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Horizons Issues - Alan Bates & Others v Post Office Limited

Day 5

March 18, 2019

1   Monday, 18 March 2019
2   (10.30 am)
3   Housekeeping
4   MR DE GARR ROBINSON: My Lord, good morning. It is my turn
5   to be leading evidence.   There are a few housekeeping
6   matters for me to raise with your Lordship and there
7   might be some your Lordship would like to raise with me.
8   My points for your Lordship.   On Day 2 Mr Latif and
9   Mr Tank gave evidence.   Your Lord will recall that
10   Mr Latif referred to some memo views that he received in
11   January 2018.   My Lord, those have now been found and
12   disclosed.
13   My Lord, secondly in relation to Mr Latif there was
14   a reference to an audit that was done at his branch, the
15   Caddington branch.   That audit report has now been
16   disclosed and indeed it is now in the trial bundles.
17   MR JUSTICE FRASER: Are any of the memo views in the trial
18   bundles?
19   MR DE GARR ROBINSON: Not yet, my Lord.   They were found and
20   disclosed over the weekend.
21   MR JUSTICE FRASER: Are they going in, do you know?
22   MR DE GARR ROBINSON: Yes, my expectation is that they will
23   go in unless --
24   MR JUSTICE FRASER: I in particular would like to look for
25   and look at at least one or two of them, so ...

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1   MR DE GARR ROBINSON: My Lord, yes.
2   My Lord, Mr Tank, your Lordship will recall that he
3   was shown a Horizon Online quick reference guide and
4   suggested he had never seen a document like that before,
5   the version he was used to was much shorter.   The
6   reference guide which was in force at the time of the
7   events in question had already been disclosed but it is
8   now in the bundle, my Lord, at {F/691.1}.
9   MR JUSTICE FRASER: And that's the one that was in force at
10   the time Mr Tank --
11   MR DE GARR ROBINSON: Yes. It is dated 11 August -- I say
12   dated, when it was disclosed it was disclosed with the
13   date 11 August 2010.
14   MR JUSTICE FRASER: And that I think related to a passage of
15   evidence where I observed that the court had seen
16   a different version of the reference guide.
17   MR DE GARR ROBINSON: Yes, I think your Lordship had seen
18   perhaps a shorter one in the common issues trial.   This
19   is the long version.   There is no real, as far as I can
20   see, substantive difference between the one that was put
21   to Mr Latif and the one that's now in the bundles.
22   MR JUSTICE FRASER: Does that deal with all your
23   housekeeping?
24   MR DE GARR ROBINSON: Those are mine, my Lord.
25   MR JUSTICE FRASER: Mr Green, do you have any?

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1   MR GREEN: My Lord, there is the Royal Mail application in
2   the background but I don't want to trouble your Lordship
3   with it now.
4   MR JUSTICE FRASER: That is something on my list and I would
5   like to raise it now, not in respect of that but in
6   respect of the correspondence at the end of last week.
7   MR GREEN: My Lord, yes.
8   MR JUSTICE FRASER: Mr De Garr Robinson, obviously you know
9   about this because you communicated it to the court as
10   soon as you found out.
11   MR DE GARR ROBINSON: My Lord, yes.
12   MR JUSTICE FRASER: My understanding and do correct me if
13   I'm wrong but I'm pretty sure that this is correct, is
14   that what the court was told on Thursday about the
15   Royal Mail have the E&Y pre-2011 audit reports and being
16   unwilling to disclose them was incorrect, is that
17   a correct understanding?
18   MR DE GARR ROBINSON: My Lord, yes, subject to this
19   important clarification.   My Lord, there had been --
20   there's a confusion on my side of the court.   Audit
21   related documents had been requested from Royal Mail and
22   Royal Mail had indicated that they were reluctant to
23   provide anything without the protection of a court
24   order.   Then the confusion was that it was thought that
25   the audit related documents that had been requested and

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1   had met with that response were the actual audit reports
2   prior to 2011 and that was the mistake and that was not
3   the case.   There had not actually been a discussion with
4   Royal Mail about those specific documents, which is why
5   it's only right that my instructing solicitors have
6   apologised to Freeths and I have apologised to
7   your Lordship.
8   MR JUSTICE FRASER: Yes. The situation vis-à-vis the
9   Royal Mail seems to me to fall into two categories, one
10   of which we can come on to deal with later, the other
11   one of which I want to deal with now.
12   The part we can come on to deal with later relates
13   to the third party disclosure application that I made an
14   order in respect of on Thursday and you have now
15   confirmed my understanding.   There are some documents
16   that the Royal Mail has relating to audit in respect of
17   which an order may prove to be necessary.   That
18   tributary can meander along or not in line with the
19   proper procedure in the CPR which was initiated at the
20   end of last week.   I assume that that application was
21   served in accordance with my order.
22   MR GREEN: My Lord, yes. I think the deadline for service
23   is today.
24   MR JUSTICE FRASER: The second point is the actual pre-2011
25   Ernst & Young reports.   My updated understanding of that

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1   derives solely from what I was told last week, the
2   letter of correction from Freeths on 15 March and what
3   you have told me and it seems to me that the position is
4   as follows, that the Post Office still has not disclosed
5   those reports because it does not believe it has got
6   them, is that correct?
7   MR DE GARR ROBINSON: Yes, it hasn't been able to find them.
8   It has looked for them and not been able to find them,
9   my Lord.
10   MR JUSTICE FRASER: I am therefore going to order a witness
11   statement please from your solicitors and I'm just going
12   to identify what that witness statement has to deal
13   with, because at the moment it seems know there is a bit
14   too much generalism in these letters of explanation that
15   say "The Post Office believed" or "The Post Office asked
16   for", so I'm going to condescend to particulars. I'm
17   just going to read out what the witness statement -- and
18   we will come on to the time and date that this has to be
19   served at the end of this little passage.
20   I would like a witness statement from the
21   Post Office, and I imagine that will be from Mr Parsons,
22   which deals with the following: 1, the steps taken by
23   reference to the specific individuals who have
24   instructed or directed those steps, in order to obtain
25   copies of the pre-2011 Ernst & Young reports; 2, if

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1   those steps have led to a conclusion that the
2   Post Office does not have those reports in its custody,
3   possession or control, an explanation as to how that can
4   be the case; 3, identification of what requests, if any,
5   have been made to Ernst & Young before today's date --
6   MR DE GARR ROBINSON: Does your Lordship mean Royal Mail?
7   MR JUSTICE FRASER: Well, I have just said identification of
8   what requests have been made by the Post Office --
9   MR DE GARR ROBINSON: To?
10   MR JUSTICE FRASER: To Ernst & Young, who produced them,
11   before today to obtain copies of those reports.
12   4, exactly the same in respect of Royal Mail, in
13   other words identification of what requests have been
14   made to Royal Mail. 5, if no such requests have been
15   made either to Ernst & Young and/or Royal Mail, an
16   explanation of how that comes to be the case. And then
17   6, which is effectively the catch-all, which is a copy
18   please of an immediate request that will be made today
19   in writing to Ernst & Young and to the Royal Mail for
20   copies of these documents.
21   Now, just pausing there, the explanation for that,
22   Mr De Garr Robinson -- and I know I don't have to give
23   the explanation for your purposes, but just to be
24   clear -- I can't conceive of a situation whereby copies
25   of those reports are not available in this litigation.

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1   If for some reason due to the corporate reorganisation
2   in 2011 it is the case that they are unavailable, well,
3   then steps are going to have to be taken to produce
4   them.
5   I would like that order drawing up today please.
6   Would you like to tell me of a suitable time and date by
7   which that witness statement has to be -- or ought to be
8   provided?
9   MR DE GARR ROBINSON: My Lord, could I glance back and take
10   instructions?
11   MR JUSTICE FRASER: Of course you can.
12   (Pause).
13   MR DE GARR ROBINSON: Would your Lordship be happy with
14   10.30 on Thursday morning?
15   MR JUSTICE FRASER: I am happy, subject to the following
16   observation: depending on what the outcome is, it may be
17   necessary to recall witnesses in respect of this,
18   but for the moment 10.30 on which ..?
19   MR DE GARR ROBINSON: Thursday morning.
20   MR JUSTICE FRASER: I'm going to make it 9.30 on Thursday
21   morning so that if there's anything arising out of it it
22   can be dealt with on Thursday morning. So that is the
23   21st.
24   Right, so that's that. There are a range of other
25   housekeeping type matters but they can all wait until

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1   the end of today.
2   Right, so ...
3   MR DE GARR ROBINSON: My Lord, I call Angela van den Bogerd.
4   MS ANGELA VAN DEN BOGERD (affirmed)
5   MR JUSTICE FRASER: Do have a seat, Mrs Van den Bogerd,
6   please.
7   Examination-in-chief by MR DE GARR ROBINSON
8   MR DE GARR ROBINSON: Mrs van den Bogerd, there will be file
9   that you have in front of you. Could I ask you to go to
10   tab 5 of that file please and you will see on the first
11   page of the document in front of you is a witness
12   statement that is said to be made by you. Is that your
13   name and address on page 1 of that statement? {E2/5/1}
14   A. Yes, it's mine.
15   Q. If I could ask you to go to the last page of the same
16   tab, page 44 {E2/5/44}, is that your signature?
17   A. It is, yes.
18   Q. And still in the same bundle I would like you to go
19   please to what I hope is tab 16 {E4/16/1}.
20   A. Tab 16?
21   Q. Yes.
22   A. Empty.
23   Q. It is empty.
24   MR JUSTICE FRASER: It might be at the front of the tab.
25   That's where mine was.

8

1 MR DE GARR ROBINSON: If I could ask you to go back to
2 tab 5, Mrs van den Bogerd. I'm misleading you horribly,
3 I do apologise. Is there a series of corrections to
4 your statement at the front?
5 A. Yes.
6 Q. Have you seen those corrections before?
7 A. Yes, I have.
8 Q. Subject to those corrections, is this witness statement
9 true to the best of your knowledge, recollection and
10 belief?
11 A. It is.
12 Q. You will be asked some questions now, if you could wait
13 there.
14   Cross-examination by MR GREEN
15 MR GREEN: I think the statement on the screen is the one
16 from the column issues trial, so probably the one we
17 want up is {E2/5/1} please.
18   Mrs van den Bogerd, this is a statement that you
19 made in November 2018, isn't it?
20 A. It is, yes.
21 Q. And if you look at page 44 {E2/5/44}, it is signed on
22 16 November 2018?
23 A. That's correct.
24 Q. Can we go to page 2 of that statement please {E2/5/2}.
25 Now, at paragraph 5 you will see there you have

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1 explained a common theme in your responses in this
2 witness statement and you say that the common theme:
3   "... is that the evidence put forward by the
4 claimants does not concern a bug, defect or error in
5 Horizon (ie a Horizon generated shortfall as defined in
6 paragraph 41.6 of Post Office's generic defence)."
7   And then you say this:
8   "They often appear to assume that alleged losses,
9 shortfalls or other problems must have been caused by
10 Horizon."
11   Do you see that?
12 A. Yes, I do.
13 Q. So that's a part of the common theme of your witness
14 statement, isn't it?
15 A. It is, yes.
16 Q. And then you say:
17   "Given the unspecific nature of many of the
18 allegations made and that some relate to things that are
19 said to have occurred years ago, it is not now possible
20 in this statement for me (and may not be possible for
21 anyone else) to definitively state what may or may not
22 have happened in each case."
23   And then you say:
24   "Instead, my evidence aims to give the court
25 a balanced view of the range of possible causes behind

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1 each allegation ..."
2   Now, was that your aim in November 2018, to give
3 the court a balanced view?
4 A. It was, yes.
5 Q. Do you feel you have succeeded?
6 A. Well, I made some references and set out alternative
7 explanations to causes of the losses.
8 Q. So you feel you did broadly succeed, do you?
9 A. Broadly.
10 Q. And then you explain the reason for that. You say:
11   "... because I believe that, assuming the basic
12 facts alleged by the claimants are true, there is
13 a plausible and much more likely explanation than the
14 problem being caused by Horizon."
15   And you say:
16   "The most common alternative explanation is that
17 there may have been an accounting mistake or a user
18 error by the subpostmaster, his assistants or
19 Post Office."
20   Correct?
21 A. Correct.
22 Q. There is one particular example we will come to where
23 you say it is a data entry error by Post Office, but it
24 is fair to say, isn't it, that broadly your witness
25 statement is actually pointing to the likelihood of

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1 errors made by subpostmasters or their assistants?
2 A. Yes.
3 Q. Now, you have made some corrections which we've got in
4 the document that you were referred to and can we just
5 look at the types of corrections you have made. There
6 are some corrections which relate to matters that you
7 probably realised some time ago. If we look at
8 paragraph 128 of your witness statement on page
9 {E2/5/30}. Just to give you context, this is in the
10 passage that begins on page 28 dealing with Pam Stubbs'
11 case and if we go back to page 30 and look at
12 paragraph 128 you see there it says:
13   "The FSC customer account (ie the record of all
14 branch discrepancies, TCs, credits and debits on the
15 subpostmaster's account) confirms that Mrs Stubbs chose
16 to settle ..."
17   Is what you originally said:
18   "... this shortfall centrally and so this does not
19 appear to be a problem with Horizon as I would expect
20 Mrs Stubbs to dispute this shortfall if Horizon was
21 thought to be the cause."
22   Yes?
23 A. That's correct.
24 Q. Now, taking it in stages, let's just look carefully if
25 you can first of all at two aspects of what you have

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1   chosen to correct now. If we look at -- I'm sorry we're
2   going to have to go back between the documents because
3   we haven't got it all in one place, but if we look at
4   {E2/16/4} and the second box down relates to
5   paragraph 128 of your witness statement, doesn't it?
6 A. Yes.
7 Q. And that's the paragraph we have just been looking at
8   and what you now say is that Mrs Stubbs settled this
9   shortfall centrally, full stop.
10 A. Yes.
11 Q. And you have deleted:
12   "... and so this does not appear to be a problem
13   with Horizon as I would expect Mrs Stubbs to dispute
14   this shortfall if Horizon was thought to be the cause."
15   Yes?
16 A. Yes.
17 Q. And you must have realised that -- at the latest you
18   must have realised that that correction was necessary
19   after the common issues trial and you had heard her
20   evidence?
21 A. Yes.
22 Q. And the reason it was necessary -- two important points
23   of correction there. The first one is that the words
24   "chose to settle" are very misleading, aren't they, in
25   the context of accepting the transaction correction?

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1 A. Yes. Because she did actually dispute it via the
2   contracts (inaudible), which I didn't know.
3 Q. Well, yes, let's take it in stages. There are two
4   different points. The phrase "chose to settle
5   centrally", the choice is pay or settle centrally
6   effectively, isn't it?
7 A. Yes.
8 Q. And there's no dispute button, as we have already
9   established in the previous trial. So there's no
10   dispute button on Horizon and that's why you have
11   amended what you previously said, that she chose to
12   central centrally, you have taken the word "chose" out
13   because it is not a real choice for the subpostmaster,
14   is it?
15 A. So the reason I took it out here is because when I wrote
16   this I said she chose to settle it because she didn't
17   dispute it at the time and that's why I wrote it as
18   I did. What I subsequently found is that she did
19   dispute, albeit later, so therefore it was incorrect, as
20   I had stated.
21 Q. Right, well, I will take it quite quickly because we
22   have already dealt with this in the previous trial but
23   the short point is however much you dispute something,
24   the maximum you can do on Horizon to dispute it is to
25   press "settle centrally"?

14

1 A. Yes.
2 Q. Now, that's an example of a correction you have made
3   from something you would have known a long time ago.
4   There's another one at paragraph 145 of your witness
5   statement on page {E2/5/33}. This relates to
6   Mr Abdulla's case. You see paragraph 145 there?
7 A. Yes, I do.
8 Q. This is talking about transaction corrections in the sum
9   of £1,092 for two consecutive months and you will
10   remember that in fact what we found was there were in
11   fact three successive entries of 1,092 on the
12   spreadsheet, weren't there?
13 A. Yes.
14 Q. Do you remember? So what you have done is you have
15   corrected the word "over" in the fourth line down just
16   after "relevant" to "under" and you have nonetheless
17   decided to maintain Post Office's position that although
18   there were three identical items, month after month, for
19   £1,092, it's only the third one that was in error?
20 A. Yes.
21 Q. So you don't accept that the second one was in error?
22 A. No.
23 Q. So the second one is a coincidence, two 1,092. The
24   third coincidence is a coincidence too far, is that
25   right, because that's the one you corrected?

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1 A. So the first two were the same figure for two months.
2 Q. Two months running.
3 A. Yes. And the third one was issued mistakenly and that's
4   why the correcting TC was issued to correct that, from
5   the evidence then there's two on there that should
6   stand.
7 Q. I see, and so that's a correction of the word but not
8   the outcome in terms of where you would lay the blame
9   for that?
10 A. Yes, that's correct.
11 Q. And then the other sort of correction we've got is
12   corrections of evidence that you have only recently
13   heard -- you were in court, weren't you, for the
14   evidence of Angela Burke?
15 A. I was, but actually for Angela Burke I had already made
16   that correction to my solicitors before I heard that
17   evidence.
18 Q. So hold on a second, you had already decided to make the
19   correction you have made in relation to Angela Burke
20   before she gave evidence?
21 A. Yes.
22 Q. Okay. But let's just have a look at that, if we may.
23   So it is paragraph 104 of your witness statement, which
24   is {E2/5/25} and there you are dealing with the fact
25   that there were two other items left in the stack.

16

1 A. Correct.

2 Q. And it says, four lines up from the bottom:

3   "Mrs Burke did not do this [ie clear the stack] and

4   bundled together two customers' transactions into one

5   basket ... from Horizon's perspective this would have

6   looked like a set of transactions relevant to a single

7   customer."

8   Yes?

9 A. Yes and that's still correct.

10 Q. And the addition that you have made, if I can just read

11   it out, it is -- thank you very much, very efficient.

12   We can see the addition that you have made on

13   paragraph 104 at the bottom {E2/16/3}.

14 A. Yes.

15 Q. "However this had no bearing on the failed recovery of

16   the £150 cash withdrawal."

17 A. That's correct.

18 Q. Now, did you think it was odd then that Mrs Burke was

19   extensively cross-examined on the basis of your evidence

20   that you had already decided required modification?

21 A. So my understanding of the way that Mrs Burke was

22   cross-examined was that that was not actually put to her

23   in those words but that Mr Draper did say to her that he

24   understood that that didn't have a bearing on the 150,

25   that's my recollection.

17

1 Q. Let's take it in stages. We've got the reference to the

2   transcripts, but very briefly, the point that was being

3   made to Mrs Burke was if you leave transactions in the

4   stack for longer you are leaving a longer period during

5   which an error might occur in relation to that basket.

6 A. And that is --

7 Q. That's the thrust of it.

8 A. And that is correct, yes.

9 Q. But the point was completely obvious from her own

10   witness statement on a fair reading of it, that it was

11   the last transaction that had gone astray so it had no

12   bearing whatever, did it?

13 A. In this situation it didn't because it was a failed

14   recovery.

15 Q. And you accept that your original witness statement as

16   drafted did not make clear that you were not suggesting

17   that any error by her had any effect on it?

18 A. That's correct. When I put my witness statement

19   together I did say that I hadn't done all the detail

20   I would ordinarily have done, I didn't have as much time

21   to do that and I have looked at other evidence in

22   relation to Mrs Burke and what was very clear to me is

23   that Mrs Burke had done absolutely nothing wrong in that

24   situation.

25 Q. You didn't say that, did you? The reason I'm asking

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1   this a little bit carefully is because you introduce

2   your witness statement and focus on the likely reason

3   being user error and that's the tenor of what we're then

4   expecting to read about?

5 A. Yes.

6 Q. So when you don't point out she has done absolutely

7   nothing wrong, the natural way of reading your witness

8   statement is that she had done something wrong in some

9   way?

10 A. I agree, which is why --

11 Q. And that's why you have corrected it now?

12 A. Absolutely, yes.

13 Q. But it was completely clear from her witness statement,

14   wasn't it, that it was the last transaction that failed?

15 A. Yes.

16 Q. And the reason it was clear was she actually exhibited

17   a copy of the receipt so when you looked at her witness

18   statement there was an exhibit with a copy of the

19   receipt and you could see it was the last transaction?

20 A. Yes.

21 Q. Then if we just look at the change made to paragraph 72

22   please, back one page on that document on Opus

23   {E2/16/2}, this is in relation to Mr Patny and his

24   difficulties with MoneyGram:

25   "Mr Patny is correct that on 23 February 2016 he

19

1   processed a MoneyGram transaction for £3,100 and the

2   customer's debit card payment for the transaction was

3   declined by the customer's bank. At this point the

4   transaction was committed and could not be removed from

5   the stack, therefore Mr Patny had to settle to cash.

6   Process is that the MoneyGram transaction should have

7   been cancelled on Horizon followed by a reversal of the

8   transaction. The data shows that Mr Patny cancelled the

9   transaction, however did not complete the reversal.

10   This would result in the £3,100 loss."

11   Now, what you said at the time was a little more

12   doubtful, you just recite what he is saying he did

13   rather than accepting it.

14 A. Mm-hm.

15 Q. And --

16 MR JUSTICE FRASER: Can I just ask you to pause there just

17   for a technical reason. I have been working off the

18   hard copy of Mrs van den Bogerd's corrections, which

19   seems to be different to the one that's on the common

20   screen. Are there two different versions?

21   Mrs van den Bogerd, the clip of documents which

22   Mr De Garr Robinson took you to, is that three sheets in

23   length?

24 A. It is three sheets I have in front of me.

25 MR JUSTICE FRASER: It is three sheets?

20

1 A. Yes.

2 MR JUSTICE FRASER: Can we just scroll to the end of

3   {E2/16/4} and see how many pages long that is.

4 MR GREEN: My Lord, I'm using the one that is the common one

5   for all witnesses. We have one for each witness and --

6 MR JUSTICE FRASER: That's a perfect explanation. As long

7   as there is only one version of the document.

8 MR GREEN: There is only one version.

9   Because what you actually said in your witness

10   statement was that you were assuming the facts that the

11   claimants alleged were true.

12 A. Yes.

13 Q. And it is only after hearing Mr Patny's evidence and the

14   fact that the helpline did tell him to settle to cash

15   that you have changed this, isn't it?

16 A. No, so again my corrections were made in advance of the

17   claimants giving their evidence last week. So I put

18   this in to my solicitors before the trial started.

19 Q. Right, so we have only found out about it after they

20   have been cross-examined?

21 A. Yes.

22 Q. I see.

23 A. I did put it in before.

24 Q. I understand, thank you very much.

25   Can we move on to the first section in your witness

21

1   statement please where you respond briefly to points

2   made by Mr Henderson. Now, you were familiar with

3   Mr Henderson's role with Second Sight?

4 A. I was.

5 Q. You were the programme director of the branch support

6   programme?

7 A. Correct.

8 Q. You were involved in preparing reports in response to

9   Second Sight?

10 A. Correct.

11 Q. You were involved in decisions about what information

12   was provided to Second Sight?

13 A. Correct.

14 Q. And at paragraph 9 of your witness statement on

15   {E2/5/3}, you say:

16   "At paragraph 2.4, Mr Henderson says that he

17   analysed some transaction data provided to him. I do

18   not know what transaction data he is referring to or

19   what he means by him being able to 'reverse engineer'

20   this data."

21   Now, paragraph 2.4 says that he was provided the

22   information by Mr Jenkins, Gareth Jenkins, in his

23   witness statement?

24 A. Mm-hm.

25 Q. You know who Mr Gareth Jenkins is, don't you?

22

1 A. I know who he is, yes.

2 Q. Have you ever met him?

3 A. No.

4 Q. Because there are quite a lot of references in the

5   Fujitsu witnesses' witness statements in particular to

6   Mr Jenkins, aren't there?

7 A. Yes, that's correct.

8 Q. And particularly in Mr Godeseth's witness statement?

9 A. Yes, I understand.

10 Q. And you in turn refer to Mr Godeseth's witness statement

11   in your witness statement?

12 A. I do.

13 Q. Did you make any requests for clarity from Mr Jenkins

14   about what that transaction data was if it was provided

15   by Fujitsu?

16 A. No, I didn't.

17 Q. Because presumably Post Office would have had to agree

18   for Fujitsu to provide it if it was to Second Sight?

19 A. So I wasn't involved in all of that as part of the

20   programme. I was aware that Mr Henderson had met with

21   Gareth Jenkins, but I wasn't fully aware of all the

22   detail of that at the time.

23 Q. Okay. Let's move on to transactions outside working

24   hours. That's on {E2/5/3}, paragraph 12 of your witness

25   statement and you would agree on the face of it, if

23

1   Mr Henderson was concerned about transactions outside

2   working hours that that's a reasonable thing for him to

3   be at least interested and curious about, isn't it?

4 A. Yes.

5 Q. On the face of it?

6 A. Yes.

7 Q. And paragraph 13 of your witness statement gives what

8   you explain are a number of plausible and legitimate

9   explanations which you set out below, do you see that?

10 A. Yes, I do.

11 Q. First line. {E2/5/4} and you say:

12   "For the sake of clarity, I categorically confirm

13   that I am not aware of any improper conduct by

14   Post Office or Fujitsu like this, or of any reason why

15   Post Office or Fujitsu would engage in such conduct.

16   I am informed by Post Office's solicitors that in the

17   course of investigating this matter …"

18   So that's for this trial, isn't it?

19 A. Yes.

20 Q. "… Fujitsu have advised that 'phantom sales' were

21   reported in around 2000 which appeared to be caused by

22   hardware issues."

