

Witness name: Dan O'Mahoney

Statement No: WITN11760200

Dated: 9 October 2024

POST OFFICE HORIZON IT INQUIRY

**SECOND WITNESS STATEMENT OF DAN O'MAHONEY
ON BEHALF OF POST OFFICE LIMITED IN THE POST OFFICE
HORIZON IT INQUIRY**

I, DAN O'MAHONEY, of 100 Wood Street, London, EC2V 7ER, will say as follows:

INTRODUCTION

- 1 I am the Inquiry Director within Post Office Limited ("**Post Office**"). This is my second witness statement to the Post Office Horizon IT Inquiry (the "**Inquiry**"). I am giving this witness statement in a corporate capacity on behalf of Post Office.

- 2 This witness statement has been prepared in response to a request by email from the Inquiry sent to Burges Salmon LLP and Fieldfisher LLP ("**BSFf**") at 15:37 on 4 October 2024, that Post Office provide the Inquiry with a statement from an appropriate individual to speak to the contents of a letter sent to the Inquiry on behalf of Post Office dated 2 October 2024, which provided further information in relation to the Inquiry's Rule 9

Request 57 (“**R9(57)**”) Question 4 (“**Question 4**”) (exhibited as **POL00460624**).

- 3 The facts in this witness statement are true, complete and accurate to the best of my knowledge and belief. Where my knowledge and belief, as set out in this witness statement, has been informed by another person or by documents, I acknowledge that it has been informed in that manner. I have been assisted in preparing this witness statement by BSFf. BSFf is assisting Post Office in relation to the Inquiry.
- 4 I have been asked by BSFf to state that I am not authorised by Post Office to waive any legal professional privilege that belongs to Post Office.

FURTHER INFORMATION RELEVANT TO QUESTION 4

- 5 My colleague, Melanie Park (Central Operations Director within Post Office), provided a witness statement dated 22 August 2024 (WITN11600100) to the Inquiry to assist it with, amongst other things, matters set out in R9(57). Ms Park’s witness statement responded to Question 4 in paragraphs 24-28. In that response Ms Park explained that Post Office had incomplete records and institutional knowledge relating to historic civil claims, summarised what those records indicated, and explained that, to try obtain additional records, Post Office had contacted its former external advisers understood to have acted for Post Office in civil claims potentially within the scope of Question 4¹.

¹ “The number of civil claims pursued by POL based on Horizon data since the Rule 9 start date, the quantum and the outcome of those claims including payments of legal costs by parties”

- 6 Post Office made enquiries seeking further information potentially relevant to responding to Question 4 with Womble Bond Dickinson (UK) LLP, DAC Beachcroft LLP, Pinsent Masons LLP, Hugh James LLP and AWH Acquisition Corp Ltd (t/a Cartwright King) with a view to providing the Inquiry with an updated response to Question 4 based on more complete data sources than Post Office's legacy data. BSFf's letter to the Inquiry dated 2 October 2024 reflects the information collected from those law firms for this purpose and, in turn, I speak to my understanding of those findings.
- 7 Neither I nor Ms Park were involved in making those enquiries. Further, neither of us were involved in the historical civil enforcement activity to which the enquiries related, which I understand from paragraph 32 of Ms Park's statement had ceased by 2019, before Ms Park and I joined Post Office. However, the enquiries were undertaken principally by BSFf under instruction from Post Office's Inquiry Team, which I lead. Accordingly, I am the appropriate person to provide this witness statement.
- 8 Having engaged with BSFf in detail to understand the enquiries that were made, I confirm that, to the best of my knowledge and belief, the facts and matters set out in BSFf's letter sent to the Inquiry on behalf of Post Office dated 2 October 2024 **[POL00460624]** are true and accurate.
- 9 In particular, in making those enquiries, Post Office took a broad view of what was meant by "*civil claims pursued*" and asked its former external advisers to adopt the same approach. Effectively, any matters where a formal letter before action was issued and/or any subsequent or other

formal procedural steps were taken was to be treated as a “*civil claim pursued*”². This would not include matters where only a request for payment that was not a formal letter before action was issued, but inclusion was not limited, for example, only to those matters where civil proceedings were issued. This would, therefore, include matters that were not pursued beyond initial stages, that were settled before or after a substantive hearing and that proceeded to trial and enforcement. Post Office, or BSFf on its behalf, asked Post Office's former legal advisers to search for broader records than just those identified by Post Office's legacy data (which were shared just as a starting point for enquiries).

