

Witness name: Jonathan Mark Swift
Statement No: WITN 11750100
Dated: 14 November 2024

POST OFFICE HORIZON IT INQUIRY

FIRST WITNESS STATEMENT OF JONATHAN SWIFT

I, JONATHAN MARK SWIFT, will say as follows:

A. Introduction

1. I make this statement at the request of the Post Office Horizon IT Inquiry (“the Inquiry”) to address the points listed in the Inquiry’s letter to me dated 2 October 2024. In the following sections of this statement I shall set out each of those points (in italics, for ease of reference) and respond to each in turn. I have had assistance from solicitors to prepare this statement but I am not legally represented for the purposes of the Inquiry.
2. I have been asked, briefly, to summarise my professional career prior to October 2015 when I received the instructions from Post Office Limited (“POL”) to which the Inquiry’s questions relate. I was called to the Bar in 1989. In my early years as a barrister, the bulk of my work concerned employment law. Gradually, my practice expanded to include public law and, over time, this became my primary area of practice. From 2007 to 2014 I was First Treasury Counsel, one of two barristers retained by the government to provide legal

advice, and representation at court hearings. I was appointed Queen's Counsel in 2010. By October 2015, when I was instructed by POL, I had stepped down as First Treasury Counsel and returned to general practice at the Bar.

3. In October 2015, together with junior counsel (Christopher Knight), I was instructed by POL to assist Tim Parker (who had been appointed Chairman of POL earlier the same month), to consider what further steps POL should take to respond to concerns raised by sub-postmasters about the Horizon IT system. My Instructions stated that Mr Parker had been asked to consider that matter by Baroness Neville-Rolfe (see the letter reference POL 00168379). Baroness Neville-Rolfe was Parliamentary Under Secretary of State in the Department for Business, Innovation and Skills, the government department with oversight of POL.

4. The result of the instructions from POL was the document dated 8 February 2016, titled "*A Review on behalf of the Chairman of Post Office Limited concerning the steps taken in response to various complaints made by sub-postmasters*" ("the Review", document POL 00006355). The scope of the Review was explained at paragraphs 4 – 7 of the Review. As explained in those paragraphs, the Review addressed two questions: (1) what had POL already done between 2010 and 2015; and (2) whether there was further action that could reasonably be taken. Further, the Review considered those questions by reference to four areas (a) criminal prosecutions; (b) the Horizon system, i.e., the software; (c) the support provided to sub-postmasters in terms of training

and helplines; and (d) the investigations that had been undertaken into specific cases, where a complaint had been made.

5. I worked on the Review almost 9 years ago. The Instructions from POL would have been one of a number of sets of Instructions I worked on between October 2015 and February 2016. Given the passage of time, I do not have any specific recollection of the work I did for POL on the Review, day to day. To prepare this witness statement, I have carefully considered the documents the Inquiry has provided to me: i.e., emails from the period, attachments to those emails, and other contemporaneous documents. So far as I have been able to respond to the questions the Inquiry has put to me, I have relied on the information in those documents. On some points, reading the documents has refreshed my memory; but on most matters the information in the documents is all that I have been able to rely on.

B. Preparation of the Review

3. Please provide a chronological summary of your work in preparing the report dated 8 February 2016. In so doing, please address the following:

3.1 Please describe your working relationship with those at POL.

3.2 Please describe what you considered POL's purpose to be in commissioning the review.

3.3 Please describe any material oral instructions you received from POL or any of its agents.

3.4 Please describe any impression you had of how POL staff viewed the complaints brought by SPMs (including Tim Parker, Jane MacLeod, Rodric Williams, Patrick Bourke and Mark Underwood).

3.5 Please describe your views at the time of the adequacy or your instructions and / or access to documents.

6. By reference to the documents provided, the sequence of events between October 2015 and February 2016 appears to have been as follows.

7. The written Instructions from POL were sent to my clerk on 6 October 2015 (POL 00168377 and POL 00168378). They would have been passed to me the same day. An email dated 8 October 2015 (POL 00233630) provided further documents that it appears I had requested. The Instructions were in connection with a review of how POL had handled complaints made by sub-postmasters concerning flaws in the Horizon IT system (see the Instructions at paragraph 3). I was instructed to advise Mr Parker on the scope of the review, how the review should be conducted and the nature of the report he would give to Baroness Neville-Rolfe (see the Instructions at paragraph 4). The Instructions stated (at paragraph 5) that the review needed to be completed by Christmas 2015.

8. A consultation took place on 8 October 2015. So far as I can see there is no note of the consultation. The emails and attachments sent following the consultation (POL 00233682, POL 00233683, POL 00102588, POL 00104216, POL 00102604, POL 00162692, and POL 00162693) indicate that those present at the consultation were Jane MacLeod (Post Office General Counsel), Rodric Williams (one of the solicitors employed by POL) and Patrick Bourke; that during the consultation there was discussion of the possible terms of reference for the Review; and that I asked for certain further information to be provided.

9. After the consultation I sent a document headed “*A starting point for the terms of reference*” (POL 00233683) which listed matters that might be considered in the course of the work. In a covering email (POL 00233682) I described this list as a “*draft, for discussion*”.

