

CW-F-09 v0.1

Private and Confidential

Nick Read
Chief Executive
Post Office Limited
Finsbury Dials
20 Finsbury Street
London EC2Y 9AQ

23 February 2021

(Also via email to Peters and Peters LLP)

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Dear Mr Read,

Re: Horizon cases – CCRC review - POL compliance with statutory notices

I write in connection with the review by the Criminal Cases Review Commission (CCRC) of a number of criminal convictions in Post Office cases. Since March 2015 the CCRC has received applications from 75 individuals who were formerly sub-postmasters (“SPMs”), or managers or counter assistants in Post Office branches, and who were convicted of or who pleaded guilty to theft, fraud or false accounting. To date, the CCRC has referred the convictions of 51 of those individuals to the appropriate appeal court on the basis that the prosecutions may have amounted to an abuse of process.

As you will know, six of the above cases have already been successful on appeal at Southwark Crown Court. The remaining cases await consideration by the appeal courts, with 43 appeals due to be heard by the Court of Appeal in March of this year.

I write to you today to raise significant concerns regarding the nature and extent of the materials which Post Office Limited (POL) has made available to the CCRC during its review of these cases. The CCRC is a statutory body whose primary function is to investigate alleged miscarriages of justice and to refer appropriate cases for appeal. In order to discharge that important function, the CCRC was given considerable statutory powers, under section 17 of the Criminal Appeal Act 1995, to require public bodies to provide materials which are in their possession or control (‘s17 notices’).

Since the CCRC began work on the Post Office cases in 2015, we have served a number of s17 notices upon POL, requiring POL to provide materials for the CCRC to review. The terms of those s17 notices have made clear that the requirement is wide in scope and that it is intended to capture the full extent of materials for the cases in question. An example from the s17 notice for the case

of Seema Misra, dated 10 April 2015, illustrates the breadth of the obligation which was placed upon POL:

“This notice now imposes a requirement upon you in respect of the following: All documents and other materials, including material which has been the subject of an application for public interest immunity, relating to the conviction of Mrs Seema Misra... including but not limited to audit files, investigation files, prosecution files, internal reviews, and external reviews.”

It has come to our attention in recent months that a substantial number of case documents which POL was under a legal duty to provide to the CCRC in accordance with our s17 notices were not in fact provided. POL's legal representatives, Peters & Peters LLP, provided the CCRC with relevant spreadsheets on 16 October 2020, and then further clarified the position in a virtual meeting with CCRC staff on 15 January 2021. It emerged from this that approximately 1,592 case-specific documents had not previously been provided to the CCRC in accordance with its s17 notices; the documents were ultimately only provided to the CCRC in the course of POL's post-conviction disclosure exercise ('PCDE'). I should add that the cases to which this material relates include those which have been under review by the CCRC since 2015, as well as more recent applications to the CCRC.

You will understand that this is a matter which the CCRC takes very seriously indeed. We can only continue to discharge our important statutory function if we can ensure that public bodies comply promptly and fully with the s17 notices which we serve upon them. It is a matter of deep concern that large volumes of case-specific material were in the possession and control of POL but were not provided for the CCRC's review. Nor is this simply an abstract concern. The materials in question include core case documents which help CCRC decision-makers to determine whether or not to refer cases for appeal. In at least one case, where the CCRC previously had only a Post Office case summary document to understand the facts of the case - and where we were minded to turn the case down - the recent emergence of a complete record of interview with the former SPM has contributed to the case being referred for appeal.

It is only fair that I acknowledge here that the CCRC has in general experienced a good level of cooperation with POL and with its representatives throughout our review. POL has provided many thousands of documents to the CCRC, in the course of what has been a respectful and productive working relationship. Nevertheless, the fact that at least 1,592 case-specific documents were not previously provided to the CCRC which POL was under a legal duty to provide pursuant to section 17 of the Criminal Appeal Act 1995, must remain a matter of profound concern.

You will understand that the CCRC's primary concern is to ensure that our s17 notices have now been fully complied with for all of the Post Office cases which we are still reviewing, and that s17 notices will be fully complied with on any

additional Post Office cases which we review in the future. What assurance can you give us that, going forward, POL will comply with our s17 notices; and can you please confirm the steps you have taken to ensure compliance?

Given the previous issues of non-compliance, I am sure you can understand our very real concern. Our view is that the CCRC would be failing in its wider duty to the Criminal Justice System should we not insist on sight of your robust plans for corrective action. My team and I are very happy to meet with you if we can offer assistance in this regard.

Many thanks for your attention in this matter.

Yours sincerely,

A large, bold, black signature 'GRO' is enclosed within a dashed rectangular border.

Karen Kneller
Chief Executive
Criminal Cases Review Commission