

Witness Name: Kevin Shiels

Statement No.: WITN10580100

Dated: 18th January 2024

POST OFFICE HORIZON IT INQUIRY

FIRST WITNESS STATEMENT OF KEVIN SHIELS

I, Kevin Shiels, will say as follows:

INTRODUCTION

1. I am a Senior Public Prosecutor in the Western & Southern Region of the Public Prosecution Service for Northern Ireland (hereafter 'PPSNI').
2. This witness statement is made to assist the Post Office Horizon IT Inquiry (the "**Inquiry**") with the matters set out in the Rule 9 Request dated 8th December 2023 (the "**Request**").

BACKGROUND

3. I hold an LLB degree from Manchester Polytechnic in Law and French. I completed my professional training and was admitted to the Roll as a solicitor by the Law Society of Northern Ireland in 1991.

4. I was in private practice in criminal law before joining the Department of the Director of Public Prosecutions as a Senior Public Prosecutor in 2003. The Office was reconstituted as the Public Prosecution Service for Northern Ireland in 2005.
5. I do not recall being involved in any prosecutions which relied on Horizon IT data prior to Mrs McKelvey's case discussed below or indeed in any subsequent prosecutions. This is the only prosecution case involving these issues that I was involved in.
6. At the outset I wish to offer my sincere apologies to Mrs McKelvey for my part in the prosecution of her on foot of the allegations raised by Post Office Limited.

PROSECUTION OF MAUREEN McKELVEY

7. I first became involved in this case on 19th February 2004 when it was allocated to me with the task of taking a prosecution decision. I had no involvement in the investigation of the alleged offences.
8. A file in relation to this matter was received from Police Service of Northern Ireland on 28th January 2004. The file contained a covering letter from Detective Superintendent P McAuley stating that there was sufficient evidence for a prosecution [PNI00000001_082]. The file contained a further report prepared by Suzanne Winter, Investigations Manager with Post Office Limited detailing that "the discrepancies summarised on the pension schedule indicate it is due to deliberate action and not error and McKelvey is

the only person with the appropriate access and opportunity”

[PNI00000001_082].

9. The file was allocated to me on the 19th February 2004. My role was that of ‘Directing Officer’ which is the PPS (then DPP) lawyer with responsibility for considering the file and applying the PPS Test for Prosecution. The Test for Prosecution is set out at section 4 of The PPS Code for Prosecutors. It is met if:
 - (i) the evidence which can be presented in court is sufficient to provide a reasonable prospect of conviction – the Evidential Test; and
 - (ii) prosecution is required in the public interest – the Public Interest Test.
10. Having considered the evidence on the file, I decided that the Test for Prosecution was met in relation to the offence of theft and issued a direction to Case Preparation late February 2004 to prepare papers in anticipation of trial.
11. Committal papers were prepared and I signed same on the 22nd March 2004 detailing that the amount of errors in a relative short period of time would indicate more than simple incompetence [PNI00000001_081].
12. A Preliminary Inquiry was held at Omagh Magistrates’ Court on the 20th April 2004 when the defence conceded a prima facie case and the matter was returned for trial to Omagh Crown Court. Primary disclosure was handed to defence solicitors at committal on 20th April 2004 as is normal practice [PNI00000001_081].

13. The primary disclosure would have included the Non-Sensitive Disclosure Schedule which to my recollection was provided by Police [PNI00000001_080]. I would also have been in receipt of the Sensitive Schedule [PNI00000001_044] which was a nil return. My understanding at the time was Detective Constable Coyle was the Disclosure Officer.
14. There was nothing in the Non-Sensitive Disclosure Schedule or the Sensitive Disclosure Schedule which alerted me to any issue with the Horizon IT system. If any such material existed and was brought to my attention I would have disclosed it as primary disclosure. I would also have reviewed whether the Test for Prosecution remained met.
15. Mrs McKelvey was arraigned and pleaded not guilty on the 17th May 2004 when a trial date of the 13th September 2004 was fixed for hearing of the matter.
16. The case was listed for mention on the 24th June 2004 when the trial judge requested defence to inform the court of any disclosure issues by the following Monday (28th June 2004). The case was not re-listed prior to trial.
17. An important part of the Directing Officer's role is to discharge the disclosure duties placed on the DPP / PPS. Those obligations are set out at paragraphs 4.54 – 4.59 of the PPS Code for Prosecutors. By virtue of section 7A of the Criminal Procedure and Investigation Act 1996 (as amended) disclosure duties are continuing and are kept under review by the Directing Officer throughout a prosecution.