10. On 20 October 2015 I had a further consultation, this time with Mr Parker and Ms MacLeod. I have no specific recollection of what happened at this meeting. However, Ms MacLeod summarised the meeting in an email she sent to me on 22 October 2015 (POL 00102617). The note set out four points under the heading “*focus of the investigation*” which are similar to the four “*areas*” later identified at paragraph 6 of the Review document. It is also apparent from the email that junior counsel (Christopher Knight) was due to start work on the review. A later email (dated 28 October 2015 from Mr Bourke to Mr Knight, POL 00162716, at page 2) describes the four areas to be covered by the Review – see under the heading “*Scope of Enquiries*”.

11. As is apparent from the emails the Inquiry has provided, work on the review started in late October, and continued throughout November and December 2015. The emails from this period were largely between Mr Knight and Mr Bourke, but I was copied in. The emails show Mr Knight doing much of the work so far as concerns requesting information from POL and receiving that information. Most of the emails from this period comprise requests for information and the responses to those requests, in particular the email from Mr Knight on 12 November 2015 requesting information (POL 00102706, in addition to information requested at the meeting on 10 November 2015), and

the emails in response on 26 November 2015 (POL 00102816, POL 00102826, POL 00102834, POL 00102842, POL 00102850, POL 00102858, POL 00102887, and POL 00102890). This is the sort of work that would usually be done by junior counsel. However, at all times Mr Knight was working under my supervision and I am responsible for all the work that was done and for any errors or omissions. Although I cannot now recall the detail, Mr Knight and I will have discussed the information provided, and discussed our thoughts on the information, as it became available.

12. By reference to the emails, it is clear that on 10 November 2015, POL staff gave a demonstration to me and Mr Knight of how the Horizon system terminal was used in a sub-post office. The emails also indicate that on that occasion there was also some discussion of further matters that needed to be considered (see document POL 00102706, at pages 2 – 3).

13. Further, in the course of the work done for the review, the following meetings took place:

(1) on 10 December 2015, attended by Mr Parker, Lord Arbuthnot, me and Mr Knight (POL 00103002);

(2) on 14 December 2015, attended by Mr Parker, Ron Warmington and Ian Henderson, both of Second Sight, me and Mr Knight (see POL 00022623 and POL 00022624); and

(3) also, on 14 December 2015, a series of meetings with me and Mr Knight, attended by: (a) Fujitsu employees; (b) employees in the POL Investigations Team; and (c) employees from Deloitte (see POL 00103010).

14. On 2 December 2015 Mr Parker, Mr Knight and I spoke on the phone, in anticipation of the meetings with Lord Arbuthnot and Second Sight that had been arranged for 10 December 2015 (see POL 00158278, POL 00158279, and POL 00102921).

15. The Instructions from POL had anticipated that the review report would be completed by Christmas 2015. In fact, the work took a little longer; the Review document was sent on 11 January 2016 to Mr Parker for his consideration (see POL 00022625, and POL 00022626). The Review was sent for Mr Parker's consideration because, as I have already said, my Instructions were to the effect that I was to assist Mr Parker in preparation of the Review. Mr Knight and I had undertaken the bulk of the work, but Mr Parker had also been involved in the meetings with Lord Arbuthnot and with Mr Warmington and Mr Henderson of Second Sight. Formally, the Review document was Mr Parker's document, prepared in response to the letter sent to him by Baroness Neville-Rolfe. You will note that when comments were sent on 4 February 2016 (POL 00162966 and POL 00162967), the Review was referred to as "the Chairman's Report". This was what the document was understood to be at the time.

16. By reference to the emails that have been provided, I can see that Mr Knight and I spoke to Ms MacLeod by phone on 21 January 2016 (POL 00103105) and, that in anticipation of that call she had sent us a table setting out proposed actions in response to each of the recommendations in the Review document (POL 00103106). A further version of that table was sent through after the phone call (POL 00238707 and POL 00238708). This document has track-changes. I do not recall the phone conversation, but I assume that the track-changes reflect what I said during the phone call so far as concerns the work that should be undertaken in response to the recommendations in the Review document.
17. There is an email from Ms MacLeod dated 22 January 2016, the next day (POL 00103108). It appears from that email that I spoke to her and to Mr Parker that day and discussed: (a) the work to be done in response to the recommendations in the report (that work being the work set out in the track-changed version of the table prepared after the call the previous day); and (b) the matters Mr Parker should cover when he met Baroness Neville-Rolfe since the Review was his response to the request in her letter to him of 10 September 2015 (POL 00168379).
18. On 4 February 2016 Mark Underwood sent an email to me (POL 00162966) that attached: (a) a list picking up a number of typographical and other minor errors (or possible errors) in the Review document (POL 00162967); (b) a document setting out further information from Fujitsu (POL 00162968); and (c) a letter POL had sent to Deloitte concerning the use by the POL of reports

Deloitte had provided. I replied on 8 February 2016 (POL 00104104) and enclosed a further version of the Review, dated 8 February 2016 (POL 00006355). As my email explained, this version of the Review took account of the typographical and other minor errors, and included a new footnote to refer to the further information from Fujitsu.

