

Witness name: Thomas Keith Todd

Statement No.: One

Exhibits: WITN0388\_01/01 – 36

Dated: 6 September 2022

## POST OFFICE HORIZON IT INQUIRY

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### FIRST WITNESS STATEMENT OF THOMAS KEITH TODD

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1. I, **THOMAS KEITH TODD**, formerly Chief Executive Officer of International Computers Limited ("**ICL**"), make this statement in response to the Post Office Horizon IT Inquiry's Request for Evidence, dated 1 June 2022.
2. Throughout this statement I refer to 6 documents (Exhibits WITN0388\_01/01 – 03, 19 – 21), which I am providing to the Inquiry as exhibits to this statement. The remaining documents referenced in this statement (Exhibits WITN0388\_01/04 – 18 and 22 - 36) have been provided to me by the Inquiry.
3. Within this statement I have endeavoured to answer the Inquiry's questions as fully as possible and where helpful, provide background detail to aid understanding. I worked for ICL (and later Pathway) from July 1987 to July 2000 and so my statement is limited to relevant events that took place during this time period only. It is important to make clear that due to the passage of over 22 years since I left ICL (and over 27 years since I joined Pathway), much of the detail in my statement comes from my recent review of documents provided by the Inquiry. Without access to the materials provided by the

Inquiry I would not now be able to recall many of the details I have been asked to comment on in this statement.

4. Throughout this statement I make reference to the "Pathway Project", a term that I feel best encompasses the contract to assist with the automation of the benefits payment system for the Department of Social Security/Benefits Agency ("DSS") and Post Office Counters Limited ("POCL"), and subsequently the contract that was in place solely with POCL. I understand that in some of its questions the Inquiry has used the phrase 'Horizon project', however to avoid confusion I have used Pathway Project consistently throughout the statement.
5. To assist the Inquiry, I have exhibited as WITN0388\_01/01 a timeline of key dates and events that I refer to in this statement, taken from documents provided to me by the Inquiry. This covers the history of ICL and ICL's involvement in the procurement process and subsequent contract with POCL and the DSS.
6. I would like to take the opportunity to express my immense sympathy to all those affected by the Horizon scandal. I support wholeheartedly the work of the Inquiry and its aims in understanding what happened to each sub-postmaster and their families. I hope lessons will be learned by all those who were involved.

### **Professional Background**

#### **Q1. Please set out a brief professional background.**

7. I started my career in 1972 as an Executive Officer in the Royal Ordnance Factories, after completing an accountancy training course while in the civil service, qualifying as an FCMA. Between 1975 and 1987, I worked in a number of roles for GEC Marconi, the defence arm of the General Electric Company. During this time, between 1981

and 1985 I moved to the US to take up a position as CFO/Commercial Director of Cincinnati Electronics (a subsidiary of GEC Marconi). In 1986, I returned to the UK to become the Financial Director of Marconi Company Ltd.

8. I joined ICL as Finance Director in July 1987 and became its Chief Executive Officer on 1 January 1996. During my time at ICL, I also acted as Director on a number of ICL's subsidiary boards. This included the private finance initiative, Pathway and the company Camelot. From January 1996 to July 2000, I was also contracted under a separate agreement to Fujitsu, in the capacity of advisor. I resigned from all of my roles at ICL, its subsidiaries and Fujitsu on 28 July 2000.
9. During my time at ICL, I was appointed as Treasurer of the Open University Council, a role which I occupied for a number of years. I was also awarded an honorary degree from the Open University in 1999.
10. Since July 2000, I have undertaken a number of Executive and Non-Executive roles, including Executive Chairman and CEO of FFastFill plc and Executive Chairman of ION Agency Trading. I acted as Chairman of the Broadband Stake holder Group a key Government advisory committee on broadband, between 2002 and 2005.
11. I am the current CEO of Trading Technologies, a capital markets trading software company. I have occupied this role since December 2021. I also sit as an Executive and Non-Executive Chair on a number of company boards including KRM22 plc.
12. I am a lifetime member of BAFTA as well as Fellow of the Institute of Management Accountants and the Royal Society for the Arts.
13. In June 2006, I was awarded a CBE (Commander of the Order of the British Empire) by the Queen for my services to the telecommunications industry, as a result of my

involvement with the Broadband Stake Holder Group, which drove the UK's broadband agenda.

**Q2. Please set out the background to your involvement in the Horizon project.**

14. ICL was established in 1968 through the merger of a number of companies including English Electric Computers and International Computers and Tabulators. The creation of ICL was part of the push by the Labour Government of Harold Wilson to support technological change through the Industrial Expansion Act 1968. ICL was established to be the UK's answer to the market-leading US company IBM. ICL's original focus was computer hardware and operating software systems.
15. In the early 1980s, ICL started collaborating with Fujitsu in order to develop a series of new computers. This relationship became increasingly close and in July 1990, Fujitsu acquired an 80% stake in ICL from Standard Telephones and Cables Ltd ("STC") at a cost of £740 million.
16. Over the years ahead the company developed its software and services as well as its hardware business, including establishing a strong presence in government systems and outsourcing.
17. ICL was a founder member of the consortium known as Camelot, which successfully bid for the National Lottery franchise in May 1994. The consortium comprised 5 companies which were Cadbury Schweppes, De La Rue, Racal, GTECH Corporation and ICL. The bid involved installing approximately 40,000 lottery terminals in retailers nationwide. ICL provided a number of key services to Camelot including the roll out of infrastructure and support of the nationwide service. A key part of the Camelot bid was a guarantee to have 10,000 terminals ready for use on launch day (with a significant penalty for failure). These targets were achieved and Camelot went on to

be a huge national success and commercial success. I was on the board of Camelot throughout this time and until July 2000.

18. To provide some further background, in 1995, ICL was one of the world's leading suppliers of retail points of sale ("POS") systems (the operating software that supports retail hardware such as cash registers) and provided financial systems to the financial services industry. ICL was a substantial company operating in over 40 countries globally and in 1995 had revenues of over £3.1 billion.<sup>1</sup>
19. In 1996, as CEO, I shifted ICL's focus primarily to software and services and oversaw the demerger of ICL's personal computer and server business to Fujitsu. I was also involved in the sale of ICL's manufacturing business. During this time there was also a significant focus and investment on the emerging new digital age built around the potential of the internet to transform society.
20. As part of this renewed focus on systems and software, from early 1995 I oversaw ICL's bid for the Benefits Agency/Post Office Counters Limited ("POCL") contract to computerise the payment of benefits in the UK. I undertook this role initially as CFO and then as CEO from January 1996.
21. We were aware that the success of the National Lottery contract lay in the strong consortium of companies that had been created for the bid. ICL felt that the most compelling proposition for submitting a winning bid for the Pathway Project was to run it not as an internal project but as an independent company with a consortium of shareholder companies. We felt that creating a consortium was the best way to make

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<sup>1</sup> Fujitsu ICL Computers Ltd. Press Release dated 1 July 1996 <<https://pr.fujitsu.com/jp/news/1996/Jul/1-e.html>> (WITN0388\_01/02)

the project a success and reduce risks, as each party had expertise in particular parts of the project scope.

22. In preparing to bid for the Pathway Project, we assembled a consortium comprising expert companies in various fields. This included ICL (software services and computing technologies), Girobank (financial institutions), An Post (the Irish post office which was already using the software that we were proposing) and De La Rue (banking security). Employing a consortium enabled us to pool resources and create a compelling team for the bid and provided a unique offering to the government tender. This consortium became a special purpose vehicle, a company created for that defined purpose, named ICL Pathway Limited ("Pathway") on 19 January 1995. I was an original director of Pathway from early 1995. Sir Michael Butler, an experienced public servant, was appointed as Chairman of Pathway.

### **Procurement**

**Q3. Please describe your involvement in the procurement process.**

23. As set out in my answer to Q2 above, I was heavily involved in the success of the Camelot bid for the National Lottery contract. As the CEO of ICL and director of both Pathway and ICL, I was responsible for oversight of the ICL elements of the bid. I was primarily involved with assisting the Pathway team in defining a strategy of how to win and I leveraged my experience on the Camelot project and other bids to make the procurement a success.

**Q4. Please set out what you understood the aims of the Horizon project to be.**

24. It was my understanding that the aims of the Horizon project were as follows: fraud prevention, Post Office modernisation and infrastructure transformation. I will deal with each in turn and how these matched up with the aims of ICL at that time.

#### Fraud Prevention

25. The government was determined to reduce fraud in the Department of Social Security ("DSS"). At the Conservative Party Conference in October 1995, the Secretary of State for Social Security, Peter Lilley, announced new measures to help the DSS combat benefit fraud. Benefit fraud was costly to the taxpayer and the system of paying social security benefits (which was paper based) was seen to be vulnerable to manipulation and counterfeiting. One of the measures that Peter Lilley announced was a card-based system of payment for social security benefits, which formed the original basis of the project. ICL already had experience in developing loyalty card systems in the retail sector and was investing in a new generation of smart card projects. ICL had previous experience working with DSS in the installation of mainframe computers but as I recall had no experience of working with the Post Office.

#### Post Office modernisation

26. As I understand the situation, in the early 1990s the Post Office was not performing well in urban areas across the country. The number of working post offices was falling significantly. The mainstream adoption of the internet and emerging smart card technology offered a huge opportunity to stop this decline. It could modernise the Post Office and automate some of its functions. I understood that a core aim of the project was to provide the Post Office with a modern infrastructure that would enable

it to undertake greater commercial opportunities and ensure it remained a viable operation in local communities.

Infrastructure transformation

27. The project was set to be a critical national infrastructure project, important for both the UK government as part of its fraud prevention and modernisation strategy. This was consistent with ICL's new strategy to provide infrastructure and software services to both government and commercial customers.

**Q5. Please set out a brief history of the procurement process.**

28. The following brief history is taken from my review of the materials provided to me by the Inquiry, and in particular relies on the chronology within the National Audit Office ("NAO") report into the cancellation of the benefits payment card project (WITN0388\_01/03).<sup>2</sup> Due to the passage of time I do not now have a direct recollection of these specific details.
29. In May 1994, I understand that the Secretary of State Peter Lilley announced his intention to automate the benefits payment system. ICL Pathway Limited - named the Pathway consortium - was formed in January 1995 to tender for the contract. I was a director of Pathway from 28 February 1995 until my resignation from ICL in July 2000.
30. By the end of August 1994, I understand that the DSS published its Invitation Notice to invite potential bidders to express an interest in the contract. There were 92 expressions of interest in the contract. From the NAO report, I understand that five shortlisted suppliers were announced in December 1994, one of which was Pathway.

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<sup>2</sup> Appendix 3, NAO Report dated 18 August 2000 "The Cancellation of the Benefits Payment Card project", page 81 (WITN0388\_01/03)

31. In early 1995, I understand that the DSS and POCL agreed a memorandum of understanding ("MoU") for proceeding with the project. Statements of Service Requirements were issued to shortlisted suppliers in April 1995. In June, Pathway consortium became a special purpose vehicle comprising ICL, De La Rue and Girobank. The Pathway bid was submitted on 8 June 1995.
32. By July 1995 the evaluation board had selected a shortlist of three potential bidders (Pathway, IBM and Cardlink).
33. I understand that an Invitation to Tender was issued to the remaining three bidders in February 1996. The three bids received were all priced above the level deemed acceptable by the DSS/Post Office. On 16 April 1996, all three bidders received Invitations to Retender.
34. On 15 May 1996, following a lengthy and competitive bid process, Pathway was awarded the contract on the basis that the operational trial would be completed by June 1997, and the full rollout of the project to 19,000 post offices would be completed by 1999.

