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9 January 2024

Dear Solicitor to the Inquiry

**POST OFFICE HORIZON IT INQUIRY: EXCHANGE REMEDIATION OF PREVIOUS R9 REQUESTS
RELEVANT TO PHASE 5**

- 1.1 We write further to the Inquiry's Rule 9 request of 17 November 2023 and Chris Jackson's witness statement of 19 December 2023 ("CJ1"). Paragraph 75 of CJ1 sets out POL's working understanding of the potential impact of the Microsoft Exchange issue on Phase 5. This letter is also further to our letter of 9 January 2024 on Phases 2 and 3 remediation.¹ We now set out POL's proposals for Phase 5 Exchange remediation.
- 1.2 POL (and BSFf) would like to re-emphasise that it welcomes engagement from the Inquiry on its working understanding as well as the proposals set out below.
- 1.3 This remediation exercise does not concern Inquiry requests Nos S21(03), S21(08), S21(09), S21(12), S21(14), S21(15), R9(48) and R9(49). In relation to S21(03) the position is stated at paragraph 75 of CJ1, and we confirm that Exchange data was considered and (where relevant) reviewed in relation to the further requests sent to POL which were dealt with by BSFf. This remediation exercise instead concerns consideration of Inquiry R9 requests dealt with initially by HSF but which we understand relate (or potentially relate) to Phase 5 issues as according to the Inquiry's completed list of issues. We list our understanding of which R9s these are at Appendix B. These are the subject of this proposed remediation exercise. Please let us know if the Inquiry has any comments on that understanding captured in this list.²
- 1.4 We do not currently have – but will develop and keep the Inquiry informed on – an anticipated timeline for completing the proposed work. The time required is informed by the time required to run searches,

¹ Please note that we repeat content from this letter where necessary for ease of reference as the Exchange remediation for phases 2 and 3 and also for 5 may require separate lines of correspondence.

² We recognise that other R9s and S21s may be partially or peripherally relevant to phase 5, or have resulted in documents produced which are relevant to phase 5. However, we do not propose to replicate all searches due to the anticipated time that this would take, noting in particular the volume of data which could have to be migrated and the potential impact to the Inquiry's timeline.

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the number of responsive documents for review, in parallel with continued work to respond to Inquiry requests for Phases 5, 6 and 7. We note that hearings for Phases 2 and 3, including those of witnesses from POL, occurred in late 2022 and early 2023, the Inquiry is presently conducting hearings for Phase 4 and is preparing for hearings in Phase 5 anticipated to start in Spring 2024. We therefore expect that the Phase 5 remediation work should take priority over that for Phases 2 and 3 due to the proximity of the Phase 5 hearings. Please let us know if that does not align with the Inquiry's priorities.

- 1.5 We would also welcome – if helpful – discussion and engagement with the Inquiry as to whether Textual Near Duplication (TND) and/or custom hash near de-duplication techniques should be used to reduce timescales and duplication in the review sets. However, those techniques will not be used without the Inquiry confirming that it would be content for that to be done.

PROPOSALS

- 1.6 POL's working conclusions for the potential impact of the Exchange issue on Phase 5 are set out in CJ1 at paragraphs 74 to 75. Those working conclusions remain the same as at the date of this letter.
- 1.7 The remediation will be in respect of the Phase 5 individuals listed at Appendix A. The list reflects the provisional list of Phase 5 witnesses provided by the Inquiry on 12 December 2023.
- 1.8 POL is aware that this list may change with additional persons added to it. Where that is the case POL will undertake the remediation analysis for those newly added individuals. We would be grateful for any advance notification if it is possible that the Inquiry is able to provide sight of any additions to the list so that resource can be allocated, and planned for, promptly, so as to accommodate the time required for collection, migration, processing, searching and reviewing the data to best assist the Inquiry.
- 1.9 POL has and will search for Exchange data using Address Book searches and participant-based searches. Searches will be conducted against known variations in names (set out in the Appendix where applicable) and known email addresses. POL does not intend to search Exchange for the individuals using wildcard searches. We are not aware that doing so would produce additional unique data and note that there is a risk of false positives, in particular for common names. However, we will keep the use of wildcard searches under review as data is investigated and collected.
- 1.10 The proposed next steps are:
- (a) POL is migrating the data collected to KPMG for processing. For the reasons at para 43(a) of CJ1, Exchange data is being collected up to 31 December 2015.
 - (b) Responsive data will be de-duplicated at a global level using standard forensic de-duplication methods only. We will liaise with KPMG so that search responsive documents produced previously to the Inquiry are excluded from review. However, there is a risk that responsive data will contain duplication of the sort which we have written about separately, including near-duplicates. Any documents produced will be separated into a 'main' set and 'residue' set pursuant to the process we have written about separately.
 - (c) KPMG will run search terms across the collected data prior to review. POL intends to run the same search terms as those HSF requested were run across email data when responding to previous Inquiry requests. POL proposes this approach because Exchange remediation can only be in respect of email data that was understood to have been captured in Mimecast searches but may only appear in Exchange. Accordingly, and for the avoidance of doubt, we do not propose to re-run all other (non-email related) searches HSF ran for the individuals identified in the Appendix. We will update the Inquiry in due course to confirm the search terms run. Further, we do not propose to run search terms used for responding to requests made to POL which were dealt with by BSF across these witnesses, to do so would be to expand the scope of the Inquiry's requests made which we do not understand to be what is necessary.

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- 1.11 POL is now implementing the steps outlined above save for any comments the Inquiry may have. Please let us know if the Inquiry has any questions. We are also happy to arrange a meeting with the Inquiry and/or involving the respective disclosure providers should that assist.

Yours faithfully

Burges Salmon LLP and Fieldfisher LLP

BURGES SALMON LLP AND FIELDFISHER LLP

Appendix A

Irrelevant to 12 January 2024 disclosure hearing

Appendix B
List of R9s and S21s relevant to Phase 5

R9(4)
R9(5)
R9(9)
R9(10)
R9(11)
R9(30)
R9(34)
S21(1)