

Witness Name: Fintan Canavan

Statement No: WITN09970100

Dated: 22 August 2023

POST OFFICE HORIZON IT INQUIRY

First Witness Statement of Fintan Canavan

I Fintan Canavan will say as follows;

Introduction

1. I make this statement following receipt of a request by the Post Office Horizon IT Inquiry under Rule 9 dated 31st July 2023 requesting information regarding errors in disclosure provided to the Inquiry by Post Office Limited (POL).
2. I am a Partner in DAC Beachcroft solicitors but this statement is made in my personal capacity and reflects my time seconded into POL as Inquiry Director operating within the in-house Inquiry Team. DAC Beachcroft are not instructed by POL in this Inquiry and, to the best of my knowledge, they have not advised POL in regard to the Inquiry. I am aware they have provided assistance to witnesses who have provided statements but I was not involved in any of that work and have no information regarding the same.
3. I was assisted by Mr Nick Harvey a Partner in Peden & Reid solicitors in Belfast in the preparation of this statement. I am grateful to him for his assistance. The content is my own recollection.

4. I joined DAC Beachcroft in September 2020. In my earlier career I have represented Core Participants in The Bloody Sunday Inquiry, The Inquiry into Hyponatraemia Related Deaths in Children and the Historic Institutional Abuse Inquiry. As a result of my experience I was contacted in or around July 2021 by a colleague in DAC Beachcroft and asked if I would be willing to be seconded into POL for three (3) to four (4) months to assist with their internal Inquiry Team.
5. I confirmed I would be interested in that role but it was not until around October 2021 that I was contacted again and met, via Teams, with representatives from POL and was asked to join them. At that point the Inquiry had previously been a non-statutory Inquiry but had progressed to the present format although the full panorama of the Inquiry was not yet clear.
6. There had been no announcements on the full anticipated scope and Phases and it was anticipated, within POL, that the Inquiry process would last around 3 to 4 months only. I left the role as Inquiry Director in December 2022 and have had no involvement with POL or the Inquiry process since then (save a call around an issue about Confidentiality Undertakings) but have followed some of the media coverage.
7. On joining the Inquiry Team I reported directly to Benjamin Foat (Ben) the General Counsel and the team I inherited consisted of a Senior Legal Counsel, a small project team headed by Kevin Hutchinson and a Compliance Director connected to the wider POL Legal and Governance unit headed by Ben.
8. It was immediately apparent that the scope of the Inquiry, the period under

investigation and the issues involved meant the anticipated time scale and the team within POL was inadequate. This created an immediate issue with the budget provided for the project (a theme which underpinned much of the work in the following 15 months).

9. A number of issues had to be addressed immediately. We needed to increase the budget provision, increase the team and prepare for a longer period of operation. The in house team grew to 6 Legal Counsel, one paralegal with myself and a larger project management team led by Kevin.
10. As the various Phases of the Inquiry were set out I divided the internal team into 3 smaller teams dealing with Phases 2 & 3, Phases 4 & 5, and Phases 6 & 7. There were 2 legal counsel in each team with the paralegal providing floating support across the workstreams.
11. The role of the inhouse team was to assist in preparing the responses and generating the knowledge base within POL and collating necessary material as needed and directed by the external solicitors, Herbert Smith Freehills (HSF). The POL team linked with the various business areas in POL to identify issues and provide answers to the potential questions and to try to front load the preparation to try and ensure we could respond to queries from the Inquiry efficiently.
12. In my role I acted as a link between the GE and the team, the wider POL day to day business departments (BAU), HSF, other external service providers (e.g. Peters and Peters solicitors) as well as the lead in the team itself. I did not act as a legal advisor nor did I provide legal advice. I was able to use my previous inquiry experience to explain processes and clarification as to how

the Inquiry would proceed and to try and give some idea as to what the business would need to do to address the anticipated issues arising in later Phases.

