POST OFFICE HORIZON IT INQUIRY

DAVE PANAECH EVIDENCE BUNDLE

Updated consolidated bundle containing all 40 source PDFs currently supplied in this conversation. Each source PDF is reproduced in full. Overlapping or duplicate productions are retained as separate Inquiry evidence IDs.

Bundle contents

40 source PDFs	256 source pages	261 bundle pages

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2	**WBON0000535** 23 Jun 2018	Horizon Issues Trial - correspondence identifying and preparing potential witnesses.	**8-12**
3	**POL00154271** 10 Jul 2018	Post Office Group Action - information and guidance for witnesses.	**13-14**
4	**POL00023209** 15 Oct 2018	Strike-out application email chain; Dave Panaech appears in the copied legal-team group.	**15-17**
5	**POL00258011** 16 Oct 2018	Strike-out application - legal summary, concerns and next steps; Panaech copied.	**18-21**
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12	WBON0000646 17 Dec 2018	Group Litigation flowcharts - Dave Panaech email proposing wording about lodging a dispute.	46-49
13	WBON0000647 7 Jan 2019	Common Issues Judgment planning - proposed internal and external communications.	50-51
14	WBON0001446 8 Mar 2019	Common Issues Judgment - instructions table and subsequent actions; work allocated to Panaech.	52-54
15	WBON0001463 9 Mar 2019	Summary of the Common Issues Judgment circulated for review.	55
16	WBON0000653 11 Mar 2019	"Super Silk Ideas" - discussion of senior counsel for appeal / recusal advice.	56-57
17	WBON0000320 13 Mar 2019	Horizon Issues Trial - disclosure of audit reports correspondence.	58-59
18	WBON0000664 15 Mar 2019	Recusal application steps - draft planning, statement preparation and timing.	60-68
19	WBON0000674 17 Mar 2019	Recusal application steps - draft order and discussion of replacement-judge issues.	69-80
20	WBON0001503 18 Mar 2019	Compiling spreadsheet / feeding into witness statement - synthesis of proposed bias points.	81-82

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21	POL00364150 19 Mar 2019 22:00	Timing/readiness for recusal - rough draft witness statement and proposed structure.	83-87
22	WBON0000678 19 Mar 2019 23:18	Timing/readiness for recusal - discussion whether to file a witness statement at all.	88-93
23	WBON0001514 20 Mar 2019 09:42	Timing/readiness for recusal - counsel view to file a short witness statement.	94-100
24	POL00268876 20 Mar 2019 10:26	Recusal correspondence considering whether there was an alternative to recusal.	101-104
25	WBON0001806 20 Mar 2019 14:22	Application documents - legal-team chain recording the Board instruction to make the application.	105-108
26	POL00023769 20 Mar 2019 21:32	Recusal application - draft application notice, draft order and witness statement circulated.	109-110
27	WBON0000686 21 Mar 2019 07:29	Recusal application draft documents - witness-statement presentation and apparent-bias test.	111-115
28	WBON0000687 21 Mar 2019 07:38	Further recusal draft-document chain, including communications planning.	116-120
29	POL00022982 21 Mar 2019 11:37	Recusal application - filed documents and discussion of their availability / circulation.	121-124
30	WBON0000688 21 Mar 2019 16:42	Recusal Application - timetable for evidence, skeletons and hearing.	125-126

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No.	Evidence ID / date	Description	Bundle pages
31	WBON0001847 21 Mar 2019 19:01	Recusal Application timetable - discussion of witness-statement scope and wording.	127-130
32	POL00364173 25 Mar 2019 09:04	Witness Statement - recusal draft circulated among counsel and legal team.	131-134
33	WBON0000689 25 Mar 2019 10:00	Witness Statement - proposed tracked amendments and formatting changes.	135-138
34	POL00364183 26 Mar 2019 09:09	Witness Statement - further proposed changes before client approval and filing.	139-146
35	WBON0001522 26 Mar 2019 11:00	Witness Statement - detailed editing chain concerning factual points and disclosure.	147-156
36	WBON0000695 26 Mar 2019 15:05	Letter from Freeths - Recusal; response to complaint about scope of the witness statement.	157-159
37	WBON0000696 26 Mar 2019 15:17	Further Freeths / recusal chain and proposed response wording.	160-162
38	WBON0000697 27 Mar 2019 10:16	Post Office Group Litigation - Recusal Application; response to further Freeths correspondence.	163-166
39	WBON0000698 27 Mar 2019 10:34	Further recusal-application chain discussing how substantively to respond.	167-172
40	INQ00001159 12 Jun 2024	Post Office Horizon IT Inquiry transcript - oral evidence of Thomas Beezer and Matthew Lenton.	173-261

POL00142517

From: Dave Panaech GRO

Sent: Tue 16/08/2005 1:46:50 PM (UTC)

To: cheryl.woodward GRO

Cc: mandy.talbot GRO Tom Beezer GRO

Subject: RE: Riby Square Post Office (FAD 202/311)

Attachment: SFX156E.pdf

Dear Cheryl,

Thank you for your email. I have sent the letter before action off.
The engrossed copy is enclosed for your file.

Kind Regards

Dave Panaech
Solicitor
Bond Pearce LLP
DDI: GRO
Main office phone: GRO
Fax: GRO
Mobile: GRO
www.bondpearce.com

-----Original Message-----
From: cheryl.woodward GRO
GRO]
Sent: 16 August 2005 13:57
To: Dave Panaech
Subject: Re: Riby Square Post Office (FAD 202/311)

Hi Dave

Mrs Blakey's contract was terminated on 13th May 2004 as in your draft letter.
The draft letter appears to be ok to forward onto Mrs Blakey.

Thanks Cheryl.

****
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WBON0000535

From: Victoria Brooks GRO
To: Andrew Parsons
Cc: Dave Panaech GRO, Mandy Robertson GRO
Subject: Re: Post Office Group Litigation: Horizon issues trial [WBDUK-Active.FID26896945]
Date: Sat, 23 Jun 2018 19:04:01 +0100
Importance: Normal
Inline-Images: image7d8c89.PNG; image9dd584.PNG; imageb6e3d9.PNG; image83c0d6.PNG; image4d9f8e.PNG; image927cef.PNG

I did an analysis of the longer list putting names to the subjects. I'll forward this and that to Mandy and ask her to compare and add names to this.

