

The Post Office Horizon IT Inquiry

September 2021 Progress Update from the Chair



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Introduction

My appointment as chair of the non-statutory Horizon IT Inquiry was made public on 29 September 2020. I had agreed to chair the Inquiry a few weeks before and I was conscious from the outset that there were likely to be many people who regarded a non-statutory inquiry as an inadequate means by which to achieve the objectives set out in the Inquiry's Terms of Reference. I was conscious, too, that the Inquiry's Terms of Reference were considered by many to be drawn far too restrictively. Nonetheless, I was satisfied that the non-statutory Inquiry was capable of achieving the objectives set by its Terms of Reference, hence my willingness to become the chair.

On 5 October 2020 I published an open letter in which I sought to encourage all those with relevant information to participate in the work of the Inquiry. Over the course of the weeks that followed I met senior personnel from Post Office Limited ("POL"), Fujitsu Services Limited ("Fujitsu"), the Department for Business Energy and Industrial Strategy ("BEIS"), UK Government Investments Ltd ("UKGI"), the National Federation of Subpostmasters ("NFSP") and the Communication Workers Union ("CWU"). I also met with and had communications from senior politicians (not currently government ministers) who had been highlighting issues relating to the Horizon IT System (hereinafter referred to as "Horizon"). A number of these politicians had taken up complaints about Horizon from sub-postmasters and sub-postmistresses¹ who were also their constituents, and many had also campaigned more generally and with vigour about alleged shortcomings associated with Horizon. My initial contacts with all these people encouraged me to believe that I would receive a good deal of assistance from them personally and that each of the organisations which they represented would facilitate the Inquiry's work. To date, nothing of significance has occurred to make me alter that initial belief.

I had hoped that my letter of 5 October 2020 would lead to a preliminary meeting with representatives of the group known as the 'Justice for Subpostmasters Alliance' ("JFSA"). That was not to be. The representatives of the JFSA explained that they could not support or engage with a non-statutory inquiry with, in their view, terms of reference which were drawn far too restrictively. I respected their view, of course, but I considered it appropriate to leave it open to them to engage with the Inquiry at a future time should they wish to do so. I was keen that they should engage with the Inquiry because this organisation had been the driving force behind the litigation between 555 Claimants (primarily but not exclusively current and former SPMs) and POL which culminated in a detailed settlement agreement in December 2019 (hereinafter referred to respectively as "the group litigation" and "the settlement agreement"). To describe the group litigation as "bitterly fought" might be regarded by some as the understatement of the year. Before settlement was achieved, the judge managing the litigation, the Honourable Mr Justice Fraser, had delivered a total of 6 written judgments on procedural and substantive issues. His two main judgments (numbers 3 and 6 known, respectively, as the Common Issues judgment and the Horizon Issues judgment) had analysed in very considerable detail a myriad of contractual issues between SPMs and POL (No.3.) and very many technical and not so technical issues relating to Horizon (No.6 and the Appendices thereto). I was conscious that the representatives of the JFSA and its members were bound to have a considerable understanding of many of the complex issues which I was charged with

¹ In the remainder of this Update I will use the acronym SPMs to describe sub-postmasters and sub-postmistresses.

investigating. It was obvious to me that their unwillingness to engage with the work of the Inquiry might deprive me of a very substantial source of material.

By December 2020 the small but dedicated and extremely efficient Inquiry Team² had devised a number of ways in which relevant information³ could be obtained by the Inquiry. Between early December 2020 and 31 May 2021 a significant amount of such information was sought and obtained. Sections A to F of this part of my Update contain a detailed description of the processes for information gathering and appropriate descriptions of the nature of the information received during that period.

On 23 April 2021 the Court of Appeal of England and Wales (Criminal Division) (hereafter “the Court of Appeal” or “the Court”) quashed the convictions of 39 persons.⁴ These persons had been convicted of offences of dishonesty in Crown Courts in England and Wales between 2001 and 2013. The offences were said to have been committed during the course of their work in Post Office branches throughout England and Wales. The prosecutions against them had been brought by POL⁵ as a private prosecutor. The convictions were premised upon the assertion by the prosecutor that all the evidence obtained from Horizon was accurate and reliable. Witness statements to that effect had been served on behalf of the prosecution if such were necessary in individual cases and, in some cases, witnesses had been called to give oral evidence on oath about the reliability and accuracy of Horizon.

At the hearing before the Court of Appeal, POL conceded that the convictions of the 39 persons whose convictions were quashed were unsafe and that they should be quashed. It accepted without reservation, too, that it could not justify the assertion which had been made in all these cases at trial that the information obtained from Horizon which had been used as part of the prosecution case was accurate and reliable. The Court concluded that it had been an abuse of process to have prosecuted the 39 persons whose convictions it quashed. In reaching the conclusion that an abuse of process had taken place in each of those cases the Court was taking a step rarely taken in the criminal justice system of England and Wales. It is worth spelling out what that meant in each of these cases. The Court concluded that the conduct of the prosecutor (POL) was such that (a) it had been impossible for the appellants to have received a fair trial and (b) the prosecution of each of the appellants had offended the court’s sense of justice and propriety. It is worth noting, too, that although POL conceded that the 39 convictions should be quashed on the basis that it had been impossible for the appellants to have received a fair trial it sought to argue that the prosecution of the appellants should not be categorised as an offence to the Court’s sense of justice and propriety. The Court rejected POL’s arguments to that effect.

² In this Update there is frequent reference to the Inquiry Team and the Inquiry lawyers. The Inquiry Team refers to Leila Pilgrim, the Secretary to the Inquiry and all the members of the Inquiry Secretariat. The Inquiry lawyers refers to the Leading Counsel (Jason Beer QC) and the Solicitor to the Inquiry (Segun Jide) and all the barristers, solicitors and paralegals from whom they receive support.

³ In the section of this Update dealing with the non-statutory phase of the Inquiry the word information is used to describe all information provided to the Chair and/or the Inquiry Team orally or in writing as well as all the documents provided to the Inquiry during this phase. This information will not necessarily attain the status of evidence within the Statutory Inquiry now established but it is very likely that many of the documents received may do so – see Part 2 section C below for details of requests made to POL, Fujitsu, BEIS and UKGI recently that documents and information received in the non-statutory phase should become evidence in the statutory Inquiry.

⁴ R v Hamilton and others [2021] EWCA Crim 577

⁵ It is possible that the prosecutor in some of these cases was not POL but an associated or predecessor organisation. At the Court of Appeal no point was taken upon the precise identity of the prosecutor because POL took responsibility for all the cases before the court.

The judgment of the Court of Appeal in the criminal cases, building, as it does very substantially, upon the judgment of Fraser J in the Horizon Issues judgment in the group litigation, caused me to review whether the continuation of the Inquiry in its non-statutory form was justified. I concluded that it was not. I made a formal request to Minister Paul Scully, Minister for London and Parliamentary Under Secretary of State (Minister for Small Business, Consumers and Labour Markets) (“the Minister”) that he should use his powers under section 15 of the Inquiries Act 2005 (“the Act”) to convert the non-statutory Inquiry into an Inquiry governed by the Act. The Minister acceded to my request and, at the same time approved amendments and additions to the Terms of Reference. The Inquiry was designated an Inquiry governed by the 2005 Act as from 1 June 2021 and I decided that the procedure governing the Inquiry would be that which is laid down in The Inquiry Rules 2006.

