Horizons Issues - Alan Bates & Others v Post Office Limited

Day 17

June 7, 2019

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1   Friday, 7th June 2019

2   (10.15 am)

3   MR JASON PETER COYNE

4   Cross-examination by MR DE GARR ROBINSON (continued)

5   MR JUSTICE FRASER: Before we start, just formally I'm

6   handing down judgment number 5, which is the reasons for

7   the costs and the other orders of 23rd March. The

8   reference is 2019 EWHC 1373 (QB).

9   My learned clerk is going to give each party one

10   hard copy. There are three other hard copies, one of

11   which is for the press, there are two spare. If anybody

12   wants it emailing, if they put their email address on

13   a piece of paper and in the mid-morning break my clerk

14   will email it and it is going on BAILII later.

15   The other point, which is just a reminder, can the

16   two of you, please, between you, make sure that at the

17   end of the day you remind me to mention to you the PEAKs

18   and KELs hard copy.

19   MR DE GARR ROBINSON: Between us.

20   MR JUSTICE FRASER: There is a good chance during the course

21   of today excitement will overcome me and I will forget.

22   MR DE GARR ROBINSON: Between the three of us hopefully

23   someone will remember.

24   MR JUSTICE FRASER: Right. Mr de Garr Robinson.

25   MR DE GARR ROBINSON: My Lord.

<div align="center">1</div>

1   Mr Coyne, good morning.

2   A. Morning.

3   Q. I believe you have some homework to provide this

4   morning, is that right?

5   A. Yes. There was a number of questions that were asked

6   the other day that I have got the answers to.

7   Q. Yes. I'm not going to ask for oral answers. Have you

8   got pieces of paper indicating particular PEAKs and KELs

9   or whatever it was that you wanted to rely on?

10   A. Yes, I have got some notes here, they are rather rough.

11   I thought I would be reading them out rather than

12   handing --

13   Q. It is really a matter -- of course it is up to his

14   Lordship to decide but I would rather not have evidence

15   read into the record in that way. If you have documents

16   you wish to rely on then by all means produce them

17   but --

18   MR JUSTICE FRASER: Did you bring copies of the documents or

19   references of the documents that you were asked to

20   provide?

21   A. Some of them, my Lord. Some of the other questions were

22   about how many, so I have got a number of how many,

23   rather than a reference to all the documents. So, for

24   example, it was about how many retrospective OCRs and

25   OCPs, so I have a number for that.

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1   MR DE GARR ROBINSON: Actually I specifically don't want

2   evidence being read into the record which isn't

3   supported by document references and which is the

4   basis -- which is the fruit of work that you have done,

5   would this be right, this is all the fruit of work that

6   you have done since your last joint statement with

7   Dr Worden on 4th March, yes?

8   A. Yes.

9   Q. And this is the fruits of clever searches that you did

10   since that time, correct?

11   A. It was a simple search for the word "completed

12   retrospectively", that was the word I searched for.

13   Q. That's not the only item that you are going to address.

14   All of those items are matters that you have discovered

15   looking at the documents since your fourth joint

16   statement, correct?

17   A. Yes.

18   Q. Do you accept that in accordance with your duty as

19   an expert and as a matter of basic fairness to

20   Post Office, you should have provided this material to

21   Dr Worden and indicated the conclusions you were drawing

22   from it before this evidence started?

23   A. Mr Worden -- Dr Worden will have this material. These

24   aren't new documents. They are documents disclosed to

25   both of us at the same time. I haven't made a point in

<div align="center">3</div>

1   my report about these retrospective OCRs. It was as

2   a result of you asking me the question the other day

3   about the process that I simply answered that some of

4   them were completed retrospectively.

5   Q. That is one particular issue. There are other issues

6   which I imagine you knew very well you were going to be

7   asked about when you knew you were going to be giving

8   evidence, correct?

9   A. I'm not sure any of the other answers that I have got

10   here could have been foreseen that I would be asked the

11   question about.

12   MR JUSTICE FRASER: I'm not going to stop you, just so that

13   I can get a summary, all right?

14   Could either of you tell me where on the transcript

15   yesterday there was a summary about what the witness was

16   asked to do last night, because I have just quickly

17   looked for it and I can't --

18   MR DE GARR ROBINSON: My Lord, I don't believe there was

19   a discussion where we listed the specific points. It

20   was just along the way.

21   MR JUSTICE FRASER: All right.

22   Mr Coyne, I'm just going to try and save some of

23   Mr de Garr Robinson's time. Last night you were asked

24   to go off and do a particular series of exercises which

25   you would now, please -- don't give me the answers, but

<div align="center">4</div>

1   just tell me what they were as far as you understood
2   them, and I did make it clear that you had a list.
3 A. Yes.
4 MR JUSTICE FRASER: Would you like to give me the things you
5   went off to do.
6 A. Yes, it was to report how many OCRs and OCPs were
7   completed retrospectively. It was to provide the
8   reference to a PEAK that has been edited where the
9   branch is less than 32.
10 MR JUSTICE FRASER: Yes.
11 A. It is to provide an answer to how many TIP repairs were
12   conducted.
13 MR JUSTICE FRASER: Yes.
14 A. And in how many PEAKs --
15 MR JUSTICE FRASER: Sorry, have you gone onto another item?
16 A. Sorry, my Lord, I have.
17 MR JUSTICE FRASER: So that is the third item I have
18   identified, answer how many TIP repairs. The fourth
19   one, please.
20 A. Fourth item, how many times do we see evidence of
21   messagestores being rebuilt.
22 MR JUSTICE FRASER: Right. Therefore at least number 2 on
23   that list should be a list of references.
24 A. Yes, my Lord.
25 MR DE GARR ROBINSON: I have to say, my Lord, my

5

1   apprehension was what he was being asked was a list of
2   references of things.
3 MR JUSTICE FRASER: I understand that entirely and that's
4   something that might have to be pursued in a moment, but
5   at least number 2 on that list should be a list of
6   references. Have you provided anyone with that list of
7   references yet?
8 A. No, but I do have that reference for that one.
9 MR JUSTICE FRASER: Right. Well at least on that item
10   Mr de Garr Robinson is entitled to a list of references.
11   How many are there against that item?
12 A. I have only extracted one, my Lord, so I only have one.
13 MR JUSTICE FRASER: Why don't you give us the reference.
14 A. It is {F/377.1/1}.
15 MR JUSTICE FRASER: So that is the only reference arising
16   out of your exercise of last night which has now been
17   given to Mr de Garr Robinson.
18 MR DE GARR ROBINSON: And that is a reference for what?
19 A. That is a reference to a PEAK where it shows an edit
20   taking place where the branch that it is modified to is
21   less than 32.
22 Q. I see. It is the only -- it is a PEAK showing an edit
23   of messagestore data taking place, full stop. That is
24   the only PEAK of which you are aware that shows an edit
25   of the message -- of transaction data in the

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1   messagestore, correct?
2 A. The question that was asked was -- sorry, the position
3   that you put to me was that it is always 32 that is the
4   replacement, and I said that I had seen evidence that
5   that wasn't the case but I couldn't provide the
6   reference and that is one of the references of that.
7 Q. Well, Mr Coyne, as I recall, and it may be my fault and
8   I'm hesitant in case I might make a mistake, but my
9   recollection is you were asked for the references you
10   had showing an editing of transaction data or other
11   accounting data within the messagestore?
12 A. Yes.
13 Q. And would I be right in thinking you are only aware of
14   one and that's 377.1?
15 A. No, that's not correct. It is only where the branch
16   number is modified to be less than 32. The process that
17   was put to me is that whenever Fujitsu edits a message
18   they would replace the branch with the number 32, and
19   I said that that was incorrect and that I had
20   an example, and that is the example.
21 MR DE GARR ROBINSON: My Lord, what I'm getting is not what
22   I'm expecting and I don't believe it would be helpful
23   for Mr Coyne to read out from the notes he has plainly
24   obtained statements which actually aren't backed up by
25   any documents at all, so can't be ascertained or

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1   substantiated in any way. So subject to your Lordship,
2   I'm going to leave the matter there.
3 MR JUSTICE FRASER: Well, what I don't want to do today is
4   I don't want to have a detailed who had said what
5   yesterday about what he was and wasn't asked to do
6   because that's just going to use up too much of your
7   time.
8 MR DE GARR ROBINSON: We certainly can't do that today.
9 MR JUSTICE FRASER: Whether we can or not, I'm not prepared
10   to entertain that today.
11 MR DE GARR ROBINSON: I'm grateful.
12 MR JUSTICE FRASER: But so far as any other documentary
13   references he has, I would like to have them, and I'm
14   just going to ask you: what other documentary references
15   do you have?
16 A. So, my Lord, with regard to --
17 MR JUSTICE FRASER: No, just tell me the references. What
18   are the references you have gone away and looked up?
19 A. Annex A of my second report.
20 MR JUSTICE FRASER: Okay, well that's -- yes.
21 A. Specifically it was in the section --
22 MR JUSTICE FRASER: No, that's fine. It's annex A, I know
23   where that is, I can go and look at it. Next one.
24 A. The other two, my Lord, are numbers, a calculation of
25   numbers, so I don't have the underlying documents.

8

1 MR JUSTICE FRASER: As in the number of times you have seen
2   things?
3 A. Yes.
4 MR JUSTICE FRASER: Right.
5 A. If it would assist I can run that report and get the
6   numbers out but I wouldn't be able to do that --
7 MR JUSTICE FRASER: I don't really understand what that
8   means but don't worry about that.
9   So Mr de Garr Robinson, are you saying that Mr Coyne
10   shouldn't tell me and/or you the number of times he has
11   seen these things based on what you asked him yesterday?
12 MR DE GARR ROBINSON: Where we are now, my Lord, I say he
13   should not.
14 MR JUSTICE FRASER: Right.
15 MR DE GARR ROBINSON: Because it would then set all sorts of
16   new hares running. Mr Coyne might have to be recalled.
17   We would be in a pretty pickle, in my submission.
18 MR JUSTICE FRASER: And are you objecting to me hearing what
19   the numbers are on a de bene esse basis?
20 MR DE GARR ROBINSON: Yes.
21 MR JUSTICE FRASER: You are.
22   Mr Green, what do you want to say?
23 MR GREEN: I don't want to take up time, but your Lordship
24   will appreciate I don't think that is a very sensible
25   way. He was asked to do homework. Some of the examples

9

1   are easily identifiable on the transcript of what he was
2   asked, like page 94 yesterday about 32 {Day16/94:1}, and
3   he has done what he was asked.
4 MR JUSTICE FRASER: Thank you.
5   Mr de Garr Robinson, on the basis you asked him, and
6   you now have explained your position on his answers, I'm
7   just going to hand the floor back to you, you can
8   continue your cross-examination.
9 MR DE GARR ROBINSON: I'm grateful, my Lord.
10   Now, Mr Coyne, yesterday you may recall that I said
11   I would check something overnight?
12 A. Yes.
13 Q. It relates to the enhancement that was suggested by
14   Ernst & Young during the 2012/2013 audit that the
15   monitoring control to validate the proper management of
16   programme changes in POLSAP and HNG-X be generated
17   directly from the system, do you recall that?
18 A. Yes.
19 Q. You said you thought it was suggested in the 2011
20   Ernst & Young management letter, and I asked you some
21   questions on the assumption that it wasn't, saying that
22   I would check and if that was an unfair assumption
23   I would come back and apologise. Well, there is
24   something about it in the 2011 letter so I'm coming back
25   and apologising to you, Mr Coyne. As a matter of

10

1   fairness I should tell you where it is.
2   If we could go to {F/869/25}, please. There is
3   a heading on the left-hand side, you see "Segregation of
4   duties within the manage change process". Do you see
5   that?
6 A. Yes.
7 Q. Then on the second from the right there is a series of
8   recommendations.
9 A. Yes.
10 Q. And they go on. If you go over the page to page
11   {F/869/26}, there's the second bullet:
12   "Implementing a change monitoring control for the
13   in-scope applications whereby system generated list of
14   changes made to production are independently reviewed by
15   POL on a periodic basis to determine that changes have
16   been authorised authorised, tested and approved prior to
17   migration. This will help POL gain assurance that
18   changes implemented by third party service providers
19   have been approved by POL management."
20   Do you see that?
21 A. I do.
22 Q. If we go back to page {F/869/25} we will see "Management
23   Comment" on the far right-hand side:
24   "A Fujitsu project has been established to review
25   all user management areas and is being led by the CISO

11

1   of the RMG account."
2   Do you see that?
3 A. Yes.
4 Q. If one then goes over two pages, so this section goes on
5   for more than one page, {F/869/27}, the last comment in
6   the "Management Comment" box is that:
7   "POL is to ensure through a periodic sample and
8   exception review that changes have been authorised,
9   tested and approved prior to deployment."
10   Do you see that?
11 A. Yes.
12 Q. This is an example where an auditor suggests one thing
13   and the client comes back and indicates: I'm not sure
14   I'm going to do that but I will do this other thing
15   instead, which I believe you accepted but let me suggest
16   it again in case I misunderstood, that that sort of
17   thing happens all the time in these kind of situations,
18   yes?
19 A. Yes, it does. There are a number of other things on
20   other pages which it is suggested should be done by way
21   of recommendations. But no, I do accept your position.
22 Q. The recommendation was made and it is only right that
23   I should correct the position with you and give you the
24   opportunity to comment. And as I say, I am sorry
25   I overlooked this yesterday. It is a long document and

12

1   I missed that bullet point.
2   Just to put it in proper context to give you
3   a proper opportunity to comment, if we could look now at
4   your second report, please. That is at {D2/4.1/195}.
5   At paragraph 5.264 you said:
6   "Regarding the specific recommendations in the 2011
7   audit it is my opinion that the key recommendations
8   directly impact on some of the 18 countermeasures
9   outlined in Dr Worden's report and therefore are
10   relevant to the question of robustness of Horizon since
11   they offer an opportunity to improve these
12   countermeasures which it appears Post Office chose not
13   to take."
14   So you are saying there, aren't you, that the four
15   key recommendations made by Ernst & Young offered
16   Post Office an opportunity to improve countermeasures
17   which it did not take, yes?
18 A. Yes.
19 Q. The way I read what you are saying is that Post Office
20   chose not to take any actions to improve in response to
21   the four key recommendations. Would that be a fair
22   reading of what you said?
23 A. Yes.
24 Q. Now, would you suggest that that claim is justified
25   because amongst the proposals made there was a proposal

13

1   for a system-generated change monitoring process, and
2   Post Office responded by indicating that it would
3   enhance its monitoring in a different way?
4 A. Well, it is saying it wouldn't accept the auditor's
5   recommendation but would follow an alternative path.
6 Q. Do you say that justifies the claim that Post Office
7   chose not to take actions to improve in response to the
8   four key recommendations made by Ernst & Young? Because
9   I would suggest to you it doesn't justify that claim,
10   Mr Coyne, and that the claim is exaggerated.
11 A. I mean for clarity here, it is correct that I do make
12   reference to the key recommendations --
13 Q. It is all you are talking about, isn't it --
14 A. -- of which there are four, but actually that particular
15   audit does address a number of other elements. But it
16   is correct that my report does only reference the four.
17 Q. Let's move on. Let's talk about the bugs that you have
18   identified in the bug table in joint statement 2. We
19   will be referring to this a lot. It is at {D1/2/3}. It
20   starts at page 3.
21   Now, as I understand it, your analysis of all the
22   available evidence has culminated in a table which is
23   entitled, and we see it here:
24   "Table of Bugs/Errors/Defects with acknowledged or
25   disagreed evidence of financial impact."

14

1   Would that be a correct summation of what this table
2   is?
3 A. Yes. It can't be read completely in isolation of the
4   report, but it is an attempt to bring together most of
5   the references from the report into one single table.
6 Q. Would you accept that it brings together all the
7   references that you consider important and significant?
8 A. It may not do. There may be references that still
9   remain in the report that haven't been distilled into
10   this joint statement.
11 Q. Let me ask a slightly different question. This is the
12   definitive list, isn't it? You are not suggesting that
13   there are other bugs with evidence of financial
14   impact -- you are not relying on any other bugs with
15   evidence of financial impact, it is just the 29 bugs
16   identified here?
17 A. These are the ones that I have identified, yes.
18 Q. Thank you. Obviously in the time available I can't go
19   through all the bugs and I can't even go through all the
20   PEAKs and KELs referred to for some of the bugs, but
21   I can touch on a limited number. That simple fact, that
22   I can only touch on a limited number, does underline the
23   importance, doesn't it, of an expert in your position
24   summarising documents you are relying on accurately and
25   explaining their significance fairly? I am sure you

15

1   would agree.
2 A. Yes.
3 Q. Let's first of all talk about some issues that you say
4   are bugs. Could we go, first of all, please, to bug 15
5   which is at page {D1/2/13} of the table. Table 13, bug
6   15, "Phantom Transactions". You will see very helpfully
7   on the right-hand side of the table there are two F
8   numbers, there are two documents referred to which are
9   references for two PEAKs you are relying on for this
10   proposition, yes?
11 A. Yes.
12 Q. Let's look, first of all, at the PEAK which is {F/48/1}
13   which is PC0052025. Before going to that, while we have
14   still got the screen, it is worth mentioning that in the
15   "Identified Year/Year(s) in Effect" column, those two
16   bugs are referred to, one of them is August 2000 and the
17   other is April 2001, is that correct?
18 A. Yes.
19 Q. So would I be right in thinking that whatever problems
20   there were in 2000 and 2001 regarding phantom
21   transactions, the PEAKs indicate that such transactions
22   have not raised their ugly head for the last 18 years?
23 A. Yes.
24 Q. So we are just talking about the early period of
25   Legacy Horizon, is that right?

16

1 A. With regard to this particular --

2 Q. Yes. Let's look at {F/48/1}, please.

3   There may be a problem with the system.

4 MR JUSTICE FRASER: It takes such a long time because there

5   are so many documents in the folder, I'm afraid. Where

6   would you like to go? F?

7 MR DE GARR ROBINSON: F/48. Perhaps one way of doing it is

8   if you stay on the bug table itself you can click on the

9   hyperlink, which is probably what I should have

10   suggested first of all. Thank you.

11   Right, let's pick it up first of all at the top of

12   the page, page 1. It happened on 14th August 2000.

13   Well, actually --

14 MR JUSTICE FRASER: I think it is the 9th.

15 MR DE GARR ROBINSON: I'm so sorry, four lines down,

16   9 August 2000, 9.22. Do you see that, about four lines

17   down from the top?

18 A. Yes.

19 Q. "PM informs that receipt came out of machine at 2:14pm

20   and it had 3 transactions on it. Was advised that

21   transactions are cut off automatically if they are not

22   finished. P&A, BT payment card £5 and British gas bill

23   payment is also showing for £5, and there is another chq

24   for £43."

25   Then there is an entry for later I think in the same

<div align="center">17</div>

1   day:

2   "System has printed ghost transactions before, but

3   not this severe."

4   So we see from the size of the amounts involved in

5   this call that at least some subpostmasters are

6   perfectly happy to call in when they have got

7   difficulties with relatively small amounts of money,

8   would you agree with that?

9 A. Yes.

10 Q. And would it be fair to say you have seen a substantial

11   number of PEAKs where SPMs have phoned in with problems

12   about relatively small sums of money?

13 A. Yes.

14 Q. Thank you. These are described as ghost transactions,

15   and presumably that's why you have included this as one

16   half of the evidence you rely on in support of the

17   suggestion that Horizon had phantom transactions during

18   this period, yes?

19 A. Yes.

20 Q. If we go to page {F/48/2} to 14.12, so that is three

21   boxes down. It is David Seddon from the SSC and he

22   writes:

23   "Messages in the messagestore confirm that the

24   'phantom' transactions were due to them being in a

25   suspended session that was later forcefully committed

<div align="center">18</div>

1   explained this to PM who was happy with explanation but

2   she says she is sure she never pressed the suspend icon.

3   Nevertheless she agrees closure for this problem. Can

4   only assume that she hit the suspend icon by accident."

5   Do you see that?

6 A. Yes.

7 Q. First of all, these were transactions that were actually

8   typed into the system. They didn't appear out of

9   nowhere, would you agree with that?

10 A. Yes.

11 Q. What happened, though, was that having been typed in,

12   they weren't committed to the -- the basket wasn't

13   committed to the messagestore. Instead the screen was

14   left for a period of time and after a certain lapse of

15   time the system forcefully committed them to the

16   messagestore, yes?

17 A. Without any user interaction.

18 Q. Well, that's what you say, Mr Coyne, but isn't a fair

19   reading of what's in that box that the postmaster

20   accidentally must have touched "suspend" with her hand

21   or something with the result that the session was

22   suspended for that period of time?

23 A. Yes, that's possible, but it isn't that that was the

24   reference that I was making to without user interaction.

25   It is the later event, the automatic commit that would

<div align="center">19</div>

1   appear to have been done automatically without a user

2   being involved.

3 Q. I see. So what you are suggesting is that if the system

4   automatically commits an uncommitted basket after

5   a period of time that's evidence of phantom

6   transactions, that's evidence of a bug in Horizon that

7   needs to be corrected, is that what you are suggesting?

8 A. Well, it is evidence of the system doing something

9   without the user choosing to do it.

10 Q. Are you suggesting it is something -- it is evidence of

11   the system doing something wrong? I think you are,

12   aren't you?

13 A. Yes.

14 Q. Let's look at Mrs Van Den Bogard's witness statement, it

15   is at {E2/5/1}. To save time, I would ask you simply to

16   read paragraph 14.2 of her witness statement, please.

17   I'm so sorry, my note says page 54. Is it page 5? No,

18   it is paragraph 14.2 which is page 4. {E2/5/4}.

19   Could you read that paragraph, please,

20   paragraph 14.2. (Pause)

21 A. Yes.

22 Q. So this isn't evidence of Horizon going wrong, is it?

23   It is evidence of Horizon doing what it has been

24   designed to do. Yes?

25 A. It would appear from what's been said here that that was

<div align="center">20</div>

1   the design, but I can completely understand the user's
2   concern. They hadn't committed the transaction and they
3   might not have wanted to commit the transaction --
4 Q. It is a standard security measure in many IT systems,
5   measures of this kind, isn't it?
6 A. Yes, it is. It suspension of the user session is
7   certainly standard. A roll back of any work in progress
8   would be a standard. I have not seen one in a retail
9   environment or a banking environment where it will
10   actually complete a transaction that the user didn't
11   choose to complete just because they weren't at their
12   screen.
13 Q. And the receipt -- the system prints a receipt so that
14   the postmaster knows what has happened and if there is
15   a problem the postmaster can then reverse the
16   transaction, correct?
17 A. Yes.
18 Q. That's what the system is designed to do. The system
19   has to decide whether just to delete the entire session
20   from the system or to commit it. Either way a design
21   choice has to be made, and either way what's important
22   is that the subpostmaster knows what happens, and this
23   system is designed to give the postmaster that
24   information by printing out a receipt, correct?
25 A. Yes.

21

1 Q. Right. And you knew that, didn't you, when you included
2   this PEAK as a phantom transaction bug in your second
3   report?
4 A. No, I don't believe I did. No.
5 Q. Well, let's have a quick look at that just to see. It
6   is at {D2/4.1/114}. Do you have the page? Under the
7   heading "Angela Margaret Van Den Bogard" it says, 4.69:
8   "Mrs Van Den Bogard has provided a witness statement
9   commenting on individual cases and various disparate
10   factual matters, which I do not attempt to comment on in
11   detail here. I note the following discrete points."
12   Then under the heading "Phantom Transactions", you
13   say {D2/4.1/115}:
14   "I have seen evidence of phantom sales recorded in
15   the disclosed documents. PEAKs PC0065021 216 and
16   PC0052025 ..."
17   Which is the one we are just looking at?
18 A. Yes.
19 Q. "... (documented in further detail at section 3,
20   'Phantom Transactions (Horizon Issue 4)' above) refer to
21   phantom transactions in branches, the former which was
22   observed by an engineer on site at the branch and the
23   latter which refers to discrepancy arising from them."
24 A. Yes.
25 Q. So you did know what Mrs Van Den Bogard was saying

22

1   because you identified this very PEAK when you were
2   responding to that very evidence?
3 A. Yes.
4 Q. It is completely wrong, isn't it, Mr Coyne?
5 A. My understanding is now that it would appear that it is
6   a design feature, that that happens.
7 Q. If you don't mind my saying so, Mr Coyne, you appear to
8   be rather evasive. What I have just shown you is that
9   Mrs Van Den Bogard set out quite clearly in a witness
10   statement how the system was designed to operate, and it
11   was designed to operate in a way that committed
12   transactions that were left on the machine for a certain
13   amount of time and a receipt was printed so the
14   postmaster knew what had happened?
15 A. Yes.
16 Q. And you responded to that by saying, well, I have got
17   some evidence of phantom transactions and half of the
18   evidence, one of the two PEAKs you rely on for that
19   purpose, is a PEAK which actually demonstrates the truth
20   of what Mrs Van Den Bogard is actually saying, doesn't
21   it?
22 A. Certainly one of the two examples it would appear that
23   it is operating in line with the design, but I can
24   certainly understand how a user would perceive that that
25   would be a phantom transaction because they didn't

23

1   complete it --
2 Q. Mr Coyne, if we were looking at a table which was a
3   table of areas where users might get confused, then we
4   wouldn't be having this conversation.
5 A. Mm.
6 Q. We are having this conversation because you have added
7   this piece of evidence as evidence in support of the
8   proposition, firstly, that there are bugs in Horizon
9   and, secondly, that they cause losses, lasting losses to
10   postmasters. That is right, isn't it?
11 A. Yes.
12 Q. And you agree now, do you, that this PEAK is not
13   evidence either of a bug or of the causing of a lasting
14   loss to a postmaster?
15 A. I do agree.
16 Q. Thank you. So I then come to my final question which is
17   how is it you came to include this PEAK both in your
18   report and even in the bug table here on page 13? Did
19   you not read the PEAK properly?
20 A. Yes, I did read the PEAK properly, possibly not in full
21   consideration of the witness statement of Ms Van Den
22   Bogard.
23 Q. But you cited the PEAK in response to her witness
24   statement.
25 A. I did.