**Q6. What were the main challenges in the procurement process?**

35. DSS and POCL tendered the Pathway Project as a Private Finance Initiative ("PFI"). This meant that the successful bidder would take on the financial and logistical risk of the project, but would in theory have the freedom to determine the design and management of the project. We considered that this proposition would work for Pathway as it would have revenue streams from services provided through the new Post Office network to support the project. A crucial dependency for success was the PFI which would give the consortium greater freedom over the running of the project.

36. The Invitation to Tender ("ITT") for the PFI that Pathway received on 29 February 1996 was over 2000 pages long and was a much more extensive document than originally indicated. Pathway and the other bidders undertook a lot of work in order to clarify the requirements of the tender: *'Some 333 additional details and clarifications to requirements were issued between November 1995 and the end of January 1996.'*<sup>3</sup> The theory underpinning PFI was that high level requirements would be provided by the customers (DSS and POCL), but how these requirements were delivered would be up to the service provider. In practice, the customers had little or no experience of PFI and treated the procurement as a classic design, specification and operation project. As there were two customers to consult, many issues that needed a resolution were significantly delayed both during the tender process and the lifetime of the project. Due to the project running as a PFI, it was important to Pathway that DSS and POCL provided any requirements and clarified any functional requests in a timely manner.
37. Under the terms of the PFI, it was important to achieve live roll-out of the Pathway Project as soon as possible to trigger the revenue stream under the contract and deliver the project benefits. However, as set out in the *Pathway Group Limited Board Minutes of the Board Meeting held on 15 March 1996* (WITN0388\_01/04), Pathway had significant concerns regarding the lack of an achievable timetable for delivery. Due to this concern, myself and others at Pathway felt that we could not submit a fully compliant tender for the contract, but that we could submit a strong variant bid based on a timetable that we felt was achievable and realistic. We knew it was

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<sup>3</sup> NAO Report dated 18 August 2000 "The Cancellation of the Benefits Payment Card project", page 58, para 3.6 (WITN0388\_01/03)

important for the success of the project that Pathway did not commit to a timetable it would be unable to meet and to ensure the timeframes were achievable.

38. This was a risky strategy as, under the terms of the ITT, the clients could have refused to consider a variant bid. However, it was clear to us that if Pathway had continued with its tender based on the ITT timetable, the contract would have been breached almost immediately due to the '*mismatch on the view of the achievable timescale*' of '*as much as six months*' between Pathway and the customers<sup>4</sup>. Pathway understood at the time that IBM, one of the three shortlisted bidders for the tender, also had '*severe concerns*'<sup>5</sup> about the ITT and the delivery timetable in particular.
39. An additional challenge in the procurement process was the fact that we were tendering for a contract that had two distinct clients. We had initially thought that the requirements of POCL and DSS were aligned. However after the award of the contract, it became clear that the two clients had separate and distinct management ethos, business objectives and priorities, DSS was a government department and POCL was a largely commercial operation owned by the Government; the two clients did not have a unified position on the contract requirements or priorities. Notwithstanding my comments above, if the Pathway group had believed that the project would not be successful we would not have submitted a bid. By the time the bid was submitted, we felt we had a sufficiently clear understanding of the requirements as defined at that time. It was a complicated process with a variety of players, but we felt that Pathway could deliver the project successfully, albeit on an extended timeline to that which was proposed by POCL and DSS. This was

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<sup>4</sup> Pathway Group Limited Board Minutes of the Board Meeting held on 15 March 1996, page 2, para 96/13 {FUJ00077838} (WITN0388\_01/04)

<sup>5</sup> Managing Director's Report, Pathway Group Limited Board Meeting held on 15 March 1996, page 2, para 5 {FUJ00077838} (WITN0388\_01/04)

reinforced by virtue of the fact that when Pathway was awarded the contract based on its re-tender document in April 1996, the new ITT had adopted the Pathway timetable for the project.<sup>6</sup>

**Q7. Please comment on how aligned the objectives of the main parties were.**

40. During the negotiation of the bid, Pathway had concerns that POCL and the Benefits Agency ("BA"), a subsidiary agency of the DSS, were not seeing eye-to-eye. In the *Pathway Group Limited Board Minutes of the Board Meeting held on October 1995* (WITN0388\_01/06 p8), we noted as follows:

*"Pressure is mounting from both contracting parties for timely decision. BA are confident on their delivery of CAPS and want work on integration testing with the chosen service provider in mid-March 1996. POCL are increasingly impatient and want to get on with their ambitions to become a powerful UK retailer. Also the "memorandum of understanding" between BA and POCL is causing trouble in taking forward. In short something has to give. Either a new faster procurement with a tighter focus on PFI, or a cleaner separation between what BA and POCL want."*

As well as the above section on timescales, in the Finance Director's report section 'Highlights' under a heading entitled 'Not so good', Commercial and Finance Director Tony Oppenheim noted, "signs of dissent between POCL and BA – will the joint procurement survive?" The relationship between POCL and BA was considered to be a risk to the procurement and it was something that Pathway was closely observing.

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<sup>6</sup> Managing Director's Report, Pathway Group Limited Board Meeting held on 25 April 1996, page 4, para 96/32 (c) {FUJ00077842} (WITN0388\_01/05)

41. However, by the time that we signed the contract on 15 May 1996, we believed that the objectives, requirements and timescales of each of Pathway, DSS and POCL were sufficiently aligned. We would have simply not proceeded with the project if we had felt differently. Unfortunately, the subsequent reality evolved rapidly after signature and it was clear that DSS and POCL were not aligned in their objectives or priorities nor had an effective process to agree.

**Q8. Please comment on how achievable you considered the project to be at this stage.**

42. ICL had a wide breadth of experience working for large clients across industries including retail, banks and building societies. We had proven success in major UK infrastructure projects including the Camelot lottery project and the automation of the Ministry of Defence offices and many others.

43. ICL, through Pathway, engaged subcontractors to assist with the Pathway Project to provide the additional relevant skills, knowledge and support. These included An Post (advising on post office counter automation), British Telecom (network design and provision), Alliance & Leicester (card and payment management), Hambros Bank (PFI and commercial advice), Escher (a software company focused on post offices) and original Pathway shareholders De La Rue and Girobank. Escher had successfully partnered with An Post in 1993 to provide software and systems, in particular the Riposte point of service software. All subcontractors had the requisite expertise to fulfil their respective roles and we were confident that as a group, Pathway could deliver on the contract.

44. Pathway was set up as a dedicated team to deliver the project and had the technical ability, client networking skills, project management, partners and governance

structure to deliver the contracted service successfully. As set out above, at this initial stage of the project and based on the available information, we considered that meeting the aims of the project was achievable. If it had not been Pathway would not have continued to bid.

### **Award of Contract**

#### **Q9. Please explain why you consider ICL Pathway was awarded the contract.**

45. ICL Pathway was required to comply with a rigorous tender process. Although it is clear from the March 1996 Pathway Board minutes<sup>7</sup> that Pathway was concerned about what our competitors would be offering in their bids, neither I nor Pathway had detailed knowledge of the other bids involved in the tender at the time. However, having reviewed the disclosure provided to me by the Inquiry in preparation for this statement, it is clear that the tender process for the Pathway Project was highly competitive. In particular, I have now seen the evaluation scorecard against which each of the three competitors were marked<sup>8</sup>. This shows that Pathway had the best proposition and value for money based on the public procurement selection criteria.

46. From our perspective, we felt that Pathway had a strong team assembled to deliver the project. We had also embraced the Government's wish to finance the project through the PFI, which at that time was a new frontier of public procurement and since Pathway took on a lot of the risk through this, we felt it had made us an attractive option for the DSS and POCL.

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<sup>7</sup> Managing Director's Report, Pathway Group Limited Board Meeting held on 15 March 1996, page 2, para 5 {FUJ00077838} (WITN0388\_01/04)

<sup>8</sup> NAO Report dated 18 August 2000 "The Cancellation of the Benefits Payment Card project", page 64 (WITN0388\_01/03)

47. Pathway also had a clear governance structure in place to oversee the delivery of the contract successfully. The Pathway executive team, under Managing Director John Bennett was comprised of Commercial & Finance Director Anthony Oppenheim, Quality and Risk Management Director Martyn Bennett, Business Development Director Stephen Hodgkins, Technical Director John Dicks, Programmes Director Michael Coombs and Operations Director Stephen Rowe. There was a requirement for regular reporting on a monthly basis to the Board, set out in the Pathway Programme Monthly Reports<sup>9</sup> (the "Monthly Report"), which was overseen and approved by the Managing Director. These were also discussed in monthly Board meetings chaired by Sir Michael Butler. As CEO of ICL, I had overall responsibility of Pathway, which was first partly owned and then fully owned by ICL. To the best of my knowledge, I attended Board meetings and made myself available to John Bennett, the Managing Director of Pathway, for advice and support outside of Board meetings.
48. Moreover, the formation of Pathway as a special purpose vehicle ("SPV") made our bid unique and compelling. We were the only bidder proposing to run the project through this method. The SPV initially had a number of shareholders who were also key partners to the project. It had independent board representation to give an impartial perspective but also to give confidence to the customers. The structure of the contract as a PFI also meant that segregating the parties' financial commitments was easier within the SPV.
49. There were considerable risks borne by Pathway in its bid to deliver the system to tight time scales. Pathway was relying on the customer performing their obligations;

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<sup>9</sup> See for example ICL Pathway Bringing Technology to Post Office Counters & Benefit Payments - Monthly Progress Report, March 1998 {FUJ00058170} (WITN0388\_01/07)

if the customers did not perform their obligations to the correct timeframe and specification, Pathway would be exposed to the risks of any delay incurred and would have to seek recompense. However, Pathway would bear the risks of any of its own delays and a failure to deliver on the project on time would result in an inevitable delay in profitability for Pathway. Ultimately, I believe that Pathway was awarded the contract because it was prepared to take risks to ensure the success of the project and had the best value for money proposition of the competitors and skills to deliver it. I did not have full visibility on the scoring and evaluation criteria for the tender until recently. I anticipate that DSS and POCL would be best placed to explain further why Pathway was awarded the contract.

**Q10. Please explain whether you consider that ICL Pathway was the best equipped to assist with the automation process.**

50. As set out in my answers to Q8 and Q9 above, ICL had a proven track record in delivering large-scale national infrastructure projects. We had demonstrated our ability to successfully manage multiple subcontractors and partners to produce a cohesive project delivery team which would leverage the skills of the combined group.

51. We felt that the combined Pathway group, comprising both the third parties including Girobank, De La Rue and Escher and the core ICL delivery team, had the skills necessary to deliver the Pathway Project. We did not know precisely what our competitors were bidding, but the government procurement process was rigorous, and our success would suggest that we had the best proposition. Pathway was the best-priced offer on the table and it was the only bid fully compliant with the PF1<sup>10</sup>. It

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<sup>10</sup> NAO Report dated 18 August 2000 "The Cancellation of the Benefits Payment Card project", page 63-64 (WITN0388\_01/03)

was for the clients to assess each bid and whether they regarded it as meeting the ITT criteria.

**Q11. Please set out any concerns that you had with regard to the original contract at the time.**

52. The Pathway Project was the biggest outsourcing contract that ICL had ever been awarded. At the time we bid for and signed the contract, we believed that we could deliver the project successfully. The delay in receiving the ITT, and subsequently seeing the ITT's length and level of detail did cause us some concern. However, at the time we considered that this was due to bureaucracy within the DSS as opposed to any serious flaws with the project. With hindsight, perhaps it should have signalled potential issues to come. We obviously considered that the project would be challenging and that it would have its complexities, but we did not have concerns at that time that aspects of the project could not be delivered successfully.

**Initial Go live**

**Q12. Please explain what the Initial Go Live project involved.**

53. As set out in the *ICL Pathway Limited Board Minutes of a Board Meeting held on 2 September 1996* (WITN0388\_01/08), the Initial Go Live ("IGL") project involved a limited rollout of the original benefits payment card hardware and software to ten post offices in Stroud, Gloucestershire in October 1996. Each post office had two counter positions and in total 1500 individual social security benefits recipients were involved in the IGL project. The initial rollout had limited functionality; the system only supported the payment of child benefits and there was a limited volume of transactions.