18. A Defence Statement was received by PPSNI on 10th May 2004. At paragraph 4 it cited four possible causes of the branch shortfalls identified:
- (i) Human error;
 - (ii) Pressure of running the shop;
 - (iii) Operating a credit account through the Post Office;
 - (iv) Failure of the Post Office to provide a sufficient cash float.
19. Regardless of the contents of the Defence Statement, had any matter been drawn to my attention suggesting that there was a question mark over the reliability of the Horizon IT system this would have been disclosed as primary disclosure as it would clearly have undermined the prosecution case.
20. A letter was sent to the PSNI Investigating Officer D/Con Coyle enclosing a copy of the defence case statement by a Crown Court clerk. I have a copy of the original letter which is signed on my behalf by the clerk. He was asked to review the unused material on the schedule and any other material in his possession and let me know whether there was anything that may meet the test for disclosure [PNI00000001_076].
21. I have reviewed a letter from D/Con Coyle to a D/Inspector in Omagh dated 21st May 2004 in which he responds to this correspondence and the defence case statement [PNI00000001_078].
22. I sent a letter to the defence solicitors dated 15th June 2004 in reference to the defence case statement received enclosing a schedule of unused material and six further specified documents as per my on-going duty of disclosure [PNI00000001_037].

23. Having completed secondary disclosure I had no further involvement in this case until I was requested to review the prosecution on public interest grounds due to the ill-health of Mrs. McKelvey on the 10th September 2004 [PNI00000001_038].
24. In this particular region the DPP office was situated in Omagh Courthouse and was staffed at that time by two Senior Public Prosecutors who would have dealt with disclosure and other issues that would have arisen during the lifetime of any case in the Crown Court.
25. A letter [PNI00000001_071] dated 22nd July 2004 was sent by defence solicitors directly to D/Con Coyle requesting four specified items of secondary disclosure to assist Forensic Accountants Goldblatt McGuigan instructed on behalf of Mrs McKelvey.
26. My late colleague Brian Curran, a Senior Public Prosecutor then based at Omagh Courthouse, wrote to the defence solicitors by letter dated 27th July 2004 indicating that their letter to D/Con Coyle had been passed to him for reply. He advised the defence solicitors that the PSNI Investigating Officer would liaise with the Post Office Investigator Suzanne Winters and a response would issue in due course [PNI00000001_079].
27. Within the materials provided to me by the Inquiry is a letter from Ms Winters to D/Con Coyle dated 30th July 2004 responding to points 2 and 3 of the secondary disclosure requests. I had not seen this document before compiling this statement [PNI00000001_069].

28. D/Inspector McCleery wrote to DPP in a letter dated 16th August 2004 enclosing the letter from defence solicitors dated 22nd July 2004 along with a note from D/Con Coyle in which he responds to points 1-3. I understand that point 4, a request for interview tapes, was dealt with separately. Also enclosed is the material in response to the request for further disclosure [PNI00000001_71].
29. On 23rd August 2004 my colleague Paul Dale, a Senior Public Prosecutor then based at Omagh Courthouse, wrote to the defence solicitors responding to their requests for further disclosure contained in their letter of 22nd July 2004 [PNI00000001_070].
30. Paul Dale provided the information to defence that had been supplied to him from Post Office via Police. Having viewed Paul Dale's letter of the 23rd August 2004, I note that he indicates that he was informed that further material had been requested and any documents received would have been reviewed for disclosure. I have no independent recollection of whether any further material was received and/or reviewed.
31. A letter was sent by the defence solicitor to DPP staff based at Omagh Courthouse enclosing correspondence from Goldblatt McGuigan to the Post Office Investigator Suzanne Winters dated 28th July 2004. The letter asks Ms Winters to provide the Forensic Accountants with nine itemized pieces of information. Item six is a request to Ms Winters for information on the Horizon computer system procedures for inputting cash received from Royal Mail.

