

PRIVATE & CONFIDENTIAL – SUBJECT TO LEGAL PRIVILEGE

HAMILTON – OVERVIEW

1. POL Statements re: approach to prosecution:
 - End of Term Report
 - Part Two Response
 - Other BBC briefings
2. Panorama contributors suggest this not followed:
 - Insufficient evidence
 - Financial recovery not Code is followed
3. Snapshot of how the process was followed:
 - Looking at advice on sufficiency
 - NOT the evidence itself – that’s a matter for Defence counsel, the courts and CCRC
 - NOT a full file review – that is being undertaken by the CCRC
4. Summary:
 - Sufficiency of evidence was tested at the outset and kept under review throughout
 - Discussion around repayment in connection with theft/FA:
 - o is well after indictment
 - o connected to defendant’s plea offer (how to end, not start a prosecution)
 - o based on advice that there is sufficient evidence of theft
 - o concerns POCA (CPS: “Prosecutors should consider asset recovery in every case in which a defendant has benefited from criminal conduct and should instigate confiscation proceedings in appropriate cases”)

TIMELINE

09.03.06	Audit
17.05.06	Security Report <ul style="list-style-type: none"> - based on “evidence so far” - seeks legal “advice on the sufficiency of the evidence as to whether criminal charges are brought”
19.05.06	Memo (RM internal Crime Casework Team Support to RM Criminal Law Team) <ul style="list-style-type: none"> - Casework Team recommends prosecution “provided the evidence is sufficient to do so”
26.06.06	Memo (RM Principal Lawyer Criminal Law Team to POL Investigation Team) <ul style="list-style-type: none"> - “In my opinion the evidence gave rise to offences of theft / false accounting) - Directs officer to obtain further evidence “before advising”
11.08.06	Memo (Investigation Manager to Principal Lawyer) <ul style="list-style-type: none"> - Responds to 26.06.15 memo
Aug 06 to Feb 07	Further investigation and collation of evidence
31.10.06	Summons served to appear on 06.12.06
13.02.07	Instructions to Counsel to Settle Indictment and Advise on Evidence and Brief

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	<p>for the Prosecution</p> <ul style="list-style-type: none"> - “Counsel is requested to advise on evidence, and, in particular, whether he considers any additional evidence is required”
27.02.07	<p>Email from Counsel Richard Jory (now QC)</p> <ul style="list-style-type: none"> - Draft Indictment - “I will... draft a case opening and draft admissions should they become necessary”
06.03.07	<p>Indictment</p> <ul style="list-style-type: none"> - one count of theft and 14 counts of false accounting - settled by Richard Joyce (now QC) - issued by General Counsel to RMG
25.06.07	<p>Case Opening (Draft)</p> <ul style="list-style-type: none"> - Para.7 “cash on hand figure... had steadily increased from about £15,000 at the end of 2004 through to over £35,000 by February 2006. The prosecution indicates that this represents the defendant’s efforts to hide the fact she was in fact taking the money...” - Para.11 “the defendant had been inflating the cash on hand figure over a period of several months... in order to disguise her thefts of cash” - Acknowledges she asserted “never stolen money or acted dishonestly” <p>(Also Draft Admissions)</p>
Mar 07 to Oct 07	<p>Case Progression, incl. further disclosure issues and court attendances (incl. as to legal aid)</p>
02.10.07	<p>Email from Counsel</p> <ul style="list-style-type: none"> - Offer of guilty plea on FA - “My view is that there is evidence she has taken the money, and that there is sufficient evidence to support theft”
10.10.07	<p>Email from Investigator</p> <ul style="list-style-type: none"> - “I agree with counsel. In my opinion the evidence clearly shows theft” - Accept FA only if she repays
15.11.07	<p>Principal Lawyer</p> <ul style="list-style-type: none"> - Accept FA if repay the full amount
16.11.07	<p>Email from Investigator re: POCA implications on plea</p> <ul style="list-style-type: none"> - 8 months after indictment - Discusses “General Criminal Conduct” and “Particular Criminal Conduct”, ie how POCA determines what should be repaid - Undertaken in the context of sufficiency of evidence of theft and that outcome should reflect that - <u>Consequential, not motivational</u> - (nb. nothing in the initial papers refers to recovery, but asset position is considered from evidential position)
16.11.07	<p>Email from Principal Lawyer</p>

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	<ul style="list-style-type: none"> - FA no barrier to POCA recovery “though on one or two cases the Defence will argue against”
19.11.07	<p>Email from Investigator</p> <ul style="list-style-type: none"> - Pleas on all 14 charges of FA - “Agreement by both counsels that provided full amount... is repaid... then the single theft charge would be dropped”
01.02.08	<p>Email Criminal Law Team to Investigation Team</p> <ul style="list-style-type: none"> - Money not paid - “theft charge can be proceeded with” - “alternatively, we could seek both confiscation and compensation in relation to the basis of her plea as she appears to accept responsibility for the loss” (cf McFarlane 16.11.07 – intend to pursue this option)

Rodric Williams
Solicitor, Post Office Limited
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NOTE

CPS, Proceeds of Crime, The CPS Asset Recovery Strategy (extract from)

Confiscation is an essential tool in the prosecutors toolkit to deprive offenders of the proceeds of their criminal conduct; to deter the commission of further offences; and to reduce the profits available to fund further criminal enterprises . Prosecutors should consider asset recovery in every case in which a defendant has benefited from criminal conduct and should instigate confiscation proceedings in appropriate cases. When confiscation is not appropriate and/or cost effective, consideration should be given to alternative asset recovery outcomes.