54. We agreed the deployment of this limited project with POCL and DSS. It was rolled out in accordance with the project plan and acted as a pilot for the wider project. The staff of the ten post offices involved were all briefed that they would be in this initial pilot stage and there was extensive involvement of Pathway, POCL and DSS in the IGL project as reflected in the Pathway Monthly Reports.

**Q13. Please set out the challenges and successes of the project.**

55. The aim of the IGL project was to receive feedback before the wider rollout on a number of key factors, including ease of deployment, the efficacy of the software provided, and the adequacy of training for end-users (sub-postmasters). Large-scale infrastructure projects such as these are almost always iterative: you run a pilot, receive feedback and use that feedback to amend your product, processes and training materials ready for a wider rollout. In this respect, IGL was a success as we received feedback on many aspects of the project, including functional aspects of the product, which fed into later changes.

56. There were inevitable challenges in the IGL meeting timescales and getting the requisite resources released at the right time. Pilot projects such as IGL are likely to have challenges as they represent the first time that the project defined in the contract is physically and technically delivered. These challenges, however, gave us opportunities to review resourcing and improve many aspects of the Pathway Project. For example, in the *ICL Pathway Limited Board Minutes of the Board Meeting held on 25 November 1996* (WITN0388\_01/09)<sup>11</sup>, under Programme Update it states:

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<sup>11</sup> ICL Pathway Limited Board Minutes of the Board Meeting held on 25 November 1996, page 4 para 96/73(c) {FUJ00077844} (WITN0388\_01/09)

*"Mr Todd enquired whether Mr Austin had adequate resources and skills available and Mr Austin said generally this was the case although he would like more help from ICL's Windows NT Centre of Excellence. Mr Todd would follow this up."*

57. As illustrated from the above extract, my role was to help solve issues such as resource problems and ensure we had sufficient access to skills that were not within Pathway's direct control, for example from ICL or Fujitsu. A project of this scale and complexity will likely have issues that need addressing, whether these issues relate to software, infrastructure or training processes. The issues with Pathway were addressed through appropriate governance processes internally and externally including joint project meetings with the customer. Pathway faced what are normal challenges in the course of a large-scale project and we dedicated significant time and resource into finding solutions.
58. The success of the IGL project is evident from the fact that the key milestones were achieved by their respective deadlines. Given the complexity of the project this was a noteworthy achievement.

**Subsequent Releases and Delays**

**Q14. Please set out what you understood to be the Releases that took place during 1997-1998**

59. The software functionality and integration developed by Pathway for the Pathway Project was developed and updated throughout the life of the project, resulting in a series of successive software releases. The process to develop and integrate software was the responsibility of the Pathway team. Releases would be defined and agreed with the customer project team and submitted to a normal test cycle including

customer acceptance tests. Issues identified would be logged and prioritised internally and with the customers' input. The processes deployed were consistent with Pathway and the customers' normal business practices. As shown in the Monthly Reports, an overview of the status of issues was shared and the process of tracking the resolution of these issues was in place with appropriate quality assurance steps. Final sign off of releases was the responsibility of the customers, POCL and DSS, as documented in these reports.

60. Since between 22 and 27 years have passed since this time period, I have no recollection of the specific releases or their timing. However, having reviewed the disclosure documents provided by the Inquiry, my understanding is that it was clearly anticipated that Release 1 would occur in phases throughout 1997, with Release 2 following in January 1998. It would appear from the documents that the timetable for Release 2 slipped such that this release did not in the end take place in 1998. The documentary evidence is clear that Release 1 took place, at least in part, during the period 1997-1998.

**Q15. Please set out the challenges that the project faced during this period.**

61. Please refer to my answer to Q16 below.

**Q16. Please explain why the project was delayed, including who was responsible.**

62. I believe that the challenges the project faced in 1997-1998 directly contributed to the subsequent delays in delivering the project. Because of this, I have combined my answers to Questions 15 and 16.

63. In November 1997, DSS and POCL served on Pathway a formal notice of breach of contract<sup>12</sup>, which Pathway denied. In response, Pathway issued POCL and DSS with a declaration, which stated that the programme in its current form was '*non-viable commercially*' and that to compensate Pathway for the delays suffered, Pathway required either a 30% price increase for the contract or a 5% price increase and a 5 year extension to the contract term.<sup>13</sup> This resulted in a series of ongoing negotiations over the future of the project.
64. In March 1998, I sent Peter Mathison, then-Chief Executive of the Benefits Agency, a position paper<sup>14</sup> that set out our formal position on these issues and described clearly and firmly the challenges that we faced in trying to roll out the Pathway Project. It was important that we had a clear statement of our position that could be shared with the executive teams of each customer organisation, as well as any interested parties from government. It was clear to us that we were going to struggle to reach a resolution on these issues with the direct executive teams from POCL and DSS, but we needed to ensure at least that all parties were aware of our position and that there was no chance of it being misrepresented.
65. I have re-reviewed this paper as part of my preparation for producing my witness statement and I maintain that it accurately describes the issues we faced at this time and would refer the Inquiry to consider this in full. I have set out below the key challenges that the project faced and the delays that they caused, and have reproduced relevant extracts from the position paper.

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<sup>12</sup> NAO Report dated 18 August 2000 "The Cancellation of the Benefits Payment Card project", page 2, para 6 (WITN0388\_01/03)

<sup>13</sup> ICL Pathway Bringing Technology to Post Office Counters & Benefit Payments - Monthly Progress Report, December 1997, page 14 {FUJ00058166} (WITN0388\_01/10)

<sup>14</sup> Letter to Peter Mathison dated 6 March 1998 enclosing a Position Paper dated 5 March 1998 {POL00031117} (WITN0388\_01/11)

## Design Interference

66. One of the benefits of the PFI contract was that it was intended to allocate design control solely to Pathway. However, when the contract was signed key parts of the design specification had not been finalised.<sup>15</sup> As a result, the detailed design requirements were instead refined during the course of the project. We felt at the time that DSS and POCL both '*interfered in the design process*' to such an extent that it resulted in significant delays.
67. Under the PFI, Pathway was supposed to have autonomy over the project and the customers should have been focused on what the outputs were (e.g. the actual product in the post offices) as opposed to how those outputs were delivered. However, we felt that the customers were treating the contract as a standard design and build, specify and operate contract, and had frequent input on the design process. The NAO Report also noted that the decision not to finalise the detailed requirements before contract award was '*a major contributor to the later problems of the project*'.<sup>16</sup> The resulting enhancements to the design of the project had a '*ripple effect on the time and cost to build and operate the system*'. Pathway was forced to acquiesce to '*avoid protracted negotiations and make as little use as possible of any contractual protections that may involve conflict, in order to minimise delay*'.<sup>17</sup> We were still at the start of the production line in terms of the Pathway Project and so these issues would not have affected the eventual quality of the end-product, but they did have the propensity to cause delay. We were keen to work to the projected

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<sup>15</sup> NAO Report dated 18 August 2000 "The Cancellation of the Benefits Payment Card project", page 8, para 21(WITN0388\_01/03)

<sup>16</sup> NAO Report dated 18 August 2000 "The Cancellation of the Benefits Payment Card project", page 8, para 21(WITN0388\_01/03)

<sup>17</sup> Letter to Peter Mathison dated 6 March 1998 enclosing a Position Paper dated 5 March 1998, page 3 {POL00031117} (WITN0388\_01/11)

timeline agreed with the clients, and so we were reticent to make a stand which would cause an inevitable delay to the rollout of the project.

### CAPS

68. We believe a primary reason for the delay of the Pathway Project and the challenges it faced was due to the DSS and the impact of its own internal technology delays, particularly concerning CAPS (the Government's Customer Accounting Payment System). CAPS was intended to feed benefits payment data to Pathway's Card systems, and so it was important for the project that CAPS was available and operational in line with the project timeline. The contract provided that the CAPS payment programme would be available to Pathway in one single feed for integration testing on 1 September 1996.<sup>18</sup> As set out in the position paper, the CAPS computer systems programme was not delivered in accordance with the timescales set out in the Benefit Migration Plan. It was not until February 1997 that Pathway was notified of the delay to the CAPS programme. The March 1997 Pathway Board meeting minutes estimated a '*£10m reduction in ICL Pathway's revenue as a result of the CAPS slippage.*'<sup>19</sup>

69. The following passage is an extract from the *ICL Pathway Limited Board Minutes of the Board Meeting held on 25 November 1996* (WITN0388\_01/13) :

*"The Board noted with concern that CAPS performance - namely the benefit rollout programme beyond child benefit - had been frozen by the DSS. This could delay the live trial date of April and possibly the Go Live National Rollout date of July 1997, and could have ramifications on Pathway revenues and also*

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<sup>18</sup> Appendix 6, NAO Report dated 18 August 2000 "The Cancellation of the Benefits Payment Card project", page 95 (WITN0388\_01/03)

<sup>19</sup> ICL Pathway Limited Board Minutes of the Board Meeting held on 14 March 1997, page 2, para 97/12(d) {FUJ00077848} (WITN0388\_01/12)

*some recrimination on causes which might involve Pathway and ICL. Mr Austin subsequently said in the meeting that CAPS delays had been an underlying problem all along for the customer."*

70. The availability and implementation of CAPS was fundamental to the viability of the Pathway Project. I stated in the position paper that *'had Pathway known the true position it is doubtful whether Pathway would have entered into the Contract'* and I maintain this. However, I set out in further detail at paragraph 109 below the reasons why we did not consider it prudent to sue for a breach of contract caused by these delays. The issues we experienced with CAPS demonstrates the lack of transparency exhibited by the DSS and the knock-on effect on Pathway's adherence to the contractual terms of the tender. Had DSS informed us of the delay to the CAPS programme, Pathway would have been relieved of *'the coercive effect of the aggressive timetable'*, which *'drove Pathway to minimise delay and absorb additional cost without proper recourse.'*<sup>20</sup>

#### DSS/POCL relationship

71. In the position paper (WITN0388\_01/11), I emphasised that Pathway entered into a contract with what it understood was a unified client comprised of POCL and DSS. In reality, we quickly realised after the project began that the clients' core business ethos, objectives and priorities were not aligned. This resulting conflict became *'one of the primary causes'*<sup>21</sup> of the project's delay and was a considerable challenge to the success of the project.

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<sup>20</sup> Letter to Peter Mathison dated 6 March 1998 enclosing a Position Paper dated 5 March 1998, page 9 {POL00031117} (WITN0388\_01/11)

<sup>21</sup> Letter to Peter Mathison dated 6 March 1998 enclosing a Position Paper dated 5 March 1998, page 9 {POL00031117} (WITN0388\_01/11)

72. I acknowledge that Pathway must take responsibility for entering into a contract with two distinct customers. With the benefit of hindsight, we should not have done this. We did not fully anticipate the diverging priorities of what we thought were two aligned government entities. Although we entered into the contract in good faith, it created complexities that we did not expect, albeit perhaps we could have had greater foresight as to the potential issues that could arise.

Post Office infrastructure

73. There were significant issues with the Post Office's own infrastructure. During installation work, it became clear that many post office premises were not fit for hardware installation and DSS/POCL did not factor this into the timeframe for completion of the contract.