From an initial review I'd say it looks like AVDB, Sarah Rimmer, John Breeden/Helen Dickinson, Stewart Barclay / Nick Beal, Kendra Dickinson

The ones I'm least certain of are training, and the accounts one, and some of the 6 May need to be split into more than one witness.

Victoria Brooks
Managing Associate
Womble Bond Dickinson (UK) LLP

d:
t:
e: GRO

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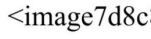
Sent from my iPhone

On 23 Jun 2018, at 07:34, Andrew Parsons GRO wrote:

> Are we able to be names to these subjects? If so, please can we do that and start people going on getting those witnesses lined up for meetings?
>
> Thanks
> A
>
> **Andrew Parsons**
> Partner
> Womble Bond Dickinson (UK) LLP
>
> d:
> m:
> t:
> e: GRO

WBON0000535

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From: Gideon Cohen [mailto: GRO]
Sent: 22 June 2018 18:17
To: Andrew Parsons; Anthony de Garr Robinson; David Cavender; Simon Henderson (GRO); Owain Draper
Cc: Amy Prime; Jonathan Gribben; Lucy Bremner; Emma Campbell-Danesh
Subject: RE: Post Office Group Litigation: Horizon issues trial [WBDUK-Active.FID26896945]

All,

As discussed, please see attached an updated version of the Issues for Evidence document, organised by reference to (generic) potential witnesses.

Let us know if and when it would be useful to discuss.

All best

Gideon

Gideon Cohen
Barrister

One Essex Court
Temple
London EC4Y 9AR

Switchboard:
GRO
Fax number:
GRO

www.oeclaw.co.uk
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From: Andrew Parsons [GRO
Sent: 22 June 2018 17:00
To: Anthony de Garr Robinson; David Cavender; Simon Henderson GRO)
(GRO ; Owain Draper; Gideon Cohen
Cc: Amy Prime; Jonathan Gribben; Lucy Bremner; Emma Campbell-Danesh
Subject: FW: Post Office Group Litigation: Horizon issues trial [WBDUK-Active.FID26896945]

All

See attached - more irritating questions from Freeths.

I've also attached their previous letter on disclosure issues in general.

We are preparing responses to both.

WBON0000535

A

Andrew Parsons
Partner
Womble Bond Dickinson (UK) LLP
d:
m:
t:
e GRO
+ GRO
+ GRO

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<https://www.linkedin.com/company/womble-bond-dickinson-uk-llp/>

From: Imogen Randall [mailto: GRO]
Sent: 22 June 2018 16:40
To: Chloe Squibb; Andrew Parsons; Amy Prime
Cc: Emma Campbell-Danesh; Victoria Brooks; Jonathan Gribben; Michael Wharton; James Hartley; Miranda Bond; Nicola Pettit; Stephanie Clarke; Chloe Oram; Natalia Aguilar
Subject: Post Office Group Litigation: Horizon issues trial

All

See attached

Freeths LLP

Imogen Randall
Senior Associate
T:
F:
M GRO

[Freeths Website]<https://www.freeths.co.uk>
Freeths LLP
1 Vine Street, Mayfair
London W1J 0AH

[@freeths]<https://twitter.com/freeths>

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Lawyers'
Chambers UK Guide 2018: 'Ranked' in 37 categories | 66 Lawyers 'Leaders in the field'

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WBON0000535



POL00154271

LEGALLY PRIVILEGED AND CONFIDENTIAL

POST OFFICE GROUP ACTION

INFORMATION FOR WITNESSES

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Background

Post Office is defending a claim brought against it by 500+ postmasters who are being represented by solicitors, Freeths (**Group Action**). The postmasters include Subpostmasters, Crown Office employees, Assistants, Franchisees, and Operators under the Network Transformation contracts (**Claimants**). Womble Bond Dickinson (UK) LLP is representing Post Office in this litigation.

The Claim is proceeding in the High Court in London. It began in 2016 and may well last for quite a while longer, with a first stage trial due to take place in November 2018.

The claims brought by the Claimants are robustly denied by Post Office. The broad areas of Post Office's operation which are relevant to the claims are:

- Recruitment and interview process
- Location of branch
- Preparation of contracts and manuals
- Signing of contracts and changes to contracts once signed / new products
- Practical arrangements for branches
- Contact / support between Post Office and postmasters during ongoing relationship
- Holiday and sickness
- Training for those working in branch
- Assistants
- Dealing with problems in branch/ shortfalls
- Dishonesty / false accounting by postmasters
- Helpline / NBSC
- FSC (role of)
- Security team (role of)
- Audit team (role of)
- Accounting
- Horizon
- Contractual breach / performance issues
- Suspension
- Temporary substitutes
- End of Post Office's relationship with postmaster (however that happens)
- Criminal investigations and prosecutions
- Civil claims / recoveries action / Chesterfield

Your evidence

You have been nominated as someone with knowledge of one or more of these areas. We need to speak to you so that we can understand the areas about which you are knowledgeable. From the information we receive from you and other documentary evidence, we will prepare your witness statement. The witness statement will outline and explain Post Office's practice and processes regarding the above issues and how these practices have changed during the relevant time (from 1998 to 2016).

We will use your proof of evidence as a basis for drafting your witness statement. It is important that you are comfortable with everything that is said in your witness statement and that the text of the statement is

POL00154271

in your own words. We may need to speak to you again about particular points and there may be several drafts for you to review. Once finalised, we will ask you to sign the statement of truth (explained below).

After the exchange of witness statements has taken place, we may ask you to read what is being said by the witnesses appearing for the Claimants. Your comments on those statements could be helpful in preparing for the trial.

Statement of truth

Your evidence is very important and you need to be comfortable that what you are saying is accurate.

Your witness statement will be verified by a "statement of truth". This is a statement confirming that the person making it believes that the facts stated in the document are true. When you are signing the statement of truth, you are confirming that the facts contained within the statement are true to the best of your knowledge.

The penalties for signing a statement of truth without an honest belief in the truth of the facts being verified are potentially severe. A person who knowingly makes a false statement in litigation in an attempt to interfere with the course of justice will be in contempt of court, which is punishable by a prison sentence of up to two years.

Where you do not have first-hand knowledge of facts and matters which are set out in the witness statement, you should carry out sufficient investigation to satisfy yourself of the truth of the matters stated. We will assist you in undertaking these checks from the available documentation.

Future steps

The trial of this matter is listed for November 2018. Please could you continue to keep November 2018 free in your diaries. If you already have commitments or intend to book any holiday in this period, please could you let dave.panaech GRO and victoria.brooks GRO know.

