

Rt Hon Suella Braverman QC MP
102 Petty France
London
SW1H 9EA

Dear Rt Hon Suella Braverman QC MP,

Re: Post Office private prosecutions

I am writing from the Criminal Cases Review Commission (CCRC) in connection with a series of Post Office workers' convictions that we are referring to the appeal courts. These Post Office Horizon cases have been fairly high profile so you may already be aware of them.

The CCRC has so far decided to refer for appeal 47 such cases on the basis of an abuse of process argument. That argument is itself based on trenchant findings made against the Post Office by Mr Justice Fraser in High Court civil proceedings brought by a large group of former Sub Post Masters/ Mistresses.

I have copied below the CCRC press release relating to the first 39 referrals as it summarises the circumstances of the convictions and the basis for our decision to refer them for appeal.

We have several more Post Office Horizon applications yet to decide and we understand that the Post Office itself is considering whether several hundred of its prosecutions may need to be revisited in some way.

The Commission is of the view that, in light of these cases, it would be appropriate for there to be some formal review of the circumstances and safeguards where an organisation is allowed, as the Post Office was in these cases, to act a prosecutor when it is also the victim and the investigator of an alleged offence.

In making the referrals to the Court of Appeal, the CCRC observes in paragraph 68 of our Statement of Reasons that:

"...in the context of [Post Office Limited's] POL's combined status as victim, investigator and prosecutor of the offences in question – the CCRC considers that there are reasons for significant concern as to whether POL at all times acted as a thorough and objective investigator and prosecutor, ensuring that all reasonable lines of inquiry were explored."

While the Post Office Limited's combined status as victim, investigator and prosecutor is not part of the legal basis of our referrals to the appeal courts, we think that there should now be a formal review into when and how it ought to be permissible for prosecutions to be brought in such circumstances.

The precise form of, or mechanism for, such a review would be a matter for others, but we are firmly of the view that a review is desirable.

You may already know that the Business, Energy Industrial Strategy (BEIS) Select Committee launched an enquiry into Post Office and the Horizon System on 4th March this year, and the matter has been raised in parliament in a number of occasions including at Prime Minister's Questions on 26 February 2020.

We have written in similar terms to Justice Select Committee.

If you need anything further from us in relation to this matter, please do not hesitate to contact me.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Helen Pitcher', with a long horizontal flourish underneath.

Helen Pitcher OBE
Chairman

CCRC press release published in 26th March 2020.

The Criminal Cases Review Commission is to Refer for Appeal the Convictions of 39 Post Office Applicants on Abuse of Process Argument

The Criminal Cases Review Commission has so far decided to refer for appeal the convictions of 39 Post Office applicants.

The Commission will be referring all those cases, which involve convictions for theft, fraud and false accounting, on the basis of the argument that each prosecution amounted to an abuse of process. (The details of the individual cases being referred are listed at the end of this release).

The abuse of process argument is based on issues with the Post Office's Horizon computer system which may have had an impact on the cases referred.

The argument arises out of two civil court judgments – the Common Issues Judgment of the 15th March 2019 (*Bates v Post Office* [2019] EWHC 606 (QB)), and particularly the Horizon Issues Judgment handed down on the 16th December 2019 (*Bates v Post Office* [2019] EWHC 3408 (QB)).

The CCRC can only refer a case for appeal if it considers that there is new evidence or new argument that raises a real possibility that the appeal court will quash the conviction(s).

The 39 cases to be referred are among a total of 61^[1] applications to the CCRC from Post Office applicants.

In relation to the remaining 22 cases, the CCRC has further work to do before it will be in a position to announce decisions as to whether or not it can refer those cases.

Those involved in the Post Office cases at the CCRC will continue their work and the decision-making committee will convene again as necessary so that the remaining decisions can be made and communicated as soon as possible.

Unusually, and because of the Covid-19 situation, the CCRC decision-making committee met virtually using remote access IT technology over two days on the 24th and 25th March.

The referrals will be formally made when the appropriate papers are sent to the relevant appeal courts (36 cases will be referred to the Court of Appeal as convictions obtained in the Crown Court, and three will be referred to the Crown Court as magistrates' court convictions). Covid-19 restrictions may mean that that process may now take some time to complete.

Helen Pitcher, Chairman of the Criminal Cases Review Commission, said: "This is by some distance the largest number of cases we will ever have referred for appeal at one time. Our team has got through a huge amount of work, particularly since the judgment in December, in order to identify the grounds on which we are referring these cases.

"The Covid-19 situation threatened to delay things but we used an IT solution to resolve that and we will continue to do whatever we need to in order to make decisions in the remaining cases as quickly as we reasonably can."

Mrs Pitcher can be available for remote access interview from 1.30pm on Thursday 26th March. To make an arrangement, call 07947 355 231.

[1] Twenty seven of the 61 Post Office applications received to date have arrived since December 16th when the Horizon Issues Judgment was handed down. The referrals announced include applications received before and after that date.

This press release was issued by Justin Hawkins, Head of Communication, Criminal Cases Review Commission. He can be reached on 07947 355 231 or e-mail press@ccrc.gov.uk