

IN THE MATTER OF THE POST OFFICE HORIZON IT INQUIRY

OPENING STATEMENT ON BEHALF OF

POST OFFICE LIMITED

1. Post Office Limited ('POL') apologises for the suffering and damage caused to every person who has been affected by the Horizon IT scandal. That includes not only postmasters¹ directly affected by POL's failures, but all others, including in particular their families, whose lives have been impacted by those failures.

 2. POL remains fully supportive of this Inquiry, and its aim to get to the bottom of what went wrong and help draw a line for some people who have suffered for decades. POL will do all it can to help the Inquiry achieve that.
- A. POL's role in the Inquiry**
3. POL regards its role in this Inquiry as having two key elements.

Listening and learning

4. The first is to listen and learn from all the evidence and representations made by other Core Participants. Although POL has worked resolutely over the last few years to respond to the issues raised in the judgments of Mr Justice Fraser, it does not come before this Inquiry convinced that it knows all the answers. Only by listening intently to the evidence to be given can POL hope to understand fully exactly what went wrong.

¹ Subpostmasters and subpostmistresses are both types of "postmaster", but a postmaster can be a limited company, partnership, or limited liability partnership, as well as an individual that contracts with POL in their capacity as a postmaster in the network.

POL therefore does not seek at this stage to anticipate either the evidence to come or the Inquiry's potential conclusions on this, or any, phase.

5. So far as the evidence that has already been given during the course of the Human Impact hearings, and via the focus groups, POL can assure the Inquiry and all those who gave evidence that their voices have been heard. POL wishes to pay tribute to everyone who gave evidence, whether orally or in writing, for their strength and courage in doing so.

Actions taken following the Human Impact hearings

6. Before the Human Impact hearings started, POL created an Inquiry-focused team which was responsible for identifying and recording particular points arising from the individual testimonies that merited further consideration. That team assigned each action point to the relevant business area with the knowledge and expertise to address those points. Thereafter the team has been responsible for progressing responses to each one. As at 3 October 2022, there were 255 action points identified, 173 of which have been resolved.
7. By way of example, 28 of the action points involve allegations made about POL staff members (including current and former staff members, where they have been named or described). These included allegations in relation to the conduct of interviews, inappropriate pressure being brought to bear on postmasters or others, and the withholding or evidence from them.
8. All such points have been brought to the attention of the POL 'Speak Up' team, which is the team responsible for dealing with whistleblowing reports and processes. That team advised that contact be made with the witnesses involved to find out further information to ascertain whether there are grounds for an investigation.

9. In June POL wrote to the representatives of those who made such allegations to propose that its 'Speak Up' team speak to the witnesses directly or that the witnesses provide a written outline of all information relevant to their allegations.
10. It is obviously a matter for individuals as to whether they want to pursue this opportunity, and we recognise that some may feel that this is either too little too late or that they do not want to engage with POL in the light of their experiences. However, POL genuinely wants to investigate those allegations, and would encourage those who wish to do so to engage with the Speak Up team.
11. In addition to action points relating to allegations against specific individuals, POL has carried out, or is in the process of carrying out, internal investigations and reviews of contemporaneous documents to verify other broader points raised by Human Impact witnesses. These include, for example, alleged conduct by Fujitsu.
12. POL anticipates that the outcome of a number of these investigations will be relevant to forthcoming phases of the Inquiry and it will, of course, be disclosing all relevant information and outcomes in that context.
13. A number of other action points resulted in POL reviewing its policies to ensure that an appropriate policy is in place to prevent a similar situation arising again. This includes, for example, ensuring that the current policy on suspension is sufficiently robust to address any concern about inconsistency and that weekly updates will be provided to suspended postmasters to avoid postmasters being left uncertain as to the status of an investigation.
14. Finally, there were a number of action points relating to the Historical Shortfall Scheme ('HSS') and other compensation issues. Some of these have been resolved by improvements to the website, for example to make it clear that compensation payable under the HSS could be made to the estate of a deceased person, and others have led to the changes which were considered at the interim hearings on compensation, such as

the removal of the 'claw back' clause in relation to interim hardship payments. The matters raised in the Chair's Progress Update on Issues relating to Compensation are addressed at paragraphs 23 to 47 below.

