

THE POST OFFICE HORIZON IT INQUIRY

SUBMISSIONS ON BEHALF OF PAULA VENNELLS FOR HEARING ON 8 NOVEMBER 2021

1. Mrs Vennells was managing director of Post Office Limited (“POL”) from October 2010 to April 2012 and CEO from April 2012 (following POL’s separation from Royal Mail Group) to April 2019. She is a Core Participant in the Inquiry.
2. Mrs Vennells has been deeply disturbed by the findings of Mr Justice Fraser in the Bates & Others v Post Office Limited group litigation and the Criminal Division of the Court of Appeal in Hamilton & Others v Post Office Limited: what has come to light, above all in relation to the conduct of private prosecutions of sub-postmasters over a lengthy period, was clearly unacceptable. She welcomes this Inquiry and its broad mandate under the terms of reference to investigate what went wrong in relation to Horizon, and why.
3. This document is provided in response to the invitation in the Notice of Preliminary Hearing for submissions on the themes which emerged from the Inquiry’s consultation on the provisional list of issues. Mrs Vennells makes a number of brief points below in response to Theme B – “*Reliance upon legal advice*” – and the questions on which the Chair has invited submissions:

(i) Is it necessary for the Inquiry to investigate whether and to what extent Royal Mail Group and Post Office Limited acted upon legal advice when they:

a. formulated policies and guidelines on the civil and criminal liability of SPMs, managers and assistants for shortfalls shown by Horizon; and

b. brought civil and / or criminal proceedings against SPMs, managers and assistants alleged to be responsible for shortfalls shown by Horizon?

(ii) If so, should the nature of the legal advice received be investigated?

4. Mrs Vennells' position is that the answer to these questions is "yes", and that the list of issues should be expanded to include Theme B.
5. The areas for investigation by the Inquiry encompass: (a) issues of candour and transparency, including allegations that Royal Mail Group and POL concealed the existence and effect of software defects and other problems with Horizon in the context of civil and criminal proceedings;¹ and (b) whether Royal Mail Group and POL brought charges of theft on insufficient evidence and/or with the intention of placing improper pressure on defendants.²
6. Mrs Vennells' submission is therefore a simple one. Where the Inquiry is tasked to consider potential misconduct in the bringing of civil and criminal proceedings, it is necessary in the interests of transparency and the paramount objective of the Inquiry of getting to the truth, to have visibility of the nature of the advice (both internal and external) obtained by Royal Mail Group and POL, and whether they relied on it. If these questions are excluded, the Inquiry will be missing a key factor to explain why the institutions acted as they did - and it will be impossible for the Inquiry to make complete and reliable conclusions about why Royal Mail Group and POL adopted particular approaches to legal proceedings without investigation of the advice they were receiving. This potential lacuna can be seen at a granular level from the provisional list of issues. For example:

(1) Issue 98 asks only whether, and if so from whom, legal advice was obtained in connection with the adoption of policies and guidelines for bringing private prosecutions. If the answer to that factual question is "yes", then even with information as to the source of that advice, it will be an evidential cul-de-sac unless the Inquiry can consider the nature of that advice, and whether it was relied on (and by whom it was relied on within Royal Mail Group and POL).

¹ See in particular: Issue 42 (stakeholder knowledge of Horizon defects); Issue 56 (knowledge of defects in the context of determining policies and guidance for sub-postmasters' contractual liabilities); Issue 88 (knowledge of defects in the context of civil debt recovery proceedings); Issue 93 (knowledge of defects in the context of determining prosecution policies and guidance); Issue 116 (knowledge of defects in the context of criminal charging decisions); Issue 131 (knowledge of defects in the context of disclosure in criminal proceedings).

² Issue 118.

- (2) In that context, Issue 96 asks what factors influenced the formulation of private prosecution policies and guidance. If Theme B is excluded the Inquiry will be unable to provide a full and reliable answer to the question, since it will have no means of knowing the extent to which policies and guidance were influenced by legal advice.
- (3) These points apply with equal force to Issues 57 and 58, which ask identical questions about the formulation of policies and guidance for civil debt recovery proceedings.
- (4) In relation to the conduct of civil and criminal proceedings (as distinct from policy decisions) the Inquiry will – again – have considerably less than the full picture about the manner and basis on which the institutions commenced proceedings if it remains in the dark about the nature of any relevant legal advice and whether it was relied upon. Issues 133 and 134 ask, rightly, whether the individuals responsible for the conduct of prosecutions received advice regarding their duty of disclosure, and what action (if any) they took in receipt of that advice. It would be anomalous if similar questions were not asked in relation to decisions to bring civil and criminal proceedings.
7. For these reasons, Mrs Vennells supports the proposal that the list of issues should be expanded to include Theme B.

PAUL CASEY
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