Since 1 June 2021 the Inquiry has undertaken significant preparatory work ahead of public hearings at which witnesses will be called to give evidence. An account of the steps taken between 1 June 2021 and the date hereof is set out in Part 2 below. Currently, the public hearings are scheduled to begin in early 2022 (see Statement of Approach 004)⁶. I acknowledge now, however, that beginning these hearings at the beginning of 2022 may be very difficult to achieve. Preliminary investigations reveal that there may be a considerable amount of documentary evidence to digest before there can be meaningful hearings. I consider that time spent in digesting such documents before the hearings will be time well spent.

On 19 July 2021 the Court of Appeal quashed the convictions of 12 more persons who had been convicted of offences of dishonesty consequent upon evidence obtained from Horizon. That means that as at the date hereof 51 persons convicted of dishonesty in Crown Courts in England and Wales between 2001 and 2013 on the basis of evidence “generated” by Horizon have had their convictions quashed by the Court of Appeal. I am aware that at least 6 persons convicted of dishonesty in Magistrates Courts in England and Wales during the same period on the basis of evidence produced from Horizon have had their convictions quashed in Crown Courts and I readily acknowledge that there may be more.⁷ I am aware, too, there are a significant number of applications for permission to appeal against convictions recorded against persons who allege that they were wrongly convicted which are before the Court of Appeal and which have yet to be determined.

My aim is to report my findings and recommendations to the Minister by late 2022. I regard that aim as achievable because (a) the work undertaken in the non-statutory phase of the Inquiry remains of value and (b) the Inquiry’s lawyers, the Inquiry Team and I are committed to delivery of my report in a timely fashion. I wish to stress that it would be unconscionable for there to be any undue delay in the conduct of the Inquiry’s business and I am determined that such delay will not occur insofar as I have the power to prevent it.

When I asked the Minister to convert the non-statutory Inquiry into a statutory Inquiry, I considered the possibility that I should provide an interim report. It seemed to me that there should be a public record in a convenient form describing the work of the Inquiry in its non-statutory form. I also pondered the value of providing conclusions or recommendations (interim or definitive) on selected topics within the Terms of Reference to which the Inquiry was then working.

⁶ In this Update there are references to all the Statements of Approach published by the Inquiry. These are all public documents which are readily accessible on the Inquiry’s current webpage on Gov.UK and will be made available on the discrete website which has been created for the Inquiry and which will be launched shortly.

⁷ The information provided to me as to convictions quashed by Crown Courts to date is as yet incomplete.

Ultimately, I decided against writing an interim report which contained any conclusions or recommendations. Tempting as it would be to reveal my thinking on certain issues, experience has taught me that it is generally unhelpful to make known views which are genuinely held but which must be provisional given that they might have to be altered in the light of evidence yet to be received. Further, and importantly, I had decided that, provided the Minister consented, there should be amendments to the Inquiry's Terms of Reference. Given the nature of the amendments which were made to the Terms of Reference I thought it better that no attempt was made to reach conclusions on the basis of the evidence which had been accumulated by June 2021 but which might be seen in a different light once substantial further evidence became available. Finally, I was and have remained conscious that there should be no suggestion that I had decided against receiving evidence at the public hearings on any of the issues which need to be explored and resolved. The publishing of conclusions or recommendations in an interim report might have given the impression that certain avenues of exploration were closed.

Accordingly, after consulting the Minister and the Inquiry Team and receiving advice from the Inquiry's lawyers, I decided that I would not publish an interim report but rather provide this Progress Update.

There is, however, a very important exception to my decision not to publish any conclusions at this stage and it needs to be spelled out so as to avoid any lack of clarity as the Inquiry's work unfolds. In the Inquiry I shall consider the findings of fact made by Fraser J in his Common Issues and Horizon Issues judgments and the conclusions which he reached based upon those findings as established and incontrovertible. In the same vein, I will regard the findings of fact and the conclusions reached upon them in the judgment of the Court of Appeal in *R v Hamilton and others* (and any judgments which are delivered by the Court as the work of the Inquiry proceeds) as established and incontrovertible. I do not intend to re-visit any of those findings or conclusions either in evidence in the public hearings or in my report. POL has stated publicly on a number of occasions that it accepts the findings and conclusions of Fraser J in the Common Issues and Horizon Issues judgments. The judgment of the Court of Appeal in *Hamilton and others* proceeds on the basis that the conclusions reached about Horizon by Fraser J are correct. On 22 July 2021 the Minister made an announcement to the effect that interim payments of compensation would be paid to those whose convictions have been quashed. It would be quite wrong of me (a) as a matter of principle (b) in terms of the smooth and efficient running of the Inquiry and (c) inconsistent with my Terms of Reference to permit any attempt to re-visit the conclusions reached by Fraser J or the Court of Appeal.

Readers of this Introduction will note that in the second paragraph I used the phrase "the Horizon IT System" and indicated that I would use a shorthand substitute "Horizon" in the remainder of the Update. In the section that follows I explain what I mean by that phrase and I provide a short explanation of the evolution of Horizon and the use made of it.

Horizon

I am very conscious that the phrase “the Horizon IT System” and/or the word “Horizon” can convey a number of different concepts to different people. I am conscious, too, that those concepts can assume more or less prominence depending upon the perspective of the person using the term Horizon and the context in which it is used. However, for the sake of clarity it is important that the readers of the Update understand what I mean when I use the phrase or word.

In advance of the Horizon Issues Trial the parties were directed to agree a list of issues which were to be determined by Fraser J. The parties complied with that direction and a list of issues was approved by the judge. In that list the parties agreed a definition of the phrase “the Horizon System”, a phrase which is very similar, at the very least, to the phrase “the Horizon IT System”. The definition adopted by the parties and approved by the judge was as follows: -

“**the Horizon System**” shall for the purposes of this list of issues mean the Horizon computer system hardware and software, communications equipment in branch and central data centres where records of transactions made in branch were processed.”

On 26 August 2021 the Provisional List of Issues was published. That List uses the phrase “Horizon IT System” as opposed to the “Horizon System” in its text. Nonetheless, I thought it appropriate that the meaning which the parties to the group litigation had attributed to “the Horizon System” (and approved by Fraser J) should be adopted by me as the meaning to be attributed to the phrase “the Horizon IT System” (or Horizon) as used in this Inquiry’s List of Issues and this Update especially given that although Horizon (as so defined) is central to the Inquiry’s investigative work it is, in reality, no more than the starting point for that work.

The definition of Horizon set out above, of course, focuses upon the hardware, software and communications equipment which has been used over time since Horizon’s roll out. For many of the people most affected by it, however, Horizon may mean a good deal more than that since, inevitably, the components of Horizon referred to in the definition are inextricably connected with issues such as training in its use, support systems for users, the use made of the data generated by Horizon and, crucially, the decisions made by POL and its employees on the basis of the data generated by Horizon which had such a profound effect upon many SPMs and their employees.

In the light of my observations immediately above no useful purpose would be served by an attempt, at this stage at least, to provide a more all-embracing meaning for the phrase “the Horizon IT System” than that which I have adopted. Rather, at this stage, a rudimentary description of Horizon will suffice. For those readers who wish to have a fuller understanding, paragraphs 11 to 17 of the Horizon Issues judgment is illuminating and for those who wish to have an in-depth understanding of the technical details relating to Horizon Fraser J produced a Technical Appendix to that judgment which provides a comprehensive account.

Horizon is an electronic point of sale and accounting system. It was commissioned by POL to manage operations in its branches throughout the United Kingdom. Since its roll out there have been three distinct versions. First in time was the version now referred to as “Legacy Horizon”. This was developed by International Computers Ltd (ICL) over the period between 1996 and 2010 and rolled out to Post Office branches from 2000. The second version, known as HNG-X, existed between 2010 and 2017 when it was replaced by the third version known as HNG-A.