13. As the Inquiry developed and grew, the issues around the projected budget and the need to secure a higher budget became the core focus and took up a significant part of the time I spent in the role. A very significant amount of my time was spent amending budgets, forecasting and projecting different scenario budgets, seeking approvals for increased budgets and drawdown, discussing ways to reduce fees with HSF and looking at ways to achieve the same outcomes at a lower cost. This meant less and less of my time was spent on the actual processes themselves.

14. I attended the Freedom of Information Act/Subject Access Request (FOIA/SAR) Steerco which assessed and made recommendations on requests for information and data. I was not a quorum member of the committee but sat on it in my capacity as Inquiry Director. This ensured that there was a flow of information across the business about requested disclosures or information recovered through the Inquiry process to cross refer the issues to ensure POL remained compliant with its FOIA duties but also ensured that any information located which may be Inquiry relevant was identified and referred to the relevant sub-team in POL and/or HSF.

15. I spoke to Ben regularly and also spoke with Mr Nick Read, Mr Alistair Cameron, Mr Richard Taylor and laterally Mr Jeff Smyth who were all GE members. In addition to ad hoc conversations I had with them, these GE members attended a regular Inquiry Steerco for updates on progress across

many areas of the Inquiry and to give authority for steps needed. I believe the full GE had effectively delegated day to day decisions on the Inquiry to the GE members on Steerco to speed up the decision making process. The Inquiry Team also prepared regular reports to the full GE and to the Board.

16. Before addressing the specific issues in the Request for Evidence I would like to clarify the impression I had of those I dealt with in POL and their approach to the Inquiry. The unambiguous approach within POL was a desire to co-operate fully with the Inquiry, to discover what went wrong and to learn from the past to improve the position. It was not disputed that things had gone wrong.

17. Coming from a business position I think the legal process was not fully understood but I believe all those involved in the Steerco and Inquiry preparation were committed to that task. I had no doubt as to the sincere desire to co-operate and had I not had that assurance I would not have remained in the post I held.

Issues in the R9 request

18. POL disclosure came from two different streams; hard copy repositories, and the electronic repositories.

19. The main electronic repository was held in a database managed by KPMG referred to as Relativity. There were other smaller areas where electronic data was stored (e.g. old laptops from departed staff and mimecast for the email history).

20. During my time steps were taken to amalgamate all electronic resources (e.g. old emails on mimecast, older laptops etc.) onto the Relativity platform for ease of access and a significant volume of older records from staff who had left (prioritising those identified on witness lists supplied to the Inquiry) was transferred over to that platform. From recollection I believe the Relativity platform contained all the material from the earlier Horizon litigation and the 555 Group litigation. I believe there were in the region of of 50-60 million documents on that platform.
21. The process of transferring the email history from mimecast was essential as the search facility on mimecast was not effective enough and, while it took time, it was seen as an essential step. This is relevant to part of the investigation in this hearing as it is a step taken (before any known issue) taken by POL to improve their ability to respond and to provide the fullest possible responses to any R9 request.
22. The issue of hard copy documents was a bigger issue. In considering that I think the potted history (as I understood it) of POL is important.
23. POL in it's current iteration has developed from being a part of Royal Mail, a sub division of Royal Mail and various iterations through that process. There are large regional offices, smaller local offices, the main headquarters in London and large offsite stores, like that in Winchester, as well as the older historic records held in the Postal Museum (which also retains material related to Royal Mail).
24. It was clear that the historic recording and storage of records and documents was not ideal. As we identified any new hard copy repository we took steps to

retrieve, catalogue and check all records looking particularly for records likely to be relevant to issues in the Inquiry but especially for material which may relate to earlier disclosures. [An example of this was an old store in Londonderry Crown Office where records and 2 locked safes were located during a tidying up process not related to the Inquiry. In addition to assessing the records identified in the room steps were taken to locate a locksmith to open both safes which revealed no relevant records as all material (to the best of my recollection) pre-dated the Horizon system].

