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Sent: Sat 15/07/2023 7:44:39 PM (UTC)
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Cc: Nick Read (GRO); Alisdair Cameron (GRO); Rachel Scarrabelotti (GRO)
Subject: Sunday Times article by Nick Wallis

The article by Nick Wallis for the *Sunday Times* has been published online (please see below).

As expected, it is mostly a round-up of recent issues including the guidance document with offensive language and disclosure. Towards the end of the article he refers to 'Bonusgate' which is carefully written by referring to – and conflating with - Operation Olympus. This is the case referred by the CPS following the judgement of Mr Justice Fraser which has interviewed two witnesses under caution – notably Gareth Jenkins from Fujitsu. Nick Wallis includes some of Henry's quotation.

We are seeking the advice of media lawyers on next steps.

Overall, a sensationalist headline focused on the Metropolitan Police enquiries has been avoided in this article.

Thanks
Richard

The massive and shameful Post Office scandal just keeps growing

Nick Wallis
Saturday July 15 2023, 6.00pm, The Sunday Times

"I've never been through anything like this," Ed Henry KC confided. "What a shambles."

Henry is a barrister representing a group of sub-postmasters at the public inquiry into the Post Office Horizon IT scandal. He was reacting to the latest postponement of the inquiry's public hearings — the second in just two months — this time due to the Post Office's incompetence.

Last week was a crucial week. Two former Post Office executives were due to be cross-examined over their apparent complicity in, or orchestration of, a cover up.

Instead, on Tuesday morning, at Aldwych House in London, counsel to the inquiry Jason Beer KC told the assembled lawyers, journalists and spectators there was a problem. Having lost a month of hearings (GRO) failures by the Post Office to disclose vital

documents had now forced another shutdown. The future of the inquiry into Britain's biggest miscarriage of justice is on a knife edge. How did it come to this?

The Post Office inquiry was convened last year to explore the sacking and prosecution of hundreds of sub-postmasters — the self-employed men and women who run Post Offices up and down the country. The scandal began with the botched implementation of the Post Office's IT system, called Horizon, at the turn of this century. Horizon, designed by the Japanese giant Fujitsu, was supposed to keep track of sub-postmasters' accounts, but it threw up accounting discrepancies that gave the impression that money was missing.

These reports were investigated by the internal Post Office security team, which launched criminal investigations into hundreds of staff. The investigators worked on the blanket assumption that the Horizon data was robust so crimes must have been committed. It wasn't and they hadn't.

Between 2000 and 2013, some 700 sub-postmasters may have been unjustly prosecuted by the Post Office. Eighty-six convictions have already been quashed. It is the most widespread miscarriage of justice in UK legal history.

The inquiry was set up to investigate how the previous management of the Post Office, which is owned by the government, allowed this to happen. But the events of recent weeks indicate the Post Office's current management also has serious questions to answer.

Offensive language

The latest crisis to befall the inquiry began on May 26 when a campaigner called Eleanor Shaikh alerted me to a document sent to her by the Post Office under the Freedom of Information Act.

Shaikh had obtained from the Post Office a security team "compliance form" that dictated how Post Office investigators should interview sub-postmasters it suspected of criminal offences. The form required the investigators to append archaic and offensive racial classification codes to each suspect. Black sub-postmasters were to be designated "negroid types". Anyone looking "Siamese" or "Philippino" should be filed under "Chinese/Japanese types".

I tweeted the link to Shaikh's document. There was uproar. The Post Office tried to characterise the compliance form as "historical", yet we have recently discovered it was still in formal use in 2011.

The Post Office announced an investigation into how the offensive language had been written into its guidance. Its chief executive, Nick Read, made an abject apology to his 7,000-strong ethnically

diverse sub-postmaster workforce, promising them “we do not tolerate racism or discrimination of any kind”.

As the furore blew up in the media, lawyers at the inquiry went back and checked their records. Despite an expensive disclosure exercise, the security team compliance form had somehow not been handed over. It begged the question — what else was missing?

This is a critical time for the inquiry. Post Office executives who knew about the cover-up would be compelled to give evidence on oath. By unfortunate coincidence, on the same day the racist document was made public, Sir Wyn Williams, the 72-year old-retired High Court judge who chairs the inquiry, was **GRO**. An entire month of hearings were postponed as Williams **GRO**.

On 4 July, just as phase four of the inquiry was finally about to get under way, the Post Office’s top lawyer, Ben Foat, was called to explain why the compliance form released to Shaikh was not disclosed. Foat revealed that the Post Office had decided to electronically filter documents using keyword searches. Many related documents — including appendices — were overlooked during the process.

The Post Office subsequently found a further 1,500 documents it should have disclosed, including around 700 relevant to the phase four hearings.

Jenkins reckoning

That same evening, Seema and Davinder Misra left their home in Woking, Surrey, to drive up to London. Seema had been a sub-postmaster at West Byfleet Post Office, running the branch until she was suspended, sacked and then prosecuted in 2010 for stealing £74,000.

