

45. I also remember various initiatives aimed at improving SPM engagement and support, such as organising elections for two SPM NEDs. This was a Board-driven idea to try to replicate the European structure of having a workers' council and to ensure SPMs' views on product strategy, operations and engagement were being heard. There was already the 'National Federation for SubPostmasters' but this was flawed to an extent because it was funded by POL. We also established the 'Branch Hub', which was essentially a communications tool to get updates and messages to the SPMs quickly. We could give them a heads-up to "watch out for this" or "be careful because we've seen a rise in that". The logic was to try to help SPMs move forward and make sure they were getting the support they needed as soon as possible. The telephone helplines were available if a problem could not be resolved through the Branch Hub but hopefully the call volumes would be lower and waiting times would be shorter. Overall, Branch Hub was intended to provide the SPMs the opportunity to solve problems faster and online.
46. The Board took the post-CIT remediation work very seriously and we agreed that a status update on each workstream would become a regular agenda item at Board meetings (see Board minutes from 28 January 2020 (**POL00021573**)). We were almost fanatical about making sure a clear record was kept of how the criticisms in the CIT judgment were being addressed and we were regularly pushing for answers on progress. Of the Board minutes provided to me by the

Inquiry, I believe the minutes from the Board meetings on 26 May 2020 and 27 October 2020 (**POL00021583** and **POL00021600**) capture this point particularly clearly. In the 26 May 2020 minutes, there is a record of a discussion about improved training for SPMs and I recall pressing for concrete details. What training would be provided? Over how many days? We needed to tie our general commitment to training to the specifics. In the 27 October 2020 meeting, I expressed a broader concern that POL needed to be able to track and ultimately sign off that all of our processes had changed as required by the CIT judgment, and I recall this concern was shared by the rest of the Board (**POL00021600**). During this period, the Board was almost stepping into the shoes of executive management but we absolutely believed the remediation exercise had to be done methodically and in detail.

Recusal application

47. I have been asked to provide a detailed account of POL's decision to issue an application for Judge Fraser to recuse himself from the GLO Proceedings. In the immediate aftermath of the CIT judgment, I recall that the Board and the GLO Subcommittee took extensive advice from the senior barristers and former judges mentioned above, namely Mr. Cavender QC, Lord Grabiner and Lord Neuberger, about the possibility of applying for recusal. We were still being advised by Womble Bond Dickinson and we also engaged NRF to provide a second opinion. The crux of our legal advice was very clear: we had "no alternative" but to pursue a recusal application.

48. The Board was told that there were a number of significant concerns with Judge Fraser's approach to the CIT judgment which, together, indicated his 'apparent bias' towards POL. I cannot remember exactly what all of these concerns were. So far as I recall, and having considered the papers provided to me by the Inquiry, I believe it was a combination of: (a) the supposedly harsh and heavy-handed language used in the CIT judgment against POL ("haphazard", "lackadaisical", etc.); (b) calling into question the reliability of POL witnesses who would appear in later trials; (c) admitting evidence that our barristers believed was inadmissible and that we had tried to strike out; and (d) taking an issue that affected one SPM or a small group of SPMs and generalising it across the whole of POL. The overall message to the Board was that Judge Fraser's conduct and language were totally unacceptable. Our barristers advised that Judge Fraser was approaching the case from the perspective that POL were the 'bad guys' and he had already pre-judged the outcome of future trials. On that basis, if we did not apply to recuse him, our legal advice was that those future trials would fall apart and we would lose comprehensively.

49. I was asked to chair the Board meeting on 20 March 2019 (**POL00021563**) where the Board discussed and voted on recusal because Mr. Parker had declared a conflict of interest. As Chairman of the HM Courts and Tribunals Service, he felt it was inappropriate to participate in a decision to recuse a judge. I recall Mr. Cooper also declared a conflict of interest because, as the representative for UKGI, part of the executive branch of government, he believed he should not be involved in a decision relating to a member of the

judiciary either.