19. On 19 February 2016 Mr Underwood sent a draft of the letter Mr Parker intended to send to Baroness Neville-Rolfe to brief her on the Review, the conclusions in the Review, and the recommendations it contained. Mr Underwood asked me to review the draft letter. I sent back a track-changed version of the letter on 24 February 2016. The track-changes were my suggestions on the draft. I left it to Mr Parker to decide whether to accept any or all of them.

20. My answers to the specific questions at 3.1 – 3.5 above are as follows.

(1) Most if not all of my dealings were with the solicitors working for the POL who instructed me. After the Instructions and initial consultations in October 2015, most contact with them was by email. I also met with or spoke to Mr Parker on various occasions. So far as I recall these working relationships were all entirely professional. The emails and other documents I have seen that cover the period all point to the same conclusion. I cannot recall anything unusual so far as concerns my working relationships with any of them.

(2) I considered that the Instructions I received were prompted by the request made by Baroness Neville-Rolfe in her letter of 10 September 2015 to Mr Parker (POL 00168379). This was the explanation given in the Instructions and I had no reason to doubt that.

(3) My Instructions were set out in the document dated 6 October 2015 (POL 00168378). From the documents provided I think that the scope of the work to be undertaken was discussed during the consultations on 8 October 2015 and 20 October 2015. As I have said above, the points in Ms MacLeod's email dated 22 October 2015 (sent after the consultation with Mr Parker, POL 00102617) about the "focus of the investigation" is very similar to paragraph 6 of the Review document (POL 00006355). So far as I can recall, the scope of the review – which in practice was also the scope of my Instructions – was set from that time – i.e. by late October 2015. I do not recall that any further instructions were given orally. From late October onwards, information was requested and provided, and this is evidenced by the emails throughout that part of October, and November and December 2015. Further, and in the usual course, the information that had been provided would have been discussed from time to time. But all that would have taken place for the purpose of undertaking the review in accordance with the terms that had been set by the end of October 2015.

(4) I do not now have any specific impression of how those I dealt with at POL viewed the complaints made by the sub-postmasters. I cannot recall anything being said that suggested anything other than that the complaints were taken

seriously. The fact that those complaints had been made was one of the premises for the work that I was asked to do.

(5) By reference to the documents I have seen (including the final version of the Review document), there is nothing to suggest that the Instructions given were inadequate. By the end of October 2015, the scope of the review had been set. So far as I can see from the emails from the period to early January 2016 when the work on the Review was in progress, POL provided appropriate responses to the requests for information Mr Knight and I made. I note that at paragraph 3 of the Review document (POL 00006355, at page 3) we said that no information we had asked for had been withheld.

4. Please describe your recollection of your conversation with Jane MacLeod on or around 8 October 2015 prior to the conference on 8 October 2015 (see POL00233630).

21. I do not have any recollection of what I said to Ms MacLeod or what she said to me on this occasion save that as is clear from the email, I asked her to provide additional documents. This conversation took place shortly after I had received the Instructions from POL. I suspect I had looked at the information provided with the Instructions, and identified these further documents as ones that might contain information relevant to the history of the complaints made by sub-postmasters about the Horizon IT system.

5. Please describe your recollection of the conference on 8 October 2015.

22. As explained above, so far as I can see there is no note of this consultation. I do not now have any specific recollection of what was said at this meeting. For sake of completeness I should add that it was not my practice to make a note of consultations also attended by solicitors. I would usually be leading the discussion at the meeting, and would not have the opportunity to take a note at the same time. I would expect the note of the consultation to be made by the solicitor.

6. Please describe your recollection of the conference with Tim Parker and Jane MacLeod on 20 October 2015.

23. Independent of Ms MacLeod's email dated 22 October 2015 (POL 00102617), I do not now have any recollection of this consultation.

7. Please describe your recollection of the conference on 2 December 2015.

24. The phone call that took place on 2 December 2015 is referred to in documents POL 00158278, POL 00158279 and POL 00102921. I do not now have any recollection of what was discussed. I assume that the discussion followed the points on the agenda (POL 00158279).

8. *To what extent do you consider the note of meetings at POL00103010 to be reasonably accurate and / or complete?*

25. Given the time that has passed I do not have any specific recollection of these meetings, which all took place on 14 December 2015. The note reads as a summary of the meetings rather than an attempt to record specific questions and answers. The note also includes the writer's impressions of what happened in the meetings (I cannot see from the note who wrote it). The emails provided by the Inquiry do not suggest that this note was sent to me or Mr Knight at the time for review and comment. There is one email sent following the 14 December 2015 meetings (dated 18 December 2015 POL 00162880), but that only sets out the action points arising from the meetings; it does not appear that the note was attached to that email. If that is right, this is the first time I have seen the note. Nevertheless, I have no reason to think that the summary in the note is not a good faith summary of the meetings. I do, however, think that some of the language used is incorrect. For example, at one point (on POL 00103010 at page 6) the note refers to me "*arguing*" for a proposition. I would not have argued for or against anything in these meetings, which were part of an information-gathering process. I may well have put points to people to test a particular point or draw out their response, but I did not put such points because I was advancing any particular position. To this extent some passages in the note may give a slightly incorrect impression. However, in the round, this is a relatively small point.

