

## Post Office Horizon IT Inquiry

**On behalf of Core Participants represented by Hodge Jones & Allen:  
Teju Adedayo, Nichola Arch, Lee Castleton, Tracy Felstead, Parmod Kalia, Seema  
Misra, Vijay Parekh, Vipin Patel, Sathyan Shiju and Janet Skinner**

---

### Closing Statement

**Phase 3 - Operation: training, assistance, resolution of disputes, knowledge and  
rectification of errors in the system**

---

*Note: This statement alleges that named people have arguably committed crimes. We have had regard to the possibility of adverse publicity arising from this statement being published, and the impact that may have on the fairness of any future trials of those we accuse. Cases, such as Abu Hamza,<sup>1</sup> have generally held that a fair trial is possible even where adverse publicity creates the potential for prejudice, and the cases generally suggest that where reporting is balanced and accurate it is highly unlikely to prevent a trial from reaching a just conclusion. In light of the reporting on the Inquiry that we have seen to date, and on the assumption that future reporting would be in a similar vein, there seems to be very little risk that publication of this statement would create a substantial risk of serious prejudice to future criminal trials, but out of courtesy draw this to the attention of the Inquiry.*

## Contents

<b>Introduction .....</b>	<b>2</b>
<b>The relevant law .....</b>	<b>4</b>
<b>Rollout to 2006: the origins of the conspiracy .....</b>	<b>6</b>
<i>Reversing the burden of proof .....</i>	<i>6</i>
<i>The Impact Programme .....</i>	<i>7</i>
<i>EPOSS and ‘user error’ .....</i>	<i>8</i>
<i>SSC tampering with branch accounts .....</i>	<i>10</i>
<b>2006-2010: the conspiracy crystalises .....</b>	<b>11</b>
<i>POL v Castleton meets the Impact Programme .....</i>	<i>11</i>

---

<sup>1</sup> [2006] EWCA Crim 2918; [2007] 1 Cr. App. R. 27

*The decision on expert evidence in POL v Castleton*..... 15

*Post Office complicity in SSC tampering* ..... 16

*Keeping secrets from the Subpostmasters* ..... 17

*Learning the wrong lessons from POL v Castleton*..... 18

**2010: the conspiracy becomes explicit**.....**20**

*The Ismay report* ..... 20

*Obstructing disclosure to the Misra defence team*..... 22

*The Lynn Hobbs email* ..... 22

**Conclusion**.....**23**

**Introduction**

1. The areas of investigation for this Phase, set out in the tramlines above, pertain to the duty of care the Post Office, and thereby its shareholder, owed to the subpostmasters. Not only did they fail to discharge that duty, it was knowingly undermined, abused and ignored. Instead of a corporate culture of accountability, candour and system integrity, the Post Office, enabled and abetted by Fujitsu, imposed a dogma of infallibility, and a doctrine of blaming Subpostmasters’ for Horizon’s systemic vulnerabilities, which they cloaked in lies and oppression.<sup>2</sup>
2. During Phase 3 the evidence has begun to reveal a conspiracy to pervert the course of justice, which emerged between 2006 and 2010, and continued for many years. We submit that the evidence so far clearly implicates directors and senior leaders within POL and Fujitsu, some who we name herein, others who will feature in the evidence of later Phases. This goes beyond Fraser J’s findings, which suggest, at the least, reckless wishful thinking.<sup>3</sup> He formed the view that the Post Office was “seeming to verge, on occasion, to institutional paranoia,”<sup>4</sup> but a darker picture

---

<sup>2</sup> E.g. POL00029677, para 3.5.1.6 of the Detica Report: “*Team success is measured by the number of failed audits out of the number raised. Leaving aside the issue of failed audits often being at the discretion of contract managers, this measure does not incentivise the team to act preventatively; rewarding interventions solely based on the failure of a SPMRs career, home and livelihood is likely to be a contributory factor behind the blame culture identified by Second Sight.*”

<sup>3</sup> *Bates and Others v Post Office Limited* [2019] EWHC 3408 (QB) (Judgment No.6 “Horizon Issues”) at **928-929**: the Post Office has demonstrated a “simple institutional obstinacy” towards the efficacy of Horizon that is the “21<sup>st</sup> Century equivalent of maintaining that the earth is flat”.

<sup>4</sup> *Horizon Issues*, 946.

has emerged, in which paranoia drove the persecution of Subpostmasters as a means to suppress the truth.<sup>5</sup>

3. The involvement of people within Royal Mail Group and the responsible Government department has not yet been touched upon. Once the Phase 4 evidence has revealed more about what was happening at the “sharp end” of legal proceedings, we anticipate that the evidence in Phases 5 and 6 will examine how far culpability extended into the parent company and the shareholder, which are key accountability concerns.<sup>6</sup>
4. By the time Mrs Seema Misra faced trial in 2010, notorious inherent flaws were known to Fujitsu and the Post Office, and yet these remained concealed to the Subpostmasters, who suffered the consequences of deliberate misinformation and secrecy. This allowed prosecution counsel, Mr Warwick Tatford, to rebut Mrs Misra’s trial defence, and thereby secure her wrongful conviction, by stating that “Horizon is clearly a robust system”,<sup>7</sup> and with any computer problems “the operators can see something is going wrong.”<sup>8</sup>
5. This came about because the essence of the conspiracy to pervert the course of public justice was a prolonged and determined campaign to prevent an independent examination of the Horizon system, beginning in 2006, becoming explicit in 2010, and continuing thereafter. It was this course of conduct which secured the wrongful judgment against Mr Castleton, and the wrongful conviction of Mrs Misra, along with hundreds of other judgments and convictions.
6. Over the years between 2006 and 2010, the Post Office and Fujitsu appear to have developed practices which weaponised legal proceedings, so that the problems with Horizon could remain hidden. The security teams at both Post Office and Fujitsu seem to have been key to executing the course of conduct which perverted the course of public justice in this way.<sup>9</sup> By the time of the Ismay report in 2010,

---

<sup>5</sup> See eg. POL00044997, the email sent by Jarnail Singh informing others of the Seema Misra conviction

<sup>6</sup> Note that the crime of misconduct in public office may also have been committed by those within Government or the Civil Service. However, the misconduct in question would be most readily described as perverting the course of public justice, so consideration of this crime is unlikely to bring a further dimension to the Inquiry’s investigation. Furthermore, it would add a level of unnecessary legal complexity for those at the “sharp end”, who may not hold public office, nor be readily linked as accessories or conspirators to those who do.