74. In the December 1997 Monthly Report, these issues were highlighted as '*critical*' to resolve. The report again noted the '*difficulties within the Post Office estate*' regarding '*the poor physical condition of the vast majority of the Post Offices*', and that '*the appetite to confront this head on within POCL has yet to be seen*'.<sup>22</sup> By March 1998, the Monthly Report stated that these issues had escalated into a '*major dispute*': '*the total cost for putting their estate into a fit purpose for automation is on the wrong side of £40m*'.<sup>23</sup>

75. In the same month, the issue was also set out clearly in the position paper:

*"POCL could not reasonably have believed that the Post Office premises were fit for automation and did not give Pathway a proper opportunity to investigate*

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<sup>22</sup> ICL Pathway Bringing Technology to Post Office Counters & Benefit Payments - Monthly Progress Report, November 1997, page 6 {FUJ00058165} (WITN0388\_01/14)

<sup>23</sup> ICL Pathway Bringing Technology to Post Office Counters & Benefit Payments - Monthly Progress Report, February 1998, page 2 {FUJ00058169} (WITN0388\_01/15)

*the physical condition of the POCL premises for itself before entering into the contract ... it would appear to be impossible to automate all post offices in their current role."*<sup>24</sup>

76. We felt that this was yet another issue which was not fully declared at the time of the tender, but that resulted in a delay and additional costs beyond Pathway's control.

#### Bugs, defects and other issues

77. In any IT project, there will be bugs, defects and other issues to resolve. These issues become apparent through product testing and trial launches and are expected as part of the product and service development process. This was no different on a major national infrastructure project such as the Pathway Project. To deal with these issues as they arose, Pathway had a clear process as part of its existing governance structure. Each issue encountered was reviewed, prioritised according to severity and then addressed by the team and all releases were ultimately signed off by POCL and DSS.

78. During the monthly board meetings we would have reviewed the total outstanding number of bugs, their priority and also a general description of what they were. We were assured through our governance and oversight processes that the fixes for these were being handled appropriately. The technical team was experienced in both diagnostics and resolving these issues.

79. The progress of these fixes was well documented in the Monthly Reports. By way of example, the December 1997 monthly report set out the following issues: *'live experience over the last few weeks of Release 1c has as expected thrown up a list*

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<sup>24</sup> Letter to Peter Mathison dated 6 March 1998 enclosing a Position Paper dated 5 March 1998, page 8 {POL00031117} (WITN0388\_01/11)

*of operational, procedural and minor software errors which require careful attention. The total list is higher than expected and the pressure now falls on customer service to manage the operational introduction of the various fixes'.<sup>25</sup> The January 1998 Monthly Report provided an update on these issues: 'Substantial progress has been made with Release 1c over the last four weeks with a large number of major operational issues successfully fixed. This system is now much more operationally easy to use by the counter staff and this should help considerably...'<sup>26</sup>*

ICL's own delays and development activities

80. There were some delays on the Pathway Project that resulted in adjustments to the programme. For example, ICL suffered delays to the scheduled software releases and greater-than-expected difficulty in supporting these new releases. In the December 1997 Monthly Report, the Board noted that *'considerable effort has been expended in identifying the hardware required to support the NR2 plan... the majority of this additional equipment must be purchased and installed within the next few weeks otherwise serious delays will occur. This represents a considerable challenge.'*<sup>27</sup> These issues continued into 1998, where the Monthly Report for March noted *'severe problems with EPOSS testing within Pathway and linking through to reference data within POCL have caused a delay of between three and five weeks to the schedule... this area will remain extremely difficult for some time.'*<sup>28</sup> Every time

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<sup>25</sup> ICL Pathway Bringing Technology to Post Office Counters & Benefit Payments - Monthly Progress Report, December 1997, page 2 {FUJ00058166}(WITN0388\_01/10)

<sup>26</sup> ICL Pathway Bringing Technology to Post Office Counters & Benefit Payments - Monthly Progress Report, January 1998, page 2 {FUJ00058167} (WITN0388\_01/16)

<sup>27</sup> ICL Pathway Bringing Technology to Post Office Counters & Benefit Payments - Monthly Progress Report, December 1997, page 11 {FUJ00058166} (WITN0388\_01/10)

<sup>28</sup> ICL Pathway Bringing Technology to Post Office Counters & Benefit Payments - Monthly Progress Report, March 1998, page 2 {FUJ00058170} (WITN0388\_01/07)

that there were challenges like these they were addressed by the Pathway executive team.

These issues had a knock-on effect on the timescales and, at times, contributed to the project's delays. However, the ICL Board made it very clear that Pathway was not limited to Pathway resources and that it could access ICL/Fujitsu resources as required to make the project work. Although there was a plan and a budget for this project, we were determined to make the project a success and so the use of additional resources was encouraged and utilised. Providing additional resource takes some time in terms of recruitment, training and familiarisation, and so our recruitment efforts would have involved some delay.

#### Change of government

81. In May 1997, during the initial stages of the Pathway Project, the Labour party won the general election and formed a government, taking over from the previous Conservative government. The Conservative Secretary of State for Social Security, Peter Lilley, had championed the upgrade of the benefits payment systems since the Conservative Party Conference in 1994. However, following the general election we felt that there was no longer a political champion of the project within the new government. This contributed to further delays as there was no clear impetus to push the project, particularly the smart card, forward from within DSS.

**Q17. Please explain any concerns regarding profitability of the project at this time.**

82. At the time of the contract award, Pathway was aware of the risks of a PFI contract and that we were accountable for those risks. We were conscious that the project would not become profitable for Pathway until we had commenced rollout of the

project<sup>29</sup>, and that this added a time pressure to the project. Unfortunately, a number of factors including the delays suffered as a result of DSS delivering CAPS, the quality of the Post Office estate, and the effect of customer indecision had a direct influence on the project timeline and therein the profitability of the project for Pathway. As is set out in Pathway's December 1997 Monthly Report:

*"Given the lack of planned roll out activity in 1998, we have a duty to mitigate our own costs and those of our subcontractors. That means battening down the hatches and, in some cases, getting rid of people we will not need for 12 months."<sup>30</sup>*

83. Under the PFI contract, Pathway could not begin receiving revenue until the services were operational and being used in post offices nationally. The financial issues Pathway faced are explained in my March 1998 position paper:<sup>31</sup>

*"The global effect of all these issues is that Pathway is facing revenue loss and increased costs which run into hundreds of millions of pounds... the plain truth is that, despite all Pathway's efforts and achievements, Pathway will not be able to earn its rightful revenue because CAPS is not available."*

84. Under the terms of the PFI, Pathway secured loan facilities of £200 million<sup>32</sup> to fund the cost of performing the contract. A delay in rollout meant an inevitable delay in revenue for Pathway and necessitated that Pathway draw against the loan at a much faster rate than anticipated. These concerns were escalated to the Board of Directors

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<sup>29</sup> See Horizon ITT, Schedule A6, para 2.3: *"The CONTRACTOR shall only be entitled to commence charging following the Operational Trial Acceptance Date"* {POL00028118} (WITN0388\_01/17)

<sup>30</sup> ICL Pathway Bringing Technology to Post Office Counters & Benefit Payments - Monthly Progress Report, December 1997, page 13 {Fuj00058166}(WITN0388\_01/10)

<sup>31</sup> Letter to Peter Mathison dated 6 March 1998 enclosing a Position Paper dated 5 March 1998, page 11 {POL00031117} (WITN0388\_01/11)

<sup>32</sup> Letter to Peter Mathison dated 6 March 1998 enclosing a Position Paper dated 5 March 1998, page 11 {POL00031117} (WITN0388\_01/11)

of ICL, as well as Pathway's shareholders. This is why Pathway engaged in a series of discussions with the government on resetting the terms of the contract.

85. These discussions culminated with a formal declaration of our contractual position on 19 December 1997, set out in more detail at paragraph 63. My position paper of March 1998<sup>33</sup> built upon this declaration, as set out in more detail in my responses to Q15 and Q16 above.

86. In addition, all of the challenges that the Pathway Project faced that had the potential to cause delay to the project (and which I have explained in my answers to Q15 and Q16 above) had an impact on its profitability.

### **Renegotiation of the Pathway Project**

**Q18. What was your understanding of the reasons for DSS's withdrawal from the project?**

87. My view at the time was that the DSS was struggling with its own technology projects and had assessed that a clean break from the commitment to the benefit card system would allow it to focus on its other priorities and would enable DSS to be disconnected from the project as a primary contractor. As I mentioned in response to Q16 above, the project did not have a DSS champion in the new Labour government. The DSS's withdrawal aligned with the new political environment and avoided the optics of Labour taking on responsibility for a prior Conservative government initiative.

88. It was also clear to the three parties at the time that the contractual arrangement was not working effectively. The issues between the parties were frequently referenced in the Monthly Reports. The December 1997 report noted that *'three way or often four*

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<sup>33</sup> Letter to Peter Mathison dated 6 March 1998 enclosing a Position Paper dated 5 March 1998 {POL00031117} (WITN0388\_01/11)

way debates where gridlock prevents anything happening<sup>34</sup>, and that 'the alternative to a new deal is termination, which means we sue them and they sue us, a press bonanza, PFI fallout...'35. The March 1998 report stated that there was 'a harder edge to almost all programme interactions with PDA and sponsors.<sup>36</sup> and that 'some of the tensions between the customers over not resolving contract issues are visible'.<sup>37</sup>

**Q19. What was your understanding of the assertion referred to in BEIS0000283 that ICL was in breach of contract and on what basis was this assertion rejected?**

89. I understood that DSS believed Pathway to be in breach of contract due to the delays suffered by the project and the impact that this had on the timescales for delivery. However, we strongly rejected this accusation, as can be seen in Exhibit WITN0388\_01/18 (*Letter from Keith Todd to Stephen Byers MP dated 16 September 1998*). At that time, we felt that we were addressing all requirements of the contract but that we were being frustrated in our delivery by the other parties to the contract.

90. This position is supported by a number of letters that I received from colleagues and professional acquaintances at the time of the breakdown of the contract and once news of the withdrawal of DSS was publicised. I have exhibited these letters to my witness statement as Exhibits WITN0388\_01/19 to WITN0388\_01/21.

91. In Exhibit WITN0388\_01/19, a letter from Sir David Hancock to me dated 3 June 1999, Sir David notes that '*ICL were very badly treated by the Benefits Agency and*

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<sup>34</sup> ICL Pathway Bringing Technology to Post Office Counters & Benefit Payments - Monthly Progress Report, November 1997, page 4 {FUJ00058165} (WITN0388\_01/14)

<sup>35</sup> ICL Pathway Bringing Technology to Post Office Counters & Benefit Payments - Monthly Progress Report, December 1997, page 15 {FUJ00058166} (WITN0388\_01/10)

<sup>36</sup> ICL Pathway Bringing Technology to Post Office Counters & Benefit Payments - Monthly Progress Report, February 1998, page 11 {FUJ00058169} (WITN0388\_01/15)

<sup>37</sup> ICL Pathway Bringing Technology to Post Office Counters & Benefit Payments - Monthly Progress Report, February 1998, page 11 {FUJ00058169} (WITN0388\_01/15)

*the Post Office'*. Sir David was a highly respected senior civil servant and it was telling that an individual who had no economic benefit in Pathway believed we were being very badly treated. Similarly, in Exhibit WITN0388\_01/20, a letter from Sir Michael Butler to me (the former chairman of Pathway and an experienced civil servant and diplomat) dated 4 June 1999, Sir Michael states that *'it was an amazing achievement to steer this wretched government machine home to port'*. These letters exemplify the difficulty experienced by ICL in negotiating with government, and the collective frustration felt even by those who were indirectly involved with the project.

92. This frustration is set out most clearly in a letter dated 1 June 1999 from Tadashi Sekizawa, then-Chairman of Fujitsu (Exhibit WITN0388\_01/21). Mr Sekizawa stated that he was *'fiercely enraged with the UK Government, that you had to spend so much of your time, effort and costs in vain, all because of the irresponsibility of their Departments, blaming it on each other.'* Mr Sekizawa also acknowledged that *'ICL is not much to blame regarding the failures of the project in the past'* but *'the actual impact on our performance is significant.'*

93. I believed – and still maintain – that Pathway had entered into the contract with the intention to deliver it successfully and had not breached this. The issues we faced in making the Pathway Project led to considerable pressure on our performance under the contract.