9. To what extent, if at all, did you have any contact with Brian Altman KC or other lawyers instructed to advise POL on matters of criminal law prior to drafting your report?

26. I did not have any contact either with Brian Altman KC or with any of the other lawyers who advised POL on the criminal prosecutions or matters of criminal law. The purpose of the Review I undertook, so far as it concerned consideration of the conduct of the criminal prosecutions, was to consider whether there was further work that ought reasonably to be done, taking account of steps POL had already taken. See in this regard, paragraph 91 of the Review document where the matters to be addressed in this part of the Review were summarised (POL 00006355, at page 31). To this end, the Review considered the documents that evidenced the advice given (for example, Mr Altman's various review documents) and steps POL had taken in response.

10. To what extent, if at all, did you ask questions of Gareth Jenkins relating to (a) whether he had previously appeared in criminal proceedings as an expert witness (b) what, if anything, he was told about the obligations of an expert witness (c) the allegation that he had failed to disclose material information when providing evidence in criminal proceedings and / or (d) his evidence in the Misra trial?

27. I do not recall asking Mr Jenkins questions on any of these matters when I met him on 14 December 2015. Rather, the questions at that meeting for Mr Jenkins and the other Fujitsu employees concerned (a) faults/errors which had occurred in the Horizon system (referred to as "bugs"), (b) whether any of those errors were evidence of any systemic problem with Horizon, and (c) the suggestion that it was possible for the records in a POL branch to be altered remotely.

28. So far as I was concerned, matters relating to Mr Jenkins' evidence in the criminal trials had been and were being addressed in work Mr Altman either had done or was doing: see, for example, in his "*General Review*" dated 15 October 2013 (POL 00006581 and POL 00040042). The purpose of the Review that I undertook did not include revisiting work already done or in progress. That would not have been feasible in the time available (see above, the Review was to be completed by Christmas 2015).

11. Please explain the reasons for providing a draft report to Tim Parker for comment.

29. As I have said above, POL considered the report to be the Chairman's report. My role as counsel was to assist in preparing it, albeit that in practice that meant the bulk of the work was done by me and Mr. Knight. This was why the document was provided to Mr Parker for his consideration in January 2016 (document POL 00022626). I did not expect there would be any material changes to the document, and that turned out to be so. Only very minor suggestions were made, almost all concerned typographical or other drafting errors: see the email dated 4 February 2016 and the attached document, POL 00162966 and POL00162967.

12. Please describe any discussions you had with Tim Parker or others at Post Office regarding the draft report, including on the calls arranged with Jane MacLeod (see POL00110361, POL00238707, POL00238708 and POL00103108).

30. I can see from the documents that on 22 January 2016 Mr Knight and I spoke on the phone with Mr Parker and Ms MacLeod. The documents suggest that others may have been on the call as well. I do not have any recollection of that phone call independent of the documents. The call took place in anticipation of a meeting between Mr Parker and Baroness Neville-Rolfe that was due to take place on 26 January 2016. Based on the documents, the purpose of the call was to discuss steps that POL would take to give effect to the recommendations in the Review. POL had prepared a table (POL 00103106). The recommendations in the Review were set out in the first column of the table; in the third column, POL had set out the work it proposed to do and, in some instances the third column also included matters for discussion.
31. The email sent shortly after the phone call (POL 00238707) attached a track-changed version of the table (POL 00238708) and I assume that the track-changes reflect matters that had been discussed.
32. The email sent later on 22 January 2016 from Ms MacLeod to Mr Parker (POL 00103108) also refers to matters discussed on the call. This email was not sent to me, so I did not have the opportunity to comment on it. The email suggests that the discussion on the phone call also covered the meeting Mr Parker was to have with Baroness Neville-Rolfe, and it seems entirely plausible that this was part of what was discussed with me. The relevant part of this email is the first paragraph under the heading "*Briefing to the Minister*" (the paragraphs that

follow seem to be Ms MacLeod's further recommendations and advice to Mr Parker). The relevant paragraph is to the effect that I said that Mr Parker could discuss all parts of the Review document with Baroness Neville-Rolfe.

33. There is also reference to the possibility of "loss of legal privilege" if a copy of the Review was provided to Baroness Neville-Rolfe and a consequent risk that this would mean the exemption in the Freedom of Information Act 2000 relating to information covered by legal privilege could be lost. I cannot now remember this conversation or the advice I gave on this occasion. I can only assume that the advice was to the effect that providing a copy of the Review to Baroness Neville-Rolfe would risk losing the ability to contend that the document was covered by legal advice privilege. This part of the email suggests that the main concern may have been the possibility of a request for a copy of the Review under the Freedom of Information Act 2000 and whether, if such a request was made, POL would be able to rely on any exemption from the obligation of disclosure under that Act. The Freedom of Information Act provides that information that is subject to legal professional privilege is exempt information.
34. Other than the phone call on 22 January 2016 that these documents refer to, I cannot recall any other discussions concerning the Review at or around that time.

C. The report and steps thereafter

13. At the time you drafted your final report, please describe your knowledge of Gareth Jenkins' role in criminal proceedings and the allegations that he had failed to comply with his duties as an expert

witness. In particular, to what extent, if at all, did your knowledge exceed the points set out in POL00022619 and POL00040042?