<sup>7</sup> Day 7 of R v Seema Misra at 23G (the full transcripts have been provided to the Inquiry)

<sup>8</sup> 24H

<sup>9</sup> Their motive at the outset may have been reckless and driven by financial concerns. The contractual penalties may have also incentivised a response that closed complaints without proper investigation. This view was shared by Ms Chambers in POL00070104 which was put to Mr Peach at p 88 of the 16 May transcript:

*“Strictly speaking, problems with discrepancies do need to be investigated by NBSC in the first instance, but where there are continuing unresolved problems it should be possible to get the issue investigated properly, and one of the helpdesks should be prepared to take responsibility for the incident. Personally I think the fact that the Horizon Helpdesk is penalised for passing ‘Advice and Guidance’ type calls on to third line leads to too many calls being closed without proper investigation or resolution. This is very frustrating for postmasters, though possibly not an issue of concern to POL” (emphasis added).*

the routine perversion of the course of justice was embedded, as can be seen from the open acknowledgement that an independent review of Horizon could re-open past convictions and stall future proceedings.

7. Later in 2010, not only was Mr Ismay directly involved in blocking Mrs Misra's defence team from carrying out an independent review of Horizon, but he was explicitly alerted to Fujitsu's capacity to inject transactions into branch accounts. In our submission it is highly significant that the original email which explained this to him is no longer in existence (see paras 71 et seq below).
8. Alongside the criminal conduct emerging from the Phase 3 evidence, a toxic corporate culture of secrecy and misinformation is now apparent. The Post Office corporate mindset is emerging as hypocritically pious, clandestine and paranoid. It is therefore no surprise that it specialised in propaganda and policing its own people. While the leadership deliberately hid critical information from Subpostmasters and stacked the accounting technology against them, the myth that "Britain's most trusted brand" could do no wrong was ruthlessly used against anyone who fell out of line. Those who worked directly for the Post Office had two options:
  - (i) the Susan Harding approach - "if you can't beat them, join them"; or
  - (ii) the Gary Blackburn approach - "keep your head down".

### *The relevant law*

9. Perverting the course of justice is a common law crime, committed when a person:
  - (a) acts or embarks upon a course of conduct,
  - (b) which has a tendency to, and
  - (c) is intended to pervert,
  - (d) the course of public justice.<sup>10</sup>
10. As discussed in paragraph 2 of our Phase 2 Closing Statement, a person may be attributed with knowledge if the evidence suggests that they "deliberately shut their eyes to the obvious, or refrained from inquiry because they suspected the truth but did not wish to have their suspicion confirmed"<sup>11</sup>.
11. It would be up to a jury to decide whether imputed knowledge that Horizon evidence was perverting the course of public justice could be taken as evidence of an *intention* to pervert the course of public justice. Intention is always a matter of inference from all the evidence, and the leading authority<sup>12</sup> discourages

<sup>10</sup> *Vreones* [1891] 1 Q.B. 360, at para 369; cited in *Archbold* at 28-1

<sup>11</sup> Per Lord Bridge in *Westminster City Council v Croyalgrange Ltd* (1986) 83 Cr App R 155 at 164

<sup>12</sup> *Woollin* [1999] 1 A.C. 82, H.L.

elaboration on its meaning, although obviously it is very different from motive or desire.<sup>13</sup> Self-evidently, inferences of guilt can only be safely drawn if innocent inferences can be ruled out.<sup>14</sup>

12. A criminal conspiracy occurs when two or more persons agree to pursue a course of conduct which will necessarily amount to or involve one or more of them committing a crime.<sup>15</sup> The crime of conspiracy is committed as soon as the agreement is formed, so repentance or later withdrawal are immaterial; and the simple concept of agreement to pursue a course of conduct does not involve any ideas from the civil law of contract, which are also immaterial.<sup>16</sup>
13. Putting these two definitions together, a conspiracy to pervert the course of justice occurs when:
  - (i) two or more people agree
  - (ii) to embark on a course of conduct
  - (iii) which has a tendency to,
  - (iv) and is intended to, pervert
  - (v) the course of public justice.
14. Put as simply as possible in the context of the Horizon scandal, the questions are as follows:
  - (i) a) Did Horizon produce unreliable accounts?  
b) Were those accounts used to secure wrongful judgments / convictions against Subpostmasters?  
[The Horizon Issues and Hamilton judgments answer these questions.]
  - (ii) Did the course of conduct which resulted in a lack of inquiry into Horizon's faults therefore have a tendency to pervert the course of public justice? [This is surely uncontentious.]
  - (iii) Did anyone pursue that course of conduct because he or she suspected the truth as to a) and b) above, but did not wish to have their suspicion confirmed? [If so, that person can be taken to 'know' that Horizon produced unreliable accounts and that those accounts had secured wrongful judgments / convictions.]
  - (iv) In relation to each person who pursued that course of conduct with that imputed knowledge, in light of all the circumstances, can it be inferred that

---

<sup>13</sup> *Archbold* 17-36

<sup>14</sup> *McGreevy v. DPP* [1973] 1 WLR 276, HL; [1973] 57 Cr App R 424

<sup>15</sup> Criminal Law Act 1977, s1; cited in *Archbold* at 33-2

<sup>16</sup> For discussion see *Archbold* at 33-5

they intended to pervert the course of public justice, or are there realistic possibilities consistent with their innocence?

- (v) If more than one person pursued that course of conduct with that intention, can it be inferred that they were acting in agreement?

***Rollout to 2006: the origins of the conspiracy***

*Reversing the burden of proof*

15. Our Closing Statement for Phase 2 concluded that the senior leadership of the Post Office and ICL/Fujitsu knew or were reckless as to the fact that the Horizon system as rolled out produced unreliable accounts, and that those accounts were used as evidence in legal proceedings.
16. The human impact evidence of Tracy Felstead and Nichola Arch tells us that Post Office investigators took Horizon accounts as gospel from the outset and used them to reverse the burden of proof.<sup>17</sup> Post Office investigators did not recognise any need to be impartial. They believed that shortfalls in branch accounts were proof of Subpostmaster dishonesty.
17. During Phase 3 it became clear that the investigators were not alone in that belief. Susan Harding's astonishingly remorseless evidence to the Inquiry was, apparently unbeknownst to her, a damning indictment of the Post Office's Finance Directorate. Having taken no legal advice, she gave an unvarnished account of the prevailing attitude towards Subpostmasters:
- A. ... And the Finance Director [Peter Corbett] -- so, you know, I ran this on behalf of my sponsor, the Finance Director, but it was clear that -- and I'm not disrespecting any of the people that have been jailed if Horizon was wrong, but there had been many people --
- Q. Sorry, you said "if Horizon was wrong".
- A. Yes. Well, I -- I'm not doubting it was wrong. I'm just saying I haven't -- ...
- Q. ... Did you have a mindset in the entirety of your time working for Post Office, that the suspense account was used by dishonest subpostmasters to hide and cover up money that they were taking?
- A. My mindset was that it was a place where they could do that.
- Q. And did do that?
- A. Yes, and did do that ...
- Q. Did you think it was used for any other purpose, like an innocent purpose?
- A. I don't know. It could have been.
- Q. Well, did you? Can you help?
- A. I don't -- I can't remember...
- Q. ... You seem to be operating on the basis that it must be nefarious and, if that's the

---

<sup>17</sup> INQ00001035 pp4-5, internal numbering p14 line 22 to p17 line 22

basis on which you were operating, then you should say so.