You will most likely be asked to attend court to explain the issues covered in the witness statement to the Judge. You will need to prepare for giving evidence at the hearing by carefully reviewing your statement and any relevant documents referred to in it. You will also be asked questions on the evidence by the Claimant's representatives.

If you are required to attend trial and give evidence, we will arrange for you to have some training on what to expect in a court room beforehand, to help make you feel as comfortable as possible on the day.

Questions

If you have any questions about scheduling meetings, please contact Ria Hattam on ria.hattam GRO GRO or GRO

If you have any other questions, please contact Victoria Brooks on victoria.brooks GRO or GRO GRO Alternatively, please contact Dave Panaech on dave.panaech GRO or GRO GRO

We thank you in advance on behalf of Post Office for your assistance and support.

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Womble Bond Dickinson (UK) LLP

10 July 2018

POL00023209

Message

From: Mark Underwood GRO
Sent: 15/10/2018 19:31:52
To: Rodric Williams [rodric.williams GRO]; Andrew Parsons [/o=Exchange-Org/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=ad9ed344815e47e4aaa3c0e7e1740919-Andrew Pars]; Jane MacLeod [jane.macleod GRO]
CC: Dave Panaech [/o=Exchange-Org/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=0310835f6adc435ab1b160664f370de9-Dave Panaec]; Victoria Brooks [/o=Exchange-Org/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=7a2f6b0bed844154a96f5e671bcc4253-Victoria Br]; Amy Prime [/o=Exchange-Org/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=ab7222dda3a9453eaed5751238a59562-Amy Prime]
Subject: Re: Strike out application [WBDUK-AC.FID26896945]

I have read it. I may be being overly simplistic / optimistic but I think it is important to remember why the application was made in the first place - to prevent judgments in November going further than just the common issues and to prevent the judgments on the common issues being polluted by prejudice.

Although we have taken a kicking to get there, I think the first objective has been achieved. Prejudice is a concern but at least this judgment opens the door for David to cross examine on credibility points (false accounting etc) and there are some useful points of detail included in the judgment, which I think can read into as being positive for POL e.g para 31.

We do need to consider how this judgment informs what we do with the claimants witness statements for the horizon issues trial.

Mark

Mark Underwood
Head of Portfolio: Legal, Risk & Governance
GRO

From: Rodric Williams <rodric.williams GRO>
Sent: Monday, October 15, 2018 8:08 pm
To: Andrew Parsons; Mark Underwood; Jane MacLeod
Cc: Dave Panaech; Victoria Brooks; Amy Prime
Subject: RE: Strike out application [WBDUK-AC.FID26896945]

All,

I am reading this now and have spoken to Andy. I'll send my comments later this evening.

I have however instructed Andy to ask counsel to again revisit their merits opinion, essentially "war gaming" it in the context of a judge who has formed a view that Post Office acts in a high-handed/oppressive manner towards its agents.

Rod

From: Andrew Parsons [mailto:andrew.parson GRO]
Sent: 15 October 2018 19:03
To: Rodric Williams GRO; Mark Underwood <mark.underwood GRO>; Jane MacLeod <jane.macleod GRO>
Cc: Dave Panaech <dave.panaech GRO>; Victoria Brooks <victoria.brooks GRO>; Amy Prime

POL00023209

<amy.prime GRO >
Subject: Strike out application [WBDUK-AC.FID26896945]

Rodric, Mark, Jane

Please find attached the strike out application judgment. Its not good news – Fraser refused to strike out the Cs evidence.

- The Judge has approached this as a case management issue, rather than a trial issue. As a case management issue, the Judge adopted the test that he cannot strike out evidence unless the evidence can "*never be relevant*" to the issues at trial (para 22). This is a very high bar to clear and so he found that the Claimants' evidence must remain live in the proceedings (para 53).
- However, he acknowledges that just because the evidence remains in the Common Issues Trial does not mean that it is relevant to the Common Issues – he says that that question will be the subject of detailed debate at the trial (para 25).
- He carefully avoids deciding whether the evidence is actually relevant to any of the Common Issues, but expressly makes clear that he will not be making any findings on the Horizon Issues or issues of breach (para 52). This last point appears to be a contradiction in this judgment – if he does not intend to make any findings on breach then how can large parts of the Claimants' evidence be relevant?
- As a side note, Fraser also criticises both sides for "aggressive litigation tactics" (paras13 – 16). This section is at odds with his comments at the other hearings in the run up to the strike out application in which he invited a strike out application.

In substance, we do not believe that this Judgment moves Post Office backward or forward from its position before the strike out application, but we are going to give this further careful consideration overnight.

The more worrying part of the Judgment is the final para where he refers to Post Office's termination correspondence to Alan Bates back in 2003, calling it "*undoubtedly aggressive and generally dismissive*". It is one thing to criticise the lawyers as being aggressive (that criticism, although never welcomed, is a risk in all litigation) but it does not directly affect the Judge's substantive view of the case. It is a different thing altogether if correspondence about Post Office's conduct of a termination 15 years ago is starting to seep into his thinking.

David, Tony and I will be in touch tomorrow with further advice on how to proceed.

Kind regards
Andy

Andrew Parsons
Partner
Womble Bond Dickinson (UK) LLP

d:
m: GRO
t:
e: andrew.parsons GRO

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POL00258011

From: Rodric Williams GRO

Sent: Tue 16/10/2018 2:04:14 AM (UTC)

To: Andrew Parsons GRO Mark Underwood GRO Jane MacLeod GRO

Cc: Dave Panaech GRO; Victoria Brooks GRO Amy Prime GRO Ben Foat GRO

Subject: RE: Strike out application - SUBJECT TO LEGAL PRIVILEGE - DO NOT FORWARD

Attachment: Bates v The Post Office - Judgment No..2 strike out application 15 Oct 1....doc

All (now also including Ben Foat),

I set out below my legal summary of the attached judgment, the (admittedly few) positives it contains, the concerns it raises, and next steps, the most pressing for me being stakeholder communications.

Is it possible to schedule a call which includes Comms, as soon as possible on Tuesday to agree how best to take matters forward? I'd like UKGI to hear about the judgment from us, but don't want to get out in front of Wednesday's meeting with the Minister....