23   Now, pausing there, were you aware prior to being

24   told that in relation to these proceedings that there

25   had been phantom sales problems on the Horizon system?

24

1 A. Not that I can recall.

2 Q. So if a postmaster had said that to you at the time,

3   prior to this litigation, you would have assumed it was

4   actually more likely to be user error, is that fair?

5 A. I would have and then an issue would have been raised

6   and would have been investigated from the Horizon logs

7   to see what was there.

8 Q. And it is fair that you explain you have had quite a lot

9   of experience looking into discrepancies with

10   subpostmasters?

11 A. I have.

12 Q. So it's against the background of that experience that

13   you nonetheless weren't aware of even the existence of

14   a problem with phantom sales having happened?

15 A. Yes, that's correct.

16 MR JUSTICE FRASER: Can you just give me an approximate

17   either month or year when you became aware of phantom

18   sales?

19 A. I don't recall, my Lord, the approximate year.

20   I mean -- so when I got involved with the mediation

21   scheme that's probably when we started to hear claims of

22   phantom transactions and that's -- when we investigated

23   some of those claims and we could see no evidence of

24   that throughout that, so that would have been a few

25   years back. I can't remember exactly when.

25

1 Q. Just to make sure I correctly heard your answer, you

2   investigated and you could see no evidence of that?

3 A. So I can't remember exactly -- so when we were doing the

4   mediation scheme then we had people saying to us they

5   were phantom sales. Some of the mediation ones that

6   I looked into is, as I set out in here, when we have

7   looked into that it was transactions being done after

8   the system had automatically logged somebody off, so if

9   they had been dormant for 59 minutes it would actually

10   complete what was in the basket and produce the receipt

11   and one of the instances I can remember was that was

12   after they had closed the branch and that they thought

13   that was a phantom transaction and we could explain that

14   from the evidence on the transaction logs to how that

15   happened.

16 Q. Just going back, just looking at paragraph 13 again,

17   four lines down on the right-hand side:

18   "I am informed by Post Office's solicitors that in

19   the course of investigating this matter, Fujitsu have

20   advised that 'phantom sales' were reported in around

21   2000 ..."

22   So that information appears to have come to you for

23   the first time from Post Office's solicitors, is that

24   right?

25 A. Yes, I wasn't aware that we had had phantom sales in

26

1   2000. I wasn't aware of that.

2 Q. So up until that point you would have assumed it was

3   user error?

4 A. Yes, I would have.

5 Q. Let's have a look, if we may please, at the phrase that

6   you have used, "plausible and legitimate explanations".

7   If you focus on paragraph 13 for a second, you see that

8   after the bit about phantom sales having been reported

9   "which appeared to be caused by hardware issues" it

10   says:

11   "This is dealt with in the witness statement of

12   Fujitsu's Steve Parker, but I understand the key point

13   to be that such matters, provided they relate to stock

14   sales, should not cause a discrepancy in a branch's

15   accounts."

16   Now, pausing there, are you saying that a phantom

17   stock sale is a plausible and legitimate explanation for

18   a phantom transaction? What are you saying exactly

19   there?

20 A. So if stock -- so say stamps had been put into the

21   basket and it wasn't by the user, then that's what I'm

22   referring to in terms of a phantom sale, so it would be

23   put in as if it was being sold and hadn't been sold.

24 Q. But what if the stamps were self-declaring without input

25   from the user? That's a bit of a problem, isn't it, if

27

1   you're the subpostmaster?

2 A. Yes.

3 Q. If a ridiculous value of stamps was self-declaring, it's

4   not the stock you've got, that's a big problem for the

5   subpostmaster, isn't it?

6 A. It would be in that -- putting into the stack, yes.

7 Q. Okay. Let's have a look if we may at the phantom sales

8   master PEAK. Now, you know what a master PEAK is, don't

9   you?

10 A. The main one.

11 Q. It is the main -- where there are a number of iterations

12   of a problem what Fujitsu do is they pull together

13   a number of PEAKs into a master PEAK to collect the

14   cases of different people who have had the same problem?

15 A. Yes.

16 Q. And let's look please at {F/97}. This is the master

17   PEAK for phantom sales, PEAK number 0065021, dated

18   17 April 2001. That's when it is actually initiated in

19   the main box and the target date in the PEAK you will

20   see is the 13 June 2001, do you see that?

21 A. I do.

22 Q. Have you seen this PEAK before?

23 A. Not that I recall.

24 Q. So --

25 A. I certainly didn't see this back in 2001.

28

1 Q. So there are a number of different FAD codes for
2   different SPMs in this PEAK, but can we just look -- is
3   there any way we could slightly increase the size of the
4   text?
5 A. Thank you.
6 Q. Mrs van den Bogerd, can you see that all right?
7 A. I can, yes.
8 Q. That's perfect, thank you very much.
9   So if we just look at 14/04/01 at the top there, do
10   you see:
11   "New complaint call as previous ... closed WITHOUT
12   permission from PM."
13   Do you see that?
14 A. I see that.
15 Q. And the reason that "WITHOUT" is in capitals is because
16   the call shouldn't be closed without the agreement of
17   the subpostmaster; that's right, isn't it?
18 A. Yes.
19 Q. And the next one done:
20   "PM wishing to complaint about ongoing system
21   problems, see call 0104 [et cetera] ... for details."
22   Then:
23   "PM had previous complaint open ... that PM was
24   under impression (correctly) that it could only be
25   closed with his permission. It would appear Ki Barnes

29

1   gave authorisation to close that call. PM VERY unhappy
2   about this."
3   Do you see that?
4 A. I do.
5 Q. Then the next one down, 12.58:
6   "Information: PM extremely unhappy about the
7   problems with his counters. He says he has had to pay
8   out over £1,500 in losses that are due to these
9   problems. He has informed POCL ..."
10   Post Office Counters Limited, which was then the
11   name of the Post Office, yes?
12 A. Yes.
13 Q. "He has informed POCL they can suspend him because he is
14   refusing to make good any further losses."
15   Yes?
16 A. Yes.
17 Q. "PM wants a face-to-face meeting with someone in
18   authority from Pathway/POCL to discuss the issues.
19   PM feels very strongly about this and says he is willing
20   to take POCL to a tribunal/court because of the stress
21   he has suffered because of the problems."
22   Yes?
23 A. Yes.
24 Q. Then halfway down the page you can see "JULIAN HALL", in
25   capitals, and:

30

1   "Information: THIS CALL IS ONLY TO BE CLOSED WITH
2 THE EXPRESS PERMISSION OF JULIAN HALL."
3   Who is this particular subpostmaster who seems to be
4 one of the main complaints in this PEAK, yes? And
5 that's the correct procedure, it shouldn't be closed
6 without his position, yes?
7 A. That is the correct procedure, yes.
8 Q. Then 14/04/01:
9   "PM has lost all confidence in system and Ki Barnes
10 as he feels she has misled him over previous calls."
11   Then underneath that:
12   "The system seems to lose transaction and PM is
13 concerned that for every transaction error he notices
14 there is the probability that there are ones he misses,
15 leading to discrepancies. The PM is at present finding
16 the whole scenario very stressful and is suffering
17 sleepness nights due to these problems. In the light of
18 what has gone on the PM is prepared to break his
19 contractual obligations with POCL and refuse to pay any
20 more discrepancies and will take legal action if
21 required."
22   So it is clear, isn't it, here that before we get
23 into the detail about what the root cause is, which we
24 will come to in a moment, the PM has had a call closed
25 wrongly that should not have been closed.

31

1 A. Yes.
2 Q. Is extremely distressed about it, yes?
3 A. Yes.
4 Q. And there are significant sums of money involved?
5 A. Yes.
6 Q. Is that fair? And you can understand why it's a fair
7   complaint to make about Ki Barnes that she has
8   authorised the closure of a complaint that should not
9   have been closed; that's fair?
10 A. That is fair.
11 Q. Right, let's look at what we find under 17/04/01 at
12   9.48:
13   "Contacted: I have left a message on Ki Barnes
14   voicemail as the PM is now complaining about her. I was
15   speaking to her about the last complaint call and we
16   both feel that this PM is complaining unjustly. She has
17   been in contact with him and I feel he is complaining
18   because the feedback has been advising it is user error,
19   whereas the PM thinks it is software."
20   Now, pausing there, let's leave to one side for
21   a moment the PM supposedly complaining unjustly, it is
22   clear from this that the feedback the subpostmaster is
23   getting is that this is user error, yes?
24 A. From -- yes, yes.
25 Q. And the PM thinks it is software?

32

1 A. Yes.

2 Q. So this is a good example of the competition which you

3   have referred to in your witness statement --

4 A. Yes.

5 Q. -- of the subpostmaster saying it is software and

6   effectively what appears to be the feedback he is

7   getting that it is user error?

8 A. Yes.

9 Q. The fact that the feedback says it is user error, do you

10   think that might have contributed to the closing of the

11   call by Ki Barnes, or is that not in your experience?

12   You may not be able to answer.

13 A. No, it would depend on whether other investigations had

14   taken place.

15 Q. Okay. Let's have a look. If we go down to the bottom

16   of this page, 10.17:

17   "As I was on the phone to the PM, he advised that

18   three first class stamps that were on the screen just

19   'dropped off'. PM had three first class stamps ..."

20 A. Sorry, I have lost that.

21 Q. I'm so sorry, it is just at the bottom there. Just

22   under "Contacted".

23 MR JUSTICE FRASER: Hold on one second. We have just jumped

24   down to the second part but it is the same page.

25   I shared your slight concern we had gone somewhere else.

33

1   Can you now see the entry?

2 A. I can see that now, thank you.

3 MR GREEN: So you see "Contacted" there.

4 A. Yes.

5 Q. "As I was on the phone to the PM, he advised that three

6   first class stamps that were on the screen just 'dropped

7   off'."

8   That's while he is actually on the phone he is

9   reporting something that appears to happen either during

10   the telephone call or had just happened:

11   "PM had 3 first class stamps and other stamps for

12   30p. When the other stamps 30, went on, the first class

13   stamps disappeared. They have since put the 3 first

14   class stamps again. The first transaction (that

15   disappeared) was put on as 2 first class stamps and

16   1 normal first class stamp."

17   And the transaction IDs follow. So he is clearly

18   having a problem with the stamps.

19   If we go on to the next page of this PEAK {F/97/2}

20   you will see there:

21   "PM advises that the transactions taken after this

22   one ... which basically skips out transaction

23   [number 77]. We were unable to find out the transaction

24   ref of the 1 first class stamp that was taken with the

25   2 ... can SSC please investigate why he has had

34

1   disappearing transactions again and perhaps

2   a recommendation as to what action can be taken."

3   Now, there is quite a lot of content in this and I'm

4   just going to take you to a couple of points if I may.

5   Let's go forward to page 4 of this PEAK please {F/97/4}

6   and about halfway down, just more about two-thirds of

7   the way down, about an inch below the Dell on the side

8   of the screen can you see 01/05/01, 9.36?

9 A. Yes.

10 Q. This is actually a different FAD number. It says:

11   "PM wants to speak to someone face-to-face and is

12   fed up with things getting passed back and forth to and

13   from different departments and nothing ever happening.

14   PM is willing to travel if he has to in order to speak

15   to someone face-to-face."

16   So we have had Mr Hall wanting to speak to someone

17   face-to-face and we appear to have a different

18   subpostmaster wanting to speak face-to-face. You will

19   have encountered, won't you, in your experience when

20   these problems happen subpostmasters just eventually get

21   to a point where they get fed up with dealing with the

22   helpline and they just want to talk to someone

23   face-to-face to get it sorted out?

24 A. Yes.

25 Q. And that doesn't always happen, does it, when they want

35

1   to and some of them get quite frustrated?

2 A. And I can understand that frustration, yes.

3 Q. Let's look at page 5 please --

4 MR JUSTICE FRASER: Just before you -- are you moving off

5   that one?

6 MR GREEN: I am.

7 MR JUSTICE FRASER: A little bit further down,

8   Mrs van den Bogerd, there's an entry -- I just wondered

9   if you understood what it is and if you don't, please

10   don't worry. There's an entry 1 May 2001 at 10.56, do

11   you see that?

12 A. Yes.

13 MR JUSTICE FRASER: It says:

14   "Information: ROMEC are contacting the site to let

15   them know that they will be attending site ... to fit

16   suppressors and double sheet flyleads, in order to help

17   the enviromental fault."

18   Do you know what ROMEC do?

19 A. ROMEC were Royal Mail engineers --

20 MR JUSTICE FRASER: Royal Mail engineers?

21 A. In-house electricians and engineers.

22 MR JUSTICE FRASER: All right, thank you very much.

23   Mr Green.

24 MR GREEN: My Lord, I was just about to pick up --

25 MR JUSTICE FRASER: That's fine.

36

1 MR GREEN: If we look at page 5 of this PEAK {F/97/5}, if we
2   go down to the bottom do you see 3 May 2001?
3 A. Which time?
4 Q. 15.34.
5 A. Yes.
6 Q. So:
7   "ROMEC have been to site and have done all they can
8   do.   There is no more UKSS2 can do for this site ."
9   What is UK SS2?
10 A. I'm sorry, I don't know.
11 Q. Not sure.   And then underneath that, 04/05:
12   "Information: Ki Barnes has called in. I am unsure
13   as to what to do with this call now. ROMEC [which is
14   Royal Mail engineers] have been to site and state that
15   they have actually seen the phantom transactions, so it
16   is not just the PM's word now. They have fitted
17   suppressers to the kit ..."
18   Which is the reference his Lordship took you to:
19   "... but the PM is still having problems. As yet
20   there has been no recurrence to the phantom transaction
21   but there still   may be problems."
22   Now, pausing there, that is independent site visit
23   corroboration of the problem by Royal Mail's own
24   engineers at the branch, isn't it?
25 A. Yes.

37

1 Q. That's clearly not user error any more?
2 A. No.
3 Q. Let's look at page 7 {F/97/7}, and if we go down to
4   19 June 2001 at 3.17, do you see that?
5 A. Yes.
6 Q. "I now have pressing evidence to suggest that unwanted
7   peripheral input is occurring, the likely source being
8   the screen.
9   "This has been seen at Old Isleworth ... and
10   Wawne ... with OI being the best site ; when the PM has
11   been asked to leave the screen on overnight I have
12   observed system activity corresponding to screen presses
13   happening with no corresponding evidence of either
14   routine system activity or human interference ..."
15   So on the face of it there's unwanted peripheral
16   input occurring into the system?
17 A. Yes.
18 Q. Can we go to page 9 {F/97/9}, top of page 9,
19   7 August 2001 please, do you see that?
20 A. Yes.
21 Q. Halfway across "Repeat call ":
22   "PM Mr Julian Hall back online - has just been
23   speaking to Becky - insists that he would like this call
24   updating with this information.   When the
25   transaction ...   was entered the cheque for £75 did not

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1   appear in the stack , but then turned up on the cheques
2   listing .   This information was not mentioned when he
3   initially spoke to Becky and would like it including in
4   the call ."
5   Yes? So he still seems to be having difficulties
6   and he is trying to make sure that he is giving full and
7   precise details of what's going on, isn't he?
8 A. Yes.
9 Q. And then if we look down at 24 September 2001 -- this is
10   just slightly outside the main stream of the items
11   I have been asking to you look at -- we can see this is
12   a different SPM. You can see there it says:
13   "PM called as her system said that it was printing
14   a report for 20 minutes and she wasn't even printing
15   a report. She tried to settle a transaction to cash and
16   that came on screen. Advised PM to reboot and told her
17   I would update the call .   PM happy."
18   Yes?
19 A. Yes.
20 Q. So there are some things which appear to be actual
21   phantom transactions and then there are other things
22   which are phantom events that we might find in the
23   events log?
24 A. Yes.
25 Q. Like printing a report, when she is there ; it is not

39

1   printing a report for 20 minutes at all , yes?
2 A. Yes.
3 Q. And then there's a repeat call about a monitor and then
4   if we look at the bottom of the page, 12 November, this
5   is basically the conclusion to all this :
6   "Phantom transactions have not been proven in
7   circumstances which preclude user error.   In all cases
8   where these have occurred a user error related cause can
9   be attributed to the phenomenon."
10   And over the page {F/97/10}, "No fault in product".
11   It doesn't suggest, does it , a great willingness to
12   acknowledge what appear to be independently observed
13   faults with aspects of the Horizon system, does it?
14 A. Not from this , no.
15 Q. Now, if we go please to {F/773}. This is PEAK 0208335
16   and if we just quickly look in the summary it will give
17   us -- this is February 2011:
18   "Branches will be forced to declare stock when they
19   don't want to.   Apparent reappearance of withdrawn stock
20   may cause spurious discrepancies ."
21   Do you see in the summary box across the middle?
22 A. Yes.
23 Q. "Avoidance action taken so far is only appropriate in
24   the short-term while very few branches are affected ;
25   over the next few months it could be affecting around

40

1   10 branches per week. NBSC aware of problem."
2   Do you see that?
3 A. Yes.
4 Q. Just if we go over the page please to {F/773/2}, if you
5   look at the top -- just go halfway across the line at
6   the top:
7   "The office went into the declaration and confirmed
8   it showed the PO saving stamps and other stock items,
9   some showing as minus stock amounts, that were not
10   correct to the branch."
11   So the problem with negative stock appearing in --
12   this is in 2011:
13   "It somehow seems that the system has somehow picked
14   up this declaration and this is the cause of the
15   discrepancies appearing on the system. The SPMR was
16   told to declare the correct stock figures but is
17   reluctant to do this as this will cause discrepancies
18   when she next balances that are not relevant to herself
19   at the moment."
20   So that's a matter that would concern any
21   subpostmaster, isn't it, because they are effectively
22   having to declare something that they don't agree with?
23 A. Yes.
24 Q. And enter into the account on the Horizon system
25   effectively an account which accepts a discrepancy that

41

1   they completely disagree with?
2 A. From reading that, yes.
3 Q. Yes. So had you seen this PEAK before?
4 A. No.
5 MR JUSTICE FRASER: Before today, or before your witness
6   statement?
7 A. No, I don't recall seeing this at all.
8 MR GREEN: So is it right that if you had heard that story
9   from a postmaster in any of the many conversations you
10   have had about difficulties they faced, you would have
11   assumed it was user error, wouldn't you?
12 A. Without -- yes, so without them … with the situation
13   being referred to the Horizon service desk and Fujitsu
14   looking at it, without that happening then yes I would
15   have, if there was nothing to support … but what
16   I would have done is looked at what's happened in branch
17   to determine whether there was a plausible explanation
18   in branch and if not if there's anything -- I mean this
19   is quite specific around -- I have seen this happen at
20   this time, I've got the reference -- the number of the
21   session ID, so this is quite specific.
22 Q. In a sense this subpostmaster was quite lucky that what
23   was being thrown up was stock that wasn't in use any
24   more because it's a lot easier for them to say "Well,
25   hold on a second, I don't even have that --"

42

1 A. Yes.
2 Q. -- "that item shouldn't even be there". So that's
3   really luck that that was the problem for this
4   subpostmaster, isn't it?
5 A. In that it was obvious, yes.
6 Q. Much easier for them?
7 A. Yes.
8 Q. But if what's thrown up is a stamps discrepancy for
9   first class stamps that they do stock, it's much harder
10   for the subpostmaster?
11 A. Yes, it would be.
12 Q. Yes. And what we see there is that whilst the previous
13   PEAK appears to be a hardware problem of phantom
14   transactions, this one appears more like a software
15   problem, does not it?
16 A. From this, yes, it does.
17 Q. And we can see at page 7 of this PEAK {F/773/7}, we can
18   see that this is closed on 10 September, final
19   "Administrative response" is the category for that PEAK.
20   It doesn't really give a hint of the trouble that's been
21   caused, does it, that category?
22 A. No.
23 Q. Mr Parker very fairly accepts in his witness statement
24   that the categories assigned were somewhat subjective.
25 A. Mm-hm.

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1 Q. And were not ever actually audited to ensure
2   consistency.
3 A. Yes.
4 Q. I think that's a pretty shining example of that,
5   isn't it?
6 A. Yes.
7 Q. Now, can we go now to {F/1286.2/2}. This is
8   a 9 December email and it is from the NBSC admin team to
9   the branch support team. Now, in 2014 you were head of
10   the branch support team, weren't you?
11 A. Yes.
12 Q. And what we see there is:
13   "Branch reporting that he has found sensitive issue
14   with Horizon when the system put a phantom cheque on the
15   cheque line in July 2013. Claims to have evidence to
16   support his claim."
17   Do you see that?
18 A. Yes.
19 Q. That would be pretty interesting to see, wouldn't it,
20   the evidence, if someone claims to have it?
21 A. Mm-hm.
22 Q. "Although he himself did not suffer a loss, thinks that
23   Horizon is flawed. Did not ask to be contacted about
24   this. Just wanted to say that he had this information
25   and threatened to go to MP as a result."

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1   Do you see that?
2   A. Yes.
3   Q. Now, can we go back to page 1 please and just follow
4   this through {F/1286.2/1}. This is sent up by
5   Nigel Allen to Andrew Winn, Andy as he is known, yes?
6   And you know Andrew Winn, don't you?
7   A. Yes.
8   Q. And you have worked with him?
9   A. Not for very long; not directly.
10 Q. Okay. And what we see there is in the middle of the
11   page, Nigel Allen is saying:
12   "Given the current media and in particular the BBC's
13   attention on Horizon, do you think it is worthwhile
14   looking into this 'alleged flaw' with Horizon that this
15   SPMR has highlighted to preempt any enquiries from his
16   MP?"
17   And what comes back is:
18   "Hi Nigel,
19   "There is nothing I can investigate given the level
20   of detail provided unless he only accepted one cheque
21   in July 13. Even then I don't have the level of detail
22   needed and would need Fujitsu support. Without
23   a date/value we can't really raise a request.
24   "I don't really understand what the purpose of the
25   call is. Does he want it investigated or not? My

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1   instinct is that we have enough on with people asking us
2   to look at things.
3   "I can't figure out how if a phantom cheque appeared
4   on Horizon he could avoid a loss unless another phantom
5   transaction took it away again !!!!"
6   Yes? So let's just unpack that, if we may. The
7   first point is that information which might be relevant
8   if you had an interest in knowing the truth about the
9   reliability of Horizon has been offered --
10 A. Yes.
11 Q. -- by a subpostmaster who has rung up, and the
12   subpostmaster has said they've got evidence, as we saw,
13   yes?
14 A. Yes.
15 Q. And if one had any interest whatsoever in knowing the
16   truth about the reliability of Horizon, you would say
17   "Well, can you please get him to send the evidence",
18   wouldn't you?
19 A. Yes, you would.
20 Q. And that's not what happened?
21 A. No.
22 MR JUSTICE FRASER: Do you consider that that reaction from
23   Mr Winn is an adequate reaction --
24 A. No.
25 MR JUSTICE FRASER: -- or an inadequate reaction?

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1   A. That's a totally inadequate reaction. The fact that we
2   had the details from the branch on there -- you know,
3   the name of the branch, the FAD code, it would have been
4   very easy for Mr Winn to have contacted to get further
5   information and I would have expected him to have done
6   so.
7   MR GREEN: There is one final point on this email, if I may,
8   just quickly. The last bit of Mr Winn's email where it
9   says:
10   "I can't figure out how if a phantom cheque appeared
11   on Horizon he could avoid a loss unless another phantom
12   transaction took it away again !!!!"
13   And the point about that is that shows, red in tooth
14   and claw, that if a phantom cheque comes up into your
15   account you're going to suffer a loss, aren't you?
16   That's what he's saying?
17 A. That's what he is saying there, yes.
18 Q. And that's right, isn't it?
19 A. Well, it depends -- you know, it would come in as
20   a payment for something, so if he has had -- I'm not
21   sure actually and this is why it would have needed to
22   have been investigated because if a phantom cheque came
23   in then it would come in as a method of payment.
24 Q. Well, if a phantom cheque -- if you're supposed to have
25   received money that you haven't actually had, you are

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1   not going to have the money in your branch, are you?
2   You're going to be short of something if on the system
3   you are supposed to have had a payment for something and
4   you haven't actually received it?
5   A. He is saying he has had a phantom cheque appear on
6   Horizon.
7   Q. Yes.
8   A. So to me that means he's got a cheque there that -- oh,
9   I see, he's got a cheque there that he hasn't actually
10   got.
11 Q. Yes. Horizon is showing a cheque he hasn't actually
12   had?
13 A. I think that is the classic example of why that needed
14   to be investigated.
15 Q. Yes, because -- let's put it very neutrally -- at the
16   very lowest, on the face of it there's a risk that he
17   may have had a loss --
18 A. Yes, absolutely.
19 Q. -- in that type of situation; is that fair?
20 A. Absolutely. And even though he has said he didn't have
21   a loss it could have meant that he made an error
22   somewhere else and he could have had a loss after all.
23 Q. Quite. Yes.
24   So this doesn't seem to have been drawn to your
25   attention at all, as far as we can see?