The versions known by the letters HNG-X and HNG-A are now known, together, as “Horizon Online”.

SPMs and their staff at Post Office branches access Horizon through terminals at the branches and use it to manage stock and cash held at the branch, perform customer transactions, manage Automated Teller Machine (ATM) balances and sell third-party products and services. POL and their support teams use the Horizon system and the data it provides to manage the Post Office network business and accounts.

Horizon records all transactions relating to POL activities undertaken at each branch. It also maintains a balance of the value of POL cash and stock is held at a branch.

Once Horizon was installed at a branch the SPM in charge of the branch became contractually obliged to use it for all transactions as described above. (That remains the case). Further, the SPM was, historically, and still is, obliged to make declarations as to the amount of cash held at a branch over a trading period. At the end of a trading period the SPM was and is obliged to complete a “Branch Trading Statement”; until such a statement is completed the branch cannot “roll over” into a new period.

Data about branch transactions relating to POL is transmitted by Horizon and stored so that employees of POL may use the data to review branch accounts and to check for any discrepancies. These, together with other activities which need not be described at this point, are known as “back-office activities”.

POL has publicly acknowledged on a number of occasions that throughout its existence Horizon was subject to “bugs, errors and defects”. The phrase “bugs errors and defects” was used in the group litigation as being apposite to describe a wide range of problems within or associated with Horizon which included data errors, data packet errors, data corruption, duplication of entries, errors in reference data and in the operation of the system⁸. Appendix 2 to the Horizon Issues judgment is a table detailing all the bugs which existed in Horizon over its lifetime to the date of the judgment.

The operation and reliability of Horizon was at the heart of the group litigation. The Claimants maintained that all versions of Horizon were capable of generating false shortfalls in branch accounts and that, in consequence, POL investigators made unjustified accusations against them that they had deliberately or negligently caused losses to POL. For their part, POL contended that all versions of Horizon were “robust”; it did not dispute the existence of some bugs in Horizon from time to time, but it maintained that such bugs were not capable of causing false shortfalls as maintained by the Claimants. According to POL if the data produced by Horizon showed a shortfall in branch accounts the explanation for it was to be found in the actions of the SPMs or their staff i.e., one or more had been dishonest or negligent. The Horizon Issues judgment delivered by Fraser J was a ringing endorsement of the case presented to him by the Claimants.

It is worth noting at this stage, however, and very important to understand, that the judgment delivered by Fraser J set out to answer the questions posed in the List of Issues which had been formulated for his consideration – see paragraph 965 of the judgment. Fraser J did not purport to answer many of the questions relating to Horizon which fall squarely within the Inquiry’s Terms of Reference.

⁸ See paragraph 26 of the Horizon Issues judgment.

Part 1: The Non-Statutory Phase of the Inquiry

An Overview

The first task for the Inquiry was to familiarise itself with a number of very important documents. These were the judgments of Fraser J in the group litigation (especially the Common Issues and Horizon Issues judgments and the appendices to the Horizon Issues judgment), transcripts of the evidence given by individuals to Parliamentary Committees dating from 2015 and 2020 and written material produced over many years by prominent campaigners, journalists and politicians. The first weeks of the Inquiry's existence were spent reading into this material.

During that same early period of the Inquiry the Secretary to the Inquiry and I held meetings with individuals who had leading roles in POL, Fujitsu, BEIS, UKGI, the NFSP and the CWU. The aim of those meetings was to begin the process of developing trust between the Inquiry Team and I on the one hand and senior representatives of those organisations on the other and to ensure, so far as was reasonably possible, that those organisations were committed to facilitating the work of the Inquiry. I received assurance in all these meetings that the organisations were committed to helping the work of the Inquiry (although the CWU made it clear that it considered that the Inquiry should have been put on a statutory footing).

On 5 November 2020 the Inquiry published Statement of Approach (001). This document was published so as to provide detailed information about how the Inquiry intended to gather information (both written and oral) from the organisations and individuals who were willing to engage with its work. The Statement envisaged that information would be obtained in a number of different ways and over different timescales as described in the document. Over time, additional ways of acquiring information were considered. Ultimately, I decided that information would be obtained as follows: -

- A. A Call for Evidence: persons and organisations would be asked to provide information in writing relating to the issues raised by the Terms of Reference.
- B. Hearings (known as Stage 1 Hearings) at which current and former SPMs, those affected by Horizon and/or those persons who were current or former employees of POL or Fujitsu could provide information orally to me either in public or private as they chose.
- C. People Surveys.
- D. A Whistleblowing Survey.
- E. Requests to POL, Fujitsu, BEIS and UKGI for documents and information (known as batch requests)
- F. A Teach-In Series with POL and Fujitsu.

- G. Public Hearings (Stage 2 hearings) at which unsworn oral evidence would be taken from persons who either had been or were senior personnel of POL, Fujitsu, BEIS, UKGI, NFSP, the CWU as well as former Ministers with responsibility for POL.

As described below each of those methods for obtaining information was carried into effect save for the Stage 2 hearings.

On 6th April 2021 Statement of Approach (002) was published which explained the approach which would be adopted to information handling and the publication of evidence obtained during the course of the Inquiry.

Following discussions with the Inquiry Team, I decided that it was important that the Inquiry should engage professional assistance to facilitate its work. On 9 December 2020 Realise Europe Group Limited was engaged to help organise and facilitate the process of providing information to the public Stage 1 hearings. Jerome Norris and Sarah Boulton of that company provided very significant assistance to the Inquiry Team and myself. On 1 March 2021 Solirius Consulting were appointed as my Independent Advisers – for details of the process see Statement of Approach (003). Mr David Page and Ms Megan Slattery of that organisation attended some of the private Stage 1 hearings which provided me with considerable assistance in my discussions with the participants. Additionally, they both began the process of providing informative and clear advice to me about technical aspects of Horizon and its management.

The timetable for the Inquiry's work envisaged that the Stage 2 Public hearings would be held in May and June 2021. No such hearings took place. The decision not to hold such hearings was quite deliberate given that by late April 2021 I had formed the view that the Inquiry should become a statutory inquiry and in May the Minister agreed that the non-statutory Inquiry should be converted into a statutory inquiry.

A. Information Received: The Call for Evidence

The Inquiry's Call for Evidence was launched on 1 December 2020 and concluded on 23 February 2021. In that time, the Inquiry received a total of 47 responses. Of those 47 responses:

- 5 were from organisations: POL, Fujitsu, NFSP, and the CWU each made individual responses and BEIS and UKGI made a joint response.
- 14 were received via the Inquiry's Call for Evidence consultation webpage which asked for answers to 60 questions or such number of those questions which the respondent was able to answer.
- 28 were received via the Inquiry's Call for Evidence email inbox.
- Of the 28 received via email, 12 fell outside the Inquiry's Terms of Reference.

Of the respondents who fell within the Inquiry's Terms of Reference (35), a significant majority were current or former SPMs. The remaining respondents were a former employee of Fujitsu, the wife and sibling of a deceased SPM and the organisations identified above.

A total of 17 SPMs supplied "Human Impact Statements". 16 of those statements were made public on the Inquiry's records webpage. One statement was not published following a request by the respondent that it remain private. These statements were provided to the Inquiry either by email or as a direct response to question 1 of the Call for Evidence which asked: "*What impact did the operation & management of the Horizon IT system have, and what effects were personally experienced as a result?*"

11 individual respondents (none of whom were representatives of the organisations identified above) assisted the Inquiry further by either attending a Stage 1 public hearing (6 in number) or participated in a private meeting with me (5).