35. I do not now have any independent recollection of this point. However, the documents provided for the purpose of the Review I undertook included both the documents referred to in the question (Mr Altman's Interim Review and General Review), and the Second Sight Interim Report dated 8 July 2013 which had prompted those documents to be prepared. From those documents (for example, Mr Altman's General Review at paragraphs 136 – 1148, POL 00006581, at pages 44 – 47), I can see that Mr Jenkins' evidence in the criminal prosecutions came under scrutiny once it became apparent that he was the source of the information at paragraph 6 of the Second Sight Interim Review to the effect that there were faults in the Horizon system which, as reported by Second Sight, had affected 76 branches. That was inconsistent with the evidence Mr Jenkins had given in witness statements made for criminal prosecutions which, as described in Mr Altman's General Review, had spoken to "*the general integrity of the system*".

36. I do not recall having any information on this matter beyond that contained in these documents.

14. Please consider the following remark at paragraph 98 of your review: "We are accordingly content that POL has acted reasonably in its handling of disclosure issues arising in relation to past criminal prosecutions". To what extent, if at all, did you have any concerns about how the following matters had been handled in respect of disclosure:

14.1. the allegation that Gareth Jenkins had breached his duties as an expert;

14.2. the notes regarding the Receipts/Payments mismatch issue (see POL00236458); and

14.3. other documentation you had seen, or been made aware of, on bugs, errors and defects in the Horizon IT system.

37. Paragraph 98 of the Review should be read together with paragraphs 96 and 97, which include references to the work already undertaken by Mr Altman KC and Cartwright King.
38. So far as concerns steps required by reason of Mr Jenkins' evidence in the criminal cases, Mr Altman's reviews had considered the scope and nature of the work done by Cartwright King (led by Simon Clarke of that firm) to ensure appropriate disclosure was made in all criminal cases: see the Interim Review dated 2 August 2013, POL 00006583, and the General Review dated 15 October 2013, POL 00006581. It was apparent from Mr Altman's reviews that copies of the Second Sight Interim Report and Helen Rose Report had been disclosed.
39. As I have said above, the purpose of the Review was, taking account of work that had already been done, to identify what further steps POL should consider. Neither I nor Mr Knight were experts in criminal law. It would not have been practical (nor in the time available feasible) for us to revisit the matters Mr Altman had covered in his reviews. It appeared to me that POL had taken reasonable steps in response to the criticisms of Mr Jenkins' evidence that became apparent following the July 2013 Second Sight Interim Report. POL

had instructed Cartwright King to review the criminal cases with a view to determining what further disclosure was required, and it had instructed Mr Altman KC to consider (among other matters) the sufficiency of that review exercise.

40. The “*receipts and payments mismatch issue*” was one of the faults/errors in the Horizon system identified in the Second Sight Interim Report. Details of this matter were set out in the Second Sight Interim Report (see that report at paragraph 6.5). It was apparent from Mr Altman’s General Review that the Second Sight Interim Report had been disclosed. The impact of this matter on Mr Jenkins’ evidence and on the criminal proceedings had therefore, been considered by Mr Altman in the course of his work.
41. The “*receipts and payments mismatch*” issue was also considered in the Review document I prepared, (Part VI at paragraphs 117 – 120, POL 00006355, at pages 39 – 42), in the context of considering faults/errors identified in the Horizon system. I think this would have been the context for Mr Knight’s request to see document POL 00236458 (see his email dated 7 December 2015, POL 00236454, at page 2, the fourth bullet point in the email).
42. In total, the Review referred to 6 faults/errors (see at paragraph 118, in Part VI of the Review, which concerned the operation of the Horizon system).
43. Two of the faults/errors, the “*Calendar Square, Falkirk problem*” and the “*Winford Post Office non-polling event*” (items (1) and (4) in paragraph 118 of

the Review) had been identified in Mr Jenkins' evidence in criminal proceedings.

44. Two of the faults/errors (items (2) and (3) in paragraph 118 of the Review) had been identified in the Second Sight Interim Report, i.e. the "*receipts and payments mismatch problem*" that had affected 62 branches, and the "*local suspense account problem*" that had affected 14 branches (see the Interim Report at paragraphs 6.4 – 6.9). Disclosure of these faults had been considered by Mr Altman in his reviews (see above at paragraph 39).

45. The remaining two faults/errors were item (5) at paragraph 118 of the Review and the one explained in the footnote at the end of the paragraph, footnote 6. These had not been apparent at the time the Second Sight reports had been produced.

(1) The "*branch outreach issue*" had been referred to in articles in *Computer Weekly* in November 2015. There appeared to have been four occasions when this defect, which resulted in duplicate transactions, had not been spotted and corrected.

(2) The "*TC anomaly*" had, we were told, been reported by seven branches, and had occurred in the period June to September 2015. It appears from the documents that this fault was first drawn to my attention (and Mr Knight's attention) on 4 February 2016.

Both these faults/errors are also described in POL 00162968, the document prepared by POL which was one of the attachments to the email dated 4 February 2016 sent by Mark Underwood to me and Mr Knight (POL 00162966).