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1 A. I don't remember this at all.
2 Q. No. Were you aware of that sort of problem being
3   discussed?
4 A. No. I mean if I had become aware of that I would have
5   requested an investigation to be done on that,
6   absolutely.
7 Q. Because people have had quite a lot of problems with
8   cheques over the years, haven't they? Subpostmasters,
9   one of the things that --
10 A. Yes, there have been errors with cheques.
11 Q. Yes. Let's have a look, if we may please, at the next
12   topic in your witness statement, transactions not
13   associated with SPM user IDs, which we see on page 6 of
14   your witness statement {E2/5/6}. If we go to
15   paragraph 18 {E2/5/6} and this is you responding to
16   Mr Henderson's suggestion that there may be transactions
17   associated with the user ID that the subpostmaster
18   didn't conduct.
19 A. Mm-hm.
20 Q. Leaving aside for a moment the husband or wife who have
21   moved over while the other one has logged on and used
22   the log in or something like that, just leave that aside
23   for a minute, but one possibility is that an auditor has
24   accepted a TC on behalf of a subpostmaster, isn't it?
25 A. An auditor whilst in branch?

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1 Q. Yes.
2 A. Yes, that is a possibility.
3 Q. Yes, because if we look at {F/499}, this note is
4   actually in Mr Abdulla's case:
5   "Call from auditor on 08.04.09 - postmaster not
6   present at audit so this TC was accepted and settled
7   centrally by auditor."
8 A. Okay.
9 Q. Is it your understanding that that's how things should
10   proceed in the absence of a subpostmaster at a branch?
11 A. Not normally. If a postmaster isn't available when
12   there's an audit then it is usually whoever they have
13   left in charge that we would ask to process anything
14   that would need to be processed on the day.
15 Q. Okay. Let's look at paragraph 18.4 {E2/5/6} where you
16   go on to deal with what you describe as a:
17   "... further very rare scenario in relation to
18   Legacy Horizon only, involving the insertion of
19   a transaction at the counter by the SSC."
20 A. Yes.
21 Q. "In this instance Horizon would associate the
22   transaction with the user ID of the individual logged on
23   at that counter. If nobody was logged on at the time
24   the transaction was inserted then the user ID would be
25   missing. These transactions would be clearly

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1   identifiable in the audit trail as having been inserted
2   by SSC."
3   Now, taking it in stages, in the records where the
4   log in ID was shown, if the subpostmaster is logged on
5   at the time, the subpostmaster's own ID would show,
6   wouldn't it?
7 A. Yes.
8 Q. And you made this witness statement in November 2018.
9   This was something that you were aware of when you made
10   this witness statement, isn't it --
11 A. Yes.
12 Q. -- the possibility of inserting transactions?
13 A. The possibility but I've never actually seen this
14   happen. The possibility of it, yes.
15 Q. How long have you known about that possibility?
16 A. This is something I have not -- because I have not
17   experienced it myself, I have not known of it that long
18   actually.
19 Q. Could you give the court a rough idea of how long you
20   have known it was possible?
21 A. In terms of inserting transactions, last year or so.
22 Q. Who told you about it?
23 A. Anything to do technically with Horizon I would get the
24   information from Fujitsu.
25 Q. And was it Gareth Jenkins or was it someone else, can

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1   you remember?
2 A. I have not got this directly from Gareth Jenkins.
3 Q. Do you know if it originally came from him?
4 A. It probably did.
5 Q. Probably from Gareth. When you say it would be visible
6   in the audit trail at the end of 18.4 {E2/5/7}, what are
7   you referring to as the audit trail?
8 A. So on the transaction log in branch.
9 Q. You say it would be visible on the transaction log --
10 A. In the branch.
11 Q. -- in the branch?
12 A. It would be visible to the branch that somebody other
13   than that user had done a transaction. That's my
14   understanding of how that works.
15 Q. Do you -- or do you in fact mean -- if you don't
16   actually know and you are having to sort of slightly do
17   your best for the court --
18 A. Yes.
19 Q. -- that's not a fair thing for you to be asked to do,
20   because you are on oath.
21 A. I've never see --
22 Q. Perfectly okay to say you're not sure.
23 A. I've never seen this so I can't speak on it from a
24   working knowledge of actually seeing it.
25 Q. And you don't actually know whether it would be on the

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1   transaction log or actually in the audit store data in
2   the audit, do you?
3 A. So my understanding was it would be in branch that it
4   would be visible, but as I say I've never seen it so
5   I couldn't actually ...
6 Q. Okay.
7   My Lord, would that be a convenient moment for
8   a break?
9 MR JUSTICE FRASER: Yes, it would.
10   Mrs van den Bogerd, you will recall this from last
11   time but you are now in the middle of your evidence so
12   you are not to talk to anyone about the case. We are
13   going to have a short break for the shorthand writers.
14   We will come back in at 5 to.
15 (11.45 am)
16   (Short Break)
17 (11.55 am)
18 MR GREEN: Mrs van den Bogerd, can I just ask you to have
19   a quick look at page 45 of the transcript just before
20   the break.
21   We see at line 7 I said:
22   "Question: And you know Andrew Winn, don't you?
23   "Answer: Yes.
24   "Question: And you have worked with him?
25   "Answer: Not for very long; not directly."

1 A. Mm-hm.
2 Q. Just to clarify, could we look please at {F/1114}. This
3   is 7 August 2013.
4 A. Yes.
5 Q. This is the branch support programme terms of reference
6   and this was the programme that you were in charge of,
7   wasn't it?
8 A. That's correct.
9 Q. And at this stage Post Office had decided to try to
10   address the concerns raised by some postmasters over
11   recent years and at this stage Post Office commissioned
12   the independent review and so forth and we see the scope
13   there, first bullet point is:
14   "Post Office's attitude to subpostmasters which is
15   often defensive and unsympathetic, with a focus to
16   recover assets rather than to identify the root cause of
17   the problem."
18 A. Yes.
19 Q. This is what the interim report had identified,
20   isn't it, as we see in the introduction to those bullet
21   points?
22 A. Yes.
23 Q. And then the third one, for example:
24   "Lack of timely, accurate and complete information
25   provided to subpostmasters to support them in resolving

1   issues."
2   Yes?
3 A. Yes.
4 Q. And then the approach is then explained and if we could
5   go over the page please {F/1114/2} you will see there
6   the governance and key stakeholders are then set out and
7   Alice Perkins -- who was Alice Perkins?
8 A. She was the chairman at the time.
9 Q. She was the chairman. And Paula Vennells was the CEO
10   until very recently?
11 A. Yes.
12 Q. And they have requested the establishment of the
13   programme, which will be led by you?
14 A. That's right.
15 Q. With Gayle Peacock accountable for running it on an
16   operational level?
17 A. That's correct.
18 Q. Then if we look down to the underneath table in terms of
19   finance, on the programme board was Mr Ismay and then
20   working group level, Mr Winn, Alison Bolsover and
21   Paul Lebeter?
22 A. That's correct.
23 Q. That was the context, was it, in which you worked with
24   Mr Winn on these issues?
25 A. Yes. When we set up the mediation scheme as well,

1   a number of the queries -- when we were investigating
2   some of the issues then Andy Winn had been involved in
3   some of them previously and had worked with Second Sight
4   on some of the spot reviews as well, so I did -- that
5   was the first time I had come across Andy Winn, and
6   he -- FSD at the time was run by Rod Ismay and he was
7   part of that team.
8 Q. And his responsibility and the reason why he was
9   included in that group is in the right-hand column,
10   isn't it?
11 A. Yes.
12 Q. The right-hand column is headed "Reason for inclusion
13   within the group".
14 A. Absolutely, yes.
15 Q. And if we look at the right-hand corner it says:
16   "Responsible for branch accounting and client
17   settlement. Also responsible for resolving specific
18   branch accounting issues."
19 A. Yes.
20 Q. So in terms of that, that was sort of front and centre
21   of what he was properly supposed to be dealing with,
22   isn't it?
23 A. The second part of that, yes, the issues. Not the
24   branch account and client settlement.
25 Q. Okay, so Mr Winn was responsible for the specific branch

1 　　accounting issues?

2 A. Yes, he did the dispute resolution, yes.

3 Q. So in context, he was the right person for that email we

4 　　looked at before the break to have gone to, wasn't he?

5 A. Yes, he was.

6 Q. That doesn't improve the unsatisfactory response,

7 　　does it?

8 A. Sorry, doesn't improve?

9 Q. Well, the fact that he is the very person who is

10 　　supposed to be dealing with it doesn't make it any

11 　　better, it makes it look worse?

12 A. No, it makes it worse actually, yes.

13 Q. Okay. Can we now look at lottery transactions, which

14 　　you deal with at paragraph 23 and following in your

15 　　statement at {E2/5/8}.

16 　　Now, you refer to the introduction of PING in 2012,

17 　　paragraph 25.

18 A. Yes.

19 Q. So you then explain how the system worked before the

20 　　introduction of PING and after the introduction of PING.

21 A. Yes.

22 Q. Before PING, 26.1 {E2/5/8}, SPMs had to activate

23 　　scratchcards on the lottery terminal and rem them in on

24 　　the Horizon terminal completely separately?

25 A. Yes.

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1 Q. So if there was any difference between the two

2 　　activities that would create a problem or a discrepancy

3 　　of some sort?

4 A. Yes, it would.

5 Q. And at the end of 26.3 you say:

6 　　"There are many explanations as to why the two

7 　　figures do not match, the simplest of which is that the

8 　　branch had (i) activated a pack without remitting it

9 　　into Horizon or (ii) remitted a pack into Horizon

10 　　without activating it."

11 A. Yes.

12 Q. Now, if an SPM activated on a lottery terminal but

13 　　didn't rem it in on the Horizon terminal, if

14 　　reconciliation worked correctly there should ultimately

15 　　be a transaction correction sent to the Horizon

16 　　terminal, is that right?

17 A. Yes.

18 Q. And that in itself depends on the reconciliation process

19 　　working correctly, doesn't it?

20 A. Yes.

21 Q. And that in turn depends on the integrity of the client

22 　　data being provided by Camelot?

23 A. Yes.

24 Q. And the process for determining whether a TC should be

25 　　issued within Post Office?

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1 A. Yes.

2 Q. And at 26.4 you say:

3 　　"By around 2010, the level of TCs from lottery

4 　　scratchcards had begun to grow. A practice had

5 　　developed in some branches whereby they would activate

6 　　the scratchcards but wait for the transaction correction

7 　　a few days/weeks later rather than actively remitting in

8 　　each pack on Horizon. They did this because it saved

9 　　them a little bit of time, but it caused their accounts

10 　　to become confused (because they would be selling

11 　　scratchcards without first having recorded the inbound

12 　　scratchcard stock)."

13 　　Now, pausing there, you are suggesting there that

14 　　that was a sort of conscious decision, yes? But it

15 　　could have been through a lack of understanding, or

16 　　a simple mistake, couldn't it?

17 A. Yes, it could have.

18 Q. And there were, as we have seen -- we saw in the common

19 　　issues trial there was a problem with very large lottery

20 　　TCs arriving weeks later.

21 A. Yes.

22 Q. Some of which were in error.

23 A. Yes.

24 Q. Some credits, some debits.

25 A. Yes.

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1 Q. Both unsatisfactory?

2 A. Um …

3 Q. When they are in error?

4 A. Oh, I see: yes.

5 Q. So that was why the policy we looked at during the

6 　　common issues trial was introduced, to try and cater for

7 　　that, not do them immediately before the end of

8 　　a trading period?

9 A. Yes.

10 Q. Amongst other things. And SPMs effectively became used

11 　　to quite a lot of lottery TCs coming in, didn't they?

12 A. From the numbers that we were processing, yes, I would

13 　　say that would be fair.

14 Q. And what about if a subpostmaster remmed in on the

15 　　Horizon terminal but didn't activate on the lottery

16 　　terminal, what would happen then? You would get a TC as

17 　　well?

18 A. Yes.

19 Q. And what changed when PING was introduced, which is

20 　　paragraph 26.7, is that lottery scratchcards were

21 　　actually activated on the lottery terminal and there was

22 　　no need to rem them in on the Horizon terminal any more?

23 A. It was an automatic, so the TA would come.

24 Q. So the information would go from the Horizon terminal

25 　　back to Camelot and be sent to Post Office?

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1 A. No, it would go from the Camelot terminal.
2 Q. Sorry?
3 A. The Camelot terminal. It would go -- so the activated
4   pack would go to Camelot and then come into Post Office
5   and then it would come back to us.
6 Q. Exactly, yes.
7 A. Yes.
8 Q. So the SPM activates the pack on the lottery terminal?
9 A. Yes.
10 Q. That tells Camelot it has been activated?
11 A. Why he.
12 Q. Camelot tell Post Office?
13 A. Yes.
14 Q. And Post Office send an automatic TA?
15 A. That's right.
16 Q. And that's generated automatically?
17 A. Yes.
18 Q. To avoid manual reconciliation difficulties?
19 A. Yes.
20 Q. And provided that the data coming back from Camelot is
21   correct and there are no problems in the data
22   transmission from the lottery terminal, that should be
23   correct?
24 A. Yes.
25 Q. And overall it was an improvement for SPMs?

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1 A. Yes.
2 Q. And simplified the process?
3 A. Absolutely.
4 Q. And PING was not limited to scratchcards, it also
5   applied to lottery online sales as well?
6 A. Yes.
7 Q. It did take quite a long time to implement, didn't it?
8 A. I can't remember exactly how long from when it was first
9   suggested.
10 Q. Well, I mean lottery had been in branches since before
11   the introduction of Horizon?
12 A. Yes.
13 Q. So before 1999/2000.
14 A. I can't remember exactly when, but ...
15 Q. For example, Mr Bates, you might remember, was actually
16   required to have a lottery terminal in a prominent
17   position in his branch and then built it up and then
18   Post Office told him he couldn't have it any more?
19 A. What I'm saying is I can't remember when we actually
20   started Camelot business.
21 Q. I understand. Have a look if we may at {F/506}. And if
22   we look at page 3 {F/506/3} we can see on the version
23   control, the document history, at 2.2, the initial
24   version of this document is 2008, isn't it?
25 A. Yes.

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1 MR JUSTICE FRASER: Where are you looking at?
2 MR GREEN: 2.2, my Lord, "Document history", 0.1.
3 MR JUSTICE FRASER: Yes.
4 MR GREEN: 10 October 2008. And if we look at page 9
5   {F/506/9}, we have the context of that document. The
6   background is:
7   "In line with the commercial contracts with clients,
8   a number of settlements made by product and branch
9   accounting are based upon data provided by the client.
10   Such an example is Camelot, where settlement is based
11   upon data captured by the Camelot terminal in outlets
12   rather than the data being captured at transactional
13   source by [Horizon]."
14   HNG-X, yes?
15 A. Yes.
16 Q. And it then explains:
17   "The client data is uploaded into POL FS,
18   [Post Office Limited Financial System] and compared with
19   the equivalent [Horizon] data which has to be manually
20   input ..."
21   That's into the old system:
22   "... by the agent/counter clerk. Ideally the data,
23   when compared, should be the same but a number of
24   conformance issues have been identified where
25   agents/counter clerks do not perform end of day routines

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1   correctly ..."
2   And so forth:
3   "This difference may require the issuing of
4   a transaction correction."
5   That's what we have just covered. Then if you go
6   down to the paragraph that begins "Although", do you see
7   that?
8 A. Yes.
9 Q. "Although client based settlements are not a preferred
10   settlement option it is recognised that the data being
11   provided by clients such as Camelot is robust,
12   controlled by reference data, and more accurate than the
13   [Horizon] data stream due to the conformance issues
14   mentioned previously."
15   Yes?
16 A. Yes.
17 Q. So this was a big vote of confidence in the accuracy, or
18   in fact robustness as it is termed there, of the Camelot
19   client data stream?
20 A. Yes.
21 Q. "The solution is to automate a process that converts the
22   client data file (eg Camelot) into a data feed into the
23   branch ... the branch will then accept the data and thus
24   avoid the issues described above."
25   Yes?

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1 A. Yes.

2 Q. So the whole point of this is that it is robust data

3   from Camelot, with automatic TAs that are issued which

4   then come into the subpostmaster's account effectively

5   the next day, yes?

6 A. Yes.

7 Q. And they automatically have to accept those?

8 A. Yes.

9 Q. And you then explain this isn't in fact implemented

10   until 2012, if we look at paragraph 25 of your witness

11   statement please {E2/5/8}. Yes?

12 A. Yes.

13 Q. If we look please at {F/1539}, on page 5 -- you probably

14   noticed on the first page it is authored by

15   Gareth Jenkins.

16 A. Yes, I saw that.

17 Q. And at 2.5 it says:

18   "It would appear that PING has gone live for Camelot

19   (at last)."

20   Yes?

21 A. Yes.

22 Q. And this was an internal recognition that it had taken

23   rather a long time, hadn't it?

24 A. Yes.

25 Q. This document is dated 9 August 2016.

1 A. (Nods).

2 Q. And it is clear -- if we look at {F/506/11}, just to

3   confirm I think what you have accepted, this is the PING

4   project interfacing client data into POL's systems

5   document. We can see that there is no provision there

6   at all for anything other than acceptance, yes?

7 A. Of the --

8 Q. Of the TA?

9 A. -- transaction, correct. Acceptance, right, okay, yes.

10 Q. The transaction acknowledgement as opposed to

11   transaction correction?

12 A. Yes.

13 Q. So if you look at number 3 it says:

14   "The branch will be presented with the value to

15   'accept' only ... no opportunity to write off or ask for

16   evidence due to the inherent robustness of the Camelot

17   data provided."

18   Yes?

19 A. Yes.

20 Q. So that was how it was intended to work and we will have

21   a closer look at that with some of the specific examples

22   with individuals at the minute, but that's the

23   background.

24   Let's look at Mr Latif's situation. If we look at

25   paragraph 98 of your witness statement please on page 24

1   {E2/5/24}. Now, in that paragraph the explanation you

2   have given there is essentially that there was a data

3   entry error by Post Office?

4 A. Yes.

5 Q. Now, can you see that clearly in paragraph 98?

6 A. Yes.

7 Q. And it is prefaced with the words:

8   "To be clear, this was a data entry error by

9   Post Office and not an issue with Horizon."

10 A. Yes.

11 Q. Now, the point about that sentence is that sentence

12   tells the court that there's no problem with Horizon at

13   all, it's just someone manually entering the wrong

14   figure at Post Office, doesn't it? That's what that is

15   saying?

16 A. It says it is by Post Office, yes.

17 Q. So it's suggesting it is a manual error and not a system

18   problem?

19 A. Mm-hm.

20 Q. But we have just established from looking at the

21   documents, and you have agreed, that this process was

22   completely automated, wasn't it?

23 A. Automated, yes.

24 Q. So what you have said there cannot possibly be right,

25   can it?

1 A. No, from that, yes, it's --

2 Q. It's wrong?

3 A. The TA is automated. The TC is manually uploaded into

4   the system. Yes.

5 Q. Yes. So would it be fair to correct that part of your

6   statement --

7 A. It would be actually, yes.

8 Q. -- to say "To be clear, this is an issue with Horizon

9   and not a data entry error by Post Office"; is that

10   a fair correction to make?

11 A. I have made a mistake in that the way I have worded

12   that, absolutely, yes. So, yes, it is fair.

13 Q. Would you agree with the formulation I have given, or

14   would you prefer something slightly different? What

15   would you want the court to note as your evidence?

16 A. So the automated -- my understanding is the

17   transaction -- the TA is the information that comes from

18   Camelot to us and then it is passed through into

19   Horizon, so in that respect Horizon just conveys it, is

20   my understanding, and the information that's come from

21   Camelot in that respect would be incorrect.

22 Q. So the point is that either way, it is not a manual data

23   entry by Post Office?

24 A. No, it's not.

25 Q. Whatever it is, it's definitely not that, you agree with

1   that?
2 A. Yes, absolutely not. Agree, yes.
3 Q. What it could be is some problem with the information
4   somewhere between the terminal in the branch --
5 A. The lottery terminal, yes.
6 Q. The lottery terminal in the branch and the matters
7   showing up on the face of the Horizon terminal in the
8   branch?
9 A. Yes, I agree that.
10 Q. Somewhere there?
11 A. Yes.
12 Q. So it's definitely not a user error, is it?
13 A. No, that's not user error.
14 Q. Right. And on the face of it, it at least suggests some
15   doubt as to the robustness and integrity of the Camelot
16   data coming through in that automated system, doesn't
17   it?
18 A. I would say yes.
19 MR JUSTICE FRASER: Is it also the case that the branch
20   could have challenged the TA? Because I understood the
21   previous document to say they couldn't.
22 A. So they have to accept the T on the system, but if they
23   see something wrong on there they can actually get in
24   touch with FSC.
25 MR JUSTICE FRASER: On the helpline?

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1 A. Or direct to FSC, because you can go to the helpline --
2   you can always go through the helpline NBSC into the
3   finance service centre anyway.
4 MR JUSTICE FRASER: So looking at your final sentence of
5   paragraph 98 ...
6 A. Yes.
7 MR JUSTICE FRASER: I understood the previous document to
8   say that the TA had to be accepted by the branch?
9 A. It does have to be accepted --
10 MR JUSTICE FRASER: It does have to be?
11 A. On the system, yes.
12 MR GREEN: And that's just a straight acceptance, isn't it?
13 A. That's my understanding of that, yes. If I recall
14   correctly, on the screen that comes through it does say
15   to make sure it is right and if not then you would get
16   in touch with FSC. I don't know the exact wording but
17   that's my recollection, on the TA.
18 Q. You are aware that some people had problems with TAs
19   quite a few times?
20 A. Yes, from looking at the transaction corrections.
21 Q. Some people had duplicate TAs, some people had all sorts
22   of problems with the TAs coming through, yes?
23 A. I would also say it is fair that most branches would
24   just accept it anyway.
25 Q. They would just accept it anyway some of them?

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1 A. Because they -- you know, on the understanding that it
2   is an automatic pull-through from what they have
3   activated, I would -- my working assumption is most
4   people just hit the button and accept it.
5 Q. Well, you have to accept it, don't you?
6 A. Yes, but what I'm saying is they would do it --
7 Q. And you wouldn't do anything more --
8 A. -- yes, without even really looking at it.
9 Q. I mean in fact we can see that in -- slightly ahead,
10   I was going to take you to some of the documents that
11   show that that was actually internally anticipated by
12   Post Office, that what was anticipated was there would
13   be a basket and people would generally just hit "enter"
14   to accept all?
15 A. Yes.
16 Q. That's what was anticipated, wasn't it, and I think you
17   very fairly volunteered that just now?
18 A. Yes.
19 Q. Let's just have a little look at the helpline log please
20   at {F/1223/1}. It is 12 June 2014. I think that is
21   a native file so we just need to download that and it
22   will come up in a second. If we look on I think the
23   "Individual incidents" tab and then if we go to row
24   431 -- if we perhaps just type 431 in the top left-hand
25   box.

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1   At row 431 you can see there National Lottery in
2 column H, transaction corrections is column I. If you
3 scroll to the right slightly please, "Lottery TA issue",
4 "PM says has still got a discrepancy due to the TA
5 problem."
6   Yes?
7 A. Yes, I see that.
8 Q. If we go down to row 2375 and you see "TC for
9 National Lottery", you can see in column L:
10   "TC not received for the TA that was duplicated from
11 last Saturday for National Lottery. Printed off TC
12 report and on there as processed."
13   So there's an issue there and if we just look at
14 3176:
15   "Lottery TAs: PM still not received TC for the TA
16 problem."
17   These are helpline call logs for the week of -- we
18 just looked at entries for 9 June, 10 June and 11 June.
19 These are the sort of problems that you fairly accepted
20 people had from time to time?
21 A. Yes.
22 Q. And if we look at the document at -- well, I might be
23 able to take it more quickly. There were also problems
24 that people were receiving TCs when they didn't know
25 what it was for in relation to National Lottery. That

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1   was internally acknowledged, we saw it in the common
2   issues trial?
3 A. Yes, the lack of explanation on the TC.
4 Q. Yes. And then people were raising queries about errors
5   relating to the downloaded duplicate TA files in June.
6 A. Yes.
7 Q. 2014. Do you remember that?
8   So there was a problem with duplicate TAs, wasn't
9   there, from time to time?
10 A. From time to time, yes.
11 Q. Let's look please at {F/965/22}. TAs were later
12   introduced for Post and Go and Paystation transactions,
13   weren't they?
14 A. Yes.
15 Q. And if you look on page 22 there you will see:
16   "Crowns have incurred discrepancies as a result of
17   missing TAs ..."
18   Do you see the second box down, "Post and Go TA
19   missing or duplicated"?
20 A. Yes.
21 Q. This is under "Current issues". This is an integral
22   fraud and conformance report.
23 A. Okay.
24 Q. So that's Crown offices, that's not SPMs, is it?
25 A. No, that's directly ...

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1 Q. Yes, so they were experiencing them too?
2 A. Yes.
3 Q. And if we look back -- let's look at {F/1228} please and
4   what we're going to here is a branch user forum record
5   of input from users of Horizon and once we have loaded
6   it we're going to look at line 74. If we can go down to
7   line 74 and you can see there -- go slightly to the
8   right so we can get the whole ...
9   "Lottery and Paystation: why can't I sell lottery on
10   Horizon as other retailers do and similarly why is not
11   the Paystation functionality contained on Horizon -
12   saves messing around with separate tills or pots of cash
13   with TAs the following day or even later."
14   And so forth. And he makes the point about the
15   costs being borne by the subpostmasters at the bottom.
16   Just pausing there, the lottery terminal and
17   Paystation were not within the original design of the
18   Horizon system, were they?
19 A. No, they weren't.
20 Q. Even though lottery, for example, was in use prior to
21   the introduction of Horizon?
22 A. Yes, but it has always been Camelot's.
23 Q. So they were added on and that introduced the pre-PING
24   issue of mistakes between the terminals?
25 A. Yes.