A. It was -- yes...<sup>18</sup>

18. This unashamed evidence was troubling, but ironically it suggests that this witness was not involved in a conspiracy to pervert the course of justice, because it appears she was a Post Office true believer.

### *The Impact Programme*

19. The same cannot be said for those who set that tone from above. Ms Harding implemented the Impact programme at the behest of Peter Corbett, the Finance Director, and David Smith, then in a senior role in IT. It was a wide-ranging programme to improve cash flow in the context of the loss of Benefits Agency business, and the need to borrow from DTI at commercial rates. It was seen as a "critical business survival issue",<sup>19</sup> so self-evidently, this was not a frolic Mr Corbett set off on alone. The rest of the Board would have been watching it closely. It is telling, therefore, that almost no trace of Board involvement in the Impact programme has been disclosed.
20. That paucity of Post Office documentation is particularly suspicious when set against a scrap of chance disclosure from Fujitsu. An outlook meeting invitation dated 12 February 2004 stated that "The decision reached yesterday by key senior stakeholders was to remove the Suspense Account altogether. This would force Branches to make good all losses immediately."<sup>20</sup> Both the stark recognition of what it would mean to remove the suspense account facility, and the reference to "key senior stakeholders", tell the story. On 11 February 2004, it is reasonably clear that Peter Corbett, David Smith and possibly others made the decision to remove the suspense account, but the Post Office has disclosed no minutes or correspondence to that effect.
21. Stephen Grayston, former Post Office Change Manager, appeared to be an honest witness. When it was put to him that there had been an increase in the use of suspense accounts from £2m to £10m over a period of 18 months after the rollout of Horizon, he said he remembered that being discussed at the time. He accepted that it ought to have been followed up with investigation and proper consideration before Impact was rolled out, but that in fact the issue "disappeared".<sup>21</sup> Again, there has been no disclosure of any discussion of this issue at any level within Post Office.
22. When being asked about the connection between the Impact programme, the reliability of accounts and the Post Office's prosecution function, Mr Grayston

---

<sup>18</sup> Inquiry Transcript 22 February 2023, p28 line 19 to p32 line 6, with some deletions

<sup>19</sup> POL00038870 p14

<sup>20</sup> FUJ00126038

<sup>21</sup> Raised by John Peberdy - NFSP00000513 p13; put to Mr Grayston on 27 February 2023, transcript pp 9-12

stated that he was "sure there's a lot of analysis within Post Office on the types of cases, the numbers of cases, the amounts involved that, you know, were regularly discussed at a post office management level."<sup>22</sup> If he was right about that, again, no record of it has been disclosed.

23. In our questions for Mr Grayston we sought to pull this together:

Q. Looking back, do you think that as S80 [the Impact programme] was designed and created, alongside it ... there was a sort of development of a myth that Horizon cash account data was absolutely reliable?

A. Myth ... I think business decisions have to be based on an understanding that what is coming out of the system is accurate and reliable. If at a management level there is a suspicion that it may be flawed in some way then that causes or should cause, you know, a lot of thought and creation. Myth -- I'm not sure about "myth" but ...

Q. If there was perhaps an unwillingness to sort of investigate those possibilities?

A. Yes, I think -- you know, this is something that, having listened to some of the testimony, you know, they -- stepping back and looking at what's going on, making use of the various types of different view or data that would exist in the business, may have helped...

24. Whatever stepping back and looking at the data took place, the Board has left no trace of it. We submit that they were obliged to look at the data, and they either 'weeded' out what they did not want to see, or they deliberately did not step back and look at the data, because they knew or suspected what it would show. They are equally culpable either way, because the truth is Horizon accounts were not reliable enough to move forward with the Impact programme. The Finance Directorate was determined to move forward with it anyway, and that was the catalyst for the conspiracy to pervert the course of justice, because in the meantime the criminal investigations continued. As the convictions mounted up, the Horizon myth-building had to ramp up, not only to justify rolling out the Impact programme, but also to justify the prosecutions themselves. There would have been consternation at managerial and board level if there were any concession that the use of Horizon accounts could lead to wrongful convictions or send innocent people to prison, because it would have been reputationally disastrous, from Tokyo to London, extending to Whitehall.

*EPOSS and 'user error'*

25. Meanwhile, at the same time as the Impact programme was being developed, and Nicola Arch and Tracy Felstead were being prosecuted, Fujitsu was trying to keep a secret. Richard Roll put it bluntly: the poorly kept secret was that "the

---

<sup>22</sup> p28 line 13



system was crap. It needed rewriting. But that that was never going to happen because the money was not available, the resources were not available".<sup>23</sup>

26. Mr Roll further agreed with Mr Beer's contention that the default position was to assume "user error" where a system failure could not be found. Importantly, Mr Roll expressed the view that the management of Post Office and Fujitsu made that assumption.<sup>24</sup> This suggests mutual connivance, and convenience, and even if driven initially by budgetary demands, this evolved into deceit once the consequences of candour were too costly. A cover up, founded on the default position of branding Subpostmasters as incompetent or dishonest, arose from the beginning, because the EPOSS code was unfit for purpose, and the position hardened as more and more Subpostmasters were sacrificed.
27. The decision not to repair the EPOSS code through a comprehensive re-write was given a patina of legitimacy on paper: Terry Austin claimed that the quality of the EPOSS code, based on "product defects", would remain under review.<sup>25</sup> Yet the team who would become aware of product defects were SSC, and Mik Peach, Steve Parker and Anne Chambers all disclaimed knowledge of keeping the re-write under review. The Problem Manager, Steve Bansal, also knew nothing of the problems with the EPOSS code.<sup>26</sup>
28. The only Phase 3 witness who said he had been told about the decision not to re-write the code was Stephen Muchow, Customer Services Director in 2000. He testified that EPOSS had "too many bugs",<sup>27</sup> and that Mr Austin's decision was taken because re-writing the code would be too expensive and cause too much delay<sup>28</sup> (which ties into Mr Roll's evidence). He said that his department (which included SSC) was "the sacrificial lamb", and when we asked him to explain that he said:

When the development team makes the changes, they do unit tests, module tests. They'll hand [a system test] over to the test team who will ... try and prove that it's operating as per the current specification. When I said "sacrificial lamb" what I meant was had there been any of those things left behind or ignored or -- no, not ignored, overlooked, then my team would have to cope with it. And there were never -- there weren't penalties per se that directly resulted from development. It was always the customer service side... I paid the money when we got it wrong.<sup>29</sup>

---

<sup>23</sup> 9 March 2023, p22 line 23

<sup>24</sup> P32, line 8

<sup>25</sup> WITN04600104 p9-10

<sup>26</sup> 11 January 2023, p70 line 2 There is a Faultline between Austin, who claimed the project had been handed over, and the above mentioned who denied responsibility for the emerging errors.