46. The Review I prepared looked at the significance of the “*branch outreach issue*” and the “*TC anomaly*” faults/errors only for the purposes of considering whether further steps should be taken to investigate whether they had caused wider loss to sub-postmasters. However, the Review did not include a recommendation that Mr Altman be asked to advise on the implications of these last two faults so far as concerns whether knowledge of them could affect disclosure in the criminal cases.

47. I see now that this was an omission, and I apologise for it. The recommendation that was made in the Review to seek further advice from Mr Altman in respect of the disclosure obligations only concerned matters arising from reports prepared by Deloitte (which also had not been considered by Second Sight): see the Review at paragraph 147, and recommendation (6), POL00006355, at pages 52 – 53. The recommendations ought to have included (whether within recommendation (6) or separately) a recommendation that the advice taken in respect of disclosure in the criminal cases should also include consideration of these two defects.

15. Please consider expand on the following at paragraph 99 of your review:

“We are also content that it would be inappropriate for POL to conduct a wider review of the safety of any particular conviction when that work is being independently carried out by the CCRC” (emphasis added).

Please explain the basis on which you considered it inappropriate for POL to conduct a wider review of the safety of a particular conviction.

48. Paragraph 99 of the Review should be read together with paragraphs 65 – 66, and 92 – 94. The Criminal Cases Review Commission (“the CCRC”) had first contacted POL in 2013. By the end of 2015 it was considering the convictions in 23 cases. I was told that POL had and continued to co-operate fully with the CCRC. My view was that this was the course POL should continue to take. In each of the cases under consideration by the CCRC there had been a conviction. In those cases, the only way for those convictions to be reconsidered and where appropriate overturned, would be by the Court of Appeal Criminal Division after referral by the CCRC. As stated in the Review (at paragraph 93), it was not in the gift of POL to overturn any of the convictions. Therefore, the appropriate course for the POL was to continue to co-operate with the CCRC. The point being made at paragraph 99 of the Review was that no purpose would be served by duplicating the work that the CCRC was doing; rather, POL should continue to work with the CCRC.
49. For sake of completeness, please also note recommendation (6), at paragraph 149 of the Review (POL 00006355 at pages 53 – 54) which, in part, concerned disclosure that ought to be made to the CCRC.

16. Please explain the basis for the changes you suggested to the letter to Baroness Neville Rolfe (see POL00103134 and POL00131715).

50. I suggested changes to the letter (as per the track-changes on document POL 00131715) because I considered those changes made the letter clearer to read and ensured the contents of the letter better reflected points made in the Review document. I do not recall ever seeing the final version of the letter, as sent by Mr Parker to Baroness Neville-Rolfe, so I am unable to say whether any or all of my suggestions were accepted.

17. Please describe the advice you gave to Mr Parker on (a) who to share your report with, including the board and / or government and (b) whether to rely on legal professional privilege. Please set out the reasons for giving that advice.

51. I have explained above (at paragraph 33) the reference to “loss of legal privilege” in the email that refers to the phone conversation I had with Mr Parker on 22 January 2016 (POL 00103108). The email that preceded that call (POL 00110361, at page 2) does not refer to any issue of privilege. I cannot now remember whether the privilege issue was raised by me or raised by Ms MacLeod or Mr Parker. I have set out above (at paragraph 33) the advice I assume was given during that call. Whatever advice was given on that occasion, it only concerned the position in the event that Mr Parker provided a copy of the Review document to Baroness Neville-Rolfe. Further, what is recorded in the email (POL 00103108) does not suggest that I was asked to advise whether or not POL should assert or waive legal privilege over the Review document. It only suggests that I advised that providing a copy of the

Review report to Baroness Neville-Rolfe might result “*in the loss of legal privilege*” and give rise to the risk that, in the event of a request under the Freedom of Information Act 2000, POL would not be able to rely on the exemption in that Act for information that is subject to legal professional privilege.

52. I do not recall being asked to advise (either before 22 January 2016, on 22 January 2016, or after) on whether or not Mr Parker should provide a copy of the Review report to the POL board, or whether if he did that might result in a loss of privilege, or whether POL should “rely on legal professional privilege”. Nor do I recall ever giving advice on any of these matters. It never crossed my mind that the Review would not be shown to the POL board.

18. Please describe your recollection of the conference call on 27 May 2016 (see POL00241911).

53. I can see from POL 00241911 that Rodric Williams, a solicitor employed by POL, sent an email on 24 May 2016 asking for advice, and that a phone call was arranged. I assume that the call went ahead as arranged. I do not, however, have any recollection of the call or what was said. The papers provided to me do not include any attendance note of the call, so I assume that none was made.
54. Mr Williams’ email referred to the High Court claim commenced by the sub-postmasters and asked

“Now that POL has been sued, is it reasonable for POL to address any further steps it might reasonably take in respect of the SPMR cases through the proceedings, rather than in response to your report and recommendations?”

There is a later email from Mr Williams dated 26 July 2016 (POL 00025758). The second paragraph of that email suggests that the advice given in the phone call in May 2016 was to the effect that the question would be best answered by the lawyers instructed by POL in the High Court claims. I suspect that the advice I gave was to that effect. The Review report had set out recommendations. Whether and in what way POL went about giving effect to those recommendations was a matter for POL. In January 2016 I had advised on steps that could be taken to give effect to the recommendations (see above, at paragraphs 30 – 31) but, having received that advice, it was for POL to decide what to do.