Despite the comparatively small number of responses to the Call for Evidence they nonetheless provided some valuable insights into the impact occasioned by Horizon upon those who were adversely affected and, critically, alerted the Inquiry to specific lines of enquiry which would have been pursued in the Stage 2 hearings (had they occurred) and which will be pursued in the public hearings to come. The responses also provided useful information which helped to assist in the form and content of:

- the People Surveys which launched on 12 April 2021 and concluded 3 May 2021; and,
- the Whistleblowing Survey, which also launched on 12 April 2021 and closed 7 May 2021.

As the work of the Inquiry unfolded it became clear that I should seek information from the Criminal Cases Review Commission for England and Wales ("CCRC") and the equivalent bodies in Scotland⁹ and Northern Ireland¹⁰. At my request the Inquiry Team made contact with those bodies to elicit relevant information.

⁹ The Scottish Criminal Cases Review Commission

¹⁰ The Public Prosecution Service Northern Ireland

On 28 January 2021 the Inquiry received a detailed written submission from CCRC in which the Commission provided a comprehensive analysis of the basis upon which it had referred a total of 42 cases to the Court of Appeal. This proved to be invaluable in assisting the Inquiry in its understanding of the nature of the proceedings in the Court of Appeal which culminated in the quashing of the convictions of 39 persons in April 2021 and 12 more in July 2021.

The initial responses from Scotland and Northern Ireland suggest that the numbers of persons seeking to have their convictions quashed in those countries is much smaller.

B. Information Received: Stage 1 Hearings

In Statement of Approach (001) (November 2020) I invited persons who had been impacted by Horizon to attend focus group sessions to describe and share their experiences with persons similarly affected. The invitation to attend these sessions was extended not just to current and former SPMs, but also to employees (past and present) of POL and Fujitsu, those who had been or were involved in mediation and/or dispute resolution processes with POL and the family or friends of anyone from these groups.

The primary aim of the focus groups was to explore the direct and indirect consequences of Horizon for those affected (including, where appropriate, the families of those affected). Additionally, however, it was considered important, so far as practicable, to obtain information about the operational processes, culture and organisational settings of POL and Fujitsu - hence the width of the invitation to participate.

Public hearing sessions

Two “open” session focus groups were held: the first on 15 January 2021 and the second on 25 February 2021. In each session there were three participants, and their discussions were facilitated by Jerome Norris the independent facilitator. The sessions can be viewed and heard at:

Focus group 1: <https://www.youtube.com/watch?v=mCqdgensMdc>

Focus group 2: <https://www.youtube.com/watch?v=D5m1nvtBTZ8>

As “open” sessions, both the public and media were permitted to attend as silent spectators.

No “closed” focus groups sessions were held i.e. sessions which were not available for public viewing.

Private hearing sessions

I recognised that some people might not wish to provide accounts which included personal information accounts or sensitive information not suitable for sharing in a public or group setting, and so the Inquiry Team organised several private hearings with participants which I attended with a member of the Inquiry Team and/or David Page and Megan Slattery (no media or public in attendance).

Between January and April 2021, there were 17 such meetings, each with a single participant in attendance. There were 11 different participants, three of whom attended more than one meeting.

C. Information Received: The People Surveys

The Settlement Agreement which concluded the group litigation provided that POL was committed to improving its culture. It provided, too, that POL had a new management team which intended to make fair, just and reasonable improvements in important areas of concern to SPMs which had been highlighted during the course of the litigation.¹¹

In April 2021 the Inquiry launched the People Surveys. These surveys were commissioned, primarily, so as to explore the extent to which POL had fulfilled and/or was fulfilling the provisions in the Settlement Agreement referred to above. They were intended to provide the Inquiry with sufficient information for an independent assessment of the views and experiences of both current SPMs and current staff within POL about these matters.

The nature and scope of the Surveys were outlined in detail in Statement of Approach (003) published on 06 April 2021. In summary, the aim was to amass sufficient well-informed information so as to make it possible to assess the nature and extent of the changes undertaken or underway at POL with a view to reaching conclusions with firm foundations as to whether appropriate lessons had been learned.

In order to gather information for the People Surveys, two different engagement exercises were utilised with the intention of maximising accessibility and participation as follows:

- Anonymous online forums; and
- Telephone interviews.

To facilitate open and honest expression of views and experiences, contributions from all participants were anonymous.

Anonymous online forums

In April 2021 a series of anonymous online forums were launched (which remained open until 25 May 2021) to investigate POL's progress in effecting cultural and organisational change and to take a deeper look into the processes and policy changes that had or were being, implemented at POL. The forums consisted of two groups:

Group 1: Current SPMs

The NFSP and CWU were asked to nominate current SPMs to participate in the forums. The nominees were asked to consider a series of questions centred around 13 themes:

- A. Training and onboarding.
- B. Branch Support Processes.
- C. Branch Support Centre (Helpline).
- D. Data Accounting Processes.
- E. Transaction Corrections.
- F. Accounting and Loss Prevention.

¹¹ The detail in support of the brief summary in this paragraph can be found in clause 9 and Schedule 5 of the Settlement Agreement.

- G. Communications and Listening to Concerns.
- H. POL Engagement with the Postmaster.
- I. Management of Branch Losses.
- J. Contract Management – Restructure and Contract Reinstatement Exercise.
- K. Historical Shortfall Scheme.
- L. Cultural and Organisational Change.
- M. Post Office Culture.

In total 43 SPMs nominated by NSFP participated and there was one participant nominated by the CWU.

The forums were facilitated. Jerome Norris was, again, asked to structure the events so as to maximise the prospect of co-operation from participants.

Group 2: Current POL Employees

The members of this group were current employees of POL. One forum was dedicated to those holding “middle management” positions; a second forum was open to all POL employees. Those participating were asked to consider several questions centred around 11 themes:

- A. Training and onboarding.
- B. Branch Support Processes.
- C. Branch Accounting Balancing Measures.
- D. Transaction Corrections.
- E. Accounting and Loss Prevention.
- F. Commitment to addressing Horizon Issues.
- G. Communications and Engagement.
- H. Listening over shortfalls/discrepancies.
- I. Reducing Branch Losses.
- J. Cultural and Organisational Change.
- K. Rebuilding Trust.

The forum for employees other than those designated as “middle managers” took place on 28 April 2021. The forum for “middle managers” took place on 5 May 2021. Each forum initially ran for one hour as a “live” discussion session. Each session was facilitated by Jerome Norris and each participant was anonymous. Both forums remained open for further anonymous contributions until 25 May 2021.

At the forum held on 28 April there were 15 participants. The forum held on 5 May was attended by 24 participants. There were no contributions from any POL employee after the dates of the two forums notwithstanding that they remained open for further contributions for at least three weeks.

Telephone interviews

Between 14 April and 25 May 2021 the Inquiry held anonymous one-to-one interviews with SPMs in two groups:

Group 1:

- Current SPMs who had experienced any balancing issues and/or shortfalls in their branch since January 2020; or
- Those SPMs whose contracts had been suspended or terminated since January 2020.

Group 2:

- SPMs who had applied to the Historic Shortfall Scheme¹².

These two groups were drawn from SPMs who had participated in the Call for Evidence and/or Stage 1 hearings and who had expressed an interest in taking part in the People Surveys and persons who were chosen to participate having been nominated to take part by the NFSP. An opportunity to participate was also afforded to SPMs who were members of the CWU but there was no take up of the offer.