The Judgment

The core legal findings of the judgment are, as Andy reported, that:

- the Managing Judge decided the application on case management grounds for which he has considerable discretion and very limited scope for appeal;
- he used that discretion to sidestep the law on admissibility and instead set a very high threshold for strike out, i.e. that the Claimants' evidence could never be relevant to the case;
- the threshold was not met for any of the Claimants' evidence given the number of Common Issues, the "considerable legal analysis" each will require, and what our case on those issues is.

We therefore lost the application and can expect the Claimants to be awarded their costs when that question is dealt with on the first day of trial.

Positives

There are some legal positives in the judgment. As well as the key affirmation that the Common Issues Trial will not rule on Horizon and "breach" issues (to which most of the Claimants' disputed evidence goes), the Managing Judge intimated that the Claimants are up against orthodox legal principles when advancing their case, e.g.:

- on the important question of construction of terms of the postmaster contract:
  - The Managing Judge stated that "[c]*ontractual orthodoxy in terms of construing the contract requires knowledge common to the parties to be considered*".
  - This would make irrelevant much of the evidence we sought to strike out when the Court comes to determine what the terms of the postmaster contracts actually mean.
  - To circumvent this, the Claimants rely on a case concerning Manchester United-branded fragrances, the application of which looks questionable ("*If – and it is a very considerable 'if', given the stage at which this Group Litigation is at – the claimants are right about this aspect of their case....*").

  [see Judgment para.31]
- The Managing Judge is confident that he will act properly in this regard, expressly acknowledging that he can be appealed if he does not ("*However, should I in the fullness of time make findings on the Common Issues by taking into account matters irrelevant in law (and hence inadmissible) on some of those Common Issues, there is a remedy available* [i.e. an appeal]", Judgment para.53).
- on agency issues, which include whether an agent will be bound by their account unless they show error, the

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Managing Judge noted that the Claimants were relying on "older cases" (which had not been raised prior to the hearing), for which there would "*doubtless be a great deal of legal argument on both sides as to how, if at all, such principles are now to be approached…*" (Judgment para.37).

Negative Perception

Of much greater concern is the overall tenor of the judgment, which is negative about the way we have conducted the case and includes intimations that we are:

- not acting cooperatively and constructively in trying to resolve this litigation; and
- impugning the court and it processes by making an application for improper purposes.

This is not only extremely disappointing given the approach we have adopted, but also at odds with comments the Managing Judge has made during various procedural hearings over the past year. Nevertheless, the judgment stands and we will therefore need to work to rectify matters.

Next Steps

I see there being two immediate work streams:

1. *Trial Preparation*

I want to hear how David Cavender QC is proposing to respond to the challenges the judgment raises to our case, both in terms of its merits and how it can be presented. Andy - do you have a time frame for this?

2. *Stakeholder Communications*

We designed our Information Sharing Protocol with UKGI so that there would be "no surprises". They should therefore hear about the judgment from us rather than any other source, and as soon as possible given how quickly word of the judgment could travel.

I would therefore like to get a briefing over to UKGI's lawyers tomorrow, whether by phone, email or combination of both.

I would be happy to email the judgment to UKGI with a summary of the good and bad points as outlined above, preceding it with a phone call given that they are likely to see this as bad news, but I'm conscious that the meeting between Paula, Al, Jane and Mark D and our Minister and other government representatives is on Wednesday, and I don't want to do anything that gets in front of that.

Are we able to schedule a call tomorrow with Comms to agree the way forward?

Thanks, Rod

From: Rodric Williams
Sent: 15 October 2018 20:09
To: Andrew Parsons [GRO]; Mark Underwood [GRO]
Jane MacLeod [GRO]
Cc: Dave Panaech [GRO]; Victoria Brooks [GRO]; Amy Prime
[GRO]
Subject: RE: Strike out application [WBDUK-AC.FID26896945]

All,

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I am reading this now and have spoken to Andy. I'll send my comments later this evening.

I have however instructed Andy to ask counsel to again revisit their merits opinion, essentially "war gaming" it in the context of a judge who has formed a view that Post Office acts in a high-handed/oppressive manner towards its agents.

Rod

From: Andrew Parsons [mailto: GRO
Sent: 15 October 2018 19:03
To: Rodric Williams <GRO>; Mark Underwood <GRO>; Jane MacLeod <GRO>
Cc: Dave Panaech <GRO> Victoria Brooks <GRO>; Amy Prime <GRO>
Subject: Strike out application [WBDUK-AC.FID26896945]

Rodric, Mark, Jane

Please find attached the strike out application judgment. Its not good news – Fraser refused to strike out the Cs evidence.

- The Judge has approached this as a case management issue, rather than a trial issue. As a case management issue, the Judge adopted the test that he cannot strike out evidence unless the evidence can "*never be relevant*" to the issues at trial (para 22). This is a very high bar to clear and so he found that the Claimants' evidence must remain live in the proceedings (para 53).
- However, he acknowledges that just because the evidence remains in the Common Issues Trial does not mean that it is relevant to the Common Issues – he says that that question will be the subject of detailed debate at the trial (para 25).
- He carefully avoids deciding whether the evidence is actually relevant to any of the Common Issues, but expressly makes clear that he will not be making any findings on the Horizon Issues or issues of breach (para 52). This last point appears to be a contradiction in this judgment – if he does not intend to make any findings on breach then how can large parts of the Claimants' evidence be relevant?
- As a side note, Fraser also criticises both sides for "aggressive litigation tactics" (paras13 – 16). This section is at odds with his comments at the other hearings in the run up to the strike out application in which he invited a strike out application.

In substance, we do not believe that this Judgment moves Post Office backward or forward from its position before the strike out application, but we are going to give this further careful consideration overnight.

The more worrying part of the Judgment is the final para where he refers to Post Office's termination correspondence to Alan Bates back in 2003, calling it "*undoubtedly aggressive and generally dismissive*". It is one thing to criticise the lawyers as being aggressive (that criticism, although never welcomed, is a risk in all litigation) but it does not directly affect the Judge's substantive view of the case. It is a different thing altogether if correspondence about Post Office's conduct of a termination 15 years ago is starting to seep into his thinking.

David, Tony and I will be in touch tomorrow with further advice on how to proceed.