24

1   Q. So you must surely have had it in mind when you were
2   choosing those two PEAKs to refer to. Would I be right
3   in thinking -- would an outsider be right in thinking
4   that you were anxious to find evidence in support of the
5   hypothesis that Horizon generates phantom transactions
6   and you saw a very helpful reference at the top of the
7   first page and you thought, I'll have that, let's put it
8   in. And you then included it in your second witness
9   statement and you have included it in your bug table.
10   Would it be reasonable for an outsider to form that
11   impression?
12   A. I would certainly have taken it from my report and put
13   it into the joint statement table, yes, that would be
14   the case.
15   Q. Did you not check the PEAKs -- before you lifted the
16   PEAKs from your report and put them in the bug table did
17   you not check them, review them, to make sure that they
18   really were good evidence of the propositions for which
19   you were citing them?
20   A. The process that I followed with Dr Worden is we went
21   through our respective reports, put the text in where it
22   was a shared text or separate text, and then in order to
23   assist the court we put as many relevant references as
24   possible from our reports into this table. That was the
25   purpose of that. And it would appear that rather than

                                25

1   validating each of the references in the report before
2   putting them in the table I have lifted the references
3   out of the report and put them in the table.
4   Q. So you didn't check them?
5   A. I haven't checked each and every reference -- I checked
6   the references in the report, before they went in the
7   report, but I haven't re-checked and opened all the
8   documents before we put the references in this
9   "Supporting Evidence" column. This is a shared column,
10   the "Supporting Evidence" column at the end. You will
11   see that Dr Worden has put some references in there and
12   I have put references in there.
13   Q. Yes, but you are not suggesting that Dr Worden has
14   suggested the inclusion of F197, are you?
15   A. No.
16   Q. Thank you. Let's go to the other PEAK you rely on.
17   In the bug table at {D1/2/13}, you say:
18   "Whilst no specific branch account discrepancies are
19   noted, many events recorded in the PEAK PC0065021
20   suggesting multiple 'Phantom Transactions' at branch
21   during the period of 14th April 2001 to 12th November
22   2001. It is therefore possible (with the unpredictable
23   nature of Phantom Transactions) that branch accounts
24   could have been impacted.
25   "Observations recorded on 19th June 2001 by

                                26

1   Fujitsu's Patrick Carroll, 'I now have pressing evidence
2   to suggest that unwanted peripheral input is occurring,
3   the likely source being the ...screen I have observed
4   system activity corresponding to screen presses
5   happening with no corresponding [sic] evidence of either
6   routine system activity or human interference."
7   So that's what you say about that PEAK in the bug
8   table?
9   A. Yes.
10   Q. Let's have a look at the PEAK. It is at {F/97/1}.
11   Before I ask you a question about that, I'm reminded,
12   Mr Coyne, that you already knew that Horizon false
13   commits transactions which are in a counter for
14   a substantial period of time. You say that in
15   paragraph 3.151 of your second report, do you remember
16   doing that?
17   A. I would have to go back and refresh myself.
18   Q. It is at {D2/4.1/56}.
19   MR JUSTICE FRASER: I think the passage that you have just
20   been asked about is at the top of {D2/4.1/57}. So 56
21   and 57.
22   You say at the top of page 57:
23   "It appears that Horizon will, after periods of
24   inactivity ultimately commit transactions a
25   Subpostmaster has not fully completed themselves."

                                27

1   Actually you say that in relation to, if you look at
2   3.150, the very PEAK we have been looking at
3   {D2/4.1/56}. So that makes your inclusion of this PEAK,
4   as an example of a bug causing a subpostmaster losses,
5   that makes it even more curious. You did write both
6   section 3 and section 4 of the report, I am sure?
7   A. I did, yes.
8   Q. I would not even suggest to you otherwise, Mr Coyne. So
9   how is it that you came to such inconsistent results in
10   two different parts of the same report? Can you
11   explain?
12   A. Yes. It is a mistake to include that as a reference as
13   an example for that phantom transaction.
14   Q. So let's go back to {F/97/1} and if we pick it up on
15   page {F/97/4}. It is a very long PEAK. It is a big
16   yellow box on page 4 and about perhaps a little less
17   than a third of the way down there is a date 30/4/01,
18   14.12. Do you see that?
19   A. Yes, I do.
20   Q. We have got:
21   "Information: Romec attended site 23/4/01 carried
22   out inspection and testing and report no fault found
23   with the Horizon circuit."
24   Just for the record, who is Romec?
25   A. I believe Romec are hardware engineers, or communication

                                28

1   engineers.

2   MR JUSTICE FRASER: Mr de Garr Robinson, I'm sorry,

3   I haven't found that part.

4   MR DE GARR ROBINSON: It is 18 lines down.

5   MR JUSTICE FRASER: Ah, yes. It is just that there are two

6   entries at 30/04/01 and the other one is a bit further

7   down, out of chronological order.

8   MR DE GARR ROBINSON: It is at 14.12. And if you go down to

9   just after the bottom third of the same page, there is

10   01/05/01 at 10.56, do you see that?

11   A. Yes.

12   Q. It says:

13   "Information: Romec are contacting the site to let

14   them know that they will be attending site 2/5 to fit

15   suppressors and double sheet flyleads, in order to help

16   the enviromental fault ."

17   A. Yes.

18   Q. I am sure you will recall that all sorts of

19   environmental tests were done at this particular site to

20   see if the environment was responsible, yes?

21   A. Yes, and certainly the fitting of suppressors and

22   sheeted flyleads would suggest that that's what they

23   suspected.

24   Q. It is fair to say from reading the PEAK as a whole -- we

25   don't have time to go through it all -- that the

29

1   investigations that Fujitsu carried out were very

2   thorough, weren't they?

3   A. Yes. I think they ultimately determined they could not

4   decide what the fault was but the process seemed to be

5   a reasonable process to go through.

6   Q. And they sent engineers from Romec. Do you know what

7   Romec's familiarity with the system is?

8   A. I would suspect that they know the hardware and the

9   communication equipment very well. I don't know if they

10   will know how Horizon as a software product would work.

11   Q. That is a very fair answer. You saw where I was going

12   and that is a very fair answer, Mr Coyne. They might

13   very well know how to set the system up, make sure

14   everything is connected and see that everything is

15   logged on properly, but when it comes to the internal

16   workings of the system itself they may well not be

17   familiar, yes?

18   A. Yes.

19   Q. Thank you. Anyway, they were sent to inspect and test

20   the circuit and improve the cabling. We have already

21   gone to the reference I was taking you to.

22   If we go to page {F/97/5}, which is 2/5/01, at

23   14.12. "Information". That's about a third of the way

24   down, my Lord. Does your Lordship see it?

25   MR JUSTICE FRASER: Yes.

30

1   MR DE GARR ROBINSON: 02/05/01, 14.12.

2   MR JUSTICE FRASER: With "UK052436" next to it?

3   MR DE GARR ROBINSON: Yes.

4   "Information: Romec have been to site today and

5   fitted shielded cabling and suppressors. Romec engineer

6   advises that he has witnessed further phantom

7   transactions whilst on site . He will carry out further

8   tests and advise results ."

9   So there is the Romec engineer seeing phantom

10   transactions?

11   A. Yes.

12   Q. That's the visit that's referred to in the quote that

13   I have read out from the joint statement, isn't it?

14   A. Yes.

15   Q. So the engineer comes in, he logs the system off, he

16   fits the suppressors and whatever else he needs to do,

17   then logs on again. And while he was there he saw what

18   are described as phantom transactions, yes?

19   A. Yes.

20   Q. They could equally be described, I suppose, as ghost

21   transactions, couldn't they?

22   A. They could be, yes.

23   Q. The reason why I ask that question is because we have no

24   idea what he saw and we have no idea whether he

25   misinterpreted something, do we?

31

1   A. We don't, but it would be reasonable to assume that

2   an engineer whose particular role it is to service

3   Horizon equipment, whilst he wouldn't know how to

4   operate Horizon in detail , would have a reasonable

5   understanding of how it would work.

6   Q. Maybe, Mr Coyne, another counter hadn't been used for 59

7   minutes, it had uncompleted transactions on it , and it

8   automatically completed them and printed a receipt .

9   That is possible, isn't it?

10   A. That is possible.

11   Q. And it is possible that an engineer with his familiarity

12   of the hardware would not know that feature of the

13   operating system of Horizon, so he might be surprised by

14   that, correct?

15   A. He might be surprised by that. But I think we have got

16   to read this in context, that the subpostmaster had

17   already explained that they perceived that there were

18   problems with what they said was phantom transactions.

19   So Post Office and/or Fujitsu would have gone through,

20   I would presume, their support process, would have

21   looked at various logs and things like that before

22   dispatching a hardware engineer to site . So if they

23   suspected that it was just the simple case of a counter

24   coming to the end of its 59 minutes of suspension and

25   doing something automatically, I think they would have

32

1   dealt with that before dispatching an engineer.
2 Q. We can agree, Mr Coyne, that the SSC had experience of
3   these things and they had access to information that we
4   don't have. We can agree on that. But just focusing on
5   the Romec engineer visit, would you not accept that it
6   is quite possible that the engineer saw something which
7   was an example of Horizon operating as it should and was
8   not in fact a phantom transaction at all, and he
9   misinterpreted it because he didn't have the familiarity
10   with the system that someone at Fujitsu might have?
11   Would you accept that that was at least possible?
12 A. I accept that it was possible if you look at that visit
13   in isolation, yes.
14 Q. And then what we know is that there are further
15   investigations for some months and Mr Carroll is
16   involved from at least 4th May, I think. You see his
17   reference. If you go down to the bottom of page 5, you
18   see 04/05/01 at 9.30?
19 A. Yes.
20 Q. "information Ki Barnes has called in. I am unsure as to
21   what to do with this call now. Romec have been to site
22   and state that they have actually seen the phantom
23   transactions, so it is not just the PM's word now. They
24   have fitted suppressors to the kit but the PM is still
25   having problems. As yet there has been no recurrence to

33

1   the phantom transactions but there still may be
2   problems. Contacted Pat Carroll for guidance."
3   So it is fair to infer, isn't it, that Pat Carroll
4   was someone very experienced and more senior in the
5   organisation?
6 A. Certainly his name appears on a number of documents that
7   I have seen.
8 Q. And it is fair to assume, isn't it, that he is in a good
9   place, with the information and the experience that he
10   has, to form a judgment as to what the likely cause of
11   these problems are, yes?
12 A. Yes.
13 Q. Well, the matter goes on for some months and there are
14   further investigations. If I could pick it up in
15   November now at page {F/97/9}. If we go to the bottom
16   of the page, 12/11/01, at 9.48. This is Patrick Carroll
17   himself:
18   "Phantom Txns have not been proven in circumstances
19   which preclude user error in all cases where these have
20   occurred a user error related cause can be attributed to
21   the phenomenon."
22   {F/97/10}:
23   "I am therefore closing this call as no fault in
24   product."
25   Now, given Mr Carroll's experience and the

34

1   information he has available to him, and given that as
2   you have yourself fairly acknowledged this phantom
3   transaction problem hasn't re-appeared since
4   November 2001 in any PEAK, would it be fair to suggest
5   that the best judgment to trust in relation to what was
6   going on here is Mr Carroll's judgment?
7 A. Certainly Mr Carroll would have access to all the
8   information that should allow him to determine the
9   position. One thing that I do note from that, there is
10   no reference to looking at the audit logs or the ARQ
11   data which may well have confirmed what was going on
12   while the Romec engineer was on site and would almost
13   certainly document whether the recovery from
14   a suspension, as we talked about before, actually
15   happened at that time, and I don't believe that this
16   document reflects that that investigation was conducted.
17 Q. Nonetheless, Mr Carroll formed the judgment that he did.
18   Do you think that adopting a balanced approach when
19   explaining this PEAK in your expert report at some
20   length, for example, it would have been helpful to have
21   included his conclusion at the end of the PEAK as well
22   as including the earlier passage that you quote in the
23   joint statement?
24 A. I don't believe that would be required. The reference
25   to the PEAK is there. There's lots of detail in that

35

1   PEAK that --
2 Q. But haven't we already agreed several times, Mr Coyne,
3   that given that so many documents, I mean a mass of
4   documents -- if you try to weigh all the documents you
5   refer to in your two reports it would probably come to
6   something close to my own body weight, and that's saying
7   something -- it is simply not humanly possible to read
8   all the documents you refer to in your report or at
9   least not in a limited amount of time, and in those
10   circumstances wouldn't it be helpful, given that we are
11   all relying on your report for a fair summation of the
12   document, wouldn't it be helpful and fair to have
13   included the passage at the end of the PEAK which is
14   less helpful to your analysis as well as the passage in
15   the middle of the PEAK which is, you consider, helpful
16   to your analysis. Do you not think that would have been
17   an appropriate and fair thing to do?
18 A. I don't. I accept that it would be an enhancement to
19   the report but I would not know where to stop if we keep
20   including all aspects of all documents that are
21   referenced.
22 Q. I have got one suggestion for you, Mr Coyne. Why not
23   try and avoid stopping when you have mentioned the bad
24   points? Why not try and carry on so that you can
25   mention some points for balance as well? Do you not

36

1　　think that would be a good idea?

2　A.　Yes.

3　Q.　Because in your report wouldn't it be fair to say that

4　　that tends to be what you have done? In many cases, you

5　　have mentioned the bad things arising from the document

6　　or what you perceive to be a bad thing, a critical thing

7　　in Horizon arising from a document, but you don't

8　　trouble yourself to mention any of the other points that

9　　may be mitigating or maybe positive?

10　A.　No, I don't think that's fair at all. I think you have

11　　been able to point me to this example but I do not think

12　　that's fair at all.

13　Q.　And one other final question. Do you think you are in

14　　a position now, in 2019, looking at this PEAK nearly

15　　18 years ago, to say that Mr Carroll, with the

16　　familiarity he had with the system and with the

17　　information that he had at his fingertips, he must have

18　　been wrong in his attribution of the cause for the

19　　difficulties experienced at this branch?

20　A.　I think with the ARQ data you would be able to determine

21　　what the position was.

22　Q.　That wasn't my question, though, was it? My question

23　　was do you think you now, with the information you have,

24　　are in a position to say that Mr Carroll was wrong?

25　A.　No.

37

1　Q.　Thank you. I suggest to you none of us are in that

2　　position. It is impossible at this remove in time and

3　　on the information available to us to come to any view

4　　as to whether this was a phantom transaction or not,

5　　would you agree with that?

6　A.　What I can say is that on balance, because it has been

7　　reported by a subpostmaster, and then somebody with

8　　technical knowledge says that they have observed it as

9　　well and that there hasn't been a full examination done

10　　by Pat Carroll of the data, then I believe that it could

11　　well be the case that it is a phantom transaction. But

12　　I do accept the position that we don't know today.

13　Q.　Let's talk about a different bug. Bug 11, Girobank. If

14　　we could go back to the bug table at {D1/2/9}.

15　　There are just too many documents for me to go

16　　through, it would take hours. Perhaps first of all you

17　　could explain what Girobank transactions are, just to

18　　set it up.

19　A.　I'm just going to go back to my report.

20　Q.　You don't remember. It is impossible to know everything

21　　about this system at every single time. By all means go

22　　back to your report, Mr Coyne.

23　A.　Yes, it is about the timing of the various aspects of

24　　the process of a Girobank transaction.

25　Q.　And a Girobank transaction is?

38

1　A.　It is similar to a retail banking function.

2　Q.　Okay. Would it be fair to say that you are not really

3　　familiar with what Girobank transactions are?

4　A.　I'm just trying to recall the details of it now.

5　Q.　Anyway looking at the bug table, if we look at column 3,

6　　"Identified Year/Year(s) in Effect", the period

7　　identified is May to September 2000?

8　A.　Yes.

9　Q.　So again very early days in Legacy Horizon?

10　A.　Yes.

11　Q.　Would it be fair to say that whatever problems there

12　　were in 2000, they hadn't manifested themselves in any

13　　PEAKs or KELs since then? Would that be fair?

14　A.　That is right, yes. Sorry, there is one over the page

15　　which is dated 2001 {D1/2/10}.

16　Q.　Yes, you are quite right. So it is 2000 and 2001. Now,

17　　there is a KEL in the right-hand column, A Chambers, on

18　　page 10, 4410R?

19　A.　Yes.

20　Q.　Which is the reference to -- we are not going to it --

21　　actually I don't have it, the reference isn't written

22　　down here. Anyway, I won't go to it.

23　MR JUSTICE FRASER: Sorry, I can't see where that is, I'm

24　　afraid.

25　MR DE GARR ROBINSON: My Lord, if one goes to page 10, under

39

1　　the "Supporting Evidence" column on the right-hand side,

2　　just above "Coyne Supplemental Report", there are two

3　　KELs, M Wright --

4　MR JUSTICE FRASER: Yes, I have got it.

5　MR DE GARR ROBINSON: -- and A Chambers 4410R.

6　　You talk about that KEL in your report. And if we

7　　could look at your report, please, it is {D2/4.1/50}.

8　　3.126:

9　　"The KEL related to this PEAK you are talking about

10　　is documented as 'AChambers4410R', this KEL does not

11　　appear to have been disclosed ..."

12　　That's why it doesn't have an F number.

13　　"... therefore it has not been possible to ascertain

14　　what advice might have been given ..."

15　A.　Yes.

16　Q.　If you go up in the earlier table at the top of the page

17　　you will see that there is a reference to a PEAK.

18　A.　There's reference to a number of PEAKs.

19　Q.　Sorry, if you look at 3.127 below, I'm a bit confused:

20　　"Further associated PEAKs that reference [that KEL]

21　　are provided in the table below."

22　　I would like to ask you about those. It is the PEAK

23　　on page 51. It is PC0076065 at {F/118/1}. If we could

24　　look at that please. I should, for completeness,

25　　actually read out what you say immediately below that

40

1   table. This is in 3.128, we don't need to go back to it

2   on the transcript -- on the machine:

3   "The above PEAKs related to Girobank discrepancies

4   are clear examples of bugs within Horizon that affect

5   branch accounts by way of a financial discrepancy and

6   illustrate, by their interlinking natures, the

7   complexities of the PEAKs/KELs."

8   So what you are saying there is that the PEAKs

9   referred to in that table are clear examples of bugs in

10   Horizon that affect -- that create financial

11   discrepancies in branch accounts, correct?

12 A.   Yes, I'm referring to the PEAKs within this section, not

13   just that particular table. If you read up, there is

14   a table there and there is a table before it.

15 Q.   What I'm seeking to elicit from you, Mr Coyne, and

16   I think you have confirmed it, is that it is your

17   contention, your judgment, your expert opinion that

18   {F/118/1} is a clear example of a bug which has caused

19   a financial discrepancy in a branch account?

20 A.   The text in my report is:

21   "Giro deposit cut off ... Branch unknown."

22   So a number of other ones in the table actually list

23   the discrepancy. That one doesn't list the discrepancy

24   next to it.

25 Q.   Let's look specifically at what you say in

41

1   paragraph 3.128 then. It is {D2/4.1/51}.

2   Paragraph 3.128 says:

3   "The above PEAKs related to Girobank discrepancies

4   are clear examples of bugs within Horizon that affect

5   branch accounts ..."

6   "The above PEAKs", they include all of those PEAKs

7   in that table, don't they?

8 A.   Yes. If you go back a page you will see --

9 Q.   Mr Coyne, I just want to ask you about F/118 and what

10   I'm suggesting to you is in your report -- and I didn't

11   think this would be controversial -- you are claiming

12   that, amongst others, F/118 is a clear example of a bug

13   in Horizon causing branch discrepancies. That is what

14   you say in your report, isn't it?

15 A.   That is one of the PEAKs that's included in the tables

16   on the preceding pages, yes. The text for that one that

17   has been provided doesn't necessarily indicate that for

18   that one there is a discrepancy. Some of the other

19   items in the table I do clearly say that there is

20   a discrepancy.

21 Q.   So I had read paragraph 3.128 as making a claim that all

22   the PEAKs you refer to in this section above, not only

23   in the table but in the earlier table as well, were

24   PEAKs that clearly created discrepancies in branch

25   accounts. Are you now saying that that PEAK didn't?

42

1 A.   If you read paragraph 3.127 {D2/4.1/50}, what that is

2   saying there is at the top of the page there is a table

3   with all the discrepancies that are listed next to the

4   particular branches. What 3.127 says is that the PEAKs

5   above reference a KEL called Anne Chambers, so that is

6   the link, and by searching for "Anne Chambers" you find

7   the PEAKs below.

8 Q.   Yes.

9 A.   So they are a different set of PEAKs that reference

10   Anne Chambers, but it is the --

11 Q.   Mr Coyne --

12 A.   Sorry, it is the table at the top of page {D2/4.1/44},

13   at the head of it, which are the PEAKs with the

14   discrepancies in.

15 Q.   So when you say "The above PEAKs", you are not actually

16   referring to the table below 3.127, you are just

17   referring to the table below table 3.123, are you?

18 A.   Yes, and that is introduced at 3.127.

19 Q.   Mr Coyne, this is amazing. You are clearly -- when you

20   say in paragraph 3.128 -- I can't believe I'm having

21   this discussion. When you say in 3.128 {D2/4.1/51}:

22   "The above PEAKs related to Girobank discrepancies

23   are clear examples of bugs within Horizon that affect

24   branch accounts ..."

25   The bugs in the table below 3.127 include bugs

43

1   relating to Girobank?

2 A.   Yes, but you have to read the paragraph before that

3   table to understand what that table is. It clearly says

4   {D2/4.1/50} --

5 Q.   All right. All right.

6 A.   "Further associated PEAKs ... are provided in the table

7   below."

8   They are PEAKs that are associated by way of KEL to

9   those Girobank transactions.

10 Q.   I see.

11 A.   The PEAKs that mention the discrepancies are clearly set

12   out in the other table --

13 Q.   I see, so --

14 A.   -- which essentially is above, it is just over the page.

15 Q.   So you accept then that {F/118/1} isn't a bug which

16   creates discrepancies in branch accounts?

17 A.   No, it is linked by way of KEL; the Anne Chambers --

18 Q.   Why do you mention it in your report then? What is its

19   relevance to the subject that you are considering, which

20   is bugs creating discrepancies in branch accounts?

21 A.   Because the bugs that create the discrepancies in branch

22   accounts, many of them reference the KEL Anne Chambers.

23   So they cite that as being the cause of the problem. So

24   what I have then done is I have searched for other PEAKs

25   which also reference Anne Chambers and I found these

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1   others in that table, so I'm providing them.
2 Q. Even though they don't -- they are not bugs that
3   actually create discrepancies in branch accounts?
4 A. Yes, but I don't actually say that they do. It is quite
5   clear what I'm saying in 3.127, and a few moments ago
6   you were critical for me leaving out things, so here is
7   an example where I haven't left something out, I have
8   put it in for context.
9 Q. We can save some time then. You accept that {F/118/1},
10   or the PEAK that is referred to there, isn't a bug at
11   all, don't you?
12 A. I have described it here as a cut-off issue, branch
13   unknown. So it likely isn't a --
14 Q. Do you remember the PEAK? It is to do with -- could you
15   remind the court what cut-off means?
16 A. It is the end of a time period, so it is after a certain
17   point in the evening.
18 Q. Yes. And what's the significance of that point in the
19   evening?
20 A. That the submission has to be conducted before that.
21   Anything that's conducted after that I think is shown as
22   being the following day.
23 Q. Submission to whom?
24 A. Girobank.
25 Q. So there is a time in the evening when a report is sent

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1   to Girobank of all the Girobank transactions in one day?
2 A. Yes.
3 Q. And that report will contain all the Girobank
4   transactions that have been undertaken up to that point
5   in time?
6 A. Yes.
7 Q. We can save some time, we can go to the PEAK if you
8   want, but this PEAK was a PEAK where the postmaster had
9   done a report which -- in fact he did two reports. He
10   did one report, and then he did another Girobank
11   transaction, then he did another report. And when he
12   looked at the first report he saw that the later
13   Girobank transaction that he had done wasn't included
14   and he was confused so he phoned the helpline and the
15   helpline put him through to the SSC. Because the
16   helpline, when they reach a point where they don't think
17   they can help someone, that's what they do, isn't it?
18 A. Yes.
19 Q. They will just pass it straight through. They don't
20   form some Olympian judgment as to whether it is
21   a software error or not, they work out whether they can
22   help the caller and, if they can't, they then just pass
23   it on up the chain. Would you agree with that?
24 A. I would indeed.
25 Q. So they passed it on up the chain to the SSC and the SSC

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1   looked, I believe it was Mr Roll, actually. Yes, it was
2   Richard Roll. And they saw that the postmaster had been
3   looking at the wrong report, and as a result of looking
4   at the prior report he had confused himself. So it was
5   closed as a category 62, no fault in product. That
6   wasn't a bug at all, was it?
7 A. No. And as I fairly say here, it is a cut-off issue,
8   branch unknown. But contained within that PEAK, that
9   call, someone has put the reference to Anne Chambers
10   4410R because they considered it would be another
11   occurrence of the Girobank defect which caused the
12   discrepancy, so that is why I have referenced it in this
13   report. But it is in a different table and made very
14   clear that it is just another PEAK that references that
15   Anne Chambers, it's not the --
16 Q. Forgive me, Mr Coyne, but speaking as someone who has
17   read your report over a number of deathless hours, and
18   the same could be said about all the reports in this
19   case, it has to be said, the strong impression that
20   a reader might get from this report is that these
21   paragraphs are a catalogue of problems arising in
22   Horizon and the table that you include underneath 3.127
23   adds to the impression of a catalogue of problems
24   arising in Horizon. Would you accept with me, on the
25   basis of the account I have given of {F/118/1}, and

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1   I appreciate I haven't taken you to it, but would you
2   accept it from me that F/118 is not any kind of problem,
3   and to the extent that your report gives that impression
4   it gives a false impression?
5 A. Yes, I accept that that is not a record of a defect, but
6   I believe you were mistaken when you read my report
7   because this section is quite clearly introduced at
8   3.127 to say:
9   "Further associated PEAKs …"
10   Are associated with this KEL. And in the right-hand
11   box of the observations, none of them do they say
12   "discrepancy", but on the table above, where I have
13   managed to work out a discrepancy, I have put it in the
14   box.
15 Q. Let's go back to the bug table at page 9 where you talk
16   about Girobank discrepancies {D1/2/9} and let's pick up
17   the first one you mention in the right-hand column,
18   which is PC0044232, and that's at {F/25/1}. Let's go to
19   it.
20   At the bottom of page 1 -- let's pick it up at the
21   top. 5 May 2000. It is reported on 4 May:
22   "System error. Girobank said there was
23   a discrepancy on the Giro figures."
24   So it looks as if this was called in by Girobank
25   itself, yes?