The Inquiry conducted 18 one-to-one interviews in total for Groups 1 and 2, with each interview lasting between one and two hours.

The Inquiry had hoped to engage in interviews with a third group, namely, employees nominated by POL who were employed in the following work spheres:

- Managing branch accounting shortfalls or balancing issues (helpdesk and case handlers).
- POL management accounting including central cash reconciliation processes.
- Training and audit.
- Sales and area managers.
- Contract managers who have managed suspensions, terminations and/or contractual disputes since January 2020.

In the event no one in those spheres offered to take part.

The participation in the People Surveys was low. It is not possible, at this stage at least, to offer a definitive view on the reason or reasons for the low level of participation. That said, there were a number of events which occurred during the period in which the Surveys were in being and which might have had an effect upon levels of participation. These were:

- The quashing of convictions in the Court of Appeal and the comprehensive judgment of the Court.

¹² It is unnecessary in this Update to provide details of this Scheme. It was set up as a way of assessing compensation for eligible persons who had suffered loss as a consequence of their being held responsible for shortfalls evidenced by Horizon. The Scheme came into being in consequence of the terms of the Settlement Agreement (see paragraph 9 and Schedule 6 of the Agreement). The Scheme falls to be considered under the Terms of Reference of the Inquiry – see Provisional List of Issues numbers 148 - 152.

- The calls by the JFSA for a Statutory Inquiry and the well-publicised claims by JSFA that they were about to embark upon proceedings for judicial review.
- The appointment of a SPM as a Non-Executive Director to the Board of Directors of POL.
- The well-publicised and detailed speech by Nicholas Read on 8 April 2021 setting out his objectives for the coming years.
- The announcement of a contract extension between POL and Fujitsu relating to Horizon.

Whatever may be the reason for the low level of participation in the People Surveys, I acknowledge that the level of participation is likely to limit the usefulness of data analysis and, perhaps, limit the weight to be attached to the experiences of individual participants when seeking to determine whether such experiences are representative of a much larger number of individuals who have, thus far, remained silent. That said that there will be a further opportunity for persons to describe their experiences of the issues canvassed in the People Surveys during the public hearings and other engagements which will take place as the work of the Inquiry progresses into next year.

While it is only right that I acknowledge the shortcomings of the People Surveys it would be wrong at this stage to assume or conclude that the Surveys have no value. They complement and, at least to some degree, enhance the information obtained in the Call for Evidence and the Stage 1 hearings. Together all these sources of evidence suggest fruitful lines of enquiry which will be pursued in the public hearings and engagements to come.

D. Information Received: The Whistleblowing Survey

This Survey was launched with a view to obtaining evidence from employees of POL, Fujitsu, BEIS and UKGI about their understanding and experiences of raising concerns (whistleblowing) within their respective organisations about issues related to Horizon.

To promote the Survey to as wide an audience as possible the Inquiry Team contacted the four organisations directly and requested that they promote the survey within their respective organisations via open calls for participants. As designed the survey sought to gain an initial, exploratory understanding of whistleblowing policies and procedures within these organisations. In consequence, the Inquiry Team did not attempt to target specific groups of people within these organisations (e.g., Whistleblowing officers), but, rather, relied upon a range of employees to come forward and assist the Inquiry.

It was a requirement of the survey that matters raised must be related to failure to comply with the law and/or proper organisational procedures, miscarriages of justice, health and safety, environmental damage and/or covering up wrongdoing associated with these points.

The survey was available to be completed from 12 April 2021 to 10 May 2021. By the closing date 232 completed responses had been received.

Of those who responded and completed the survey, 193 were from POL and accounted for approximately 83% of the total sample. There were 24 responses from employees of Fujitsu, 8 responses from employees of BEIS and 7 responses from employees of UKGI. Important themes covered by the questions included:

- Awareness of whistleblowing policies and procedures
- Levels of confidence around how complaints are handled
- Barriers to raising concerns and/or blowing the whistle
- The extent to which employers support and encourage employees to raise concerns

Some of the questions specifically catered to those who have a formal role in relation to Whistleblowing in their organisations. Only 5 individuals from the total sample self-identified that they had a formal role in Whistleblowing and therefore qualified to answer these questions.

Analytical review of the responses to the Survey was arranged with analysts working in the Department for Business, Energy and Industrial Strategy (BEIS). I was conscious, of course, that there existed the possibility that some observers would regard such involvement as giving rise to the appearance of partiality. However, I was assured that the personnel concerned had no connection with or affiliation to POL, postal policy or Horizon and, in those circumstances, I accepted that the time and financial cost of engaging independent analysts with no connection to BEIS could not be justified.

However, as it turned out, response numbers were very low¹³ and the lack of detail of the general characteristics of the target population for this survey meant that it was impossible to perform statistical analysis or to assess whether the responses received were representative of the views of employees within the four organisations. The lack of detailed qualitative responses

¹³ The reasons for this are unknown but similar factors to those identified in the section on the People Survey may have been influential.

to free text questions also means that it would be very difficult to discern recurring themes or experiences about Horizon IT whistleblowing.

As the Inquiry proceeds opportunities will arise to build upon the information so far obtained by focusing specifically on key target groups and by adopting a more targeted approach in the questions presented.

E. Information Received: Information Requests to POL, Fujitsu, BEIS and UKGI

From October 2020 to 31 May 2021, the Inquiry Team regularly communicated (as described below) with POL, Fujitsu, BEIS and UKGI with a view to obtaining documentation and other information relevant to the Inquiry's work. In this section of the Update, and for ease of reference, these four organisations are known collectively as "the institutions".

Requests for documents and information were made in "batches". Information and documentation obtained from the institutions were provided electronically and in accordance with the Inquiry's Information Sharing Protocol which is set out at Annex A of Statement of Approach (002).

By 31 May 2021 the Inquiry had sent a total of 14 batch requests to the institutions. Each batch request contained a mixture of specific questions and general and specific document and/or information requests.

The Inquiry received approximately 350 documents from the institutions as a consequence of batch requests made prior to the Inquiry's conversion into a statutory inquiry. Additionally, a number of explanatory notes were provided by the institutions to assist in the understanding of the meaning and the content of some of the documents.

The documents from the institutions will become important evidence in their own right. Additionally, of course, the documents and explanatory material constituted very useful reading material in preparation for the planned Stage 2 hearings and, no doubt, these sources will provide important evidence, in due course, by which to test and assess some of the oral evidence which will be given at the public hearings to come.

F. Information Received: The “Teach-In” Series from the Post Office and Fujitsu

To supplement and better understand the information provided to the Inquiry in answer to batch requests, the Inquiry Team invited individuals from POL and Fujitsu to participate in a series of sessions with members of the Inquiry Team which were known as “Teach-ins”. All of the Teach-ins except one took place in April and May 2021 and there would have been at least two more sessions after June 1 had the Inquiry remained on a non-statutory basis.¹⁴ The topics discussed at the sessions with POL and Fujitsu are summarised below. I am grateful to those employees of POL and Fujitsu who gave up their time to answer the many queries put to them.

What were the “teach-In” sessions?

The teach-in sessions were designed to provide the Inquiry Team and me with a further and better understanding of those aspects of the information presented to the Inquiry in answer to batch requests which required greater clarity and/or more detailed analysis and appraisal.