19. Please describe any further advice you gave to POL on these matters.

55. I can see from POL 00025758 that on 26 July 2016 Mr Williams wrote to me explaining that following “*strong*” advice from leading counsel acting in the High Court claims, Mr Parker had decided that work in response to the recommendations in the Review should cease and that instead the recommendations would be addressed by “*equivalent work taken forward in the Group Litigation*”. Mr Williams asked “*if this raises any issue for [me]*”. I replied

later the same day saying that counsel instructed in the litigation was better-placed to make a judgement on that.

56. This was the last contact I had with POL on this or any other matter.

20. With hindsight, would you have done anything differently in relation to your involvement with POL?

57. I refer to paragraphs 46 – 47 above. I can now see that the Review ought to have included a further recommendation to the effect explained in those paragraphs.

21. Is there anything further relevant to the terms of reference of which you think the Chair should be aware?

58. I do not think there are any further matters to draw to the Inquiry's attention.

Statement of truth

I believe the contents of this statement to be true.

Signed:

GRO

Dated: 14 November 2024

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No.	Inquiry URN	Document Description	Control Number
1.	POL00168379	Letter from Baroness Neville-Rolfe to Tim Parker re issues surrounding the Horizon IT System	POL-0163676
2.	POL00006355	Review on behalf of the Chairman of Post Office Ltd concerning the steps taken in response to various complaints made by sub-postmasters	POL-0017623
3.	POL00168377	Email from Mark Underwood to John Davitt cc Jane MacLeod, Patrick Bourke, Rodric Williams re: Instructions to Leading Counsel Jonathan Swift QC to advise in consultation at 16:30 on 8 October 2015: The Post Office Limited Complaint Review and Mediation Scheme	POL-0163674
4.	POL00168378	In the matter of The Post Office Limited Complaint Review and Mediation Scheme - Instructions to Leading Counsel Jonathan Swift QC to advise in consultation at 4.30pm on 8 October 2015	POL-0163675
5.	POL00233630	Email chain from Mark Underwood to John Davitt cc Jane MacLeod Patrick Bourke Rodric Williams re: Instructions to Leading Counsel Jonathan Swift QC to advise in consultation at 16:30 on 8 October 2015: The Post Office Limited Complaint Review and Mediation Scheme	POL-BSFF-0071693
6.	POL00233682	Email from Jonathan Swift to Jane MacLeod, Rodric Williams re: draft terms of reference	POL-BSFF-0071745

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No.	Inquiry URN	Document Description	Control Number
7.	POL00233683	A Starting Point for the Terms of Reference	POL-BSFF-0071746
8.	POL00102588	Email from Jane MacLeod to Jonathan Swift re: draft terms of reference	POL-0102171
9.	POL00104216	Email chain Jonathan Swift to Jane MacLeod re: Draft terms of reference	POL-0103799
10.	POL00102604	Email from Jane MacLeod to Jonathan Swift, Mark Underwood and others re: Post Office: note to accompany the updated and attached chronology	POL-0102187
11.	POL00162692	Email from Jane MacLeod to Jonathan Swift, cc'ing Rodric Williams, Patrick Bourke and another re: Post Office - response to questions 6 & 7 of ToR	POL-0151082
12.	POL00162693	POL answers to JSQC Questions 6 and 7	POL-0151083
13.	POL00102617	Email from Jane MacLeod to Jonathan Swift, re: Post Office - meeting with Tim Parker	POL-0102200
14.	POL00162716	Email chain from Patrick Bourke to Christopher Knight, Jonathan Swift cc: Jane MacLeod and others re: Post Office Matter - scope of enquires	POL-0151105
15.	POL00102706	Email chain from Patrick Bourke to Christopher Knight cc Jonathan Swift and others re: Post Office Matter	POL-0102289
16.	POL00102816	Email from Rodric Williams to Christopher Knight Cc'ing Jonathan Swift, Mark Underwood and others re: Chairman's Review - Further Information - Subject to Legal Privilege	POL-0102399
17.	POL00102826	Email from Rodric Williams to Christopher Knight re. Chairman's Review - Further	POL-0102409

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No.	Inquiry URN	Document Description	Control Number
		Information - SUBJECT TO LEGAL PRIVILEGE	
18.	POL00102834	Email trail from Rodric Williams to Christopher Knight cc: Jonathan Swift re: Chairman's Review - Further Information - SUBJECT TO LEGAL PRIVILEGE with attachments	POL-0102417
19.	POL00102842	Email trail from Rodric Williams to Christopher Knight cc: Jonathan Swift re: Chairman's Review - Further Information - SUBJECT TO LEGAL PRIVILEGE with attachments	POL-0102425
20.	POL00102850	Email from Rodric Williams to Christopher Knight, Jonathan Swift, Mark Underwood and others re Chairman's Review - Further Information - Subject to Legal Privilege	POL-0102433
21.	POL00102858	Email trail from Rodric Williams to Christopher Knight cc: Jonathan Swift, Mark Underwood re: Chairman's Review - Further Information - SUBJECT TO LEGAL PRIVILEGE with attachments	POL-0102441
22.	POL00102887	Email trail from Rodric Williams to Christopher Knight cc: Jonathan Swift, Mark Underwood and Patrick Bourne re: Chairman's Review - Further Information - SUBJECT TO LEGAL PRIVILEGE with attachments	POL-0102470
23.	POL00102890	Email from Rodric Williams to Christopher Knight, re: Chairman's Review - Further Information - SUBJECT TO LEGAL PRIVILEGE with attachments	POL-0102473