Kind regards
Andy

Andrew Parsons
Partner
Womble Bond Dickinson (UK) LLP

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From: "Andrew Parsons" </O=EXCHANGE-ORG/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=AD9ED344815E47E4AAA3C0E7E1740919-ANDREW PARS>
To: "Amy Prime" GRO
Subject: RE: Post Office Group Litigation: Defendant's Disclosure - Redacted Documents
Date: Tue, 23 Oct 2018 15:13:55 -0000
Importance: Normal
Inline-Images: image002.png; image003.png; image004.png; image005.png; image006.png; image007.png; image008.png

---

Good to go

From: Amy Prime
Sent: 23 October 2018 15:33
To: Andrew Parsons
Subject: FW: Post Office Group Litigation: Defendant's Disclosure - Redacted Documents

Andy

Draft letter to Freeths attached on POL redacted documents. Have kept v. brief.

Thanks
A

Amy Prime
Solicitor
Womble Bond Dickinson (UK) LLP

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m:
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GRO

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From: Miranda Bond [mailto GRO
Sent: 22 October 2018 18:19
To: Charlie Temperley; Andrew Parsons; Amy Prime; Emma Campbell-Danesh; Victoria Brooks; Jonathan Gribben; Michael Wharton; Anna Martin; Dave Panaech; Lucy Bremner; Beth Hooper
Cc: James Hartley; Imogen Randall; Dean Hill; Stephanie Jameson; Chloe Oram; Nicola Pettit; Francesca See; Angelique Richardson
Subject: Post Office Group Litigation: Defendant's Disclosure - Redacted Documents

Dear Sirs,

Please see attached our firm's second letter of today's date.

Yours faithfully,
Freeths LLP

Miranda Bond
Legal Assistant

WBON0002003

T: GRO

FREETHS

Freeths LLP
Floor 3, 100 Wellington Street
Leeds LS1 4LT

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Chambers UK Guide 2018: ***'Ranked' in 37 categories | 66 Lawyers 'Leaders in the field'***

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From: Andrew Parsons GRO
To: Gideon Cohen <GRO>, Dave Panaech GRO, Mandy Robertson GRO, Amy Prime <GRO>, Victoria Brooks GRO
Cc: David Cavender GRO, Owain Draper <GRO>
Subject: RE: Examination in chief
Date: Tue, 13 Nov 2018 21:22:46 +0000
Importance: Normal
Inline-Images: image2a7db1.PNG; image7d3da8.PNG; imaged0ce00.PNG

Gideon - These are fine.

Dave / Victoria – between you, please can you let the witnesses know the general nature of the questions they will get.

Gideon - two other points.

What are we doing about the Stubbs defence that refers to docs from Paul Williams that Paul did not send? This is not a problem with Paul's evidence but a mistake by the legal team in preparing the Defence so I think we need to own up to this.

I'm really not comfortable that the Judge has a clear understanding of how SPMRs can dispute either transactions corrections or end of trading period shortfalls. We could pick this up with Angela?

Thoughts?

A

Andrew Parsons
Partner
Womble Bond Dickinson (UK) LLP

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e:

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From: Gideon Cohen [mailto GRO]
Sent: 13 November 2018 18:35

WBON0000635

To: Dave Panaech; Mandy Robertson; Amy Prime
Cc: Andrew Parsons; David Cavender; Owain Draper
Subject: Examination in chief

All,

Please see attached the 2 documents we are currently intending to present as typo-corrections for our witnesses.

There are a number of other points which will be canvassed in examination in chief rather than by written correction, because they are (a) new evidence and/or (b) more involved than a typo correction. Currently, we have questions for Beal (clarifying which hotline was 24 hr); Haworth (clarifying which checklist he used, and mentioning the CoA for the Crossflatts branch); Trotter (explaining why he didn't go through the contract in his first interview with Dar); and Van Den Bogerd (giving figures on how many branches, both generally and of the Cs in this case, are run by (a) companies and/or (b) multiples).

The additional points for examination in chief which arose today were for Longbottom (explaining the nature of the 2 page balancing guide, and that it was not a replacement for the manuals) and Ridge (explaining that there were 2 different Christines with different jobs).

Please let me know if there are any queries, internally or from the witnesses, on what will be covered.

Thanks

Gideon

Gideon Cohen

Barrister

One Essex Court

Temple

London EC4Y 9AR

WBON0000635

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From: Angela Van-Den-Bogerd [GRO]
Sent: Tue 13/11/2018 11:36:47 PM (UTC)
To: Andrew Parsons [GRO]; Dave Panaech [GRO]
Cc: Rodric Williams [GRO]; Amy Prime [GRO]; Kathryn Alexander [GRO]; Shirley Hailstones [GRO]
Subject: RE: Urgent Query Dispute Process 2007-2009 [WBDUK-AC.FID26896945]

Hi Andy

That's correct.

Angela

Angela Van Den Bogerd
Business Improvement Director

1st Floor,Ty Brwydran,
Atlantic Close,Llansamlet
Swansea SA7 9FJ
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From: Andrew Parsons [mailto: GRO]
Sent: 13 November 2018 21:44
To: Angela Van-Den-Bogerd < GRO >; Dave Panaech < GRO uk.com>
Cc: Rodric Williams < GRO >; Amy Prime < GRO >
Subject: RE: Urgent Query Dispute Process 2007-2009 [WBDUK-AC.FID26896945]

Angela

This supports what I always thought - if a SPMR gets to the end of the trading period and has a shortfall of less than £150, they must make it good in order to roll over. They then contact NBSC to raise a complaint about the shortfall, which is then investigated and, if appropriate, a TC is generated in a later TP creating an offsetting gain.

So in effect, for general branch losses under £150, it is "pay now, argue later". And if the SPMR is right to dispute, then they get the money back later.

A similar system applies for TCs under £150 which cannot be resolved during the same trading period. The TC must be accepted before roll over, thus creating a loss that must be made good (because it is for less than £150). The SPMR can contact the named person on the TC (or NBSC who will put them in contact with the right person) to raise a

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dispute. That may then generate a further offsetting TC if the dispute was found to be valid. Correct?

Dave – please can you pick this up with Jonny re Alison's evidence.

A

Andrew Parsons
Partner
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From: Angela Van-Den-Bogerd [mailto: GRO]
Sent: 13 November 2018 15:21
To: Andrew Parsons; Dave Panaech
Cc: Rodric Williams; Amy Prime
Subject: Fwd: FW: Urgent Query Dispute Process 2007-2009

Hi all

The info on the earlier question about the entry level for raising a dispute. Kath's view supports mine that we would and do investigate losses less than £150.

I'll pick up with Alison Bolsover when she returns from leave to understand what documentation/policy she is referencing.