The sessions lasted between 90 - 120 minutes. In advance of each session POL or Fujitsu (as appropriate) were provided with an agenda which contained sufficient detail so as to provide the framework for discussions about particular themes or topics. Each organisation was asked to determine which of their employees would be most able to lead the teach-in sessions. That person, usually accompanied by one or more fellow employees with particular knowledge of the themes or topics under discussion, would then take the lead in providing the answers to the queries raised. The teach-in sessions were attended by individuals from POL or Fujitsu, a member of the Inquiry Team and one or more members of Solirius Consulting.

I did not attend the teach-in series. The Inquiry Team was informed that the employees of POL and Fujitsu likely to be present at the teach-ins would be more comfortable and better able to communicate if the sessions were held with members of the Inquiry Team and/or Solirius Consulting. I acceded to the request that I should not attend these sessions. However, I was provided with ample opportunity to familiarise myself with the teach-in sessions by reading documents prepared for me by the Inquiry Team and through discussions with members of the Team and Solirius Consulting who had attended. Additionally, I was provided with the opportunity and able to view and listen to recordings of all the sessions with employees of the relevant organisation. No recordings were made of the sessions with Fujitsu at their request.¹⁵

In total, eleven teach-in sessions had been scheduled prior to the decision to convert the Inquiry. The last two sessions of the series did not take place as they were scheduled for June 2021 and I took the view that such sessions were not appropriate following the conversion of the Inquiry into a statutory inquiry.

POL and Fujitsu separately attended the following teach-in sessions:

The POL series

¹⁴ One Teach-in with POL took place on 9 June 2021. This had been arranged prior to the conversion of the Inquiry and the session was held before I took the decision that the continuation of Teach-ins was not appropriate following conversion.

¹⁵ At each session held privately the participant was asked whether or not he/she was happy for the session to be recorded. If the participant expressed the view that a session should not be recorded he/she was not asked for an explanation. Recordings were made to enable the Inquiry Team and I to refresh our memories of what had occurred in the private sessions and to avoid the need for extensive note taking.

- Session 1, 26 April 2021 (session recorded): An overview of audit/auditors and branch accounting, e.g., how auditors complete cash reconciliation and undertake back-office accounting. The Inquiry heard from POL on the audit process which informed provisional assumptions and hypotheses.
- Session 2, 28 April 2021 (session recorded): Central accounting practices and process (central reconciliation). The Inquiry heard from POL on how their head office (also known as “central teams”) undertake reconciliation of Post Office accounts; balancing stock and cash held across the branch network, and balance/match with third party data (e.g., Camelot or the Bank of Ireland).
- Session 3, 29 April 2021 (session recorded): The focus of this session was what occurs when a SPM experiences a shortfall and/or would like assistance (i.e., contacting helpdesks/the national contact centre). The Inquiry heard about the teams and operations supporting SPMs at the national contact centre and was given information about cultural and behaviour changes underway at POL.
- Session 4, 29 April 2021 (session recorded): When a SPM is formally notified of a shortfall – the process at POL. The Inquiry heard from POL about how its head office (also known as “central teams”) manage branch accounts and SPMs who have branch losses. At this session members of the Inquiry team posed questions about behaviours and practices which might need to change and/or have changed/adapted following the outcome of the group litigation.
- Session 5, 25 May 2021 (session recorded): Technology Supplier Relationships and delivery strategy
- Session 6, 9 June 2021 (session recorded): Technology Strategy and Future Plans

Had the planned further sessions taken place they would have covered the following: -

- Session 7, 16 June 2021 (Cancelled due to conversion to a Statutory Inquiry): Governance processes and POL IT team overview.
- Session 8, 16 June 2021 (Cancelled due to conversion to a Statutory Inquiry): Future Plans including - testing, architecture, Horizon Improvement Programme, management of bugs, errors and defects scripting.

The Fujitsu series

- Session 1, 27 April 2021 (session not recorded): This session covered Fujitsu Horizon Team and Organisation, Product Management, Requirements and Usability, and Project/Programme Governance and Assurance.
- Session 2, 5 May 2021 (session not recorded): This session covered Architecture, Technical Design and Standards, Security and Access Management, and Audit Data.
- Session 3, 11 May 2021 (session not recorded): This session covered Software Development and Release Process, Quality and Testing, Support and Defect Management, and Cash Accounting.
- Session 4, 25 May 2021 (session not recorded): This session covered the Bugs and Errors table from the Horizons Issues Judgment, to assist the Inquiry’s understanding of Fujitsu’s defect management systems and terminology.

Part 2: The conversion to a statutory Inquiry and next steps

An Introduction

The announcement by the Minister that the Inquiry was to be converted into a statutory inquiry provoked a good deal of interest and comment. Not surprisingly, too, there was a considerable degree of interest in the Terms of Reference of the converted Inquiry since they were, in some respects, substantially different from the Terms of Reference of the Inquiry in its non-statutory form. From the moment that the Terms of Reference of the converted Inquiry were published I was conscious that there was a distinct possibility that significant debates might develop over the true ambit of the Terms.

For that reason, I resolved early on that it was essential that the Inquiry should publish a List of Issues which it would investigate. It is now widely recognised that a List of Issues can be a very useful tool in assisting those participating in a statutory inquiry to focus upon the core issues which are to be investigated in depth. It also helps to provide a clear guide to participants as to how an Inquiry Chair interprets the Terms of Reference by which he/she is bound. The process for formulating the List of Issues and the List Itself is considered more fully below.

On 27th May 2021, I met representatives of the JFSA together with their lawyers. The meeting was conducted in much the same way as the introductory meetings which had taken place in October 2020 which I have mentioned above. From my perspective, at least, the meeting was constructive. The impression I formed was that the JFSA would do its best to steer the Inquiry towards topics and issues of concern to its members but that it had a genuine desire to participate in the work of the Inquiry.

On 28th July 2021 Statement of Approach (004) was published. In that document clear guidance was given relating to the preparatory steps to be undertaken in the months immediately following the conversion of the Inquiry. It included descriptions of the process by which I proposed to determine the List of Issues, the process for gathering documentary and written evidence, the hearing of oral evidence and the ambitious timetable which I had set for accomplishing the ultimate goal of delivering the Inquiry report to the Minister.

As I have said already, I regard the goal of delivering a report to the Minister by the end of 2022 as one which must be achieved, if at all possible. The information received by the Inquiry to date establishes that a wrongful conviction was first recorded against a SPM in England and Wales in November 2001. There is every reason to suppose that significant queries must have been raised about Horizon by employees of Fujitsu, POL and SPMs before that time. Accordingly, there is every possibility that SPMs, members of their families and their employees have been adversely affected by Horizon over a period beginning more than 20 years ago. That being so, it is imperative that a report to the Minister is delivered as soon as is reasonably practicable.

A. Core Participants of the Inquiry

On 28 June 2021 a Protocol¹⁶ was published which described the process by which I would designate Core Participants of the Inquiry. The Protocol set out that applications for Core Participant status should be made by 20 July 2021 and that they would be determined by 10 August 2021. It also described in detail the criteria by which such applications would be considered and determined.

Persons or organisations designated as Core Participants have a particular status within the Inquiry as the phrase “Core Participant” suggests.¹⁷ In particular, Core Participants have the right to appoint a legal representative, the right (exercisable by themselves or their legal representative) to make opening and closing statements at the commencement and close of the public hearings at which oral evidence will be received and the right to ask me to grant permission to themselves or their legal representative to put questions to witnesses who give evidence. For obvious reasons, I considered it appropriate to invite all the Core Participants whom/which I had designated as such to make written submissions to me about the Provisional List of Issues which I published.

