



TERMS OF REFERENCE PROJECT PHOENIX

Context

Until 2015, Post Office Ltd (POL) conducted its own criminal investigations and prosecutions. A significant number of convictions arising from these prosecutions have been overturned.

During the Human Impact Evidence Hearings at the Post Office Horizon Public Inquiry in 2022, 31 witnesses provided evidence which could be considered as alleging either misconduct on behalf of POL employee's or which identified issues with the quality of the investigations, such as failure to disclose and failure to follow all reasonable lines of enquiry. In addition, one further case was referred for review by POL's Criminal Lawyers, Peters & Peters – POL vs Elena Herd.

Project Phoenix has been initiated to review these historic POL investigations.

Update from Merits Assessment Panel on the 24/10/2023.

On the 24th October 2023 a Merits Assessment Panel convened to consider the Combined Merits Assessment Report for existing POL employee - SB. Recommendations 4A within this report was agreed by the panel - That an additional 8 cases to be heard before the Public Inquiry on the 7th November 2023 during the evidence of SB are added to the 32 cases already referred to Project Phoenix. This broader approach will assist in achieving a better understanding of the wider risks to POL from concerns relating to SB's alleged behaviour.

Update from Merits Assessment Panel on 24/11/23.

On Fri 24th of November 2023 a merits assessment panel convened to consider the Combined Merits Assessment Report(s) for existing POL employees CK and DS. Recommendation 15(a) in the CK report was accepted by the panel. This recommended that 3 additional cases were added to the 40 already referred to Project Phoenix. This is consistent with the decision and rationale above relating the SB report recommendations. Project Phoenix now has a total of 43 cases to review.

Update from Merits Assessment Panel 16/02/24

On Fri 16 February 2024 the Merits Assessment Panel convened to consider the recommendation in respect of 3 further cases relating to RD (Current employee) and two further cases relating to SB. The recommendation was to add the 3 additional cases to the 43 in order to maintain a consistent approach to case adoption. The Panel agreed to add the 3 cases. Project Phoenix now has a total of 46 cases to review.

Update from Merits Assessment Panel 29/05/24

On Wed 29 May 2024 the Merits Assessment Panel reviewed an email request to consider the recommendation in respect of 1 additional case relating to SB (Current employee). The recommendation was to add the additional case to the 46 in order to maintain a consistent

approach to case adoption. The Panel agreed to add the case. Project Phoenix now has a total of **47** cases to review.

Aim

The aim of this project is to:

1. Review the quality, standard and effectiveness of the 47 investigations referred to Assurance & Complex Investigations (A&CI) against national standards, professional practice, and legislative requirements at the relevant time.
2. Assess the conduct of the POL investigator(s) against law, legislation, policies, procedures, and nationally recognised best practice in place at the relevant time.
3. Produce a report including recommendations relating to each case reviewed to a Merits Assessment Panel.

Scope:

To achieve the Aim, the review team will review all discoverable material relating to the cases that are held by POL, Peters & Peters, or other third parties supporting POL's Inquiry Team.

This review will seek to determine if the investigation for each of the cases was thorough and that all reasonable lines of enquiry were followed:

Paying particular attention to:

- The initiation of the investigation to include initial lines of enquiry and the investigation strategy.
- Qualification and/or experience of the investigators conducting the investigation or making decisions relating to the investigation.
- The recovery and consideration of all relevant material.
- Disclosure obligations and the adherence to the Criminal Procedures & Investigations Act 1996 and associated Codes.
- The conduct of interviews under caution and more widely compliance with the Police and Criminal Evidence Act 1984 and associated Codes.
- Applying the Principles of the Human Rights Act 1998.
- The detail and extent of an Investigation Strategy, particularly in respect of:
 - The scope of the investigation.
 - The offences under consideration.
 - Any changes to the scope and considered offences made during the investigation up until a charging/summons decision was made.
 - The approach taken with post-masters and witnesses.
 - Exhibit management throughout the investigation phase.
- Oversight and supervision of each of the cases.
- Consideration of alternative outcomes and lines of enquiry including the seeking of advice from senior investigators, managers, and/or legal practitioners.
- Establish that the conduct of the investigation was fair, balanced, justified, proportionate, legal, accountable, necessary, and ethical and conducted in accordance with the values and standards expected of any professional investigator.

Paying particular attention to:

- Treatment of the post-masters in all interactions but particularly in the interviews under caution.

- Manner of questioning during interview under caution.
- Wider conduct of the investigators throughout the case.
- Professionalism of the investigation team, particularly
 - Assessing whether they applied an unbiased, open-minded approach; and
 - Clearly considered obtaining all evidence to accurately establish the facts of the case.

Out of Scope

- A review of any material produced after charge or issuing of summons and the role of the prosecutor post-charge/summons.

Next Step Options

The below list of next steps is likely to form the recommendations made by A&CI to the Merits Assessment Panel. Neither the A&CI or Merits Assessment Panel is limited to the contents of this option list and may choose to direct next steps outside of, or in addition to, the options below.

- A&CI to interview current staff member(s) linked to the matter and report back to the Merits Assessment Panel.
- A&CI staff to obtain further documentary evidence or information and report back to the Merits Assessment Panel.
- Employee Relations to consider and progress a conduct investigation relating to current staff member(s) and report back to the Merits Assessment Panel.
- A&CI or POL Inquiry Team to consult with law enforcement agencies to test evidence.

Signed:

John Bartlett
Director of A&CI

Daniel Saunders
Project Phoenix Lead
Senior Investigations Manager

TOR Revised - Date: 29/05/2024