15. POL hopes that its proactive engagement with the points raised by Human Impact witnesses demonstrates its commitment to hearing the voices of postmasters, engaging with their concerns, and doing all that it can to resolve them both for the sake of the individual concerned and to ensure that such issues do not arise again.

Assisting the Inquiry

16. The other key role of POL is it doing all that it can to assist the Inquiry with its work.
17. As at 3 October 2022, POL has disclosed to the Inquiry 94,599 documents (having reviewed many more), in response to requests pursuant to Rule 9 of the Inquiry Rules.
18. On 27 May 2022, POL provided the Inquiry with an interim disclosure statement, which ran to 59 pages, setting out POL's general approach to searches and review of documents, including the main repositories and general limitations on searches of which POL is aware.
19. Notwithstanding the very large number of documents that POL has been able to disclose, it is right to flag up some of the difficulties it faces in relation to documentation. One of the issues arises from the history of POL, which was originally one of three businesses constituting Post Office (during which period it was known as Post Office Counters). The other businesses were Royal Mail Letters and Royal Mail Parcels. In 2012 the businesses were formally separated into Royal Mail Group ('RMG') and POL. A number of historical POL documents which pre-date that separation are held by the Postal Museum on behalf of RMG, and therefore not always within POL's control.

20. The separation of POL and RMG was the culmination of a long history of restructurings since 1986. These restructurings have implications for the preservation of documentation, as they involved changes in control structures and the various boards and sub-committees which were responsible for activities now carried out by POL. In particular, as a result of the various organisational changes hard-copy documents are stored in a number of different locations around the country, without any consistent basis. It has been increasingly clear that the current archiving arrangements have shortcomings (such as large numbers of unindexed files and boxes) and steps are being taken to improve them. However, this is a very significant task which cannot be completed in the immediate future.
21. In addition, there have been very considerable changes to the IT systems being used during the relevant period under consideration by the Inquiry; by way of example, at the start of the period IT systems typically relied upon large hard disk drives for storage, by the end of it they typically used cloud computing.
22. These factors have presented a number of challenges in seeking to respond to the Inquiry's requests. Nevertheless, POL would reiterate its commitment to assisting the Inquiry, both in respect of requests for documents and for witness statements.

B. Compensation

23. As at the date of these written submissions POL is in a position provide updates on a number of the issues that the Chair identified in his Progress Update on Issues relating to Compensation. If there are further developments prior to POL's oral opening statement on 14 October 2022, it will of course provide a further update then.

HSS

Current statistics and trajectory

24. POL remains on track to meet the target of making offers in respect of 95% of the eligible applications by the end of 2022. As of 30 September 2022, it had made offers in 82% of cases, against its end of September target of 80%. Out of the 1938 cases in which offers had been made by that date, 1628 applicants have accepted offers in settlement. Of the remainder who did not initially accept the offer, 46 have subsequently accepted it. Of those applicants, 27 accepted it before any Good Faith Meeting and 15 after a Good Faith Meeting but before any Escalation Meeting. Of the 11 cases that have proceeded to an Escalation Meeting, 4 applicants accepted the offer thereafter and 2 applicants have asked to proceed to mediation. A further 156 cases are being actively supported through the HSS Dispute Resolution Procedure by the dedicated Dispute Resolution Team.
25. POL respectfully agrees with the Chair's observation that there is a balance to be struck between speed of decision-making and ensuring that offers which are made are full and fair, and is satisfied that the continuing progress towards its target has not been at the expense of the fairness of the process. In particular, POL is mindful to ensure that applicants and other external stakeholders have sufficient time to collate and provide any relevant information or evidence both before an offer is made and during the Dispute Resolution Procedure.