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1 Q. And then questions about whether it is user error or
2   something else that's gone wrong, there's an opacity
3   there, and post PING it introduced the issue of
4   duplicate TAs and difficulties with the integrity of the
5   data stream all the way through?
6 A. Yes.
7   Can I just say, when -- so when we brought in
8   Horizon very early on, the format of a post office was
9   very much that the post office was behind a counter,
10   screened counter, and the lottery terminal was always
11   designed to be on the retail counter and the Paystation
12   was -- it was more of an out of hours, so it was never
13   built as one, it was literally a very different part of
14   the post office itself and the retail, so it was very
15   different.
16 Q. It's a fair observation, but equally I think you would
17   accept it is a fair observation to remind oneself that
18   one of the conditions of appointment that Mr Bates had
19   to agree to, from Post Office, was that he would operate
20   a Horizon terminal from which Post Office would
21   profit -- not in his shop for him to profit from it, but
22   on behalf of Post Office --
23 A. Yes.
24 Q. -- he would operate a Horizon terminal in his branch.
25   It was actually a contractual requirement for him, yes?

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1 A. Run through Post Office, yes.
2 Q. So that --
3 A. I'm just explaining why it wasn't part of the -- you
4   couldn't add it on to Horizon, it was very -- physically
5   very different, that was what I was saying. That was my
6   point I was making.
7 Q. He was required to have it in a prominent position at
8   his counter, wasn't he?
9 A. In some post offices it was. All I was explaining was
10   that in the vast majority it was physically apart from,
11   distanced from the main counter, which was behind
12   a screen. That was the only opponent I was making.
13 Q. I understand. Let's have a look at what you say about
14   failed reversals please. This is paragraph 154 of your
15   witness statement {E2/5/34}. Now, here you have moved
16   on to respond to go what Mr Coyne says. Do you see
17   that? It is on page 34.
18 A. Yes.
19 Q. E2/5/34, paragraph 154. It is under the heading just
20   above 153 "Mr Coyne's report", just to orientate you
21   where you are in your witness statement.
22 A. Yes.
23 Q. And you say:
24   "I address below a number of factual points raised
25   by Mr Coyne in his report."

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1   Just pausing here. Mrs van den Bogerd, you
2   obviously took a lot of care over this witness
3   statement, yes?
4 A. Yes.
5 Q. That's fair?
6 A. Yes.
7 Q. And probably had even greater focus perhaps and greater
8   time to devote to this than someone dealing with an SPM
9   ringing up might have?
10 A. Sorry, what do you mean?
11 Q. You had more chance to look into all these things you
12   have dealt with, a greater opportunity to research and
13   look into these things, to provide this witness
14   statement?
15 A. In some areas, yes, I have, yes. Not in all because of
16   the way things were changing.
17 Q. But where you have been able to comment on a document
18   you have been able to consider it carefully and so
19   forth?
20 A. I have tried to, yes.
21 Q. And let's look at what you say about failed reversals.
22   You say:
23   "At paragraph 5.175 of his report, Mr Coyne has
24   referred to a report prepared by Helen Rose dated
25   12 June 2013 in the context of failed reversals. The

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1   extracts taken from the report by Helen Rose referred to
2   by Mr Coyne are taken out of context and mistakenly
3   claim that the relevant reversal was issued in error by
4   Horizon not the subpostmaster. The Rose report makes it
5   clear that:
6   "The concerns were based on the fact that reversal
7   were not being shown on the particular data sets
8   reviewed/reports typically run by subpostmasters in
9   branch on Horizon;
10   "Transaction reversal data can be extracted from
11   Horizon … the issue was therefore surrounding how the
12   transaction reversals were displayed/accessible in
13   branch and that there was no issue with Horizon itself."
14   Now, just pausing there, that is not something that
15   you have changed, is it?
16 A. No.
17 Q. Let's have a look please if we may at the underlying
18   document, the Helen Rose report itself, which is
19   {F/1082}. It is dated 12 June 2013. Can you see that?
20 A. Mm-hm, I can.
21 Q. Is this the document you looked at?
22 A. Yes.
23 Q. Now, if we look at page 2 of that document please
24   {F/1082/2}, it is obviously headed "Confidential and
25   legally privileged" and it is "Horizon data - Lepton",

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1   the subpost office, yes?
2 A. Yes.
3 Q. Executive summary:
4   "A transaction took place at Lepton
5   [subpost office] … for a British Telecom bill payment
6   for £76.09; this was paid for by a Lloyds TSB cash
7   withdrawal for £80 and change a given for £3.91. At
8   10.37 on the same day the British Telecom bill payment
9   was reversed out to cash settlement."
10   Looks pretty suspicious, doesn't it, so far? Yes?
11 A. The running order of the times, do you mean?
12 Q. Does what we just read there look a bit suspicious?
13 A. Sorry, is this --
14 Q. Does it make it look as if it something strange has
15   happened?
16 A. Oh, right, yes.
17 Q. The bill payment has been reversed out for cash?
18 A. Yes.
19 Q. "The branch was issued with a transaction correction for
20   £76.09 which they duly settled …"
21   So all that means is that they press "settle"
22   centrally, doesn't it? They can't dispute it -- we have
23   covered this lots of times. They can't dispute it on
24   Horizon, so all the postmaster can do is ring up and
25   deny --

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1 A. I'm not sure that he actually settled in this one,
2   I think he made it good. I can't remember actually. In
3   terms of the way she is referring to language.
4 Q. Let's have a look.
5 A. Because it doesn't say settle centrally.
6 Q. Okay, maybe settled it in cash.
7 A. Yes, that's my understanding.
8 Q. One way or the other, what we then see is:
9   "The postmaster denied reversing this transaction
10   and involved a forensic accountant as he believed his
11   reputation was in doubt."
12   So he is having to instruct a forensic accountant to
13   help him over £76.09, is what we've got so far in the
14   story, isn't it?
15 A. As telling in the first review, yes.
16 Q. Let's look at reviewing the Credence data. Now, just
17   pausing there, we know, don't we, from Tracy Mather's
18   witness statement that the Credence data records the
19   actual key strokes that have been used?
20 A. Yes.
21 Q. So that's a really important source if you are in doubt
22   about what's actually been done by the postmaster, if
23   they say "I had help from the helpline and I did
24   a complicated set of key strokes", look at the Credence
25   data, that will tell you, yes?

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1 A. Yes.

2 Q. And so Helen Rose very sensibly looked at the Credence

3   data and said:

4   "... it clearly indicates that the reversal was

5   completed by JAR001 (postmaster) ..."

6   Yes?

7 A. Yes.

8 Q. At 10.37.

9   "... and was reversal indicator 1 (existing

10   referral) and settled to cash. An existing reversal is

11   where the session number/automated payment number has to

12   be entered to reverse the item."

13   Yes?

14 A. Yes.

15 Q. "The Fujitsu logs were requested for this branch, but

16   whilst waiting for these to arrive communications took

17   place with Gareth Jenkins at Fujitsu for more details to

18   gain an understanding of what had occurred at this

19   branch."

20   And then we get questions and extracts in various

21   emails in response. It doesn't come up very clearly,

22   but black is the question and blue is the answer.

23 A. I can see that on here, yes.

24 Q. "Question - I am requesting Fujitsu logs for Lepton ...

25   to look at a reversal that the postmaster denies

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1   transacting, do I need to request further details and

2   also could you explain what happens when the system

3   fails. (Gareth looked at data at his end prior to me

4   receiving the Fujitsu logs ...)

5   "Answer - this shows that session 537803 was

6   successfully saved to the [branch database] ..."

7   Yes?

8 A. Yes.

9 Q. "... but when the user JAR001 ..."

10   Which we know is the subpostmaster:

11   "... logged on again recovery reversed the session

12   in session 537805."

13   Yes?

14 A. Yes.

15 Q. So what the Credence data showed was it had been an

16   actual reversal by the subpostmaster, but in fact when

17   Mr Jenkins got into it he found it was actually a system

18   recovery that had reversed the session, didn't he?

19 A. Yes.

20 Q. And so he then goes on to say:

21   "It isn't clear what failed, but if it was a coms

22   error, then the system would have printed a disconnected

23   session receipt and the clerk should have given the

24   customer £80 and told him his bill was unpaid. The fact

25   that there is no indication of such a receipt in the

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1   events table suggests the counter may have been rebooted

2   and so perhaps may have crashed in which case the clerk

3   may not have been told exactly what to do."

4   Yes?

5 A. Yes.

6 Q. "The reversal was due to recovery (Counter Mode Id =

7   118) so this was not an explicit reversal by the clerk.

8   This scenario is fairly rare so it is certainly quite

9   easy for the clerk to have made a mistake and either he

10   or the customer could be in pocket/out-of-pocket

11   (depending on exactly what happened!)."

12   Then this:

13   "The system is behaving as it should."

14   So there were issues, weren't there, where a problem

15   could arise for a subpostmaster by design of the system;

16   were you aware of that? There was a whole category of

17   PEAK codes for faults which are agreed between Fujitsu

18   and Post Office to just stay like that as part of the

19   design?

20 A. Okay.

21 MR JUSTICE FRASER: You actually put two questions there.

22 MR GREEN: I'm sorry.

23 MR JUSTICE FRASER: On the second one you went on to codes,

24   so you really need to split them.

25 MR GREEN: That's entirely my fault. I'm sorry,

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1   Mrs van den Bogerd.

2   Let's take it in stages. You can see there it says

3   "The system is behaving as it should"?

4 A. Yes.

5 Q. That would be problematic for a subpostmaster,

6   wouldn't it?

7 A. The way Gareth describes it here would be, yes, because

8   what he says is that it would have printed the session

9   receipt but it doesn't seem as if it did, when actually

10   disconnection transaction receipts were actually printed

11   in this example and a recovery receipt was printed. But

12   that's not referred to in here.

13 Q. Well, let's just have a look at that. Let me just ask

14   you my second question and then we will go on to probe

15   that with more care. The second point is are you aware

16   of a closure code for Fujitsu for PEAKs which refers to

17   faults which are known in the Horizon system but agreed

18   between Post Office and Fujitsu to stay there?

19 A. I'm not aware of a closure code.

20 Q. You didn't know about that?

21 A. No, I don't know about that.

22 Q. Okay.

23   Let's look at the question at the bottom of

24   {F/1082/2} which we are on. This is Helen Rose:

25   "I can clearly see the recovery reversal on the

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1   Fujitsu logs received, but would this have been clear
2   had we not previously discussed this issue?"
3   That's her question.   And the answer comes
4   {F/1082/3}:
5   "Note that the standard ARG spreadsheet may not make
6   it easy to confirm that the reversal was part of
7   recovery, but the underlying logs used to extract them
8   can show it."
9 A. Yes.
10 Q. So what Gareth Jenkins is pointing out to Helen Rose is
11   that the standard ARQ data would certainly not make it
12   clear but the underlying logs used to extract the ARQ
13   data can show it, has the capability of showing it, yes?
14 A. Yes.
15 Q. And then he then talks about the Excel spreadsheets of
16   what appear to be the underlying data and he says they
17   are part of the standard ARQ returned and it says:
18   "Rows 141 ..."
19   In the second line of that paragraph:
20   "Rows 141 to 143 of 4 to 25 October ... clearly show
21   a reversal. Also row 70 of [the events data] shows that
22   session 537803 ... has been recovered and this event has
23   the same time stamp as the reversal session. Also
24   row 71 ... shows that a receipt was generated from the
25   session ... (not explicitly, but it was the only session

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1   at that time). This receipt would have told the user
2   that a roll back had taken place (but the logs don't
3   make that explicit). If that is sufficient for [your]
4   purposes then you do have all you need in the standard
5   ARQ."
6   Then he says:
7   "However what I was able to confirm from my look at
8   live data a couple of weeks ago and is also held in the
9   underlying raw logs is confirmation that the reversal
10   was generated by the system (and not manually by the
11   user). What might also be available in the underlying
12   logs is whether or not the system was rebooted -
13   I suspect it was but have no evidence one way or the
14   other (and it isn't in what was extracted this time
15   either). I can confirm that the user did log on
16   again ..."
17   And so forth. Now, just pausing there, you would
18   agree, wouldn't you, that if we go back to paragraph 154
19   of your witness statement at page 34 {E2/5/34}, let's
20   look at what you say there, top of page 35 if we may
21   {E2/5/35}:
22   "... mistakenly claim that the relevant reversal was
23   issued in error by Horizon, not the subpostmaster."
24   Do you see that?
25 A. Yes.

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1 Q. Well, we can see from what Gareth Jenkins has actually
2   said in the actual document you are looking at, that
3   that's wrong, can't we, the reversal was not done by the
4   subpostmaster, it was done by the system?
5 A. It was done by the system absolutely, yes.
6 Q. It was done by the system and not by the subpostmaster?
7 A. Yes, it was done by the system, yes.
8 Q. So it's fair to say that what we have at paragraph 154
9   is wrong, isn't it?
10 A. "... the relevant reversal was issued in error by
11   Horizon ..."
12   It wasn't issued in error, it was actually issued by
13   Horizon. So I am obviously not be making myself clear,
14   but yes, there's no question that that was done as part
15   of that recovery and it was system generated.
16 Q. Well, look, Mrs van den Bogerd, be fair, what you have
17   written there looks to a natural reading as suggesting
18   that Mr Coyne has mistakenly claimed that the relevant
19   reversal was issued in error by Horizon, not the
20   subpostmaster. The contrast is who has issued the
21   relevant reversal.
22 A. I understand. That wasn't what I was saying. There's
23   no question that it was issued by the system, it was
24   definitely generated by the system and if that's -- and
25   I have obviously not explained myself very clearly.

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1 MR JUSTICE FRASER: So what was the mistake then that you
2   refer to at the top of page 35?
3 A. That the reversal was an error, because the reversal
4   itself wasn't an error and the receipts were printed.
5   So in fact it was part of the recovery, the system did
6   go down and the BT bill actually was reversed at part of
7   that. So I have just misread and misexplained that
8   then, because I was -- there was no doubt in my mind
9   what had happened there -- because this was part of the
10   spot review by Second Sight, so I was familiar with the
11   detail at the time and from Helen's report what she is
12   saying is that it is not obvious that that reversal has
13   been done by the system because it is against the
14   Horizon user's ID and clearly it would be better if it
15   was obvious and I fully agree with that.
16 Q. But to be fair, Mrs van den Bogerd, the point that this
17   Helen Rose report makes is almost exactly the opposite
18   point to the one you were making in your statement. The
19   point that this report makes is that it might appear to
20   have been done, on the initial logs -- yes? If you just
21   read the beginning it shows -- look at page 2, let's go
22   back to page 2, {F/1082/2}. Do you see the first
23   answer:
24   "This shows that session 537803 was successfully
25   saved ... but when the user JAR001 logged on again

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1   recovery reversed the session ..."
2   Do you see that?
3   A. Yes.
4   Q. So it was the system that reversed the session not the
5   subpostmaster, wasn't it?
6   A. Yes, it was.
7   Q. And that's the opposite to what you are saying at the
8   top of page {E2/5/35}?
9   A. Okay, but that's not what I meant, because I clearly
10 have always known that that was a Horizon system
11 generated recovery and the reversal was part of that
12 recovery.
13 Q. But you were suggesting there that Mr Coyne, the expert,
14 had mistakenly claimed something. You weren't just
15 casually saying it in your witness statement, you were
16 pointing out that Mr Coyne had got it wrong and
17 positively suggesting the reversal had been done by the
18 subpostmaster, weren't you?
19 A. That wasn't my intention and I'm sorry -- clearly I have
20 not explained myself very well there at all, because
21 I was in no doubt at all that that had been generated by
22 the system.
23 Q. Well, let's go back, if we may, to F/1082 and look at
24 page 3 please {F/1082/3}. Halfway down there is
25 a question:

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1   "I can see where this transaction is and now
2   understand the reason behind it. My main concern is
3   that we use the basic ARQ logs for evidence in court and
4   if we don't know what extra reports to ask for then in
5   some circumstances we would not be giving a true
6   picture."
7   Do you see that?
8   A. Yes.
9   Q. And that's effectively what happened at the top of your
10 witness statement -- on that page in your witness
11 statement, isn't it? You were not giving a true picture
12 because you had got the wrong end of the stick?
13 A. Re-reading that, yes, that's correct.
14 Q. And then Helen Rose says:
15   "I know you are aware of all the Horizon integrity
16 issues ..."
17   Can you tell his Lordship what those were?
18 A. At this point it would have been the fact that
19 Second Sight were working with us investigating some of
20 the cases. That's all I can think that Helen means at
21 that point.
22 Q. Did you have any particular ones in mind at that point?
23 A. It would have been this one particularly, because as
24 I said this was one of the spot reviews, which is one of
25 the early ones that Second Sight investigated before we

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1   actually went into the mediation scheme.
2   Q. Okay. And it says:
3   "... and I want to ensure that the ARQ logs are used
4   and understood fully by our operational team who have to
5   work with this data both in interviews and in court."
6   And she says:
7   "Just one question from my part - if the reversal is
8   system created but shows as an existing reversal, could
9   this not be reflected with a different code ie SR
10 (system reversed) to clear up any initial challenges.
11 My feelings at the moment are not questioning what
12 Horizon does as I fully believe that it is working as it
13 should, it is just that I don't think that some of the
14 system based correction and adjustment transactions are
15 clear to us on either Credence or ARQ logs."
16   That's what she is saying, yes?
17 A. Yes.
18 Q. And that was a fair observation, wasn't it, by her?
19 A. That was a fair observation, yes.
20 Q. About the shortcomings of Credence and ARQ logs, yes?
21 A. Yes.
22 Q. And Gareth Jenkins' answer:
23   "I understand your concerns. It would be relatively
24 simple to add an extra column into the existing ARQ
25 report spreadsheet, that would make it clear whether the

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1   reversal basket was generated by recovery or not.
2   I think this would address your concern. I'm not sure
3   what the formal process is for changing the report
4   layout. Penny, can you advise as to the process: is
5   this done through a CR?"
6   Do you know what a CR is?
7   A. Change request.
8   Q. Change request, okay. Then at the bottom:
9   "I do believe that the system has behaved as it
10 should and I do not see this scenario occurring
11 regularly and creating large losses. However, my
12 concerns are that we cannot clearly see what has
13 happened on the data available to us and this in itself
14 may be misinterpreted when giving evidence and using the
15 same data for prosecutions.
16   "My recommendation is that a change request is
17 submitted so that all system created reversals are
18 clearly identifiable on both Fujitsu and Credence."
19   Do you know if that change request was acted on
20 after that?
21 A. I don't believe it has been acted on.
22 Q. You don't believe it has been?
23 A. I don't believe so.
24 Q. Can we move please now --
25 MR JUSTICE FRASER: I have just got a question on this

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1   document which I'm going to ask now rather than at the
2   end. Could we go back one page please to page 2
3   {F/1082/2}. You will see at the bottom of that page
4   there are three paragraphs in blue and then a paragraph
5   in black. In the bottom paragraph in blue it says:
6   "This scenario is fairly rare so it is certainly
7   quite easy for the clerk to have made a mistake and
8   either he or the customer could be in
9   pocket/out-of-pocket (depending on exactly what
10   happened!). The system is behaving as it should."
11   Do you see that?
12 A. Yes.
13 MR JUSTICE FRASER: Am I right that the alternatives are --
14   "he" meaning the subpostmaster.
15 A. Yes.
16 MR JUSTICE FRASER: So the subpostmaster being in pocket,
17   that's one of the alternatives, is that right?
18 A. Yes.
19 MR JUSTICE FRASER: The subpostmaster being out-of-pocket.
20 A. Yes.
21 MR JUSTICE FRASER: Is that the other alternative?
22 A. Yes.
23 MR JUSTICE FRASER: And the other side of those two coins is
24   either the customer being out-of-pocket or the customer
25   being in pocket.

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1   A. That's correct.
2   MR JUSTICE FRASER: Are those the options?
3   A. Yes, those are the options.
4   MR JUSTICE FRASER: Do I appear to have missed any out?
5   A. No. That would have been -- on the disconnected session
6   receipt it would have said on there whether to -- on the
7   recovery whether the payment should have been made to
8   the customer or not and that's what the person in branch
9   would use to guide them with that printed receipt. But
10   you haven't missed any options, that's --
11 MR JUSTICE FRASER: I haven't missed -- I have covered the
12   basics?
13 A. Yes, you have.
14 MR JUSTICE FRASER: And those are examples of the system
15   behaving as it should?
16 A. Yes. With the disconnected session and then the
17   recovery receipt it would be, yes.
18 MR JUSTICE FRASER: Over to you, Mr Green.
19   Just to clarify one point, you look at -- if we
20   look -- let's do it from here while we are on there. We
21   are on this page. Can you see the paragraph three up
22   from the bottom:
23   "It isn't clear what failed ..."
24   Do you see that?
25 A. Yes.

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1   Q. "... but if it was a coms error, then the system would
2   have printed a disconnected session receipt ..."
3   A. Yes.
4   Q. And then the next sentence:
5   "The fact that there is no indication of such
6   a receipt in the events table ..."
7   That suggests that the receipt you are talking about
8   isn't recorded in the events table, doesn't it?
9   A. It does and that's the bit I don't understand on this,
10   because the receipts were printed.
11 Q. But look at 155 of your witness statement {E2/5/35}.
12   You say:
13   "There is therefore no indication that the reversal
14   was not notified to the subpostmaster."
15 A. Yes.
16 Q. But that's exactly the point that's being made,
17   isn't it?
18 A. No, no. The point is that he had the receipts.
19 Q. Well, I will give you one last -- I'm not going to press
20   it too long, but let's go back to {F/1082/2}. I just
21   afford you the opportunity to reconsider that answer.
22   You are on oath. Have a look please --
23 A. Sorry, sorry. So from this what he is saying is that
24   the receipts would have been printed.
25 Q. Well, just look at the third paragraph up from the

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1   bottom. If it is because you have misunderstood what it
2   says let's clarify it now. Third paragraph up from the
3   bottom, I have just shown you the third line of that:
4   "The fact that there is no indication of such
5   a receipt in the events table suggests the counter may
6   have been rebooted and so perhaps may have crashed in
7   which case the clerk may not have been told exactly what
8   to do."
9   Do you see that?
10 A. Yes, I do see that.
11 Q. Right. Now, just to be fair to you let's go back to
12   your statement please, page 35 {E2/5/35}. Let's take
13   the context very carefully and let's look at 154.3
14   please:
15   "The issue was therefore surrounding how the
16   transaction reversals were displayed/accessible in
17   branch ..."
18   Yes?
19 A. Mm-hm.
20 Q. Now, that is correct in part, isn't it, because there
21   was an issue about what the subpostmaster could see in
22   the branch, yes?
23 A. Okay, yes.
24 Q. Right, and you then say there is no issue with Horizon
25   itself. Let's just park that. Look at 155. You then

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1 say:
2   "There is therefore no indication that the reversal
3 was not notified to the subpostmaster. When recovery
4 was carried out a discontinued session receipt would
5 have been printed and messages would have been clearly
6 displayed to the user in branch during the recovery
7 process."
8   Now, go back please, having that in mind, to what
9 I have just shown you, {F/1082/2}. Third paragraph up
10 from the bottom, three lines down:
11   "The fact that there is no indication of such
12 a receipt in the events table suggests the counter may
13 have been rebooted and so perhaps may have crashed in
14 which case the clerk may not have been told exactly what
15 to do."
16   So it's fair to say, isn't it, that there is an
17 indication that the reversal may not have been notified
18 to the subpostmaster?
19 A. So from reading that then absolutely. All I'm saying is
20 I know that those receipts were printed because I have
21 seen them on an email between Second Sight and the
22 postmaster, so I know they were actually printed.
23 That's my only -- that's what I'm saying. From reading
24 what you said, absolutely agree, but all I'm saying here
25 is -- and clearly Helen Rose and Gareth at this point

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1 didn't know that those receipts were actually printed.
2 Q. So you are actually giving evidence that contradicts the
3 document that you have referred to?
4 A. So all I'm saying is I know -- I know that these
5 receipts were printed in this scenario.
6 MR JUSTICE FRASER: Do you mean in this particular instance?
7 A. Yes. So the Armstrong -- Mr Armstrong is the
8 postmaster, Lepton is the branch. This was -- it was
9 a spot review undertaken by Second Sight early on before
10 we went into the mediation scheme. Now, when they did
11 the initial investigation with the postmaster he didn't
12 know he had the receipts, so it was written in that way
13 and then when Second Sight went back to him before and
14 said -- and he actually found the receipts.
15 MR JUSTICE FRASER: Understood.
16 A. Sorry if I have misled, I didn't intend to, but it's
17 just that I know those receipts were printed and it's --
18 MR GREEN: I'm glad we took it carefully to work out
19 precisely what you are saying.
20 MR JUSTICE FRASER: But as far as this document is
21 concerned, if I understand what you have just said is
22 your knowledge is wider than shown on this document
23 alone --
24 A. Yes.
25 MR JUSTICE FRASER: -- because of the other documents you

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1 have mentioned.
2 A. That's what I'm saying, yes.
3 MR JUSTICE FRASER: Is that a useful place to stop and you
4 perhaps --
5 MR GREEN: I've got --
6 MR JUSTICE FRASER: All right, put your question, but it
7 sounded to me as if there was some documentary
8 assistance stage right which you just might want to look
9 at.
10 MR GREEN: I can understand.
11   But, Mrs van den Bogerd, just two separate points in
12 relation to this. It may be that the subpostmaster was
13 notified that a reversal had taken place, yes?
14 A. Yes.
15 Q. From a receipt which they don't refer to?
16 A. Disconnected session and the recovery receipts.
17 Q. But there's nothing in that documentation or what would
18 have been displayed at the branch to have shown the
19 subpostmaster how that was being recorded as who had
20 done it, whether it was the subpostmaster or the system,
21 is that fair?
22 A. I'm trying to recall the receipts. I think that's fair.
23 Q. Thank you.
24 A. Yes, it -- the receipt would have shown it happened, but
25 not --

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1 Q. At whose behest?
2 A. I believe that's correct but I would need to check the
3 receipt, but I do believe that's correct.
4 Q. And we have now seen it was a system recovery not
5 a subpostmaster recovery?
6 A. It was always a system recovery.
7 Q. I'm grateful.
8   My Lord, is that a convenient moment?
9 MR JUSTICE FRASER: Yes. We will actually come back at 5
10 past 2 just in case you need to pursue some documents.
11   Same form as before, break until 5 past 2, please
12 don't talk to anyone about the case and we will resume
13 then.
14 (1.00 pm)
15   (The luncheon adjournment)
16 (2.05 pm)
17 MR GREEN: Mrs van den Bogerd, could you look please at
18 {E2/5/35}, paragraph 156 of your witness statement. You
19 will see there you deal with changes to improve Horizon
20 in branch and you make a reference to the fact Mr Coyne
21 has picked up on the phrase " relatively small changes to
22 Horizon could avoid errors/mistakes made in branch", do
23 you see that?
24 A. Yes.
25 Q. Could we look please at {F/1258} and this is a document

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1   with a 1 October 2014 Opus date but "September 19"
2   written on the front. It is, as far as you remember,
3   a 2014 document, isn't it?
4 A. Yes.
5 Q. And look at page 2 please {F/1258/2}:
6   "There are five staff related wave 1 initiatives
7   within finance with a cumulative run rate impact of 51
8   FTE and £4.8 million ..."
9   That's 51 full-time employees, isn't it?
10 A. That's correct.
11 Q. Let's just look at the initiatives . "Near-term process
12   improvements", and then "Demand reduction - make small
13   change in Horizon to reduce errors in branch", 3 "Demand
14   reduction - reduce housekeeping and other losses,
15   4~"Demand reduction - negotiate Santander contract to
16   remove manual transcription". That fourth one is
17   a reference to not manually transcribing data provided
18   by Santander, isn't it?
19 A. Yes, moving away from paper based.
20 MR JUSTICE FRASER: Could you keep your voice up.
21 A. Sorry.
22 MR GREEN: And if we look at number 2, which is the one I'm
23   inviting you to focus on, this is making a small change
24   in Horizon to reduce errors in branch, yes?
25 A. Yes.