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1 A. Yes.

2 Q. Go down three lines:

3   "Girobank have been in touch to say that there is

4   software problem as the figures are not correct. Daily

5   figures when totalled are more than the cash account

6   giro figures."

7 A. Yes.

8 Q. Then an example is given:

9   "These are for the Giro payments only.

10   "The PM has checked all dockets and all reversals

11   that may have been done and cannot find anything

12   therefore he would like this investigated ..."

13   Do you see that?

14 A. Yes.

15 Q. Let's go down to the bottom of the page at 5 May at

16   15.02. Mark Wright says:

17   "This difference (£505.72) between the Cash Account

18   and the Daily reports is explained by

19   KEL:MWright531P.htm. There was a giro for this amount

20   that was entered on the 13th Apr then reversed AFTER

21   cutoff then re-entered again and reversed again."

22   Which is a very strange series of events.

23   "The daily report would have shown the original

24   £505.72 but the daily reports never show reversals."

25   Do you see that?

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1 A. Yes.

2 Q. That explains why Girobank phoned in. That is not

3   a fault with the system, is it, that is how it is

4   designed to operate, would you accept that?

5 A. I'm not sure, because it does say below that:

6   "It would be nice to close the call as known error,

7   however while investigate the messagestore I have

8   identified another problem ..."

9   This does appear to indicate that there is a system

10   problem.

11 Q. Okay. Let's go on with it:

12   "It would be nice to close the call as known error,

13   however while investigate the messagestore I have

14   identified another problem ... there is a Giro Deposit

15   for £81 (1-17240) that is being calculated in TWO

16   consecutive cutoffs (18th AND 19th April). I have

17   attached the full message store as evidence, however the

18   error happens in message 3-8932 where the tidemark SEQ

19   number (117240) which in this case relates to counter 1

20   is GREATER than the Mark calculated for counter 1 in the

21   same message."

22   I don't pretend to understand that but you can see

23   he has seen a symptom.

24   {F/25/2}:

25   "It would appear that the report calculation uses

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1   this SEQ number along with the PreviousMark numbers to

2   generate the total. As this number was larger than the

3   current mark, it would also be included in the following

4   days report."

5   So that is what he explains as happening.

6   Now, can we agree that the problem here was a fault

7   in the report that went through to Girobank?

8 A. Well, it was a problem that occurred in Horizon that

9   resulted in information being sent to Girobank that was

10   incorrect. We can certainly agree on that.

11 Q. Can we agree that the fault was in the report that went

12   to Girobank, it wasn't a fault that manifested itself in

13   the branch accounts. It manifested itself in the

14   figures that Girobank saw, not in the figures the

15   postmaster saw, because the postmaster says on page 1:

16   "The PM has checked all dockets and all reversals

17   ... and cannot find anything ..."

18   He doesn't see anything wrong. Do you see that?

19 A. Yes.

20 Q. So would you accept that on a fair reading of this PEAK,

21   this is a problem that relates to the transmission of

22   information through to Girobank, it is not a bug that

23   directly causes a discrepancy in branch accounts?

24 A. Yes, but any discrepancy can well have an impact on

25   branch accounts and that's why it is important that

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1   these are highlighted.

2 Q. Well, I fully agree that it is important that these

3   issues are fixed, Mr Coyne, but there are two points,

4   aren't there? First of all, this is being presented as

5   a bug that creates a discrepancy in branch accounts and

6   I think we have agreed that it doesn't. Yes?

7 A. But the support guys here say there is a discrepancy.

8 Q. It is a discrepancy in the report. It is a discrepancy

9   between the report sent to Girobank and the true figures

10   in the branch accounts.

11 A. So then that is a discrepancy.

12 Q. Yes. So that is the first point. It is not a bug which

13   has actually caused a discrepancy in branch accounts, is

14   it?

15 A. I struggle to understand why that wouldn't be the case.

16 Q. Before you said, Mr Coyne, a problem with the report

17   going to Girobank is still a problem because then there

18   is a reconciliation error and that could result in a TC

19   being created.

20 A. Yes.

21 Q. But if there is a problem I would like to suggest to you

22   that the evidence of this PEAK indicates that that's

23   what the problem would be, yes?

24 A. Yes. If this fault hadn't been reported by somebody,

25   this would have likely resulted in a TC.

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1 Q. You see, that's where I come to the second point,
2   Mr Coyne. It was reported, the problem was spotted.
3 A. Yes.
4 Q. There was a reconciliation problem and it went straight
5   to the SSC, and the SSC worked out what the cause of the
6   problem was. Do you accept that what this PEAK shows is
7   not a threat to the robustness of Horizon, actually it
8   shows the operation, the good and effective operation of
9   countermeasures to possible threats to Horizon, do you
10   see?
11 A. I do, but it is a little obvious that what we are
12   looking at is PEAKs, so we will only see the times that
13   somebody calls in and it is recorded. We won't have
14   records if somebody hasn't reported it.
15 Q. You are not suggesting, are you, that where there is
16   a reconciliation exception between a financial
17   institution and Horizon, that that doesn't result in
18   an investigation. Surely you do accept that?
19 A. It should result in an investigation.
20 Q. Fujitsu has elaborate processes designed to identify
21   reconciliation exceptions, doesn't it?
22 A. I don't know whether it would be Fujitsu or Post Office
23   or who will do that element of it, but they will be
24   Post Office's clients.
25 Q. My suggestion to you, Mr Coyne, is that what this report

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1   is evidence of is the robustness of Horizon, it is not
2   evidence that undermines that robustness, would you
3   accept that?
4 A. This is evidence of a defect being identified and
5   because it was picked up there wasn't -- or if
6   Post Office handled the next stage of it, then there
7   needn't be an impact on branch accounts. So there is
8   a discrepancy that's here, but it is the next stage, but
9   we don't have evidence of what that next stage would be.
10 Q. What we do have in this PEAK is evidence of the problem
11   being raised and being properly diagnosed and resolved.
12   Surely you accept that in this particular case?
13 A. Yes. It actually says someone is going to send
14   a request to the EPOS development team, so that's the
15   point of sale development -- so new code is going to be
16   created and that will hopefully fix the problem for the
17   future.
18 Q. But also the underlying discrepancy in the report sent
19   to Girobank, that's also supported. That is the
20   starting point of the entire inquiry. This is
21   an example of the robustness countermeasure, RDS and
22   MID, operating as it should, would you agree with that?
23 A. What do those two stand for, sorry?
24 Q. Redundant data storage and manual inspection of data.
25 A. What does redundant data storage --

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1 Q. It means where you have -- I thought you'd agreed that
2   this was a standard form of countermeasure in IT
3   strategies --
4 A. No, sorry, with regard to this PEAK I'm just trying to
5   understand why redundant data storage --
6 Q. It means where you have the same information stored in
7   different parts of the system and in different systems
8   and then processes which involve the comparison of that
9   data to see if there's any discrepancy requiring
10   investigation, yes?
11 A. This actually required Girobank to pick up on the
12   problem.
13 Q. Yes. I don't know whether it required it, but the fact
14   it there was a problem and it was picked up because
15   people look at the figures that they get.
16   Do you not -- are you not willing to accept that
17   this is an example of the fact that if lots of different
18   versions of information are propagated through a system,
19   and lots of people are looking at that information, that
20   actually increases the likelihood of any problems in any
21   data being identified and resolved successfully? Do you
22   not accept that this is an example of that happening
23   quite well?
24 A. Yes, but this is an example of Horizon doing it. This
25   is Girobank that have picked up on this. So the

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1   information has flown through Horizon, not been picked
2   up, gone to Girobank, and Girobank have picked up on the
3   problem. So, yes, their systems must be quite good to
4   pick that up, but Horizon effectively should have
5   stopped this before the figure went to them, surely.
6 Q. Let's move on to another bug. In your table --
7 MR JUSTICE FRASER: Just before you do, can I have the trial
8   references for two KELs, please?
9 MR DE GARR ROBINSON: My Lord, the two KELs, they are so old
10   they don't exist anymore, I believe.
11 MR JUSTICE FRASER: They don't exist anymore. Right.
12 MR DE GARR ROBINSON: This is from 1999/2000.
13 MR JUSTICE FRASER: Which is why there is no reference in
14   there. Right.
15 MR DE GARR ROBINSON: Yes. I wonder whether this would be
16   a convenient moment. I'm looking very shamefacedly at
17   the transcript writers.
18 MR JUSTICE FRASER: Yes, I think it probably is. We will
19   have 10 minutes. And not wishing to come across as
20   excessively pedantic, but that means coming back at 48
21   minutes past.
22 MR DE GARR ROBINSON: I would be happy to have those extra
23   two minutes.
24 MR JUSTICE FRASER: That's why I said 48 rather than 50.
25   So we will come back at 48 minutes past. A

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1   10-minute break. Thank you very much.
2   (11.39 am)
3   (A short break)
4   (11.48 am)
5   MR DE GARR ROBINSON: Mr Coyne, we were on the bug table and
6   we were talking about item 11 on that table which is
7   Girobank discrepancies.
8   A. Yes.
9   Q. And by Girobank discrepancies, you mean discrepancies
10   within branch accounts, yes?
11 A. Yes.
12 Q. Another one of the bugs that you identify over the page
13   {D1/2/10} is PC0052575, which is at {F/49.1/1}. Could
14   we have a quick look at {F/49.1/1}, please. This is
15   a call in on 16 August 2000. This is a call by the
16   postmaster about three or four lines down -- I should
17   say 14 August, I'm sorry:
18   "14/08/00, 16.20:
19   "Pm has error on giro deposit report. Counter Daily
20   report does not match office daily report."
21   So it is right, isn't it, that the reports he is
22   talking about, these reports are a little bit like
23   snapshots of the position at the time the report is
24   taken. Some of them are sent -- maybe all of them are
25   sent elsewhere, certainly some of them are. And the

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1   postmaster has a problem with the reports because they
2   aren't consistent with each other, do you see that?
3   A. Does not match the daily report yes.
4   Q. Correct me if I'm wrong, but that doesn't mean the
5   underlying accounts are wrong, it just means that the
6   reports that have been printed out are wrong, correct?
7   A. Yes, just reading down. So it tells us there is
8   a software error and that operator error has been ruled
9   out. But it may well be the case that it is only the
10   information that appears on the report is wrong, so it
11   is misrepresenting what the position is.
12 Q. If we pick it up at the bottom of that box, 16/08 at
13   8.51:
14   "Repeat call: PM has phoned to say his Giro deposits
15   had a discrepancy between his counter daily and his
16   office daily reports for yesterday."
17   Then there are the figures.
18 MR JUSTICE FRASER: I'm afraid I can't see where you are
19   reading.
20 MR DE GARR ROBINSON: My Lord, it is in the big box on page
21   1, about three-quarters of the way down, 16/08 at 8.51:
22   "PM has phoned to say his Giro deposits had
23   a discrepancy between his counter daily and his office
24   daily reports ..."
25   Then it sets out the figures.

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1   "PM has produced another transaction log for the
2   errant amount ... only appears once however shows twice
3   on office daily printed at 11.08."
4   So the problem is with the report, not the
5   transaction log, yes?
6   A. Yes, it would appear so.
7   Q. If we go over the page to {F/49.1/3}, the fourth box
8   down, 31st August at 11.31. This is Alex Kaiser:
9   "I have looked at this call and found the problem.
10 It is caused by the window of opportunity that arises
11 between the points at which a user prints and then cuts
12 off a Counter Daily\Giro Deposits report on a counter."
13   So there is a reference to cutting off that we
14 discussed before.
15 A. Yes.
16 Q. "If they are using a shared SU and between the two
17 points in time another Giro Txn is performed on another
18 counter, it will NOT be included on that report but it
19 will be included on the summary record written to the
20 Messagestore at the point of cut off.
21   "When the subsequent office daily/Giro deposits
22 summary report is produced it uses the summary record as
23 its source and that is why a record that was missed off
24 the counter report appears on the office one.
25   "This problem has already been fixed at CI4 by ..."

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1   Then a number of PinICLs are referred to.
2   What is being described in this PEAK is a problem
3   that had already been fixed but it is a problem in the
4   software which generates daily reports, it is not
5   a problem in the software which generates branch
6   accounts, would you agree?
7   A. Yes.
8   Q. Therefore to the extent that there is a bug at all,
9   which it appears there is, the bug for which this PEAK
10   is evidence is not a bug which creates discrepancies in
11   branch accounts, is it?
12 A. No, it is a bug that creates discrepancies in branch
13   reports.
14 Q. And my final question on this PEAK: what this shows is
15   that where there are such discrepancies, there will be
16   an investigation and the true position will be
17   ascertained, would you agree with that?
18 A. Where something is logged and we have a PEAK for it,
19   then that PEAK does typically suggest that it is
20   investigated correctly.
21 Q. What I would like to suggest, Mr Coyne, is that where
22   there are these different pieces of information in the
23   system being produced and being sent and so on, and
24   being compared by all sorts of people, including the
25   postmaster himself or herself, that is a system, the

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1   operation of such an arrangement is in itself
2   a robustness countermeasure. Would you agree with that?
3 A. That they have a support process that attempts to
4   determine the problem? Yes, that's a --
5 Q. Well, that there are processes which lead to these
6   problems being exposed and it is the exposition, it is
7   the exposing of these problems, which lead to
8   investigations that can assist in increasing the overall
9   robustness of Horizon?
10 A. Yes.
11 Q. What this PEAK shows is not that there was a bug in
12   Horizon which created a discrepancy in branch accounts.
13   What it shows is that the Horizon system and all the
14   support operations surrounding it and supporting it
15   operated well in identifying if there were any
16   discrepancies and checking to see if there were any
17   problems created by those discrepancies, would you agree
18   with that?
19 A. I do agree with that. I mean on this example I have
20   noted in my report that the discrepancy amount was
21   unclear, and I have also noted that it doesn't appear
22   that the branch actually appears in this so we don't
23   know what branch is relates to.
24 Q. If we could just focus on my particular question. My
25   question is this really: you cite this PEAK in your

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1   report as evidence of a bug creating discrepancies in
2   branch accounts, and you then list it triumphantly in
3   your list of Girobank discrepancy-creating bugs in joint
4   statement 2, but the discussion we have just had of this
5   PEAK and the one that preceded it has resulted in your
6   accepting first of all that it didn't create any
7   discrepancies in branch accounts, yes?
8 A. It created a discrepancy which could impact branch
9   accounts.
10 Q. It didn't create a discrepancy in someone's branch
11   accounts, did it?
12 A. Correct, yes.
13 Q. What you say is it raised a possibility that some third
14   party, like Post Office, might generate a TC for some
15   reason and then the subpostmaster, having received that
16   TC, might then accept it rather than saying "I don't
17   know what you are talking about"?
18 A. Yes.
19 Q. What you are suggesting is that this countermeasure,
20   which obviously involves human beings, it is designed to
21   do that, sometimes, and I would suggest very rarely,
22   isn't perfect. But nobody is suggesting, Mr Coyne, that
23   countermeasures are perfect. The really important
24   question is whether in the overwhelming majority of
25   times the countermeasure has the effect of increasing

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1   robustness rather than detracting from it. And what
2   I would suggest to you, Mr Coyne, is that both of the
3   PEAKs that we have been looking at this morning are
4   really quite good examples of how these countermeasures
5   increase rather than detract from the robustness of
6   Horizon. And that's my question to you, do you agree?
7 A. I agree from looking at the PEAKs, by the nature of them
8   being calls, what we see is the investigatory process
9   when a call is made. So they are a good example.
10 Q. And I think your -- I mustn't put words into your mouth,
11   but from evidence you have given on previous days, would
12   it be fair to say that you think the support process,
13   the investigation process undertaken by Fujitsu is on
14   the whole a good one?
15 A. It is on the whole a good one. There are a number of
16   weaknesses in the process and for clarity we do need to
17   be clear on what they are, and one is illustrated here,
18   that there isn't a branch code in here.
19 Q. Mr Coyne, could I suggest that if a PEAK were produced
20   for the purposes of allowing the robustness of Horizon
21   to be determined by a judge 20 years or 19 years after
22   the event, then you are absolutely right, this is
23   a terrible document because it doesn't identify the
24   branch, it doesn't enable a litigant to demand
25   disclosure of all the branch records and all the TCs

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1   issued, you are absolutely right. But it is not the
2   purpose of a PEAK to do that. You regard it as
3   a limitation of the PEAK. The PEAK is a work process
4   document which simply records the work being done by the
5   SSC in relation to a particular call in. It doesn't
6   need to have that information in order to be
7   an effective work document, would you agree?
8 A. I do agree. It has another problem in that this PEAK is
9   very dependent on the KEL that describes what the flaw
10   was and the KEL hasn't been disclosed either. So we
11   don't really know what the determination was.
12 Q. Forgive me, Mr Coyne, I'm simply asking you to accept
13   what I would suggest are the obvious implications of the
14   document that you have got in front of you, and when
15   faced with a question of that sort you take refuge in
16   saying "Well, I haven't seen this and I haven't seen
17   that".
18   But you are not grappling with the essential point,
19   are you? Looking at the information contained in these
20   PEAKs, with all the limitations that that information
21   has because of the nature of the PEAK and the purpose
22   for which it was created, looking at the information in
23   those PEAKs actually it gives you a good basis for
24   concluding, first of all, that these PEAKs do not relate
25   to a bug that created any discrepancies in Horizon,

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1   would you agree?
2 A. That this PEAK did not, I would agree.
3 Q. And the previous one as well, would you agree?
4 A. The previous one you took me to, yes. Because it was
5   picked up, that shouldn't lead to one either.
6 Q. So first of all we are agreed that both of these PEAKs
7   are not related to a bug which caused a branch
8   discrepancy. Secondly we are agreed, aren't we, that
9   these PEAKs are not evidence that a process was set in
10   train which led to a TC being issued to the relevant
11   branch which then foisted a false shortfall on the
12   branch. Neither of these PEAKs are evidence of that,
13   are they?
14 A. No. These are evidence of a part of the process. We
15   don't know what happened to correct these discrepancies.
16 Q. So you accept that in both of these cases the relevant
17   PEAK didn't lead -- the problem identified and dealt
18   with in each of those PEAKs did not actually lead to
19   Post Office issuing a transaction correction -- or in
20   this period it would have been an error notice -- that
21   would have subjected the relevant subpostmaster to
22   a risk of loss?
23 A. No, these documents alone do not show that.
24 Q. Indeed it would be inconsistent with these documents
25   because it is quite clear that Fujitsu in these

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1   documents have identified the problem, clarified that it
2   is nothing that requires any change to any accounts.
3   There is a problem with the report mechanism, that it is
4   not ideal in certain very unusual states of
5   circumstances, yes?
6 A. It is a little bit more than that. It might be very
7   misleading for the subpostmaster.
8 Q. What I would like to suggest to you, Mr Coyne, is none
9   of that comes out from your report. The clear
10   impression given by your report is that these two PEAKs
11   are one of many examples in which there are bugs in
12   Horizon creating discrepancies in branch accounts, and
13   my suggestion to you, Mr Coyne, is that these PEAKs are
14   evidence of the opposite.
15 A. Bugs, errors and defects is the way that the question
16   was asked and we --
17 Q. We are talking about Horizon Issue 1. You don't need me
18   to go back to Horizon Issue 1, do you?
19 A. I think that says bugs, errors and defects, doesn't it?
20 Q. "Bugs, errors and defects to cause apparent or alleged
21   discrepancies or shortfalls relating to subpostmaster's
22   branch accounts or transactions."
23 A. Yes.
24 Q. And neither of these PEAKs are an example of either of
25   these things, are they?

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1 A. On their own, no.
2 Q. Thank you.
3 A. They are an indication of a discrepancy being
4   identified.
5 Q. And yet they are listed in your bug list which you
6   agreed with me at the beginning of this
7   cross-examination today was a list of bugs which caused
8   discrepancies in branch accounts. Could you explain why
9   you have included those two PEAKs in this list?
10 A. You need to read it -- as I have said before, for full
11   context you need to go back to the report. There is
12   another table in the report that says the discrepancy
13   amount or whether there was no discrepancy noted, at
14   page 43.
15 Q. Page 43 of the report?
16 A. Page 43 on the face of the report.
17 MR JUSTICE FRASER: That's page 49 in the bundle. The
18   bundle reference is 49. I think that's where you were
19   actually, Mr de Garr Robinson.
20 MR DE GARR ROBINSON: Yes.
21 MR JUSTICE FRASER: Do you mean the table at
22   paragraph 3.123?
23 A. Yes.
24 MR JUSTICE FRASER: That's the table you are being asked
25   about, I think. {D2/4.1/49} Or it is an entry within

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1   that table that Mr de Garr Robinson has been asking you
2   about.
3 A. I believe, my Lord, he was asking the same within the
4   reference from the joint statement.
5 MR DE GARR ROBINSON: Actually, it is very helpful that you
6   have gone back to that table, Mr Coyne, I would have
7   overlooked it otherwise. If we could go to page
8   {D2/4.1/51} and look at paragraph 3.128. I'm sorry to
9   do this in such inordinate detail. 3.128, this is
10   a paragraph I took you to before.
11 A. Yes.
12 Q. "The above PEAKs related to Girobank discrepancies are
13   clear examples of bugs within Horizon that affect branch
14   accounts by way of a financial discrepancy ..."
15   So you are saying there that the relevant bugs
16   created a financial discrepancy, yes?
17 A. Yes.
18 Q. And I took you first of all to the bug that was
19   immediately above that paragraph.
20 A. Yes.
21 Q. {F/118/1}. And you told me: I didn't put that forward,
22   you misread paragraph 3.128, I didn't put that forward
23   as a bug creating discrepancies.
24 A. Yes.
25 Q. But you then said that it is not that table I should be

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1   concerned about, it is the previous table.
2   A. Yes.
3   Q. Above 3.124, yes?
4   A. Yes.
5   Q. If we go back to page {D2/4.1/49} where that table
6   begins, you will see that the fourth item on that table,
7   which on your own evidence is a list of bugs that create
8   discrepancies in branch accounts, is {F/49.1/1},
9   PC0052575?
10 A. Yes, with the observation:
11   "Discrepancy amount unclear. Branch unclear."
12 Q. Mr Coyne, let's assume that that particular PEAK had
13   identified the branch and had identified a discrepancy
14   of £50 or something, just so that I can close off that
15   escape route when I ask you the next question I'm about
16   to ask you. So let's pretend. It is the case, isn't
17   it, that that PEAK is not evidence of a bug which
18   created discrepancies in branch accounts? You have just
19   agreed that with me.
20 A. It created a financial discrepancy within the Horizon
21   system which could then ultimately have an impact on
22   branch accounts.
23 Q. I will move on. Let's take another example that's
24   contained in your bug table. Going back to the bug
25   table at {D1/2/10}.

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1   MR JUSTICE FRASER: You want to be in the joint statement
2   now?
3   MR DE GARR ROBINSON: Yes. And if you can click on {F/52/1}
4   on the side of the page that will give us the relevant
5   PEAK, which is PC0052704.
6   So just to set the scene. It is your expert
7   opinion, is it, that this PEAK is another PEAK that is
8   a clear example of a bug which created discrepancies in
9   branch accounts, is that your opinion?
10 A. Sorry, I'm just catching up here. Where are we? Number
11   12, "Counter Replacement ..."
12 Q. We are looking at one of the bugs that you refer to in
13   bug 11, Girobank discrepancies.
14 A. Right, sorry.
15 Q. And the particular bug we are looking at is the bug that
16   you say is evidenced by {F/52/1}, and this is F/52.
17 A. Right. Okay, yes.
18 Q. Just for the record, would you confirm that you have
19   included this PEAK in your report, that you lifted it
20   from your report and you put it in the joint statement
21   because it is a PEAK which you say is evidence of a bug
22   creating discrepancies in branch accounts?
23 A. A bug, error or defect, yes.
24 Q. Right. If we could just go over to page {F/52/2} of the
25   PEAK, the last yellow box. Date 23rd August 2000, 9.30.

