

## HORIZON COMPENSATION ADVISORY BOARD

### IMPLICATIONS OF THE PSYCHOLOGICAL EFFECTS ON SUB-POST-MASTERS AND MISTRESSES OF THE BEHAVIOUR OF AUTHORITIES

#### The Issues

There is extensive and growing evidence that those sub-postmasters and -mistresses ('SPMs') who have been unjustly convicted of various offences following audit, investigation, interview, and prosecution by, or on behalf of, Post Office Limited ('POL') made false admissions or false guilty pleas, and did so because they felt afraid, that they had no choice, and were trying to avoid worse consequences being visited on them (typically prison). In many cases, SPMs took these steps in accordance with advice from their lawyers. They also took those decisions against a history of POL disbelieving them, and others, about their truthful account of Horizon shortfall errors; a process in itself likely to raise acute anxiety and vulnerability to pressure.

It is now known that these actions took place in the context that evidence produced by the Horizon IT system was wholly unreliable. However, in our view, there are separate issues of concern that arise out of the *behaviour* of POL's employees and other officials. The functions of audit, interview, investigation, or prosecution and negotiating over pleas were not carried out by an IT system but by individuals who are responsible to their employing organisation. These behaviours have themselves been the *cause of injustice*, pushing innocent people to admit to things that they did not do, to make up stories attempting to explain apparent (but inaccurate) computer information, and to plead guilty when they were innocent.

Further, *the legal system failed to provide adequate safeguards* against either the behaviour of those representing the state on the POL/prosecution side, or in preventing honest citizens from acting to their considerable detriment out of fear.

We wish in this paper to draw attention to these issues. They are directly relevant to the problems that too many of the victims have been facing in attempting to overturn their convictions, to how proper behaviours are to be instilled and overseen by public officials in future, and to the blocking of victims' entitlements and levels of compensation that should fairly and swiftly be paid to them.

In short, the evidence supports a conclusion that many, if not all, of the SPMs' convictions are unsafe.

We are conscious that in giving examples we draw attention to very painful experiences for the SPMs involved. We have thought it important to issue this paper with some urgency, given the fast-moving public consideration of the issues. We would otherwise have wanted to contact any SPM named here to ask for their consent to be named, but

with great regret there has not been time to do this. Accordingly, we name here those five individuals who have kindly given us their explicit agreement to be named, and have anonymised 20 others. In every case cited, we retain a specific reference to a statement that verifies the facts quoted here.

## **The exploitation of fear through irresponsible conduct**

Extensive evidence has become available – and is sadly continuing to emerge – of grossly unacceptable behaviours by people representing a public body in auditing, investigating, questioning, prosecuting, and bargaining on pleas with many SPMs. It appears that problematic attitudes and behaviours were extensive and systemic, and contributed to an environment that induced *false* confessions and guilty pleas.

Behaviours of investigators not only created overt pressure for SPMs to “confess”, but also created an environment in which SPMs were treated as if they were guilty from the start (and therefore legally prior to trial), which convinced them that their evidence would not be believed. Below are but a few examples of the kinds of behaviours that SPMs were repeatedly subjected to – their stories, along with countless others, can be found on the Horizon IT Inquiry (‘Inquiry’) website<sup>1</sup>:

- A former policeman auditor told Nicki Arch, “I don’t think you realise how much trouble you’re in ... I’m ex CID. I’ve met people like you before and I know a liar when I see one. So just tell us where the money is.”<sup>2</sup>
- Three male auditors interviewed a female SPM in a storeroom.
- A young Amer Hussain, who ran the counters for his SPM brother, was told that the audit team were taking him for a chat, which turned out to be in a police station, and was recorded.<sup>3</sup>
- Tracy Felstead was asked to demonstrate that she did not steal the money, thereby asking her to show that she had not committed a crime, it was also suggested to her that her family members may have been involved.<sup>4</sup>
- SPM 1, like many others, was told they were not allowed to have a legal representative attend the interview.
- SPM 2 described their interview as a “real grilling”, where they were “bombarded” with questions.
- At the interview stage, SPM 3, like many others, was told they would most likely avoid a custodial sentence *if* they pleaded guilty.
- Investigators were hostile and engaged in searches of residential homes to look for the missing money, for example in SPM 4’s case.
- Investigators told police officers, whom they called upon to assist in the investigation, that the SPM in question, SPM 5, was a thief and needed to be “cuffed”.

---

<sup>1</sup> <https://www.postofficehorizoninquiry.org.uk/>

<sup>2</sup> Nicky Arch interviewed on BBC Radio 4 ‘The Great Post Office Trial’, Episode 14 ‘The Prosecution Spree’, 14.11.23.

<sup>3</sup> Statement to Prof Hodges, 3<sup>rd</sup> January 2024.