**Q20. Are you aware of the suggestion in BEIS0000255 that ICL was "set up as the fall guy to take the blame for project delays"? What did you understand to be the positions of the various parties in this respect?**

94. I do not believe that the DSS set out to deliberately damage ICL or blame ICL for the delays to the project. However, the damage to ICL was an inevitable by-product of

the DSS's reluctance to own up to the implications of its failings. I found it incredibly frustrating that issues such as the delay to the CAPS programme were not properly considered by the DSS to be a major factor in the breakdown of the contract.

95. It is clear from the documentary evidence that Pathway, DSS and POCL disagreed significantly on the causes of the delays to the project. These disagreements led to my writing the March 1998 position paper (WITN0388\_01/11) to try to resolve the issues we faced.

96. Ultimately, we felt that ICL, Fujitsu and POCL were all committed to finding a positive solution. This is exemplified by Mr Sekizawa's sentiment in Exhibit WITN0388\_01/21:

*"it would be more beneficial for the Fujitsu Group to tolerantly negotiate with the government, and keep our chance to try recover the past debt with our own efforts. [...] We must learn from our experiences, and thus gather all of the strengths within the Fujitsu Group to overwhelm our challenges, and achieve profit for ICL in the total project... this should be an outstanding infrastructure for the UK Government and the Post Office."*

97. At times during the negotiation process, I felt that DSS were not committed to finding a positive solution to the issues we faced. This lack of commitment, coupled with the reluctance of DSS to acknowledge its own failings (particularly with CAPS), led to the belief that ICL was being set up to bear the brunt of the blame.

**Q21. What is your view of the NAO report on the cancellation of the Benefits Payment Card?**

98. I can see from the date of the NAO report that it was published around the time at which I left ICL. However, I am not aware of the material that was provided to the

NAO or who they interviewed to gather evidence. I do not know whether the NAO had access to my position paper (WITN0388\_01/11) or whether they interviewed individuals such as Sir Michael Butler.

99. I do not recall being interviewed by anyone at the NAO nor being asked to provide any comment on the report before its publication. I would have been happy to assist the investigation. However, I have located a reference within the minutes of a Pathway monthly board meeting dated 15 September 1999 (WITN0388\_01/22), to my seeing a "*Mr Bourne of the National Audit Office*" where I noted that "*in this process ICL had to retain credibility and try to avoid any criticism of its position.*" However, due to the passage of time I am unable to provide any further information on this meeting, or ICL's engagement with the NAO during the course of its investigation.

100. I did not read the report at the time it was published, but I have read it as part of my preparation for this witness statement. I am surprised that the NAO did not consider the CAPS issues to be a significant factor in the breakdown of the contract. The report acknowledged that CAPS compounded '*the complexity, challenges and risks of the programme as a whole*' but that the NAO '*found no evidence that from February 1997 onwards the releases of the CAPS software had delayed the implementation of the Payment Card.*<sup>38</sup> I find this conclusion remarkable as the CAPS programme was delayed and this directly affected Pathway's ability to earn revenue.

**Q22. What is your response to the allegations in BEIS0000275 that (i) ICL were fudging their financial reporting (ii) that you would lose your job should Horizon**

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<sup>38</sup> NAO Report dated 18 August 2000 "The Cancellation of the Benefits Payment Card project" page 57 and page 59, paras. 3.16 and 3.20 (WITN0388\_01/03)

**“go down” and (iii) that Fujitsu would divest themselves of ICL?**

101. I have reviewed this document as part of my preparation for this witness statement, but I do not recall Katherine Hathaway and I know that there was absolutely no 'fudging' of ICL's financial reporting. I am not clear what the basis for such a suggestion is, but it may be that Ms Hathaway was referring to the accounts filing date, which may have been delayed (although I cannot now recall this).

102. This period of renegotiation was tense at times and there were undoubtedly difficult conversations with Fujitsu regarding the future of the project. However, at no point did I fear that I would lose my job over the project. We were determined to find a path forward that avoided a legal dispute with the government and Fujitsu supported us to try and salvage the project and return it to profitability. I was most impressed with the support and understanding Fujitsu provided.

103. There was a risk that Fujitsu might divest itself of ICL, not least owing to the fact that the withdrawal of DSS cost ICL (and, inter alia, Fujitsu) £180 million, but I was confident that we would find a resolution. As set out in WITN0388\_01/23, a record of my phone call to the British Ambassador to Japan in January 1999, I expressed my concern that Fujitsu would consider selling ICL if the Pathway Project failed. We were conscious that if we did not come to an agreement to progress with the Pathway Project there might at best be an impact on future inward investment, and at worst the break-up and sale of ICL. It is clear from this document that the ambassador privately agreed with my assessment. It was critical that all in government understood the severity of the situation for ICL and that the issues would be dealt with properly and that we would not be brushed aside.

104. The focal point of all conversations I had with Fujitsu were about how we could negotiate a way forward that would enable the project to be successful for all parties. The revised contract had POCL as the single contractor, eliminating the significant issues that we faced with two customers. The new contract also converted the agreement from a PFI to a more standard design, build and operate contract. Through the negotiations, including my discussion with the Ambassador, my aim was to try and get the government to act expeditiously and be more aware of the seriousness of the situation, which would not have just affected the Pathway Project but posed a risk to the UK as an investment location and as a pioneer of PFI. An extended legal battle would have made the project inoperable and work would have been suspended. This would have had an impact on ICL's planned float and was another reason that ICL eventually accepted the £180 million hit. In the end, a resolution was achieved in May 1999.

105. Ultimately, the Pathway Project may have been ICL's *'largest and most significant'*<sup>39</sup> contract, but it was not the only project on ICL's roster at that time. In May 1998, ICL entered a three-year alliance with Microsoft as part of a *'collaboration with software products in four 'go to market' areas (Retail, Education, Infrastructure and Public Sector)*<sup>40</sup>; a deal which was expected to create 1000 new jobs over its lifetime. The business was described in WITN0388\_01/26 as *'making good progress'*<sup>41</sup> despite the *'huge drain on resources'* from the Pathway Project. I was confident that ICL could leverage its other projects and continue on a positive trajectory.

**Q23. What impact did the withdrawal of DSS have on the viability of the project?**

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<sup>39</sup> Report A, ICL Plc Board Minutes of the Board Meeting held on 26 November 1998, page 2 para (f) {FUJ00058157}(WITN0388\_01/24)

<sup>40</sup> ICL Plc Board Minutes of the Board Meeting held on 28 May 1998, page 2, para 93/13 (c) {FUJ00058155}(WITN0388\_01/25)

<sup>41</sup> Email from Katherine Hathaway to David Sibbick & ors. dated 11 May 1999, page 1 {BEIS0000275} (WITN0388\_01/26)

106. After the withdrawal of DSS, the Pathway Project was reset in an agreement with POCL in May 1999. From that point onwards, the withdrawal of DSS had no further impact on the project - the project was now the sole responsibility of POCL and Pathway. The impact of the DSS's withdrawal was that the contract was simplified in that Pathway now had one customer with one distinct aim.

107. The reset project was not renegotiated as a PFI contract. The proposal to replace the PFI with a standard design, build and operate contract came from the Treasury (whose involvement is explained in the following paragraphs) and was not requested by Pathway. This meant that Pathway no longer carried the PFI revenue risks of the project. DSS were still involved with the project to the extent that its systems were linked with the banking service to support social security payments. These arrangements were then POCL's responsibility. DSS was no longer a client of Pathway and I felt that the dependency on DSS for the payment system did not cause any further direct impacts on revenue.

**Q24. What was the reaction from Fujitsu's corporate leadership?**

108. Fujitsu had full visibility on the progress of the Pathway Project. As we started experiencing difficulties, there was concern from Fujitsu's leadership about ensuring the project was delivered successfully. As set out in the letter from David Sibbick to Secretary of State, Mr McCartney, dated 9 April 1999 (WITN0388\_01/27), prior to the formal decision to withdraw from the project, Fujitsu were preparing to make a provision of £300 million in the ICL accounts for 1998-1999: *'sufficient to make that company insolvent.'* This provision would also flow through to the Fujitsu consolidated accounts. The success of the Pathway Project had clear commercial implications for

Fujitsu. This concern increased over time as the relationship between Pathway and the customers started to deteriorate.

109. When we started having issues with the contract and the negotiations over the future of the contract began in earnest, I had a long conversation with Michio Naruto, the then-deputy chair of Fujitsu and ICL Chairman regarding our options. I explained that we could not withdraw from the project without being in breach of the contract, and as such our options were to sue the Government for breach of contract or look for a compromise and engage constructively with negotiations. Suing the government would have created significant complexities and delayed the intended float and I did not consider it necessary – it was very much an option of last resort. As is evidenced in Exhibit WITN0388\_01/21, we came to the agreement to continue with negotiations and find an amicable solution.

110. At all times I believe that Fujitsu were supportive of doing the right thing for the customer as well as supporting ICL and Pathway's management, who they believed were doing the best that they could in difficult circumstances. I was impressed with the Pathway executive team who kept going through this very difficult time, trying to deliver the project while the tension with the customers was ongoing and the negotiations continued.

**Q25. Please describe the discussions that took place with Her Majesty's Government at this time?**

111. I understand that this question relates to the discussions that took place in 1998-1999 resulting in the withdrawal of DSS from the Pathway Project.

112. There were approximately 18 months to two years' worth of discussions, taking place either side of the general election in May 1997. We sought constructively to find a

solution that worked for each of the parties and our priority at all times was the success of the Pathway Project. The discussions were extensive at both a political and an executive level, including my phone call to the British Ambassador to Japan in January 1999 (set out in more detail at paragraph 103 above). There was also a visit from Mr Naruto and myself to Tony Blair in April 1999 to express our desire to find an amicable solution to the issues the project faced. In March 1998, we clearly articulated Pathway's position in writing in the position paper so that there would be no ambiguity or misunderstanding for all of the parties involved.

113. POCL were supportive of reaching a resolution but DSS needed more encouragement to get to that point. There was a lingering tension between the parties during these discussions as the POCL management team felt aggrieved at how they had been treated in the settlement. At times, discussions were fraught and neither government department wanted to fund the solution. The involvement of the Treasury finally helped to facilitate the solution. However, there was a consistent determination from ICL and POCL to find a way forward to make the Pathway Project a success.

**Q26. What was your understanding of the different positions within Government?**

114. The objectives of the Pathway Project differed between government departments. One of the issues we faced was that POCL was funded by the Department of Trade and Industry ("DTI"), whereas DSS had its own funding from the Treasury. For POCL and the DTI, the project was vital for reinventing and regenerating the Post Office for the new millennium. For DSS and the Treasury, the aims were to reduce benefit fraud and upgrade the existing infrastructure to pay benefits recipients in the most efficient way.

115. I felt that the project issues, particularly from the DSS side, were compounded by the election of a new government in May 1997, which did not want to be contaminated by a problem that it could reasonably position as being created by its Conservative predecessor.

116. Steve Robson, Second Permanent Secretary to the Treasury, was instrumental in finding a solution. I recall his involvement was pragmatic and he was able to provide new funding from the Treasury to support a resolution of the dispute, which took pressure off DSS and POCL.

**Q27. Overall, to what extent did the withdrawal of DSS have on the pressures (time, financial and/or other pressures) to get Horizon in place and rolled out?**

117. The withdrawal of DSS simplified the project by creating one single customer with whom the revised baseline plan was agreed. I do not consider that the withdrawal of DSS affected the pressures to roll out the Pathway Project. Moreover, once the contract was renegotiated both parties knew what was required of them and had an agreed timetable for rollout.

