

Witness Name: Simon Recaldin

Statement No.: WITN09890300

Dated: 29 September 2023

POST OFFICE HORIZON IT INQUIRY

Third Witness Statement of Simon Recaldin in the Post Office Horizon IT Inquiry

1. I, Simon Recaldin, of 100 Wood Street, London, EC2V 7ER, say as follows:

Introduction

2. Except where I indicate to the contrary, the facts and matters contained in this witness statement are within my own knowledge. Where any information is not within my own personal knowledge, I have identified the source of my information or the basis for my belief. In particular, my knowledge contained within this statement is informed by Peters & Peters Solicitors LLP ("**Peters & Peters**"), who are instructed by Post Office Limited ("**POL**") and POL's Information Rights team. I have been assisted in preparing this witness statement by Peters & Peters, who advise and support POL and Herbert Smith Freehills in respect of the Inquiry. The facts in this witness statement are true to the best of my knowledge and belief.
3. This witness statement has been prepared in response to a request made by the Inquiry this morning following a letter from POL to the Inquiry sent last night. The letter contained a number of updates and two clarifications in respect of my previous witness statements, which I set out here.

Updates

4. At paragraph 34 of my First Witness Statement, I provided information in connection with criminal appeals. While the total number of POL's "potential future appellants" ("PFAs") is still 700, as explained at paragraph 33 of my Second Witness Statement, Peters & Peters have provided me with updated information relating to pending or concluded appeals.

5. I am informed by Peters and Peters that the figures below represent the updated position on POL's Horizon-related appeals,¹ in particular following the recent decision of the Court of Appeal,² and the appeal hearings at Southwark Crown Court on Wednesday 27 September 2023:
 - a. The number of overturned POL convictions has increased by seven from 81 to 88.
 - b. The number of unsuccessful appeals following a contested hearing with the conviction upheld has increased by 1 from 4 to 5.
 - c. The number of appeals that have been abandoned by the applicant/appellant following receipt of the Respondent's Notice has reduced by 1 from 19 to 18.³
 - d. The number who have had an application for permission to appeal rejected by the Single Judge is 6.
 - e. The number of cases pending with the Court of Appeal Criminal Division or Southwark Crown Court has decreased from 7 to 2.
 - f. The number of cases pending with the CCRC has reduced by 1 from 23 to 22.
 - g. The number of cases that have been rejected by the CCRC has increased by 1 from 20 to 21.

¹ These are cases prosecuted by POL or RMG pre-separation in which the prosecution might have relied, in whole or in part, on Horizon evidence.

² O'Donnell [2023] EWCA Crim 979.

³ I understand there is an appellant, who abandoned their appeal before the Court of Appeal Criminal Division, and has made a further application to the CCRC. Although previously recorded as an abandoned appeal, this case has now been included as a case pending with the CCRC and removed from the abandoned appeals category in order to avoid double-counting.

- h. The number of POL prosecuted PFAs who are yet to appeal has reduced by 3 from 541 to 538.

Clarifications

6. In addition, I wish to make two clarifications in respect of my previous witness statements.
7. Firstly, I wish to address an inconsistency between my First Witness Statement and Second Witness Statement. At paragraph 27(a) of my First Witness Statement I identified that the number of PFAs reported by Peters & Peters to the POL Board on 20 May 2020 (940) was different to the number of convictions provided in response to a Freedom of Information (“**FOI**”) request on 22 May 2020 (918) and explained that this difference was because the FOI response did not include cases where the convicted individual’s job role was unknown or where their job role was not listed in the request. As set out at paragraph 43(d) of my Second Witness Statement dated 12 July 2023, individuals with “unknown” job types were included in the 22 May 2020 FOI response. This was self-evident given the table provided included a column for “unknown” job types.
8. I am informed by Peters & Peters that the difference between these two numbers is likely to be attributable to differences in parameters of the information provided and inaccuracies in the May 2020 FOI response data which were identified during the preparation of my Second Witness Statement following the Inquiry’s Rule 9 Request No. 47.
9. As for the parameters, the PFA number provided to the POL Board (940) related to cases that had been identified as falling within or potentially falling within the Post Conviction Disclosure Exercise (“**PCDE**”) criteria⁴ at that point in time, bearing in mind the inclusive approach taken for the PCDE and that some of the data had not, at that stage, been reconciled and verified. Since then, following

⁴ As set out at paragraph 15 of my First Witness Statement, the essential criteria were that (a) an individual was convicted of a criminal offence, (b) POL (or RMG pre-separation) was the prosecutor, (c) the prosecution was based wholly or partly on data derived from Horizon, and (d) the prosecution was undertaken between 1999/2000 and 2013. The PCDE adopted an inclusive approach so that any cases that were not conclusively outside of the criteria were included within it until verified as falling outside the criteria.

the reconciliation and verification process described in my First Witness Statement and Second Witness Statement, 240 cases have been confirmed not to fall within the PCDE criteria, which is why the number of PFAs is now 700.

10. The FOI response on 22 May 2020, although it related to all offence types (and not just Horizon-related cases falling within the PCDE criteria), it excluded the cases of individuals whose job type was not considered to fall within the request, (the request included "(a) Subpostmasters, (b) their assistants or (c) Post Office workers (eg those in Crown Offices)", related only to confirmed convictions (and not cases which, for the purposes of the PCDE, were presumed to be convictions), and cases where POL (or Royal Mail Group ("**RMG**") pre-separation) was believed to be the prosecutor, but not cases where it was unclear who the prosecuting agency was.
11. Secondly, although not addressed in my Second Witness Statement, which was a Response to the Inquiry's Rule 9 No. 47 Request, I wanted to provide a clarification in respect of the percentage calculation given in response to FOI2023/00096 on 24 March 2023. The FOI request included questions asking for (1) the number of SPMs prosecuted between 1990 and 1999, (2) the number of SPMs prosecuted between 2000 and 2009, and (3) "the % increase in the latter figure", which I understand means the percentage increase between the two figures. POL provided responses, with caveats in relation to the data, including the number of convictions of SPMs between 1990 and 1999 (65), and the number of prosecutions of SPMs between 2000 and 2009 (380). It also explained that "the % increase in the latter figure" was 484%.
12. POL's Information Rights team has confirmed that this percentage was mistakenly calculated by POL based on a comparison of 1990 to 1999 conviction data with 2000 to 2009 prosecution data. Whilst any calculation of an increase should have been based on comparable data, I understand the pre-2000 data should be treated with particular caution given the passage of time and absence of records.

Statement of truth

I believe the content of this statement to be true.

Simon Recaldin

Signed:

GRO

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**THIRD WITNESS STATEMENT OF
SIMON RECALDIN**

Herbert Smith Freehills LLP
Exchange House
Primrose Street
London
EC2A 2EG
Ref: 2066/31048180