Angela

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From: Kathryn Alexander
Sent: Tuesday, November 13, 2018 3:11:29 PM
To: Angela Van-Den-Bogerd
Subject: FW: Urgent Query Dispute Process 2007-2009

Hi Angela

I have looked through the dispute process info I have and have also contacted Paul Smith from FSC – see email chain below

- Essentially, the only reference to £150 that I (and Paul) are aware of is the ability to settle centrally limit

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- The attached Accounting Losses Policy (2003) refers to at Section 3 (extract below) £150 (community) and £400 (commercial) on authority to hold losses in suspense, but no reference to being unable to dispute threshold and cant see this in a later version 2005/2006 (3rd attachment)
- Attachment – (dispute process) this was in 2008 (according to email that it was attached in sent to Andy P from Andy W on 11/04/2013). The appeal process part doesn't refer to £150 limit either
- SSRT has investigated less amounts <£150 and over the years in various roles I can't ever remember telling a Pmr that they could not dispute rather the opposite that we would support

Below is from Accounting Policy for Agency Branches (2003)
SECTION 3 - AUTHORITY TO HOLD LOSSES

Where authority is given, it will only be provided for the amount of loss discovered above a threshold amount (£150 for those in the community segment and £400 for those in the commercial segment) and providing that no other losses are held in suspense at the time. A unique reference number will be allocated to any authority, which the agent should note for audit purposes.
PDF – email refers to this 2008

Regards
Kath

Kathryn Alexander
Support Services
Resolution Manager

1st Floor Admin,
Ty Brwydran,
Atlantic Close, Swansea SA7 9FJ
GRO

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From: Kathryn Alexander
Sent: Tuesday, 13 November, 2018 2:44 PM
To: Paul I Smith <GRO>
Subject: RE: Urgent Query Dispute Process 2007-2009

Hi Paul

Thanks, that my thinking, appreciate your time again ☺

Regards
Kath

Kathryn Alexander
Support Services
Resolution Manager

1st Floor Admin,
Ty Brwydran,
Atlantic Close, Swansea SA7 9FJ

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From: Paul I Smith
Sent: Tuesday, 13 November, 2018 2:40 PM
To: Kathryn Alexander <GRO>
Subject: RE: Urgent Query Dispute Process 2007-2009

Hi Kath,

The only thing that I know of that is £150 related is the ability to settle centrally. Maybe the query is thinking about the fact it can't be settle centrally and blocked while disputed so the branch has to take the cash loss at the time.

Regards

Paul Smith
Operations Support Manager
Fire Precautions Officer/FSC H&S
Finance Service Centre

PO Ltd,
No.1 Future Walk,
Chesterfield,
S49 1PF
Tel : GRO
Mobile: GRO

GRO

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From: Kathryn Alexander
Sent: 13 November 2018 14:37
To: Paul I Smith <GRO>
Subject: RE: Urgent Query Dispute Process 2007-2009

Hi Paul

Thanks for helping, I have gone through these and what I had already and can't so far see that there is anything that mentions anything under £150 can't be disputed? (which is a further query from AVB)

I was of the opinion (irrespective of the limit prior to settling centrally) that a loss below this threshold could be investigated? I know we have in SSRT

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I can see reference to limits of £150 & £400 in some older Losses Policy for authority to hold losses but nothing about can't be disputed

The attached from Andy Winn refers to the Appeal Process for a TC/BD –but doesn't refer to a threshold being >£150

Would FSC block a debt and/or investigate for <£150?

Regards
Kath

Kathryn Alexander
Support Services
Resolution Manager

1st Floor Admin,
Ty Brwydran,
Atlantic Close, Swansea SA7 9FJ
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From: Paul I Smith
Sent: Tuesday, 13 November, 2018 1:37 PM
To: Kathryn Alexander <GRO>
Subject: RE: Urgent Query Dispute Process 2007-2009

Hi Kath,

I will perform a search on sharepoint and see what I can find. I don't personally hold a copy though.

Regards

Paul Smith
Operations Support Manager
Fire Precautions Officer/FSC H&S
Finance Service Centre

PO Ltd,
No.1 Future Walk,
Chesterfield,
S49 1PF
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Mobile: GRO

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From: Kathryn Alexander
Sent: 13 November 2018 13:36
To: Paul I Smith <GRO>
Subject: Urgent Query Dispute Process 2007-2009
Importance: High

Hi Paul

I have an urgent query from the lawyers/AVB – do you have a document that covers the dispute process during period 2007-2009
I am checking my own documents but would really appreciate it If you can put your hands on anything quickly
Thanks

Regards
Kath

Kathryn Alexander
Support Services
Resolution Manager

1st Floor Admin,
Ty Brwydran,
Atlantic Close, Swansea SA7 9FJ
GRO

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Message

From: Angela Van-Den-Bogerd [GRO]
Sent: 14/11/2018 14:35:11
To: Dave Panaech [GRO]; Andrew Parsons [GRO]
CC: Rodric Williams [GRO] Amy Prime [amy.prime GRO] Kathryn Alexander [GRO] k]; Shirley Hailstones [GRO]
Subject: RE: Urgent Query Dispute Process 2007-2009

Hi Andy

As I mentioned briefly I agree this is more a language point but I will pick up with Alison when she's back from holiday.

Angela

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From: Andrew Parsons [GRO]
Sent: Wednesday, November 14, 2018 7:23:18 AM
To: Angela Van-Den-Bogerd; Dave Panaech
Cc: Rodric Williams; Amy Prime; Kathryn Alexander; Shirley Hailstones
Subject: RE: Urgent Query Dispute Process 2007-2009

Angela

Here is the question and answer that went to Alison:

Q. Could branches dispute discrepancies with NBSC, or was it limited to asking for assistance to identify the cause of a discrepancy? If NBSC could not identify the cause of a discrepancy, could the branch raise a dispute?

A. they seek assistance in resolving the discrepancy, we would not take up a dispute for a discrepancy but if settled centrally and they believed a TC was due for a product when we call branches for payment we would investigate with the product team to establish if there was an open items and put the debt on hold, If we had an open item we would then issue the TC and they are able to Settle Centrally to offset the debt, if there was no open item they we would advise and request payment.

I think this might be down to the language used.

Once a shortfall is "made good" in branch, there is nothing that can be "disputed" in the sense that a payment is put on hold. This is because the "make good" process immediately results in money being put into the branch accounts and so there is nothing that can be put on hold. So in that sense, a SPM cannot "dispute" a shortfall of less than £150.