<sup>4</sup> *Hamilton & Ors v The Post Office* [2021] EWCA Crim 577 paras 185 & 186

- A young SPM, Teju Adedayo, was persuaded by an auditor to sign a manifestly implausible “confession” prior to formal interview when she was terrified of being sent to prison and would be unable to care for her three young children – it is emerging that other SPMs were also pressured to sign confessions.<sup>5</sup>
- SPM 6 reported being in complete shock and intimidated into writing a statement during their interview, which POL tried to use against them later on.
- Inducing in interviewees the perception that their situation was hopeless, and their case was unwinnable, has been reported by numerous SPMs. SPM 7, for example, pleaded guilty because he was frightened of jail and was told pleading guilty was his only option to avoid it. His union representative had told him his case was "unwinnable" and he was encouraged to make up a story about where the money had gone to avoid time in prison.
- SPM 8 was told by investigators that they was going to go to the local Prison and that if they didn't sign a confession and take the sentence, they were going to go after their child (also working in the Post Office) and put them in prison instead.
- At Mark Kelly's second interview, as pressure to plead guilty, investigators told him they might go after his wife. Mark told the Inquiry how he then said he would plead guilty if they left his wife alone.<sup>6</sup>
- Regularly, investigators deceptively undermined SPMs' position by telling them that they were the *only* person who had discrepancies, which would not be the case if there were issues with the Horizon system.<sup>7</sup>

Other common factors were the length of interviews, the intimidation created by moving people to police stations to interview them, and feelings of being “outnumbered” in disciplinary and investigatory interviews, which they sometimes did alone or accompanied by a support person (rather than a lawyer) who was not allowed to speak.

The SPMs were people who from the very start of any audit or interview were not believed, despite being truthful, and were treated as liars. That treatment inevitably raised their anxiety that worse consequences would end up being imposed on them, rather than them being able to be believed, or to secure acquittal. They were faced with something that they simply could not explain or understand, and they were not given an opportunity even to try to understand it. No evidence has yet appeared that any other possibilities were investigated, or that interviewees' complaints or suggestions that ‘it must be the Horizon system’ were even considered.

Further, prosecutors (either intentionally or unintentionally) brought charges against SPMs, usually of theft, that were *not* substantiated by the evidence. In some cases, investigators recorded that there was *no* evidence of theft, but this charge was then later brought. These charges served to increase the potential sentence that would be faced if convicted at trial, especially the risk of a custodial sentence, and created significant pressure for SPMs to plead guilty to “lesser” charges, usually of false accounting.

---

<sup>5</sup> Nick Wallis, The Post Office vs Teju Adedayo <https://www.postofficescandal.uk/post/the-post-office-vs-teju-adedayo/>

<sup>6</sup> Mark Kelly giving evidence to the Inquiry 1<sup>st</sup> March 2022 at 39mins 43seconds: <https://www.postofficehorizoninquiry.org.uk/hearings/human-impact-hearing-1-march-2022>

<sup>7</sup> See the evidence to the Inquiry of POL staff Anthony Utting and David Pardoe.

There were also many instances where POL said they would drop the theft charge in exchange for a guilty plea - which technically they did - but then the charge was still left on the SPM's permanent record as showing they were charged with theft, unbeknownst to the SPM (e.g. Janet Skinner).

We note the conclusions of Duncan Atkinson KC in his Second Report for the Inquiry detailing how POL's policies and practice fell short of complying with the CIPA Code and Attorney General's Guidelines on Disclosure in relation to the investigation and prosecution functions of a private prosecutor, in general and in a cohort of 22 cases studied. He said:<sup>8</sup>

"14. Decisions reached as to charging as between theft and false accounting lacked any consistency of approach, and where both offences were charged, there was a lack of explanation as to why. There was no reference to the approach of the Court of Appeal in *Eden*. There were also a significant number of cases where theft was charged without any certainty as to the fact of, or degree of loss, and where, without any change to the evidential position, pleas were ultimately accepted to an alternative charge further calling the decision to charge theft in the first place into question.

15. In a number of the cases, the circumstances in which such a plea occurred give rise to very serious concern. In at least 3 cases, it was clear from the material that I reviewed that the acceptance of pleas to an alternative offence to theft were made conditional on the repayment of the monies alleged to have been stolen and an undertaking that no criticism would be made of the Horizon System in mitigation. As the Court of Appeal rightly concluded in the case of *Hamilton and others*, such an approach was improper, irrational and unjust."

"623. In a number of cases, for example those of [SPM 9, SPM 10, and SPM 11] , the interviewing officer demonstrated a very clear settled conclusion adverse to the defendant at the time of interview. In the case of [SPM 9] she was told that the officer believed she had done it, [SPM 10] was told his account was "ridiculous" and [SPM 11] believed that the investigator had already drawn his own conclusions. It is a concern if that same settled conclusion informed the disclosure process as it did the interview."

"640 ... (c) In the case of [SPM 12] it was said at the time of charge for theft that a plea to false accounting would be accepted. In fact, such a plea was not accepted later, but this was arguably a concession to the absence of actual evidence of theft and consistent with an approach whereby theft was charged to encourage pleas to false accounting...."

---

<sup>8</sup> Duncan Atkinson KC, *Report to the Post Office Horizon IT Inquiry. Phase 4. Investigation, Disclosure and Criminal Prosecution in England and Wales and Investigations and Prosecutions by the Post Office 2000-2013, Volume 2) Revised*).