- 10 Further, Post Office also took a broad view temporally, including any matters that continued to be pursued after the “*Rule 9 start date*” (i.e., 8 July 2013 – see paragraph 12(h) of Ms Park’s witness statement and paragraphs 83-85 of the second witness statement of John Barlett (statement number WITN11190200)), even if most of the work was done before that date.
- 11 I set out below the positions provided by Post Office’s former external advisers which were presented in paragraphs 2.4-2.9 of BSFf’s letter sent to the Inquiry on behalf of Post Office dated 2 October 2024 **[POL00460624]**. I understand from BSFf that BSFf engaged with Post Office’s former external advisers before sending their letter specifically to ensure that Post Office’s former external advisers did not have concerns

² For Cartwright King only a slightly different approach was taken. Post Office instructed Cartwright King on prosecutions rather than civil claims. Accordingly, Cartwright King was asked to confirm whether it had been involved in any civil claims at all (in light of the identification of a single historical example of it having assisted Post Office in instructing another firm to enforce a civil remedy obtained through criminal proceedings on which it was acting for Post Office).

about the accuracy of those statements before BSFf provided them to the Inquiry on behalf of Post Office.

HUGH JAMES LLP

- 12 Hugh James confirmed to BSFf that it had not identified indications that it acted for Post Office in relation to any matters relevant to Question 4 on or after 8 July 2013:

"I understand that we do not hold any physical files anymore, as the destruction date has long since passed. We do have some limited electronic data but the files are, I am told, quite sparse. We did advise the Post Office on postmaster civil debt recovery. Those files were all opened between 2004 and 2008. Only one file was opened after 2008. That one file was opened in 2013 and does not appear to be a postmaster debt recovery file. The civil debt recovery matters were undertaken under two file prefixes – ROY24 and ROY28. These matters were completed by 2009. It doesn't appear that we did "pursue" sub postmasters post 2013. If you have our file reference which should be prefixed as ROY24 or ROY28 we can do a specific search for you to see if that throws anything up."

CARTWRIGHT KING

- 13 Cartwright King confirmed to BSFf that it had not identified indications it acted for Post Office in relation to any matters relevant to Question 4 on or after 8 July 2013:

"From the searches that I have been able to conduct in a relatively short time frame, I have been unable to identify any further

examples³ of CKL involvement in civil claims on behalf of POL. This cannot however be taken to be a definitive position. I could not say categorically whether CKL were involved in any other civil cases or not, without first conducting a manual search of every POL prosecution case file on CKLs legacy case management system. As you are no doubt aware, copies of these case files have already been provided to POL. In the circumstances I suspect that you will have the resources available to review the material in question far more expeditiously and effectively than I could."

DAC BEACHCROFT

- 14 DAC Beachcroft was instructed by Post Office to act on a large portfolio of civil recoveries. However, DAC Beachcroft confirmed to BSFf that it does not consider any of those claims to be within the scope of Question 4. DAC Beachcroft's position is:

"the debt recovery instructions that were received followed audits by POL and an audit pack was received. No advice was sought on the merits of recovery and no substantive review of the pack was carried out. The debt figure and the debtor's details were simply extracted. If there was, and we cannot confirm after this time if there in fact was, any 'Horizon' data within the pack, it was not used in evidence or even considered by those conducting the recoveries. If the debtor referenced Horizon when responding to correspondence, the matter would be returned.

³ Footnote 2 above describes the example referenced here.

The recoveries were very simple and were an administrative process performed for POL, as evidenced by the low level of fixed fees charged.

In light of the above we do remain firmly of the view that DACB did not assist POL with claims falling within the question. We cannot confirm that no Horizon data was relied upon in any underlying claim preceding DACB's debt recovery support, because that did not form any part of DACB's instructions."