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1   This is Martin Harvey at the SSC:
2   "All these problems occurred while a relief PM was
3   in place.
4   "Giro.
5   "A cut-off was performed between the original
6   transactions and reversal."
7   Then there is reference to a KEL.
8   "A P&A report was produced and then two further
9   transactions were input before cutoff. The first report
10   was then mistakenly used to infer that these
11   transactions had not been performed and so they were
12   re-input."
13   Do you see?
14 A. Yes.
15 Q. "I could find nothing wrong and when I asked the PM to
16   re-check his figures neither could he ...
17   "The PM is happy and has agreed call closure."
18   On what basis do you say this PEAK evidences a bug
19   in Horizon that has created a branch account
20   discrepancy, Mr Coyne?
21 A. So as a result of the bug, error or defect with the
22   report that we see on the earlier PEAK, this has led the
23   subpostmaster to re-enter transactions. It says towards
24   the end here:
25   "The first report was then mistakenly used to infer

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1   these transactions had not been performed ..."
2   So they were re-input. That's because the report
3   was misrepresenting the true position because of the
4   defect.
5   Q. Then the postmaster looks at the end of the day at his
6   transaction log and he sees that he has got two copies
7   of the same transaction in his transaction log and he
8   sees that if there is a discrepancy in his accounts, it
9   will be in exactly the sum of the repeated transaction
10   that he has entered a second time in his transaction
11   log.
12   The bug itself didn't cause any discrepancy at all,
13   did it?
14 A. No, the bug itself led to the report misrepresenting
15   what the current position was. That's the bug that we
16   saw before. As a result of that bug, this subpostmaster
17   has used the information on the face of that report and
18   entered some transactions that then impacted his branch
19   accounts.
20 Q. So just to be clear, you are relying on the passage
21   that's under the heading "P&A", yes?
22 A. Yes, which includes the KEL M Wright 531, which appears
23   to be the common denominator between each of those
24   Girobank discrepancies.
25 Q. That KEL is a Girobank discrepancy. We are in P&A now.

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1　　　What does P&A stand for?

2　A.　I don't know.

3　Q.　It says:

4　　　　"A P&A report was produced and then two further

5　　　transactions were input before cutoff. The first report

6　　　was then mistakenly used to infer that these

7　　　transactions had not been performed and so they were

8　　　re-input."

9　　　　Mr Coyne, it is not that the system produced a false

10　　report which then induced the postmaster to make

11　　an error. It is that the postmaster looked at a report

12　　that had been done before the two transactions had been

13　　entered. Do you see?

14　A.　Well, on the information given here, Martin Harvey

15　　linked it to the KEL where the Girobank fault was.

16　Q.　Mr Coyne, just look at the words that are written down

17　　in front of me:

18　　　　"A P&A report was produced and then ..."

19　　　　Do you see the word "then"?

20　A.　Yes.

21　Q.　"... two further transactions were input before cutoff.

22　　The first report ..."

23　　　　So the report that was done before the two

24　　transactions were entered into, yes?

25　A.　Yes.

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1　Q.　"... was then mistakenly used to infer that these

2　　transactions had not been performed and so they were

3　　re-input."

4　　　　So what happened was the postmaster -- who it has to

5　　be remembered was a relief postmaster and may not have

6　　been as experienced as he or she might have been, which

7　　is no doubt why that was written down -- had printed

8　　a report that correctly represented the position as at

9　　the time the report was printed, had then entered into

10　　two transactions, had then looked at the report that he

11　　printed, and foolishly he then thought that shows that

12　　I haven't entered the two transactions I have just

13　　entered so I will enter them again. Do you see?

14　A.　I do see but --

15　Q.　That, I would suggest, is not the result of a bug in

16　　Horizon.

17　A.　So if that was right, why would Martin Harvey, when he

18　　wrote that at 9.30 on 23rd August, choose to reference

19　　the KEL for that particular defect? It would make no

20　　sense if he didn't consider that that was part of his

21　　consideration.

22　Q.　Well, I suggest to you, Mr Coyne, that it is plain from

23　　the actual language that he has used, the very language

24　　that you are relying upon, that there was some human

25　　error in this case and the human error was in using the

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1　　wrong report, a report that reported on the state of

2　　affairs before the two transactions had actually been

3　　done, and the mistake was that the postmaster thought

4　　that it ought to include those two transactions,

5　　wrongly, and so added them again. And I'm suggesting to

6　　you that that's what Mr Harvey is saying in that middle

7　　paragraph.

8　A.　I don't accept that because Martin Harvey would, in

9　　considering what the issue was, I can't imagine that he

10　　would have referenced the M Wright and the D Rowe KEL if

11　　he didn't believe they were relevant to the situation

12　　that had occurred. That is contra to what the purpose

13　　of these documents are for. They are to lead the next

14　　person that finds the problem, to link these together.

15　　It would be crazy to include a reference to that if it

16　　wasn't relevant to this problem.

17　Q.　Would you excuse me a moment, Mr Coyne. (Pause)

18　　　　Let's move on to bug 20 now, recovery failures.

19　MR JUSTICE FRASER: Just before you do, can you tell me what

20　　P&A stands for?

21　MR DE GARR ROBINSON: My Lord, I can't.

22　MR JUSTICE FRASER: All right, it doesn't matter.

23　MR DE GARR ROBINSON: I was hoping Mr Coyne could.

24　MR JUSTICE FRASER: Do you know what P&A stands for?

25　A.　I don't, my Lord.

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1　MR JUSTICE FRASER: All right.

2　MR DE GARR ROBINSON: Bug 20, recovery -- it is called

3　　recovery failures. Let's start at your second report,

4　　Mr Coyne, please {D2/4.1/66}. You say in paragraph

5　　3.194:

6　　　　"PC0197643 created 14 April 2010 refers to branch

7　　166948 in which a.£240.00 transaction failed in

8　　recovery. Whilst a table exists in the database to

9　　potentially capture failed recovery transactions, these

10　　then have to be manually reconciled. The PEAK states:

11　　　　"'Looking at the PostOfficeCounterLog, the receipt

12　　printed ok for this after authorisation was received,

13　　the receipt that printed for the cash withdrawal [sic]

14　　states 'Authorised', so it's possible that the clerk

15　　handed over the monney [sic]."'

16　　　　Then you say at 3.195:

17　　　　"As this was passed to Post Office, it is unclear

18　　what their final resolution was. It is not documented

19　　if Fujitsu removed the transaction and if they did, how

20　　they did it."

21　　　　{D2/4.1/67}.

22　　　　This is a PEAK that you also refer to in the bug

23　　table and which we will come to in a moment. Could we

24　　look at that PEAK, please. It is {F/613/1}. So the

25　　PEAK starts on 13th April 2010, which I think must be

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1   during the initial Horizon Online roll out. You agree?
2 A. Yes.
3 Q. If you could look at the top right-hand side of the
4   PEAK, the call logger, you see it is "MSU-IndtMgt". Do
5   you know what that stands for?
6 A. Management support unit ...
7 Q. The other letters you don't know?
8 A. I don't. Well, management will be the end one but
9   I don't know what --
10 Q. Yes. And what does the MSU do?
11 A. I'm not sure I have seen that set out anywhere.
12 Q. It receives -- you have seen a great number of PEAKs
13   that are created as a result of the MSU, yes?
14 A. Yes.
15 Q. It monitors things --
16 A. Right.
17 Q. -- doesn't it, in the system?
18 A. Yes.
19 Q. It monitors all sorts of exceptions?
20 A. Right.
21 Q. And when it spots exceptions it passes them through to
22   the SSC.
23 A. Right.
24 Q. That is consistent with your understanding of PEAKs,
25   isn't it?

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1 A. That sounds reasonable, yes.
2 Q. And amongst the things that the MSU monitors is recovery
3   failures, isn't it?
4 A. Mm.
5 Q. So all recovery failures of the sort we are discussing
6   here are in the first instance reported to the MSU, yes?
7 A. Yes.
8 Q. Then the MSU will, having identified the problem, pass
9   it on to the SSC to look into it, correct?
10 A. Yes. I don't know when this is triggered because there
11   are -- I have seen PEAKs where it is the subpostmaster
12   that is attempting recovery and they report that the
13   counter just keeps re-booting, so perhaps it's --
14 Q. But sometimes -- and perhaps we can agree on this.
15   I have thought about that as well and my surmise is that
16   sometimes the SPM gets the report in first and other
17   times the MSU does, it is just a timing issue.
18 A. Yes.
19 Q. And if the SPM has phoned in first then that is the PEAK
20   and there doesn't need to be a separate PEAK because the
21   MSU puts in a call as well, would you say that's fair?
22 A. Sounds reasonable.
23 Q. Then it says on the top box "13th April", so we are
24   really -- Horizon Online is brand new and there are very
25   few users at this stage:

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1   "Details entered are:
2   "Summary: Branch ..."
3   There is the branch FAD code.
4   "... NB102 Section 5 CAPO - state 4."
5   That's one of the reports, isn't it, that identifies
6   when there is a failure, a recovery failure?
7 A. Yes.
8 Q. If we go down to 10.06 there is a reference added,
9   a KEL, that is "dsed2640M". Do you see that?
10 A. Yes, I do.
11 Q. If we could have a quick look at that, if we look at
12   {F/586/1}, please. We will come back to this PEAK,
13   though.
14   Have I given you the wrong reference?
15 MR JUSTICE FRASER: No, that was the reference to the PEAK.
16   Or did you mean the trial bundle reference?
17 MR DE GARR ROBINSON: My note, and Homer does nod, I don't
18   think I'm even Homer for these purposes. My note tells
19   me that the dsed KEL is at {F/586/1} and if I'm wrong
20   then I need to move on quickly.
21 MR JUSTICE FRASER: Don't worry about rushing, it will only
22   take a moment to find it.
23 MR DE GARR ROBINSON: It may be 587 {F/587/1}.
24   So this is the KEL that's referred to. It says:
25   "Transaction in state 4 on the NB102 Section 5

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1   banking reconciliation report - failed recovery."
2   Then if we go down to "Symptoms:
3   "There is a transaction in state 4 on the NB102
4   Section 5 banking reconciliation report as the
5   transaction failed to be recovered during recovery."
6   Of course recoverable transactions will always
7   involve a bank, won't they, they will always involve
8   a financial institution, because if it weren't
9   a three-way transaction involving three parties it
10   wouldn't be recoverable, it would be cancellable,
11   wouldn't it?
12 A. Yes.
13 Q. So this report will always pick up failed recoveries.
14   It says under the heading "Problem":
15   "The transaction in question failed to be settled
16   due to problems with printing so there was no C1
17   confirmation. The printing problem was caused by the
18   failure to print an earlier report/receipt that seemed
19   to have stuck and caused every print attempt thereafter
20   to fail. When the user logged off and logged back on
21   again, the recovery process attempted to recover the
22   banking transaction but because this in itself requires
23   a receipt to be produced this failed as well."
24   Do you see that?
25 A. Yes.

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1 Q. Then it says:

2   "The print problem should be evident by 0607 errors

3 being displayed to the PM and the same error being

4 recorded in the PostOfficeCounter.log at the time.

5 There will also be Warnings logged to this log with the

6 words "Received second print request, before completing

7 first print request."

8   So would it be right to infer from what that KEL

9 says that this problem, as well as going through to the

10 MSU and being pushed through to the SSC in the normal

11 way, the problem would also be evident to the postmaster

12 who was undertaking the transaction at the branch, would

13 you agree with that?

14 A. Yes. It is said there will be a 0607 error displayed.

15 So if the screen is working as a result of whatever this

16 failure is, then they would probably see that. The

17 other two things there, PostOfficeCounter.log and

18 warnings in the log, they won't be visible to the

19 subpostmaster.

20 Q. So one way or another, both the postmaster and Fujitsu

21 independently will know that there's a problem when this

22 arises, yes?

23 A. Yes, and at this stage the counter probably hasn't yet

24 booted back up yet. It is in a failed state obviously.

25 MR JUSTICE FRASER: Mr de Garr Robinson, can I just make one

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1 observation and it is not to distract you at all. The

2 number of the PEAK on that KEL is not the number that

3 you were looking at before.

4 MR DE GARR ROBINSON: The number of the PEAK on that KEL?

5 MR JUSTICE FRASER: That's 193463, and the one we were

6 looking at was 197643.

7 MR DE GARR ROBINSON: My Lord, yes. The reason why we were

8 looking at that KEL is because it is referred to in the

9 PEAK.

10 MR JUSTICE FRASER: I do understand that, but I just wanted

11 to make sure that you didn't think it was exactly the

12 same PEAK. I know the way PEAKs and KELs work so it

13 wouldn't necessarily be the case.

14 MR DE GARR ROBINSON: Let me ask a question of Mr Coyne.

15   The fact that the KEL is referred to in the PEAK

16 back at {F/613/1}, if we could look at that, please,

17 that's indicative of the fact that the SSC person who

18 has received this call has looked at the symptoms and

19 thought, hang on a second, this displays the symptoms in

20 this particular KEL. Sometimes they might be wrong,

21 sometimes it might be an early diagnosis and they may

22 have a more developed view later. But in general if you

23 see a KEL referred to in a PEAK it means the person at

24 that point in time thinks this is a repetition of the

25 symptoms described in the relevant KEL, would that be

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1 correct?

2 A. Yes, that is right. And then to balance that when you

3 look at the KEL, sometimes you do see the back reference

4 to the PEAKs that use that, other times you will just

5 see in that scenario just a reference that doesn't refer

6 back but it might be the first instance of that --

7 Q. Yes, that's very helpful. So where the KEL refers to

8 a PEAK, sometimes there might only be one PEAK and it

9 will be probably the first PEAK that resulted in the

10 production of the KEL, but other times the KEL could

11 refer to lots of PEAKs, indeed hundreds of PEAKs. It

12 depends.

13 A. Yes. There are a number of KELs that on their own will

14 refer to many hundreds, and that goes back to the

15 statement that I made before about the number of likely

16 PEAKs that could be linked to KELs. You can very

17 quickly get to very large numbers.

18 Q. Yes. If we look at this PEAK again at the bottom of the

19 page, 13th April 2010, at 11.37 it says -- Andy Keil,

20 who is now dealing with it says:

21   "Request and authorisation were successful, but no

22 confirmation or reversal:

23   "This transaction is in the all branches recovery

24 table, as per the KEL -'There's a Recovery Table button

25 on Smiley which shows transactions (for all branches)

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1 where recovery has failed. If your transaction is in

2 here, it will need manual reconciliation '."

3   So stopping there. Just to confirm, the way that

4 Horizon has always worked is that while you are in the

5 course of typing in a transaction into the counter all

6 sorts of information is going up the wires into the data

7 centre which may be the messagestore, in Legacy Horizon

8 it could be the messagestore at the gateway counter at

9 the branch, and that would then be replicated in due

10 course to the correspondence server. And in

11 Horizon Online it goes straight through to the BRDB, one

12 of the central data servers, doesn't it?

13 A. Yes.

14 Q. On numerous occasions during the course of the

15 transaction numerous tables -- it is easier if we just

16 talk about Horizon Online -- in the BRDB are populated

17 with data relating to the transaction being typed in?

18 A. Yes.

19 Q. That is a good thing because it means that if there is

20 a problem with a transaction, if the transaction goes

21 wrong before the basket is committed, then there will be

22 actually several copies of data relating to that

23 transaction to be found in various tables in the BRDB,

24 would that be right?

25 A. There might not be several copies of it but there will

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1   be a stake in the ground somewhere saying you have
2   commenced a transaction.
3 Q. So at least if you look for it nothing gets lost, would
4   that be right?
5   I don't want to commit you to an extreme
6   articulation. I understand why you're hesitating.
7 A. It is a fact that information will have to go from the
8   counter to the BRDB so theoretically things can get lost
9   along the way but that's quite unlikely.
10 Q. Would I be right in thinking that you are not aware of
11   any PEAK relating to a situation where data relating to
12   a recoverable transaction has never actually got through
13   to the relevant tables in the first place?
14 A. No. There is a number of references to communication
15   errors have led to situations arising and that often is
16   seen in recovery, that they determine that the recovery
17   is required because a communication fault --
18 Q. But invariably those -- perhaps universally, actually,
19   those communication problems will be towards the end of
20   the transaction because that's the point at which the
21   bank becomes engaged, that is the point at which there
22   is a risk of the transaction becoming recoverable. At
23   the relatively early stages where the initial elements
24   of the transaction are being typed in, if that
25   information doesn't get through, the system will just

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1   stop, won't it?
2 A. Yes, that's fair. There is a time by which you are past
3   the point of no return, if you will, without having to
4   sort something out.
5 Q. But my suggestion to you and I'm not trying to fence
6   with you, Mr Coyne, and I'm not trying to be clever, or
7   at least no more than usual, but where you have
8   a recovery scenario, there will always be data relating
9   to the transaction to be recovered. If there isn't data
10   in the relevant tables in the BRDB about that
11   transaction, then you are not in a recovery situation at
12   all?
13 A. That is right.
14 Q. You haven't got far enough in?
15 A. Yes.
16 Q. Thank you, that's very helpful. So the way that it
17   works then is -- what we are talking about is recovery
18   failures. There will be data in the -- I'm talking
19   about the BRDB just for simplicity, I appreciate this
20   is -- actually this is Horizon Online.
21 A. Yes.
22 Q. In the BRDB there will be tables containing the data
23   that relates to the relevant transaction?
24 A. Yes.
25 Q. And ideally the system will tell the SPM to try and

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1   recover the transaction but sometimes if there is
2   a problem with the printer, because the system depends
3   upon the printer printing out receipts and so on, there
4   could be a problem which means that although the SPM
5   knows there's something wrong and he or she has to
6   address it, there will be a problem that means he can't
7   on his own, yes?
8 A. Yes. Because recoveries happen because something has
9   gone wrong in branch, could be power, could be
10   communications, could be a whole range of things,
11   something has gone wrong and therefore the recovery
12   process needs to start, it is quite possible that
13   whatever went wrong in the first place is still going
14   wrong when the recovery attempts and that's why
15   sometimes the recovery won't be successful because it is
16   a power problem, you still might have a power problem,
17   a communication problem, it still might be there.
18 Q. Yes. So would I be right in thinking it is inherent in
19   the system in that the fact that any system of this sort
20   is going to have recovery situations, you can never
21   guarantee that you won't have recovery failures. The
22   failure that causes the recoverable transaction in the
23   first place could be of a nature which is going to
24   involve a failure of the recovery as well, for example?
25 A. By design there always would have to be a recovery

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1   process because the risk that there's going to be
2   a power problem is always going to trigger somewhere on
3   an estate of this size. If that part of it is designed
4   well, then the vast majority of all recoveries should be
5   completely automated.
6 Q. Yes.
7 A. There shouldn't be many of the situations --
8 Q. Well, we can agree that the vast majority of recovery
9   situations should work well?
10 A. Yes.
11 Q. Bearing in mind the vast number of transactions
12   undertaken at Horizon --
13 A. Indeed.
14 Q. -- and a tiny proportion of situations where that
15   doesn't happen could actually be a quite a large number
16   over a period of 20 years?
17 A. Certainly could be.
18 Q. So would you accept with me that the fact that there
19   have been a significant number of recovery failures over
20   20 years, that of itself isn't indicative of a problem
21   in the recovery process?
22 A. Of course it has to be accepted that it is a problem
23   because it shouldn't really happen. Typical recovery
24   should work on an automatic basis. The manual
25   intervention that's required when recovery fails, that

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1   shouldn't happen but does happen. It is because it

2   doesn't know what situation it is and there hasn't been

3   a recovery scenario created for that and therefore it

4   requires manual intervention.

5   Q.   I didn't ask the question properly, and it is my fault

6   not yours. What I meant to ask was it is inevitable

7   with any system, however well designed, that there will

8   be a small proportion of cases where the automatic

9   recovery processes don't work. That's just inevitable,

10   isn't it?

11   A.   Yes.

12   Q.   Thank you. That's very fair. And that's what happened

13   here, this is one of those cases?

14   A.   Yes.

15   Q.   You will see that, as I think from the passage we have

16   already read:

17   "There's a Recovery Table button on Smiley which

18   shows transactions (for all branches) where recovery has

19   failed. If your transaction is in here, it will need

20   manual reconciliation."

21   We have agreed that data relating to recoverable

22   transactions will always be somewhere within BRDB,

23   I think?

24   A.   Mm.

25   Q.   We have agreed that there will always be cases, a small

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1   proportion of cases, where the recovery process that one

2   would like to operate automatically for one reason or

3   another doesn't, and in that small proportion of cases

4   some form of manual assistance is required, isn't it?

5   A.   Yes.

6   Q.   And the system for example isn't designed -- the

7   recovery system isn't required to require the counter to

8   keep trying to log on and log on perpetually, it is

9   designed to log on only twice?

10   A.   Yes.

11   Q.   That is a design feature, because if it is perpetual you

12   can't use the machine?

13   A.   Yes.

14   Q.   That is very helpful. So the fact that you have

15   recovery failures is not of itself a threat to

16   robustness unless the proportion of the recovery

17   failures you have is too high?

18   A.   Yes.

19   Q.   Here the system that's operated by Horizon is that where

20   you have a recovery failure it is always reported both

21   to Fujitsu and, by error warnings, also to the

22   subpostmaster, yes?

23   A.   Yes.

24   Q.   So both Fujitsu and the postmaster, where there is

25   a failed recovery, know there is a problem and they know

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1   they need to deal with it by communicating with each

2   other, do you agree with that?

3   A.   Yes.

4   Q.   And that's the way that the Horizon system is

5   constructed, correct?

6   A.   Yes.

7   Q.   One other aspect of the recovery process that's very

8   important is to know when money changes hands?

9   A.   Yes.

10   Q.   And let me just expand on why that's important. You

11   have a transaction, ex hypothesi it is a transaction

12   involving a financial institution making or receiving

13   a payment, and let's say it is a bank deposit. The

14   customer hands in £100 at the branch, the branch presses

15   the buttons so that the customer's bank account goes up

16   by £100, and the problem that arises with recoverable

17   transactions is that the bank may have been told to

18   increase the balance by £100 before the transaction has

19   actually been committed to the accounts of the branch.

20   A.   Yes.

21   Q.   And in that scenario, the postmaster may have seen

22   a symbol on his screen saying "Accept the money,

23   authorised to accept money", yes?

24   A.   Yes.

25   Q.   Or he may not have done. But whether he has or not, you

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1   don't know whether actually money has passed hands, do

2   you? If you are at Fujitsu you are not going to know

3   whether money has passed hands and you are going to want

4   to check, because it might be that the postmaster sees

5   the transaction stopping and says to the customer "I'm

6   terribly sorry, I have a problem with the system, I'm

7   closing it down. You had better keep your money and

8   come back a bit later". That's always possible, yes?

9   A.   I was in agreement with you until you said if the

10   message on screen says "Accept the money", because that

11   should be the very last thing that happens after the

12   process has been completed. That shouldn't be

13   an intermediate phase before completion.

14   Q.   So what you are saying is the message "Accept recovery"

15   never comes up before the transaction is committed to

16   the database?

17   A.   You said "Accept money", did you? You said "Accept

18   money"?

19   Q.   Yes.

20   A.   Well, that message -- it would be unsafe if that message

21   was to appear before the transaction has been

22   properly --

23   Q.   Right, but -- very good. But sometimes human beings do

24   accept money a bit early, don't they?

25   A.   Yes.

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1 Q. So it is prudent, isn't it, in the scenario where there
2   is a transaction, to check with the SPM as to whether
3   money has been received or not, do you agree?
4 A. Yes.
5 Q. There is a danger, if you don't do that, that the SPM
6   could end up being foisted with a false shortfall, isn't
7   there? For example, the SPM might say to the customer,
8   "There is a problem with my system. Ordinarily I would
9   be taking money from you but you had better come back
10   later with your money, I'm terribly sorry", and doesn't
11   take the money, but then finds that his accounts have
12   been multi-ed(sic) to the tune of £100. The account
13   thinks he has received the money and there then appears
14   to be a shortfall. Do you see that?
15 A. Yes.
16 Q. So in that kind of scenario it is always prudent, isn't
17   it, for there to be a conversation with the postmaster
18   to work out, to ascertain what the postmaster actually
19   did on the ground, would you agree?
20 A. Yes, I mean I think if that conversation can go on at
21   the time that the transaction is taking place, then
22   I can see how that would work. If it is going to happen
23   the following day or something like that then there's
24   very little value.
25 Q. Why would that be, Mr Coyne? There is a recoverable

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1   transaction, something has gone wrong, the recovery for
2   one reason or another hasn't operated automatically.
3   The way that Horizon is set up is that the system is
4   then made aware of the problem so that there can be
5   a communication, co-operation between Fujitsu on the one
6   hand, Post Office on the one hand, and the postmaster on
7   the other, to work out what happened to make sure that
8   the branch accounts properly reflect what happened in
9   the real world.
10 A. Yes.
11 Q. What would be better than having such a co-operative
12   arrangement?
13 A. Just in practical terms I don't know how that would work
14   in a large Post Office if it isn't taking place at the
15   time that the transaction is going on.
16 Q. As I think we have established, the postmaster -- as
17   soon as the problem arises the postmaster knows about
18   it. I think you have already agreed that. So
19   a postmaster can be expected to keep some kind of note
20   that I have had a problem or remember that he has had
21   a problem, yes?
22 A. If it was the postmaster that was at the counter at the
23   time, yes.
24 Q. Or the clerk whom the postmaster employs to do that job.
25   One way or another, when something goes wrong you would

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1   expect the person at the branch doing the transaction to
2   remember -- to know that something has gone wrong and to
3   remember it because it could be important for accounting
4   purposes later. Postmasters and clerks aren't goldfish,
5   are they, they do have a memory of these things?
6 A. That is fair.
7 Q. They will know the significance of the point and they
8   will know they ought to remember because it may come up
9   later, yes?
10 A. Yes, I think it is going beyond my technical expertise
11   about what happens physically within the Post Office,
12   but I can accept the premise that you are putting to me.
13 Q. If we go back to the PEAK. We are at the bottom of
14   page 1, middle paragraph of the box at 11.37 {F/613/1}:
15   "Looking at the PostOfficeCounterLog, the receipt
16   printed ok for this after authorisation was received,
17   the receipt that printed for the cash withdrawal states
18   'Authorised' ..."
19   So it looks as if the postmaster was authorised.
20   " ... so it's possible that the clerk handed over
21   the monney. There is a timeout issue after the receipt
22   printed."
23   And timeout issues, we discussed that before, didn't
24   we, that the system is designed only to try on two
25   occasions and then it stops because otherwise it makes

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1   the machine hard to use, yes?
2 A. Yes, so the receipt was printed and then something else
3   happened. The timeout issue, I'm not sure what --
4 Q. So if we go down to the next box, 13th April at 11.37:
5   "The call record has been transferred to the team
6   ..."
7   MSU again. This time would you agree it is going
8   back to the MSU so the MSU can contact Post Office and
9   say "You need to speak to the postmaster to check what
10   happened and, if necessary, you may need to do a TC",
11   would you agree with that?
12 A. Yes, I haven't seen that document.
13 Q. If we go over the page {F/613/2}, the yellow box at the
14   top of the page, 13th April at 15.07. Joanne Ball, who
15   I assume is at MSU, says:
16   "Thanks Andy."
17   Andy being Andy Keil at the SSC.
18   "Final BIMS issued to POL."
19   Can you explain what a BIMS is?
20 A. Business incident management? I don't know what the S
21   is.
22 Q. Yes. So what do you think that BIMS would be saying?
23 A. It will possibly be describing the scenario that
24   occurred and suggesting what actions --
25 Q. Post Office should take?