<sup>27</sup> 12 January 2023, p58 line 11

<sup>28</sup> p70, lines 17-18

<sup>29</sup> p93 line 10 to p94 line 2, with some deletions

*SSC tampering with branch accounts*

29. Not only did Customer Services 'pay the money' for a defective product, but they also had to find a way to manage the complaints. This led to "unrestricted and un-audited privileged access... to all systems including post office counter PCs", which developed on a "needs must basis... given the need to support the deployed Horizon solution".<sup>30</sup> Pell mell "firefighting", Mr Roll's phrase, was the default position for SSC. There was no system to co-ordinate, reflect upon, or inform the Subpostmasters of the pervasive bugs, errors and defects.
30. In the face of this documentary evidence, SSC witnesses all admitted to the practice of logging into branch accounts to insert transactions, and yet some obfuscation remains. Although a 2003 document stated that a new Secure Shell process would be used to retain keystroke data for all SSC actions on branch accounts from thence forward,<sup>31</sup> by 2016 another document admitted that "no active command logging or keystroke logging is done".<sup>32</sup>
31. The later document relied upon the so-called four eyes practice, whereby all branch account access was witnessed by a colleague, and a narrative of the activity would be written into the Peak. This was also described by SSC witnesses, and to some extent documented.<sup>33</sup> It is notable, however, that this practice would have been unnecessary if there had ever been a proper keystroke audit trail of SSC activity on branch accounts. It seems likely that the 2003 document was wishful thinking, abandoned in the face of reality.
32. It is certainly very hard to see how a proper keystroke audit trail could exist when SSC staff were logging on with Subpostmaster user credentials to insert transactions. Richard Roll explained that if an external user ID was used to insert transactions they may not be "harvested", so SSC staff would use the Subpostmasters own user ID.<sup>34</sup> Anne Chambers admitted to this, but she said that she would leave a "comment" which would show in the "unfiltered" ARQ data, to identify what she had done.<sup>35</sup> However, she also explained that there was a distinction between the "standard" ARQ data which was routinely sent out to the Post Office in response to their requests, and the "unfiltered" data.<sup>36</sup> Evidently this process of filtering the ARQ data that was sent to the Post Office removed her "comments".
33. It is unsurprising that obfuscation existed and remains around the SSC practice of injecting transactions into branch accounts. Alan D'Alvarez admitted that what

---

<sup>30</sup> FUJ00088036 p15

<sup>31</sup> FUJ00088082 p2/3 and p6

<sup>32</sup> FUJ00089535 p13

<sup>33</sup> FUJ00138355 / POL00029844

<sup>34</sup> 9 March 20023, p70 line 14 to p71 line 15

<sup>35</sup> 3 May 2023, p45 lines 9-25

<sup>36</sup> 2 May 2023, p159 lines 10-24

they were doing was "entirely against what the access control policy says should happen",<sup>37</sup> and it is obvious that no one outside the branch should have been able to change a branch's transaction records. Using plain language, SSC were routinely tampering with branch accounts unknown to Subpostmasters, and yet Subpostmasters were wholly accountable for shortfalls in their accounts because they were nominally in control of them as the 'books' on which their livelihood and reputation depended. People were bankrupted or imprisoned on the strength of accounting data that the Post Office said was unimpeachable and could not be altered. Fujitsu had known from the start that this was a lie, and it was not long before Post Office knew it as well (see paragraph 58 below).

34. In response to Mr Beer KC's question as to what audit or monitoring had taken place to see whether people accessed the live estate from outside the system, Stephen Parker responded: "ultimately, you are depending on the people concerned to understand the requirements and the importance of not doing so."<sup>38</sup> Mr Beer reiterated that the third line support's unrestricted and unaudited privileged access to Post Office counter PCs afforded the opportunity to commit fraudulent or malicious acts that would affect the stability of the system. He asked Mr Parker once again whether this was of serious concern. Mr Parker maintained that the issue was mitigated through trust in his staff. This was a staggering position to take.<sup>39</sup> Fujitsu Security had a team responsible for litigation support. They must have known that the practice of tampering with branch accounts was disclosable in both Civil and Criminal litigation. The board cannot have been 'in the dark' given the issues and the audit by experts from Japan.<sup>40</sup>

### ***2006-2010: the conspiracy crystalises***

#### *POL v Castleton meets the Impact Programme*

35. It was obvious before this Inquiry began that POL v Castleton was a watershed in the Horizon scandal. The mere fact that Mr Castleton was pursued for damages of around £25,000 at a cost of around £321,000 indicates that this was not an ordinary case, and the Post Office senior leadership must have been involved in the way it unfolded. Indeed, this email from Mandy Talbot reveals the true benefit of this costly prosecution: "the more publicity the case is given the greater should be its effect upon postmasters who take legal advice about defending claims for

---

<sup>37</sup> INQ00001002 p10 (p40 line 17)

<sup>38</sup> 10 May 2023, p 81

<sup>39</sup> 10 May 2023, pp 97-98

<sup>40</sup> See the references to this evidence from David McDonnell in our Phase 2 Closing Statement

repayment."<sup>41</sup> The economic case to expend that exorbitant amount for a trivial claim, reveals the ulterior motive.<sup>42</sup>

36. Phase 3 has established an important confluence of events: during the critical build up to trial at the end of 2006, the implementation of the Impact programme was causing havoc with Post Office accounting procedures. The clue to this came when Andy Winn revealed that when he moved to Chesterfield he was "aware that a major Horizon-related project had gone live and there was lots of issues flying around there... accounting in Product & Branch Accounting was causing a lot of problems in a lot of areas... I think feeds from branch, right, whenever things were falling into the wrong accounts and the accounts weren't functioning as planned."<sup>43</sup>
37. There has been no indication of this in any Post Office disclosure, but there is some indication of the way the Impact programme was implemented in a Fujitsu document listing the many Peaks which had not been resolved before the Impact programme was implemented through release S80. Over 32 pages just one example gives a flavour: "This is a code error but the problem has been in the system since before S80 and doesn't appear to be causing any significant confusion."<sup>44</sup> This, of course, begs the question: how could Fujitsu know whether this code error was causing confusion, given that Subpostmasters were completely in the dark as to this litany of problems, issues and patches.
38. Mr Winn's account of the consequent problems in P&BA was admitted by Rod Ismay, albeit not in the same terms. He did not mention it in his statement, but when Mr Winn's testimony was put to him, he said "we had a lot of issues that ran right through that whole period [from 2005 to 2010]. The data out of the old system needed transferring into the new system and it was an enormous amount of data and then continuity of the interfaces from branches needed to continue... So we were livid..."<sup>45</sup>
39. He did not admit that "things were falling into the wrong accounts", but he did admit that the problems were interfering with "having prompt and reliable settlement arrangements with our corporate clients".<sup>46</sup> In the battle to keep the Post Office going, relationships with corporate clients were essential: network banking, bill payments, the lottery would all have been crucial for replacing the lost Benefits Agency business. In Post Office leadership thinking, it would have been disastrous to admit to 'clients' that Horizon accounts were not reliable, so small wonder that POL v Castleton posed such a challenge in the middle of 2006.