“641. In a number of cases where theft was charged, moreover, there was uncertainty as to what the actual loss was, even by the close of proceedings. For example, in the case of [SPM 13], as the Court of Appeal observed, *“Although the amount of any theft is not a material averment on an indictment, POL accepts that it is very unclear how much [SPM 13] admitted to taking from POL monies as opposed to from other available revenue.”* Similarly, in the case of SPM 14 his ultimate plea followed the radical reduction by the prosecution in the amount it was alleged that he had stolen. It is of note in the latter case that, according to his ‘professional adviser’s account to the Second Site Review, SPM 14 pleaded guilty to that lower sum after it had been intimated that the prosecution were contemplating a perjury charge in relation to an aspect of his evidence at the first trial. The material does not allow for any conclusion as to the actual sequence of events in that case, beyond the sudden reduction in the loss figure.”

“643. Those cases just mentioned are examples of a wider approach of charging both theft and false accounting, and ultimately accepting a plea to the latter. In principle there is nothing wrong with adopting such an approach, where the plea is properly assessed to reflect the interests of justice and the public interest. As I have identified, it would be of concern if it reflected an overcharging, or an unrealistic charging of an untenable offence in the first place the reality of which was only accepted at a later stage.

### **(c) Circumstances of pleas**

644. However, the greater concern in a number of the cases I have considered was that evidence that the theft charge was used as a means to pressure a defendant into pleading guilty to false accounting, with conditions attached to the acceptance of that plea which were wholly inappropriate. In this context, I have in mind the cases of [SPM 15].

645. [SPM 15] pleaded guilty to false accounting in September 2006, and the theft charge was not pursued. The memo recording this hearing noted *“this was pursuant to a basis of plea which makes it clear that no blame was attributed to the Horizon Computer System. The defendant accepted that there was a shortage but he could not explain how it came about. He accepted that as a Sub postmaster he is contractually obliged to make good the shortage”*. In other words, the acceptance of this plea was made conditional on the repayment of monies which, consistent with the plea, had not been shown to have been taken, and to an undertaking not to criticise the Horizon system. ...”

## **The psychological effects of fear**

Some may view convictions based on confessions or guilty pleas as justified as being the choice of the defendant making the confession or plea. However, it has long been recognised that the “freedom” of this choice (and thus the ability of the choice to justify conviction) can be undermined by pressure to confess, and it is increasingly recognised

that this freedom can be undermined by pressure to plead guilty and sometimes is based on inappropriate advice to plead guilty.<sup>9</sup>

There can also be substantial doubts about how well those making such a choice understand the implications of pleading guilty. Indeed, many SPMs have reported that they had little understanding of the legal implications of pleading guilty. Further, many pled guilty because they were advised by their lawyers to do so, and have said that they lacked understanding of the criminal justice system, and relied on advice from their professionals (e.g. SPM 16).

It is relevant that SPMs undergo selection for their post by POL based on evidence of their having good characters, and they are typically characterised as straightforward, motivated, careful, community-minded, trusting folk. Very few would have any experience or understanding of legal issues or procedures.

The idea that citizens, when faced with the pressures of the criminal justice system, exercise individual autonomy as rational actors has been shown to be no longer sustainable.<sup>10</sup>

The psychological theory of self-determination holds that humans have needs for autonomy, competence, and relatedness.<sup>11</sup> If these needs are supported, feelings of empowered motivation and confident performance result. But if these needs are thwarted, feelings will arise of anxiety, inadequacy, fear, desire to be accepted (and hence say or act in irrational ways), desire to make the aggression go away, and so on. Effective managers and teachers aim to support the needs that promote self-determination, through supporting feelings of personal autonomy, competence, and relatedness. Whereas interrogators often adopt an *authoritarian* approach, which has the potential to undermine those needs and thus to undermine defendant choice.

Many regulatory authorities are shifting towards a more supportive and collaborative approach, having realised that most breaches of rules are committed by ethical people and that it is often important to identify the root cause of a problem rather than to simply blame someone who might have been involved in its manifestation.<sup>12</sup> Regulation of safety only works in conditions where individuals feel psychologically safe, and have no anxiety about sharing information.<sup>13</sup>

By comparison, the attitude of Post Office auditors and investigators was, from the start, that any SPM whose Horizon data indicated an error was guilty. This attitude of a closed mind prevented any useful sharing of information that should have given rise to rational inquiry into the accuracy of computer data and its root causes, at a very early stage. This

---

<sup>9</sup> See, for example, McConville et al, *Standing Accused, The organisation and practices of criminal defence lawyers in Britain* (Clarendon Press, 1994)

<sup>10</sup> A popular source on this point is D Kahneman, *Thinking Fast and Slow* (Penguin, 2012).

<sup>11</sup> RM Ryan and EL Deci, *Self-Determination Theory. Basic Psychological Needs in Motivation, Development, and Wellness* (Guilford Press, 2017).

<sup>12</sup> C Hodges, *Outcome-Based Cooperation: in Communities, Organisations, Regulation and Dispute Resolution* (Hart, 2022).

<sup>13</sup> AC Edmondson, *The Fearless Organization* (John Wiley & Sons, Inc., 2019).

behaviour raises concerns over the means of POL's control over the way in which its whole auditing and investigative functions were carried out, discussed further below. And, critically, this highlights that the environment POL created worked to stymie self-determination: by fostering an oppressive climate, POL heightened fear, anxiety, and the vulnerability of SPMs.