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1   A. Post Office should take, yes.
2   Q. In this case it will be: you need to check with the
3   branch whether money changed hands, and if it didn't you
4   might need to issue a TC, if it did then you won't, yes?
5   A. Yes.
6   Q. Could I suggest to you, Mr Coyne, that is the system
7   working as it should. This PEAK isn't a demonstration
8   of a failure in the Horizon system or in its
9   countermeasures. It is actually good evidence of the
10   countermeasures working so as to avoid the risk of any
11   loss to a subpostmaster. Would you agree with that?
12   A. As the position stands at the end of this PEAK, there is
13   a discrepancy within branch accounts which Post Office
14   may well go on to fix as a result of that BIMS but it is
15   incorrect at this point in time, or it might be
16   incorrect at this point in time.
17   Q. What interests me, Mr Coyne, is that you are quite happy
18   to describe this PEAK as an example of recovery failures
19   creating discrepancies in branch accounts. We don't
20   know whether it did or not actually. But you stop. At
21   a earlier stage in your cross-examination I think you
22   accepted that it is important for the expert to consider
23   not just what the immediate impacts of a bug are but
24   also what impacts the countermeasures that the system
25   has would be. It is important therefore to focus on the

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1   ultimate result, not on some transient situation that
2   may exist for a limited amount of time. I think you
3   agreed with that before but perhaps I will invite you to
4   agree with it again.
5   A. I do agree with that but we have to work off the
6   technical evidence available, and there isn't technical
7   evidence available to show that this discrepancy was
8   resolved.
9   Q. Here's what interests me, Mr Coyne. What you are saying
10   is -- let me do it this way. I would suggest to you
11   that on any fair and reasonable reading what this PEAK
12   demonstrates is, first of all, that Fujitsu spotted that
13   there was a failed recovery situation?
14   A. Yes.
15   Q. Very reliably. One can reliably assume that's going to
16   happen, yes?
17   A. Yes.
18   Q. Looked into the underlying circumstances at the branch
19   at the time of the recovery. Again one can reliably
20   assume that's going to happen?
21   A. Yes.
22   Q. Then formed the view it was necessary to work out what
23   had happened on the ground in order to know whether any
24   discrepancy had been created or not, yes?
25   A. Yes.

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1   Q. Then sent through a BIMS to Post Office to tell
2   Post Office to reach out to the postmaster and ask what
3   actually happened on the ground?
4   A. Yes.
5   Q. And I further suggest to you, Mr Coyne, that the reason
6   why Fujitsu sent that BIMS and the reason why
7   Post Office received that BIMS, they don't receive these
8   documents in order to put them in a pile in some
9   warehouse and never look at them, they receive them so
10   that they can be acted upon?
11   A. Yes.
12   Q. And on any fair reading of the evidence, it would be
13   extraordinary in this case to assume that having
14   received that BIMS, Post Office would not have reached
15   out to the postmaster, ascertain what had happened and
16   sent a TC or not depending on the postmaster's answer.
17   A. Yes, but this is quite clear, when you read the heading
18   "Recovery Failures", that it is seeking to address
19   Horizon Issue 4: to what extent has there been the
20   potential for errors in the data recorded in Horizon?
21   Q. Mr Coyne, can I remind you we are talking about a PEAK
22   which is in your bug table. It is in your evidence of
23   bugs which have caused discrepancies. This table
24   consists exclusively of what you say are bugs for which
25   there is good evidence that discrepancies were caused to

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1   branch accounts, am I wrong?
2   A. There is a table in my report -- this is a joint
3   statement, remember. There is a table in my second
4   report. If you look on the face of it, page 12
5   {D2/4.1/18}, and it is quite clear here that this is
6   under Horizon Issue 4 rather than Horizon Issue 1. And
7   Horizon Issue 4 is a different issue talking about the
8   potential.
9   Q. Have you finished your answer?
10   A. Yes.
11   Q. Mr Coyne, your answer is absolutely astonishing. First
12   of all, let's look at the table. It is "Recovery
13   Failures" which is three rows from the bottom. You say
14   it is relevant to Issue 4. Look at the next column.
15   The next column says "Evidence of Branch Impact."
16   A. Yes.
17   Q. You are there saying that the recovery failures that you
18   have identified are recovery failures for which there is
19   evidence they had an impact on branch accounts?
20   A. They do have an impact on branch accounts until it is
21   dealt with by Post Office. There is very little doubt
22   about that.
23   Q. Secondly, I got this reference not from your table or
24   from any paragraph of your report, I got this PEAK
25   reference from the bug list in JS2, and you agreed with

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1   me I think at the beginning of this morning's evidence
2   that that represents a list of bugs that you think had
3   branch impact, had an effect on branch accounts. So
4   I go to the PEAK and I expect to see a bug in there
5   which has a demonstrated impact on branch accounts.
6   But we go to this PEAK and what do I see? First of
7   all, I don't see any bug at all. I see a failure in
8   recovery which you yourself accepted was inevitable.
9   Even in the best, most perfect system there are always
10   going to be recovery failures.
11   Secondly, I see no evidence of a discrepancy being
12   created as a result of any bug in branch accounts. What
13   I see is a system which is designed to avoid any
14   discrepancy being created in branch accounts?
15 A.   Your questioning there was all about bugs. The actual
16   Horizon Issue is framed as bugs, errors and defects. It
17   is quite clear both in my report and in the table within
18   the joint statement that recovery issues has been
19   identified as Horizon Issue 4.
20 Q.   If we could go to paragraph 1.15 of the joint statement,
21   so that's {D1/2/29}, please.
22 A.   The second joint statement?
23 Q.   Second joint statement:
24   "The number of distinct bugs, for which the experts
25   have seen strong evidence of the bug causing a lasting

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1   discrepancy in branch accounts, is between 12 and 29."
2   So your expert opinion is that all 29 of the bugs on
3   the bug table contain strong evidence of a financial
4   discrepancy being caused in postmaster's accounts, yes?
5 A.   Sorry, let me --
6 MR JUSTICE FRASER: I think you have given an incorrect
7   reference to the joint statement or I can't find where
8   you are reading from.
9 MR DE GARR ROBINSON: I'm sorry. Paragraph 1.15 on page 29
10   of the bug table. Well, it's not the bug table, it's
11   JS2.
12 MR JUSTICE FRASER: The joint statement, second joint
13   statement?
14 MR DE GARR ROBINSON: Second joint statement, yes.
15 A.   The agreed part of it? Yes.
16 MR DE GARR ROBINSON: So what you are saying there is your
17   expert opinion, your considered opinion, is that all 29
18   of those bugs contain strong evidence of the bug causing
19   a lasting discrepancy in branch accounts, yes?
20 A.   The statement there is an agreed statement between us.
21 Q.   Yes.
22 A.   That the number is between 12 and 29.
23 Q.   And your view is that it is 29, correct?
24 A.   My view will be whatever the number is in the table --
25 Q.   Yes, it is 29.

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1 A.   -- in my report.
2 Q.   Yes. 29 bugs are in the bug table in the second joint
3   statement, yes? And you confirmed when you started
4   giving evidence about the bug table this morning that
5   these 29 bugs represented the culmination of the work
6   that you have done, they represented bugs that you
7   considered had caused discrepancies in branch accounts.
8   You are not withdrawing that evidence now, are you,
9   Mr Coyne?
10 A.   I'm not. Are you referring to the bug table in my
11   report?
12 Q.   I'm referring to the bug table in the second joint
13   statement from which I have been working all morning,
14   yes.
15 A.   Right, okay. Well, the bug table in my second report
16   has a column that says "Evidence of Branch Account" and
17   it has an indicator in there saying yes or no.
18 Q.   I'm looking at paragraph 1.15 which is agreed by you.
19 A.   Yes.
20 Q.   As I understand it, it is an assertion by you that all
21   29 of the bugs in the bug table caused lasting
22   discrepancies, that there's strong evidence that they
23   caused lasting discrepancies. Do you see that?
24 A.   Yes.
25 Q.   And by "lasting", the antithesis of a lasting

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1   discrepancy is a transient discrepancy, correct?
2 A.   Sorry, just put that question again, please.
3 Q.   There are two kinds of discrepancy that can be caused.
4   There are transient discrepancies and there are lasting
5   ones.
6 A.   Right.
7 Q.   And the difference between transient discrepancies and
8   lasting discrepancies is transient discrepancies get
9   handled by countermeasures. So there is no ultimate
10   effect, there is no lasting effect. There may be some
11   short period of time where there is a potential
12   shortfall, but in the long run the countermeasures
13   existing in the Horizon system will ensure that the
14   discrepancy is resolved. Yes?
15 A.   They should ensure if they are all working in position
16   correctly, yes.
17 Q.   And that's what's meant by the word "lasting" in
18   paragraph 1.15, yes?
19 A.   Yes.
20 Q.   So what you are saying is for each of the 29 bugs there
21   is strong evidence that the bugs concerned not only
22   caused discrepancies but they caused discrepancies which
23   were lasting, which weren't handled by countermeasures.
24   You see? That's your expert opinion, isn't it?
25 A.   Yes.

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1   Q.   And yet we go to this -- and you cite lots and lots of
2   PEAKs, I can't go through them all.   But we go to this
3   PEAK and what I suggest to you, Mr Coyne, is first of
4   all there's not evidence of a bug, but more importantly
5   for present purposes the evidence constituted by this
6   PEAK demonstrates that if there were any discrepancy
7   caused, it would have been picked up in the process, the
8   BIMS process, that we have been discussing.   Do you not
9   agree?
10   A.   It certainly should pick it up and that will correct the
11   discrepancy, and therefore it shouldn't be lasting if
12   that whole process works in the way that you suggest.
13   But that was offered up as Horizon Issue 4, and Horizon
14   Issue 4 asked for the potential and that is the area of
15   potential.
16   Q.   Mr Coyne, I don't want to be discourteous to you, but
17   I suggest to you that you are evading my question. My
18   question is, please forget Horizon Issue 4.
19   A.   Right.
20   Q.   We are talking about bugs creating discrepancies in
21   branch accounts.
22   A.   Yes.
23   Q.   I have closed off that escape route for you, if I may
24   say so. Okay?
25   A.   Right.

1   Q.   And the purpose of the bug table is to identify
2   precisely those bugs that had a lasting effect on branch
3   accounts after taking countermeasures into account, yes?
4   A.   Why are you suggesting that the purpose of this bug
5   table is what you are suggesting it is?
6   MR JUSTICE FRASER: All right, I'm actually going to
7   shortcircuit it this way because it is just past
8   1 o'clock.   There is a joint statement that says you and
9   Dr Worden agree between 12 and 29.
10   A.   Yes.
11   MR JUSTICE FRASER: Do you know what your number is between
12   12 and 29?
13   A.   There is evidence --
14   MR JUSTICE FRASER: No, no. Do you know what your number
15   is?
16   A.   13.
17   MR JUSTICE FRASER: Right. If you want to pursue this
18   anymore, Mr de Garr Robinson, do it at 2 o'clock.
19   Thank you all very much. 2 o'clock.
20   (1.03 pm)
21   (The short adjournment)
22   (2.00 pm)
23   MR DE GARR ROBINSON: Mr Coyne, good afternoon.
24   A.   Good afternoon. Sorry, Mr de Garr Robinson, before we
25   start could I please correct the number I provided just

1   before lunch.
2   In tallying up the numbers in the column in my
3   report I missed that the last one is actually a heading
4   that includes a number of bugs, errors and defects, so
5   the actual number is 21.   They are in the report, they
6   are just grouped together for the purposes of the table.
7   Q.   21. So which ones -- if we are looking at the bug
8   table -- did you mistakenly leave out? Which headings
9   are we talking about?
10   A.   The very last on on the table in any report.
11   Q.   Network banking bug?
12   MR JUSTICE FRASER: I do not think you are in the same
13   please.
14   Can you just give us a paragraph number?
15   A.   Just above paragraph 3.22 of the second report.
16   MR DE GARR ROBINSON: So this is {D2/4.1/18}.
17   A.   Yes.   The last one on there that talks about bugs,
18   errors and defects introduced previously by fixes?
19   Q.   Yes.
20   A.   That is actually a group heading, and in the report
21   there's seven bugs, errors and defects included in that
22   heading.
23   MR JUSTICE FRASER: So the number is 21.
24   A.   The number is 21.
25   MR JUSTICE FRASER: All right.

1   MR DE GARR ROBINSON: Just before we get to the number,
2   I would like to just understand where we now stand.
3   We all understand, I think, we discussed it several
4   times during the course of the last few days, the
5   significance of the distinction between transient bugs
6   on the one hand and lasting bugs on the other?
7   A.   Yes.
8   Q.   The distinction is transient bugs are bugs that will be
9   caught by countermeasures, lasting bugs are the ones
10   that the countermeasures may miss, yes?
11   A.   Yes.
12   Q.   So where you say you have identified 21 bugs that are
13   lasting, you are also saying that the other bugs, such
14   other bugs as have been identified at any tables or any
15   lists, those bugs actually in your judgment are bugs
16   that would not have got past countermeasures, yes?
17   A.   That would not have got past?
18   Q.   Yes, that would have been caught by countermeasures.
19   That's why they are not lasting.
20   MR JUSTICE FRASER: I'm afraid I don't understand that
21   question.
22   MR DE GARR ROBINSON: A large number of bugs are set out in
23   the bug table in JS2.
24   A.   Yes.
25   Q.   When I say the bug table, I'm talking about the table

 1   which I thought represented the issues between the
 2   experts on bugs.
 3 MR JUSTICE FRASER: Yes, the one in the joint statement.
 4 MR DE GARR ROBINSON: The one in the joint statement. There
 5   are 29 bugs in that joint statement.
 6 A. Yes, bugs, errors and defects.
 7 Q. I'm not seeking to achieve an advantage by just saying
 8   bugs, I'm simply using the term as a form of shorthand,
 9   Mr Coyne. I understand what you mean when you seek to
10   make yourself clear. That's entirely reasonable.
11   That table identifies 29 bugs. You now say 21 bugs
12   are lasting. And just to be clear, what you are
13   actually saying is that 8 of the 29 bugs were not
14   lasting, they are bugs that in your judgment would not
15   have got past the countermeasures that exist in Horizon,
16   yes?
17 A. Not quite. They are bugs which have the potential, so
18   they could well be caught at a later point in time.
19   They go to one of the later Horizon Issues.
20 Q. I'm focusing exclusively, and I would be very grateful
21   if you would focus exclusively, on bugs having an impact
22   on branch accounts, okay? I'm not going to be asking
23   you questions about Issue 4 or other issues. I'm
24   focusing today exclusively on Issue 1, okay? Just to be
25   clear.

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 1 A. Right.
 2 Q. What I'm suggesting -- what I'm seeking to ascertain
 3   from you, Mr Coyne, is that by saying your expert
 4   judgment is that there are 21 bugs which are lasting, it
 5   follows that eight of the bugs on the bug table in JS2,
 6   eight of those bugs in your view are not lasting,
 7   correct?
 8 A. Yes.
 9 Q. So in your expert view, you do not suggest that those
10   eight bugs got past countermeasures, would have got past
11   the Horizon countermeasures?
12 A. Yes, that's true.
13 Q. Thank you. That's very kind.
14 MR JUSTICE FRASER: A different way of putting the same
15   point is the passage that I asked you about, which is at
16   1.15 on JS2 on page 29, which said:
17   "The number of distinct bugs, for which the experts
18   have seen strong evidence of the bug causing a lasting
19   discrepancy in branch accounts, is between 12 and 29."
20   29 is now 21?
21 A. Yes, my Lord {D1/2/29}.
22 MR JUSTICE FRASER: Right.
23 MR DE GARR ROBINSON: That you are now asserting 21 rather
24   than 29 takes me by surprise, Mr Coyne. If I could ask
25   you to look at the transcript for this morning.

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 1 A. Yes.
 2 Q. Page 15, if we pick it up at line 11 {Day17/15:11}.
 3   "Question: Let me ask a slightly different
 4   question."
 5   And I'm talking now about the bug list in JS2.
 6   "Question: This is the definitive list, isn't it?
 7   You are not suggesting that there are other bugs with
 8   evidence of financial impact -- you are not relying on
 9   any other bugs with evidence of financial impact, it is
10   just the 29 bugs identified here?"
11   "Answer: These are the ones that I have identified,
12   yes."
13 A. Yes.
14 Q. I didn't ask you any further questions and moved on
15   because I had understood you consistently throughout
16   this case actually since before Christmas -- or
17   certainly since your second report -- as asserting --
18   well, actually since JS2 -- that the 29 bugs in JS2 were
19   bugs with lasting financial effect.
20   I form that understanding on the basis of the
21   heading to the table. If we could look at the bug
22   table, it is {D1/2/3}. So there's the heading. It is
23   page 3:
24   "Table of Bugs/Errors/Defects with acknowledged or
25   disagreed evidence of financial impact."

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 1   What I had understood, Mr Coyne, was that this set
 2   out the bugs that you thought had -- and I'm going to
 3   introduce the word "lasting, it is not in the heading --
 4   that you thought had lasting financial impact and those
 5   bugs which Dr Worden thought had lasting financial
 6   impact. My apprehension had been that you said 29 bugs
 7   had lasting financial impact and Dr Worden said only 12
 8   did.
 9 A. Yes.
10 Q. If we move forward in the table to page {D1/2/27}, there
11   are various agreements recorded here in relation to
12   Horizon Issue 1, which of course is to do with
13   shortfalls.
14 A. Yes.
15 Q. If we look at paragraph 1.2, look at "Statement", this
16   is an agreed statement:
17   "Referring to the table of bugs above, the experts
18   agree that the bugs in rows 1, 2, 3, 10, 13, 14, 18, 23,
19   24, 25, 27 and 28 may have had financial impact on
20   branch accounts. Other rows, the impact is not agreed
21   between the experts."
22 A. Yes.
23 Q. That's 12 bugs. And I had understood the position, in
24   fact everyone on this side of the court had understood
25   the position, that Dr Worden accepted that those 12 bugs

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1   had that financial impact, or there was evidence that
2   those bugs might have had lasting financial impact, and
3   the disagreement between you was that you said another
4   17 did to get you up to 29. Do you see?
5   A.   Right.
6   Q.   Then if we move forward in the table to page {D1/2/29},
7   please, in the joint statement, and we look at
8   paragraph 1.15, another agreement:
9   "The number of distinct bugs, for which the experts
10   have seen strong evidence of the bug causing a lasting
11   discrepancy in branch accounts, is between 12 and 29."
12   I thought -- and I'm telling you this so that you
13   can explain what my mistake was and how I made it --
14   that that 12 was the 12 referred to in paragraph 1.2 and
15   the 29 was the other 17 in the table that you were
16   asserting. So my understanding of joint statement 2 was
17   that you were asserting there were 29 bugs with lasting
18   financial impact and Dr Worden -- or with evidence of
19   lasting financial impact -- and Dr Worden was asserting
20   that there were 12 bugs for which there was evidence of
21   lasting financial impact. Was I wrong?
22   A.   Well, yes, you were wrong. That was a statement that we
23   agreed to put in because we couldn't get agreement on
24   how many there actually were, so we ended up putting
25   a range in for the purposes of --

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1   Q.   Here's what I don't understand. I presumed that you
2   agreed with the 12 bugs that Dr Worden had identified
3   because they are set out in paragraph 1.2.
4   A.   Yes.
5   Q.   So the point was that you were asserting an extra --
6   some extra bugs to bring us to a higher total, yes?
7   A.   Yes.
8   Q.   And in paragraph 1.15, forgive me, it appears that that
9   higher total is given, namely 29?
10   A.   Yes.
11   Q.   Are you suggesting that you have only ever suggested 21
12   and no one was suggesting anything above 21?
13   A.   No. There are 29 bugs, errors and defects in the list
14   and in the table starting at number 1, but some of those
15   go to other Horizon Issues apart from Horizon Issue 1,
16   and they do say that clearly in the heading.
17   Q.   The reason why I'm confused by your answer is that it
18   seems to me -- and tell me why I'm wrong -- that in
19   paragraph 1.15 it is being suggested that someone is
20   saying there are 29 bugs which have lasting financial
21   impact.
22   If what you are now saying has always been your
23   position, then nobody was ever saying that there were 29
24   bugs with lasting financial impact. So my question
25   becomes: how is it you were saying in 1.15 that there

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1   were another seven bugs with lasting financial impact
2   when no one was saying so?
3   A.   I'm not actually sure who suggested the first draft of
4   that statement.
5   Q.   It doesn't matter though, does it?
6   A.   No, it doesn't matter, but because it was correct it's
7   gone in as agreed.
8   Q.   How could it possibly be correct in a world in which
9   Dr Worden was suggesting there was evidence for 12 bugs
10   with lasting financial effect, and you were saying no,
11   there's an extra nine to bring it up to 21, how could it
12   possibly be correct that there might be 22, 23, 24, 25,
13   26, 27, 28, 29? Where do the other eight bugs come
14   from? How is it possible that there could be an extra
15   eight bugs with lasting financial effect where you have
16   just told me that neither you nor Dr Worden thought that
17   there was?
18   A.   Because some of the Horizon Issue 4 bugs, errors and
19   defects that are reported in here and are reported in
20   the joint statement could have a lasting impact on
21   branch accounts but we don't necessarily have evidence
22   of that.
23   Q.   Mr Coyne, I would like to suggest that that is not any
24   sensible or fair reading of what's set out in
25   paragraph 1.15 and that on any sensible reading

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1   Dr Worden was alleging 12 and you were alleging 29.
2   A.   Mm.
3   Q.   And you refute that, do you?
4   A.   No, at the time we were working from that table of 29
5   bugs, errors and defects. There were 29 in play that
6   were being discussed.
7   Q.   I have to say your answers are making things more, not
8   less, clear. I don't know what you mean by "being in
9   play". You either -- it is a binary situation. It is
10   almost a set of philosophical statements.
11   A human being either believes that there's evidence
12   that a bug has a lasting financial impact or he does
13   not. In a world in which Dr Worden believes that there
14   are 12 and you believe that there are 21, and there is
15   no one else in the room who has a belief because you are
16   the only two people who are producing the statement, it
17   makes no sense for anyone to mention an additional
18   number to bring you up to 29. You should have said: it
19   is between 12 and 21.
20   A.   No, but what you have said there precisely illustrates
21   my point. You said there is either evidence of, and the
22   challenge is with a number of these there is evidence of
23   there being a defect but there isn't necessarily
24   evidence of financial impact from that defect.
25   Q.   Mr Coyne, everybody on this side of the court, and

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1　　　I mean everybody on this side of the court, believed
2　　　that your view was that the evidence showed that there
3　　　were 29 bugs with lasting financial impact. You are now
4　　　saying that we made a mistake, are you?
5　A.　Yes.
6　Q.　Could I ask you to explain where you made it clear what
7　　　you were actually saying?
8　A.　Well, as set out in my second report, there is a table
9　　　there that quite clearly says whether there is evidence
10　　of branch impact or not. And there is also a list of
11　　which Horizon Issue it specifically relates to. The
12　　only addition to that is when you come to the very last
13　　column, there's other bugs, errors and defects that are
14　　re-introduced and they are only covered in the joint
15　　statements.
16　Q.　Would you give me a moment, I'm so sorry. Because
17　　I wasn't prepared for the discussion we are now having
18　　I'm afraid I'm going to stumble rather.
19　　　　(Pause)
20　　　　So what you are suggesting is that there are I don't
21　　know how many ... In your table 1, how many bugs have
22　　you counted from your table 1 that you now say have
23　　evidence of lasting financial impact?
24　A.　How many from your table? Right, okay. So 14 from the
25　　table.

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1　Q.　14. Then an extra seven that come from the last item?
2　A.　The last item, yes. They are covered in the report at
3　　　3.211.
4　Q.　So it is the last item on the report. There appears to
5　　　be an item corresponding to that item in the bug table.
6　A.　There is, yes.
7　Q.　It is in {D1/2/21}. It is bug 22. So have I made
8　　　another error, Mr Coyne? Have I wrongly assumed that
9　　　item 22 corresponded with the last item in your table 1
10　　in your joint report? Are you now saying, no, no, that
11　　last item in the joint report actually accounts for
12　　a whole host of other bugs?
13　A.　Yes, let me just turn to that in my report.
14　Q.　I must admit I have been focusing on your bug table
15　　because this represents the last statement, as
16　　I understood it, of the issues between the parties or
17　　between the parties' experts.
18　A.　It does.
19　Q.　I'm not trying to stop you going to your report, please
20　　go ahead, Mr Coyne.
21　A.　Yes. Yes, they are covered in the 22 ... sorry.
22　　(Pause)
23　　　　So covered at 3.211 in the report.
24　Q.　Yes.
25　A.　You see the PEAKs that are ...