**Q28. What impact did the decision to scrap the benefits payment card undermine the fit of the product to the problem? Was the architecture still appropriate?**

118. The payment card was just one aspect of the Pathway Project. It was separate from the primary infrastructure of the project and we were able to restructure the project to exclude the payment card. As such, I do not believe that the decision to scrap the benefits payment card undermined the fit of the product for automation. The product was still fit for purpose: the physical architecture, the software system and the accounting behind it still worked with an alternative payment mechanism.

**Q29. Please describe the process involved in reaching the codified agreement with POCL.**

119. The outline<sup>42</sup> that POCL provided with its 24 May 1999 proposal document gave a deadline of 16 July 1999 to agree a project plan. The work in agreeing a project plan was undertaken by the Pathway executive team and approved by the Pathway board and the POCL executive team in July 1999 as agreed. A huge amount of work went into the realignment of that contract in order to make it into a project and plan that would work for both ICL and POCL.

**Q30. To what extent did POCL define the requirements of the project?**

120. The requirements of the project were discussed with POCL and agreed between both parties. These conversations fed into the new project plan and codified contract. POCL was the primary customer and the driver of requirements and was involved in all aspects of the revised plan. I recall that there were weekly meetings on various aspects of the new plan involving POCL and Pathway.

**Summer of 1999**

**Q31. Please describe the position with respect to the Horizon Project by the summer of 1999?**

121. In order to assist with my response to this question I have relied upon the documents provided to me by the Inquiry, as due to the passage of time I do not now recall the status of the Project at that time.

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<sup>42</sup> Letter to Keith Todd from Post Office Counters Ltd, ICL plc and ICL Pathway Limited dated 24 May 1999, page 3 {POL00028646} (WITN0388\_01/28)

122. Following the signature of the codified agreement on 16 July 1999, by the summer of 1999, both ICL and POCL were working on implementation of the Pathway Project as a priority. As set out in *ICL Pathway Bringing Technology to Post Office Counters & Benefit Payments - Monthly Progress Report, June 1999* (WITN0388\_01/29), POCL was still unhappy about the way it was treated by the government and DSS and a lot of work was going into improving the relationship between Pathway and POCL under the new contract.

123. The main priorities of Pathway at this time were decommissioning the benefits payment card aspect of the project, setting up the live trial, and working towards formal acceptance of the Pathway Project ("Acceptance"). Acceptance<sup>43</sup> indicated the point at which POCL was content that Pathway had fulfilled its contractual obligations in the development of the Pathway Project. POCL agreeing Acceptance of the product would, under the terms of the contract, trigger the national rollout of the Pathway Project and payment to Pathway.

124. From the documents provided to me by the Inquiry, I note that Acceptance would be reached by POCL agreeing that Pathway had met a specific set of contractual targets, which had to be successfully achieved within what was termed the Acceptance Phase<sup>44</sup>. These targets included the completion of a number of 'acceptance tests' and the expiry of both the 'Core Observation Period' (to last 8 weeks from 31 May 1999) and 'Operational Trial Review Period' (beginning 3 weeks immediately following the end of the Core Observation Period). The Acceptance

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<sup>43</sup> As set out in: sch. 6 to the Letter from Keith Baines to Bruce McNiven & Ors. Dated 11 June 1999, page 21 {POL00028523} (WITN0388\_01/30); sch.A11 to the Codified Agreement made between Post Office Counters Ltd and ICL Pathway Limited dated 28 July 1999, page 1 {FUJ00000071} (WITN0388\_01/31)

<sup>44</sup> As set out in: sch. 6 to the Letter from Keith Baines to Bruce McNiven & Ors. Dated 11 June 1999, page 21 {POL00028523} (WITN0388\_01/30); sch.A11 to the Codified Agreement made between Post Office Counters Ltd and ICL Pathway Limited dated 28 July 1999, page 1 {FUJ00000071} (sWITN0388\_01/31)

Phase had a deadline of 16 August 1999, following which national rollout was scheduled to commence on 23 August 1999.

125. Within the Acceptance targets there was a maximum threshold for defects (or 'incidents') raised by POCL in order for Acceptance to be achieved. The specification stated that Acceptance would not be achieved if there were (i) one or more high severity deficiencies or (ii) more than 20 medium severity deficiencies ('category A' and 'B' faults, respectively). There was also an absolute limit of 10 medium severity deficiencies in respect of any one Acceptance Specification (as defined in Schedule 6 of WITN0388\_01/30).

126. There were consequences for failing to achieve these targets: if Acceptance was not reached by the end of the Operational Trial Review Period, Pathway would be entitled to an additional three months to remedy the defaults and the project would undergo additional testing (the "Second Acceptance Test"). If Acceptance was not achieved at the end of the Second Acceptance Test, POCL would have the right to terminate the agreement. There was no 'de facto' or deemed acceptance: POCL had to formally agree that the project was sufficiently acceptable for it to be accepted and rolled out.

127. Under the new agreement, there was a final deadline for Acceptance of 15 November 1999<sup>45</sup>. A payment of £68 million was due to be paid to Pathway upon Acceptance and so it was a crucial part of the project for ICL.

**Q32. What was your knowledge of any bugs, errors and defects in the Horizon system at this time?**

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<sup>45</sup> Sch. 5 to the letter from Keith Baines to Bruce McNiven & Ors. Dated 11 June 1999, page 19 (WITN0388\_01/30)

128. As set out in response to Q31, Acceptance was crucial to the project's success and ICL took the Acceptance requirements very seriously. Each bug, error or defect detected in the system (whether reported by end-users or the Pathway Project team) was reviewed, prioritised according to its severity, and then scheduled to be fixed:

*"All high-impact problems now have full Pathway-wide visibility and dedicated Problem Managers. A weekly report is published which tracks the progress of each of these."*<sup>46</sup>

129. By virtue of my role in ICL and my receipt of the Monthly Reports, I was aware that there were bugs and errors within the Pathway system. In terms of specific issues, I was aware at the time from reading these reports that there were recurring issues with weekly balancing, printing and screen freezes.<sup>47</sup> However, issues such as these are part of the normal development process of any software project and we had full visibility on the resolution of these issues. Updates on the resolution of these issues were also provided in the Monthly Reports: *'...a marked improvement in the sub-postmasters' satisfaction with the balancing process [...] the sub-postmasters perception of the system and ourselves has improved this month, helped mainly by the office visits and system changes implemented this month.'*<sup>48</sup>

130. All issues were discussed with the POCL project representatives at regular meetings. I was satisfied that both within Pathway and from the customer's side, there was a proper process for resolving issues.

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<sup>46</sup> ICL Pathway Bringing Technology to Post Office Counters & Benefit Payments - Monthly Progress Report, January 1998, page 22 {FUJ00058167}(WITN0388\_01/16)

<sup>47</sup> ICL Pathway Bringing Technology to Post Office Counters & Benefit Payments - Monthly Progress Report, June 1999, page 2 {FUJ00058183}(WITN0388\_01/29)

<sup>48</sup> ICL Pathway Bringing Technology to Post Office Counters & Benefit Payments - Monthly Progress Report, July 1999, page 20-21 {FUJ00058184}(WITN0388\_01/32)

131. Moreover, ICL's £68 million Acceptance cash payment was dependent on our meeting the Acceptance specification and therein resolving any deficiencies located in the system. It was in Pathway's interest to resolve these bugs and issues effectively.

**Q33. What did you understand the 'acceptance incident list' and 'hot list' referred to in FUJ00058149 to be? Do you know whether these issues persisted at the time of the roll out of Horizon?**

132. I have no specific recollection of these terms, however from reading the documents provided to me by the Inquiry, I understand that the 'acceptance incident list' was a list comprising all of the incidents that we were working to resolve during the Acceptance Phase. Acceptance Incidents were defined in the contract with POCL as *'any unusual or undesirable occurrence, or request for advice and guidance, which has been reported in writing by POCL to the Contractor for analysis in respect of an Acceptance Test.'*<sup>49</sup> Although we could achieve Acceptance as long as we had fewer than 20 'medium' severity incidents still outstanding, it was beneficial to have a clear overview of the issues being raised.

133. I also understand from the documents provided to me that the 'hot list' was the prioritisation of critical and mandatory fixes that we had to resolve during the Acceptance Phase in order to achieve Acceptance.

134. As set out in my answer to Q32 above, the Monthly Reports provided regular updates on these lists. All known issues were documented and prioritised in conjunction with

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<sup>49</sup> Sch. A01 to the Codified Agreement made between Post Office Counters Ltd and ICL Pathway Limited dated 28 July 1999 {FUJ00000071} (WITN0388\_01/31)

the POCL team. Acceptance was achieved on 24 September 1999<sup>50</sup> indicating that these issues were resolved in line with POCL's Acceptance requirements at that point in time.

**Q34. What did you understand of the acceptance incident categorised as 'High' referred to on p.19 of FUJ00003633?**

135. I was on the Pathway board so I would have received a copy of the Board Report, but I do not recall what I understood of this incident at the time (June 1999). Although the incident was described as '*serious*', the Update also sets out how this incident was being addressed: '*considerable effort is being applied to improve and simplify the business process, the software, the documentation and to improve training.*' This would suggest that the issue wasn't limited to a defect or software bug, but was also an issue with end-user training and the business process itself.

136. Exhibit WITN0388\_01/29, the Monthly Report from June 1999 also explains in detail the measures we took to resolve this incident:

*"...we will be adding a further new 24 Post Offices during the week commencing 19<sup>th</sup> July. This group is there to check that all the changes we have made concerning balancing, training, documentation and printing have had the desired effect, and when introduced to brand new counter staff it does allow them to deal with their business processes without a repetition of the early difficulties. If following careful assessment this is successful it will pave the way to remove the critical high severity acceptance incidents."<sup>51</sup>*

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<sup>50</sup> ICL Pathway Bringing Technology to Post Office Counters & Benefit Payments - Monthly Progress Report September 1999, page 2 {FUJ00058186} (WITN0388\_01/33)

<sup>51</sup> ICL Pathway Bringing Technology to Post Office Counters & Benefit Payments - Monthly Progress Report, June 1999, page 2 {FUJ00058183} (WITN0388\_01/29)

137. I understand that there may be other documents setting out the nature of this incident, but I have only reviewed those provided to me by the Inquiry. The minutes and the Monthly Report (WITN0388\_01/29) reflect that this issue was being dealt with as a priority in order to achieve Acceptance. In the end, Acceptance was delayed from the original date of 16 August 1999 due to these incidents. As this incident was classed as High, Acceptance could not be achieved until it had been resolved. Ultimately Acceptance was achieved on 24 September 1999 after only a short delay.

**Q35. What did you understand of the three high severity incidents that had not been resolved referred to in FUJ00003631?**

138. Due to the passage of time I am unable to recall the specifics of these incidents. However, I anticipate that we would have discussed these incidents during the monthly Board meetings, considering that by virtue of their classification as 'high severity' they were a barrier to Acceptance. As set out in paragraph 125, we would have dealt with high severity incidents as a priority. Pathway was sufficiently comfortable with its position in respect of resolving these high severity incidents that we were prepared to agree a £20 million indemnity, representing POCL's maximum possible exposure in the event that these incidents were not resolved and this delayed Acceptance.<sup>52</sup>

**Q36. To what extent did you consider Horizon to be suitable to be rolled out in the autumn and winter of 1999?**

139. As I have noted above, Acceptance took place on 24 September 1999. This represented POCL's final approval of the test stages of the Pathway Project and

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<sup>52</sup> ICL Plc Board Minutes of the Board Meeting held on 15 September 1999, page 2, para 3(d) {FUJ00003631}(WITN0388\_01/22)

signalled that it was ready to be rolled out nationally and that any outstanding 'high severity' incidents had been resolved and the threshold for other outstanding acceptance incidents had not been exceeded.