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1 Q. If we go a few pages forward to page 18 please
2   {F/1258/18}, do you see there under the "Executive
3   summary":
4   "A significant proportion of demand at FSC is driven
5   by errors/mistakes made in branch with entering in data
6   into Horizon. Part of these errors can be avoided with
7   relatively small changes to Horizon (eg related to two
8   part transaction for bureau pre-order, mismatches with
9   AEI third party kit ..."
10   AEI is auto exchange information, isn't it?
11 A. Yes.
12 Q. That's automatic exchange of information with third
13   parties?
14 A. Yes.
15 Q. "... top up and redemption ..."
16   And just look at the end of that box:
17   " ... the 'quantity' field for cheques and miskeys
18   in general ..."
19   Then:
20   "Ease of implementation: medium. There exists an
21   interdependency on IT for changes in Horizon to reduce
22   errors coming from upstream."
23   Yes?
24 A. Yes.
25 Q. And so there is an interdependency with upstream data

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1   errors because if you have got problems in the data for
2   example coming in from Camelot, that's not something
3   that the miskeying problem is going to deal with on its
4   own, but it is right, isn't it, that pretty much since
5   Horizon was introduced it had been noted that miskeying
6   did represent a source of errors in the branch --
7   I think you even said that in your witness statement for
8   the first trial?
9 A. That's correct.
10 Q. And we can see that the changes that were being
11   contemplated in October 2014 are said to be relatively
12   small changes, yes?
13 A. Yes. From this, yes.
14 Q. And could we look please at {F/476/1}. Now, this is
15   a "Summary of IS review". What does IS stand for?
16 A. I would assume information security.
17 Q. And who was Peter Laycock?
18 A. I don't know. I've never come across him before.
19 Q. The document itself says it is dated 2008. The first
20   item he deals with there, number one,
21   "Deliberate/accidental miskeying (clerk)", that's
22   a reference to a subpostmistress or subpostmaster,
23   isn't it?
24 A. Yes, somebody in branch, yes.
25 Q. Or their assistant?

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1 A. Or their assistant, yes, but it could also include
2   a Crown branch as well.
3 Q. It could be a Crown branch. And the recommendation is:
4   "Double entry and cross-validation of freeform
5   transaction values at the counter for all financial
6   products ..."
7   So that would be one a way of dealing with it,
8   wouldn't it?
9 A. Yes.
10 Q. An alternative might be simply to say any transaction
11   which is over £500 you just have to click "confirm" or
12   "enter" twice?
13 A. On the --
14 Q. That's another way of doing it?
15 A. On the Horizon system you mean, do you?
16 Q. Yes, on the Horizon system?
17 A. Yes.
18 Q. That would avoid some quite large losses potentially,
19   wouldn't it?
20 A. Yes.
21 Q. And the operational impact:
22   "May add some time to process at counter (minimal)."
23   Yes?
24 A. Yes.
25 Q. "System impact":

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1   "Change to Horizon required to prompt for double
2   entry and cross-validation should not be overly
3   complicated or expensive ..."
4   And then "Opportunity" --
5 MR JUSTICE FRASER: What does "PL" mean in brackets? If you
6   don't know, don't worry.
7 A. I don't know exactly what that means in this context.
8 MR GREEN: I think, my Lord, we have read it as possibly
9   referring to comment by Peter Laycock himself, but we're
10   not sure.
11 MR JUSTICE FRASER: Fine.
12 A. Yes.
13 MR GREEN: Then "Opportunity":
14   "c.80% reduction in disputes and claims - saving
15   800k per annum in compensation, agent debt and business
16   write-off for bill payments ..."
17   Etc and then:
18   " Staff reduction potentially at P&BA."
19   And if we go over the page, "Other business
20   benefits ":
21   "Major improvement of point of transaction data
22   integrity ."
23   That would be a good thing, wouldn't it , to improve
24   point of transaction data integrity ?
25 A. Yes.

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1 Q. "Double entry, customer sight and validation ... will
2   minimise balancing issues ..."
3   That's a good thing?
4 A. Yes.
5 Q. Deter fraudulent behaviour, that's a good thing?
6 A. Yes.
7 Q. And help to target investigations where there's lower
8   volume of those sort of problems?
9 A. Yes.
10 Q. And then "Operational efficiency ", you see fourth bullet
11   point:
12   "Less balancing errors, productivity savings, less
13   calls to NBSC and partner banks."
14   Yes?
15 A. Yes.
16 Q. Good thing?
17 A. Yes.
18 Q. "Increased confidence to the customer, partners,
19   clients , agents ..."
20   Et cetera. Yes? All pretty sensible and good
21   ideas?
22 A. Yes.
23 Q. And then we say -- we just note at the bottom there:
24   "Please Note – financial savings may have increased
25   since 2008."

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1   So that tends to suggest the document had been
2   updated. Is this a document you had ever seen before or
3   not?
4 A. No.
5 Q. But you were aware of miskeying as an ongoing issue?
6 A. Yes.
7 Q. And if we look at {F/994/4} please. In fairness to you,
8   Mrs van den Bogerd, sorry, could we look at page 1
9   {F/994/1} so Mrs van den Bogerd can see what it is .
10   This is the miskeyed project feasibility study in 2012,
11   do you see that?
12 A. Yes.
13 Q. And if we go please to page 4 {F/994/4}, you will see
14   under the background section at 3.1:
15   "As part of the P&BA centre of excellence drive, one
16   of the areas of concern is the number of instances of
17   mis-keyed transactions that occur and much to the
18   detriment of P&BA. A mis-keyed transaction occurs when
19   an incorrect value is input by the counter clerk, which
20   causes a poor customer experience. The mistake can have
21   a significant impact on the branch and resource is
22   required in P&BA to manage the client and address the
23   error. A very large value mis-keyed transaction will
24   put the viability of a branch in doubt."
25   Yes?

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1 A. Yes.
2 Q. And we've got some statistics about how much it is
3   costing a year in terms of total of investigations and
4   so forth .
5   So on any view, that had potentially a pretty
6   serious impact for a branch, didn't it , and that was
7   internally recognised in that document?
8 A. Miskeying, yes.
9 Q. And on page 10 {F/994/10}, there's a risk and issues
10   section at 5.5:
11   " If nothing is done to prevent miskeying within
12   Horizon the current bill of £10 million will spiral out
13   of control ."
14   "Recommend resolve.
15   "Make it happen to improve the situation where
16   miskeying occurs."
17   Then:
18   "Many of the workforce is not aware of the miskey
19   situation . It is part of this project to get the
20   message across to the network ..."
21   Et cetera. And if we then go forward -- I'm not
22   going to take you to them, but just looking at sample
23   helpline logs, if I can deal with it generally -- I'm
24   happy to show you them if you want but they are those
25   Excel ones which take a while to download.

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1 A. Yes.

2 Q. But in the NBSC call logs, in the helpline call logs in

3   the week of 13 April 2014, which we've got in the bundle

4   at {F/1201}, we've got, for example, 10,789 rather than

5   1,089.37; in the 16 August 2015 {F/1368} we've got

6   19,400, should have been 1,940, that's row 1171. We've

7   got row 1578, 14,000 instead of 1,400.

8   At {F/1429}, 7 February 2016, we've got 3,400 keyed

9   in as 34,000 and 4,428.58 entered as 44,298.58.

10   Pausing there, I'm not going to show you but those

11   are the sorts of numbers you recognise --

12 A. Yes.

13 Q. -- as the sorts of miskeying problems that people were

14   encountering, is that fair?

15 A. Yes, that's fair.

16 Q. In your first witness statement you identified miskeys

17   as a cause of shortfalls, which I think you fairly

18   accepted earlier?

19 A. Yes.

20 Q. And can we look please now at {F/1449}.

21   Now, this document is from 31 March 2016 and

22   the heading is "Overkeyed online banking cash deposit

23   customer present - end of procedure" and then it says:

24   "Is the amount of the miskey greater than £150?" and

25   there is "No" on the left and this is what to advise

1   branch, it looks like the helpline:

2   "Advice the branch that if the discrepancy is still

3   apparent when balancing they must make the amount

4   good …"

5   And then:

6   "If deemed necessary a transaction correction will

7   be sent at a later date to counteract against the

8   initial discrepancy."

9   Then "Yes":

10   "Advise branch that if the discrepancy is still

11   apparent when balancing they must make the amount good

12   (loss or gain)."

13   Yes?

14 A. Yes.

15 Q. So in some of the examples we have seen, if it is a very

16   substantial sum, ie greater than £150, the right-hand

17   branch of that would see a branch being advised that if

18   the discrepancy is still apparent when they are

19   balancing they must make it good.

20 A. Yes.

21 Q. And that could be a very large number and that's why we

22   saw the previous -- the document we saw from 2014 was

23   saying that a large discrepancy could put the viability

24   of a branch in issue?

25 A. Yes.

1 Q. And the suggestion -- if you come down the middle of the

2   flowchart, the first box in the middle says:

3   "Open word document ie 'miskey A&L' or miskey

4   non-A&L."

5   That's miskey Alliance & Leicester or non-Alliance &

6   Leicester, isn't it?

7 A. Yes, that's right.

8 Q. Because I think Alliance & Leicester inherited the

9   Girobank?

10 A. Yes.

11 Q. "Complete the appropriate sections of the form by using

12   the information included within the incident log."

13   And:

14   "To find the miskey form follow the file path

15   P:\Core K Base\Miskey Forms\Miskey A&L or Miskey Non

16   A&L."

17   And then "Save a copy of the completed form to 'my

18   documents' and paste a copy into the incident log."

19   And so forth.

20   So that fairly reflects what's actually happened

21   with miskeys since the documents we have been looking

22   at, does it?

23 A. That looks like what you have read out off the NBSC.

24 Q. Let's now move to your examples of changes that have

25   been introduced, which are found at paragraph 156 and

1   following {E2/5/35}. These are other other changes. If

2   we look, for example, at the three you have chosen to

3   identify in paragraph 158 -- so just for some context,

4   you have obviously been in charge of branch support and

5   latterly improvement?

6 A. Yes.

7 Q. So you are the person to go to for this evidence,

8   aren't you?

9 A. For some of it, yes.

10 Q. And you have chosen these as -- are these good examples

11   of the sorts of improvement that have been made?

12 A. They are some examples, yes. These are the ones that

13   were affecting the customers and postmasters in

14   particular.

15 Q. Okay. Well, let's take them in turn, if we may. Let's

16   start please with Drop & Go, that's at 158.1 and 158.2

17   in your witness statement {E2/5/35}, isn't it?

18 A. Yes.

19 Q. So you point out in 158.1 that:

20   "In November 2014 as a result of some branches

21   settling Drop & Go sessions to cash instead of the

22   customers pre-paid account, a screen prompt was added to

23   the Horizon journey advising branches to not press

24   settle at the end of the session before they had pressed

25   end mails."

1   Then two and a half years later:
2   "... this was taken further as a new Drop & Go
3 transaction was introduced which prevented users
4 pressing the settle button before end mails ... the
5 screen prompt was removed at the same time as it was now
6 redundant."
7 A. Why he.
8 Q. That sounds all quite a happy experience, doesn't it, on
9 the face of your evidence there? It sounds as if it all
10 went quite well?
11 A. It took a while and there were quite a few problems with
12 Drop & Go actually. It did take a while. So there was
13 a first fix but a recognition at the time that it needed
14 to have a complete review of the transaction.
15 Q. Yes. That extra bit doesn't leap off the page, does it?
16 A. No, it doesn't.
17 Q. The problems and the difficulties?
18 A. But it was -- yes, it has been which is why it was two
19 stages in here, the first and then the second, but
20 I take your point.
21 Q. Let's have a look, if we may please, at {F/1346}. So
22 here we're looking at 2 June 2015 and this is the ATOS
23 presentation and if we go over the page to page 2 please
24 {F/1346/2} it is referring to the online mails project,
25 yes?

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1 A. Yes.
2 Q. "... to introduce a new online channel for customers
3 looking to send parcels via the Post Office by use of
4 a service called Click & Drop. The project was also
5 scoped with the task of aligning this new service to the
6 existing Drop & Go service and offering an online
7 channel for those SME customers. As the project
8 progressed, Click & Drop was descoped
9 during September 14 and the Drop & Go changes were
10 deployed on 5 November 14."
11   Yes?
12 A. Yes.
13 Q. That's the deployment of the changes you are referring
14 to in your witness statement, isn't it?
15 A. Yes.
16 Q. And then it says:
17   "The enhanced Drop & Go service introduced a new D&G
18 database hosted on CDP ..."
19   Do you know what CDP is?
20 A. Core digital platform.
21 Q. The core digital platform:
22   "... and aligned the Horizon Drop & Go basket
23 behaviour with the standard Horizon basket
24 functionality."
25   If we just go down to the bottom of that paragraph:

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1   "This reinstated the existing known issue of locking
2 customer accounts if the correct counter processes are
3 not followed."
4   You see that?
5 A. Yes.
6 Q. "Since go live a number of issues have been encountered
7 that have resulted in a large number of blocked customer
8 accounts, a resultant high volume of calls into NBSC and
9 dissatisfaction within branches and for impacted
10 customers."
11   If we look over the page please on {F/1346/3}, you
12 can see the fifth bullet point there is:
13   "Lessons learned that have been a captured to ensure
14 that other similar projects don't suffer from the same
15 pitfalls."
16   Yes?
17 A. Yes.
18 Q. And if we go over the page {F/1346/4-5} we can see what
19 was effectively happening. There is a timeline there.
20 And if we can just go please to the "Lessons learned" at
21 page 12 {F/1346/12}, "Commercial decisions over customer
22 experience" is the heading, "Summary":
23   "The decision was taken to allow a known design flaw
24 to continue to enable customers to use their D&G
25 accounts to purchase other mails products."

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1   And then under "Limited and non-effective
2 communications":
3   "Limited training and communications were issued to
4 branches as this was assumed to be an incremental change
5 to an existing product."
6   And the recommendation there is:
7   "Branch staff should be engaged during user
8 acceptance testing to provide a user's view on the scale
9 of the change to inform the type of training and
10 communications approaches that should be applied."
11   These are the sort of things that you were referring
12 to in your answer that added to the text of your witness
13 statement, the sort of difficulties that were
14 encountered?
15 A. Yes. I wasn't aware of the exact details of what, but
16 I knew there were problems.
17 Q. Okay.
18 A. I can't remember the date but at some point Drop & Go
19 came to the branch user forum for feedback.
20 Q. Yes. If you want to see that I can show you where that
21 is. That's at {F/1194}. There's a branch user forum on
22 20 March. Is this the one you are thinking of,
23 halfway --
24 A. No, I wasn't at this one. So the product manager for
25 Drop & Go, I invited her to come and take the input from

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1   the branch user forum whilst they were looking at the
2   design of the improvements going forward, so she came
3   a couple of times, but I wasn't at this particular one
4   and I usually chaired this.
5   Q. Will you forgive me if we just sort of press on.
6   A. Yes, certainly, yes.
7   Q. What I was going to say is you will understand why
8   I suggested to you that the difficulties with Drop & Go
9   hadn't leapt off the page?
10   A. Yes.
11   Q. And it is fair to say that it gives -- what you had
12   actually written included, gave a slightly rosy picture,
13   is that fair?
14   A. Without going into all that detail, yes, that's fair.
15   Q. And if we look please now at {F/1549}, so we're now
16   looking at the June 2017 changes and what was
17   anticipated for those changes on 7 October 2016, let's
18   just have a look at that please. You will see that's
19   the front of the document and if we look please at
20   page 3 {F/1549/3}. You will see there "Summary",
21   "Issues and options", and the box at the top says "Money
22   out of thin air upon timeout (introduced by prototype".
23   Were you aware of this difficulty that was encountered
24   at the time?
25   A. I've never heard of that terminology before.

1   Q. You haven't?
2   A. Not creates money out of thin air, I've never heard of
3   that.
4 MR JUSTICE FRASER: I'm really sorry, I'm having great
5   difficulty hearing what you are saying.
6   A. Sorry. What I said is I've never heard of that
7   terminology: creates money out of thin air.
8 MR GREEN: Had you heard of the problem by another name?
9   A. No, not that I can recall. As I say, I knew there were
10   problems, but not to that detail.
11   Q. And what type of document is this, if we just go back to
12   the front? {F/1549}. Is this an operational document,
13   does it look like, or ...?
14   A. No, there would normally be another facing sheet to
15   a presentation, but if it was to existing prototype it
16   typically would be part of the project, the project --
17   Q. Right, an IT document?
18   A. Yes.
19   Q. I'm just asking because if we look at page 3 again
20   {F/1549/3}, there is a redacted column on the right.
21   A. Yes. It's not something I have seen before so ...
22   Q. Okay. If we go to page 5 please {F/1549/5}, just to
23   sort of take this in stages, can you see on page 5 we've
24   got the same heading at the top: A money out of thin air
25   upon time out", do you see that?

1   A. Yes.
2   Q. And then number one in the table is "Do nothing", 2 is
3   "Post settle script to detect", 3 is "Monitor available
4   balance outside of basket", 4 is "Operate Horizon in
5   Drop & Go mode disabling Fast Cash and allowing settle
6   only against D&G account."
7   A. Yes.
8   Q. And the various risks and so forth are identified there.
9   Then look at number 1:
10   "Excess cash in till, compared to Horizon,
11   incentivises fraud. Remedy by FSC involves a debit
12   'transaction correction'."
13   Have you ever heard of a discussion of a debit
14   transaction correction being used in quotes in that way?
15   Is there anything ...?
16   A. No. That doesn't make any sense to me.
17   Q. Okay. Let's see -- if we go over the page to 6
18   {F/1549/6}, number 3 says:
19   "A new mode like 'back office' mode. This mode
20   would remove 'Fast Cash' and constrain 'settle' to just
21   the D&G account; also to be used by time out."
22   Are these things you understand or is this not
23   something you can really speak to, this document?
24   A. No, this is something I wasn't involved in, so it's not
25   something I can actually talk to.

1   Q. Just have a look if you would very kindly -- I will go
2   more speedily on this then. Page 10 please {F/1549/10}.
3   There is a diagram of what would happen and I should say
4   this appears to be the prototype that's being proposed:
5   "Start mails looks up - but does not debit - the
6   customer's account balance."
7   And then on the right:
8   "And credits that amount to the basket, effectively
9   creating cash out of thin air."
10   Do you see that?
11   A. Yes, I see that.
12   Q. So what we can see from this is that even reasonably
13   well thought through proposed changes to Horizon could
14   at least potentially have unintended effects. We can
15   see that, can't we?
16   A. Sorry, in the prototype you mean?
17   Q. Yes.
18   A. Okay.
19   Q. I mean it is obvious that this prototype has been
20   developed as a proposed prototype which is being
21   discussed fairly carefully and we can see from that that
22   tweaking one aspect of one function might trigger
23   something in another aspect of Horizon?
24   A. Yes.
25   Q. That's what we can see?

1   A. Yes.
2   Q. And if we go please to page 13 {F/1549/13}, this is
3   "Proposed detection and correction" with Chesterfield
4   effectively investigating and then at (e):
5   "A matching credit to a 'write-off' account so that
6   the cash that appeared out of nowhere returns to
7   nowhere."
8   That seems to be sort of getting the imaginary cash
9   to vanish out again out of the account?
10 A. Yes.
11 Q. On the face of it, doesn't it?
12 A. It does.
13 Q. Then just look over the page, last point on this,
14   page 14 {F/1549} if you would:
15   "1. The reason for the transaction correction
16   is ..."
17   This is the critique:
18   "The reason for the transaction correction is opaque
19   to the branch ..."
20   For a reason that perhaps we can't see. That would
21   obviously be undesirable, wouldn't it, to have --
22 A. Yes.
23 Q. And then 3:
24   "The initial credit to the basket offends against
25   the conventions of double entry bookkeeping."

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1   Yes?
2   A. Yes.
3   Q. Because you are getting a figure pop up without
4   a corresponding figure.   And then:
5   "Routine use of write-offs is inappropriate and
6   unacceptable to Ashley Hall's team."
7   So that's the critique. Having seen that, there
8   were clearly not only some problems with Drop & Go that
9   you were aware of and its development, but also some
10   others, is that fair?
11 A. That would be fair.
12 Q. If we just look very quickly at {F/1640}. That's
13   an email chain and if we can look at page 3 where it
14   begins {F/1640/3}, if you look at the bottom message,
15   you will see:
16   "Hi,
17   "This is to get feedback from model office and for
18   POL to confirm the release to the 54 pilot branches with
19   the pilot to commence on Friday 28.04."
20   Do you see that?
21 A. Yes.
22 Q. And then "Minor fix is required" in the next message up
23   on the right-hand side, "Currently in progress for the
24   pilot"?
25 A. Yes.

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1   Q. And then 27 April at 11.26:
2   "From discussions with Jeff Smyth due to the
3   negative impacts of 15.92 on other projects the POL
4   recommendation is that the Reference data for Pilot is
5   NOT to be released on Friday."
6   And then at the top:
7   "After having had a conversation between yourselves
8   on the below impact ... it now transpires that the code
9   cannot be released ... as per the agreement yesterday.
10   "Can you please have a discussion and let me know
11   what has been decided and as a result the retrospective
12   action be taken in the next 30 minutes. Note the code
13   has gone into MO and we are planning to move ahead to
14   pilot tomorrow unless someone lets me know in the next
15   30 minutes."
16   And if we go to page 2 {F/1640/2} at the bottom we
17   see:
18   "My understanding is that the live code that is
19   deployed in the MO has broken the existing live code for
20   telecoms that is already live in the rest of the network
21   estate. If we were to deploy it (beyond MO) we will
22   create a P1/P2 issue in the live network estate which is
23   a crazy thing to do."
24   Do you see that?
25 A. Yes.

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1   Q. And then if you just look at the penultimate paragraph:
2   "I've already checked with Rob H and Mick M on this
3   one - we cannot consciously put code live if we know it
4   will break the bigger network, especially on the run-up
5   to a bank holiday."
6   A. Yes.
7   Q. Did you ever hear about the fact that there was a risk
8   of a break to the bigger network in the run-up to a bank
9   holiday, sort of 30 minutes away?
10 A. No.
11 Q. Did that -- no?
12 A. No. I mean the whole point of testing the model is
13   obviously to see what the impact of it would be and
14   obviously that's what they said will be the impact if it
15   were to go live.
16 Q. So it's fair to say, isn't it, that there's quite a lot
17   that goes on in the background that maybe doesn't get
18   quite up to your level, would that be fair?
19 A. This would be routine. To go into the model office for
20   testing, it would be routine, yes.
21 Q. But it was going beyond the model office to the pilots,
22   that's the point. That's what they're about to do,
23   isn't it?
24 A. But once it got the go ahead from the model office --
25 Q. Yes.