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1　Q.　There are two PEAKs in that section, {F/53/1} and
2　　　{F/55/1}. I'm not sure how that could account for
3　　　another seven bugs.
4　A.　But then if you go on from 22 you have got 23, bureau de
5　　　change.
6　Q.　You are saying that is an aspect of bugs, errors and
7　　　defects introduced by previously applied PEAK fixes, are
8　　　you? Because it is plainly not right, Mr Coyne. What
9　　　are you saying?
10　A.　Sorry, I'm drawing a blank now what the cross reference
11　　is for these ... Sorry, I would need to search for that
12　　PEAK reference under the Coyne impact column against 23,
13　　bureau de change, just to see where that features.
14　Q.　The interesting thing is if you look at table 1 in your
15　　second report {D2/4.1/18}, there is an item for bureau
16　　discrepancies. That's different from bureau de change,
17　　is it?
18　A.　I think bureau discrepancies is already covered further
19　　up in this joint statement.
20　Q.　I see. So are you saying that bureau de change were --
21　　they were within your category of bugs, errors and
22　　defects introduced by previously applied fixes? Is that
23　　what you are saying?
24　A.　Yes.
25　Q.　And are you saying that for the others: wrong branch,

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1　　　customer change? I don't want to put words into your
2　　　mouth.
3　A.　Yes, because the original bureau de change is at 14 --
4　　　sorry, bureau discrepancies which corresponds --
5　Q.　Sorry, it was a red herring I introduced. I was trying
6　　　to help and I do not think I did.
7　　　　Let me move away from that subject. Perhaps we
8　　　could have a think about that, maybe we will have
9　　　a break in a few minutes and think about it, but before
10　　we do that, subject to his Lordship of course, I would
11　　like to go back to the first issue I was seeking to
12　　explore with you, which is how wrong we were about what
13　　your expert opinion was, and you told me that on this
14　　side of the court we were wrong to think that your
15　　expert opinion was that there were 29 bugs with lasting
16　　financial impact.
17　　　　Could you tell me where in any document you have
18　　indicated that your view is in fact not 29 but 21?
19　　Where will I get that from?
20　A.　Throughout the report I have set out next to every
21　　single defect whether it is relating to the test of
22　　Horizon Issue 1 or a later Horizon Issue, and I have
23　　also set out whether I believe there was impact on
24　　branch accounts all the way through report number 2.
25　Q.　Let's not talk about report number 2 because the

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1   statement -- the most up to date statement of the
2   position, I think you agreed with me at the beginning of
3   today, the culmination of all your work, including work
4   you did after your second report, is the bug table in
5   joint statement 2?
6 A.   Yes, but when you put that to me I said that that can't
7   be read in isolation, it must be read with the second
8   report.
9 Q.   Indeed you did. And that was entirely fair because with
10   particular PEAKs you might need to go back to your
11   report to see what you said about those PEAKs. But
12   nonetheless, the bug table had 29 bugs in it which you
13   said had financial impact. I had thought you were
14   saying all 29 had lasting financial impact for the
15   reasons I have already explained because of what was in
16   paragraph 1.15 of the joint statement.
17   My question is: where in your joint statement do you
18   say my view as to lasting financial impact is 21? And
19   if you say it nowhere, why do you say it nowhere?
20 A.   Can I take you to one illustration of that? If you look
21   at number 21.
22 Q.   In the bug table?
23 A.   In the bug table. {D1/2/20} So that is transaction
24   correction issues, and I say there in brackets "(Horizon
25   Issue 4 & 15)".

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1   Then what my statement says there is:
2   "Transaction correction bugs/errors and defects do
3 not cause discrepancies with branch accounts but do:
4   "(a) Reduce the Subpostmaster's ability to resolve
5 any discrepancies ..."
6   Etc. So I make it clear in there that there's not
7 an impact on branch accounts but it does relate to
8 Horizon Issue 4.
9 Q.   So you say you make it clear it is not 29. So we have
10   got down to 28. Where do you make it clear that another
11   seven should also be excluded from the list?
12 A.   Number 17 {D1/2/16} has Horizon Issue 4.
13 Q.   And where do you say that doesn't have lasting financial
14   impact?
15 A.   If you read the text it doesn't suggest that it does.
16 Q.   Here's what I find really interesting, Mr Coyne. I'm
17   looking at your table 1 -- you know you keep wanting me
18   to go back to look at your second report. If I look at
19   table 1 of your second report it has an entry for branch
20   customer discrepancies {D2/4.1/18}, and in the "Evidence
21   of Branch Impact" column it has the word "Yes". So did
22   you make a mistake, should you have written "No" there?
23   Or are you putting a construction on bug 17 in the table
24   that it doesn't bear?
25 A.   If you read Dr Worden's opinion on that, recovery

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1   messages needed to be dealt with to correct the
2   discrepancy at the branch. So there was an impact on
3   branch accounts but it was corrected.
4 Q.   Let's move on. So far we have taken out two of these
5   items on the list. Where are the others coming from?
6   Which others should we be taking out?
7 A.   So 19, Post & Go, that's a Horizon Issue 4.
8 Q.   Yes.
9 A.   So on the table I have said that there is evidence of
10   branch impact on there.
11 Q.   Sorry, which table? What am I looking at?
12 A.   Forgive me. In my second report, on the table, you will
13   see that Post & Go is listed as a Horizon Issue 4.
14 Q.   Yes, and it is also listed as having evidence of branch
15   impact --
16 A.   I will take you to that in one second, yes. In the
17   joint statement table that explains that that's Horizon
18   Issue 4.
19 Q.   Right.
20 A.   And there is evidence of branch impact. The problem
21   impacted at least one branch account for 43 days and it
22   appeared repeatedly on the daily report to the
23   Post Office from Fujitsu.
24 Q.   Rather than -- I'm not taking you to task or criticising
25   you for this, and I understand entirely why you are

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1   explaining your reasoning, but in the first instance
2   could you simply tell me the bugs that you think should
3   be taken out from the list I thought I was facing and
4   then we can perhaps talk about them after you have done
5   that?
6 A.   You want the bugs to take out?
7 Q.   Yes.
8 MR JUSTICE FRASER: At the moment I have been noting it. We
9   have got 17, 21 and 19.
10 A.   So phantom transactions, which is number 15 {D1/2/13},
11   that is a Horizon Issue 4.
12 Q.   Yes. Does it say Horizon Issue 4 somewhere and I have
13   missed it?
14 MR JUSTICE FRASER: I think table 1.
15 MR DE GARR ROBINSON: I see. Yes.
16 MR JUSTICE FRASER: But you are right, it is not in the
17   column in the joint statement. Right, so that is
18   another one.
19 A.   Yes. And branch account impact was noted on that.
20   Number 16 {D1/2/13}, reconciliation, is Horizon
21   Issue 4.
22 Q.   You actually say -- in the bug table you say Issues 1, 4
23   and 5. So I should delete Issue 1, should I?
24   {D1/2/14}. I will do that.
25 A.   Sorry, in the bug table?

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1   MR JUSTICE FRASER: I don't want to be too pedantic,
2   Mr de Garr Robinson, but do remember it is a joint
3   statement. So far as Mr Coyne is concerned --
4   MR DE GARR ROBINSON: From your perspective --
5   MR JUSTICE FRASER: -- can number 1 come out in the column
6   against item 16?
7   MR DE GARR ROBINSON: Entirely fair, my Lord. Although
8   Dr Worden has never asserted that this is Issue 1
9   but ...
10 MR JUSTICE FRASER: As I said, I don't want to be too
11   pedantic, but at the moment it is a joint statement. It
12   might lead to a permanent and agreed deletion but for
13   the moment.
14 MR DE GARR ROBINSON: I hadn't thought of that.
15 A. Yes, I have noted reconciliation issues as Horizon
16   Issue 4.
17 MR JUSTICE FRASER: Okay. I will tell you what my number
18   is : it's 17, 21, 19, 15 and 16.
19 MR DE GARR ROBINSON: So there's another two to go. Is that
20   right? No, it's another four to go.
21 MR JUSTICE FRASER: Mr Coyne, number?
22 A. So Post & Go is number 4 -- sorry, is Horizon Issue 4.
23   That can come out.
24 MR JUSTICE FRASER: Can you give me the item number?
25 A. Number 19.

1   MR JUSTICE FRASER: You have given us that already.
2   A. Recovery failures, number 20 --
3   MR DE GARR ROBINSON: Right.
4   A. -- is a Horizon Issue 4. {D1/2/19} Transaction
5   correction issues is a Horizon Issue 4.
6   MR JUSTICE FRASER: Item number, please?
7   A. Sorry, 21.
8   MR DE GARR ROBINSON: I'm reminded that you indicated that
9   you got to 21 by treating one of these bugs as actually
10   counting as seven, is that right? The bugs, errors and
11   defects introduced by previously applied fixes, was that
12   right? Or did I misunderstand what you said?
13 A. There should be seven within that heading.
14 Q. Right. So does that mean we have to take a lot more
15   from the index of the bug table to get to the right
16   number?
17 MR JUSTICE FRASER: Mr de Garr Robinson, have you been
18   taking a note of the item numbers in the joint
19   statement?
20 MR DE GARR ROBINSON: I have been drawing circles around
21   them, my Lord.
22 MR JUSTICE FRASER: I'm just going to tell you what my
23   numbers are in case I'm wrong, and I'm putting these in
24   numerical order: 15, 16, 17, 19, 20 and 21. Does that
25   match your numbers?

1   MR DE GARR ROBINSON: Mine are 15, 16, 17, 19, 20, and 21.
2   My Lord, yes. So we are down to 24 bugs. There's
3   another three to go, is that right?
4   MR JUSTICE FRASER: I think 29 minus six, yes, 23.
5   MR DE GARR ROBINSON: Or possibly more if bug 22 is actually
6   seven.
7   MR JUSTICE FRASER: If we could for my purposes concentrate
8   on the 29 subtracting these, because the 29 are
9   individually set out.
10   So, Mr Coyne, we started with 29 and you have taken
11   six out. Mr de Garr Robinson would like to know what
12   the others are. Are you in a position to tell us?
13 A. I will certainly try, my Lord.
14   (Pause)
15   Just from that tally, my Lord, I have only got six
16   to take out of the list in here.
17 MR JUSTICE FRASER: Okay.
18   Over to you, Mr de Garr Robinson.
19 MR DE GARR ROBINSON: So we are at 23, are we, not 21?
20 A. Just going from the joint statement, from what I have
21   just done, yes.
22 Q. So how is it you arrived at 21 --
23 A. I have gone from the bottom up rather than the top down,
24   so --
25 Q. I presume you thought of little else during the luncheon

1   adjournment, which is why when you came back in you were
2   very quick to explain -- to correct the answer that you
3   had given his Lordship just before we broke.
4   A. Yes.
5   Q. So how is it that the position that you are adopting now
6   is inconsistent with the position that you were adopting
7   at 2.01 pm? Can you explain that?
8   A. What I did over the lunch is I have gone from my table
9   at page 12 of the joint statement and then added in
10   seven under the last one, that's how I have got the
11   number.
12 Q. When you say seven under the last one, I hesitate to
13   change the subject, but the bugs, errors and defects
14   introduced by previously applied PEAKs, which is the
15   last item on table 1 of your second report, that whole
16   section of your report only refers to two PEAKs. So how
17   is it that that section has somehow generated an extra
18   seven bugs? Could you explain that perhaps?
19   I'm so sorry, it is four PEAKs.
20 MR JUSTICE FRASER: I'm not sure -- you might just want to
21   re-consider that, Mr de Garr Robinson.
22 MR DE GARR ROBINSON: You are quite right. It is 1, 2, 3,
23   4 -- yes, it is four PEAKs. Between 3.211 and 3.219
24   four PEAKs are footnoted.
25   Would your Lordship let me confer?

1 MR JUSTICE FRASER: By all means. (Pause)

2 A. Sorry, what's just struck me about the ones at the tail

3   end, it could well be the case that these are inclusions

4   from Dr Worden.

5 MR DE GARR ROBINSON: Oh, I see. So it isn't the case that

6   these bugs introduced by fixes do explain another

7   seven --

8 A. Or Dr Worden wanted them included into this joint

9   statement.

10 Q. Let's just go back for a second and work out how many of

11   these bugs you say there is evidence to justify the

12   suggestion that there might have been a lasting

13   financial impact. You think there's such evidence with

14   the receipts and payments mismatch, number 1, yes?

15 A. Let me start again.

16 Q. Let's go from the front.

17 MR JUSTICE FRASER: Are we in the joint statement?

18 MR DE GARR ROBINSON: In the joint statement, yes. So you

19   think there is evidence for number 1?

20 A. Yes.

21 Q. You think there is evidence for Callendar Square?

22 A. Yes.

23 Q. This is evidence of a lasting impact, yes?

24 A. Yes.

25 Q. You think there is evidence for suspense account bug,

1   number 3?

2 A. Yes.

3 Q. Do you think there is evidence for lasting financial

4   impact for Dalmellington?

5 A. There was certainly evidence that not all branches were

6   resolved.

7 Q. So you include that as --

8 A. Yes.

9 Q. You think there's evidence of lasting financial impact.

10   Okay. What about remming in bug, number 5? Is there

11   evidence of lasting financial impact for that?

12 A. Yes.

13 Q. Remming out bug, 6/1?

14 A. Yes.

15 Q. Remming out bug, 6/2?

16 A. Yes.

17 Q. 7, local suspense issue?

18 A. Yes.

19 Q. 8, recovery issues?

20 A. Yes.

21 Q. 9, evidence of lasting financial impact for reversals?

22 A. Yes.

23 Q. 10, evidence of lasting financial impact data tree build

24   failure discrepancies?

25 A. Yes.

1 Q. 11, evidence of lasting impact Girobank discrepancies,

2   that we discussed this morning?

3 A. Yes.

4 Q. 12, counter replacement issues, evidence of lasting

5   impact?

6 A. Sorry, you using the word "lasting impact" now. I don't

7   know whether Post Office went on to make any later

8   corrections to sort out these discrepancies.

9 Q. I have sought to establish a degree with you on a number

10   of occasions now the difference between transient impact

11   that you think would have been caught by countermeasures

12   and lasting impact that would not have been caught by

13   countermeasures. That's what I'm getting at, Mr Coyne.

14   Because I think you agreed with me on at least one

15   occasion previously that it is the lasting impact bugs

16   that really have a material impact on robustness, or are

17   capable of having an impact on robustness. So that's

18   what I mean by lasting.

19   So counter replacement issues, you say there is

20   evidence of lasting impact?

21 A. Yes.

22 Q. 13, do you say there's evidence of lasting impact with

23   withdrawn stock discrepancies?

24 A. Yes.

25 Q. 14, do you say there is evidence of lasting impact with

1   bureau discrepancies?

2 A. Yes, I believe so.

3 Q. Okay. 15, I will let you look at your report.

4 A. Sorry. (Pause)

5   Yes.

6 Q. Okay?

7 A. Yes.

8 Q. 15 is out.

9 A. Yes.

10 Q. 16 is out. 17 is out.

11 A. Yes.

12 Q. 18, do you say there's evidence of lasting impact with

13   18, concurrent logins?

14 A. Yes.

15 Q. I'm interested that you should say that, Mr Coyne,

16   because if we could go back to your second report at

17   {D2/4.1/18}.

18 A. Yes.

19 Q. Look at the table and look at concurrent logins, for

20   "Evidence of Branch Impact" you say "No" there. Did you

21   change your mind?

22 A. After discussion with Dr Worden, yes.

23 Q. Okay. Then 19 is out. 20 is out. 21 is out.

24   What about 22? I infer from what you have already

25   said that you say there is evidence of lasting impact

1   for 22, yes?

2 A. Yes.

3 Q. And 23, evidence of lasting impact, do you say?

4 A. Yes.

5 Q. 24, wrong branch customer change displayed?

6 A. Yes.

7 Q. When you say "Yes", you mean evidence of lasting impact,

8   I should make that clear.

9 A. Yes.

10 Q. Then 25, Lyca top up, do you say evidence of lasting

11   impact for that?

12 A. Yes.

13 Q. At 26 do you say evidence of lasting impact on branch

14   accounts for the TPSC250 report?

15 A. Yes.

16 Q. And 27, TPS, do you say there's evidence of lasting

17   impact on branch accounts for TPS?

18 A. Yes.

19 Q. 28, Drop and Go, do you say there is evidence for

20   lasting impact for Drop and Go? {D1/2/25}

21 A. Yes.

22 Q. And 29, network banking bug, do you say there's evidence

23   of lasting impact for 29?

24 A. Sorry, I'm just checking the text on that. I have

25   actually got that down as the potential for bank account

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1   discrepancies.

2 Q. So is your view that there isn't evidence of lasting

3   financial impact?

4 A. Yes.

5 Q. So that should come out, should it?

6 A. That should come out and that should be --

7 Q. That's network banking?

8 A. Yes.

9 Q. Very good. Thank you. So we have got from 29 I think

10   down to 22. Is that your final number?

11 A. Sorry, I'm still just reading the network banking one.

12 MR JUSTICE FRASER: While you just read that, are you

13   counting 6 as one or two, just out of interest, because

14   you went through it --

15 MR DE GARR ROBINSON: I'm counting it as one.

16 MR JUSTICE FRASER: Okay. Counting it as one.

17 MR DE GARR ROBINSON: I'm using the same numbering system

18   as --

19 MR JUSTICE FRASER: But it is just split between 6(a) and

20   6(b) --

21 MR DE GARR ROBINSON: I hadn't factored that in, my Lord.

22 A. Certainly with regard to network banking it is causing

23   potential for branch impact, but I haven't got evidence

24   of discrepancies.

25 Q. So it comes out?

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1 A. Well -- no, it will be a Horizon Issue 4.

2 Q. Given that today all I'm talking about is Horizon

3   Issue 1, it is all I have got time to talk about and

4   I have barely got time to talk about that, and that's

5   not a criticism, by the way, it is just how things are

6   these days, we are down from 29 bugs to 22 bugs. Are

7   you now sure that that's the right number?

8 A. Yes.

9 Q. And I would like to ask you why is it you thought there

10   were 21 bugs at 2 o'clock, whereas you thought -- was it

11   14 bugs at 1 o'clock? 13 bugs at 1 o'clock.

12 A. Because I was just counting down the table at number 1

13   in my report. In the pressure of the situation I just

14   tallied that column down, I didn't have enough time to

15   consider it fully.

16 Q. To go back to a question I asked you earlier, where do

17   you make this clear in the joint statement?

18 A. In the heading next to the -- in the bug, error or

19   defect.

20 Q. And you are saying that the heading to the bug table,

21   which is "Table of Bugs/Errors/Defects with acknowledged

22   or disagreed evidence of financial impact", you say that

23   heading is sufficient to enable the reader to understand

24   that of the 29 bugs referred to, in fact we only need to

25   be concerned with 22 of them, yes?

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1 A. Sorry, I'm talking about in the joint statement.

2 Q. Yes.

3 A. Yes.

4 Q. How is the reader supposed to divine from the heading

5   that Dr Worden was saying evidence for 12 bugs and you

6   were saying evidence for 22?

7   Dr Worden indicates his position in the body of the

8   joint statement but, as I said, in paragraph 1.15 and in

9   the bug table itself you appear to be indicating your

10   position that it was 29, and I would suggest to you,

11   Mr Coyne, that in that respect the joint statement was

12   seriously misleading. Why was that?

13 A. We didn't believe it was misleading when we put the

14   document together. I mean, it is always a negotiated

15   position to get the joint statements.

16 Q. As I say, Mr Coyne, everyone on this side of the court

17   is taken completely by surprise by the suggestion that

18   it is 22, not 29. Indeed I venture to suggest that the

19   claimants' own counsel are taken by surprise that it is

20   22, not 29. Now why is that?

21 A. I don't really see why that would be the case when, if

22   you read the text in the report, it explains what

23   particular Horizon Issue I'm attempting to deal with.

24   I know today you have chosen to go through Horizon

25   Issue 1, but in the report it attempts to deal with all

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1   issues -- all technical issues that were put to me.
2 Q. Section 1 of the joint statement relates to Horizon
3   Issue 1, doesn't it?
4 A. Section 1 of the joint statement? (Pause)
5 Q. If you look at the joint statement there is the
6   introductory text, then there's the bug table.
7   Immediately after the bug table, which is at page --
8   there is a global agreement section, and then
9   immediately after that at page 27 there are a series of
10   propositions relating to Horizon Issue 1. {D1/2/27}
11 A. Yes.
12 Q. So section 1 of the joint statement talks about Horizon
13   Issue 1.
14 A. Yes.
15 Q. As I suggested to you, the natural interpretation of
16   what you say there in Horizon Issue 1, and in particular
17   paragraph 1.15 on page {D1/2/29}, is that Dr Worden was
18   saying 12 and you were saying 29 and I would venture to
19   suggest that everybody on both sides of the court
20   thought that was the position. How could that possibly
21   be the case? How can your own counsel, Mr Coyne, have
22   made that mistake?
23 MR JUSTICE FRASER: On the basis it is a joint statement,
24   Mr de Garr Robinson, I think you have to be quite
25   careful about how you put the question.

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1 MR DE GARR ROBINSON: Could I ask you to go to bundle
2   {A/1/1}, please. This is the claimants' written
3   openings.
4 A. Yes.
5 Q. Could we go to page {A/1/7}, paragraph 9. It is said:
6   "The fact that further significant bugs have come to
7   light, in the way that they have, from the enquiries
8   that the experts have been able to undertake, is
9   significant ..."
10   If we skip down to (4), you will see it says:
11   "There are a number of further bugs identified so
12   far, which Post Office had neither admitted nor
13   volunteered: between 12 (Dr Worden) and 29 (Mr Coyne)
14   bugs with ..."
15   And there's a quote:
16   "... 'strong evidence of the bug causing a lasting
17   discrepancy in branch accounts'."
18   That's why I asked that question. How is it your
19   own counsel thought you were saying there were 29 bugs
20   with lasting effect if that wasn't the case?
21 A. It was a statement that was put in there to try and
22   frame that the number that we would probably ultimately
23   arrive at would be somewhere between those two
24   parameters.
25 Q. I presume, Mr Coyne, that you reviewed the claimants'

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1   opening submissions either before or after they were
2   filed with the court, would that be right?
3 A. I'm not sure I did.
4 Q. Are you suggesting that you didn't read the claimants'
5   submissions before you came to give evidence today?
6 A. These are quite historic documents, are they?
7 Q. These were the submissions that the claimants filed with
8   the court at the beginning of the trial. It is the
9   opening submissions. I know you have considerable
10   expertise in giving expert evidence. The opening
11   statements of both parties were put into the judge so he
12   would have an understanding of the issues and where the
13   parties saw themselves standing. And I'm asking you
14   whether either before they were submitted, which would
15   be common, or afterwards you looked at the claimants'
16   opening submissions.
17 A. I don't believe I have, no.
18 Q. So what we have is ships sailing in opposite directions
19   in the night. You in your own mind thinking I have got
20   22 bugs. Counsel for the claimants thinking it is 29.
21   And no one ever discovering the truth until the judge
22   asked you a question at about 12.59 pm today.
23 A. My answer is I can't recall reading the openings.
24 Q. Some people might think that you have adjusted your
25   position in line with a position that you think it might

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1   be easier to defend in cross-examination this afternoon.
2   What would you say to that suggestion?
3 A. That's not true.
4 MR DE GARR ROBINSON: My Lord, I wonder whether it would be
5   a convenient moment to break so that I could look at the
6   list and decide --
7 MR JUSTICE FRASER: What you are going to do.
8 MR DE GARR ROBINSON: -- what I'm going to do in the next 45
9   minutes allotted to me.
10 MR JUSTICE FRASER: By all means. 3.10 pm.
11 MR DE GARR ROBINSON: Thank you.
12 MR JUSTICE FRASER: Thank you very much.
13 (3.03 pm)
14   (A short break)
15 (3.10 pm)
16 MR DE GARR ROBINSON: Mr Coyne, I have got 35 minutes,
17   I have promised my learned friend that I will finish at
18   3.45, so I will start with some bugs and we will see how
19   far I get in that time.
20   The first one I want to take you to is obviously
21   a bug where you say there's evidence of lasting
22   financial impact and I will go to Dalmellington first of
23   all.
24   Could we first of all go to {F/1389/1}, please.
25   This is the PEAK that relates to Dalmellington and we

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1 can see there is a call in on 13th October 2015. If we
2 go to the second box on the first page, just underneath
3 the "Incident Management" text, it says:
4 "Transfer note: Please can PEAK investigate this
5 discrepancy issue. NBSC has confirmed that following
6 discussions and checks with the user that this is not
7 a user error issue, but an issue within the system
8 requiring Fujitsu investigation."
9 Do you see that?
10 A. Yes.
11 Q. So that's when the penny dropped that it was not a user
12 error, it was a system problem?
13 A. Yes.
14 Q. If we move on to page {F/1389/5} of the PEAK. At the
15 bottom of the page Anne Chambers, who we have seen a lot
16 of, she says at 15 October at 15.56:
17 "We have found that if there is a logout before a
18 user has fully logged on, then subsequently a pouch is
19 remmed in manually (most likely at an outreach branch),
20 then after the rem in slip has been printed, the same
21 screen is redisplayed and the user is likely to press
22 Enter again and duplicate the remittance, possibly
23 several times. A different screen should be displayed
24 which would prevent this happening."
25 So something I put to you I think either Wednesday

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1 or Thursday, and I think you may have not felt able to
2 agree with it, the nature of the Dalmellington bug is it
3 was a bug, if you want to call it a bug, which caused
4 a screen to come up after a rem in had been made, and
5 users thought that meant they had to press enter again
6 and so it caused them to make a human error?
7 A. Yes.
8 Q. So from the perspective of the outside world, it was
9 a bug which didn't itself cause a problem with branch
10 accounts, but it had an effect under which it could
11 cause subpostmasters to make a mistake which then would
12 have an impact on branch accounts, yes?
13 A. Well, they would be following the instructions that they
14 are given on screen.
15 Q. So what I'm suggesting to you, Mr Coyne, is that it
16 mimicked exactly what would happen if a human error was
17 made.
18 A. Yes.
19 Q. If someone remmed in the same thing to an outreach
20 branch twice by mistake it would look exactly like that?
21 A. Yes.
22 Q. So from an outsider's perspective you would not be able
23 to tell the difference between someone remming in twice
24 by accident, because they are incompetent, and someone
25 remming in twice because they had been given a screen

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1 which has made them do it. From an outsider's
2 perspective, like Fujitsu, it would seem exactly like
3 a human error, wouldn't it?
4 A. It would until you looked at the very detailed logs,
5 because when they did do that they discovered what the
6 problem was.
7 Q. If we go back to the text:
8 "A rem in slip is printed each time, showing the
9 same details but different session numbers, and a
10 transaction log search confirms the repeated rems."
11 So what Anne Chambers is saying there is if you are
12 the postmaster doing it, you get more than one receipt,
13 you get more than one session number, you get pieces of
14 paper and indeed logs which makes it clear that you have
15 remmed in things more than once. You would see it
16 fairly quickly, wouldn't you?
17 A. There's certainly something printed, yes.
18 Q. Then Ms Chambers says:
19 "This is not an area that has changed for several
20 years so it likely to have happened before but we have
21 no record of it having been reported to us. I can only
22 check back two months; I've found 4 other instances
23 (outreach branches 214869, 106444, 110444, 207828) and
24 all but the last removed the discrepancy by completing a
25 rem out for the excess, which corrected the system cash

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1 holding branch 224843 may be able to do the same but
2 NBSC should advise on this.
3 "We are continuing to investigate the problem ..."
4 A. Yes.
5 Q. So it would be right, wouldn't it, that often it would
6 be obvious to the postmaster that he or she has remmed
7 in the same thing more than once, and where it is
8 obvious to the postmaster he or she will be able to rem
9 the amount out to correct for the error. In other words
10 it is possible, and indeed would often have happened,
11 that postmasters would have been able first of all to
12 identify the problem and, secondly, to exercise self
13 help to fix it, yes?
14 A. Certainly a number of them did do that, yes, and that's
15 reported later.
16 Q. And the simple fact is that where the Dalmellington bug
17 caused double rems in, the fact that the same thing had
18 been remmed in twice would always be visible in the logs
19 and receipts and other information available to the
20 postmaster, yes?
21 A. Yes, if you was to review the detail then typically that
22 information will be in there, yes.
23 Q. And if you ran a trial balance for example or a report
24 on the outreach branch, you would immediately see that
25 there was a discrepancy and you would immediately see

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 1   the amount of the discrepancy is the amount of the
 2   double rem in, yes?
 3 A. No, I do not think it is as simple as that because
 4   typically with trial balances you might have a small
 5   discrepancy one way or the other anyway, so seeing
 6   an extra round £100 would often not be the case.
 7 Q. Why do you say that, Mr Coyne? That seems to me to be
 8   conjecture. Do you have any basis for saying that?
 9 A. Well, a lot of subpostmasters that you see do have small
10   discrepancies one way or the other.
11 Q. But when you rem in amounts you wouldn't usually rem in
12   £3.96, you would be remming in a round sum. That is how
13   it tends to works.
14 A. That's exactly my point. If you have already a small
15   discrepancy of £3.96 on there and then you rem in £100,
16   what you suggested before is that you would see £100
17   that was out -- or you wouldn't see £100 that was out,
18   you --
19 Q. What I'd suggest to you, Mr Coyne, is you would see the
20   outreach branch is £97 out and you would try and
21   understand why that should be and you would see that the
22   branch has received twice as much as you expected it to
23   receive. It would not be one of the more difficult
24   problems to see in the logs and given that also you are
25   given several receipts, would it?