Late applicants

26. POL fully accepts the Chair's conclusion that the delay in determining whether outstanding applications received after 27 November 2020 should (or could) have been accepted into the scheme was wholly unacceptable and POL apologises for its part in this delay. POL submitted short post-hearing written submissions on 5 August in which it explained that, at that time, POL expected to formally submit a proposal to BEIS together with a funding request shortly, which it duly did. POL is not yet in a position to update the Inquiry on BEIS's decision in this respect, but hopes that will be possible to do so shortly.

Other eligibility issues

27. The Inquiry may also wish to note that POL has reviewed its position on eligibility for the HSS where the branch was operated by a limited company which has since been dissolved. It had previously treated such applications as ineligible as there was no legal entity to make the claim, nor a company bank account to receive any settlement. However, on 30 August 2022, POL announced that it had re-examined the position and would be writing to all 28 postmasters who were previously treated as ineligible to explain that it is now reviewing their claims.

Legal assistance

28. POL recognises the force in your view that fairness to the remaining applicants in the HSS demands that fees allowed for advising on offers which are made henceforth should be increased to levels commensurate with the work reasonably carried out by an applicant's lawyer. This was an issue that was already under consideration by POL prior to the compensation hearings in July, and it has now been determined that for offers which are made from week beginning 10 October 2022, POL will offer to pay an applicant's reasonable legal costs.
29. Whilst as a starting point POL considers that £400 is reasonable for the cost of consulting a solicitor on an offer and its full and final settlement terms where it has offered to pay the applicant's claim in full (or largely in full) and £1,200 where it has not, it will invite any applicant who considers that additional legal support is required to discuss their position with POL so that they can obtain the advice they require in the confidence that POL will pay their reasonable costs.
30. POL has also considered your view in relation to legal assistance at the dispute resolution phase. As POL indicated at the hearing on 6 July 2022, it has been considering whether contributions towards further legal or other professional costs can be made available to applicants to help resolve their claims. It has now been agreed that at the

point that their case enters the Dispute Resolution Procedure, POL also will offer to pay applicants their reasonable legal costs.

31. POL's starting point in such cases is that the sums of £5,000 for cases which relate solely to a shortfall loss, and £10,000 for cases which have other heads of loss may be appropriate, but as with the position at the point of offer, to give an applicant comfort, and with the aim of avoiding any collateral disputes on costs, POL will seek to agree these costs with applicants in advance of them being incurred.

Hardship payments

32. On 29 July 2022, POL published a statement on the Historical Matters section of its website to reflect the existing but unpublicised practice of considering making early payments of up to £10,000 to applicants who are experiencing financial difficulties or suffering serious health issues. On 22 August 2022, it updated that statement to confirm that if such an applicant has received an offer but needs more time to dispute it, it will consider paying part of the offer for applicants who are experiencing financial difficulties or suffering serious health issues.
33. POL does not consider that it was necessary to amend the Terms of Reference of the scheme to that effect. POL's current view is that this is sufficient to mitigate the risk of hardship prior to a claim being definitively resolved, but it will continue to keep this approach under review. POL is conscious that there have so far been relatively few cases to enter the Dispute Resolution Procedure: as noted above, just 202 cases have entered as at 30 September 2022. As those meetings continue POL will take into account whether there are particular issues or themes arising which would justify making interim payments other than on hardship grounds, and if so will reconsider its current policy.

Overtaken Historical Convictions

34. Of the 81 convictions that have been overturned on appeal, applications for initial interim payments have been made in 80 cases.² Interim payments have been offered in 77 cases and accepted in 76.³ No further applications (over and above the initial 3 “public interest” cases) have been declined. POL has, in addition, made second, additional interim payments in respect of 2 cases and offered a second interim payment in 1 case.
35. To date, there therefore remain only 3 cases where an interim payment has been refused or challenged, all of which relate to cases referred to the Crown Court by the Criminal Cases Review Commission (‘CCRC’) prior to the Court of Appeal’s judgment in *Hamilton* – a judgment that has brought helpful clarity in this area. Although POL cannot eliminate the possibility that new, unexpected issues will emerge in future, there are good reasons to believe that the issue created by the so-called “public interest” cases is a problem of three and will remain so.