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1   A.   And I haven't read all of it, but just reading what you
2   have taken me to, what I read from this is that it found
3   that it would break something else.
4   Q.   So they stopped it just in time?
5   A.   That's what I would anticipate from this, yes.
6   Q.   Okay. Let's look at cheque rem out, the cheque rem out
7   problem, that's paragraph 158.3 of your witness
8   statement at page 36 {E2/5/36}. Now, errors in relation
9   to the remming out of cheques go back pretty much to the
10   beginning of Horizon. They have been an issue over
11   time, haven't they?
12   A.   They had been an issue, yes.
13   Q.   And you have pointed here to an improvement that's made.
14   A.   Yes.
15   Q.   And you say there:
16   "This was a change to bring all the steps in the
17   cheque rem out process onto a single screen and automate
18   the calculation of the cheques total for the counter.
19   This was prompted because branch staff occasionally
20   forgot to complete the process fully due to
21   interruptions, allowing extra cheque transactions to
22   occur mid-process from other counter positions."
23   Now if we look please at F/1129 and have a look at
24   page 4 of that document please {F/1129/4}. This is the
25   Horizon improvements workshop and 1.5 is "Rem out for

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1   end of day cheque processing", "Summary":
2   "Customer cheques accepted during the trading are
3   processed at end of day. The clerk performs the
4   following process ..."
5   You see remming them out and then over the page
6   {F/1129/5} we have got:
7   "This is a lengthy process and unnecessarily runs
8   the report twice. It also increases the potential for
9   the clerk to enter an amount which does not match the
10   report total amount."
11   And then just below the diagram:
12   "Having reconciled the results against the physical
13   cheques they then navigate to back office, rems and
14   transfers, out to cheques, cheques and enter the total
15   amount to rem out and settle ... they then have to
16   navigate again to back office, reports, cheques and
17   preview or print the report. Finally they have to cut
18   off the report.
19   "Suggested improvements.
20   "An improvement could be to provide an additional
21   button on the counter daily cheques listing screen to
22   invoke the cheque rem out process and return when
23   complete."
24   So it is quite a good idea, yes?
25   A.   Yes.

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1   Q.   So that fairly indicates what the problem was and what
2   the proposed solution was going to be. If we look at --
3   so that's 5 September 2013. If we go to {F/1225}
4   please, 25 June 2014 and you will see if we go to
5   page --
6   MR JUSTICE FRASER: This has got August 2013 in the middle
7   and September 2013 in August writing at the bottom. It
8   doesn't seem to have June 2014. I'm not saying it
9   isn't June 2014, I just can't see June 2014.
10   MR GREEN: My Lord, in fact if I can just deal with the
11   version control. If we go -- we've got the wrong
12   document up there.
13   MR JUSTICE FRASER: Do you want 1125 or 1225?
14   MR GREEN: We want 1225.
15   MR JUSTICE FRASER: That's probably the explanation.
16   MR GREEN: I probably called it out wrong.
17   MR JUSTICE FRASER: No, no -- it doesn't matter. Is that
18   the one?
19   MR GREEN: That's the one, 25 June 2014. And this is branch
20   support programme. So this is June 2014; you were
21   involved in the branch support programme at this time?
22   A.   Yes.
23   Q.   And we can see at the bottom KPIs, key performance
24   indicators.
25   A.   Yes.

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1   Q.   "The programme will track performance against the
2   following key performance indicators ..."
3   And then your name is alongside Gayle Peacock's at
4   the bottom there.
5   A.   Yes.
6   Q.   If we go over the page please we see there is "Programme
7   progress" and if we go forward a page to item 4.4 on
8   page 3 {F/1225/3}:
9   "Horizon system transaction improvements ... the end
10   of day cheque remittance process has been reviewed and
11   a new solution to drive out errors has been identified.
12   This will be scheduled for the next software release
13   in October 2014 will reduce the calls into NBSC and the
14   transaction corrections issued by [the FSC]."
15   Yes?
16   A.   Yes.
17   Q.   So that was what the intention was, was October 2014.
18   Then if we go forward please to {F/1323}, this document
19   is -- at the very bottom of it says 9 March 2015, do you
20   see that?
21   A.   Yes.
22   Q.   And if we go to page 4 please {F/1323/4} we can see that
23   the first draft of the document was actually
24   3 February 2015, yes?
25   A.   Yes -- sorry, yes.

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1 Q. And if we go forward one further page {F/1323/5},
2   "Associated documents", we have the change proposal for
3   cheque rem out just there at item 7 in the top box, do
4   you see that?
5 A. Yes.
6 Q. So it hadn't actually come in in 2014 October, had it?
7 A. No.
8 Q. And in fact your witness statement confirms it was
9   brought in in August 2015?
10 A. Yes.
11 Q. And when it did come in it made things a lot easier for
12   subpostmasters?
13 A. Yes.
14 Q. Was there any reason why that couldn't simply have been
15   done within a couple of years when the problem had been
16   noticed?
17 A. So when I picked it up in the branch support
18   programme --
19 Q. I'm not criticising you, I'm just saying is there any
20   reason why that change could not have been made in say
21   2002?
22 A. Well, it depends what else was going on at the time, but
23   I mean on the face of it --
24 Q. There isn't any real reason, is there?
25 A. On the face of it that was quite a straightforward ...

1 Q. Yes.
2 A. And it did take -- it took me longer to get it
3   introduced than I would have liked anyway. It didn't
4   cost an awful lot of money to get it sorted either, so
5   ideally I would have liked it --
6 Q. Ideally it would have been better to do it a long time
7   ago?
8 A. Yes.
9 Q. If we can move forward now please to bureau de change at
10   paragraph 158.4 in your witness statement which is back
11   on page {E2/5/36}. Do you see there:
12   "Bureau de change automated 2nd receipt. This was
13   a change to Horizon in September 2014 to introduce
14   a function defining the number of copies of a receipt
15   for a transaction which will automatically be printed.
16   This was prompted because some branches were being
17   defrauded by the use of fraudulent debit cards for
18   bureau transactions. If the counter clerk did not print
19   a second receipt for the branch to keep (showing
20   4 digits from the card number ... (a fraudulent
21   transaction would not be refunded by the card issuer."
22 A. Yes.
23 Q. So from a practical point of view what was going to be
24   proposed was that there would be assistance to try and
25   help avoid the problem of a second receipt not being

1   printed?
2 A. Yes.
3 Q. Shall we just look at how that actually happened. If we
4   look at {F/1129} and you can see this is back in the
5   Horizon improvements workshop in 2013.
6 A. Yes.
7 Q. And if we go to page 5 of that document please
8   {F/1129/5}. That is effectively -- if we just look at
9   "Travel money debit card branch receipt" at the bottom,
10   do you see that?
11 A. Yes.
12 Q. 2.1:
13   "When a clerk sells travel money to a customer, and
14   the customer pays by a debit card, the security check
15   responses performed by the transaction and card details
16   are printed on the session receipt at settlement.
17   "The clerk can request a duplicate session receipt,
18   but if they do not and proceed with another customer,
19   then the reprint is no longer available to the clerk."
20   So a moment's inattention and they are at risk of
21   underwriting any fraud which otherwise the bank would
22   bear?
23 A. Yes.
24 Q. And that has always been like that?
25 A. Yes.

1 Q. For years?
2 A. Yes.
3 Q. And it says there -- it explains:
4   "If the bank subsequently challenges the
5   transaction, the postmaster needs to provide proof that
6   the security checks were performed. They cannot do this
7   without a receipt and may therefore have to make good
8   the transaction and be out-of-pocket."
9   Then the suggested improvement is to print
10   a duplicate branch receipt when the travel money is paid
11   for by debit card:
12   "In order to be consistent with other receipts this
13   should probably indicate it is a branch copy."
14   That's pretty straightforward, isn't it?
15 A. Yes.
16 Q. And it avoids that risk of a moment's inattention taking
17   literally one key press beyond where they can get back
18   to get what they need, yes?
19 A. Yes.
20 Q. And if we look please at {F/436} you can see there this
21   is an old document, this is a 2008 document, and we can
22   see on page 57 of that, if we may, {F/436/57} that the
23   system automatically prints the customer receipt for the
24   transaction, yes?
25 A. Yes.

1 Q. At the bottom. Then if we go over the page {F/436/58},
2   this is the point about subpostmasters being told:
3   "You must print a duplicate   ...(Reading to the
4   words)... information is mandatory ..."
5 MR JUSTICE FRASER: Where are you reading from?
6 MR GREEN: Just at the top, my Lord "Please note".
7 MR JUSTICE FRASER: Yes.
8 MR GREEN: So press the "feed" key on the printer, so you
9   have to remember to print the "feed" key on the printer
10   and then request a duplicate receipt as a branch copy,
11   that's what they have to remember to do.
12 A. That's right.
13 Q. So that was the old system. The short point is that was
14   actually quite a simple thing to change again,
15   wasn't it?
16 A. Yes it was.
17 Q. It was a good idea which was fairly simple to execute
18   which you brought in?
19 A. Yes.
20 Q. And there wasn't really any big reason why that couldn't
21   have been done ages ago?
22 A. My view was -- when I learned of the problems that
23   people were having with it, is that -- if a receipt is
24   required as part of the transaction my view was it
25   should have always been automatically produced.

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1 Q. Yes.
2   Now can we move forward to one of your responses to
3   what Mr Coyne has said in relation to MoneyGram please.
4   If we look at paragraph 161 of your witness statement
5   {E2/5/36}, you say:
6   "Turning to the MoneyGram example referenced by
7   Jason Coyne, in October 2015 MoneyGram and Post Office
8   agreed jointly to introduce debit/credit card acceptance
9   for payment ... this change was aimed at making
10   MoneyGram at Post Office more attractive for
11   customers ..."
12   And then at 162:
13   "Accepting debit/credit cards as a method of payment
14   is familiar to branch staff, however, processing
15   a refund for MoneyGram card payments is different so the
16   instruction given to branches is to liaise with NBSC to
17   ensure the branch is walked through the correct
18   process."
19 A. Yes.
20 Q. "This was an added step check to prevent the branch
21   making an error."
22   So one way of reading that is to suggest that when
23   this was brought in branches were told to liaise with
24   NBSC. That's what it naturally reads, is that right?
25 A. Yes. It did have instructions of what to do, but the

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1   fallback was ring NBSC, because it didn't happen very
2   often anyway.
3 Q. Okay, well, let's just look at that in a tiny bit more
4   detail, if we may. Let's look please at {F/1382}. This
5   is a 1 October 2015 document, "New and improved
6   MoneyGram service", and it says in the highlighted
7   passage:
8   "The Horizon transaction screens have been designed
9   to help you transact these services simply and
10   compliantly. Please refer to Horizon Help for
11   operational instructions and further information."
12   Yes?
13 A. Yes.
14 Q. And then over the page {F/1382/2} on the back it says:
15   "Important note - the refund/cancellation process
16   for MoneyGram has changed.
17   "If a customer wants to cancel their transaction and
18   obtain a refund on the same day, you must ... go through
19   the MoneyGram refund button to cancel the transaction.
20   You then need to use the back office reversals process
21   to reverse out the transaction (this is the case for
22   both debit card and cash transactions)."
23 A. Yes.
24 Q. So that's if it is on the same day. And then:
25   "All refunds/cancellations the following day or

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1   later ... are refunded to cash through the MoneyGram
2   refund button (regardless of method of payment), the
3   back office reversals process doesn't need to be used."
4   So what this is saying is if it is on the same day
5   you have to use the back office reversals process as
6   well as the refund button?
7 A. Yes.
8 Q. And otherwise you don't, yes?
9 A. Yes. It says cancel and then reverse, yes.
10 Q. Does it mean the same calendar day?
11 A. Yes. When you say -- well, it means on the day of its
12   being -- yes.
13 Q. The day, so if it's Tuesday, it means on Tuesday?
14 A. On the same day, yes.
15 Q. What about if it is after polling time? Do you know
16   what polling time is?
17 A. From -- so the instruction -- my understanding was it
18   was if it was on the same day and if it was after -- and
19   if it was the next day you would need to treat it
20   differently.   That was my understanding.
21 Q. Yes. But taking it in stages, it just says "the day"
22   there, doesn't it?
23 A. Yes, it does, it just says the day.
24 Q. And it doesn't say you must speak to the NBSC, does it,
25   when you do a reversal?

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1 A. Not on this one, no, it doesn't.

2 Q. No. So that's the October 2015 one and then if we look

3   please at paragraph 163 of your witness statement

4   {E2/5/37} where you refer to further communications to

5   remind branches, yes?

6 A. Yes.

7 Q. And you are referring there to the first one is

8   3 March 2016 Branch Focus article. Can we look at

9   {F/1440} please. Now, we haven't got this in the

10   context of the Branch Focus magazine, we can't see where

11   it sits amongst some of the other content, but it could

12   be quite varied, couldn't it, in the Branch Focus?

13   There could be lots of --

14 A. I see, yes, there could be quite a number of pages in

15   there.

16 Q. We had "summer sizzlers" and other things last time.

17 A. Yes.

18 Q. But we've got the text that is said to be what was said

19   and we can see here, "MoneyGram refunds". If you come

20   down to just below "To manage customer expectations",

21   can you see:

22   "To process a MoneyGram refund to a debit card

23   please contact NBSC … before completing the

24   transaction."

25   Yes?

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1 A. Yes.

2 Q. So that's on 3 March 2016 and you can see there that

3   this one now does say contact the NBSC, where

4   the October 2015 one didn't say that?

5 A. Yes, that's right.

6 Q. And Mr Patny had his problem with MoneyGram on

7   23 February, about ten days before this new guidance

8   came out, yes?

9 A. Yes.

10 Q. So for the purposes of Mr Patny could we fairly rewrite

11   what you say at paragraph 162 on page 36 of your witness

12   statement, {E2/5/36}, would it be fair to say that the

13   instruction given to branches from 3 March 2016 was to

14   liaise with NBSC?

15 A. If that's the date of that one, yes.

16 Q. Yes. Then the next thing you refer to at 163.2

17   {E2/5/37} is the flowchart at {F/1767}. Can we have

18   a look at that please. So we are now in

19   19 February 2018. Again, we don't know exactly where or

20   how this was in the Branch Focus article?

21 A. My understanding is it was attached to that version of

22   it. That's my understanding, it went out with that

23   version of …

24 Q. Well, this one seems to be 19 February 2018 this one.

25   Is that right? You said it is 19 February 2018 in your

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1   witness statement?

2 A. Yes, because the actual diagram itself isn't dated, the

3   flowchart itself isn't dated on here.

4 Q. Yes.

5 A. So when I located it it was with that Branch Focus is

6   how it was presented to me as that's when it went out,

7   on that date.

8 Q. On which date, 19 February?

9 A. Whatever I have said, date -- yes.

10 Q. I'm just pointing out we haven't got the actual Branch

11   Focus --

12 A. No.

13 Q. -- we have just got the flowchart that you say went out

14   with it and it says "MoneyGram decision tree - refund

15   customer diagram V0.2". Did this definitely go out?

16 A. Yes.

17 Q. Okay. And can you come down from "Customer wants

18   a refund", if you come down to "Cancellation approved?",

19   if you go straight down the "Yes" arrow, "Same day

20   refund?" and the arrow then says "Before 7 pm cut off?"

21 A. Yes, I see that now, yes.

22 Q. Now, that is the polling time at which the branch's

23   business day ends, isn't it, and the branch's business

24   day transactions are then sent off?

25 A. Yes, I mean transactions continue after, but yes.

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1 Q. They do, but that's the polling time at the end of the

2   business day for the branch?

3 A. Yes.

4 Q. You will probably remember sitting in court when

5   Mr Patny was saying he was on the phone to the helpline

6   to try and do his reversal at just after 7 o'clock?

7 A. Yes, I remember him saying that.

8 Q. He said a couple of times that was past polling time.

9 A. Yes, I remember him saying polling time, yes.

10 Q. Let's have a look, if we may please, at {F/1664}. Now,

11   this is an operations board agenda for July 2017. A lot

12   of it is blank, but if we could go please -- well, now

13   blank. If we go please to page 86 {F/1664/86}, it was

14   at least at this stage finally recognised I think

15   that -- if we go down:

16   "The main root causes for the increase in items

17   were:

18   "Branches retrying transactions that had failed due

19   to timing out."

20 MR JUSTICE FRASER: Where are you reading?

21 MR GREEN: Under "The main root causes", the second bold

22   heading, my Lord.

23   Do you see that, Mrs van den Bogerd?

24 A. Yes.

25 Q. "The main root causes for the increase in items were:

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1   "Branches retrying transactions that had failed due
2   to timing out."
3   Because that had become a bit of a problem,
4   hadn't it?
5   A.   Yes.
6   Q.   Timeouts in relation to MoneyGram transactions.
7   "Branches reversing a transaction but not cancelling
8   the AP part of the transaction."
9   A.   Yes.
10   Q.   Is that the authorisation process?
11   A.   Yes.
12   Q.   "General lack of understanding in branch of how the
13   process works, especially for refunds."
14   And then:
15   "MoneyGram and POL systems were out of sync re
16   cut-off times. Poll cut off at 19.00 and MoneyGram at
17   24.00."
18   Then in bold:
19   "Towards the end of 2016 changes were made to the
20   transaction journey and the cut-off time.
21   "MoneyGram changed their cut off time ..."
22   Et cetera and also:
23   "The end to end transaction journey time was
24   extended from approximately 8 seconds to 30 seconds."
25   That was in order to try and stop the timing out

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1   happening?
2   A.   Timing out, yes.
3   Q.   And then there are some next steps listed:
4   "More work being done to establish the root cause of
5   error (branch conformance/product complexity)."
6   So it is right, isn't it, that in fact the issue of
7   MoneyGram was a little bit more complicated, because
8   initially it didn't say "Contact the NBSC"?
9   A.   Yes it changed, yes.
10   Q.   And then that then changed. And then there was
11   a flowchart which for the first time mentioned the 7 pm
12   rather than the calendar day, yes?
13   A.   Yes.
14   Q.   And distinguished between pre-7 pm and post and then
15   eventually at the end of 2016, as reflected in the 2017
16   document, the polling days for Post Office and MoneyGram
17   were then aligned?
18   A.   Yes. The flowchart was the best, I think, communication
19   out to the network around the stages to go through.
20   Q.   Okay. Let's just look, if we may, at {F/1556} please
21   and if you could look very kindly -- you see that's
22   a 21 October 2016 document. Have you seen that before?
23   A.   I don't recall. I don't recall seeing this actual
24   document, but I was party to some of the operations
25   duplication work.

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1   Q.   Let's look please at page 4 {F/1556/4}.
2   A.   Sorry, what date did you say this document was?
3   Q.   This document seems to be 21 October 2016. Does that
4   make sense?
5   A.   Okay, yes.
6   Q.   If we have a look at page 16 of it {F/1556/16} we've got
7   the document history and you will see the version
8   history at the bottom and it says initial draft,
9   30 September 2016, Andy Greening. Who is he?
10   A.   He is one of the change analysts.
11   Q.   One of the change analysts. Do you know him?
12   A.   Yes.
13   Q.   And you have worked with him?
14   A.   Yes.
15   Q.   Review by Dawn Brooks. Who is she?
16   A.   Dawn used to be a change analyst, one of the managers,
17   in FSC.
18   Q.   And is Andrea Horner doing the same job as well?
19   A.   Andrea Horner was a project manager with us, she was
20   a contractor with us for a short time.
21   Q.   Okay. So it seems to be anyway a document, the date of
22   which is in October 2016, and if we just look please at
23   page 4 {F/1556/4} there is a management summary:
24   "Post Office branch 'back office' balancing and
25   accounting processes are still rooted in legacy

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1   practices and methods. These operations processes and
2   associated workflows are inefficient and susceptible to
3   losses and fraudulent activity. Many business rules are
4   ill-defined and the language is confusing to those who
5   operate the processes."
6   Now, some of those who are operating processes are
7   in FSC dealing with supposed shortfalls from
8   Post Office's point of view, yes?
9   A.   They would be, yes.
10   Q.   People deciding on transaction corrections?
11   A.   Yes.
12   Q.   And also of course one shouldn't forget the
13   subpostmistresses and subpostmasters who have got the
14   other end of these processes in a sense?
15   A.   Yes.
16   Q.   And it is the reconciliation of the back office data and
17   the front office entered data that causes a discrepancy,
18   isn't it?
19   A.   Yes.
20   Q.   And if we look at "Drivers for change", 1.2, it says:
21   "There is a requirement for balancing and
22   reconciliation processes to be intuitive and easy to
23   operate and for those processes to use simple language
24   and applied business rules that negate the requirement
25   for excessive training in branches and back office

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1   support services ."
2   So what really you are saying there is this should
3   be absolutely intuitive on the Horizon system and in the
4   processes that relate to it?
5   A. Yes.
6   Q. So that you don't have to go and explain super
7   complicated things to people in branch and then have
8   mistakes which then have to be sorted out. Is that
9   fair?
10   A. Absolutely.
11   Q. And that's obviously a good idea?
12   A. Of course.
13   Q. And there's a requirement for integration of data into
14   Post Office Limited's front office systems, which is
15   basically the Horizon facing system for the SPMs?
16   A. Yes.
17   Q. And that would obviously be a good idea as well, in that
18   if the front office data and the back office data was
19   visible in the front office , they would be able to see
20   both?
21   A. Yes.
22   Q. These are all good ideas and it's not surprising that
23   you think they are good ideas because you are the person
24   who signs off on this document at the end on page 17
25   {F/1556/17}.

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1   A. Yes.
2   Q. Did it begin to seem familiar when we were going through
3   it?
4   A. So -- yes, absolutely . So ATM, so ... I don't
5   absolutely recall this particular document if I'm
6   honest, but --
7   Q. You remember the broad points, trying to streamline the
8   back-end office processes?
9   A. Absolutely. So at this time -- and I can't be sure of
10   the dates, but I was the director of support services ,
11   so FSC was under my remit at the time and what
12   I particularly wanted to do was try to get things right
13   at the front end to stop driving -- obviously right for
14   the front end in the first place but then to stop
15   driving , as you have described, the workarounds and the
16   activity to put right things that should have been right
17   in the first place.
18   Q. I understand.
19   MR JUSTICE FRASER: Mr Green, you have to keep an eye on the
20   clock for the shorthand writers.
21   MR GREEN: My Lord, would that be a convenient moment?
22   MR JUSTICE FRASER: I imagine you have more than five
23   minutes.
24   MR GREEN: My Lord, I have. I'm not going to finish with
25   Mrs van den Bogerd today but I will be finished well

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1   before lunch tomorrow and we are timetabling everyone
2   else to fit in --
3   MR JUSTICE FRASER: This is day one of your four days.
4   MR GREEN: Indeed.
5   MR JUSTICE FRASER: Mrs van den Bogerd, you heard that
6   exchange so apparently you are still going to be in the
7   witness box tomorrow but we will have a break now for
8   the shorthand writers so we will come back at 20 past 3.
9   Same as before, don't talk to anyone about the case.
10   (3.14 pm)
11   (Short Break)
12   (3.22 pm)
13   MR GREEN: Mrs van den Bogerd, just following through
14   a couple of further documents in relation to MoneyGram.
15   Can you please look very kindly at {F/1502} please. You
16   will see that's a MoneyGram quarterly business review,
17   18 July 2016.
18   A. Yes.
19   Q. And if you could look please at page 24 {F/1502/24}.
20   "Problem statement":
21   "Multiple instances of system latency have been
22   reported since 24 January 2016."
23   Yes?
24   A. Yes.
25   Q. "The latency was exposed by changes to the IT

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1   environment in the January release ."
2   Yes?
3   A. Yes.
4   Q. So it has come to the fore after the January release of
5   the software, yes?
6   A. Yes.
7   Q. And it identifies the purpose and benefits and then
8   fourth bullet point at the bottom of that page:
9   "This latency is causing some transactions on the
10   POL system to time out, resulting in high traffic to the
11   operational contact centres and obvious customer
12   impact."
13   Yes?
14   A. Yes.
15   Q. If we go over the page please {F/1502/25} we can
16   actually see the "Instances of latency since February"
17   diagram shows weeks commencing 22February onwards, can
18   you see that?
19   A. Yes.
20   Q. And 22 February 2016 is the highest one by quite
21   a margin, isn't it?
22   A. Yes.
23   Q. And 23 February is when Mr Patny has his difficulties ,
24   isn't it , with MoneyGram?
25   A. Yes.

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1 Q. If we go forward please to {F/1502/29}, do you remember
2   Mr Patny thought that he had got a duplicate
3   transaction?
4 A. Yes.
5 Q. 3,100 and then he seemed to have 6,200 --
6 A. Yes.
7 Q. -- was what he thought had happened. Look at the bottom
8   of that page, "Reconciliation":
9   "Duplicate transactions are created in [MoneyGram]
10   systems as a result of Post Office time outs.
11   "A joint MG/POL team is working to ascertain impact
12   on settlement and implementation of an appropriate plan
13   of action."
14 A. Yes.
15 Q. It wasn't wildly well advertised to subpostmasters that
16   this problem was being dealt with at the time?
17 A. No. People were aware there was an issue, clearly, in
18   branch and then --
19 Q. People in the branch had an issue, but they were
20   probably being blamed for user error, weren't they?
21 A. Well, they knew there was an issue and they were ringing
22   into NBSC at the time.
23 Q. Sorry?
24 A. They knew there was an issue and they were ringing into
25   NBSC at the time.