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No.	Inquiry URN	Document Description	Control Number
24.	POL00103002	Email from Jonathan Swift to Tim Parker cc: Christopher Knight re: meeting with Lord Arbuthnot	POL-0102585
25.	POL00022623	Email from Mark Underwood to Jonathan Swift, Christopher Knight, Jane MacLeod and others, re meeting with second sight - briefing paper	POL-0019102
26.	POL00022624	Chairman's Meeting with Second Sight: Horizon Complaints – Briefing	POL-0019103
27.	POL00103010	Strictly Private and Confidential: Subject to Legal Privilege, Jonathan Swift QC and Christopher Knight: Meetings on 14/12/2015 at Finsbury Dials	POL-0102593
28.	POL00158278	Email from Patrick Bourke to Christopher Knight, Jonathan Swift and cc'd Jane MacLeod and others re: Post Office - Telephone Conference	POL-0146569
29.	POL00102921	Email from Steve Allchom to John Davitt cc: Jonathan Swift, Christopher Knight, Patrick Bourke and others re: Requested Meetings - Wednesday 9 December	POL-0102504
30.	POL00022625	Email from Tim Parker to Jane MacLeod and Diane Blanchard in relation to Horizon review	POL-0019104
31.	POL00022626	Review on behalf of the Chairman of Post Office, Concerning the steps taken in response to various complaints made by sub-postmasters	POL-0019105
32.	POL00162966	Email from Mark Underwood to Jonathan Swift, Christopher Knight, Jane MacLeod and others - Re Action points from the call held on 22 January 2016	POL-0151325

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No.	Inquiry URN	Document Description	Control Number
33.	POL00162967	POL comments on the Chairman's Report	POL-0151326
34.	POL00103015	Email from Mark Underwood to Christopher Knight, Jonathan Swift and others re: Outstanding 'Bureau Veritas IS027001' & 'Payment Card Industry Data Security Standards' (PCI DSS) reports	POL-0102598
35.	POL00103106	Recommendations and Proposals	POL-0102689
36.	POL00238707	Email from Mark Underwood To: Rodric Williams and Patrick Bourke re Updated recommendations grid	POL-BSFF-0076770
37.	POL00238708	Table detailing Recommendations and their respective Status and Proposals as agreed by Jonathan Swift QC	POL-BSFF-0076771
38.	POL00103108	Email from Jane MacLeod to Tim Parker re: Chairman's review	POL-0102691
39.	POL00162968	Report of the TC anomaly	POL-0151327
40.	POL00104104	Email from Jonathan Swift to Mark Underwood and Christopher Knight re: Post Office Review	POL-0103687
41.	POL00158279	Agenda re: Tim Parker Review - Telephone Conference 2 December 2015	POL-0146570
42.	POL00162880	Email chain from Mark Underwood to Christopher Knight, Jonathan Swift, cc'd Jane MacLeod, Patrick Bourke and others re Minutes for the Sparrow Sub-Committee Meetings and the Extracts from other Board Meetings Relevant to Sparrow.	POL-0151254
43.	POL00006581	Review of PO prosecutions by Brian Altman QC	POL-0017666
44.	POL00040042	Post Office Ltd, General Review	POL-0036524
45.	POL00006583	Interim Review of CK Processes by Brian Altman QC	POL-0017668

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No.	Inquiry URN	Document Description	Control Number
46.	POL00022619	Interim Review of Cartwright King's Current Process	POL-0019098
47.	POL00236458	Receipts-Payments Mismatch Issue Notes	POL-BSFF-0074521
48.	POL00236454	Email chain including Mark Underwood (POL); Christopher Knight (11KBW); Jane MacLeod (POL) & Others Re: Telephone call held on 2 December 2015 and the requested information and files following the call	POL-BSFF-0074517
49.	POL00131715	Draft Letter from Tim Parker to Baroness Neville Rolfe	POL-0121501
50.	POL00103134	Email from Jonathan Swift to Mark Underwood, Christopher Knight, Jane MacLeod and others; re: A letter drafted for Tim Parker to send to the Minister, briefing her on the outcome of your enquiry to date	POL-0102717
51.	POL00110361	Email chain between Amanda Brown and Jonathan Swift and others Re: Post Office – Chairman's Review	POL-0111296
52.	POL00241911	Email from Rodric Williams to John Davitt RE: advice on 8 recommendations in January 2016's POL Chairman report on SPMR cases	POL-BSFF-0079974
53.	POL00025758	Email from Jonathan Swift to Rodric Williams cc Christopher Knight re Update and Request for Further Advice	POL-0022237
54.	POL00103105	Email from Mark Underwood to Jonathan Swift, Christopher Knight and others re: Information to Inform this Afternoon's Call @ 13:30	POL-0102688