140. Unlike with the previous PFI contract, ICL's financial reward for the project was not tied to the number of payments made through the system once operational. We did not need to rush the project through for it to be profitable and it was not in our interests to do so. Ultimately, the decision to roll out the Pathway Project was POCL's and the rollout taking place demonstrated an implicit acceptance of its suitability for rollout.

**Q37. What was your understanding of POCL's level of knowledge of issues with Horizon at this time?**

141. As set out above in my response to Q32, the categorisation and rectification of issues, bugs and defects was an integral part of the Acceptance process of which POCL had ultimate oversight. Acceptance could take place with fewer than 20 outstanding medium or 'category B' faults, as long as a timetable had been agreed to resolve these faults.<sup>53</sup> There was no corresponding threshold for minor faults. This means that POCL could grant Acceptance notwithstanding that issues remained in the system to be resolved. As such, the review and rectification of issues continued following formal Acceptance and into the rollout phase of the project with POCL's full knowledge. It is very common on large scale implementation projects to have more minor issues resolved at a later date.

142. As referred to in the documents provided to me by the Inquiry, the primary method of recording issues following rollout was through the Horizon System Helpdesk for end-

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<sup>53</sup> Sch. A11 to the Codified Agreement made between Post Office Counters Ltd and ICL Pathway Limited dated 28 July 1999, page 2, para 2.2 {FUJ00000071} (WITN0388\_01/31)

users. Each call to the Helpdesk was reviewed by the Helpdesk team. The Helpdesk team would provide problem and fault diagnosis<sup>54</sup> prioritised according to severity within agreed classification levels<sup>55</sup>: A – business is disrupted and the caller cannot continue normal working; B – business is impaired but a workaround is available; or C – business is suffering only minor inconvenience. All reported incidents had to be resolved within agreed service performance levels<sup>56</sup> and there was ongoing monitoring of all Helpdesk calls to ensure that repeat or consequential problems did not occur.<sup>57</sup> There were also regular project meetings between Pathway and POCL at which all aspects of the project were discussed including the resolution of any outstanding issues.

143. Every call to the Helpdesk was formally logged and retained and the Helpdesk service was monitored and reviewed monthly as a way of analysing the Pathway Project's performance. This review was presented to POCL at the end of every monthly reporting period.<sup>58</sup> As such, POCL received regular updates on performance and was abreast of the issues facing the Pathway Project at that time.

### **Rollout**

#### **Q38. Please describe the roll out of Horizon**

144. I do not directly recall the rollout of the Pathway Project and so I have relied on the documents provided to me by the Inquiry in answering this question. Rollout was

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<sup>54</sup> Sch. A16 to the Codified Agreement made between Post Office Counters Ltd and ICL Pathway Limited dated 28 July 1999, page 44, para 3 {FUJ00000071}(WITN0388\_01/31)

<sup>55</sup> Sch. A16 to the Codified Agreement made between Post Office Counters Ltd and ICL Pathway Limited dated 28 July 1999, page 138, para 2.6.6 {FUJ00000071}(WITN0388\_01/31)

<sup>56</sup> Sch. A16 to the Codified Agreement made between Post Office Counters Ltd and ICL Pathway Limited dated 28 July 1999, page 134, paras. 9.2 - 9.3 {FUJ00000071}(WITN0388\_01/31)

<sup>57</sup> Sch. A16 to the Codified Agreement made between Post Office Counters Ltd and ICL Pathway Limited dated 28 July 1999, page 139, para 2.6.10 {FUJ00000071}(WITN0388\_01/31)

<sup>58</sup> Sch. A16 to the Codified Agreement made between Post Office Counters Ltd and ICL Pathway Limited dated 28 July 1999, page 140-141, paras. 3.1.1 and 3.1.2 {FUJ00000071}(WITN0388\_01/31)

defined in the updated Pathway Project contract as *'the implementation of the POCL Service Infrastructure and/or a POCL Service in Outlets.'*<sup>59</sup> Rollout was a clearly defined process run by the Pathway executive team in conjunction with POCL, which combined the deployment of physical equipment and software releases with the training of end-user staff.

145. Upon Acceptance of the Core System Release<sup>60</sup>, the Release Authorisation Board would decide whether to authorise national rollout of the Core System. As part of the contract renegotiation, Pathway confirmed that following this Acceptance rollout would be undertaken as quickly as possible.<sup>61</sup> Pathway agreed to produce a plan for rollout and a schedule for implementation that dictated which post offices would receive the product.<sup>62</sup>

146. There were a series of major urban areas nominated to receive rollout first: West Midlands; Greater Manchester; Merseyside; Leeds/Bradford; Tyne and Wear; Glasgow/Edinburgh and South Wales. Installation within the M25 would take place in the second half of the overall rollout timetable.<sup>63</sup>

147. Pathway agreed to deliver training and support to POCL staff and end-users during the rollout period, including distribution of a Horizon User Guide created by POCL for its end-users.<sup>64</sup>

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<sup>59</sup> Sch. A1 to the Codified Agreement made between Post Office Counters Ltd and ICL Pathway Limited dated 28 July 1999, page 17 {FUJ00000071}{WITN0388\_01/31}

<sup>60</sup> Sch. A11 to the Codified Agreement made between Post Office Counters Ltd and ICL Pathway Limited dated 28 July 1999, page 3, para 4 {FUJ00000071}{WITN0388\_01/31}

<sup>61</sup> Sch. A16 to the Codified Agreement made between Post Office Counters Ltd and ICL Pathway Limited dated 28 July 1999, page 39 {FUJ00000071}{WITN0388\_01/31}

<sup>62</sup> Sch. A16 to the Codified Agreement made between Post Office Counters Ltd and ICL Pathway Limited dated 28 July 1999, page 40 {FUJ00000071}{WITN0388\_01/31}

<sup>63</sup> Sch. A16 to the Codified Agreement made between Post Office Counters Ltd and ICL Pathway Limited dated 28 July 1999, page 156 {FUJ00000071}{WITN0388\_01/31}

<sup>64</sup> Sch. A16 to the Codified Agreement made between Post Office Counters Ltd and ICL Pathway Limited dated 28 July 1999, page 139-140 paras. 2.9.1 - 2.9.4 {FUJ00000071}{WITN0388\_01/31}

**Q39. Who was responsible for the decision to roll out Horizon at the time?**

148. As the client, POCL was responsible for this decision. It was not in ICL's gift to decide when to roll out the Pathway Project, as this depended on POCL agreeing that the conditions for Acceptance (as set out at paragraphs 123 – 127 above) had been met.

**Q40. Was the roll out considered a success at the time?**

149. The roll out was considered a success at the time. As set out in the *ICL Pathway Limited Board Minutes of the Board Meeting held on 23 February 2000* (WITN0388\_01/34), we reported good progress against the business plan: *'Rollout of the Horizon systems into Post Offices had reached 300 post offices in a single week... there are currently no major issues threatening this progress. Post Office masters/sub post masters were adapting well and Post Office Management attitudes were improving.'*

150. As is usual in any project, we were still dealing with Acceptance issues and these were being reviewed and prioritised in the normal way. The Pathway Project was hugely ambitious but had been rolled out successfully in spite of the issues we had faced.

**Q41. What factors do you consider influenced the timing and pace of the rollout?**

151. POCL ultimately made the final decision on the timing and pace of rollout. However, factors such as the contract renegotiation had an unavoidable impact on the timing. Once we had finalised the renegotiated contract with POCL all parties worked hard to implement rollout expeditiously.

152. Ultimately, I think that the agreed parameters around Acceptance had the biggest impact on the timing of the rollout. We could not progress to national rollout until

POCL had granted Acceptance, and so any 'high' or 'medium' issues that breached the threshold for Acceptance caused an inevitable delay to the timing and pace of the rollout.

**Q42. What role did the need to generate profits and ICL's planned floatation play in the timing and pace of rollout?**

153. It was obviously important for ICL's reputation to deliver the project successfully and broadly on time. However, it was also one project in the whole of ICL's multi-billion pound portfolio at that time. ICL's survival was not contingent on rolling out Horizon quickly. It is important to reiterate that the timetable for delivery was dictated by the project plan set by POCL in Schedule 5 of the Heads of Agreement (WITN0388\_01/30). In the normal course of business, there may be a negative impact on profits if you do not deliver projects on time, but there was no artificial need to speed up the pace of the rollout in order to generate profits.

154. In my view, the planned floatation of ICL did not affect the timing and pace of the project. As set out above, a successful project is beneficial for a company's reputation and no doubt a good reference point for a proposed stock market float. Although I noted in my call to the UK Ambassador to Japan<sup>65</sup> that the failure of Horizon may '*undermine*' the floatation of ICL, ICL had many successful projects already and the status of the Pathway Project was not a deciding factor in whether or not to float the company. This decision took place in mid-2000, after the rollout had already commenced successfully, and the decision was made at that time due to the market

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<sup>65</sup> Record of phone call between Keith Todd and the British ambassador to Japan in January 1999, page 1, para 2 {BEIS0000278 } (WITN0388\_01/23)

conditions after the turn of the millennium, as well as in my view a desire to create "one Fujitsu".

**Q43. To what extent was there any political pressure to achieve the rollout at that time?**

155. I do not recall any political pressure after the settlement with DSS took place in May 1999. After POCL and Pathway had renegotiated the contract and DSS had withdrawn from the Pathway Project, Pathway was free from the political pressure that had clouded the project and was able to focus on delivering it successfully for POCL, the sole client.

**Q44. To what extent were you aware of continuing technical incidents at this time?**

156. The Pathway Board of Directors received the Monthly Reports and so I, and the rest of the Pathway executive, was aware of technical incidents. However, this knowledge did not extend beyond the high-level summaries that we received in the Monthly Reports. The Pathway team was an experienced team which had appropriate business processes in place to resolve technical incidents.

157. The Customer Service team dealt with all technical incidents. The governance process within Pathway ensured that any serious incidents were given high priority and were addressed accordingly. Technical incidents are common practice in software infrastructure rollouts and it is my understanding that this governance process was robust and that issues were reviewed, addressed and resolved as they were discovered.

**Q45. What was your knowledge of any bugs, errors and defects in the Horizon**

**system at this time?**

158. As set out in my response to Q44 above, I received updates on bugs, errors and defects by way of the Monthly Reports. In terms of specific issues, I was aware at the time from reading these reports that we were still experiencing some issues, for example with Reference Data errors which at the time were *'causing major problems with reconciliation and cash account production'*. However, the Report also noted that Pathway was *'pressing for a full end-to-end review across Horizon as well as Pathway'* to find and implement solutions.<sup>66</sup> It was standard practice for the Pathway board to have a high level overview of the issues facing the project, but this knowledge did not extend to the detail of individual bugs. The issues that remained within the Pathway Project were being reviewed and resolved as prioritised by an experienced team in conjunction with POCL.

**Q46. To what extent did criticism in the press influence the timing of the roll out?**

159. Criticism in the press had no impact on the timing of the roll out. Of course there was occasionally press regarding the Pathway Project but this would not influence how we would work or the timing of roll out of a project such as Pathway.

**Q47. What was your understanding of POCL's level of knowledge of issues with Horizon at this time?**

160. POCL, as our customer, would have had a comprehensive understanding of all issues with the Pathway Project at that time. As set out in my answer to Q37 above, we had an end-user helpline which logged all calls and a review of these calls was

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<sup>66</sup> ICL Pathway Bringing Technology to Post Office Counters & Benefit Payments - Monthly Progress Report, by ICL Pathway, October 1999 {FUJ00058187} (WITN0388\_01/35)

provided to POCL on a monthly basis. There were also regular project meetings between Pathway and the POCL team, and I recall also daily contact between the teams.