---

<sup>41</sup> POL00113488

<sup>42</sup> See, similarly, POL00113909 p5

<sup>43</sup> 3 March 2023, p15 line 14 to p16 line 8, with some deletions

<sup>44</sup> POL00030283 p10

<sup>45</sup> 11 May 2023, selected sections from p94 line 18 to p96 line 24

<sup>46</sup> p98 lines 2-3

40. Just before moving to P&BA in June 2006, Mr Ismay was head of investigations in Security. He was already one of a select few being briefed by Mandy Talbot, the internal lawyer handling POL v Castleton. On 23 November 2005 she sent an email to Mr Ismay, David Smith, and Tony Utting, who reported to Mr Ismay at that stage, as well as to Jenifer Robson, copied to Clare Wardle and Nicky Sherrott. It said:

the solicitors for LC have stated in the allocation questionnaire that they intend to call evidence from other existing and former postmasters about the problems with the Horizon system. They have also asked for disclosure of data about all calls or complaints logged from postmasters about the Horizon system, presumably from the inception of the system. They have called for disclosure of all documents removed from the Branch Office during the investigation. There is an issue over locating all these documents... [There is then reference to the follow-on case of Bajaj and a possible class action.] In each case the postmasters are challenging the validity of data provided by the Horizon system and the cases became litigious before that evidence could be properly investigated. In each case it was known that Horizon was going to be challenged but there was no procedure in place to (a) acquire the necessary data (b) identify somebody with the relevant knowledge and capacity to interpret the data and report on the same. If the challenge is not met the ability of POL to rely on Horizon for data will be compromised and the future prosperity of the network compromised. Fujitsu's reputation will be affected.

41. Ms Talbot made various suggestions, including:

- Fujitsu and POL to liaise on identifying a number of individuals or specialist computer firms who could provide a professional and independent report upon the Horizon system in general and in the two cases to hand if necessary.
- Identify current members of POL or Fujitsu staff who can provide statements in the two current cases which (a) validate the system (b) explain the Horizon process from end to end and (c) can explain why each and every point made by the Defendants is irrelevant or can be explained.<sup>47</sup>

42. When we put this email to Mr Ismay, he disclaimed any knowledge or memory of it. This was a consistent feature of his evidence when emails relating to POL v Castleton were put to him. Nevertheless, it is quite clear that he was one of those from whom Ms Talbot sought instructions, so he was either a decision-maker or he was a liaison point to those above him making the decisions. A further email from a year later, dated 9 November 2006, was sent to him, David Smith, Marie Cockett, John Cole, Keith Baines and Richard Barker (copied to Carle Wardle and Biddy Wyles), within which Ms Talbot sought instructions on a potential settlement. She also pointed out to the group the benefit of having a judgment against Mr Castleton, because they would “be able to use this to demonstrate to the network that despite his allegations about HORIZON we were able to recover

---

<sup>47</sup> POL00107426 p3 and p5

the full amount from him. It will be of tremendous use in convincing other postmasters to think twice about their allegations.”<sup>48</sup>

43. These emails had not been disclosed when David Smith gave evidence, but in general terms he disclaimed any significant involvement in POL v Castleton.<sup>49</sup> Mr Ismay said that he, David Smith and Richard Barker were the most senior of the November 2005 recipients. It is hard to believe that they did not discuss the POL v Castleton decisions with the Directors they reported to. Again, there is no record in the disclosed documentation of the decision-making, and it is reasonable to assume those whose names appear on Ms Talbot’s emails will continue to deny responsibility or claim total memory failure.
44. Some of those denials and memory failures will be more credible than others. We submit that Mr Ismay’s memory failures were convenient. There were clear signs of dishonesty in his evidence. The attempt to explain away his heartless lack of interest in the Human Impact testimony as a desire to avoid memory contamination was particularly distasteful, when it was quite clear that he had felt free to refresh (arguably “contaminate”) his memory by watching his colleague Andy Winn’s testimony on the issues he was obliged to address.<sup>50</sup>
45. Significantly, he refused to accept that he was interested in the Horizon “story making”,<sup>51</sup> only to be faced with an email chain which put his part in the mythmaking beyond doubt. On 22 January 2007 Ms Talbot wrote to many recipients including Mr Ismay, to say that the POL v Castleton judgment had “entirely vindicated the Horizon system.”<sup>52</sup> His response was to say, “great news” and “What can we do on a pro-active comms front here?” Even he was forced to admit this email showed he was interested in the story, or the comms, in relation to Horizon.<sup>53</sup> His motive for that interest is clear from the next line: “We’ve watched the various inflammatory letters in the Subpostmaster letters page and wanted to be able to assure branches and **clients** that they can rely on the integrity of Horizon” (emphasis added). We submit his concern with clients related to the chaos the Impact programme was continuing to have in Product & Branch

---

<sup>48</sup> POL00113909 p5

<sup>49</sup> 24 February 2023, p54 line 8 to p55 line 8

<sup>50</sup> 12 May 2023, p78 line 23 to p80 line 9

<sup>51</sup> 12 May 2023, p18 lines 13-20

<sup>52</sup> We have not sought to blame Mrs Chambers, on what has thus far been established, as she was pressed into service and not properly briefed. We reserve our position in case more evidence emerges. This said, it cannot be forgotten that Mrs Chambers’ evidence in the Castleton trial was instrumental in securing the judgment and led His Honour Judge Richard Havery Q.C to conclude at [11]:

*“[T]he logic of the system is correct, the conclusion is inescapable that the Horizon system was working properly in all material respects, and that the shortfall of £22,963.34 is real, not illusory.”*

Her superiors would have known all about this.

<sup>53</sup> p108 line 16

Accounting at this stage. From his perspective it was critically important to keep the big corporate clients in the dark about that.