Potential challenges to a refusal to make an interim payment

36. Against that background, POL has carefully considered the Chair’s conclusions in relation to potential challenges to a refusal by POL to make an interim payment, namely, that a person or panel should be appointed to deal with all such issues rather than POL being the final arbiter in such circumstances.
37. As the Inquiry is aware, the 3 former postmasters whose applications for interim payments have been refused are all represented by Hudgell Solicitors. POL will continue the constructive work it commenced with Hudgell Solicitors on this issue in April 2022, and is in active discussions as to the appropriate route forward in these cases,

² The one claimant who has not yet applied relates to a deceased estate and the solicitors representing the estate have indicated that their client does not wish to make an interim payment application but would instead prefer to advance the estate’s full claim when ready.

³ The applicant who has not yet accepted their offer is in the process of instructing legal representatives and wishes to consider their offer once they have done so.

which include discussions regarding an appropriate independent dispute resolution process, including for example, early neutral evaluation ('ENE') or adjudication.

38. Were any other cases to arise in future where an interim payment was refused by POL, which as noted above, is regarded as unlikely, POL would adopt the same constructive approach to identifying the best route forward via some form of independent dispute resolution process.

Final compensation

39. So far as POL's current approach to final compensation in these cases is concerned, POL has already made the Inquiry aware that Lord Dyson provided his evaluation on 29 July 2022. Since this date, POL has confirmed that it fully endorses Lord Dyson's findings and has agreed to be bound by them in future cases. Offers in line with the guidance provided by Lord Dyson have subsequently been made to the 10 ENE Claimants. 5 of them have now have formally settled their non-pecuniary claims with POL (with 2 of these now having reached full and final settlements on all aspects of their claims). POL anticipates that the remaining 5 non-pecuniary loss claims should be agreed shortly.
40. Following the approach to evidence adopted in the ENE, POL has shared, or offered to share, the evaluation with the legal representatives of all potential claimants with overturned convictions and is inviting all concerned to submit evidence in support of their non-pecuniary claims, so that these can be settled swiftly, in advance of their pecuniary claims, and damages paid out in short order.
41. As at 30 September 2022, POL has received non-pecuniary claims from 18 Claimants with overturned convictions (in addition to the 10 claimants involved in the ENE) and is in the process of reviewing this in advance of making offers in the coming weeks. It is hoped that offers will be made by POL in the majority of non-pecuniary claims by the end of 2022; POL and UKGI/BEIS are all working hard to see this is accomplished and encouraging all claimants to come forward with their claims as soon as possible. POL

will offer more help and support to those claimants with overturned convictions who do not currently have the benefit of legal representation, to ensure they are aware of the opportunity to take their non-pecuniary claims forward on an expedited basis and are aware of what they need to do in order to do so.

42. POL is also pleased to be able to confirm that on 23 September 2022, HM Treasury ('HMT') announced that all compensation payments to postmasters with quashed convictions are to be exempt from tax. POL notified all the affected postmasters on the same day of this positive news. This announcement followed several months of work by POL and officials at UKGI and BEIS to put forward the proposal to HMT. The exemption is hugely beneficial to those seeking compensation from POL, as it will allow POL to process their claims more quickly and, crucially, provides certainty to postmasters who understandably might have worries about the tax effect of their compensation payments.
43. In relation to the pecuniary claims, as at 30 September 2022, the 2 initial cases which POL reported on in its previous submissions have now been settled, one following a mediation. A further 6 claims with supporting schedules of loss have been received, in respect of which POL is working with the solicitors concerned on evidential matters to enable opening offers to be made. POL wishes to encourage all claimants to present their claims as soon as they are able to do so.
44. It was reported to POL that a challenge for claimants has been the lack of ready availability of information from HM Revenue & Customs ('HMRC'). To assist claimants in that regard, POL, BEIS, HMT and HMRC have created a simplified process which will allow claimants to access that information within 28 days, which has been communicated to all claimants. It is hoped that this will assist those bringing claims to advance their claims with greater ease and expedition.