Seema pleaded not guilty, and blamed the Horizon IT system for the “missing” money, but was unanimously convicted of theft by a jury. She was sentenced to nine months in prison, despite being eight weeks pregnant at the time.

The Misras had travelled to London to see a specific witness: Gareth Jenkins, a former Fujitsu engineer. Jenkins is under investigation by the Metropolitan Police as part of Operation Olympos, which is looking into potential criminal offences by Post Office and Fujitsu executives during the course of the Horizon scandal. Jenkins had been an expert witness at Misra’s trial.

The week before the trial started, Jenkins attended a meeting with the Post Office to discuss a bug in the Horizon system that was having a material effect on sub-postmasters' branch accounts. He did not disclose the existence of this bug to the court.

Misra's conviction was quashed in April 2021, along with 38 other sub-postmasters who were wrongfully prosecuted by the Post Office. Jenkins' scheduled appearance on July 6 provided the opportunity for a reckoning, of sorts.

"I had a little cry in the morning at the hotel," said Misra, "so I didn't cry in the hearing room." On arrival at Aldwych House, Seema "sat in a place to make sure I could see him, so he could see I was still here".

She needn't have bothered. At 10am an exasperated Beer got to his feet and informed Williams that at 10.32pm the previous evening, the Post Office had written to the inquiry lawyers to let them know during its latest re-reviewing exercise it had uncovered 4,767 documents that may be of relevance to Jenkins' evidence "some of which might be duplicates of material already provided to the inquiry, but some of which may not".

Jenkins' appearance was postponed, and Williams issued written directions to the Post Office requiring it to meet a strict disclosure timetable going forward. On Tuesday, when it became apparent the Post Office was not going to be able to meet the deadlines, Williams felt he had no choice but to postpone all the phase four evidence until later this month.

He followed this up on Friday with a written direction stating that all future requests for disclosure from the Post Office would be accompanied by what is known as a Section 21 notice. Failure to disclose documents (without good reason) when served with a Section 21 notice is a criminal offence. This, wrote Williams, would "guard against the possibility" there were people at the Post Office "unwilling" to hand over documents, despite their obligations.

For victims of the Horizon scandal, the Post Office's behaviour is not a surprise. "They're taking the mickey out of the chair, the lawyers and us," said former sub-postmaster Kevin Palmer, falsely accused of stealing £60,000. "They have total disregard for any of us."

The Post Office says it is "deeply apologetic" for "the issues that have led to late disclosure of some documents." It says it has now "taken urgent steps, including increasing external expert resource, to put this right as quickly as possible".

Bonusgate

This latest disclosure debacle is even more disturbing when viewed in the context of the Post Office's decision (revealed in its most recent annual accounts) to hand out bonuses to executives for their work on the inquiry.

In 2021, the Post Office decided a quarter of its bonus scheme would be dependent on meeting targets "endorsed" by Williams and his team. The 2021-2022 annual accounts reported that "all required evidence and information" had been "supplied on time, with confirmation from Sir Wyn Williams". Yet Williams did not even know the scheme existed.

The Post Office's incoming chair of its remuneration committee, Amanda Burton, recently published a report into how the apparent falsehood arose. Burton discovered the Post Office had chosen to have its work assessed by its own lawyers, rather than the inquiry itself. However, she failed to find out which individual was responsible for this.

Darren Jones MP thinks the person's identity might be rather important. At a recent business select committee hearing into the matter, he said "somebody knew there was false or misleading information in the accounts but allowed it to go through to the enrichment of senior executives anyway. That is accounting fraud." The individual responsible may now face criminal investigation.

As a result of this bewildering failure of corporate reporting and governance, Read has handed back £13,600 of his £455,000 bonus (from a total remuneration package of £870,000). Most of the Post Office executive team have done the same.

At the select committee hearing, Jones suggested Read consider paying back more. When I interviewed Read after the hearing and asked if he was prepared to do this, he replied: "I don't think so."

It may not be his decision. Last week Operation Olympos received a complaint alleging a number of executives had potentially committed the criminal offences of theft, false accounting and fraud over the apparent falsehood in the annual report and their subsequent unwillingness to repay more of their bonuses.

The Post Office chairman, Harry Staunton, said: "An investigation carried out by the new independent chair of the remuneration committee found there was no deliberate intention on anyone's part to mislead. We remain confident that Post Office has acted with probity and will co-

operate fully with any inquiries the Metropolitan Police may have.”

On Monday, Williams will lay an interim report before parliament on the issue of victim compensation. Lawyers representing sub-postmasters have been repeatedly stating their concerns about the design of the three main compensation schemes, the speed at which sub-postmasters are being compensated, and the amount of money being offered.

To date, only four of the sub-postmasters who have had their convictions quashed have been fully compensated. There is the whiff of yet more litigation to come.

In 2020 I described this disaster in public life as a “scandal you can see from space”. I had no idea it would get bigger. It seems that despite the best efforts and fine words of so many intelligent and highly-paid people, we are still no nearer to holding anyone to account for what happened and very few lessons have been learned.