Other issues relevant to interviewing and accuracy of result are the length of the interrogation (length increases pressure to escape), and social exclusion, impairing individuals' ability to exhibit typical levels of self-control, reduces the ability to self-regulate, and prompts self-defeating behaviour.<sup>14</sup>

Isolation can also heighten the stress of custodial interrogation, thereby increasing suspects motive to "escape". Indeed, research shows that people experiencing social exclusion or ostracism are more likely to confess than individuals who are not socially excluded.<sup>15</sup> For example, SPM 17 speaking about the interrogation they received in 2007, explained, "they were so aggressive, I was there for hours and hours". Instances such as this placed SPMs in a position where many have reported that the effects of this isolation meant they were willing to say just about anything in order to be released.

An interrogator's expectation that the suspect is guilty can also place innocent suspects at risk – it can lead to "tunnel vision" and "confirmation bias".<sup>16</sup> The expectation of guilt leads interrogators to ask more guilt-presumptive questions, leading suspects to feel greater pressure to confess<sup>17</sup> and ultimately produce a cycle of behavioural confirmation that can lead to false confessions.<sup>18</sup> Countless SPMs have reported that during interrogations alternative lines of inquiry were not pursued, or even considered, and instead SPMs were continually bombarded with questions which assumed their guilt. For example, when giving evidence to the Inquiry, Tracy Felstead explained:

"They asked me where the money had gone, what I'd done with the money. Never at any stage was it, 'what do you think has happened, was there any reason for to happen?' It was very much I was being asked constantly 'what have I done with the money, where has the money gone?' I was being accused from day dot".<sup>19</sup>

---

<sup>14</sup> Baumeister, R. F., DeWall, C. N., Ciarocco, N. J., & Twenge, J. M. (2005). Social exclusion impairs self-regulation. *Journal of personality and social psychology*, 88(4), 589.

<sup>15</sup> Schrantz, K. N., Nesmith, B. L., Limke-McLean, A., & Vanhoy, M. (2021). I'll Confess to Be Included: Social Exclusion Predicts Likelihood of False Confession. *Journal of Police and Criminal Psychology*, 1-6.

<sup>16</sup> Leo, R. A., & Davis, D. (2010). From false confession to wrongful conviction: seven psychological processes. *Journal of Psychiatry & Law*, 38(1 & 2), 9-56.

<sup>17</sup> Kassin, S. M., Goldstein, C. C., & Savitsky, K. (2003). Behavioral confirmation in the interrogation room: On the dangers of presuming guilt. *Law and Human Behavior*, 27, 187-203.

<sup>18</sup> Leo, R. A., & Davis, D. (2010). From false confession to wrongful conviction: seven psychological processes. *Journal of Psychiatry & Law*, 38(1 & 2), 9-56. Narchet, F. M., Meissner, C. A., & Russano, M. B. (2011). Modeling the influence of investigator bias on the elicitation of true and false confessions. *Law and human behavior*, 35, 452-465.

<sup>19</sup> Tracy Felstead giving evidence to the Inquiry 25<sup>th</sup> February 2022 at 18mins 53seconds: <https://www.postofficehorizoninquiry.org.uk/hearings/human-impact-hearing-25-february-2022>

A review of various relevant studies by Kassin et al., in addition to their own study discussed in the paper, made two important relevant findings:<sup>20</sup>

- police interrogators held a generalised bias, assuming guilt;
- Investigators had ‘*low accuracy and high confidence*’ - they were less accurate than students at identifying false confessions and more confident in their incorrect assumptions of guilt.

Leo & Davis reviewed literature which showed that “motivational bias” can play a role in causing the above behaviours.<sup>21</sup> This is where outside factors can influence and/or motivate investigators to carry-out ‘goal-relevant behaviour’ to seek a confession of guilt.<sup>22</sup> It will be for the Inquiry and other authorities to conclude if this overconfidence in assuming SPM guilt amounted to inappropriate and unprofessional behaviour, including harassment of SPMs. For example, the person who was investigating SPM 18’s case approached them twice, once at their shop and once at their home, to put pressure on them to confess to the charges against them, threatening that if they did not confess then they would likely get a ten-year prison sentence.

In a replicated “computer paradigm” study, Klaver et al. 2008 made some key findings relevant to the POL case:<sup>23</sup> They found that participants were more likely to confess if the accusation was “plausible”. In the POL case, many SPM’s explained that they understood that they had technically broken the law by falsifying accounts in order to be able to continue trading, to buy time to try to sort out the issue, and try to find or pay back the so-called “shortfalls”, and that often SPM’s felt really guilty about this. They also found that women are more likely to confess, and many of the SPM Horizon cases involved women.

#### *Offering reduced sentences in return for guilty pleas*

Considerable research has also emerged in recent years into the mechanisms of operation of bargaining or negotiation around pleas or sentences. Much of the findings have yet to be adopted in necessary rational changes to existing systems, whether in England & Wales or elsewhere.

It is clear that current rules and their operation give rise to a number of grave concerns, which were likely exacerbated in POL cases by the behaviours of investigators and prosecutors, discussed above. There is a clear case for the need for *systemic changes* to the system of offering reductions in sentences in return for admissions, confessions, or guilty pleas.