*The decision on expert evidence in POL v Castleton*

46. Keeping the big corporate clients in the dark was achieved by the decision not to obtain an independent expert report as part of preparing for the Castleton trial. Whatever Mr Ismay and the other recipients of Ms Talbot's emails may say about the decision-making, the immutable fact is that Ms Talbot's 2005 suggestion to obtain a professional and independent report on the Horizon system was not taken up. Instead the judgment was secured against Mr Castleton with the only explanation of Horizon evidence coming from Anne Chambers. We think it wholly implausible that this came about accidentally, and in fact the Post Office decision-makers conspired with the Fujitsu Customer Services Directorate to make it happen. Ms Chambers was deliberately put in the firing line because it was in both corporate's interests to avoid commissioning the "independent report upon the Horizon system" suggested by Ms Talbot.
47. By the time the trial was about to begin, Ms Talbot had evidently become accustomed to the idea that she should use SSC personnel to investigate expert issues instead of seeking an independent view. When Mr Castleton raised the Callendar Square bug, this is how she asked Mr Parker at the SSC to deal with it: "you will have to pull out all the stops to investigate what if anything went wrong at these branches and why we can distinguish them from Mr Castleton at Marine Drive."<sup>54</sup>
48. Note that at the start of Ms Talbot's November 2005 email she stated "It was known by the business prior to issue [of proceedings] that LC blamed Horizon for the losses. External Solicitors were asked to check with the Fujitsu liaison team and to assure themselves that the evidence in respect for Horizon was sound before the issue of proceedings."<sup>55</sup> Proceedings were issued on 25 May 2005, so Fujitsu Customer Services were on notice of Mr Castleton's challenge to Horizon integrity from before then. More than a year later, a telephone attendance dated 11 August 2006 reveals that Gareth Jenkins and Anne Chambers had both provided draft witness statements, and an expert report was still under consideration, at least by the lawyers.<sup>56</sup> Even so, the result was Ms Chambers statement was produced and signed on 14 September 2006,<sup>57</sup> and nothing more was heard of either Mr Jenkins' statement or any other expert evidence.

---

<sup>54</sup> POL00070133

<sup>55</sup> POL00107426 p3

<sup>56</sup> POL00071438

<sup>57</sup> LCAS0001265

49. What we heard from Mik Peach gave an alarming sub-text: As Anne Chambers's line manager he was required to offer her up because "somebody in security" had declined to go to court. He was unable (or unwilling) to say who of three people was responsible for putting Ms Chambers in the firing line, although he did say it was the result of a "stand-up argument" in a corridor in the Fujitsu Bracknell premises. The three people he named were Brian Pinder, Fujitsu's security lead, and two successive Customer Services Directors, Dave Baldwin and Naomi Elliott.<sup>58</sup> Both Mr Pinder and Mr Peach reported up to the Customer Services Directorate<sup>59</sup> so it reasonable to conclude that if the argument were between the two of them it cannot have resolved without intercession from the Director they reported to. It is therefore clear that the Fujitsu Customer Services Directorate was instrumental in managing how the Horizon technical evidence was put before the court in *POL v Castleton*, and the process by which that happened was opaque and contentious.
50. To make matters worse, when Ms Chambers was prevailed upon to make her statement, she understood herself to be a witness of fact, giving evidence about the investigation she conducted because of Mr Castleton's calls to the Horizon Helpdesk in 2004. In the event, at trial, she was treated as an expert witness, and she gave opinion evidence about the Horizon system overall.<sup>60</sup>
51. Thus the Fujitsu Customer Services Directorate managed to avoid scrutiny of the Horizon system through the involvement of an independent expert witness. Both the quality of the EPOSS code and the tampering with branch accounts remained secret.

*Post Office complicity in SSC tampering*

52. That said, tampering with branch accounts was a secret they shared with some at the Post Office. Quite when this secret was shared is impossible to say given what Andy Winn revealed of the early stage of the Post Office's interaction with ICL/Fujitsu's Customer Services. He was appointed as Problem Management Team Leader in or before 2003, and when he was asked if that required knowledge and understanding of the Horizon system, he said it did, but he didn't have that knowledge, so he was "a bad placement into that role". He said he wasn't given any training, and he was bad with technology. He surmised that the reason he was appointed was that his competition was equally unsuited to the role.<sup>61</sup> As for what the team did day to day, he said this:

---

<sup>58</sup> 16 May 2023, p63 line 1 to p64 line 12, and p146 line 24 to p150 line 8

<sup>59</sup> p148 lines 7-9

<sup>60</sup> FUJ00152299 p1. She also asked the question "what would have happened if the initial call had been handled by a less experienced SSC person?".

<sup>61</sup> 3 March 2023, p8 line 13 to p10 line 16



Q: How busy was your team of 12?

A. I would say the team were not desperately busy and I was very busy.

Q. ... Why were you busy and they weren't?

A. There were plenty of problems coming in... "You know, we're told to report any problems into your team", you make a note of it, say "Thanks very much, let us know when you've resolved it" which -- so the team, bear in mind I've got 12 people, seemed really to be employed just to record something and wait for it to be told it was cleared... It didn't seem to -- I was quite uncomfortable with that. I kind of expected it to be much more proactive... On the IT side we wouldn't be able to do because we wouldn't have had the knowledge obviously, but I found it a difficult role.<sup>62</sup>

53. It is easy to conceive of how the Fujitsu Customer Services Directorate persuaded this group of 12 passive, unskilled message-handlers to sign off on routine tampering with branch accounts. Gary Blackburn became a Post Office Problem Manager at an early stage as well, and he confirmed that the role was too reactive and that "Whatever Fujitsu came back with, it was incredibly difficult to challenge, if at all, if it was technical."<sup>63</sup>
54. That was of a piece with his evidence about the process for Post Office approving the tampering with branch accounts: "It's not something that you were particularly conscious of at the time or that it may be particularly concerned you or felt wrong in any kind of way... It felt part of a [Business As Usual] process..."<sup>64</sup>

#### *Keeping secrets from the Subpostmasters*

55. Mr Blackburn gave evidence of the secrecy practised against Subpostmasters with an unusual willingness to look back on his own actions critically, which spoke highly of his honesty before the Tribunal. He gave evidence about the decision not to reveal a significant Horizon fault which occurred at 570 branches due to what his manager, Dave Hulbert, referred to as "litigation risk"<sup>65</sup>. He appeared genuinely ashamed and regretful, having said at page 15 of his witness statement that "If I'd had more visibility of the action that was taken against subpostmasters, I hope that I would have found the courage to challenge, sound a note of caution, and promote the communication of outcomes more vigorously and robustly than I perhaps did." When asked what would have happened if he had raised challenges in that way, he answered that the Post Office was "a highly politicised organisation, very hierarchical, I'd have been seen as stepping out of line with the message. I can't imagine that that would have been good for my career, so I'm sure

---

<sup>62</sup> p161 line 9 to p162 line 15, with some deletions

<sup>63</sup> 28 February 2023, p147 line 22

<sup>64</sup> p206 line 9

<sup>65</sup> p198 line 11 to p200 line 24

at that point in time -- and this is obviously a hindsight reflection -- I obviously, on occasions, chose to unconsciously protect myself.”<sup>66</sup>

56. This striking portrayal of Post Office culture fits with the evidence of them acting in league with Fujitsu’s SSC team to keep problems secret from the subpostmasters. Anne Chambers agreed that sometimes the Post Office team did not want the branch to be told that there had been a system problem.<sup>67</sup> She was taken to an “OCP” form<sup>68</sup> which showed that she had tampered with a branch’s accounts and then left a “comment” in the unfiltered data as described above, explicitly stating on the OCP form that the comment “would not be visible to the branch”. She said “I wasn't making the decision as to whether the branch should be informed or not [the Post Office was]. But, yes, by doing it in this way, maybe I was thinking, "Oh good, we can just get it sorted out before they balance, they don't need to be bothered by it". That probably -- you know, if I had realised, I was going to be questioned about it so long afterwards, I might have possibly made a different decision but that's the decision I made back in 2007.”<sup>69</sup>
57. So on both sides of the operation, those who were at the working level are now able to see that what they were doing was wrong. The evidence falls short of their culpability in the conspiracy, however, because neither Mr Blackburn nor Ms Chambers, were responsible for resisting inquiry into Horizon’s faults. On the contrary, their day-to-day job was to investigate Horizon faults, which they did.