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 1 A. I don't believe it would be as simple as that. I do
 2   agree it is possible to spot it, but reconciliation in
 3   my experience typically isn't as simple as you suggest
 4   there.
 5 Q. Where there are these remming in and remming out
 6   problems they produce receipts and payment mismatches,
 7   don't they?
 8 A. Yes.
 9 Q. And I think we have already agreed that receipts and
10   payments mismatches are automatically reported through
11   to Fujitsu, aren't they?
12 A. Well, it would come up at the monthly -- or it's likely
13   to come up at the monthly balancing. I don't know
14   whether it would come up with the receipts and payments
15   mismatch because it's --
16 Q. I don't have time to go into the technicalities.
17 A. Sorry.
18 Q. And I'm not criticising you for trying to answer
19   carefully and accurately, I'm really not, but bearing in
20   mind the time it is sufficient for my purposes if you
21   will agree with me, as I think you will, that whether on
22   the day or by the end of the relevant transaction period
23   there will be an automatic report that is remitted to
24   Fujitsu, is that right?
25 A. If not Fujitsu, that will be available in branch.

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 1 Q. Not just in branch but also it would automatically go to
 2   Fujitsu, wouldn't it?
 3 A. That is the bit that I'm unsure about, whether in this
 4   scenario it would go automatically to Fujitsu.
 5 Q. Let's look at what happened. If we can go to
 6   {F/1415/1}, please. This is a presentation that was
 7   made by Fujitsu to Post Office after Anne Chambers had
 8   realised that this bug existed.
 9 A. Yes.
10 Q. It is dated 10th December 2015. Now, so far as we are
11   aware, the Dalmellington bug affected outreach branches,
12   didn't it?
13 A. Yes.
14 Q. And the SSC reviewed logs to identify where similar
15   scenarios could have occurred, yes?
16 A. Yes.
17 Q. And they did this by identifying duplicate remittances
18   of unique pouch bar codes, correct?
19 A. Yes.
20 Q. The reason they did that was because a branch can't use
21   the same barcode twice in the same rem in session but it
22   is possible to use the same barcode in separate
23   sessions, correct?
24 A. Right, yes.
25 Q. And they did this by gathering all the BLE files?

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 1 A. Yes.
 2 Q. And the BLE files are the branch data files, data
 3   transfer files sent daily from Horizon to POLSAP?
 4 A. To POLSAP, yes.
 5 Q. Thank you. They checked the BLE files looking for
 6   symptoms of the issue?
 7 A. Yes.
 8 Q. And we can see at page {F/1415/3} that the SSC have
 9   identified 112 occurrences, do you see that?
10 A. Yes.
11 Q. So an audit found 112 occurrences over the past five
12   years, and it would be five years over which this
13   problem would have operated, correct?
14 A. Yes.
15 Q. Then if we move on to the third bullet point, it says:
16   "108 items were corrected at the time either by:
17   "Transaction correction by Post Office."
18   Or by the:
19   "SPS reversal completed at the time."
20 A. Yes.
21 Q. Would you agree with me that what that shows is that
22   even before the Dalmellington bug was discovered to be
23   a bug, so even at a time when it was thought it was
24   inexplicable to human error, in the overwhelming
25   majority of cases -- in fact in all of the cases that

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1　　had been looked at at that time, because they had only
2　　looked at 108, yes?　There were four items still to be
3　　confirmed.　Do you see that?
4　A.　Yes.
5　Q.　So with all of the occasions that they had looked at one
6　　of two things had happened.　Either the SPM had
7　　exercised self help and just fixed it himself or herself
8　　because it was quite easy to do that?
9　A.　Yes.
10　Q.　Or Post Office had issued a transaction correction
11　　because the information about the mismatch would have
12　　got through to the Post Office or perhaps a postmaster
13　　might have phoned in.　One way or another, the
14　　information would have got through to Post Office and it
15　　is Post Office's practice to fix errors of that sort by
16　　sending an appropriate transaction correction, yes?
17　A.　Yes.
18　Q.　So would you agree with me that putting those four
19　　branches that hadn't been looked at to one side, and
20　　I want to be absolutely clear about this, I know you
21　　don't want to and we will talk about them, but laying
22　　those to one side, the first 108 branches that they
23　　looked at, the countermeasures in operation in and
24　　around Horizon had caught them all and fixed their
25　　consequences, correct?

1　A.　Yes.
2　Q.　So subject to the four branches that hadn't been looked
3　　at, the countermeasures had 100% success rate, would you
4　　agree?
5　A.　Yes.
6　Q.　So would you agree with me that it is fair to say that
7　　this analysis shows that the relevant countermeasures in
8　　operation here worked very well, yes?
9　A.　We wouldn't know how well they worked without trying to
10　　understand the amount of time between the fault
11　　occurring and its resolution.
12　Q.　Are you suggesting that there is any reason to think
13　　that when an SPM exercises self help, he or she would
14　　only have done it after a considerable time?
15　A.　No, I'm saying we don't know.　The evidence isn't there
16　　either way.
17　Q.　So why are you even raising that with me?　What's the
18　　relevance of the point you are making?
19　A.　Because you ask me: does it show that the
20　　countermeasures worked well or not?
21　Q.　And you are hypothesising that there might have been
22　　a delay between the problem occurring and the problem
23　　being made good, is that what you are saying?
24　A.　There may have been, and that would help me answer
25　　whether the countermeasures worked well or not.

1　Q.　Do you have any reason to think that there would have
2　　been a delay in this kind of case?　Let's take it in
3　　stages.　First of all, an SPM exercising self help.　Do
4　　you have any reason to think that an SPM would have
5　　delayed in doing that, or do you think it is more likely
6　　that the SPM would have spotted the error quite quickly
7　　and fixed it straightaway when it was fresh in his mind?
8　A.　They would certainly endeavour to fix it as quick as
9　　they had spotted what the issue was.
10　Q.　Do you think there's any reasonable likelihood of the
11　　issue not being fixed within the trading period in which
12　　the error actually arose?
13　A.　It would really depend on how good the SPM is at working
14　　out what has gone wrong from the information that he has
15　　got in front of him.
16　Q.　I suggest to you, Mr Coyne, that it is plain as
17　　a pikestaff -- that's a phrase that lawyers are far too
18　　fond of and I have just used it and I'm really cross --
19　　but it is obvious, isn't it, that the last -- in the
20　　real world if a postmaster hasn't actually spotted the
21　　problem before he balances, before he rolls over, when
22　　he rolls over that's the point at which it is going to
23　　come out and that's the point at which he is going to
24　　exercise self help, wouldn't you accept that?
25　A.　Yes, but at that point in time it could be some time

1　　after the event and there could be quite a lot of data
2　　to consider where the problem is.
3　Q.　Well, here's the interesting thing.　We actually have
4　　evidence.　We know what happened and we know that the
5　　SPMs were all made good.　I think you are suggesting
6　　that delay may cause a state of affairs which ends up
7　　with the SPM not getting the right resolution, but we
8　　know that in relation to the Dalmellington bug that that
9　　isn't what happened.　We know that the SPMs were made
10　　good.
11　　　　So could I suggest to you that you are seeking to
12　　identify problems that are far more theoretical than
13　　real and that in the real world we know that SPMs were
14　　made good?
15　A.　Yes, I accept they are made good.　I only introduced
16　　delay when you put to me that the countermeasures worked
17　　well.　That was the point in time that I questioned
18　　about the amount of time.
19　Q.　Let me put it a different way.　They worked in a way
20　　that ensured that the financial impact of the problem
21　　wasn't lasting.
22　A.　I mean the financial impact was resolved but we don't
23　　know when, I don't know whether it was seven days or 14
24　　days or what it was.
25　Q.　Do you accept that of the 108 items that had been

1   identified -- or, rather, that had been investigated at
2   that stage, the evidence shows that the losses caused by
3   Dalmellington in none of those cases were those losses
4   lasting, do you accept that?
5 A. Outwith the four that we're not aware of at this stage.
6 Q. Do I have to make that clear again? Haven't I made it
7   clear already that I'm not going to come to those until
8   we have finished with the 108?
9 A. Okay.
10 Q. And of the 108 that were looked at, do you accept that
11   in 100% of those cases the countermeasures prevented any
12   lasting loss from being suffered?
13 A. Yes.
14 Q. Thank you. Now let's look at the four that were still
15   to be confirmed. We know that Mrs Van Den Bogard asked
16   her team to examine what would happen with those
17   branches, or at least -- in fact we should explain what
18   the branches were. If I could pick it up -- I'm so
19   sorry, Mr Coyne. (Pause)
20   There is a page which identifies them and I'm now
21   struggling to find it. Could you give me a moment?
22 MR JUSTICE FRASER: Are you looking in the Fujitsu
23   presentation?
24 MR DE GARR ROBINSON: Yes. It is the page which indicates
25   that the amounts of the four -- I'm terribly sorry not

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1   to have that page at my fingertips.
2 MR JUSTICE FRASER: Don't worry.
3 MR DE GARR ROBINSON: I'm so sorry, my Lord. It is one of
4   those occasions where you know that something is in the
5   document … Here we are, it is page {F/1415/8}. I do
6   apologise to everyone concerned.
7   "Detailed Preliminary Findings", do you see that?
8 A. Yes.
9 Q. 2011, six incidents. 2012, nine. 2013, seven.
10   By the way, stopping here, you've seen the
11   methodology that was adopted to identify the branches
12   that were affected by this issue?
13 A. Yes.
14 Q. You don't have any objections to or concerns about that
15   methodology, do you?
16 A. No.
17 Q. Thank you. It would have been relatively easy for
18   Fujitsu to identify all the affected branches in the
19   last five years, would you agree?
20 A. Once they discovered it was an issue, that they worked
21   out what the profile of the issue was and, as you
22   explained, they then looked back to the historic files,
23   yes.
24 Q. Thank you. Then 2013, seven incidents:
25   "4 transaction correction completed by POL.

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1   "1 corresponding remittance transaction completed by
2 PMs.
3   "2 unknown outcomes FAD 157242 - value £25,000 …"
4   That's quite a lot.
5   "… and FAD 209311 - value £2,500."
6   Then if we go forward to page {F/1415/9}, 2014, nine
7 incidents. And the third item under 2014:
8   "1 unknown outcome FAD 214420 - value £0.01.
9   I now need to find -- oh, and if we go back to page
10 {F/1415/8} -- I'm really not covering myself in glory
11 here -- 2012, nine incidents. The third item:
12   "1 unknown outcome FAD 120004 - value £1.00."
13   So we have four branches that hadn't been
14 investigated at that stage. One had a thumping loss --
15 or value, I should say, because it wasn't a loss as we
16 both know, of £25,000. Another one which had a value of
17 £2,500, and then a third one with a value of £1 and
18 a fourth one with a value of 1 penny. And steps were
19 taken to find out about the two big branches, yes?
20 A. Yes.
21 Q. If we can go forward to {F/1427.1/1}, please. This was
22   a subsequent report which was produced as a result of
23   a request by Mrs Van Den Bogard. We can take it very
24   quickly. There is a slow way of taking it but
25   I suspect -- are you familiar with this document now?

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1 A. Is there a title page for it or does it start with this?
2 MR GREEN: For context, it was disclosed on 4th March this
3   year.
4 MR DE GARR ROBINSON: That's very helpful of my learned
5   friend. It really is useful to know that.
6   This is a report that was produced by Fujitsu for
7   Post Office.
8 A. Right.
9 Q. And I take it you have read this document. I apprehend
10   from a discussion we had the other day that you have
11   read this document?
12 A. I'm not sure. Has it got a title page? Is that where
13   it starts?
14 Q. That's where this document starts, yes.
15 A. Right, okay.
16 Q. So "Outreach Branch Issue - Report on Findings":
17   "Summary:
18   "As part of the investigation into the issue known
19   as the branch outreach issue' an audit of the BLE files
20   was undertaken by Fujitsu. The detailed preliminary
21   findings were then shared with Post Office. Fujitsu
22   reported that there were 112 occurrences of Duplicate
23   Pouch IDs over the past five years where branches could
24   have been impacted.
25   "Fujitsu have clarified that their investigations

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1   into duplicate pouches were intended to find instances
2   when a system issue had resulted in duplication ."
3   The third bullet point reads:
4   "They have further clarified that the search of the
5   BLE files entailed looking for any duplicate pouch for
6   the same day/branch/amount. This is the only reason
7   that branch 209311 and branch 157242 have been looked at
8   in detail . There is no indication of any system issue,
9   or any impact on the branch accounts in these two
10   branches."
11   Do you see that?
12   A. Right.
13   Q. So whatever happened in those two branches there was no
14   net impact, there was no discrepancy caused in the
15   branch. Do you see that?
16   A. Right, because it was made good.
17   Q. Well, no. If we go forward:
18   "Fujitsu have confirmed that this is not an outreach
19   issue and this correlates with Post Office findings that
20   neither of these branches operates outreach services .
21   Fundamentally, in respect of branch 209311 and branch
22   157242 the remittance transactions were completed on
23   different counters [while] in the case of the outreach
24   branch issue, duplicate transactions take place on the
25   same counter."

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1   Do you see that?
2   A. Yes.
3   Q. Then if we go over the page to page {F/1427.1/2}.
4   A. Sorry, can I read the last bullet point on page 1,
5   please? {F/1427.1/1}
6   Q. Sorry. Of course, please do.
7   (Pause)
8   A. Right, I see.
9   Q. So what happened with these two branches is that they
10   showed the same symptoms because the same pouch number
11   was remmed in but it wasn't because the machine caused
12   you to rem the same pouch twice, it was because one
13   machine remmed it in properly using the barcode and then
14   for some reason a human being operating on a different
15   counter remmed it in manually. He or she wouldn't have
16   been able to do it by using the barcode because the
17   system would have prevented it, but it is possible if
18   you type in the numbers manually to do it twice, and it
19   appears, remarkably, that in both of those branches that
20   mistake was made.
21   A. Right.
22   Q. Do you see? If we go over the page to page
23   {F/1427.1/2}, second bullet point down:
24   "Post Office concludes the issues at the branches
25   have arisen as a result of remittances pouches received

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1   at the branch entered manually which had the same
2   barcode id . Thus creating duplicate entries which
3   Fujitsu highlighted as part of the BLE files checks.
4   However, in these instances from the available evidence
5   Post Office concludes that the correct amount of pouches
6   were delivered, accepted and entered on Horizon. This
7   is supported by the fact that there has been no negative
8   impact in the branch accounts and no record of an issue
9   raised by the branches with post Office .
10   Do you see that?
11   A. Right.
12   Q. If one goes over -- there are then conclusions
13   articulated in each case. So with the first case, if we
14   go to page {F/1427.1/10}, under the heading
15   "Conclusion", the first bullet point:
16   "All transactions were undertaken on 1 March 2013
17   and within an hour between the first and final entry. It
18   is assumed, based on the sequence of events that the
19   branch understood an error was made and took action to
20   rectify by recording a remittance surplus and
21   subsequently redeeming the surplus, leaving the branch
22   in balance."
23   Do you see that?
24   A. Yes.
25   Q. Then if one moves forward to page {F/1427.1/12}, again

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1   under the heading "Conclusion":
2   "Post Office can conclude that although there has
3   been a duplicate pouch id recorded this is not related
4   to the known 'outreach issue' but as a result of a
5   manual entry of a remittance in . Fundamentally, the
6   transactions were undertaken on separate tills and the
7   branch does not offer outreach services .
8   "Based on the available evidence and absence of any
9   shortages impacting on the branch accounts, Post Office
10   concludes that the branch did receive two pouches
11   containing £25,000.00 with the same barcode together
12   with three further pouches on 18 February 2013."
13   Then there is a reference to a £49,500 figure which
14   was also -- the branch accounts also show.
15   So you will see that in relation to the two extra
16   branches that appeared to have significant values, it
17   wasn't -- neither of them was actually an instance of
18   the Dalmellington bug, do you see that?
19   A. Yes.
20   Q. Do you accept that?
21   A. This is what the investigation tells , so yes.
22   Q. And you have no reason to think that the investigation
23   was wrong, do you?
24   A. No.
25   Q. So that leaves the two branches, one branch which

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1   suffered £1 loss -- I'm saying loss, that's quite the
2   wrong word. One branch where there was a £1 value and
3   one branch where there was a penny value.   Now Mr Coyne
4   it is quite right to say, and you are entitled to say,
5   that there has been no investigation about those two
6   branches and those two amounts of money, but bearing in
7   mind the evidence that you have seen, in particular
8   bearing in mind that when they looked at 108 branches
9   they found that all of them, whether by way of self help
10   or by way of a TC, had been made good. What do you
11   think the chances are that those two branches were not
12   made good?
13 A. Very small.
14 MR DE GARR ROBINSON: Thank you. My Lord, I see it is
15   3.40 pm. If I started another subject I would not be
16   able to finish it.
17 MR JUSTICE FRASER: I do not think anyone will hold the 4
18   minutes against you. So that is the end of your
19   cross-examination?
20 MR DE GARR ROBINSON: My Lord, that concludes my
21   cross-examination.
22 MR JUSTICE FRASER: Thank you very much.
23   Right, Mr Green.
24   Re-examination by MR GREEN
25 MR GREEN: Now, Mr Coyne, can we please look first at

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1   paragraph 3.128 of your second report which is
2   {D2/4.1/51}.
3 A. Yes.
4 Q. And you will remember, if we go back to the previous
5   page {D2/4.1/50}.
6 A. Yes.
7 Q. This was a section of your report that you were asked
8   about quite a lot?
9 A. Yes.
10 Q. And if we go forward again {D2/4.1/51}, you were asked
11   about paragraph 3.128 several times.
12 A. Yes.
13 Q. You were only taken to the first half of that paragraph.
14 A. Yes.
15 Q. In the last clause of that paragraph you say:
16   " ... and illustrate, by their interlinking natures,
17   the complexities of the PEAKs/KELs."
18   What did you mean by that?
19 A. In that they share a reference to a particular KEL, so
20   often you will see a different number of PEAKs referring
21   to one KEL and that would suggest that there has been
22   a number of occurrences of the same defect.
23 Q. Thank you very much. You were also asked in
24   cross-examination about the Ernst & Young reports.
25 A. Yes.

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1 Q. Can we just bring up the transcript from Day 16 at
2   page 173, first of all. If you look at line 20, you
3   were being asked about monitoring basically user
4   privileges, do you remember? {Day16/173:20}
5 A. Yes.
6 Q. You were being criticised for saying nothing had been
7   done about user privileges?
8 A. Yes.
9 Q. It was just an interesting answer at the bottom of the
10   page there.   You say at line 23:
11   "Answer: Well, nothing got done or got improved
12   over it and we can see that from the PEAK where Fujitsu
13   are trying to address --"
14 A. Yes.
15 Q. Can we just take this in stages.   First of all, can we
16   go to the Ernst & Young report itself, please, which is
17   at {F/869/1}. That is the management letter for the
18   year ended 27th March 2011. If we go forward to page
19   {F/869/2}, please, that's the letter itself.
20 A. Yes.
21 Q. Explaining the work, if you look at the second
22   paragraph, second line:
23   "This work is not primarily directed towards the
24   discovery of weaknesses ...."
25 A. Yes.

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1 Q. Then on the third page {F/869/3} we can see the part you
2   referred to in the bottom half of that page?
3 A. Yes.
4 Q. Could we now go forward, please, to the reference to --
5   you were taken to pages {F/869/25} and {F/869/27} of it.
6   Can we have a look, please, at page {F/869/30}.
7 A. Yes.
8 Q. Now, you will see there the heading "HNG-X".
9 A. Yes.
10 Q. That's Horizon?
11 A. Horizon Online, yes.
12 Q. It is common ground. Did you look at this part?
13 A. Yes, I did. So the auditors seek to take a sample of
14   a number of changes that have been made to the system,
15   so they looked at ten changes to the counter and five
16   manual changes, and what they report here, that of those
17   changes there is no record of those changes being
18   retained -- there's no records available.
19 Q. Right. I won't go further in relation to the control
20   environment for changes because you have received
21   a partial apology for that this morning.
22 A. Yes.
23 Q. But if we can look at permission controls on page
24   {F/869/33}. Again under "HNG-X", which is Horizon?
25 A. Yes.

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1 Q. "There are inappropriate system privileges assigned to
2 the APPSUP role and SYSTEM_MANAGER role at the Oracle
3 database level ...
4 "There is inappropriate privileged access at the
5 oracle database level ... System privileges assigned to
6 the APPSUP role and OPS$TPS account are inappropriate
7 ..."
8 And so forth.
9 A. Yes.
10 Q. That actually continues on, doesn't it?
11 A. Yes, it is telling us that the auditor found that there
12 was a number of very powerful roles that were available
13 that would provide you access to the Horizon database
14 for both reading and writing to the database and it was
15 inappropriate.
16 Q. We see that all the way through to page {F/869/36}?
17 A. Yes.
18 Q. And then if we look at page {F/869/39}. Just below
19 "HNGX" again:
20 "The "Change of Access to Live "Network form for the
21 modified user selected for our Walkthrough was not
22 authorised by a line manager ..."
23 A. Yes.
24 Q. So that is a slightly different point. Then at
25 {F/869/40} over the page, top bullet point:

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1 "Three instances of additional access being granted
2 to a user without supporting evidence.
3 "Inappropriate access to the pathways active
4 directory [and so forth]."
5 So there is a variety of points which --
6 A. It is generally very poor control of user privileges,
7 potentially incorrect privileges being applied to
8 certain groups of users.
9 Q. Okay. Now to be fair, go back to page {F/869/33} very
10 kindly. There is a "Management Comment" that they will
11 review adequacy and regularity of controls?
12 A. Yes.
13 Q. On the face of it, all might be absolutely fine. You
14 referred in your evidence in the transcript, the part
15 I just took you to, to a PEAK?
16 A. Yes.
17 Q. But you weren't taken to any PEAK.
18 A. That is right.
19 Q. Can we look at {F/768/1} please. This is the PEAK
20 that's come up before in the proceedings, off piste and
21 so forth.
22 A. Yes.
23 Q. Can we take it through, was this the PEAK you were
24 referring to?
25 A. Yes, I believe it was. Can we just look at page 2 of

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1 that? I mean what is -- I mean the heading on there is
2 that the SSC users have more access than is required to
3 the database resources and this is contrary to
4 a security policy.
5 Q. And that had been updated in May 2015?
6 A. Yes.
7 Q. And there are several places, we can see here if you
8 look in the yellow box at the bottom. (Pause).
9 Item 4:
10 "Scope: No actual impact/incidents of problems
11 relating to this issue have been experienced yet (and
12 not expected)."
13 That's what they recorded themselves?
14 A. That is right, yes.
15 Q. My learned friend asked me to read that out. While we
16 are there. 2:
17 "Cost. There is currently no cost though to this
18 issue."
19 A. That is correct.
20 Q. "Perceived Impact: The customer is not aware of this
21 problem or change."
22 So Post Office didn't seem to be aware, on the face
23 of that, while we are reading out those headings, that
24 they weren't aware of all this going on?
25 A. No, that is right.