---

<sup>20</sup> Kassin, S.M., Meissner, C.A., & Norwick, R.J. (2005). “I’d Know a False Confession if I Saw One”: A Comparative Study of College Students and Police Investigators. *Law and Human Behavior*, 29(2), 211-227. DOI: 10.1007/s10979-005-2416-9

<sup>21</sup> Leo, R. A., & Davis, D. (2010). From false confession to wrongful conviction: seven psychological processes. *Journal of Psychiatry & Law*, 38(1 & 2), 9-56.

<sup>22</sup> cf <https://www.computerweekly.com/news/366562217/Money-at-heart-of-Post-Office-Horizon-scandal-blame>

<sup>23</sup> Klaver, J.R., Lee, Z., & Gordon Rose, V. (2008). Effects of personality, interrogation techniques and plausibility in an experimental false confession paradigm. *The British Psychological Society: Legal and Criminological Psychology* 13, 71–88.



There is also clear evidence that in certain circumstances confessions and guilty pleas should not stand in the way of successful appeals or compensation claims due to the predictability (and even inevitability) of confessions and pleas from innocent defendants.

Dr Rebecca Helm, Director of the Evidence-Based Justice Lab at Exeter University, has undertaken extensive research and analysis to the systems and effects of plea bargaining. She finds that there are clear “situations in which the autonomy of defendants may be undermined when making plea decisions, meaning that decisions to plead guilty may not truly be voluntary or consensual.”<sup>24</sup> She comments that “Currently, our justice system is not based on the idea of vulnerable citizens but on the idea of citizens as autonomous actors who are able to exercise their autonomy, assess relevant options and make consensual choices.”<sup>25</sup> To be valid, consent should involve aspects of understanding and freedom from coercion.<sup>26</sup>

However, many of POL’s investigations and prosecutions are clear examples of cases in which consent is jeopardised. The actions of auditors, investigators, and prosecutors combined with current sentence reductions relating to guilty pleas created in environment in which it is clear that individuals’ autonomy and competence has *not* been respected, and SPMs have essentially been coerced into enduring injustice. This state of affairs is an affront to justice in a civilised country.

Dr Helm’s research has led her to conclude that,

“Whilst incentives are typically viewed in a positive light and provide positive opportunities for defendants, they have the potential to create both explicit and implicit pressure to surrender fundamental rights.”<sup>27</sup>

On this basis, and on the basis of empirical evidence of compromised choice in these cases, Dr Helm recommends that defendants should not face custody if convicted at trial which they can avoid by pleading guilty. In the POL scandal, many SPMs articulated their feelings that they had no other option but to plead guilty, as seen in just a few examples below:

- “I had a young daughter and I could not go to prison and leave her” (SPM 19).

---

<sup>24</sup> RK Helm, ‘Conviction by Consent? Vulnerability, Autonomy and Conviction by Guilty Plea’ (2019) 83(2) *The Journal of Criminal Law* 161–172.

<sup>25</sup> *Ibid.*

<sup>26</sup> B.H. Bix, ‘Contracts’ in Miller and Werthheimer (eds), *The Ethics of Consent: Theory and Practice* (Oxford University Press, 2009).

<sup>27</sup> RK Helm, R Draghani and D Newman, ‘Guilty Plea Decisions: Moving Beyond the Autonomy Myth’ (2022) 85(1) *Modern Law Review* 133.

See also her suggestions in RK Helm, ‘Constrained Waiver of Trial Rights? Incentives to Plead Guilty and the Right to a Fair Trial’ (2019) 46(3) *Journal of Law and Society* 423 that “three conditions should be satisfied in order for an incentive to plead guilty to be considered to constrain defendant choice for the purposes of the ECHR. First, the incentive should make it unreasonable to expect a defendant to exercise their right to a full trial. Second, the incentive must be independent of the projected outcome at trial. Third, the incentive must cause the defendant to plead guilty. Formal incentives to plead guilty in England and Wales may, and likely do, create a pressure to plead guilty, but this is through creating a sentence and/or charge discrepancy between plea and trial (that is, making the plea appealing compared to the potential outcome at trial).”

- “I was terrified that I would end up in prison. It was a feeling of sheer terror” (SPM 20).
- “I could not face going to prison for something I had not done and was desperate to avoid spending any time in prison whatsoever. I therefore, very reluctantly, accepted the plea bargain. With the prospect of a custodial sentence hanging over me I felt I had no choice” (SPM 11).
- “Someone needs to own up to having had that money. Then you’ll get the Post Office back.” (Said to Amer Hussain after he and his SPM brother had kept asking when they would get the business back, and also after the contact was terminated, at which point Amer had a mortgage and newly born son, and faced ‘losing everything’).<sup>28</sup>

Where the bargaining situation offers a difference in ‘type’ of sentence, such as a non-custodial sentence as opposed to a custodial one, we agree with Dr Helm’s conclusion that a decision to plead guilty should not make the difference between a custodial sentence and a community or financial sentence. In the POL cases, as highlighted above, there is clear evidence that SPMs confessed and pleaded guilty due to fear of custody. Pleading guilty was seen as the only way to avoid a custodial sentence.