25. HSF were instructed by POL as the independent external legal advisor. This instruction pre-dated my involvement and I understand it was influenced by the involvement of HSF in earlier litigation and the initially anticipated short duration of the non-statutory Inquiry. There was also a relationship with the issues because HSF were involved in a redress process with POL connected to the relevant issues.

26. The approach to each disclosure request (i.e. the search criteria, locations, search terms etc.) was designed by HSF. Progress on the volume of responsive documents and the likelihood of complying with R9 deadlines or the need to seek extensions was communicated to POL through the Steerco meetings. POL were not involved in the design of the search criteria but did need to give authority for large budgetary spends (e.g. attendance at Winchester by teams from HSF to conduct in-person searches of boxes and records). POL instructed an experienced law firm and took their advice on the process to be followed with HSF aware of, in agreement with and applying a wide disclosure approach.

27. As indicated earlier even the expanded Inquiry Team was not sufficiently large to access the hard copy repositories or oversee the searches and returned "hits" from the Relativity site nor to go out to the offsite storage and filter the boxes which had any returns on search hits (which numbered in the thousands for each R9 request). The search criteria and search terms were managed, designed and applied by HSF. I cannot recall specific discussions but I do recall debate around these searches within POL and with HSF. The concerns raised were to ensure the searches were sufficiently wide and not overly restrictive.
28. There was a view expressed that the Inquiry should be invited to have unrestricted access to the Relativity platform so that they could in effect conduct their own searches for whatever documents they felt were relevant. It was also felt that the search terms in each request should be set very widely and that all returns be provided to the Inquiry. This was to be balanced as a search against "Horizon" could produce numerous documents referring to "horizon scanning", "looking over the horizon" etc. or references to "prosecution/prosecuted" would return records for any and all prosecutions regardless of their relevance to the issues in this Inquiry.
29. This approach reflected the view in POL that the Inquiry should be provided with any material no matter how limited any relevance or potential relevance was to a specific request. This was debated but there was a genuine concern that this would have been seen as obstructive in a different way by trying to hide the wood in the trees. I shared the concern that such an approach would not have been welcome by the Inquiry despite the genuine *bona fides* of the

offer.

30. The issues of "families" of documents, duplication of documents and so on were discussed in meetings in wide terms (i.e. there was no discussion about any specific set of documents) but essentially HSF guided POL in the disclosure while still operating under a general view that all relevant or potentially relevant material should be disclosed.
31. It was noted that several copies of the same document could be sent to several people in an email chain and that this was unlikely to be helpful to the Inquiry providing the relevant emails were provided to ensure any comment in emails on the documents were always provided. I recall some discussion on ensuring that each version of a document was checked to ensure added notes or comments (typed or handwritten) on a document were available but I cannot locate any specific correspondence confirming that.
32. The drafting of the search terms and the identification of the relevant documents was determined by HSF with a view that full co-operation was to be provided. That approach was best seen in the hard copy document searches.
33. When searches were conducted of the hard copy sites it was discussed and agreed that even duplicates of documents should be recovered in a first level review so that a second level review could look for hand written amendments or comments not clearly visible on first examination which could be excluded if simple duplication was a criteria for exclusion. However there remained an unease that extreme volumes of disclosure could be portrayed as an attempt to swamp the Inquiry and divert from the real content in the documents but

that under disclosure could also be perceived as un-cooperative. The preference was for over disclosure but within reason.