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1 Q. Well they were claiming there was an issue but they
2   might be met with "This is user error"? They didn't go
3   "Oh, by the way, have a look at the graph which shows
4   there has been a spike in the very week I'm complaining
5   about" because they didn't have that information,
6   did they?
7 A. Not unless there was a message on the helpline system.
8   I'm not aware --
9 MR JUSTICE FRASER: When did you first see this document?
10 A. This document, now.
11 MR JUSTICE FRASER: You haven't seen this before today?
12 A. I've not seen this before, no.
13 MR GREEN: Okay. Let's look, if we may, at {F/1555}. This
14   is a "Small project proposal", "Hot house - MoneyGram
15   issue", "Pricing for additional work". And then
16   "Description of requirement" box halfway down:
17   "Background:
18   "MoneyGram summary.
19   "For the last several months Post Office has
20   experienced a live operational issue with MoneyGram
21   transactions across the branch network. In the event of
22   a transaction timing out at the counter, a system error
23   message is displayed to the user ... and the transaction
24   is aborted. This leaves no record of the transaction at
25   the counter and the transactions and funds may or may

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1   not have been committed in the MoneyGram domain. This
2   causes significant issues for Post Office and MoneyGram
3   and for customers."
4   And then:
5   "End to end testing has been commissioned to
6   identify the cause of the problem. Within the first
7   hour of testing the ATOS test team were able to identify
8   the issue as CDP returning an incorrectly formatted
9   (SOAP error message) response to the counter which
10   results in a system error rather than a time-out
11   response ..."
12   And if we just look at the bottom three lines of
13   that box:
14   "A quick fix has been identified by the ATOS team to
15   amend the existing AP-ADC reference data to treat the
16   system error as a time-out response and trigger the
17   correct counter behaviour."
18   Do you see that?
19 A. Yes.
20 Q. So that does suggest, doesn't it, that there was a real
21   problem that was not very easy for the person at the
22   counter to deal with correctly?
23 A. Yes. They had an error message, but yes.
24 Q. This document is dated 19 October 2016, as we can see,
25   top right?

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1 A. Yes, I can see that.
2 Q. Yes. And it is addressing something that was a result
3   of the January release of software?
4 A. Yes.
5 Q. So that had actually persisted for the whole of
6   February, March, April, June, July, August, September,
7   October, nearly the whole of October as well, yes?
8 A. From the graph you showed, yes.
9 Q. If Post Office had commissioned ATOS earlier -- if they
10   had been asked to look at it earlier, it looks as if
11   they would have got an answer more swiftly, because they
12   found it in the first hour of testing, didn't they?
13 A. Yes.
14 Q. Just looking at that from Post Office's position, does
15   that look satisfactory to you?
16 A. I don't understand why it took so long.
17 Q. No.
18 A. On the face of it, no.
19 Q. Let's look at other matters that you deal with in your
20   witness statement, if we may. Paragraphs 178 and 179
21   {E2/5/41}, you are talking there about volume of
22   branches and volume of customer sessions. You can see
23   that the point you make at 179 over the page {E2/5/42}
24   is you give the example of the Barkham branch as
25   an example, being the branch that Mrs Stubbs was

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1   subpostmistress for, raises a number of matters that you
2   have responded to. You were able to see that the
3   workload for this particular branch in 2001 involved an
4   average of 1,047 weekly customer sessions and in 2007
5   this increased to 1,836, yes? And that's information
6   that you got from the spreadsheet that we see on the
7   previous page referred to there, is it?
8 A. Yes.
9 Q. Can we look please at {H/172}, which is a letter from
10   Post Office's solicitors dated 18 January. You will see
11   there the second line of 1.1 -- do you see in the
12   middle?
13 A. Yes.
14 Q. They are talking about your witness statement:
15   "It has come to our attention that this spreadsheet
16   contains an error due to the internal referencing that
17   means, while the actual volumes of customer sessions is
18   correct, they do not correspond correctly with the
19   relevant branches. We therefore write to enclose a copy
20   of the correct version of the volume of customer
21   sessions spreadsheet for your reference."
22   Yes?
23 A. Yes.
24 Q. Were you made aware of that change? Do you know that
25   that change happened?

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1 A. No.
2 Q. Okay. This may not be fair to you, but let's just look
3   at it. You have referred in your witness statement, we
4   have seen, to the Barkham branch as an example.
5 A. Yes.
6 Q. I have just shown you that the point you make about
7   customer sessions going up from 1,047 to 1,836. Let's
8   look please at the corrected spreadsheet which is at
9   {F/1837}.
10   Is this something that you actually know about, or
11   is this something someone asked you to put in your
12   statement?
13 A. What, the volume of branches in the --
14 Q. Yes? I mean is this really your evidence at all?
15 A. I know about branches and how they have changed over the
16   years, yes.
17 Q. Okay, so you felt comfortable giving the evidence?
18 A. Well, I spoke to Kjetil, a colleague of mine.
19 Q. Spoke to ..?
20 A. Kjetil.
21 Q. Full name?
22 A. Kjetil Fuglestad.
23 Q. That's the person you mention in your witness statement
24   {E2/5/41}.
25 A. So Kjetil manages all the data on the network, the size

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1   of -- the number of branches, volume of transactions,
2   everything that goes through that; that's what he does.
3 Q. So he would be a reliable person to get this information
4   from?
5 A. Yes.
6 Q. If we look at line 254 please if we look there we can
7   see the Barkham branch and we can see there that the
8   figures between 2001 and 2007 were in fact 398 and 368;
9   do you see that?
10 A. Yes.
11 Q. And they weren't the figures that you gave in your
12   witness statement of 1,047 and an increase up to 1,836.
13   So in fact they have gone down those figures, haven't
14   they?
15 A. Mm-hm. Yes.
16 Q. And they are quite a lot smaller?
17 A. Yes.
18 Q. Do you know how that error has come about?
19 A. I don't. Because I had a conversation with Kjetil
20   around the data and then told him what I wanted and he
21   provided it to me, so I don't know --
22 Q. Could you speak up a tiny bit.
23 A. Sorry. I had a conversation with Kjetil around the
24   information that I was looking for and then he provided
25   it to me, so I have no idea how this data would have

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1   changed, or been incorrect in the first place.
2 Q. Okay. Well, let's move on to your description of the
3   implementation of Horizon and Horizon Online. Let's
4   look at paragraph 180 of your statement please
5   {E2/5/42}. You say there:
6   "In relation to the practical implementation of
7   Horizon and Horizon Online in branches, Post Office
8   representatives were present as explained below."
9   Then you say at 181:
10   "It is my understanding that branches were required
11   to do their final paper based cash account before the
12   change over to Horizon. The information was then
13   transferred onto the Horizon system ..."
14   Using the physical cash and stock held, et cetera,
15   as could be agreed with the subpostmaster:
16   "The transfer onto Horizon was supported by the
17   Horizon field support officer ... and also the RNM. If
18   there were any issues as to discrepancies/general
19   functionality ... [they] would assist the branch."
20   Then Horizon Online, 183:
21   "Before the change to Horizon Online a cash check
22   was completed in branch by the HFSO."
23   That's the Horizon field support officer?
24 A. Yes.
25 Q. You have defined in 182:

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1   "Branches were notified in advance that this cash
2   check would be carried out. I recall that this
3   mandatory cash check across the entire network caused
4   a temporary spike in declared losses. I suspect that
5   this was due to branches tidying up their accounts
6   before the cash check and therefore losses coming to the
7   surface that had previously been ignored or covered up."
8   Now, that doesn't on the face of it suggest any
9   difficulties particularly encountered by SPMs on the
10   introduction of either Horizon or Horizon Online,
11   does it, your account?
12   A. No, it just states what the process was, yes.
13   Q. Yes, it is process based, but it doesn't hint at any
14   difficulties they encountered that might explain a spike
15   in discrepancies, for example when Horizon Online was
16   introduced, anything like that?
17   A. So that was done -- so what I'm referring to there is
18   the spike before it went onto online.
19   Q. Okay.
20   A. So it was at the point at which it was done in advance
21   of and then carried over.
22   Q. Well, let's have a look. Let's just take a step back.
23   We might be able to take it more shortly. I mean do you
24   actually personally know what the introduction of
25   Horizon was actually like for the SPMs affected by it?

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1   A. Going from paper based to Horizon, is that what you ..?
2   Q. Yes.
3   A. Yes I do.
4   Q. And there were quite a lot of problems, weren't there?
5   A. There were some. I was supporting -- when I refer to
6   the RNM, I was one of -- I was an RNM at the time, yes.
7   Q. And there were quite a lot of problems with the software
8   and hardware?
9   A. At that time I can only talk about what my experience
10   was.
11   Q. And what was your experience?
12   A. So we had some issues in -- where I worked in the local
13   area, but we were out in branch supporting and making
14   sure that everything was okay. So there would be the
15   odd -- from recollection, because it was a long time
16   ago, there were the odd one or two issues that we had.
17   I wasn't aware of the picture across the business at the
18   time.
19   Q. Okay. Let's just have a quick look, let's look at
20   {F/16/2} please. This is PEAK 0027887. And it is
21   created on 21 July 1999 and this is the one that we have
22   seen at the end of last week, on Thursday last week.
23   There's a receipts and payments misbalance which is
24   escalating and it gets up to £1.05 million. Do you see
25   that?

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1   A. Yes.
2   Q. And that's quite a large number for a small branch to
3   have gone astray, isn't it?
4   A. Well, for any branch. Any branch that would be --
5   Q. That's not going to be a real amount of cash --
6   A. No.
7   Q. -- that the SPM has put in her pocket, is it?
8   A. No.
9   Q. Or quite a lot of stamps or anything like that?
10   A. No.
11   Q. And look at page 3 please {F/16/3}. You can see in the
12   bottom box:
13   "The initial balance brought forward for this CAP
14   was [1.196 million]. This was multiplied twice to give
15   a total ... of 2,279,189.04."
16   There was a £1 million discrepancy:
17   "This was due a known software error which has no
18   been resolved."
19   Is that "not been resolved" or "now been
20   resolved" --
21   A. I don't know.
22   Q. -- can you remember this one?
23   A. No.
24   Q. Okay. So that's quite a serious one. Let's have a look
25   at a couple more examples. {F/22} please. This is

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1   10 November 1999. PM Dungannon. This is PEAK 0033128
2   and you can see there that there's a discrepancy of
3   £43,000. Halfway down the first box:
4   "Outlet has a discrepancy of £43,000 after balancing
5   [stock units] and doing office snapshot."
6   Do you see that?
7   A. Yes.
8   Q. "... investigating why this misbalance occurred."
9   If we look at the entry for 3 December 1999, which
10   is down towards the bottom:
11   "I have talked with development ref this problem.
12   It is seen as a one-off. No fault can be found and
13   developments do not expect to be able to find a fault
14   with the evidence available. There is no additional
15   information available as evidence. I suggest this call
16   be placed on monitor for 1 month."
17   And then 18 February 2000, if we go over the page on
18   page 2 {F/22/2}, if you look there can you see "Further
19   examination of the event logs", do you see that?
20   A. Yes.
21   MR JUSTICE FRASER: Whereabouts?
22   MR GREEN: It is the big box, 18 February, 17.07, my Lord,
23   and we come down --
24   MR JUSTICE FRASER: Yes, got it.
25   MR GREEN: "Further examination of the event logs for these

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1   two counters indicate that counter 5 looks suspect
2   (C drive nearly full with big gap of no messages).
3   Calls from PO into HSH for period … indicate a reboot
4   (counter not specified but would tie in with counter 5
5   event log) …"
6   Do you see that?
7 A. Yes.
8 Q. And then straight after that, can you see underneath
9   Saturday 31 October 1999 it says:
10   "The evidence in the message store was that messages
11   continued to be written to the message store but that
12   all the 'payment' transactions which should have been
13   recorded in the rollover trailer messages failed to
14   appear (although others did, such as rem out and
15   transfer out totals). This indicates that the problem
16   was not one of running out of disc space but of failing
17   either to retrieve, or write out, transaction totals for
18   one particular node in the node hierarchy.
19   "Given that there were known problems with corrupted
20   persistent object indexes at about this time, it is
21   possible that an update on an EPOSS nodes object failed
22   to be registered correctly at the outlet, causing the
23   node accumulation to fail."
24   Now, on the face of it there was a £43,000
25   discrepancy in November 1999 and the underlying

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1   information wasn't actually rechecked until February the
2   following year, on the face of this, yes?
3 A. That's what it looks like, yes.
4 Q. Let's go forward please to page 3 {F/22/3} and we're
5   going to look at the entry for 7 April which you can
6   see -- sorry, if you look at the top can you see there
7   there's a further occurrence for 9,000, do you see that?
8 A. In Appleby?
9 Q. Yes. And then that's then escalated and then at the
10   bottom of that box a fix, penultimate paragraph:
11   "A fix has been developed and is currently in
12   testing."
13   Do you see that?
14 A. Yes.
15 Q. And if we go down to 4 July 2000 at the bottom, it says:
16   "Root cause of stock unit integration problem.
17   "Data trees have been failing to build fully, and
18   the system has not been detecting this. Consequently,
19   discrepancies in the balancing have been occurring. In
20   the case of Dungannon a whole payments node was missing.
21   There have been a number of calls relating to this kind
22   of issue. A fix has been put in at CI4 which will
23   prevent this happening. The root cause identified …
24   is as follows: 'data server trees have failed to
25   build …"

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1   So what we can see there is the sort of problem that
2   was being encountered is not only an error occurring but
3   the system failing to spot that the error was occurring,
4   yes?
5 A. Yes.
6 Q. And if we go forward please to {F/89} we will see the
7   ICL Pathway customer service management support unit
8   monthly incident review for November 2000 and if we look
9   at page 6 quickly {F/89/6} -- sorry, I shouldn't -- fair
10   to you. If we look at page 6, do you see the second
11   bullet point:
12   "The most frequently occurring incidents in November
13   were both types of receipts and payments incidents
14   (migration and post migration) with 31 incidents per
15   category. The migration incidents have remained at the
16   same level … post migration occurrences have
17   increased. This was followed by 17 transactions polled
18   by TIP but not by HAPS, these were due to delayed
19   transactions as reported …"
20   And so forth. Then they were added back into normal
21   processing.
22   We can see there that at the top bullet point, key
23   point:
24   "During November the number of incidents received by
25   MSU increased to 109, in comparison to October where 91

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1   received and resolved … a total of 98 incidents were
2   cleared and 13 will be carried forward …"
3   So there was quite a lot of activity in terms of
4   trying to clear incidents that were coming in of this
5   type, weren't there?
6 A. Yes.
7 Q. And we can see in December, which is at {F/84}, that's
8   the December document of the same type, let's have
9   a look again at page 6 quickly {F/84/6} --
10 MR DE GARR ROBINSON: My Lord, I rise simply to say these
11   are Fujitsu documents, these are not Post Office
12   documents, but I'm sure your Lordship is well aware of
13   the limitations in this witness' ability to speak to
14   these documents.
15 MR JUSTICE FRASER: Well, she has given broad evidence of
16   these types of things. You might want to just explore
17   when she has first seen them.
18 MR GREEN: Yes. Have you seen these documents before?
19 A. I haven't seen these.
20 Q. You haven't?
21 A. No.
22 Q. But you were in aware in your support role at the time
23   of activity of this sort going on?
24 A. Not in 2000 I wasn't, no.
25 Q. You weren't?

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1   A.   No. So in 2000 as the retail network manager I operated
2   in an area as part of a team of the same, so I was not
3   aware of this in the background.
4   Q.   Were they giving you any feedback about the sort of
5   problems that Fujitsu were encountering?
6   A.   No, no. So the process we had in place was we had
7   a roll-out plan of the branches that would migrate. We
8   organised ourselves in what we called a cluster group at
9   the time and we made sure that we had one of us as
10   an RNM was on-site to support the migration and then
11   subsequently some of the balances going forward as well,
12   because there were some issues with the balances, but
13   I wasn't aware of any of this in the background.
14   Q.   So you are the person listening to the SPMs saying
15   "Look, I have a problem with it".
16   A.   Yes.
17   Q.   But you weren't being provided with any background
18   information --
19   A.   No.
20   Q.   -- about what the categories of problems being
21   encountered were?
22   A.   What I would do in my role then is if I had a -- if one
23   of my postmasters had a problem then I would go and
24   check their accounts with them, go through all the
25   information and there was one issue that I do remember

1   where there was an issue with a postmaster that always
2   balanced and on this particular day he didn't. It was
3   very unusual. I checked everything and then I made
4   a call to Chesterfield, which wasn't called FSC then, it
5   was called P&BA and they resolved the problem from
6   there. I don't know exactly. All I know is he was
7   happy it was resolved.
8   Q.   Let's look at that specific example. They didn't give
9   you feedback about what had gone wrong, if anything?
10   A.   No.
11   Q.   So you weren't able to form a view about that?
12   A.   No. So my understanding was what to do in the
13   situation, if we had a situation like that, then I would
14   escalate it and then the process would kick in behind
15   because I was on to the next Post Office to support.
16   Q.   Okay. So is it fair to say --
17   MR JUSTICE FRASER: Just pausing there, this might speed
18   things up because there are two different strands you
19   are running at the same time.
20   MR GREEN: My Lord, yes.
21   MR JUSTICE FRASER: The first thing is just a point of
22   clarity. I don't think these are actually Fujitsu
23   because I think at the time it was ICL; that's right,
24   isn't it?
25   A.   That would have been at the time, yes.

1   MR JUSTICE FRASER: You were a retail network manager.
2   A.   Yes.
3   MR JUSTICE FRASER: So the problems that you experienced,
4   that you had direct experience of, they were the
5   problems from the branches that were under your
6   umbrella, is that right?
7   A.   Yes, that's correct.
8   MR JUSTICE FRASER: Did you get any communications back from
9   other areas about problems they were having, or was your
10   involvement solely in respect of the branches in your
11   area?
12   A.   So my responsibility was the branch -- it wasn't just my
13   area, so I think at the time there were about eight RNMs
14   worked out as a team so we covered a geographical area
15   that would cover the whole of say Cardiff, Swansea,
16   West Wales, which is quite a geographical error, and
17   then we would talk to our counterparts in Newport and so
18   forth, but I'm not aware of any formal communication
19   back to us at the time of anything to do with this at
20   all, other than we were there to help postmasters
21   resolve the issues at the time.
22   MR JUSTICE FRASER: Understood. And then the second point
23   is when you were preparing your witness statement and in
24   particular the paragraphs at 180 to 183 --
25   A.   Yes.

1   MR JUSTICE FRASER: -- did you do any investigation in
2   respect of what might have been happening that you
3   didn't know at the time in 2000 --
4   A.   Not back to 2000, no.
5   MR JUSTICE FRASER: -- or in 2010 when the change was from
6   Legacy Horizon to Horizon Online?
7   A.   So in 2010 I was in a different role and had broader
8   responsibility and I knew what -- what we did, again we
9   replicated a similar approach to make sure we supported
10   branches at the time, but as for any detail of
11   information, I didn't research into that, no.
12   MR JUSTICE FRASER: Right, Mr Green.
13   MR GREEN: I'm most grateful.
14   So just quickly to follow through on your role at
15   the time, if you just look at page {F/99.1}. Now, this
16   is a document about Mr Bates' branch. It's not one we
17   went to in the common issues trial.
18   A.   Yes.
19   Q.   But this is June 2001 and I think you were still an RNM,
20   is that right?
21   A.   Yes.
22   Q.   And this is an audit of his office and can we go down
23   please to page 4 {F/99.1/4}. Do you see cash management
24   accurately declared at the close of business; you see
25   that?

1 A. Yes.

2 Q. And this is the sort of document you might have seen if

3   an audit had been done at one of your branches?

4 A. Yes.

5 Q. And if you look under "Control gaps - high risk" and

6   then the next one says "Comments", it says -- and this

7   is from the auditor:

8   "A correct assessment of cash holdings could not be

9   made because the Horizon system intermittently adds the

10   previous day's cash holdings to the daily declaration."

11 A. Right.

12 Q. That's the sort of problem that you might have had to

13   deal with if that had happened?

14 A. If it had happened, then yes --

15 Q. In one of your branches --

16 MR JUSTICE FRASER: Mr Green, can you let the witness

17   finish.

18 A. That wasn't anything I was aware of at the time.

19   I never encountered that problem in one of my branches,

20   or in my colleagues' branches; that isn't something

21   I was aware of.

22 MR GREEN: Very well. What you would have done was taken

23   that forward and tried to help the SPM resolve it?

24 A. Yes. I mean if I had an audit report from any of my --

25   from my branches then I would go through it in quite

1   some detail, yes.

2 Q. I'm grateful, thank you.

3   Can we look now at migration to Horizon Online.

4   Now, this is something you would have more knowledge of,

5   is that fair? What happened during the migration to

6   Horizon Online?

7 A. Well, I wasn't out in the field supporting it, so it

8   depends when you say "more involvement".

9 Q. Shall we just look, if we may quickly -- I will take

10   this reasonably quickly, just because I think you have

11   had a role in talking about the introduction of

12   Horizon Online. Let's look at {F/555} please. This is

13   the Horizon Online induction training document.

14 A. Yes.

15 Q. And if we look at page 8 {F/555/8} can you see that

16   Horizon Online:

17   "... is about reducing the Post Office's operating

18   costs ..."

19 A. Yes.

20 Q. "... and is a fundamental element of forward:

21   three2eleven"?

22 A. Yes.

23 Q. What's "forward: three2eleven"?

24 A. It was the strategic plan at the time called

25   three2eleven, so it was -- if I remember correctly, it

1   was 2003 to 2011, the years.

2 Q. Okay. This is a 7 December 2009 document.

3 A. Yes.

4 Q. And did you have some knowledge of what that strategy

5   was at the time?

6 A. I had a knowledge because that was -- the whole business

7   was engaged in what that was.

8 Q. Yes.

9 A. In terms of recalling the detail of it, I can't recall

10   the detail of it at this point. But it was a strap line

11   that everybody was aware of, absolutely.

12 Q. Okay. We can see from the slide that Horizon Online was

13   based on the principle of business equivalence: "Will

14   look and feel very different to existing Horizon but

15   will not radically change transaction processes". Yes?

16 A. Yes.

17 Q. And it has "been designed to run on existing branch

18   equipment".

19 A. Yes.

20 Q. Then if you look in the notes, the sort of speaking

21   notes under the slide, we can see again it is reiterated

22   it is about reducing operating costs, yes, and that

23   Horizon is a major cost and then do you see it is not

24   about new functionality, on the left-hand margin just

25   above "Business equivalence"?

1 A. Yes.

2 Q. "It is based on the principle of Business equivalence.

3   Business equivalence is the primary design principle for

4   the programme - we are not about new functionality."

5   Yes?

6 A. Yes.

7 Q. So this wasn't really an upgrade in terms of

8   functionality, was it?

9 A. No.

10 Q. It was business equivalence and a way that would be --

11   there would be cost savings from doing it this way --

12 A. Yes.

13 Q. -- is that fair?

14 A. Yes.

15 Q. Let's look at {F/610}. This is April 2010. This is

16   "Operations functional report" and if we look at the

17   bottom, "Horizon Online high volume pilot", you can see

18   a few bullet points there and the bottom one is:

19   "Problems reported and decision made to halt further

20   migrations allowing further investigation and resolution

21   of issues."

22   Now, first of all did you see this document at the

23   time?

