



## POST OFFICE LIMITED GROUP EXECUTIVE REPORT

<b>Title:</b>	Post Office Investigations Review	<b>Meeting Date:</b>	5 May 2021
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### Input Sought:

The GE is asked to **note** and **discuss** the contents of this paper and **approve** seeking funding, via the Historical Matters Committee, for a review to be performed into how Post Office conducts its investigations.

### Previous Governance Oversight

- None

### Executive Summary

1. A total of 44 historical prosecutions brought by Post Office have been overturned. There are a further 660 Potential Future Appellants ("PFAs"). Calls for a standalone Public Inquiry or for the terms of Sir Wyn's Inquiry to be expanded continue.
2. Although Post Office will no longer bring private prosecutions, it will still perform a variety of investigations and co-operate with Law Enforcement Agencies.
3. Post Office must assure itself that its investigations are conducted to the appropriate standard by appropriately qualified individuals and adhere to best practice with the necessary records created, maintained and retained in order to be able to discharge all obligations, now and in the future. Further, Post Office must ensure that findings are responsibly addressed and reported to the appropriate executive and board forums.
4. Post Office has, a new Group Investigations Policy (see Annexure 1) and a number of other connected policies including but not limited to Whistleblowing, Co-operating with Law Enforcement Agencies, Postmaster Complaints and Postmaster Termination Decisions.

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6. We expect the review to take 4-6 weeks to complete, at a cost of c£150k. The GE should note that although this review will only look at current practices, any documentation which is produced and findings made, may be disclosable as part of Post Office's ongoing



disclosure obligations, in both a civil and criminal context and in the context of any relevant investigation or inquiry.

## Questions addressed

1. Why is it necessary for Post Office to review how it conducts investigations?
2. How do we propose to take this forward?
3. How long will the review take? How much will it cost and what will the work product cover?

## Report

4. 42 criminal appeals were heard by the Court of Appeal Criminal division ("the CACD") during a four day hearing which commenced on 22 March 2021. Post Office opposed only 3 of the 42 appeals. The Judgment, which was handed down on 23 April 2021, found 39 of the 42 convictions to be unsafe, with their appeals succeeding on limbs 1 and 2<sup>1</sup>. It concluded that *"POL's failures of investigation and disclosure were so egregious as to make the prosecution of any Horizon cases an affront to the conscience of the court"*
5. In addition to the 39 convictions found to be unsafe on 22 March, 5 Crown Court Appellants were acquitted in December 2020. There are also 660 Potential Future Appellants<sup>2</sup> ("PFAs").
6. Criminal convictions being overturned en-masse has and will continue to attract political and media attention. This will heighten if malicious prosecution claims<sup>3</sup> are made and the Justice Sub-Postmasters Alliance ("JFSA") continue to challenge the lawfulness<sup>4</sup> of Government's refusal to pause the current non-statutory Post Office Horizon IT Inquiry, re-establish it as a Statutory Inquiry and take account of historical prosecutions.
7. With 44 convictions now overturned and the potential of up to 660 PFAs seeking to follow suit, it seems likely that such be calls for an additional Inquiry or for the terms of the current Inquiry to be expanded will gain momentum. Indeed, the Prime Minister, Boris Johnson tweeted *"I welcome the Court of Appeal's decision to overturn the convictions of 39 former sub-postmasters in the Horizon dispute, an appalling injustice which has had a devastating impact on these families for years. Lessons should and will be learn to ensure this never happens again"*.
8. Regardless, what is clear, is Post Office must assure itself that when investigations are undertaken today, they do not pre-judge an outcome, are fair and objective, properly planned, resourced and executed, with recommendations and outcomes actioned and lessons learned appropriately shared within Post Office.

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1 Ground 1, that the reliability of Horizon data was essential to the prosecution and, in the light of all the evidence including Fraser J's findings in the High Court, it was not possible for the trial process to be fair ("category 1 abuse"); and Ground 2, that the evidence, together with Fraser J's findings, shows that it was an affront to the public conscience for the appellants to face prosecution ("category 2 abuse")

2 These individuals were prosecuted and convicted by POL or RMG pre-separation; POL's case relied wholly or partly on data derived from Horizon; and were prosecuted / convicted between 1999/2000 and 2013.

3 The management and funding of which is subject to separate discussions with Government

4 Via Judicial Review



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9. Post Office has already:

- Substantively completed a **Post-Conviction Disclosure Exercise**<sup>5</sup> ("The PCDE");
- Developed a new **Group Investigations Policy** to establish minimum operating standards for the management of internal investigations throughout the Post Office Group; and
- Implemented a **Co-operation with Law Enforcement Agencies Policy** ("CLEP") which confirms Post Office's continued commitment to supporting Law Enforcement Agencies in the prevention, detection, investigation and potential prosecution of alleged offences but states Post Office will no longer conduct private prosecutions itself.

However, there is a need to improve co-ordination of investigations and assurance of investigative processes.

10. Although Post Office will no longer conduct private prosecutions, it will still need to perform investigations generally. These include but are not limited to investigations of suspected criminal misconduct, Whistleblowing disclosures, and personnel issues (grievances etc).

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13. Although this is a review of current practices, its necessity is to ensure supporting processes have suitably evolved to ensure similar failings cannot repeat themselves in the future. As such, we will be seeking funding from the Post GLO Programme via attendance at an upcoming Historical Matters Committee. Early conversations indicate that this review would be likely to take 4-6 weeks and cost c£ 150k.

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<sup>5</sup> To disclose any material which has come to light and might cast doubt on the safety of a conviction; and where there is a real prospect that further inquiry might reveal such material, making that inquiry.



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14. If approved and once the review is complete, the findings will be shared with the Organisational Design team, so that any necessary changes can be considered holistically.

## Appendix 1 – Draft Group Investigations Policy