34. I recall (but not in specific detail) instances where documents were found in searches which related to earlier R9 requests and these were voluntarily disclosed to the Inquiry as soon as possible. Discussions took place (mainly in Steerco but also between myself and HSF, Ben and others in the team) about what had happened and how it could be avoided. It was a matter of frustration to me personally but more so to Ben, Nick Read and Alistair Cameron in the Steerco on each occasion more material was located.
35. The, admittedly late, but voluntary disclosure of records located during searches reflects, in my view, the genuine desire to assist but also showed the fractured and disjointed data storage in POL.
36. In response to the questions raised I can confirm and accept that the provision of disclosure by POL was not ideal. The Disclosure Statements provided by Ben did try to address those concerns but the internal processes placed Ben, the team and HSF in a difficult position as new repositories would be discovered as part of new processes devised to try and eradicate the drip feed of small numbers of additional material being located at regular intervals.
37. I believe there was an issue as to the discovery of a new repository on the eve of a Disclosure Statement but I cannot recall which. This caused a significant degree of anger in the GE and myself. I felt particularly bad for Ben who was providing updates to the Inquiry based on the information provided to him only to find that information was altered at the last minute. These Disclosure Statements took a lot of time to prepare and placed a

significant demand on Ben to complete them with HSF.

38. I am aware of one specific disclosure issue covered in the press (racial profiling material) and this occurred after my departure. I admit I was surprised that this occurred in the way it did as I would have assumed there was an Inquiry team member attending FOIA Steerco and so any relevant material would have been brought to the attention of the Inquiry team ensuring that the material was disclosed to the Inquiry before becoming public. I do not understand how this material was released without the Inquiry being informed.
39. I have been provided with access to a Relativity site with access to my email account and also some material from others in the POL Inquiry team from my time in the role as Inquiry Director. Unfortunately even this moderated material contains in the region of 55000 documents and so I have not been able to isolate specific exchanges in regard to specific disclosure issues.
40. I was not involved directly in the drafting of any of Ben's Disclosure statements but I was aware of the process. I am aware that Ben was extremely frustrated that assurances provided within the business that hard copy material had been located were subsequently overturned by further material being located.
41. Material was located through a number of different events; a process to access, review and index boxes held in Winchester (my memory is that there were around 75,000 boxes stored there and that some did not have any form of index or record as to their content) and this resulted in some R9 requests being re-run against the new indices; spontaneous disclosures of material

(e.g. laptops or files located when furniture was moved, offices checked or the Londonderry Crown office discovery as a result of an unconnected process); specific searches conducted at the request of the Inquiry team and directed by the GE (a process was followed directing local managers to do a room by room search which was clearly not fully followed as further disclosures arose and more checks were needed).

42. Just before I left, and as a result of another discovery of material after the directed searches of larger offices, it was decided that a full forensic search be conducted and directed by an external agency with forensic search experience. I was not involved in this as my workload was being downscaled prior to my departure and I was concentrating solely on another series of budget forecasting. Gemma Ludgate was responsible for overseeing that particular process.

43. As a result of the significant volume of work involved in my role, my return to my normal full caseload, no involvement with POL (save the media coverage and a call about Confidentiality Undertakings) and the fact that I was predominantly involved in budget management and prediction I cannot recall many specific issues or disclosure matters.

44. I do recall that disclosure, late disclosure, ad hoc disclosures and newly discovered documents was a constant issue and this was raised regularly in meetings and at Steerco. Each new incident was greeted with dismay and taken very seriously.

45. I do recall an issue arising in that a significant number of documents in Relativity were identified but were password protected. This meant that even

the AI search process nor a human review could not access the content and so it was not possible to determine if the documents had any relevant material included. It was discussed at Steerco and approval was given that we should engage in a process of attempting to brute force these documents open using a password cracking programme. As I understand it this involves a process of "attacking" the document by bombarding it with passwords to see if it can be forced open.