A decisive effect on defendants’ decisions can also be created by other incentives (including informal or incidental incentives), such as the prospect of an immediate or early release from temporary custody, avoiding a custodial sentence, and avoiding the cost, time, and emotional toll involved in going to court. These factors may be decisive for those who need to care for children or aged or ill family, or who need to be able to continue to earn an income and pay staff by keeping their businesses open, avoid the stress of lengthy uncertainty and cost of going to a trial that appears to have cards stacked against oneself. These points certainly apply with particular force to anyone who is vulnerable and to women.

In the POL cases there are demonstrations of incentives other than reduced sentences that strongly constrained the choice of SPMs, both as the result of the behaviour of prosecutors and the result of the current operation of the criminal justice system. A brief log of reasons people pleaded guilty that gives further examples is available.<sup>29</sup> On this basis, and on the basis of empirical evidence of compromised choice in these cases, Dr Helm recommends that defendants should not face custody if convicted at trial which they can avoid by pleading guilty.

## **Conclusions**

Our overwhelming conclusion here is that the system failed on multiple occasions to protect honest vulnerable citizens, who deserved protection but were instead exploited, left with lives, confidence, reputations, careers, livelihoods, mental and physical health, and families destroyed. The system of appeals is now revealed as incapable of overturning unjust convictions and the state is incapable of delivering compensation for damage caused.

---

<sup>28</sup> Statement to Prof Hodges, 3<sup>rd</sup> January 2024.

<sup>29</sup> <https://evidencebasedjustice.exeter.ac.uk/current-research-data/incentivized-admission/>

## Inadequate controls on behaviour

The evidence in this saga indicates extensive and largely unregulated or unmanaged exercise of discretion by audits, investigators and those who made decisions on prosecutions, such as what offences could be bargained or reduced in exchange for guilty pleas. It is well understood that individual actors are situated within specific institutional contexts, and these institutional contexts, in turn, are situated within the broader network of political-economic forces that define their operating environment.<sup>30</sup> Thus, the institutional and public systems have responsibility for, and as well as, individuals' behaviours.

The existence of codes and making offenders sign statements of account which were known to be subject to challenge have been revealed to be inadequate mechanisms to control against abuse. There is also emerging evidence that the legislative and specific POL controls that did exist were not in practice adhered to: they were not embedded into the daily practices of POL auditors, investigators, or lawyers.

On the issue of codes (and mechanisms to control, against abuse), the Head of Criminal Law for the Post Office, Rob Wilson has recently given evidence to the Inquiry. At the outset of his evidence, Wilson emphasises his role was to ensure that prosecutions were properly conducted in accordance with both legislation and policy and refers to both training and policy documents put in place to achieve this. Mr Atkinson's evidence to the Inquiry has pointed to the many weaknesses in such policies. Mr Wilson's demonstrated that these mechanisms existed more "in form than practice," and often policies that depicted a specific process on paper were not reflected in the everyday reality of how shortfalls were investigated, and prosecutorial decisions taken.

Warwick Tatford sought to give evidence that when he prosecuted for the Post Office as an independent member of the bar, he did so with a keen eye on obligations as regards disclosure and expert evidence. Neither point withstood critical scrutiny by Counsel to the Inquiry. As such, statutory codes and POL policies became more akin to paper protections subsumed by the prevailing cultural values with the organisation. The prevailing culture, around investigations for example, is exemplified by some of the examples shown earlier in this paper.<sup>31</sup> Overall, there was a lack of regulatory oversight to ensure proper behaviour occurred and proper procedures were followed. The fact that investigations were overseen by the Director of Security rather than a more legally qualified and accountable officer produced the reality that investigations were carried out by people who simply failed to understand their professional duties in terms of PACE and professional ethics.<sup>32</sup>

---

<sup>30</sup> RJ Michalowski and RC Kramer, *State-Corporate Crime: Wrongdoing at the Intersection of Business and Government* (Rutgers University Press, 2006).

<sup>31</sup> See for examples Stevens (2008) 'Corporate Ethical Codes: Effective Instruments For Influencing Behavior' *Journal of Business Ethics*, 78: 601-609.

<sup>32</sup> Police and Criminal Evidence Act (1984) PACE – Code H (accessible)  
<https://www.gov.uk/government/publications/revised-pace-code-h-2022/police-and-criminal-evidence-act-1984-pace-code-h-accessible>

Studies in various jurisdictions have identified the extensive discretion that is exercised by those responsible for accepting guilty pleas in exchange for more lenient treatment. The same conclusions should apply to those who exercise authority in auditing, investigating, and interviewing.

The facts of this awful series of cases are indictments of the criminal justice *system*, the failure of POL to have or operate internal *controls* to achieve fair justice in the performance of its auditing and investigations or over the behaviour of its staff, and the systemic *behaviour* of POL staff themselves. Each of those issues give rise to fundamental cause for concern and, in our view, to justification for rectification through overturning convictions and payment of compensation.

In particular, we consider that the behaviour of those representing POL and the effects of important aspects of the plea-bargaining system have been direct causes of injustice in the cases of countless SPMs, creating an environment in which it was predictable, and even inevitable, that defendants would feel they had no choice but to plead guilty, despite being innocent. These effects were *predictable* and *avoidable*. We consider that these aspects constitute, by themselves, grounds:

- (a) for overturning swiftly the convictions of large numbers of convicted SPMs (irrespective of the existence or otherwise of ‘Horizon’ IT evidence), on the basis that they are clearly unsafe,
- (b) for the payment of full and fair compensation to all, and
- (c) for reform of the rules and practices going forward.