To date a total of 219 persons and organisations have applied to become Core Participants. The vast majority of those applications were made by current or former SPMs or from persons associated with current or former SPMs. To date all applications by SPMs have been made on their behalf by two firms of solicitors, namely Howe+Co and Hudgell Solicitors.

149 individuals represented by Howe+Co have been granted Core Participant status. Decision letters in respect of the applicants represented by that firm were sent out on 3, 6 and 19 August 2021.¹⁸

48 individuals represented by Hudgell Solicitors have been granted Core Participant status. All decision letters in respect of those individuals were sent to Hudgell Solicitors on 3 August 2021.

Core Participant status was also granted on 3 August 2021 to the following: -

- Post Office Limited
- Fujitsu Services Limited
- UK Government Investments
- Department for Business, Energy & Industrial Strategy
- The Commissioner for the Metropolitan Police Service
- Communications Worker Union

¹⁶ In this Update there are references to Protocols published by the Inquiry. These are all public documents which are readily accessible on the Inquiry’s current webpage on Gov.UK and will be made available on the discrete website which has been created for the Inquiry and which will be launched shortly.

¹⁷ See the Inquiry Rules 2006

¹⁸ All Core Participants and their legal representatives will be named on the Inquiry’s website in due course, subject only to any applications for anonymity in accordance with the Protocol on Redaction, Anonymity and Restriction Orders. In these circumstances, it is not considered appropriate or necessary to identify in this Update the individuals represented by Howe+Co and Hudgells Solicitors who have been designated as Core Participants.

- Justice for Subpostmasters Alliance
- Ms Paula Vennells

I have the power to designate a person or organisation as a Core Participant at any time during the course of the Inquiry. It should not be assumed, therefore, that the “list” of Core Participants is now closed. Any person or organisation who/which considers that they should be made a Core Participant may apply for that status although they should explain in the application why the same is being made outside the time specified in Statement of Approach (004).

B. Legal Representation and funding for Core Participants

All the applications made for Core Participant status, save one, were made by lawyers acting on behalf of their clients or by an organisation which made it clear that it wished to be represented by a lawyer. Rule 6 of the Inquiry Rules provides that if a Core Participant has appointed a lawyer to act for her/him an Inquiry Chair must designate that lawyer as the Core Participant's recognised legal representative.¹⁹

I have designated the following as recognised legal representatives: -

- David Enright of Howe + Co on behalf of all Core Participants represented by that firm
- Neil Hudgell of Hudgell Solicitors on behalf of all Core Participants represented by that firm
- Sonia Campbell of Mishcon de Reya LLP on behalf of Paula Vennells
- Morrison & Foerster (UK) LLP on behalf of Fujitsu
- James Barry of the Government Legal Department on behalf of BEIS
- Sarah Jones of Eversheds Sutherland (International) LLP on behalf of UKGI
- Daniel Futter of the Directorate of Legal Services on behalf of the Commissioner for the Metropolitan Police

In its application for Core Participant status the CWU informed the Inquiry that it did not intend to be represented by a lawyer.

In its application for Core Participant status, POL confirmed that it wished to be represented by a legal representative but would confirm that representative in due course.

By virtue of section 40 Inquiries Act 2005 I am empowered to make awards in favour of persons who are attending the Inquiry to give evidence, are required to produce documents or who have such a particular interest in the proceedings (in my opinion) as to justify such an award. If I consider it to be appropriate, I may make an award to cover the cost of legal representation.

The power conferred upon me by section 40 of the Act is subject to such conditions or qualifications as may be made by the Minister and communicated to me (see section 40(4)).

On 28 June 2021 the Inquiry published a Costs Protocol which appended to it a statement made by the Minister pursuant to section 40(4) of the Act.

The Protocol specified that in determining whether or not an award to cover legal representation should be made I would take account of the financial resources of the applicant. This statement was consistent with Rule 21 of the Inquiry Rules 2006.

Subsequently, I invited the Minister to amend his statement pursuant to section 40(4) of the Inquiries Act so as to permit me to make awards to cover legal representation in respect of a specified category of applicants without taking into account their financial resources.

¹⁹ This is subject to a qualification in Rule 7 but to date the circumstances addressed by Rule 7 have not arisen.

I am pleased to report that the Minister acceded to my request and on 20 August 2021 he issued a revised statement pursuant to section 40(4) of the 2005 Act which was published shortly thereafter. On 26 August 2021, an updated Costs Protocol was published.

In consequence I have determined that I should make an award in favour of all the individual Core Participants represented by Howe + Co and Huddell Solicitors without taking account of the financial resources of those persons. I made that decision because it seemed to me to be just and proportionate and in line with what has occurred in recent statutory inquiries in which individuals who have been substantially affected by the event or events under inquiry have been made Core Participants. I communicated my decision to those applicants by letter dated 6 September 2021.

C. The List of Issues

On 26 August 2021 the Inquiry published its Provisional List of Issues. The List was sent directly to the legal representatives of all Core Participants and interested persons who had previously made contact with the Inquiry. It was also publicised by posting it on the Inquiry's webpage on Gov.UK. Core Participants and any other interested person or organisation were invited to make written representations about the wording and content of the Provisional List by 5 pm 10 September 2021.

Considerable care was taken in the formulation of the Provisional List of Issues. The Terms of Reference of the Inquiry require that my work should build upon the conclusions reached by the Courts in the group litigation and criminal appeals. The List has been drafted very much with that in mind. Quite deliberately, the List proceeds upon the assumption that for the purpose of the Inquiry the conclusions of Fraser J and the Court of Appeal are a starting point. The List was drafted with the aim of permitting the Inquiry to investigate with flexibility but in detail all the issues which reasonably and properly fall within the Terms of Reference.

I recognised, however, that the Provisional List would benefit from detailed scrutiny from all those with an interest in the Inquiry so that where appropriate amendments or additions could be made to the List before it was finalised. To repeat, an opportunity was afforded to anyone to make suggestions for amendments or additions provided the suggestions were received by 5pm 10 September 2021.

By that date the Inquiry had received 15 discrete suggestions for amendments to the Provisional List of Issues. At the date hereof it is too soon to say to what extent, if at all, the finalised List will reflect the suggested amendments. That is not just because the suggestions received deserve appropriate attention and I have, as yet, had limited time to consider them. It is also because I received two applications for extensions of time for submitting appropriate amendments to the Provisional List (to which I acceded) with the consequence that there will be two further discrete sets of suggested amendments delivered to the Inquiry on or before 17 September 2021. It is clearly desirable that I address my mind to all the suggested amendments at the same time before deciding whether (a) to accept or reject the proposed amendments and/or (b) to hold a public hearing to receive oral submissions upon some or all of the proposed amendments.

D. Witness Statements and Requests for Documentary Evidence

Section 17 of the Inquiries Act 2005 empowers me to take sworn evidence. All witnesses giving oral evidence to the Inquiry will be asked to give sworn evidence.

Rule 9 of the Inquiries Rules 2006 requires me to send a written request for a written statement to any person from whom the Inquiry proposes to take evidence (“Rule 9 requests”). The Rule 9 request must contain a description of the matters or issues which are to be covered in the statement.

Rule 9 requests must also be made to any person who or organisation which is required to produce documentary or physical evidence. The request must specify the document or other evidence which must be produced.

So far, the Solicitor to the Inquiry has sent Rule 9 requests to the organisations and individuals listed below.

- POL, on 17 August 2021, with a deadline of 4pm 31 August 2021 for response;
- POL, on 9 September 2021, with a deadline of 5pm 30 September 2021 for response;
- BEIS, on 9 September 2021, with a deadline of 5pm 30 September 2021 for response;
- UKGI, on 9 September 2021, with a deadline of 5pm 30 September 2021 for response; and
- Fujitsu, on 9 September 2021, with a deadline of 5pm 30 September 2021 for response.