46. The discussion at Steerco (which included input from HSF) was that we should try this and re-consider any material not opened and see if there were any other options available at that point. I believe this process was still underway when I left my role. This was a concern as we simply did not know if there was any relevant material in those documents and so could not precisely advise the Inquiry as to the position.
47. I believe there are a number of different but interlinking reasons for the errors.
48. The first is the disjointed nature of POL itself. It is a massive business partly State controlled and partly private sector.
49. Different areas of the business must operate within the budgets set for them (largely imposed by Government but allocated with POL) and achieve their BAU responsibilities and comply with the requirements of the Inquiry.
50. Rectification of legacy document storage does not feature highly in the priorities of any area and there is a degree of passing the buck hoping other areas will take up the responsibility. Again this goes to the budget allocations and the need for those heading each business area or sub-area within those workstreams did not allow for much leeway to allocate staff, time or money to

document retention, identification and storage. I appreciate this may sound critical of the business areas but it is not intended to be so. I always found the BAU areas helpful but they were also mindful of the reality created by budget restrictions.

51. Partly the numerous changes in "ownership" or structure means that there is no single legacy management structure and even the records of what material has been recorded can be disjointed.
52. Much of the material in Winchester has not been accurately indexed requiring manual searches of high volumes of material. Boxes were found to contain lottery receipts, memos, advertising brochures all in one space and if time and money were available much of the material could be reviewed and destroyed but that is not possible.
53. The Relativity platform is not easily understood by some of those in POL (I include myself in that cohort) and the use of search criteria is also an art rather than a science. HSF sought to identify relevant search criteria based on each R9 request. Those terms were devised by and applied by HSF and were not discussed with POL.
54. I would have difficulty apportioning responsibility for any errors. Identifying them as "errors" is, in my view, correct as I believe that each incident was inadvertent rather than deliberate. I also do not believe that characterising them as negligent would be correct. The issue is with the nature and number of historic systems and the very tight budgets rather than as a failure to grasp or address the issues. Nor is there any suggestion of a desire to avoid dealing with or confronting the legacy matters which are the subject of this

Inquiry.

55. In my opinion the wide ranging scope of POL's business is a significant contributing factor to the problems.

56. I also feel that the further a person is from the Head Office the less the importance of material, no matter how limited, is appreciated. This was seen when, after a directive that searches be conducted and assurances were provided, a significant volume of material was located and a further Disclosure Statement had to be provided to the Inquiry. This is not as a result of any failing from the GE as regular information dissemination of POL updates by Nick Read would regularly include reference to the Inquiry and the steps needed to comply with POL's duties. It is also not a criticism of the individuals who have to run post offices with all the duties and responsibilities that entails and so taking time to conduct finger tip searches of every room, cupboard or box is not your priority.

57. I am aware that a process was underway between POL and KPMG with HSF to work on the access to and responses from Relativity. Again at the point when this was underway I was heavily involved in the re-forecasting of budgets and cannot recall any specific detail about what was being arranged. I cannot recall exactly what the issues were but I was copied in on some calls and emails (I think to add seniority as it was felt this would push the process faster).

58. I do not recall seeing any response to the forensic search of hard copy sites and it may be that the final report had not been complete. Gemma Ludgate may have more detail on that or Diane Wills who adopted the majority of my

role.

59. I am not aware of what current processes and plans are now in place and the change of legal provider may play a part in different approaches to search criteria, review and disclosure.

60. In the period before I left I was aware that the issue was a concern and that it was a matter of concern and there were steps in train to re-enforce the need to address this.

61. I do not believe it will be possible to ever assert that all issues are addressed. The historic issues, human error in retention, indexing and storage coupled with human error in review, identification and disclosure will be difficult to avoid or eradicate and when the scope of the issues in this process are considered there are potential pitfalls built in.

62. I would say, in my view based on the experience I had with POL and the people I met, and the approach of those in HSF responsible for applying the disclosure criteria that any failure to disclose, late disclosure or other disclosure issues are not caused or created as a deliberate attempt to obstruct or thwart the Inquiry.

63. I appreciate that any error is frustrating to the Inquiry and could be seen as an attempt to obstruct when viewed by those who have suffered as a result of the Horizon problems. I am sure that the team in place now are committed to the best possible compliance.

I believe the content of this statement to be true.

GRO

Signed:

Dated: 22nd August 2023