These matters demand urgent attention.

**Horizon Compensation Advisory Board**

Rt Hon Lord Arbutnot of Edrom  
Rt Hon Kevan Jones MP  
Professor Christopher Hodges OBE (chair)  
Professor Richard Moorhead  
9 January 2024

With thanks for academic material and research from Drs Rebecca Helm, Sally Day, and Emily Spearing (all at Exeter University) and Dr Karen Nokes (UCL).

## SOME CASE EVDIENCE

Below are listed summaries of three cases in greater detail, in order to give some more context to the lack of freedom, autonomy, and agency SPMs had in the face of charges from POL.

### **The Case of Mrs Oyeteju Adedayo: Evidence heard at the Post Office Inquiry, 10 November 2023**

*Summary taken from Professor Richard Moorhead's post on X and from information Flora Page.*

When in September 2005 auditors discovered an alleged £52,864 shortfall in the branch account at Rainham Road Post Office, Sub-Postmistress Oyeteju Adedayo fabricated a story to explain what had happened to the 'missing' money. As the mother of three young children, Teju was terrified of being sent to prison; she had been warned she would be looking at a 2-3 year custodial sentence & was persuaded by her auditor to sign a 'confession' prior to formal interview. "I was just trying to say things to stop them taking me away in a police car".

In her Human Impact Statement to the Inquiry in 2022, Oyeteju said she went from being a young entrepreneur who was full of life to being fearful for herself and her own family.

"They said I might go to prison for two or three years, so before I went to the Crown Court, I took my oldest child around the house and showed them how to use the washing machine," said the 57-year-old. "I got [my children] an alarm clock and said, 'Make sure you get up and go to school and do your homework.' It was terrible to tell a young child." While ultimately Adedayo did not go to jail – the judge took into consideration her young family and that she had started to pay the Post Office back – the years of being considered guilty wreaked an enormous emotional and financial cost.

"All of a sudden I was a thief; they wrote it on the wall," she said. "I wanted to die, I really did. I would go shopping at night – [my children] missed out on socialising as well. If anyone invited them to, say, a birthday party, I would make excuses to say no because I couldn't face anyone. I couldn't go to the school gates to meet them because I was ashamed." "Everything I ever worked for went down the pan overnight. I went into this business because [the Post Office] is a trusted brand and the logo was my pride. And look what I got out of it."

At the Inquiry on Friday 10 November, we learned more about Teju's 'confession' and the circumstances surrounding it. Her Post Office auditors had no training in the conduct of criminal investigations & no training on the points to prove theft; Teju signed her 'confession' without recourse to legal advice and in circumstances wholly lacking in the safeguards afforded by formal interview. Later that day when investigator Natasha Bernard started unravelling Teju's account of the 'theft', details of her story were incomplete, confused and inconsistent. At the Inquiry, Bernard conceded 'absolutely' that Teju's explanation for the shortage that day did not add up. Bernard also agreed that

Sub-Postmasters who found themselves facing a substantial shortfall at audit might be particularly vulnerable: 'I'm guessing that in their position they were open to...they may well have been threatened'.

Despite the concerning lack of consistency in Teju's account, Bernard appeared to have conducted no follow-up investigations to corroborate her story. Had she done so, she would have found no evidence of payments having been made by Teju in support of her version of events.

The identities of creditors to whom she was said to have paid substantial amounts of money were neither provided by Teju nor sought by her Post Office investigator. Bernard's justification for not having pursued this line of enquiry was absurd: '...if I'd have put more pressure, I would have probably been accused of being oppressive'. Three days after the interview, Bernard wrote her report to the Post Office's Criminal Law Team. It included the [unrepeatable] Racial Identification Code 3. In this report Bernard claimed to be unconvinced by Teju's explanation but nonetheless recommended that, on the basis of her admissions, she should be charged with false accounting. '... I think it's quite clear in my report that I didn't believe what she was telling me'. Remarkably, although Bernard had no direct recollection of her interview with Teju, nor of the case, nor of whether she sought ARQ data to assist in her investigation, nor of whether she had attended the sentencing hearing, nor of whether she submitted a witness statement for that hearing, she was certain that she would have remembered telling Teju that she was the only one experiencing problems with Horizon, had she done so.

In May 2021 Teju's conviction was overturned at Southwark Crown Court; her appeal was uncontested by the Post Office. But with regards to compensation, the Post Office's intransigent position was that Teju's 'confession' amounted to evidence of theft independent of Horizon.

The Inquiry hearing on 10 November 2023 exposed the perversity of this stance & the unending cruelty of the Post Office firstly in its decision to deny Teju an interim payment and, further, in its refusal to offer anything more than a token, derisory sum in compensation.

Horizon evidence was, & always has been, central to Teju's case because the cobbled, coerced & uncorroborated 'confession' which the Post Office presented should NEVER have been deemed reliable evidence. Not in 2006. Not in 2021.