The requests made to those organisations and individuals will be published on the Inquiry’s independent website as soon as practicable after the website is functioning.

The Rule 9 request made to POL on 17 August 2021 concerned the Historical Shortfall Scheme.²⁰ An appropriate officer or employee of POL was asked to make a statement providing factual information about applications for compensation under the Scheme. Within the specified deadline Mr Nicholas Read provided such a statement. The following is a summary of the information provided: -

- The Scheme opened on 1 May 2020;
- During the period specified for making applications²¹ 2,514 applications were received (although 2 were subsequently withdrawn)
- 154 applications were determined to be ineligible under the Eligibility Rules established for the Scheme
- 474 offers of compensation had been made of which 447 had been accepted²²
- POL’s aim is that all applications would be determined by the end of 2022.

All other Rule 9 requests to date have sought confirmation from the recipients of the requests that documentation and/or information already provided to the Inquiry in its non-statutory phase can be treated as evidence in the statutory Inquiry.

²⁰ See footnote 12

²¹ The Scheme closed in November 2020 according to information available on the Scheme’s website

²² This figure accurate as of 13 August 2021.

E. Public hearings

In accordance with the timetable set out in Statement of Approach (004) public hearings are due to begin early in 2022. As I have said already it is certainly possible and perhaps likely that the commencement of these hearing will be delayed from January although I am of the view that this delay should not affect the timescale of the Inquiry overall.

These hearings will, inevitably, be a very important tool for resolving contentious issues. As I have said witnesses who are called to give oral evidence will be asked to give sworn evidence. I anticipate that there will be a significant number of witnesses to be examined.

Most of the questioning of witnesses will be undertaken by Counsel to the Inquiry. From time to time, it may be appropriate for me to intervene and ask questions of my own.

Core Participants and/or their lawyers do not have the right to question witnesses. Similarly, those Interested Persons attending the Inquiry do not have the right to question witnesses. However, both Core Participants and all other members of the public may submit proposed questions for witnesses to the Solicitor to the Inquiry and Counsel to the Inquiry will determine which, if any, of the questions received should be pursued with witnesses.

Circumstances may arise as the public hearings unfold which dictate that I should allow the questioning of witnesses by Core Participants, their legal representatives, or others. It is not possible in advance to specify what those circumstances may be, and it is very likely that I would exercise my power to permit such questioning very sparingly and only after receiving submissions from the person making the request and other relevant participants at the Inquiry.

It is inevitable that much of the time allocated to public hearings will be spent examining those who are, potentially, open to criticism in respect of their actions or decisions vis-à-vis Horizon and those affected by the use made of data generated by Horizon. However, time will also be allocated for persons who have been or who still are affected by Horizon and decisions flowing from the use of data generated by Horizon. I am conscious that few current or former sub-postmasters have, as yet, provided evidence to the Inquiry. It is imperative that I hear first-hand from a substantial number of affected people.

That said, I am conscious, too, that some people may not wish to provide evidence in the full glare of a public hearing. Accordingly, it would be of considerable help to the Inquiry if all those persons who have already made witness statements for the purpose of the group litigation or in respect of their appeals against conviction voluntarily disclosed those witness statements to the Inquiry. They are likely to provide an important source of evidence and in some, perhaps many cases, their production would obviate the need for oral evidence. Additionally, the Inquiry Team is working on ways of obtaining oral evidence from affected people (which thereafter would be made public) but without the need for the person providing the oral evidence to give formal evidence at a public hearing.

Details of how affected persons will be invited to provide human Impact evidence are currently under consideration and they will be announced on the Inquiry's website in Autumn 2021.

F. Assessors

Section 11(2) of the Inquiries Act 2005 empowers me to appoint assessors. On 28th July 2021²³ a Protocol was published about the process for their appointment.

In the Protocol I indicated that I was minded to appoint David Page of Solirius Consulting as an assessor unless I received representations about that proposed appointment by 11 August 2021 which caused me to take a different view. I provided that indication because Mr Page had been acting as an advisor to me since 5 March 2021. In the period between that date and the conversion of the Inquiry he had gained my confidence as an independent adviser and, I believe, the confidence of those who had participated in the work of the Inquiry in its non-statutory form.

In the event no objection to his appointment was made within the specified timescale (or at all) and on 16 August I appointed him as an assessor. I am sure that he will play a full and valuable role over the course of the Inquiry.

Over the course of the coming weeks, I am very likely to appoint another assessor to assist me. This person will have extensive expertise in corporate governance. If possible, the appointee will also have experience and/or knowledge of the relationship between a company such as POL on the one hand and civil servants and the politicians exercising supervisory powers over such a company on the other.

I am in the process of identifying suitable potential candidates. Any person who considers that they fulfil the criteria I have identified is invited to apply for the position by sending an email to the Secretary to the Inquiry before 12 noon on 15 October 2021. The applicant should provide a letter supporting the application together with a CV.

In accordance with the published Protocol relating to the role of assessors, a person will be appointed only if it appears to me that (i) he or she has the expertise to make him or her a suitable person to provide the necessary assistance and (ii) he or she has not previously been concerned in the issues arising from Horizon or the prosecutions, litigation and settlements arising from it.

Core Participants will have an opportunity to make representations about the proposed appointment before it is finalised in accordance with paragraph 11 of the published Protocol.

²³ This Protocol was updated on 26th August 2021.

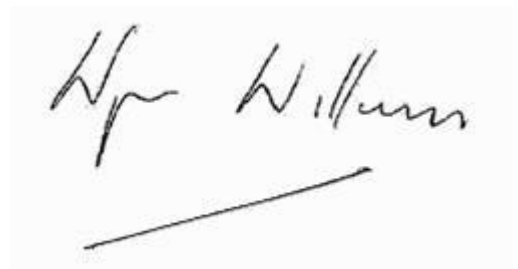
Next Steps

Over the course of the coming days and weeks the following events will occur and a number of tasks will be accomplished: -

- The Independent Inquiry Website will be launched.
- The document management system will become available.
- The List of Issues will be finalised.
- Further Rule 9 Requests will be issued to POL, Fujitsu, BEIS and UKGI, and requests will be made to other Core Participants and persons or organisations who/which can assist the work of the Inquiry.
- Arrangements will be finalised for persons who wish to provide an account of the impact of Horizon upon them but who do not wish to give oral evidence at the public hearings.

Thereafter, and as expeditiously as is reasonably possible, I will consider the evidence which is provided to the Inquiry in response to the Rule 9 Requests and determine who should give oral evidence at the public hearings. I will provide a firm timetable for the commencement and duration of these hearings as soon as I reasonably can and I will also indicate, at least provisionally, how the hearings will be managed.

I do not pretend that adherence with the timetable set for the Inquiry's work will not be challenging but, at the risk of unnecessary repetition, I am determined that the overall timetable is kept if at all possible. I should stress, now, however, that keeping to that timetable depends not just upon my determination and that of the Inquiry Team and the Inquiry Lawyers but also upon the willingness of all Core Participants and persons interested in the work of the Inquiry to comply with my requests and directions within any period specified for compliance whenever possible. I hope and expect that all participants in the Inquiry share my view that any undue delay in the work of the Inquiry would be unconscionable and that such delay must be avoided.

A handwritten signature in black ink, appearing to read 'Wyn Williams', with a horizontal line drawn underneath it.

Sir Wyn Williams

15 September 2021

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