

The Sift Review – an Explanation

1. Following POL's consideration of the Second Sight Interim report, POL determined that it would be appropriate to conduct a review of all cases prosecuted since 2010, to determine whether, and if so to what extent, that report impacted upon those prosecutions.
2. Essentially the issue was one of disclosure as defined by the Criminal Procedure and Investigations Act 1996; the Code of Practice issued thereunder; the Protocol for the Control and Management of Unused Material in the Crown Court; and the Attorney-General's Guidelines on Disclosure.
3. The question to be asked by the review was: "*Had POL been possessed of the material contained within the Second Sight Interim report during the currency of any particular prosecution, should/would disclosure to the defence of that material been required?*" That question defined our approach to the issue.
4. Our first step was to identify all criminal case prosecuted by POL, and prior to their separation, by RMG, so as to determine the answer to that question in each case. Once such a case was identified, conducted a sifting exercise so as to determine whether there was any risk that a case might have been impacted by the Second Sight Report. The threshold for answering the question was deliberately set at a very low level so as to ensure that all those who might have been impacted by this issue would have the opportunity to see the material. In terms of scope, the we sought to:
 - 4.1. Identify cases where the primary or main evidence against the defendant was Horizon-based. The following are examples of cases which WOULD meet the criteria:
 - 4.1.1. Where the ONLY evidence against the defendant consisted of Horizon data, e.g. unexplained transaction reversals; unexplained balance shortages; unexplained accrued losses; repeat or second POCA withdrawals etc.
 - 4.1.2. Where the main evidence was Horizon-based but there was some other supporting evidence, e.g. as above but supported by: limited admissions in interview; transfers into personal/non-POL business accounts;

personal cheques; demonstrable lies in interview; inconsistent responses in interview and/or Defence Statements; (but see b). below); and

4.1.3. Any case in which the prosecution had served a statement by the Fujitsu, or any other, Horizon expert witness.

4.2. Identify cases where the defendant had, expressly or impliedly, raised Horizon issues as part or all of their defence case. Obvious examples included *e.g.* :

4.2.1. where the defendant said she only did what she was asked to do by POL and/or customers;

4.2.2. where the defendant did not criticise Horizon but was nevertheless unable (or unwilling) to explain the shortage/loss; and

4.2.3. cases in which a defendant had alleged, or implied (usually in interview) that he/she had received either no Horizon training or had received some training but that it was insufficient, not detailed enough or not sufficiently topical; and similarly where a defendant had alleged a lack of adequate or sufficient level of Horizon customer support.

5. The fact that a defendant had pleaded guilty to an offence was not, for the purposes of the review, determinative; it is well-known that defendants may enter guilty pleas for reasons other than guilt, *e.g.* because they have been advised that the case against them is overwhelming and that they should cut their losses; or because a guilty plea attracts a lesser sentence; or because often a guilty plea can mean the difference between immediate imprisonment and a suspended or community-based sentence; or because a Judge has indicated that such a plea may keep them out of prison.

6. All cases which met these criteria were then subjected to a full written Case Review conducted by Senior Counsel with substantial prosecuting experience. This review consisted of a detailed reading of the entire case, including any material provided by the defence or the court. The reviewer provided a detailed written Review document recording the details of the case and his or her conclusions on the question posed.

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7. The review was completed on 26 November 2013. In total we sifted and reviewed a total 308 Royal Mail Group and Post Office Ltd. cases. It became apparent during the course of the Review that there were more cases that had not been seen and a second review process was commissioned to deal with these cases. In this review process we considered a further 237 Post Office Ltd. and Royal Mail Group cases. The scope of the review, the source of the files reviewed and the file review system remained as before. This second phase was completed on 9 September 2014.
 8. Throughout the process we liaised with POL's agents in Scotland and Northern Ireland, to enable them to deal properly with the prosecuting agencies in those jurisdictions. We also liaised with the Crown Prosecution Service in England and Wales to enable appropriate disclosure decisions to be taken in cases not prosecuted by POL.
 9. Where it was determined that the answer to the question posited in the review was "Yes" we wrote to solicitors who defended, informing them of the issues and providing copies of the Second Sight Interim report and such other material as they ought to have received during the currency of the prosecution, had we then been possessed of that material.
 10. During the course of the review process we identified no cases in which the defendant has sought the leave of the Court of Appeal to appeal against his conviction. To date we are aware of only one case in which a convicted defendant has applied to the Court of Appeal for permission to appeal; the Court of Appeal refused permission and no appeal was heard.
 11. I attach a copy of the Sift protocol provided to those conducting the sift phase of the review process, in which the criteria to be applied by is set out.

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