**Janet Skinner**<sup>33</sup>

*Summary by Richard Moorhead, Sally Day, Karen Nokes, Rebecca Helm, Emily Spearhead.*

Janet Skinner was under the impression two of POL's Retail Network Managers had come to her office to help her, and that the auditors that were requested by them the next day would help to find where the apparent loss was. Like so many others, Janet had

---

<sup>33</sup> Witness statement for Janet Skinner to the Horizon IT Inquiry – 16<sup>th</sup> February 2022

persistently contacted the POL Helpline for assistance regarding balancing issues – in one year alone, from January 2004-2005, Janet had rung the Helpline over a hundred times. After the audit, Janet was then asked to come to an “informal chat” the following day and was taken to a police station and interviewed under caution, which is when she learnt POL were seeking to make her responsible for the alleged ‘shortfall’ at her office.

Janet was charged with false accounting and theft – on the day of her court hearing, Janet was offered a plea bargain by POL. Her lawyer advised her to plead guilty to false accounting, then POL would drop the theft charge and it was likely she would avoid receiving a custodial sentence. But Janet was given a nine-month prison sentence, she served two and a half months and was released in April 2007. POL pursued her for compensation of £11,000 and placed a Confiscation Order against her, she was also placed on a tag curfew on release, eventually lost her home, and struggled to get a job.

“I was devastated...You just feel crushed...To go to jail, you’ve got to have committed a crime...they couldn’t prove I had, but yet I still went to jail”.<sup>34</sup>

Janet was placed on suicide watch in prison due to her mental and emotional state. After she was released, due to the chronic stress of being falsely accused, prosecuted, and convicted, Janet’s immune system attacked itself, causing paralysis from the neck down. She was told she would never walk again – she did learn to walk again, but has been left permanently disabled and suffers with constant chronic pain. Janet’s conviction was quashed on the 23<sup>rd</sup> of April 2021.

### **Amer Hussain<sup>35</sup>**

Nadir Hussain qualified as an accountant and identified that running a Post Office would be a good business for the family. He, his brother Amer, and sister Farah bought the Post Office at Hartcliffe, in Bristol on 9 June 2004. Amer ran the counters for Nadir. Amer was 23 and had a degree. They each took out a mortgage on their homes in order to pay for the Post Office business.

They had no experience or training in running a Post Office, and Post Office did not provide any, even though this one had a high turnover (weekly around £250,000). A trainer arrived after 3 or 4 months, and found an error, saying ‘Don’t worry, you will get a correction error’ but nothing happened. They rang the helpline ‘day in and day out’ for assistance.

After 8 months, on 25 February 2005, there was an unannounced audit. The audit team, led by Gary Thomas, arrived at 8 am interviewed my brother on his own upstairs most of the day. In the late afternoon, they asked to have a chat with Amer. They said that there was no room available, so we went in their car to a Police station. At no stage was he cautioned. In the Police station, they announced that they would be recording the interview, which they did. “I was never cautioned nor was I ever told that this is criminal investigation. This was a chat and I did not know what I was going to speak about until the

---

<sup>34</sup> Janet Skinner giving evidence to the Inquiry at 10mins 38secs/16mins 50seconds:  
<https://www.postofficehorizoninquiry.org.uk/hearings/human-impact-hearing-25-february-2022>

<sup>35</sup> Statement to Prof Hodges, 3<sup>rd</sup> January 2024.

tape was recording. I didn't leave the police station until 7.30pm. After the interview they took me back home in the car and explained that all they need is someone to confess and this will all go away."

"A few weeks later I get a call from Gary Thomas that the investigation is over because they can't identify who did the theft and we will not get the post office unless someone confesses to the theft. This is vivid memory as I had gone back to Swansea at this point as we couldn't afford the flat in Bristol and I had my ex wife in the room who had been unwell due to her pregnancy.' He said that they could not identify who was involved, since the pin log in (001) could not be linked with anyone. 'We got nobody. Someone needs to own up to that money. Then you'll get the PO back and that will be an end of it."

Amer was told, at the time and in at least one subsequent phone call "All we want to know is who had the money, and you will get the Post Office back" and "If you accept the blame, pay the money back, that will be an end of it."

"This was taking its toll on my ex wife too who was heavily pregnant and was the catalyst of me confessing and saying it was me otherwise we were going to lose everything. I decided that if I admitted it, we would get our Post Office and livelihood back."

On 30 March 2005, Amer consulted Richard Morgan (solicitor at Randell, Lloyd, Jenkins & Martin, Solicitors) explaining that he wanted to confess to stealing. 'He didn't understand why I was doing this and advised me against this but I was adamant I need to confess or we would lose everything.'

On 14 April 2005, Nadir Hussain (Sub Postmaster) was interviewed by the retail line manager Andy Locker. On 4 May 2005, Nadir Hussain was sacked as the sub postmaster. He and the family were therefore excluded from the premises and business.

On 4 May Amer's solicitor wrote to Andy Locker confirming that Amer was confessing to theft. Andy Locker received the letter on 8 May and faxed it to Gary Thomas.

On 16 May, Amer had his first child: "my mental state at this time is that I am saving the family and my son will have a roof over his head. Our family home was given as collateral for the post office and we can't lose the post office or we lose everything."

On 18 May Amer phoned Colin Burstyn, manager at POL, and then confessed under caution. The confession was incorrect: he never took any money. On 16 May 2005, Amer's wife give birth to their first child. On 18 May 2005, Gary Thomas & Graham Brander interviewed Amer who made a confession.