*Learning the wrong lessons from POL v Castleton*

58. Furthermore, Anne Chambers wrote a note for the benefit of Fujitsu management in light of what she considered to be the failure to properly investigate in the run-up to the Castleton trial and she recommended that “If there is a similar case in the future, where the system is being blamed, would it not be sensible to have a technical review of all the evidence, at the first indication that a case may be going to court?”<sup>70</sup> She went on to say that “Fujitsu made a major legal blunder by not disclosing all the relevant evidence that was in existence” and made suggestions for how to ensure that proper disclosure was made in the future.<sup>71</sup>
59. This note was sent to Naomi Elliott and Brian Pinder. If there was a reply from the former it has not been disclosed yet, and the reply from the latter was dismissive: “you have highlighted some interesting areas of procedure which we need to

---

<sup>66</sup> p233 lines 12-19

<sup>67</sup> 3 May 2023, p29 line 25 to p30 line 4

<sup>68</sup> FUJ00087194

<sup>69</sup> 3 May 2023, p38 lines 16-25

<sup>70</sup> FUJ00152299 p1

<sup>71</sup> FUJ00152299 p1

recognise, and I will discuss these with Naomi...”<sup>72</sup> The evidence suggests Ms Chambers was ignored.

60. Meanwhile, Mr Pinder’s team continued to provide witness statements for use in Post Office prosecutions which were misleading at best, fraudulent at worst. Andy Dunks described how he went about making statements through his supposed “due diligence”: if he or his boss had any understanding of their own role in litigation support they would have known that he was falsely presenting himself as an expert witness, and that he was not entitled to give the opinion evidence that he routinely included by way of the line “I have reviewed the helpdesk calls pertaining to this office and during the period X to Y there were Z calls to the Helpdesk. I am of the opinion that none of these calls relate to faults which would have had an effect on the integrity of the information held on the system.”<sup>73</sup> This line was used as “boiler plate” within the Fujitsu security team. So far it appears in numerous disclosed statements by William Leslie Mitchell and Andrew Paul Dunks, with dates ranging from 2004 to 2008,<sup>74</sup> but it seems likely that Phase 4 will uncover many more examples. These statements appear perjurious in nature, but time, disclosure and evidence will allow the Inquiry to make a sound assessment in due course.<sup>75</sup>
61. Likewise, there is no evidence that the Post Office learned the right lessons from *POL v Castleton*. At the conclusion, their counsel Richard Morgan (subsequently KC) provided an Advice on how it had been possible to reverse the burden of proof, which meant that Mr Castleton had to prove that the Final Cash Accounts were wrong. This had side-stepped the difficult if not impossible need to prove that there had been a loss. He therefore advised that in future when a subpostmaster faces suspension he should be required “to produce and sign a final account to the day of his removal”.<sup>76</sup> Evidently this Advice was taken to heart, because in civil and criminal litigation the Post Office routinely did no more than produce the Horizon cash accounts as evidence of loss. As the *Hamilton* judgment finally recognised, this had the effect of reversing the burden of proof in the criminal courts as well.
62. To conclude on this period, Phase 3 has produced considerable evidence that decision-makers within both Fujitsu and Post Office deliberately blocked any independent review of Horizon’s faults within an adversarial process and did so because they suspected that any such review would uncover the truth that Horizon was producing unreliable accounts which were nonetheless being used to secure wrongful judgments and convictions. If possessed of that kind of

---

<sup>72</sup> FUJ00152300

<sup>73</sup> 8 March 2023, p94-102

<sup>74</sup> See eg. POL00029301 and FUJ00083703

<sup>75</sup> See <https://www.postofficescandal.uk/post/why-hasnt-fujitsu-sacked-andy-dunks/> for an examination of Mr Dunks’s evidence

<sup>76</sup> POL00090437 p4

knowledge (as from a Governance perspective, they must have been) it would be reasonable to infer that they intended the natural consequence of their deliberate course of conduct: by avoiding any independent review of Horizon they perverted the course of public justice. It would also be reasonable to infer that they were acting in agreement, given that concerted action would have been the only means to defuse the obvious expectation that an independent expert would be employed in POL v Castleton.

### ***2010: the conspiracy becomes explicit***

#### *The Ismay report*

63. As with many criminal conspiracies, there was no long-term strategy. Although the conspirators were able to suppress concerns about Horizon integrity, with hundreds of wrongful convictions mounting, journalists and MPs were bound to take an interest eventually. The seminal Computer Weekly article by Rebecca Thomson was published in May 2009, and by 26 February 2010 a naïve suggestion was made from within the Post Office that there should be “full investigations into integrity issues, with conclusions / report provided.”<sup>77</sup> Rob Wilson, Head of Criminal Law intervened:

Such an investigation will be disclosable as undermining evidence on the defence in the cases proceeding through the criminal courts. Inevitably the defence will argue that if we are carrying out an investigation we clearly do not have confidence in Horizon and therefore to continue to prosecute will be an abuse of the criminal process... adverse publicity could lead to massive difficulties for POL as it would be seen by the press and media to vindicate the current challenges. The potential impact however is much wider for POL in that every office in the country will be seen to be operating a compromised system with untold damage to the Business... The Court of Appeal will inevitably be highly critical of any prosecutor's decision to proceed against Defendant's in the knowledge that there could be an issue with the evidence. What we really need to do is impress on Fujitsu the importance of fully cooperating in the provision of technical expertise and witness statements to support the criminal and civil litigation now and in the future.<sup>78</sup>

64. This intervention appears to have led to the “whitewash” that Rod Ismay produced in August 2010. In the Ismay report he made it explicit that IT, Legal, Product & Branch Accounting, Security and the Press Office had decided that Post Office would not commission an independent review of the Horizon system, and one of the reasons for the decision was that “any investigation would need to be disclosed in court. Although we would be doing the review to comfort others, any perception that POL doubts its own systems would mean that all criminal prosecutions would have to be stayed. It would also beg a question for the Court

---

<sup>77</sup> POL00106867 p3

<sup>78</sup> POL00106867 p1

of Appeal over past prosecutions and imprisonments.”<sup>79</sup> Despite the transparently self-serving assertions that there were no internal doubts about the integrity of Horizon, considering all the circumstances, the document could hardly be a more explicit testament to the existence of a conspiracy to pervert the course of public justice.