In a broader sense however they can get NBSC / FSC to investigate any shortfall and this might generate a TC to offset the shortfall. This is effectively "disputing" the shortfall, albeit after it has been made good.

I think that Alison's understanding probably reflects the Cs view of the word "dispute". They understand "dispute" to mean "I don't have to pay now" which is not correct for losses under £150.

I'll speak to Counsel about making sure we are precise in the use of our language.

GRO

Andrew Parsons
Partner
Womble Bond Dickinson (UK) LLP

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d:
m: GRO
t:
e: andrew.parsons@ GRO

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From: Angela Van-Den-Bogerd [GRO]
Sent: 13 November 2018 23:37
To: Andrew Parsons; Dave Panaech
Cc: Rodric Williams; Amy Prime; Kathryn Alexander; Shirley Hailstones
Subject: RE: Urgent Query Dispute Process 2007-2009 [WBDUK-AC.FID26896945]

Hi Andy

That's correct.

Angela

Angela Van Den Bogerd
Business Improvement Director

1st Floor,Ty Brwydran,
Atlantic Close,Llansamlet
Swansea SA7 9FJ
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From: Andrew Parsons [GRO
Sent: 13 November 2018 21:44
To: Angela Van-Den-Bogerd < GRO >; Dave Panaech [GRO]
Cc: Rodric Williams [GRO <>; Amy Prime [GRO]
Subject: RE: Urgent Query Dispute Process 2007-2009 [WBDUK-AC.FID26896945]

Angela

This supports what I always thought - if a SPMR gets to the end of the trading period and has a shortfall of less than £150, they must make it good in order to roll over. They then contact NBSC to raise a complaint about the shortfall, which is then investigated and, if appropriate, a TC is generated in a later TP creating an offsetting gain.

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So in effect, for general branch losses under £150, it is "pay now, argue later". And if the SPMR is right to dispute, then they get the money back later.

A similar system applies for TCs under £150 which cannot be resolved during the same trading period. The TC must be accepted before roll over, thus creating a loss that must be made good (because it is for less than £150). The SPMR can contact the named person on the TC (or NBSC who will put them in contact with the right person) to raise a dispute. That may then generate a further offsetting TC if the dispute was found to be valid.

Correct?

Dave – please can you pick this up with Jonny re Alison's evidence.

GRO

Andrew Parsons
Partner
Womble Bond Dickinson (UK) LLP

d:
m: GRO
t:
e: andrew.parsons@ GRO

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womblebonddickinson.com

From: Angela Van-Den-Bogerd [GRO
Sent: 13 November 2018 15:21
To: Andrew Parsons; Dave Panaech
Cc: Rodric Williams; Amy Prime
Subject: Fwd: FW: Urgent Query Dispute Process 2007-2009

Hi all

The info on the earlier question about the entry level for raising a dispute. Kath's view supports mine that we would and do investigate losses less than £150.

I'll pick up with Alison Bolsover when she returns from leave to understand what documentation/policy she is referencing.

Angela

Get Outlook for Android

From: Kathryn Alexander
Sent: Tuesday, November 13, 2018 3:11:29 PM
To: Angela Van-Den-Bogerd
Subject: FW: Urgent Query Dispute Process 2007-2009

Hi Angela

I have looked through the dispute process info I have and have also contacted Paul Smith from FSC – see email chain below

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- Essentially, the only reference to £150 that I (and Paul) are aware of is the ability to settle centrally limit
- The attached Accounting Losses Policy (2003) refers to at Section 3 (extract below) £150 (community) and £400 (commercial) on authority to hold losses in suspense, but no reference to being unable to dispute threshold and cant see this in a later version 2005/2006 (3rd attachment)
- Attachment – (dispute process) this was in 2008 (according to email that it was attached in sent to Andy P from Andy W on 11/04/2013). The appeal process part doesn't refer to £150 limit either
- SSRT has investigated less amounts <£150 and over the years in various roles I can't ever remember telling a Pmr that they could not dispute rather the opposite that we would support

Below is from Accounting Policy for Agency Branches (2003)
SECTION 3 - AUTHORITY TO HOLD LOSSES

Where authority is given, it will only be provided for the amount of loss discovered above a threshold amount (£150 for those in the community segment and £400 for those in the commercial segment) and providing that no other losses are held in suspense at the time. A unique reference number will be allocated to any authority, which the agent should note for audit purposes.
PDF – email refers to this 2008

Regards
Kath

Kathryn Alexander
Support Services
Resolution Manager

1st Floor Admin,
Ty Brwydran,
Atlantic Close, Swansea SA7 9FJ
GRO

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From: Kathryn Alexander
Sent: Tuesday, 13 November, 2018 2:44 PM
To: Paul I Smith <GRO
Subject: RE: Urgent Query Dispute Process 2007-2009

Hi Paul

Thanks, that my thinking, appreciate your time again ☺

Regards
Kath

Kathryn Alexander
Support Services
Resolution Manager

1st Floor Admin,
Ty Brwydran,
Atlantic Close, Swansea SA7 9FJ

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GRO

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From: Paul I Smith
Sent: Tuesday, 13 November, 2018 2:40 PM
To: Kathryn Alexande GRO
Subject: RE: Urgent Query Dispute Process 2007-2009

Hi Kath,

The only thing that I know of that is £150 related is the ability to settle centrally. Maybe the query is thinking about the fact it can't be settle centrally and blocked while disputed so the branch has to take the cash loss at the time.

Regards

Paul Smith
Operations Support Manager
Fire Precautions Officer/FSC H&S
Finance Service Centre

PO Ltd,
No.1 Future Walk,
Chesterfield,
S49 1PF
Tel GRO
Mobile: GRO
paul.i.smith GRO

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From: Kathryn Alexander
Sent: 13 November 2018 14:37
To: Paul I Smith GRO
Subject: RE: Urgent Query Dispute Process 2007-2009

Hi Paul

Thanks for helping, I have gone through these and what I had already and can't so far see that there is anything that mentions anything under £150 can't be disputed? (which is a further query from AVB)

I was of the opinion (irrespective of the limit prior to settling centrally) that a loss below this threshold could be investigated? I know we have in SSRT

I can see reference to limits of £150 & £400 in some older Losses Policy for authority to hold losses but nothing about can't be disputed

The attached from Andy Winn refers to the Appeal Process for a TC/BD –but doesn't refer to a threshold being >£150

Would FSC block a debt and/or investigate for <£150?