**Q48. Please set out whether you considered Horizon to have met POCL's objectives at the time of the roll out.**

161. We delivered the Pathway Project in accordance with the contract agreed by POCL. As set out elsewhere in this statement, we were only able to commence the national rollout of the project by virtue of POCL's agreement that the Acceptance conditions were met. By definition, this meant that the project met POCL's contractual objectives. When I left in July 2000 I believed that the project was moving positively forward.

**Q49. Please explain whether you felt that all potential concerns raised by POCL had been resolved by the time of the roll out.**

162. I was aware that there were open issues at the time of the roll out as is normal in any large technical infrastructure project. Pathway and POCL had clear lines of communication on the project. We had an agreed list of issues and Pathway had an ongoing mechanism for dealing with outstanding concerns as they arose. As with the issues we experienced before rollout, we had a method to establish prioritisation of the concerns and corresponding resolution plans. The Monthly Reports continued into the rollout phase of the project and the solid governance structure that we had in place ensured a clear process for the identification and resolution of any concerns raised.

**General**

**Q50. To what extent was the project sufficiently resourced?**

163. In my opinion, the Pathway Project was sufficiently resourced. Pathway had its own resource plan but as ICL CEO I made it clear throughout the project that if necessary, Pathway could draw on additional resources from within the wider ICL and Fujitsu talent pools. There were of course occasionally gaps in resource but we were able to leverage resources when we needed to.

**Q51. To what extent did those involved have sufficient expertise?**

164. The CVs and role descriptions of the Pathway management team were set out within the original bid proposal<sup>67</sup>. Each person on the team was an experienced businessperson who had experience on complex infrastructure projects and their CVs clearly documented their relevant technical expertise. We had the experience to deliver the Pathway Project successfully alongside an additional pool of expertise within ICL and the wider Fujitsu group.

**Q52. To what extent did postmasters have sufficient input into the requirements definition, design and acceptance testing?**

165. I do not personally recall the extent to which postmasters had input into the requirements definition, design or acceptance testing. However, from my review of the documents provided to me by the Inquiry, I understand that POCL and Pathway worked to incorporate input from postmasters into the Pathway Project.

166. For example, during the IGL project and initial rollout of Release 1, a number of 'user awareness' programmes took place to receive feedback on Horizon from postmasters, as reported in the March 1997 Pathway Board meeting minutes: 'On

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<sup>67</sup> Annex 7, Pathway Proposal 1995 (WITN0388\_01/36) 7

*User Awareness, programmes had been started with sub-postmasters, for the April Release and good enthusiastic attendance was being achieved. Surveys had taken place of 200 Post Offices so far and a training programme for sub-postmasters agreed.*<sup>68</sup>

167. There were also two Pathway Liaison Managers, who were described in the November 1997 Monthly Report as follows:

*"They are acting as 'eyes and ears' in the regions but importantly have also developed a very good relationship with the subpostmasters. They are filling a serious gap in ensuring that the users are happy with the system and able to use it correctly."*<sup>69</sup>

This report also noted that *'Several meetings have taken place with the Federation of Subpostmasters and with the individual Regional General Managers to ensure that they are up to date with the programme'*<sup>70</sup>. It is clear from these reports that Pathway took the input of, and cooperation with, postmasters seriously, however I no longer recall any of this detail directly.

**Q53. To what extent was there sufficient oversight of the project (i) from POCL (ii) from Government (iii) from ICL and (iv) from Fujitsu?**

168. I am unable to comment on the oversight of the project from POCL or the Government.

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<sup>68</sup> ICL Pathway Limited Board Minutes of the Board Meeting held on 14 March 1997, page 3, para 97/12(J) {FUJ00077848} (WITN0388\_01/12)

<sup>69</sup> ICL Pathway Bringing Technology to Post Office Counters & Benefit Payments - Monthly Progress Report, November 1997, page 27 {FUJ00058165} (WITN0388\_01/14)

<sup>70</sup> ICL Pathway Bringing Technology to Post Office Counters & Benefit Payments - Monthly Progress Report, November 1997, page 27 {FUJ00058165}(WITN0388\_01/14)

169. ICL and Fujitsu both had sufficient oversight of the project. As set out in paragraphs 47, 57 and 77 above, the strong managerial structure of Pathway and its clearly defined governance process ensured that there was clear oversight of the Pathway Project.

170. Although there were no Fujitsu representatives on the Pathway board, Mr Naruto was on the ICL board and had the necessary strategic oversight. Fujitsu were at all times fully briefed by the Pathway Board on the progress of the project.

**Q54. On reflection, do you consider that the Rollout of Horizon took place at the right time?**

171. Given the issues that subsequently occurred with Horizon and the impact these issues had on so many individuals, it is very difficult to answer this question. However, I would consider that we rolled out the Pathway Project when it was ready and when the client, POCL, had confirmed its Acceptance of the product. However there was a clear process in place to determine the timing of the rollout, and the implication of POCL formally accepting the product is that rollout then took place at the right time. Each party involved understood what was required to make the project successful, and in my opinion both Pathway and POCL achieved the collective aims of the project at the time of the rollout.

**Q55. On reflection, do you consider that you were sufficiently informed of problems with Horizon from procurement up to and including roll out?**

172. There was a clear governance structure in place for the whole lifespan of the project and I was regularly informed of the project's progress. I took my position as a Director of Pathway as well as CEO of ICL seriously and as far as I recall I attended each monthly Board meeting.

173. In addition, the Monthly Reports prepared by Pathway contained summaries of progress on the following areas:

- a. Systems
- b. Commercial and Financial
- c. Customer Requirements
- d. Quality & Risk
- e. Business Development
- f. International Sales
- g. Organisation & Personnel
- h. Post Office Client

174. Pathway placed great importance on these updates and within each report, there was a summary, an update on progress, a list of 'current critical problems' and an update on costs.

**Q56. On reflection, do you consider ICL was equipped to take on a project of this size?**

175. Yes. ICL had a proven record of accomplishment with large-scale infrastructure projects and was more than capable of rolling out the Pathway Project successfully. During the 1980s and early 1990s, ICL had become involved in a variety of local government outsourcing projects, working for the Ministry of Defence, HMRC and the Department for Work and Pensions, alongside the successful National Lottery contract. It was clear from the success of these projects that ICL had the capability to manage large-scale technology and infrastructure projects.

**Q57. Is there anything you consider ICL should have done differently in respect of this project?**

176. My answer for this question is limited to my own involvement with the Pathway Project, which ended when I left ICL in July 2000. As explained elsewhere in this statement, ICL should not have engaged in a contract with two customers and this is not something that I would do again. The issues with this decision became apparent soon after the contract was signed and became a major obstacle in achieving success with the project, due to both customers having distinct objectives and aims and the lack of alignment.

177. I would like to conclude this statement by once again expressing my sympathy to all of those individuals who have been affected by the Horizon scandal.

**Statement of Truth**

I believe the content of this statement to be true.

Signed:            **GRO**

Dated:           6/9/2022

**Index of Documents Referred to in the Witness Statement of Keith Todd**

No.	Exhibit Number	Document Description	URN
1.	WITN0388_01/01	Timeline of key dates and events	WITN03880101
2.	WITN0388_01/02	Fujitsu ICL Computers Ltd. Press Release dated 1 July 1996	WITN03880102
3.	WITN0388_01/03	NAO Report dated 18 August 2000 "The Cancellation of the Benefits Payment Card project"	WITN03880103
4.	WITN0388_01/04	Pathway Group Limited Board Minutes of the Board Meeting held on 15 March 1996	FUJ00077838
5.	WITN0388_01/05	Managing Director's Report, Pathway Group Limited Board Meeting held on 25 April 1996	FUJ00077842
6.	WITN0388_01/06	Pathway Group Limited Board Minutes of the Board Meeting held on October 1995	FUJ00077832
7.	WITN0388_01/07	ICL Pathway Bringing Technology to Post Office Counters & Benefit Payments - Monthly Progress Report, March 1998	FUJ00058170
8.	WITN0388_01/08	ICL Pathway Limited Board Minutes of a Board Meeting held on 2 September 1996	FUJ00077849
9.	WITN0388_01/09	ICL Pathway Limited Board Minutes of the Board Meeting held on 25 November 1996	FUJ00077844
10.	WITN0388_01/10	ICL Pathway Bringing Technology to Post Office Counters & Benefit Payments - Monthly Progress Report, December 1997	FUJ00058166
11.	WITN0388_01/11	Letter to Peter Mathison dated 6 March 1998 enclosing a Position Paper dated 5 March 1998	POL00031117
12.	WITN0388_01/12	ICL Pathway Limited Board Minutes of the Board Meeting held on 14 March 1997	FUJ00077848
13.	WITN0388_01/13	ICL Pathway Limited Board Minutes of the Board Meeting held on 25 November 1996	FUJ00077844
14.	WITN0388_01/14	ICL Pathway Bringing Technology to Post Office Counters & Benefit Payments - Monthly Progress Report, November 1997	FUJ00058165
15.	WITN0388_01/15	ICL Pathway Bringing Technology to Post Office Counters & Benefit Payments - Monthly Progress Report, February 1998	FUJ00058169
16.	WITN0388_01/16	ICL Pathway Bringing Technology to Post Office Counters & Benefit Payments - Monthly Progress Report, January 1998	FUJ00058167
17.	WITN0388_01/17	Horizon Invitation to Tender	POL00028118
18.	WITN0388_01/18	Letter from Keith Todd to Stephen Byers MP dated 16 September 1998	BEIS0000283
19.	WITN0388_01/19	Letter from Sir David Hancock to Keith Todd dated 3 June 1999	WITN03880119
20.	WITN0388_01/20	Letter from Sir Michael Butler to Keith Todd dated 4 June 1998	WITN03880120
21.	WITN0388_01/21	Letter from Tadashi Sekizawa to Keith Todd dated 1 June 1999	WITN03880121
22.	WITN0388_01/22	ICL Plc Board Minutes of the Board Meeting held on 15 September 1999	FUJ00003631
23.	WITN0388_01/23	Record of phone call between Keith Todd and the British ambassador to Japan in January 1999	BEIS0000278
24.	WITN0388_01/24	ICL Plc Board Minutes of the Board Meeting held on 26 November 1998	FUJ00058157

25.	WITN0388_01/25	ICL Plc Board Minutes of the Board Meeting held on 28 May 1998	FUJ00058155
26.	WITN0388_01/26	Email from Katherine Hathaway to David Sibbick & ors. dated 11 May 1999	BEIS0000275
27.	WITN0388_01/27	Letter from David Sibbick to Secretary of State, Mr McCartney, dated 9 April 1999	BEIS0000368
28.	WITN0388_01/28	Letter to Keith Todd from Post Office Counters Ltd, ICL plc and ICL Pathway Limited dated 24 May 1999	POL00028646
29.	WITN0388_01/29	ICL Pathway Bringing Technology to Post Office Counters & Benefit Payments - Monthly Progress Report, June 1999	FUJ00058183
30.	WITN0388_01/30	Letter from Keith Baines to Bruce McNiven & Ors. Dated 11 June 1999	POL00028523
31.	WITN0388_01/31	Codified Agreement made between Post Office Counters Ltd and ICL Pathway Limited dated 28 July 1999	FUJ00000071
32.	WITN0388_01/32	ICL Pathway Bringing Technology to Post Office Counters & Benefit Payments - Monthly Progress Report, July 1999	FUJ00058184
33.	WITN0388_01/33	ICL Pathway Bringing Technology to Post Office Counters & Benefit Payments - Monthly Progress Report September 1999	FUJ00058186
34.	WITN0388_01/34	ICL Pathway Limited Board Minutes of the Board Meeting held on 23 February 2000	<b>FUJ00003671</b>
35.	WITN0388_01/35	ICL Pathway Bringing Technology to Post Office Counters & Benefit Payments - Monthly Progress Report, by ICL Pathway, October 1999	FUJ00058187
36.	WITN0388_01/36	Pathway Proposal 1995	FUJ00098232