Contingency planning

45. POL notes the Chair's view that there should be contingency planning as to how disputes about final compensation should be reviewed. That is a matter which POL has at all times been alive to and, to date, dealt with by adopting the dispute resolution procedure which is most appropriate to the point in issue, as agreed with the claimants in question, and in that regard has already used an ENE process and a mediation process to positive effect. The issue of whether there should be a single process which would be applicable in every case is being considered internally and, crucially, being discussed with the legal representatives of claimants who may wish to avail themselves of it. POL and Hudgell Solicitors have worked constructively to date to seek to resolve these claims, and it is clear that POL must have regard to a range of views, as well as potential solutions, before landing upon any particular contingency plan. POL is committed to seeking consensual resolution to disputes, facilitated by alternative dispute resolution procedures in all cases.
46. In this context the Chair also noted that to date less than 20% of the postmasters whose conviction could be Horizon-related have sought to have their convictions quashed.⁴ POL would like to reiterate its encouragement to affected postmasters to consider their options for appeal. Whilst POL has written to the vast majority of the 706 individuals who have potentially relevant convictions, or their relatives, there remain 27 individuals that POL are continuing to trace and 20 individuals who POL has been unable to contact because all efforts to trace them to date have been unsuccessful. POL continues to support the CCRC in their endeavours to independently contact those who have not responded to POL or who POL has been unable to trace. We hope that the publicity surrounding the Inquiry and settlements being made may assist in communicating that important message to them.

⁴ As the Inquiry will be well aware, a prosecution may be Horizon-related, but not a "Horizon Case", as defined by the Court of Appeal (i.e. one in which "*the reliability of Horizon data was essential to the prosecution because there was no evidence of the alleged shortfall other than the balance shown by Horizon, and in which there was no independent evidence of an actual loss from the branch account at the post office concerned, as opposed to a Horizon-generated shortfall*"). It is only "Horizon Cases" (and cases conceded on public interest grounds) that are susceptible to successful appeal.

47. POL also continues to provide support to the Crown Prosecution Service ('CPS'), Department for Work and Pensions ('DWP'), the Public Prosecutions Service in Northern Ireland, the Scottish CCRC, the Crown Office and Procurator Fiscal Service and RMG in respect of individuals who were not prosecuted by POL. This support has included providing documentation held by POL, tracing services, as well as round table and individual meetings to assist in their independent reviews. POL have identified 97 potential cases in Scotland/Northern Ireland and 182 CPS/DWP/RMG cases. 2 cases are currently before the Court of Appeal in Northern Ireland.

C. Phase 7

48. Whilst POL does not have a settled view on the potential outcome of any phase of this Inquiry, it does wish to flag up briefly some points in relation to phase 7 when the Inquiry will hear evidence from POL as to the very considerable changes that have been made since the events that led to the Horizon scandal. It obviously does not seek to anticipate that evidence at this stage, not least as improvements will continue to be made during the period leading up to phase 7. However, it is right that at the outset of these substantive phases the Inquiry should have at least a sense of the scale and pace of changes that have already been made since the Common Issues Judgment ('CIJ') and the Horizon Issues Judgment ('HIJ').
49. In particular, POL has sought to re-set its relationship with postmasters, upon whom we all depend. At the highest level of governance, this aim has been supported by the addition of 2 Non-Executive Director postmasters, elected by other postmasters, on the POL Board to ensure that decision-making fully takes into account the reality of the postmaster experience.
50. As all of those involved in this Inquiry are aware, the CIJ included significant findings about the contractual relationship between POL and postmasters. Immediately following that judgment POL prioritised a contract review and restatement exercise to make sure that the contracts with all new and existing postmasters included the implied

terms set out in that judgment. Moreover, there have been a number of external as well as internal reviews and a gap analysis to identify improvements against best practice.

