

## Message

**From:** Tom Wechsler  
 on behalf of Tom Wechsler  
**Sent:** 04/07/2016 22:54:05  
**To:** Paula Vennells  
**Subject:** Confidential and Subject to Privilege - DO NOT FORWARD

GRO

GRO

Paula

Further to my last message —please find below details from Rod on the Misra case.

At the heart of all of this is that the principal protagonists in Sparrow do not believe that it is right that the act of covering up losses (false accounting) is sufficient when supported by other evidence to uphold a charge of theft when one cannot prove where the money has gone. The courts take a different view (though obviously on a case by case basis). False accounting makes tracing where money has actually gone very, very difficult and it is for that reason that (I suspect) Parliament gave false accounting the same tariff in the same act as theft (Theft Act 1965 I believe). This is something that Alan Bates, Lord Arbutnot, Second Sight et al do not agree with but it is and remains the law.

Happy to pursue further

Tom

Tim McCormack's recent communications focus on how errors in Horizon might (in Mr McCormack's opinion) affect the safety Mrs Seema Misra's conviction.

### **Background**

- Mrs Misra was suspended from her branch on 14 January 2008 following an audit which revealed a c.£75k shortfall.
- Mrs Misra was subsequently charged with 6 counts of false accounting and one count of theft.
- She pleaded guilty to false accounting at the first case hearing on 19 December 2008, but not guilty to theft.
- Trial was listed for June 2009, but adjourned on the first day when Mrs Misra raised (for the first time) a defence that errors in Horizon (as opposed to theft) may have been responsible for the shortfall.
- Trial then proceeded on 11 October 2010, with a jury handing down a unanimous guilty verdict on 21 October 2010.
- Mrs Misra was sentenced to 15 months' imprisonment at Guildford Crown Court on 11 November 2010.

### **Legal Reviews**

- Following publication of Second Sight's July 2013 report, Post Office, through its external criminal law solicitors Cartwright King, undertook a review of past prosecutions to consider whether appropriate disclosure of Horizon issues had been made.
- Mrs Misra's case was considered as part of that review, with Cartwright King concluding on 22 January 2014 that no further disclosure was required.
- Mrs Misra's case was also considered by Brian Altman QC in the advice he provided to Post Office on 15 October 2013 on the propriety of the Cartwright King review.
- Cartwright King and Brian Altman QC's advice has been provided (without waiving privilege) to the CCRC as part of its review into the safety of Mrs Misra's conviction (which commenced April 2015).
- In September 2015 we asked Cartwright King to reconsider its January 2014 advice. Cartwright King advised that the CCRC would decide whether appropriate disclosure had been made in the prosecution.
- The position was again considered in April 2016 to confirm that the CCRC has available to it material to which Mr McCormack has referred.
- Finally, Brian Altman is currently reviewing the Misra prosecution again to determine whether Post Office acted properly when it decided to charge Mrs Misra with both theft and false accounting. This work was initially

instructed in connection with Tim Parker's review of the "Sparrow" work undertaken, and is now proceeding to support our response to the Freeths Group Litigation (in which Mrs Misra is a named Claimant).

We are also reviewing the work we undertook last year in connection with the ATOS / Outreach branch issue to which Mr McCormack now also refers (and seeks to extrapolate back to the time of Mrs Misra's conviction). I will be liaising with Rob Houghton during the early part of next week to respond to those aspects of Mr McCormack's blogs.