32. Also enclosed is a 'note of discussions with Suzanne Winters and Rosemary Curran of Post Office regarding accounting systems at Post Office counters. Held 23rd June 2004. Updated following discussions with Suzanne Winters on 1 July 2004.' Further material is enclosed with Appendix A and B to the note. The letter dated 28th July 2004 was sent to DPP for information purposes only.

33. All of this correspondence was forwarded by a DPP clerk to prosecution counsel Philip Mateer BL. He was asked to forward it to Charles McKay BL if the brief was to be passed to him [PNI00000001_072].

34. On 7th September 2004 the defence solicitors wrote to DPP staff based at Omagh Courthouse asking the DPP to consider whether the public interest limb of the test for prosecution was still met in light of an enclosed medical report on Mrs McKelvey. Within the Inquiry materials is a handwritten note from a DPP clerk passing the correspondence to me for urgent reply.

35. There is a handwritten file note created by me dated 10th September 2004 in respect of a telephone call to Mrs McKelvey's solicitor Stephen Atherton in which I expressed sympathy for his client's health problems but concluded that there was nothing in the report that would influence me to alter my original decision to prosecute.

36. The trial in this matter was listed to commence on the 13th September 2004 when a jury was empanelled. The trial ran for 3 days until the 16th September 2004 when the jury returned a not guilty verdict. During the currency of the trial I am not aware if any issues whether disclosure or otherwise were

brought to my attention. Such issues, if any, would normally have been dealt with by those prosecutors situated in the DPP office in Omagh Courthouse.

37. Almost twenty years after this prosecution I do not now recall the specifics of the case. I do not recall anything being brought to my attention by the Post Office to suggest that they were aware of systematic deficiencies in the Horizon IT platform that could produce unexplained shortfalls. If any such matter was brought to my attention I would have viewed it as disclosable and taken the appropriate steps.

38. There are no other matters of relevance to Phase 4 of the Inquiry that I wish to draw to the attention of the Chair.

Statement of Truth

I believe the content of this statement to be true.

Signed:

GRO

Dated:

18-01-24

Index to First Witness Statement of Kevin Shiels

<u>No.</u>	<u>URN</u>	<u>Document Description</u>	<u>Control Number</u>
1	PNI00000001_082	Letter from PSNI re R V - Maureen McKelvey re alleged theft	VIS00013112_082
2	PNI00000001_081	Department of the director of public prosecutions	VIS00013112_081
3	PNI00000001_80	Particulars of service and Schedule of non sensitive Material R v Maureen McKelvey	VIS00013112_080
4	PNI00000001_44	R v Maureen McKelvey Additional Statements, SOLS LTR Additional Police Papers to Kevin Shiels PSNI (reference number 258267) re: Theft at Omagh from dates unknown until 4.4.02 R v McKelvey	VIS00013112_044
5	PNI00000001_76	Letters, incl from K Shiels to PSNI enclosing copy of Defence Statement, R - V - Maureen McKelvey defence statement	VIS00013112_076
6	PNI00000001_78	Bundle of evidence for R. Maureen McKelvey	VIS00013112_078
7	PNI00000001_37	Letter re: R v Maureen McKelvey, Department of the Director of Public Prosecutions, Schedule of unused material (Post Office) (Issued stamp 14.10.04)	VIS00013112_037

8	PNI00000001_38	Correspondence R v Maureen McKelvey	VIS00013112_038
9	PNI00000001_71	Letter from J McCleery to PPS Belfast chambers regarding further documentation disclosure on R V Maureen McKelvey	VIS00013112_071
10	PNI00000001_79	Letter from Brian Curran, Western Circuit for Director of Public Prosecutions to John J. McNally & Co Solicitors. Re: R v Maureen McKelvey	VIS00013112_079
11	PNI00000001_69	Letter regarding disclosure statement from S Winter to C Coyle re Maureen McKelvey.	VIS00013112_069
12	PNI00000001_70	Letter from Paul Dale for the director of Public Prosecutions to John J McNally & Co Solicitors re; R v Maureen McKelvey	VIS00013112_070
13	PNI00000001_72	Letter Re Case listing for the 13th of September 2004 - corrs to Prosecution Counsel from D of Public Prosecutions R - v - Maureen	VIS00013112_072