51. To track the improvements resulting from the various recommendations from reviews an Improvement Delivery Group was set up in February 2021 to provide oversight at Group Executive level within POL. That group categorised a total of 447 CIJ-related actions, delivery against which is closely monitored. When last reported to the Board on 12 July 2022, 407 actions were considered to be complete and POL expects 443 of them to be complete before the end of March 2023.
52. By way of example, those actions include: the establishment of an independent appeal panel, including former postmasters, to review disputed investigations, suspensions and terminations; new training, content and learning aids to support postmasters better in how their branch should be run and their business grown; and a system called 'Branch Hub', which is a portal for postmaster communications, trading data, chat help, e-forms and other operational support.
53. By way of further assurance, POL has commissioned a series of reviews from its Internal Audit Function, as well as an independent external review to assess the actions taken or planned by POL at that date as to whether POL was conformant or on a path to conformance with the CIJ.
54. Of the 43 separate themes and sub-themes that were identified by the independent reviewer in the CIJ, as at September 2021, POL was found to be fully or substantively conformant in 24 of them, and on the path to conformance in a further 10. For the remaining 9 areas, POL needed to develop a path to substantive conformance on 3, and 5 were not scored as either overlapping with other themes or falling outside of the CIJ remediation work and/or falling within the scope of the HIJ remediation work.
55. Based on this report and the progress made to date, by the end of March 2023 POL expects to be fully or substantively conformant against 40 of those 43 themes.

56. Turning to the HIJ, POL similarly embarked upon an exercise of internal and external scrutiny and improvement in the light of Mr Justice Fraser's findings on the 15 Horizon issues.
57. Whilst Mr Justice Fraser recognised that the version of Horizon operational at the time of handing down the judgment was relatively robust, and far more robust than that operational in and before 2017, he did not differentiate in his findings between issues which pertained to pre- and post-2017. Accordingly, all issues identified have been considered, even if they may no longer have been relevant.
58. To address those issues, in November 2020, POL set up a dedicated Horizon IT team initially supported by a specialist third party. This team undertook an extensive gap analysis to establish POL's current position against the themes of the HIJ and determine the actions required to close these gaps until the Horizon platform is retired. Through this course of action, POL identified a range of required outcomes, with different levels of priority and urgency. Most of the outcomes have already been achieved.
59. Whilst POL remains committed to continuing its remediation work in relation to the existing Horizon system, as the Inquiry will be aware, POL has also embarked upon an ambitious and accelerated large-scale effort to retire Horizon by 2025 and replace it with a new system, which will be simpler, faster and more intuitive. The design and testing for the new system is being undertaken in conjunction with a focus group of 240 postmasters to ensure that their views and needs are fully taken into account. The first small-scale pilots of the new system started this month and will be carefully evaluated over the next few months before gradually being expanded to more branches. By phase 7, POL will therefore be in a position to demonstrate in real life what its future electronic point of sale system will look like.
60. POL will seek to show in phase 7 that lessons truly have been learned, and concrete changes have taken place or are underway. As part of that process, POL intends to

adopt the same approach in phases 2 to 6 as it did to the Human Impact hearings, that is, to identify the issues raised during the course of the hearings, with a view to providing immediate clarifications or responses where appropriate or to investigating further where necessary, and making changes to current policies or practices as required.

61. POL recognises that the forensic scrutiny to which its past will be subject during phases 2 to 6 will be uncomfortable for many, but nevertheless welcomes the inevitable criticisms as part of the essential process of change and improvement.

4 October 2022