50. There was a thorough debate and the Board unanimously supported the recusal application, including Tim Franklin who could not attend the meeting but had shared his views with me the previous day. To my knowledge, none of the Board had been in this situation before and, although recusal was a 'nuclear option', all we could do was look at the situation objectively in light of the barristers' opinions we had received. Given the rock-solid advice from Lord Neuberger and Lord Grabiner that POL had "no alternative" other than applying to recuse Judge Fraser, recusal appeared to be the only logical way forward.
51. After Judge Fraser rejected the application for recusal, I understand POL applied for permission to appeal that decision from the Court of Appeal. I do not remember any Board or GLO Subcommittee meeting where appealing the recusal decision was specifically discussed or authorised. However, when the Board debated the original recusal application, as far as I can recall, there was an expectation that Judge Fraser would not agree to recuse himself and we would have to appeal. In that sense, the decision to appeal may have been almost automatic and would have been taken for the same reasons and on the basis of the same legal advice as I have already summarised.

FOLLOWING THE GLO PROCEEDINGS

Horizon Issues Judgment

52. I have been referred to an email on 28 November 2019 from Mr. Foat, who by that time had succeeded Ms. MacLeod as GC, briefing the Board on the

outcome of the second, 'Horizon Issues' trial ("HIT") (**POL00043341**). I do not recall that losing the HIT came as a surprise to myself or the Board. In contrast to the CIT judgment, the legal advice we received before the HIT judgment was much more pessimistic given that we had lost the recusal application. It was clear Judge Fraser had a strong view and, for the same reasons we applied to recuse him, such as his criticism of POL's witnesses, we did not expect his findings in the HIT to be favourable to us.

53. At this stage, remediation work to address the issues raised in the CIT judgment was in full swing. These workstreams would have had to carry on full steam ahead regardless of the outcome in the HIT. The CIT judgment was what had fundamentally reshaped POL's relationship with SPMs, whereas the HIT was more about the robustness of previous iterations of Horizon.

Financial redress schemes

54. After the GLO Proceedings had concluded, POL established a compensation scheme known as the Historical Shortfalls Scheme ("**HSS**"). I understand that the exact eligibility criteria evolved over time, but the HSS was primarily set up for SPMs who experienced shortfalls at their branches that may have been caused by Horizon but who had neither received a criminal conviction, nor participated in the GLO Proceedings and resulting settlement. The motivation for setting up the HSS was a desire to provide financial redress to SPMs, while acknowledging that there was no way to undo the pain and suffering that had been caused. I definitely recall a moral intention to accept that POL had been in the wrong and try to put things right as quickly as possible.

55. Despite the Board's best intentions, I remember there being very considerable delays to paying out compensation under the HSS for a number of reasons. To start with, the Board had not anticipated the volume of applications that the HSS would receive. We had estimated a few hundred claims but within the first few months we had received over 2,000. We did the best we could to manage the applications that were coming in, including creating a new unit headed by Declan Salter that gave regular updates to the Board.
56. It soon became clear that many of the claims were also very complicated. No two applications were the same and compensation had to be assessed on a case-by-case basis. The unfortunate reality was that often SPMs had not just lost money from making good shortfalls in their branches; the size of some alleged shortfalls had led to a significant impact on their personal and professional lives, such as marriage and/or family breakdowns or the loss of another business. The level of compensation had to take account of this bigger picture and the Board was concerned we did not have the necessary expertise to make these decisions. A panel of experts was appointed to decide on each claim and the appointment process was coordinated by HSF to ensure independence from POL. Although I believe this was the right approach to take, it took time to get those experts up to speed.
57. The single biggest reason for the delay in paying out compensation under the HSS was ultimately funding. As the volume of applications kept rising, eventually we realised POL was not going to be able to pay out itself and it would need government assistance. The Board had originally hoped to be able to pay out de minimis claims under £20,000. The advice of the independent

experts was that it would likely cost more to investigate these claims than to pay them, and by paying them we could ensure that at least some applicants got closure. However, the aggregate numbers soon became very substantial and I recall the Board taking insolvency advice on directors' duties from lawyers at NRF and Linklaters. We were advised not to start paying applicants because we did not believe we had the money to finish. I have been referred to a number of Board minutes from around this period, including the minutes from the meeting of 27 October 2020 (**POL00021600**) which make the point clearly that we were very concerned not to enter the territory of wrongful trading.