- 15 From management information shared with Post Office by DAC Beachcroft pertaining to the 378 matters where DAC Beachcroft carried out at least some work on or after 8 July 2013, BSFf informed me that it understands that only 77 incurred total fees and disbursements greater than £1,000 (exc. VAT) and 263 incurred total fees and disbursements less than £250. It is Post Office's view that this appears to correlate with the case load comprising relatively few civil claims that were pursued materially through procedural stages (without prejudice to DAC Beachcroft's position, as set out above, that these were not claims within the scope of Question 4).

WOMBLE BOND DICKINSON

- 16 From the information Post Office has received (taking the steps described at paragraph 6 above), it appears to Post Office that most instructions Post Office sent externally relating to matters within the scope of Question 4 were provided to Womble Bond Dickinson. I am informed by BSFf that, based on the information provided by Womble Bond Dickinson, BSFf understands the following:

- (a) Womble Bond Dickinson acted on 48 “*civil claims pursued*” based on Horizon data since 8 July 2013 or continuing past 8 July 2013.
- (b) The claimed quantum of those claims ranged from £3,480.62 to £205,427.45. The mean claimed quantum of those claims was £43,239.71.
- (c) 45 of those claims (94%) resulted in Post Office obtaining a substantive remedy, either through a judgment, peremptory order or settlement. Remedies obtained included 25 judgments in favour of the Post Office (52%); 5 bankruptcy orders against postmasters (10%) (3 bankruptcy orders were obtained following judgment and 2 relate to matters for which we do not have a record of Post Office having obtained judgment); 20 matters (41%) resulted in Post Office obtaining a charge against the postmasters' property; 23 matters (48%) resulted in a negotiated settlement, including 2 participants (4%) in Post Office's Initial Complaint and Review Mediation Scheme, 13 participants (27%) in the *Bates & Others v Post Office* Group Litigation Order, and 8 other forms of settlement (17%).
- (d) One of those claims (2%) resulted in an order that Post Office could recover its legal costs from the postmaster, with a further 16 claims (i.e., a total of 17 claims (35%)) resulting in Post Office obtaining default judgment against the postmaster and, it may reasonably be inferred, an order for costs. In respect of the remainder, we are unclear as to whether there was any order for recovery of legal costs. Post Office is not aware of any claims having resulted in an

order that the postmasters could recover legal costs from Post Office.

PINSENT MASONS

17 Pinsent Masons has a longstanding relationship with Post Office, which has included but is not limited to debt recovery work. Based on information Pinsent Masons provided to BSFf prior to BSFf sending the letter of 2 October 2024, I understand that in the time available Pinsent Masons had been unable to confirm whether some of their historic instructions (and, if so, how many) fall within the scope of Question 4. Post Office was informed that the limited management information available to Pinsent Masons from its document management system indicates that it may have been instructed on a handful of potentially relevant civil recovery cases in Scotland. However, Pinsent Masons' corresponding client files are hard copies stored in archives in Scotland so the retrieval, transport and review of them would be required in order to clarify the position and extract any relevant data. BSFf's letter dated 2 October 2024 noted Post Office's understanding that Pinsent Masons' Scottish office's relationship was primarily through the firm McGrigors, which merged with Pinsent Masons before the Rule 9 Start Date in early 2012. More broadly, Post Office was informed that it would be a substantial exercise for Pinsent Masons to conduct a manual review of the client files pertaining to its voluminous, past Post Office instructions to ascertain if any other past debt recovery work was also potentially relevant to Question 4 (again noting that some such files may only be available as hard copies in archives).

Statement of Truth

I believe the contents of this witness statement to be true.

Signed: 

Dated: 09 October 2024

Index to Second Witness Statement of Dan O'Mahoney

Exhibit No.	URN	Document Description	Control No.
1.	POL00460624	BSFF's letter to the Inquiry on Post Office's behalf dated 2 October 2024 regarding R9(57) Question 4.	POL-BSFF-150-0000002