65. It is a clear example of a culture at the Post Office where the integrity myth of the Horizon system was maintained through deceit. This is perhaps most evident from this exchange between Mr Beer KC and Mr Ismay:

Q. So you weren't given free rein to write what you wished, you were directed only to include reasons that gave reassurance?

A. Yes. Yes. So I appreciate that, looking at this document cold, it could look imbalanced—

66. Mr Beer KC later asked Mr Ismay if he was instructed to “present one side of the coin,” to which Mr Ismay responded, “Yes.”<sup>80</sup> Mr Ismay’s instructions sit at odds with the third paragraph of the report itself, which stated: “This paper has been compiled as an objective, internal review of POL's processes around branch accounting.”<sup>81</sup> Mr Ismay’s defence to this statement was that it “was an objective assessment of the areas where there were positives.”
67. There are two ways to understand Mr Ismay’s actions: the first, as a genuine belief that the report was intended to be (as he claimed to Mr Beer KC) limited to the positives of the Horizon system; the second, as a deliberate attempt to sustain the position that Horizon was a robust system, despite prolific proof to the contrary that had to be disclosed. Respectfully, we submit that the former explanation is fanciful, particularly considering Mr Ismay’s professional qualifications. The latter is the only reasonable explanation and is compelling given it fits within the broader evidence regarding the culture of the Post Office.
68. Mr Ismay also expressed confusion as to why he was asked to collate the report rather than a member of the IT department. The question posed by Sir Wyn Williams as to whether Mr Smith had an ulterior motive in requesting Mr Ismay to collate the report remains a live possibility, but these remarks are also reflective of the continuous scapegoating that is present in this Inquiry.
69. Mr Beer KC asked Mr Ismay: “[d]id you realise the fallibility of asking the very organisation that may have been responsible for the provision of a faulty product whether it assessed that its own product was faulty?” In other words, Mr Beer KC continued, “allowing Fujitsu to mark its own homework.” Mr Ismay responded “No.”<sup>82</sup>

---

<sup>79</sup> POL00026572 p19-20

<sup>80</sup> 11 May 2023 p 104

<sup>81</sup> POL00026572

<sup>82</sup> 11 May 2023, p166

70. The question posed by Mr Beer KC whether Mr Ismay and the people listed “thought that it was better not to enquire, better not to find out and, instead, potentially to secure more convictions and more imprisonments”<sup>83</sup> can only be answered in the affirmative. Mr Ismay must have realised both before and during his evidence that it implicated him in deep wrongdoing. His best defence was to point the finger of blame upwards, not only to the recently appointed Managing Director David Smith, but he also let slip that it was provided to the Chair, Alice Perkins.<sup>84</sup> Again, it is more than obvious that the decision not to commission an independent review in light of the Ismay report would have been taken at Board level, but again, there has been no disclosure of any record of that decision.

*Obstructing disclosure to the Misra defence team*

71. Likewise, there are no disclosed records of who took the decision to prevent Mrs Misra’s defence team from conducting a proper review of the Horizon system, although a firm inference can be drawn that Rod Ismay was involved in it. In one email from 2010 Andy Winn said that Rod Ismay was not happy with “an open-ended invite” for the defence expert to visit Chesterfield, and he asked the lawyer whether Post Office would lose the case if “we refuse or impose conditions”<sup>85</sup>. A later email said the disclosure requests were “discussed by Andy Winn/ Rod Ismay. I have today spoken with Andy Winn and he has informed me that Rod had made a decision to not allow this.”<sup>86</sup>

*The Lynn Hobbs email*

72. Most telling of all the missing records is the email apparently sent to Rod Ismay and Mike Granville by Lynn Hobbs in November 2010. She had been asked by Mr Granville to comment on Mr Ismay’s August 2010 report. She said that she was happy with the report, but she had one observation, and she explained that contrary to what Mr Ismay asserted in the report, Fujitsu could insert transactions into branch accounts. Then in December, she copied and pasted the contents of that email into an email to John Breeden, who forwarded it to Angela van den Bogerd with others copied in. The only reason we now have evidence that Ms Hobbs alerted Mr Ismay to the untruth in his August report is the fact that she copied and pasted the contents of the November email into the December one. The original November email has disappeared from Mr Ismay’s inbox, Mr Granville’s inbox, and Ms Hobbs’ sent items folder.

---

<sup>83</sup> 11 May 2023, p164

<sup>84</sup> 11 May 2023, p120 line 9

<sup>85</sup> POL00055100 p1-2

<sup>86</sup> POL00055225

73. Mr Ismay's failure to remember this email when it was put to him was inevitable.<sup>87</sup> The fact that he did not act on it, by investigating the tampering he had been alerted to, or even to correct the untruth in his report, is utterly damning given his knowledge of Mrs Misra's conviction just a few weeks earlier. He was copied into Jarnail Singh's gleeful report of the victory, dated 22 October 2010, in which Mr Singh hoped that others would be dissuaded from "jumping on the Horizon bashing bandwagon".<sup>88</sup>
74. It could not have escaped Mr Ismay's attention at the time that Mrs Misra had been convicted on a flawed premise, a culture of deceit and domination resulting in the destruction of innocent lives. Mr Beer KC put the question to Mr Ismay: "is that language reflective of the culture prevalent at the time concerning Horizon, namely, in response to a defendant who maintained a defence to the criminal charges of theft against her was thereby seen as attacking Horizon, an attack which needed to be destroyed?" Again, this question can only be answered in the affirmative.
75. We submit that Mr Ismay, with his roots in the Security department, would have known of the culture of destroying evidence which was evidenced in the infamous "Shredding Advice"<sup>89</sup> of 2013. He would have known who could help him to destroy evidence of the Hobbs email. However, it seems he did not know that she had copied and pasted the text of it into another email. The attempt to cover one's tracks is the best possible evidence of a guilty intention, and we submit that if Mr Ismay knew that he was perverting the course of justice, he cannot have been the only one.

### *Conclusion*

76. Post Office and Fujitsu management ought to have offered care and support to the Subpostmaster community once Horizon had been rolled out. It was a seismic change to the way they ran their branches, and many of them had no experience with IT. Instead they faced indifference, and deliberate secrecy. At the Post Office the need to keep the big corporates on board, and pretend that the IT system was functioning well overrode all other concerns. At Fujitsu, their paramount concern was the need to hide the dysfunctional EPOSS code at the heart of the Horizon system, and the consequent tampering with branch accounts. Those twin self-interests were compatible with each other but calamitously incompatible with a duty of care to the subpostmasters, and so the conspiracy against them arose.

---

<sup>87</sup> 11 May 2023, p184

<sup>88</sup> POL00044997

<sup>89</sup> POL00006799

Edward Henry KC, Mountford Chambers  
Flora Page, 23ES Chambers  
Hodge Jones and Allen

26 May 2023