24 A. I don't recall seeing this, no.

25 Q. Were you aware of these issues at the time in the pilot?

1   Did you know it hadn't gone --
2   A. No not -- no.
3   Q. At all?
4   A. No, not that I can recall, but I wasn't close to the
5   absolute beat rate of how things were --
6   Q. Okay. And did you have a look at any of this sort of
7   documentary history before you wrote your witness
8   statement?
9   A. No, I haven't --
10 Q. Research what happened?
11 A. So a broad understanding of what happened, but I have
12   not seen these documents in that respect.
13 Q. Okay.
14 MR JUSTICE FRASER: Mr Green, you did interrupt again.
15 MR GREEN: I'm so sorry.
16 MR JUSTICE FRASER: Please don't.
17 MR GREEN: I'm sorry, my Lord.
18   If we look please at {F/588} that's PEAK 0195380 and
19   if we look at page 4 please {F/588/4}, 5 March 2010. In
20   the second box down -- do you see that?
21 A. In the green text, the big box?
22 Q. Yes, the big box.
23 A. Yes.
24 Q. "We have received notification from POL regarding the
25   problems at this office ... on the 1st of March at the

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1   close of business we found that on node 5 the cash was
2   short of £1,000. All of the figures for that day match
3   the figures presented at the time of each transactions.
4   An instant saver withdrawal for £1,000 was transacted
5   that day, but I was unable to find this transaction
6   using the online report facility. I feel very anxious
7   as I believe a system error has occurred at the time of
8   this transaction.
9   "On the 2nd of March a transaction for a cash
10   withdrawal was completed where the system commanded
11   a member of staff to issue the money to the customer on
12   screen but the receipt printed for that transaction
13   printed out a decline slip. The customer was honest
14   enough to bring back the decline receipt a day later
15   with the money.
16   "On the 2nd of March on node 5 a £220 cash deposit
17   was authorised on screen but 20 minutes later the
18   customer brought back a receipt that stating the
19   transaction had declined. We contacted the NBSC as and
20   when the customer produced the receipt. NBSC stated
21   that the transaction approved on the system and had no
22   idea why the money was not deposited and why the decline
23   slip was printed.
24   "A rem was scanned in our system and all the figures
25   had doubled up. The helpline team was notified at the

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1   time, to which they seemed more confused as to why it
2   happened than me!
3   "Another error occurred on the system when 10 items
4   of postage seemed to disappear for no reason halfway
5   through a customer's transaction. The system commanded
6   no money to be taken from the customer on screen or by
7   receipt.
8   "A transaction on node 2 where a car tax was entered
9   disappeared ..."
10   And so forth. Can you see?
11 A. Yes.
12 Q. This is a litany of issues that this person is raising
13   and it says at the bottom, about six lines up from the
14   bottom of that box:
15   "I have a deep regret in initially volunteering to
16   take part in this new pilot scheme, as I did not expect
17   to have these complications with such poor services from
18   the helpline.
19   "Unfortunately our migration officer is away ...
20   leaving us with no one with the means to correct our
21   issue today. Why should it be my liability to recoup
22   all the losses in this already declining business, when
23   these systems should have adequate contingencies for any
24   such problems that could or would arrive. It seems that
25   the helpline have left me for seven hours now without

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1   any intention of calling us back as no one again wants
2   to take ownership over this problem."
3   Now, pausing there, were you aware at all of that
4   level of difficulty being encountered by people who had
5   volunteered for the pilot for Horizon Online?
6   A. No.
7   Q. Let's look at {F/614} please. This is a Post Office
8   document. It is Horizon Online programme update,
9   8 April 2010, do you see that?
10 A. Yes.
11 Q. And can we go to page 4 please {F/614/4}. You can see
12   there 614 branches live, almost 90% have a router
13   installed, high volume pilot suspended, NFSP have raised
14   concerns but remain supportive, business case and
15   benefits secure, Fujitsu initiated red alert and
16   independent reviews. Were you made aware of that within
17   Post Office?
18 A. No.
19 Q. Let's have a look at {F/639} please, the following
20   month, May 2010. If we go to page 6 please {F/639/6}
21   because quite a lot of it is redacted. We can see that
22   the document is authored by Paula Vennells, the network
23   director, and if we come back to page 3 {F/639/3}:
24   "Executive correspondence (flag cases): the
25   executive correspondence team are still receiving some

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1   letters from MPs despite the current purdah. Each case
2   is dealt with individually ensuring that we tackle any
3   relevant customer issues but stay within current purdah
4   guidelines. Internally we are dealing with requests
5   from subpostmasters who would like compensation in
6   relation to closures following the Horizon issues over
7   the Easter period."
8   Were you aware there had been Horizon issues over
9   the Easter period in 2010?
10   A. Not that I can recall, no.
11   Q. Okay. Did you see this document, can you remember?
12   A. It would be hard to recognise it now, wouldn't it?
13   Q. It's very difficult, I agree.
14   A. So I don't think I did.
15   Q. Sort of striped with redactions, it's difficult.
16   At {F/930} we've got a pack for James Arbuthnot and
17   Oliver Letwin meeting scheduled for 17 May and if we
18   look at page 2 of that {F/930/2} we can see who the
19   attendees were: James Arbuthnot, who was then an MP for
20   North East Hampshire, Oliver Letwin, Alice Perkins, the
21   chairman of the Post Office, Paula Vennells, the
22   chief executive, Susan Crichton and Lesley Sewell and
23   then case review, Mr Ismay and yourself.
24   A. That's correct.
25   Q. And this was essentially the planning pack for that

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1   meeting, wasn't it?
2   A. Yes.
3   Q. And if we look at page 3 please {F/930/3}, in item 1,
4   fourth bullet point, it says:
5   "We are open to feedback and we will provide you the
6   information we have available, our aim is to be open and
7   transparent."
8   Yes?
9   A. Yes.
10   Q. And the plan was that that was to be said at the
11   meeting. And if we look at page 12 {F/930/12} you can
12   see there under "Background" do you see:
13   "In 2010 Horizon underwent an upgrade. The upgraded
14   system was tested and has the full support of the NFSP."
15   Bottom hole punch?
16   A. Yes.
17   Q. It wasn't really an upgrade from the perspective of
18   functionality for SPMs, was it, as we have already
19   identified?
20   A. No, agreed.
21   Q. And that doesn't give a completely clear explanation of
22   that, does it?
23   A. No, it is quite limited in what it says there.
24   Q. And it could be read as meaning it had been upgraded
25   from their perspective when the truth was it hadn't?

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1   A. Yes. I mean I don't know what was said around that
2   because I wasn't in the whole of the meeting.
3   Q. And then it says:
4   "The upgraded system was tested and has the full
5   support of the NFSP."
6   It is true, as far as we can tell from the
7   documents, that NFSP was still supportive, but they had
8   actually raised concerns about it, hadn't they?
9   A. Yes.
10   Q. We saw that on page 4 of {F/614}. So that doesn't give
11   the complete picture to the MPs either if that's what
12   was said?
13   A. If that's what was said, because I wasn't party to that
14   conversation.
15   Q. Let's look please now at {F/658} please. It is the
16   functional report operations, June 2010, and on page 1
17   you can see Horizon Online:
18   "Successful completion to pilot of new
19   Horizon Online migration package.
20   "Horizon Online high volume pilot successfully
21   recommenced."
22   So what had happened there was that the halt that
23   had been placed on it had been lifted so it could
24   recommence, is that fair?
25   A. Yes.

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1   Q. And this is something that you must have known about at
2   this time, is that fair? You know the --
3   A. Sorry, I don't recall ...
4   Q. No? You didn't know that the pilot had been stopped and
5   then recommenced?
6   A. I don't recall that it had actually been stopped and
7   recommenced, no.
8   Q. Let's look on page 2 please {F/658/2}:
9   "Horizon Online losses: over the last month a small
10   number of branches have raised concerns in regard to
11   system integrity and the creation of losses. So far no
12   evidence of system integrity issues has been found."
13   Were you aware that branches were raising system
14   integrity issues at this time?
15   A. No, I don't recall any information flowing out of that.
16   Q. Let's look please at {F/657} which is the network
17   functional report, June 2010 and if we look at page 3
18   please {F/657/3}, Horizon Online, we've got:
19   "High volume pilot resumed, 100 Crowns migrated with
20   further 170 Crowns planned this week.
21   "Ongoing delay to the programme impacting on
22   resource available to deliver migration support.
23   Support team continually reducing as people leave on VR
24   terms ..."
25   That's voluntary redundancy, isn't it?

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1 A. Yes.
2 Q. So the support team was reducing because of voluntary
3   redundancies, yes?
4 A. Yes.
5 Q. " Initiating contingencies (eg more subpostmasters) but
6   to deliver the roll -out as planned we will now refuse
7   any further requests for people to leave the team to
8   take up roles in POL."
9   So that was one facet of provision of support to
10   SPMs who were affected by some of these issues , yes?
11 A. Yes.
12 Q. And if we go forward please to {F/708} this is a period
13   12 09/10 sales report. What is period 12? Just to
14   orientate ourselves by date?
15 A. That would be March.
16 Q. That would be March?
17 A. Yes.
18 Q. Of 2010?
19 A. We run April to March in our periods, yes.
20 Q. April to March, okay. So March 2010 it looks as if
21   we're in . And if we can go please to page 8 of that
22   document {F/708/8}:
23   "Horizon migration - a number of issues have
24   occurred with the data centre which have impacted [or]
25   have affected live service to all Horizon Online

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1   branches. Following on from this a decision has now
2   been made to extend the duration of the pilot period to
3   allow for further testing to be undertaken on the
4   system. As a consequence the planned date for the full
5   roll -out schedule to commence has now been postponed
6   until satisfactory progress has been made in achieving
7   stability of branches within the pilot ."
8   Did you have any visibility of this at the time? If
9   you didn't I can take it even more swiftly .
10 A. I must have had some but I can't recall to be honest.
11 Q. You can't recall . Did you look at any of this history
12   to --
13 A. No, no.
14 MR JUSTICE FRASER: To what?
15 MR GREEN: In order to give the description you give in your
16   witness statement?
17 A. Sorry, that's what I understood.
18 Q. That's what you understood?
19 A. Yes and the answer was no.
20 Q. I will take it a little bit more quickly then. If you
21   just go forward all the way to {F/1402}. This is an
22   extract from "Lessons Learned log" and under the area
23   "Audits" at 4.1 we can see certain complaints about
24   audits and so forth :
25   "Existing branch discrepancies not discovered during

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1   audit of branch".
2   And so forth . And "Rationale for change:
3   "Postmasters perceive a lack of knowledge of person
4   conducting branch audit.
5   "POL needs to be confident that colleagues
6   performing audits are competent and there is confidence
7   across the network.
8   "POL need to be able to have clear sight of
9   losses /gains throughout the network."
10   Is this a document you are familiar with?
11 A. Yes.
12 Q. It is from 11 November 2015. It has your name at the
13   bottom left -hand corner, hasn't it ?
14 A. Yes.
15 Q. Were you the author of the document?
16 A. Yes.
17 Q. You were?
18 A. Yes.
19 Q. And what was the purpose of this document?
20 A. So the purpose was to look at any areas that I thought
21   we could improve. So at this time -- so we had been --
22   so we had -- branch support programme had been running,
23   we had done the initial complaint to the mediation
24   scheme and we had some business as usual areas that we
25   were investigating , some issues as well, so what I took

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1   the opportunity to do then was look at what I believed
2   were enhancements/improvements that we could make to how
3   we operated to better support postmasters.
4 Q. And let's just identify the column headings. The
5   left -hand column is area, the second column is "Issue
6   identified ", the third column is "Rationale for change"
7   and the fourth column is "Consideration for
8   Post Office"?
9 A. Yes.
10 Q. If we go forward please to page 5 {F/1402/5}, 9.2:
11   "Failure to be open and honest when issues arise eg
12   roll out of Horizon, HNGx migration issues/issues
13   affecting few branches no the seemingly publicised ."
14 A. Yes.
15 Q. That was something you were specifically aware of,
16   wasn't it ?
17 A. So that was out of -- there were some cases that we had
18   investigated as part of the mediation scheme.
19 Q. So you knew that there had been an issue about failing
20   to be open and honest during both the roll -out of
21   Horizon itself and the migration to HNGx which is
22   Horizon Online, yes?
23 A. Yes. But it was from a very limited source, it was just
24   from what I had investigated as part of this .
25 Q. So in your investigations you didn't look at any of the

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1   sorts of documents that I have been showing you?
2 A. No.
3 Q. And do you accept that they might have helped to inform
4   you as to the extent to which those complaints were
5   justified?
6 A. Yes.
7 Q. If you had looked into it?
8 A. Yes.
9 Q. And the next box across says:
10   "Need to understand and action learnings from
11   Horizon, HNGx roll-out ..."
12   We can't see what that says. Without saying
13   anything that's privileged, what is the point you are
14   making there, in as far as you are able to tell
15   the court?
16 A. Sorry, in which part, the middle bit?
17 Q. No, the top bit, where you say "Need to understand and
18   action learnings from Horizon, HNGx roll-out ..."
19 A. So what I was trying to say was a broad -- a broad
20   concept really of as we do things across the business
21   then we should always look to see what lessons we could
22   take from whatever we do, in some cases they could be
23   very small things and in other cases they could be
24   larger things and this was a document then that I was
25   handing over into the business as usual environment as

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1   a lessons learned, so "These are what we have observed
2   and these are the things that we would suggest", which
3   is why it said "for Post Office consideration".
4 Q. Because you go on in the bottom of that box to say:
5   "Adopting a mindset of that no hidden agenda/no
6   'skeletons in cupboard' will demonstrate that lessons
7   have been learned from Horizon, HNGx ... and business
8   shows its willingness to change."
9 A. Yes.
10 Q. You felt that would be an important change, didn't you,
11   and a helpful one?
12 A. Yes.
13 Q. What's proposed to do in the right-hand box is:
14   "Use standard communications in branch to reinforce
15   consistent message to customers and stakeholders."
16   And:
17   "Engage champions of POL and stakeholders throughout
18   the process of change."
19   That didn't actually specify any particular measures
20   for openness or transparency, did it?
21 A. No. No, that was quite broad. I mean so these were say
22   areas of consideration, they weren't really specific.
23   In some cases I would have been more specific, in others
24   I was being quite broad. What I meant by that were
25   things around -- so the branch user forum, for instance,

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1   is actually bringing in postmasters and people from
2   within the business to take their B1 input and to
3   share -- to get their insight into things. That was in
4   a broad sense.
5 Q. Do you know what happened to that proposal? What action
6   was taken, if any, to implement what you had suggested?
7 A. I don't -- I don't know what happened to that one.
8 Q. Is there any evidence that you are aware of something
9   actually happening?
10 A. With branch user forum, yes, things did happen, as you
11   have seen and that was a very, very open forum and that
12   was used to engage particularly product managers or any
13   changes that were happening to the network would come to
14   the branch user forum and share in confidence a very
15   early view and take input and that kind of fed through
16   in terms of the new technology. IBM we were talking to
17   at the time in the front office and also the hardware
18   swap out that we did later on as well. Those are the
19   kind of things.
20   So some of it did happen, but I can't say I have
21   tracked that through.
22 Q. Is it fair to say in the branch user forum, when we
23   actually look at the branch user forum logs a lot of
24   that is actually feedback from SPMs to Post Office,
25   rather than Post Office saying "Look, we're aware that

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1   this has gone wrong and so" --
2 A. It changed actually. So when it was first set up it
3   very much was that, so it was taking a lot of input from
4   postmasters and there was a Crown VM there as well, an
5   ABM, so it was across the business. It was a lot of
6   taking input and then it changed. As it got more --
7   I suppose as everybody got more comfortable and we
8   addressed some small areas and some quick wins in that,
9   it changed then to being seen as the forum to come to
10   get input to things like, you know, the new hardware,
11   the keyboard, the layout of the keys, for instance, on
12   the keyboard, even down to that basic level around what
13   that layout should look like in terms of the operation,
14   but other things as well.
15 Q. So sort of just looking at a practical point on that is
16   if you have buttons very close together to each other
17   which can easily be confused, that tends to increase the
18   risk of miskeys, doesn't it?
19 A. No, what it was on this -- there were two or three
20   keyboards that were being considered, size, shape, and
21   what we were asking -- you know, postmasters in the
22   forum, the users, "From how you operate the system,
23   which keyboard suits you better around the functionality
24   of easy of operation?"
25 Q. You mean a normal keyboard --

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1 A. Yes.

2 Q. -- not how it is presented on the Horizon scene?

3 A. This was about the hardware, which was --

4 Q. Not the touch screen?

5 A. So that would be the software. This was about the

6 hardware.

7 Q. Okay. Let's briefly turn, if we may --

8 MR JUSTICE FRASER: Now, Mr Green, I am going to suggest you

9 stop now.

10 MR GREEN: I will.

11 MR JUSTICE FRASER: We've got a number of matters to deal

12 with.

13 MR GREEN: My Lord, yes.

14 MR JUSTICE FRASER: This is going to take about ten minutes.

15 You are very welcome to stay in the witness box if you

16 would like to, but you don't have to. You are still

17 going to be giving evidence tomorrow so please don't

18 discuss the case.

19 A. Of course.

20   Housekeeping

21 MR JUSTICE FRASER: I have some items and then we will come

22 back to some of the other items.

23   Mr De Garr Robinson, I am going to ask you to do

24 a task please, which is a redaction review. I have been

25 noting the different documents that have been redacted

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1 and it seems to me that some of them are crying out for

2 a review by leading counsel of the basis on which they

3 have been redacted. I will just go through the list.

4 There is F/1549, F/1225, F/1664, F/610, F/639, F/658,

5 F/657, F/708 and F/1402.

6   I'm obviously not going to impose a time on you and

7 perhaps tomorrow you could just give me an update as to

8 how long you think it might take you. It might be

9 necessary to recall witnesses, hopefully it won't be,

10 but in the first instance I'd like you to review those

11 reactions please.

12 MR DE GARR ROBINSON: My Lord, yes, so it is F/1549, F/1664,

13 F/1225, F/610, F/639, F/658, F/657 and F/1402.

14 MR JUSTICE FRASER: And there was F/708 as well.

15   The first couple appeared I think probably at the

16 beginning of the afternoon, the last half a dozen have

17 all been within the last 25 minutes.

18   That's the first point. The second point is --

19 I mean simply as an example, Mr De Garr Robinson, to

20 explain, F/708 is the monthly sales report

21 for March 2012. It has got quite a few redactions in

22 it. All of those I'm asking for a specific reason

23 I just think they are -- it is sensible to have it

24 reviewed.

25   Secondly, there's the outstanding point relating to

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1 7/8/9 May which I mentioned at the end of last week. Do

2 any of you have any issues with it being the Tuesday and

3 Wednesday rather than --

4 MR DE GARR ROBINSON: I have no issues with the 7th or the

5 8th.

6 MR JUSTICE FRASER: I didn't think you would have. Thank

7 you very much. Mr Green?

8 MR GREEN: My Lord, one member of our team can't do the 7th

9 at all and it is not easy for the rest of us but we can

10 do it.

11 MR JUSTICE FRASER: All right, 7th and 8th then, I'm afraid.

12 It is going to have to be.

13 MR GREEN: I understand.

14 MR DE GARR ROBINSON: My Lord, that's true of both -- I have

15 similar issues but …

16 MR JUSTICE FRASER: As far as I'm concerned, unless it was

17 physically impossible it's going to be the Tuesday and

18 Wednesday, so it's going to be the 7th and 8th.

19 MR GREEN: We understand.

20 MR JUSTICE FRASER: I will keep -- because I'm in an

21 indulgent mood I will keep the time for your lodging

22 your closings as it was before. So you won't lose

23 a day.

24 MR DE GARR ROBINSON: I'm afraid I have forgotten when our

25 closings are due.

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1 MR JUSTICE FRASER: I believe it was -- well, Mr Green is

2 about to tell me when it was. Do you remember when it

3 was?

4 MR GREEN: I've got it I think in a different notebook.

5 MR JUSTICE FRASER: I think your junior behind you is trying

6 to …

7 MR GREEN: My Lord, I think your Lordship had a day in mind.

8 I'm not sure we actually crystallised what it was.

9 MR DE GARR ROBINSON: I don't remember a day being actually

10 specified.

11 MR JUSTICE FRASER: Well, then, that's my fault and

12 I apologise.

13 MR GREEN: It may be ours.

14 MR JUSTICE FRASER: I will give you until noon on the Friday

15 before.

16 MR DE GARR ROBINSON: That's very kind of your Lordship.

17 MR JUSTICE FRASER: Because I have taken a working day off

18 you, so that's up to me. And the Monday is in any case

19 a bank holiday but that's not a problem from my point of

20 view. So noon on the Friday before, which I think is

21 3 May.

22   Right, well, that -- just give me one second. Are

23 we having an opposed application at 10 o'clock tomorrow

24 for a third party disclosure order against Royal Mail?

25 MR GREEN: My Lord, I was expecting that Mr Warwick would be

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1   coming over to do that at 10 o'clock.
2   MR JUSTICE FRASER: That's why I'm asking.
3   MR GREEN: Precisely.
4   MR JUSTICE FRASER: I don't have the witness statement that
5   you issued in respect -- I don't need it this minute but
6   if you have got one --
7   MR GREEN: We've got a copy just in case --
8   MR JUSTICE FRASER: Right, hand that up please.
9   MR GREEN: I'm afraid it has not been hole-punched.
10   MR JUSTICE FRASER: That doesn't matter.
11   MR GREEN: My Lord, I have literally just been passed
12   a yellow sticker saying "Some E&Y audits have arrived".
13   MR JUSTICE FRASER: All right, well, you can update me
14   tomorrow, or through my clerk later on.
15   MR GREEN: I'm most grateful.
16   MR JUSTICE FRASER: But these are the papers for tomorrow at
17   10 o'clock?
18   MR GREEN: My Lord, they are.
19   MR JUSTICE FRASER: Do you know -- we will just have to take
20   that as and when.
21   MR GREEN: If we find out anything this afternoon we will
22   let your learned clerk now and then --
23   MR JUSTICE FRASER: All right, that's excellent.
24   That's all my housekeeping.
25   MR DE GARR ROBINSON: My Lord, I have one piece of

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1   housekeeping which is your Lordship asked for an order
2   to be prepared reflecting what your Lordship indicated
3   this morning about the witness statement.
4   MR JUSTICE FRASER: Yes please.
5   MR DE GARR ROBINSON: Could I hand this up and then I will
6   hand it to my learned friend.
7   MR JUSTICE FRASER: Thank you very much indeed.
8   (Pause).
9   I have just signed that -- well, I have read it,
10   checked it, signed it. I will give it to my clerk and
11   it will be sealed by the QB.
12   So no more housekeeping?
13   MR DE GARR ROBINSON: My Lord, there is one other matter
14   which is one of my witnesses, Mr Membery. Your Lordship
15   may recall from the PTR that he has a serious illness
16   and your Lordship may recall that we indicated that he
17   would be having tests in hospital this week and we would
18   do our best to ensure that it was possible. My Lord, he
19   is currently due to be giving evidence on Wednesday.
20   The difficulty is he is in hospital today for tests --
21   this is to do with prostate cancer and --
22   MR JUSTICE FRASER: There is no need to go into -- you don't
23   have to go into details.
24   MR DE GARR ROBINSON: But he has been told that he needs to
25   attend for further tests tomorrow and Wednesday.

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1   MR JUSTICE FRASER: All right.
2   MR DE GARR ROBINSON: And at the moment he is not sure
3   whether he will be needed on Thursday as well.
4   MR JUSTICE FRASER: I will tell you what we should do with
5   him, there is flexibility in the timetable next week,
6   without -- I don't want that gentleman to feel under any
7   pressure at all.
8   MR DE GARR ROBINSON: I'm grateful.
9   MR JUSTICE FRASER: Take instructions, if with some sensible
10   interleaving or creating of what I imagine based on the
11   length of his witness statement is not going to be more
12   than half a day at the most if not probably an hour with
13   Mr Green, that could be fitted in either the week we're
14   not sitting, or if necessary some other time. But
15   I don't want him to feel under pressure to come here if
16   he is actually in hospital at the moment.
17   MR DE GARR ROBINSON: I'm very grateful to your Lordship.
18   MR JUSTICE FRASER: We will deal with that creatively.
19   Mr Green, anything from you?
20   MR GREEN: My Lord, the only thing that occurred to me, just
21   thinking about the sticker that has just arrived --
22   MR JUSTICE FRASER: The sticker?
23   MR GREEN: Sorry, the E&Y audits that apparently some have
24   now been received. Would your Lordship be amenable to
25   us requesting, if appropriate, that what's due to be

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1   heard tomorrow morning at 10 might be postponed until
2   the following morning at 10 if it looks as if we are
3   likely to have greater clarity on it?
4   MR JUSTICE FRASER: Yes, but you will have to take relevant
5   steps with Royal Mail and whoever they have
6   instructed --
7   MR GREEN: My Lord, of course.
8   MR JUSTICE FRASER: And you will have to notify the court.
9   MR GREEN: It may be easier just to come at 10 tomorrow and
10   get it clear.
11   MR JUSTICE FRASER: Let's put it this way: I'm here anyway
12   from quite a lot earlier than 10 so it is not a problem
13   for me to come down at 10 and go back upstairs and I'm
14   flexible. But you have my clerk's email address so it
15   is not an issue. If you would rather do it on
16   Wednesday -- well, just see how the land lies and just
17   decide.
18   MR GREEN: I'm grateful.
19   MR JUSTICE FRASER: But if it is to be moved from the date
20   in the order I made on Friday, you will have to notify
21   Royal Mail of that.
22   MR GREEN: My Lord, we would of course do that.
23   MR JUSTICE FRASER: What I don't want is Royal Mail coming
24   at very short notice and the claimants not being here.
25   MR GREEN: Of course.

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1   MR JUSTICE FRASER: All right. Is that everything?

2   MR GREEN: My Lord, yes.

3   MR JUSTICE FRASER: Thank you all very much.

4   Actually there is one point I should add to

5   everyone. If there is an opposed application tomorrow

6   at 10 o'clock, Mrs van den Bogerd, there is an outside

7   chance that we might not be ready to resume your

8   evidence bang on 10.30.

9   A. Okay.

10   MR JUSTICE FRASER: So please don't be concerned about that.

11   If you turn up and you look through the window and you

12   see -- I mean it will be open to the public, but you

13   probably won't want to come in given you will be giving

14   your evidence. If we're not able to start bang on 10.30

15   with you then I will probably start at say quarter to

16   11, but if the Royal Mail do come tomorrow, I imagine it

17   won't take a full 30 minutes, so it probably won't

18   arise, but just to tip you off basically, so you don't

19   worry that we have started without you.

20   Right, so, 10 o'clock for you, 10.30 potentially

21   10.45 for the Post Office, unless you want to sit in on

22   the Royal Mail. Thank you all very much.

23   (4.32 pm)

24   (The court adjourned until 10.00 am on Tuesday,

25   19 March 2019)

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