58. The Board, through Mr. Cooper and Mr. Cameron, tried desperately hard to get a letter of guarantee from the government committing to fund the HSS payments through to conclusion. I remember we received a letter expressing the government's support for POL in very general terms but it did not categorically agree to cover the amounts we expected POL would have to pay out in compensation and, as a result, the auditors would not accept it. From the 27 October 2020 Board minutes (**POL00021600**), it appears that the government wanted the HSS liabilities to be quantified more accurately before agreeing to provide any funding. There was also a strong focus by the government on being able to demonstrate that the payments made under the HSS represented 'value for money' to the taxpayer, as is evident from the minutes from the Board meeting of 7 December 2020 (**POL00021604**), but meanwhile, the Board's hands were tied. This, in a nutshell, was the 'Catch 22' situation the Board found itself in with regards to the HSS and it was the source of most of the delays.

59. For completeness, I was also aware of a separate financial redress scheme specifically relating to historic issues with how stamps were accounted for. I do not recall any specific details, other than that the issues were quite technical and complex. In any event, I believe the HSS was by far the primary compensation scheme, while the stamps scheme was much smaller.

EVALUATION OF POL CHAIRMAN

60. I have been asked to consider the POL Chairman's Feedback Report for 2019/20 (**POL00104173**). As noted at paragraph 15 above, part of my role as SID was to lead an annual review of the Chairman's performance and prepare a formal feedback report. I do not recall when exactly **POL00104173** was prepared, and there is no date on the face of the document. My solicitors sought to clarify the date of the report with the Inquiry but it was not possible to confirm precisely when it was created. I believe it is likely to have been prepared in the first quarter of 2020 because this aligns with POL's financial year-end in late March.

61. The report was prepared in a similar way each year based on feedback shared by the other NEDs. I first asked the NEDs to complete a questionnaire evaluating the Chairman's performance against several metrics. I reviewed the questionnaires and then met with the NEDs as a group to give them the opportunity to share any additional thoughts, usually just before or after a Board meeting. I believe I would have called anyone who was not able to attend. After I had canvassed all of the NEDs, I collated their feedback into a draft report and shared it with the group for any final comments. Once finalised,

the Company Secretary sent the report to UKGI on my behalf. My understanding is that UKGI would then review the report before sharing it with the Minister for BEIS. Meanwhile, I arranged a meeting to discuss the feedback in person with the Chairman.

62. As is described in **POL00104173**, the feedback for the 2019/20 review cycle was very positive. Mr. Parker was regarded as a good Chairman with strong leadership skills who ran Board meetings effectively. The only area for development that I can recall was a suggestion that Mr. Parker could try to encourage NEDs with relevant expertise on a particular matter to speak up in Board meetings before he offered his own view. In my experience, this is relatively common feedback for a Chairman.
63. At some point during the Board's review of CCRC cases, which I cover in more detail below at paragraph 67, I received a telephone call from Mr. Cooper regarding a Deloitte report that Mr. Parker appeared to have commissioned but had not shared with the Board. I believe this call is most likely to have taken place in April 2020 because I refer to finding out about the report in an email I sent to Veronica Branton, the Company Secretary, on 22 April 2020 (**POL00104107**). I do not recall Mr. Cooper mentioning a project name at the time, or describing the contents of the report, but I now believe that Mr. Cooper was referring to 'Project Bramble'.
64. Having considered the documents shared with me by the Inquiry, I understand that Mr. Parker commissioned a prior and separate report by Jonathan Swift QC (now KC) and Christopher Knight ("**Swift Review**"). I have been provided with

a copy of (what I understand to be) the Swift Review dated 8 February 2016 (**POL00006355**). The Inquiry has referred me to an email from Mr. Cooper to myself and others on 30 July 2020 attaching the Swift Review and a letter from Mr. Parker to Baroness Neville-Rolfe from 2016 (**UKGI00012155**). I do not recall this email or the background to it, and I do not recall having heard of the Swift Review until I was asked to participate in the Inquiry.

65. I received Mr. Cooper's call at around 08:00 and I was standing outside HSF's offices in London, where a CCRC case review meeting was due to take place. I recall Mr. Cooper asking me whether I thought any action should be taken against Mr. Parker. Although I do not remember my specific words, I believe I would have said that the Board needed to speak to Mr. Parker about the report and give him an opportunity to explain himself before we considered any further actions. Shortly after the call with Mr. Parker, I rang Ms. Stent, who was en route to HSF's offices at the time, and I met her outside when she arrived. I relayed what Mr. Cooper had told me and asked for her thoughts, and I remember she agreed that we needed to ask Mr. Parker why he did not share the report and give him an opportunity to explain.