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1 Q. We can take it reasonably shortly, if we may. In the
2 yellow box at the bottom, effectively what I hope --
3 this appears to be common ground on the face of the
4 document, let me try and summarise it. There was
5 an issue of user creation scripts provided by
6 development which offered the option to create each user
7 type. We can see that at (1) in the yellow box?
8 A. Yes.
9 Q. Effectively there had been some things created for SSC
10 users but SSC users still wanted to have APPSUP access?
11 A. Yes.
12 Q. And that was the conflict they are trying to resolve?
13 A. APPSUP appears to be a group and that group provides
14 a significant amount of privileges and the SSC users are
15 in that group.
16 Q. When we look over the page at page {F/768/2} we have the
17 bit with Anne Chambers halfway down. She is talking
18 about two different sorts of scripts and says:
19 "When we go off piste we use APPSUP, can we have
20 both?"
21 MR JUSTICE FRASER: Where are you reading?
22 MR GREEN: Halfway down the page, my Lord, in the yellow
23 box.
24 MR JUSTICE FRASER: Yes.
25 MR GREEN: The point about APPSUP is made in various places

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1   but it is an extremely powerful tool, isn't it?
2   A. Yes, it could be described as a super user privilege.
3   Q. If we go to page {F/768/3} please. There is quite a lot
4   of arguing about what the nature and purpose of the PEAK
5   is and so forth.
6   We can see at the third yellow one down,
7   16th August 2011, 10.08.07:
8   "The optional role 'APPSUP' is extremely powerful.
9   The original BRDB design was that 3rd line support
10   should be given the 'SSC' role ~... and only given the
11   optional role 'APPSUP' temporarily (by Security Ops
12   authorisation) if required to make emergency amendments
13   in BRDB Live. Since then Host-Dev have delivered a
14   series of auditable amendment tools for known SSC data
15   amendment operations in Live, and these are assigned by
16   role to individual SSC user accounts. As such SSC should
17   not require the APPSUP role in BRDB, unless there is an
18   unforeseen update required to Live. [etc]."
19 A. Yes.
20 Q. Then there is a difference of view from Mr Simpkins
21   below. If we go down to the bottom we can see there is
22   quite a lot of detail there and again it is reiterated
23   that it is extremely powerful in the bottom yellow box:
24   "Should only be used under extreme circumstances
25   assist and under MSC supervision... As such the Branch

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1   Database design was that ..."
2   That is all repeated then. Then if we come down to
3   just under the repeat, do you see about eight lines up
4   from the bottom:
5   "It is a security breach if any user write access is
6   not audited on branch database."
7   A. That is right.
8   Q. Then it says:
9   "... hence the emergency MSC for any APPSUP role
10   activity = must have session logs attached under the
11   MSC."
12 A. Yes, that's the blanket MSC that allows access to
13   Fujitsu to conduct emergencies pre-approved.
14 Q. In the event, can we just go to the end, almost the end
15   on page {F/768/7}. Do you remember that the new people
16   had not been given APPSUP?
17 A. Yes.
18 Q. But the old APPSUP privileges --
19 A. Weren't taken away, yes.
20 Q. Is that what you had in mind when you referred to the
21   PEAK in your cross-examination?
22 A. That was absolutely the PEAK, yes.
23 Q. While we are on MSCs, you mentioned in your evidence
24   that MSCs presented a bit of a challenge?
25 A. Yes.

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1   Q. When you got them. And you I think referred to that in
2   your witness statement as well?
3   A. Yes.
4   Q. Could we bring up please {F/1844/1} the MSC complete
5   data spreadsheet. You have explained in your witness
6   statement it is one of three separate Excel
7   spreadsheets?
8   A. That is right.
9   Q. Which you have to use together?
10 A. Yes. So it would appear that the MSC database was
11   a singular database with all the data in it but the way
12   that it has been provided to us, it would appear that it
13   has been split into three different Excel spreadsheets
14   but there's no easy way to try and interrogate across
15   the three spreadsheets. They aren't all the same
16   length, so you can't put them together.
17   One has lots of columns going across and the other
18   one has literally hundreds of thousands of columns going
19   down. So it is practically impossible to use for the
20   purposes of analysis.
21 Q. Let's just have a look. That's the sort of document --
22   one of the three documents you have to cross refer to
23   each other?
24 A. This is the header document and from there you have to
25   go to read the detail about it, yes.

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1   Q. Could we go please to row 15024.
2   A. Yes.
3   Q. Let's go down to the bottom, just look there.
4   "MSC emergency master change to cover any essential
5   SSC adhoc works."
6   A. Yes. This is the pre-approved MSC. So that if anything
7   comes up as an emergency, you don't have to effectively
8   go through the MSC approval process again. It is
9   pre-approved.
10 Q. Could we now please look at {F/1834.14/1} please. While
11   that's coming, did you find these easy to work with?
12 A. No, they are terrible to work with. I am sure they
13   could have been provided to us in a database that we
14   could interrogate rather than being exported to
15   essentially text files or Excel.
16 Q. Were they small Excel files or quite big ones?
17 A. No, they are huge. I don't know precisely what the
18   numbers are but in megabytes terms they are quite high
19   and they are hundreds of thousands of lines.
20 Q. If we look at the document we are now seeing, this is
21   one of the MSCs produced by Womble's for the trial.
22   This was actually uploaded on Friday.
23 A. Yes.
24 Q. Were you given any -- on 31st May -- MSCs in this form
25   before the trial started?

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1 A. No, it might well be the case that some of this text
2   that appears on here might have been found within the
3   Excel spreadsheets. Certainly not in this format, no.
4 Q. That's helpful, thank you. Sorry, one more reference if
5   we can. Can we look quickly at {C5/16/1}. This is
6   an email from you, on 20 July 2018 to Freeths and
7   Womble's, copying in Dr Worden.
8   "Information requests following the first day
9   looking at PEAKs/Tfs"?
10 A. Yes.
11 Q. You say:
12   "During the first day spent at Fujitsu looking at
13   the TfS and PEAK systems, both Dr Warden and I noted
14   information that would be helpful in the drafting of our
15   respective reports."
16 A. Yes.
17 Q. "Whilst the request for some items of information on the
18   below list may be supported by Dr Worden, I have been
19   unsuccessful in gaining agreement ..."
20   Then you mention PEAKs and various other things?
21 A. Yes.
22 Q. And at the bottom MSCs, OCRs and OCPs?
23 A. Yes.
24 Q. Why did you think those might be useful to see at that
25   period?

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1 A. Because I thought that they may indicate what changes
2   had been made to branch accounts or the databases.
3 Q. Now, yesterday, on Day 16, you were cross-examined
4   about -- let's have a look please, Day 16 in the
5   transcript, page 22.
6   We will look at line 18 {Day16/22:18}, if we may.
7   It is the bit about the claimant FAD codes. It says:
8   "Question: And both you and Dr Worden are aware of
9   the FAD codes that relate to a very helpful sample in
10   the context of this case, aren't you, which is the FAD
11   codes of the claimants in these proceedings, yes?"
12   Then you say:
13   "Answer: Yes. In one of my early requests for
14   information the response that I was given is that
15   I shouldn't be requesting any information that makes any
16   attempt to identify particular claimant
17   characteristics."
18   Then you are met with:
19   "Question: Mr Coyne, I really don't think you
20   should be suggesting that Post Office were telling you
21   not to look at that group as a group. We could have
22   a discussion about it if you want, but could I caution
23   you against making that claim because that wouldn't be
24   an entirely accurate way of characterising what
25   happened, would it?"

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1   You say:
2   "Answer: Can we go to the RFI and have a look?"
3   And you are met with:
4   "Question: Let's to do it after a break, shall we?"
5 A. Yes.
6 Q. You weren't shown the RFI.
7 A. No.
8 Q. Can we look please at {C5/21/5}. Thank you very much.
9   If we look at paragraph 1.3 there.
10 A. Yes.
11 Q. You will see you are asking about a document where
12   there's documentation which might detail any specific
13   branches that were affected.
14 A. Yes.
15 Q. That refers to {F/238/1}. And there is a sort of
16   standard answer at the top about the technical documents
17   and: Mr Coyne, Post Office is in no better position to
18   search the documents.
19 A. Yes.
20 Q. And then underneath that, at the bottom four lines:
21   "It also appears to be an attempt to obtain
22   documents containing information that could potentially
23   be tied to individual cases. That is not the purpose of
24   the Horizon trial."
25 MR JUSTICE FRASER: You have gone onto the next page.

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1 MR GREEN: Yes, sorry, if you could go on to the next page
2   {C5/21/6}. Was that what you had in mind?
3 A. That's exactly -- and I think that's repeated in another
4   part of the RFI as well.
5 Q. Let's look at 1.5 on the next page {C5/21/7} please.
6   This was the Golden Gate replication issue?
7 A. Yes.
8 Q. In relation to dix   Oracle being aborted and resulting
9   in a number of branches reporting, over the page, cash
10   declaration ... Go over the page very kindly. {C5/21/8}.
11   Stock reporting discrepancies.
12 A. Yes.
13 Q. "Were any transaction corrections sent to the 247
14   affected branches as a result of the discrepancies and
15   which branches were affected by the incident?"
16 A. Yes, this was an attempt for me to go from the
17   information that I see within the PEAK, talking about
18   discrepancies, to see whether they were made good by
19   Post Office.
20 Q. Whether or not they were made good in the end. It is
21   the bottom paragraph on that second page:
22   "It also appears to be an attempt to obtain
23   documents containing information that could potentially
24   be tied to individual cases. That is not the purpose of
25   the Horizon issues trial."

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1   A.   Again in the end column that's repeated as well.

2   Q.   Yes. Remains of that view, right-hand side. Then if we

3   can go forward, I'm sorry to be taking this at some

4   pace, Mr Coyne.

5   A.   It is all right.

6   Q.   {C5/22/1} if we can. On page {C5/22/2} of that

7   document, which is the response to the email, if we look

8   in (vi) you are asking for:

9   "PEAK and/or TfS records for any claimant who has a

10   record including any audit data for the period (at least

11   a month) ... Post Office objects to this request.

12   Mr Coyne is seeking documents relevant to specific

13   claimants but the Horizon Issues trial will not be

14   considering the circumstances of individual claimants.

15   Post Office's solicitors requested an explanation for

16   this in a letter ... but no response has been received."

17   Yes?

18 A.   Yes.

19 Q.   Then they say this information hasn't been pooled or

20   collated and it would be necessary to carry out a review

21   which they say is disproportionate.

22 A.   Yes.

23 Q.   Do you feel that you should be cautioned from saying

24   what you said yesterday?

25 A.   Not at all. No. I mean that data would have been very

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1   pertinent to the instruction that we had been given.

2   Q.   Can we move forward to something you were asked to do

3   and let's look at {F/78.1/1}, please. You were asked to

4   do some homework specifically and to identify some

5   PEAKs?

6   A.   Yes.

7   Q.   You identified PEAKs at 78.1, 123.21, 198.2, 271, 338,

8   345.1, 414.1 and 1115.1 all in bundle F?

9   A.   Yes.

10 Q.   I'm not going to take you to all of them.

11 A.   Right.

12 Q.   Can we just choose one or perhaps two. Let's look at

13   {F/338/1}, please. That is PEAK number PC0133933 and

14   you can see this is around March 2006.

15 A.   Yes.

16 Q.   On page 2 of that PEAK {F/338/2}, you can see there are

17   two reasonably large yellow boxes?

18 A.   Yes.

19 Q.   One halfway down, one three-quarters of the way down?

20 A.   Yes.

21 Q.   And you can see what the PEAK problem was referring to?

22 A.   Yes.

23 Q.   Yes? And then at the bottom of that box:

24   "I believe this PEAK should therefore be transferred

25   to Escher-Dev, so this PEAK is being routed to QFP for

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1   their consideration."

2   Escher were developers for Riposte?

3   A.   That is right.

4   Q.   If you look at the bottom yellow box, 6th April 2006,

5   14.07:

6   "This may be a 'well known problem' but this does

7   not mean it is worth chucking over the fence to Escher!

8   We need to give them a reasonably high probability

9   scenario in which the problem arises. If it is only

10   a tiny percentage or fraction of daily transactions then

11   they can hardly be expected to investigate it with no

12   further evidence. Gareth Jenkins confirms that this

13   logic has been applied all along."

14   Then if we now go please to {F/414.1/1}. If we

15   could look please at page {F/414.1/9}. Do you see there

16   in the bottom -- middle yellow box --

17 A.   Yes.

18 Q.   -- it talks about:

19   "A possible alternative to the one suggested above

20   by Mark Scardifield (replacing the Notify timer with an

21   independent one) would be to tidy up (one-line code

22   change) NBFramework so that it does not loop when it

23   times out a component. Then we could be justified in

24   reducing the configured timeout period for

25   NBRequestReply from the present ten minutes to say one

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1   minute.

2   "However this timeout is still rather 'brutal' and

3   does not provide for any recovery actions such as

4   resetting the PIN pad or suggesting that the Clerk tells

5   the customer to retrieve their ICC card. This clumsiness

6   may be acceptable for a rare occurrence; it can easily

7   be worked around and the PIN pad can be reset by

8   subsequent actions.

9   "However it is not clear whether the transaction

10   recovery is really adequate in this circumstance. This

11   could be investigated ..."

12   Then at the bottom:

13   "BTW it is not understood in EPOSS Dev why this

14   whole problem appears only with Banking transactions.

15   Surely the whole Riposte and comms path is

16   identical ..."

17   Do you see that?

18 A.   Yes.

19 Q.   If we go over the page {F/414.1/10}, we can see at the

20   top of the page, do you see if you come four lines down:

21   "For 145617 I accept that we are unlikely to get

22   a fix from Escher, and even if we got one, we are

23   unlikely to implement it."

24 A.   Yes.

25 Q.   Do you see that?

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1   A.   Yes.

2   Q.   Now, this also makes a reference to cost benefit in this

3   PEAK as well. Now, these were the PEAKs that you found?

4   A.   Yes.

5   Q.   Did they undermine what you felt about the relevance of

6   cost benefit approach?

7   A.   No.

8   Q.   You were also asked questions about the Riposte message

9   searching?

10   A.   Yes.

11   Q.   And you mentioned that you had come across Riposte

12   import which had been helpful to search for?

13   A.   That is right.

14   Q.   Can we look at {H/253/1}, please. This is a letter of

15   20 March, so this is during the trial.

16   A.   Yes. Is this the letter which points out the suggested

17   things to search for?

18   Q.   It is. And you see there -- this is the bit where

19   a SSC -- an unnamed SSC technician has done some

20   searches as well and Riposte import is mentioned there.

21   A.   Yes.

22   Q.   Can you remember whether you had identified Riposte

23   import before or because of this letter or after?

24   A.   I think we had only started to use it as a result of

25   these messages here.

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1   Q.   Thank you.

2   MR JUSTICE FRASER: "These messages", you mean --

3   A.   Sorry --

4   MR JUSTICE FRASER: The letter?

5   A.   -- the strings, yes, the letter, and knowing that these

6   are suitable things to search for on our system.

7   MR JUSTICE FRASER: As a result of the letter?

8   A.   Yes, my Lord.

9   MR GREEN: You were also asked about the difference of

10   an hour between the two sets of ARQ data and other data.

11   A.   Yes.

12   Q.   Can you remember when you realised or learnt of that

13   difference?

14   A.   I believe that I have only really surmised that the

15   reason for the difference is just a time zone

16   difference. I do not think I have ever been told that's

17   what it is.

18   Q.   Can we look at Day 16 of the transcript, please,

19   page 12, line 7 {Day16/12:7}. It was put to you that

20   MSCs had been disclosed on the Friday before Christmas,

21   21 December?

22   A.   Yes.

23   Q.   And OCPs and OCRs on 24th January?

24   A.   Yes.

25   Q.   If we look at {H/263/1} now, this is a letter of

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1   18th April 2019. There was an extra 2,500 OCRs

2   disclosed on 18th April.

3   A.   Yes.

4   Q.   Mr Coyne, can I ask you whether you have been busy since

5   the time that the Horizon trial should have ended, had

6   it gone to plan and not been derailed?

7   A.   Yes, yes, I have got a number of other projects.

8   Q.   Have you had a give oral evidence in any other cases?

9   A.   Yes, I have had to give oral evidence in a case at

10   Manchester and I have a number of other non-contentious

11   projects where I'm helping companies go live with big

12   systems.

13   Q.   How have you found the timing of your receipt of

14   documents for the purposes of preparing your reports?

15   A.   It has been very problematic.

16   Q.   How does it compare to other cases you have been in?

17   A.   I don't think there has been another case where I have

18   experienced this level of -- the disclosure being

19   provided in dribs and drabs, especially after making

20   a specific request back in June of last year because it

21   was quite clear then the types of documents that would

22   be required.

23   Q.   And finally, you were asked what proportion of OCRs had

24   been granted -- permissions had been granted

25   retrospectively?

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1   A.   Yes.

2   Q.   Do you have that number?

3   A.   I do. I searched last night. There's just over 21,000

4   OCRs and OCPs and there is 1,450 that are described as

5   being created retrospectively, that's about 7%.

6   MR GREEN: Thank you very much.

7   My Lord, I have no further questions.

8   MR JUSTICE FRASER: I don't have any -- let me just check.

9   I do not think I have any, but let me just check.

10   No, thank you very much, Mr Coyne. You can leave

11   the witness box because we have a few matters to deal

12   with, although I do not think very many, or certainly

13   not very many from me.

14   Discussion

15   MR JUSTICE FRASER: The next day of evidence is Tuesday

16   morning. You are calling Dr Worden, is that right?

17   MR DE GARR ROBINSON: My Lord, yes.

18   MR JUSTICE FRASER: So it is Tuesday, Thursday, Friday of

19   next week?

20   MR DE GARR ROBINSON: My Lord, yes.

21   MR JUSTICE FRASER: Mr de Garr Robinson, yesterday you

22   identified or referred to Ernst & Young audits for

23   different years going on from 2011 onwards.

24   MR DE GARR ROBINSON: Yes.

25   MR JUSTICE FRASER: Can you just let me have a list of

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1   references?
2 MR DE GARR ROBINSON: The trial bundle references?
3 MR JUSTICE FRASER: Yes, please.
4 MR DE GARR ROBINSON: My Lord, yes.
5 MR JUSTICE FRASER: You were also going to just send me on
6   Monday I think some information, just a summary --
7 MR DE GARR ROBINSON: A very short note summarising the
8   redaction position, yes.
9 MR JUSTICE FRASER: The redaction exercise.
10   Then the only other thing I have --
11 MR DE GARR ROBINSON: My Lord, can I just ask, when you say
12   the Ernst & Young audits, do you mean the service audits
13   for Fujitsu or do you mean --
14 MR JUSTICE FRASER: Well, yesterday you put to the witness,
15   and I can find my note in a moment, I think you said "We
16   have them for each year 2011, 2012", and you went
17   through a list of years.
18 MR DE GARR ROBINSON: Those were the service audits,
19   my Lord. I will give you the references for those.
20 MR JUSTICE FRASER: If you can just give me the references.
21   Then the only other point is the PEAKs and KELs hard
22   copy file. I remember at the beginning of the evidence
23   of fact I said could I have one, and I was anxious not
24   to impose too much of a burden on anyone and I said
25   I didn't need a detailed index. The indices that came

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1   through were somewhat idiosyncratic, I think that's
2   because they were not necessarily done by the same
3   person which is really not a problem, but it makes the
4   file really quite difficult to follow. I think it was
5   broken down by per day, per sitting day.
6   I deliberately haven't marked it because I have been
7   using the electronic ones. I have got an index for --
8   well, I have got a document which says it is an index
9   for week 1 and a document that says it is an index for
10   week 2. Week 2 does refer to numbered tabs, but the
11   tabs that are in the file aren't numbered in accordance
12   with the tabs in the index. For example, one would
13   start at tab 97 and I can't find tab 97 for the life of
14   me. I think it is just re-ordering the way the index
15   and/or the tabs are numbered. I'm not asking for the
16   actual contents to be re-ordered.
17   Did it come from the claimants or did it come from
18   the Post Office?
19 MR DE GARR ROBINSON: I believe it is a combined process.
20 MR JUSTICE FRASER: I'm in no way on any sort of a witch
21   hunt.
22 MR DE GARR ROBINSON: Everyone is looking around furtively
23   at the other side.
24 MR JUSTICE FRASER: It is just to try and get that file in
25   a usable form. That usefully is the evidence of fact

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1   file. There is as yet no expert evidence PEAK file but
2   I would like to make it clear that I would like one at
3   some point.
4 MR DE GARR ROBINSON: My Lord, could I ask how you would
5   like that file organised. Are you content that it
6   should remain in day by day form?
7 MR JUSTICE FRASER: Yes.
8 MR DE GARR ROBINSON: It is simply a matter of getting the
9   right index?
10 MR JUSTICE FRASER: For example, you put one of the more
11   important PEAKs to Mr Coyne, which had already been
12   dealt with. It was impossible for me to find where that
13   was in the end. I know it is in here somewhere.
14 MR DE GARR ROBINSON: I see.
15 MR JUSTICE FRASER: But, for example, if one looks at the
16   index for week 1, which I will just hand you and then
17   you will see what I mean. (Handed) You will see that
18   really is just a total of everything that's in the file
19   without necessarily telling you where it is or being in
20   any immediately discernible order.
21 MR DE GARR ROBINSON: Could I ask, are there markers? Are
22   there dividers between each PEAK?
23 MR JUSTICE FRASER: Well, there are, but they don't seem
24   necessarily to follow.
25 MR DE GARR ROBINSON: I'm wondering whether your Lordship

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1   would like a paginated bundle -- I don't want to make
2   work for anyone -- and an index --
3 MR JUSTICE FRASER: Paginated would be glorious.
4 MR DE GARR ROBINSON: Yes.
5 MR JUSTICE FRASER: So what it really amounts to,
6   Mr de Garr Robinson, without spending too long, is this
7   file in either a different order or a more usable form.
8   I'm happy for it to stay in the current order, which is
9   per day, if I could, for example, think well that was
10   put on Day 3, and actually find where Day 3 is in here
11   and look at it. And a similar wholly separate file for
12   the PEAKs that are going to be put to the experts.
13 MR DE GARR ROBINSON: But ordered in the same way, day by
14   day.
15 MR JUSTICE FRASER: Either in the same way or in their own
16   separate way, I don't much mind.
17 MR DE GARR ROBINSON: If it is not day by day it is
18   difficult to think how else one would actually do it.
19 MR JUSTICE FRASER: I prefer day by day because it makes it
20   easier.
21 MR DE GARR ROBINSON: My Lord, does that mean you are happy
22   for the file to contain duplications?
23 MR JUSTICE FRASER: Yes.
24 MR DE GARR ROBINSON: My Lord, I don't have instructions to
25   do this, but could I volunteer entirely without

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1   instructions to take that file , paginate it , and get
2   a proper index for your Lordship?
3   MR JUSTICE FRASER: By all means. You will see I have
4   flagged the week 2 index in here, which is in
5   a different form to the one I have just given you, which
6   is week 1. This is the one that says tab 97.
7   MR DE GARR ROBINSON: Which doesn't exist.
8   MR JUSTICE FRASER: No. Unless there is a strange non-base
9   10 numbering system which I haven't come across. Would
10   you like this back?
11 MR DE GARR ROBINSON: If your Lordship is happy --
12 MR JUSTICE FRASER: It is deliberately not marked. There is
13   some writing on the index for week 2 but that actually
14   isn't my writing.
15 MR DE GARR ROBINSON: Very good.
16 MR JUSTICE FRASER: It was there when the file came.
17 MR DE GARR ROBINSON: My Lord, we can do that and we can
18   produce it by Tuesday. We can produce it by the time we
19   start on Tuesday next week.
20 MR JUSTICE FRASER: That would be very helpful. Then after
21   next week, if the same thing can be done for the
22   experts, please.
23 MR DE GARR ROBINSON: Yes.
24 MR JUSTICE FRASER: I think we have achieved consensus.
25 MR DE GARR ROBINSON: The only thing on my list was to

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1   remind your Lordship about the PEAK files but we've done
2   that.
3   MR JUSTICE FRASER: PEAKs and KELs, but that is it , that's
4   because I remembered.
5   Anything else?
6   MR GREEN: My Lord, no.
7   MR JUSTICE FRASER: One final point, and it is really not
8   a big point, I got an email from Opus about transcripts
9   to be moved from one work space of Horizon across to
10   another. I don't recall asking for that to be done.
11   I don't mind it being done. I think it flowed from the
12   point I made about Day 13 and where was it.
13   I know what day we are on here, this shows 17
14   sitting days. If between you, you could just agree
15   which days we have in fact sat and what their numbers
16   are in terms of the sequential number of the hearing
17   that would be useful.
18 MR DE GARR ROBINSON: It's probably easier for me because
19   I have only been here when we have actually been doing
20   Horizon business so I will discuss that with my learned
21   friend.
22 MR JUSTICE FRASER: Again, it is just to be consistent ,
23   that's all .
24 MR DE GARR ROBINSON: We can do that on Monday morning.
25 MR JUSTICE FRASER: Thank you all very much. Tuesday at

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1   10.30.
2   (4.28 pm)
3   (The court adjourned until 10.30 am on Tuesday,
4   11 June 2019)
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