66. During the CCRC review meeting, which Mr. Parker attended, the Board raised the subject of the Deloitte report and why it had not been shared. The tone of the meeting was not one of anger but definitely puzzlement. Mr. Parker's explanation was that he had been advised that the report was legally privileged and should not be shared with the Board, and he had followed that advice. My view at the time, which I believe was shared by others on the Board, was that Mr. Parker had made an error of judgment but I could understand why and

I appreciated it might have been difficult to challenge the legal advice he was given so early on in his tenure. Overall, I believed Mr. Parker had done a good job as Chairman of POL and it was not proportionate to, for example, remove him from his position because of this issue alone.

GENERAL

Review of past criminal convictions

67. Starting in approximately April 2020, a large number of ad-hoc Board meetings took place to consider past convictions of SPMs for theft, fraud or false accounting that had been referred to the CCRC. I do not recall the exact dates, however I have been referred to an email from Veronica Branton on 22 April 2020 attaching "CCRC papers for tomorrow" (**POL00104107**). It appears from this email that the CCRC review meetings were ongoing by 22-23 April 2020 and that is consistent with my recollection of the call with Mr. Cooper regarding the Deloitte report taking place before a review meeting slightly earlier in April. I have also been referred to minutes from a CCRC Board meeting on 7 January 2021 (**POL00021606**), which suggests that the review of CCRC cases continued until at least early 2021.
68. The CCRC review meetings were attended by the full Board and took place at HSF's offices in London. The key question for the Board was whether POL should support or oppose each SPM's appeal against their conviction. My recollection is that we considered between 40-50 cases. I have been provided with minutes from GLO Subcommittee meetings in 2018 noting that, at this stage, 33 SPMs had applied to the CCRC (**POL00006764** and

POL00006754) but I believe the number of applications increased between 2018 and 2020.

69. The supporting documentation for each case varied significantly. Some cases had tens of pages; others had next to nothing. Myself and the rest of the Board were deeply troubled that POL appeared not to have done its job of properly investigating each case and backing up its charges with adequate evidence. We went one-by-one and considered every case very thoroughly, allowing it all the time it took. I felt as a member of the Board it was my duty to go through each individual case for someone who had gone to prison and possibly lost their home or had a breakdown in their marriage or family. As an officer of POL, I felt that giving each case the time it deserved was the least I could do and I believe the rest of the Board shared this sentiment. The review process was taken very seriously and the Board had to reach a unanimous decision on every case.
70. The Board took the approach that where a case was in any way related to Horizon, we should support that individual appeal. In other words, if there was any doubt at all as to whether Horizon had been involved, we gave the person challenging their conviction the benefit of the doubt. Lawyers at HSF facilitated an open discussion on the merits of each case. I recall there were some differences of opinion among the Board members in relation to borderline cases where Horizon was not expressly referred to in the supporting documents but we considered that, in the circumstances, it may have played a role. I also recall a handful of cases which were totally unconnected to Horizon and, in these very few cases, the Board declined to support the SPM's appeal.

71. I am aware that there was also a separate disclosure review exercise taking place in relation to past criminal prosecutions and I recall that Peters & Peters and Sir David Calvert-Smith were actively involved. I remember there being conference calls where Sir David Calvert-Smith and Nick Vamos, a partner at Peters & Peters, would provide updates to the Board.

Professional career since leaving POL

72. I stood down from the Board on 25 January 2022 at the end of my second term. On 6 July 2020, I was appointed to the board of a listed global supply chain and logistics company and I have continued in this NED role since leaving POL.

Reflections

73. When I joined POL, the Board was still relatively new and, to my knowledge, none of the NEDs had been in post at the time when the 'legacy' Horizon system was in operation and the private criminal prosecutions were still ongoing. I can recall feeling as though we had been left holding the baby and we had to decide what to do with it based on our limited background knowledge. We took the criticisms of POL in the CIT and HIT judgments very seriously, we accepted that POL had been seriously in the wrong in the past, and we relentlessly pushed executive management for updates on the various remediation workstreams until we were satisfied they had been comprehensively addressed.
74. Learning about the experiences of SPMs who had been held responsible for shortfalls and the impact that it had on their lives was emotional, especially the review of past criminal cases. When the Board got to the truth that POL did not

do its job investigating cases properly, we tried desperately hard to try to fix what we could, and I felt a moral obligation to get compensation paid to anyone who had been affected as quickly as possible. It was extremely frustrating that, on one hand, the Board, did not have the funds to make HSS payments itself without the risk of wrongful trading and yet, on the other hand, faced significant delays in getting a letter of guarantee from government. It is very troubling to me that there are, as I understand it, some cases where compensation has still not been paid.

Statement of Truth

I believe the content of this statement to be true.

Signed: **GRO**

Dated: 10 June '24

Index to First Witness Statement of Ken McCall

<u>No.</u>	<u>URN</u>	<u>Document Description</u>	<u>Control Number</u>
1.	POL00104107	Email from Ken McCall to Veronica Branton, Tom Cooper, Tim Parker and others re: PDF of CCRC Papers dated 22 April 2020	POL-0103690
2.	POL00362996	Letter to Ken McCall from Alwen Lyons re: letter of appointment dated 02 December 2015	POL-BSFF-0191029
3.	POL00363008	Letter to Ken McCall from Jane MacLeod re: letter of re-appointment as Senior Independent Director dated 22 January 2019	POL-BSFF-0191041
4.	POL00027185	Minutes of POL Board meeting held on 24 November 2016	POL-0023826
5.	POL00021552	Meeting minutes: minutes of Board meeting held on 23 November 2017	POL0000085
6.	POL00111876	Postmaster Litigation Judgement - Board call - setting out the key finding of Justice Fraser's Common issues Judgement held on 12 March 2019	POL-0109447
7.	POL00103473	Post Office Limited, The Board of Directors Discussion Paper - The Background to Recusal and other issues dated 20 March 2019	POL-0103056
8.	POL00103412	Email chain from Ken McCall to Jane MacLeod, Tim Parker, Carla Stent and others re: Postmaster Litigation dated 8 March 2019	POL-0102995

<u>No.</u>	<u>URN</u>	<u>Document Description</u>	<u>Control Number</u>
9.	POL00043341	Emails between Ben Foat, Tim Parker, Tim Franklin and others RE: GLO - High Level Review Embargoed Horizon Judgment - Section M dated 28 November 2019, 29 November 2019 and 9 December 2019	POL-0039823
10.	UKGI00006685	Email from Richard Callard to UKGI POL Team and Claire French (Communications) re Sparrow update/media coverage dated 2 May 2016	UKGI017499-001
11.	POL00021555	Meeting Minutes: minutes of meeting held on 24 May 2018	POL0000088
12.	POL00021553	Meeting minutes: minutes of board meeting held on 29 January 2018	POL0000086
13.	POL00021558	Post Office Ltd Board Minutes dated 30 October 2018	POL0000091
14.	POL00021573	Meeting minutes: minutes of Board meeting held on 28 January 2020	POL0000106
15.	POL00021583	Meeting minutes: minutes of Board meeting held remotely on 26 May 2020	POL0000116
16.	POL00021600	Meeting minutes: minutes of Board meeting held on 27 October 2020	POL0000133
17.	POL00021563	Meeting minutes: minutes of Board meeting held on 20 March 2019	POL0000096
18.	POL00021604	Meeting minutes: minutes of Board meeting held on 7 December 2020	POL0000137

<u>No.</u>	<u>URN</u>	<u>Document Description</u>	<u>Control Number</u>
19.	POL00104173	Post Office Ltd Chairman Feedback Report for UKGI/BEIS for 2019/2020	POL-0103756
20.	POL00006355	Review on behalf of the Chairman of Post Office Ltd concerning the steps taken in response to various complaints made by sub-postmasters dated 8 February 2016	POL-0017623
21.	UKGI00012155	Email from Tom Cooper to Tim Parker, Ken McCall, Carla Stent and others re: Chairman's review report dated 30 July 2020	UKGI022952-001
22.	POL00021606	Meeting minutes: minutes of meeting held on 7 January 2020	POL0000139
23.	POL00006764	Meeting minutes of the Postmaster Litigation Subcommittee of POL held on 26 March 2018	POL-0018022
24.	POL00006754	Meeting minutes of the Postmaster Litigation Subcommittee of POL held on 15 May 2018	POL-0018012