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Regards
Kath

Kathryn Alexander
Support Services
Resolution Manager

1st Floor Admin,
Ty Brwydran,
Atlantic Close, Swansea SA7 9FJ
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From: Paul I Smith
Sent: Tuesday, 13 November, 2018 1:37 PM
To: Kathryn Alexander GRO
Subject: RE: Urgent Query Dispute Process 2007-2009

Hi Kath,

I will perform a search on sharepoint and see what I can find. I don't personally hold a copy though.

Regards

Paul Smith
Operations Support Manager
Fire Precautions Officer/FSC H&S
Finance Service Centre

PO Ltd,
No.1 Future Walk,
Chesterfield,
S49 1PF
Tel GRO
Mobile GRO
paul.i.smith GRO

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From: Kathryn Alexander
Sent: 13 November 2018 13:36
To: Paul I Smith < GRO
Subject: Urgent Query Dispute Process 2007-2009
Importance: High

Hi Paul

POL00042132

I have an urgent query from the lawyers/AVB – do you have a document that covers the dispute process during period 2007-2009
I am checking my own documents but would really appreciate it If you can put your hands on anything quickly
Thanks

Regards
Kath

Kathryn Alexander
Support Services
Resolution Manager

1st Floor Admin,
Ty Brwydran,
Atlantic Close, Swansea SA7 9FJ
GRO

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From: Andrew Parsons [GRO]
To: Charlie Temperley <[GRO]
Cc: Dave Panaech <[GRO]>, Amy Prime [GRO]
[GRO]
Subject: RE: Embargoed Judgments [WBDUK-AC.FID26896945]
Date: Sun, 9 Dec 2018 10:23:41 +0000
Importance: Normal
Inline-Images: image001.png; image002.png; image003.png; image004.png

---

Thanks Charlie

I think the key point is 2.6 PD40E – which allows dissemination inside the company. Rod will want this drawn to his attention as the reason why he cannot give it to PO's shareholders. Please can you prepare a PLSG paper that says something like the below. Get Dave to sign off and then send the draft to Rod for comments.

A

- Background
  - Explain trial is concluded. Judgment reserved. Will get an electronic copy in draft before formal release of judgment.
  - This note to explain law and process.
- The law:
  - Quote paras 2.4 to 2.8.
    - Note that this means the draft J cannot go to UKGI or BEIS
    - Note the risk that some directors have duel roles (ie. on PO board and also work for UKGI) so need to not receive J or hold it confidentially for PO.
  - Flag the risk of Court ordered embargo
  - Flag Fraser's comments on the last day re special rules – could change everything.
- Timing
  - Quote 2.3 – 2 working days is the minimum.
  - Flag Fraser's comments about timing on the Judgement eg. end of Jan; hopefully before CMC on 31 Jan.
  - Say we anticipate one week before handing down hearing, but no guarantess.
- Action Points to be addressed when we receive the draft Judgment:
  - Corrections to the judgment (typos not substantive changes)
  - Question of appeal?
  - Question of costs?
  - Question of any consequential orders (where the Judgment impacts on the rest of the litigation).
  - Comms messaging: public and internal
  - When and how to update UKGI?
  - Operational mitigations needed (if any)
- Plan (assuming no special rules from the Judge and that we get a week) – this needs to go in a flowchart if possible.
  - Legal team (WBD, Counsel + Rod, Mark and Jane) get copy immediately.
    - It may take up to 24 hours for the Judgment to be read and understood – it could be 100 – 200 pages of complex analysis.
  - Meeting / call to be immediately arranged to take place 24 hours after Judgment lands:
    - Attendees: Counsel, WBD, Paula, Al, Jane, Rodric, Mark U, Mark D, Mel, Angela
    - Legal team to summarise Judgment
    - Group to form initial views on Action Points
    - Copy of Judgment to be circulated to group (if needed / appropriate). Not to be forwarded without permission of Rod.
  - After meeting:
    - Board of Directors to be provided with exec summary of Judgment and actions that follow.
      - NOTE: PO to decide in advance whether the note goes to Tom Cooper?
    - UKGI to be notified that Judgment received and informed of handing down date – no details to be provided.
  - Note – at approximately 3pm the day before the handing down hearing, the Court will publish a list of hearings so at that point an eagle-eyed person might spot that we have already received the Judgment and questions might commence
  - At the moment of handing down:
    - Steering Group to be informed.
    - Comms messages to be released.

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- Judgment to go to UKGI

From: Charlie Temperley
Sent: 07 December 2018 18:17
To: Andrew Parsons
Subject: Embargoed Judgments [WBDUK-AC.FID26896945]

Hi Andy

The position is fairly straightforward and will basically depend on what the Judge orders (he seemed to indicate that it would not be just the basis CPR PD40E rules).

Below is a summary of the relevant parts of the Practical Law guide on this:

- A draft judgment will be subject to the rules in CPR PD40E but may be subject to stricter rules if it is embargoed by the Judge (on terms specific to each case).

- PD 40E 2.4, you may supply a copy, in confidence, to the client, provided that:
  - Neither the draft judgment nor its substance is disclosed to any other person or used in the public domain; and
  - No action is taken (other than internally) in response to the draft judgment, before the judgment is handed down. (PD 40E.2.4.)
  - If the client is a partnership, company, government department, local authority or other organisation of a similar nature, additional copies of the draft judgment may be distributed in confidence within the organisation, provided that all reasonable steps are taken to preserve its confidential nature and the requirements of paragraph 2.4 of PD 40E (set out above) are complied with (see PD 40E.2.6).
  - Practitioners need to ensure that draft judgments are only disseminated within their firm or organisation to those directly involved with the case.
  - If the draft judgment is embargoed, solicitors cannot inform their client (or indeed anyone else) of what it contains until an hour or two before it is due to be handed down unless the court lifts the embargo.

- If the draft judgment is embargoed, solicitors cannot inform their client (or indeed anyone else) of what it contains until an hour or two before it is due to be handed down unless the court lifts the embargo.

So in terms of advice for POL (and us):

- If there is no embargo then the rules above will apply and POL just need to be careful to avoid disclosure to the public, internal circulation (and indeed pre-emptive action) is not a problem.

- If there is an embargo then we need to see the terms of it before we can do anything:
  - We may not be permitted to even discuss it with POL.
  - There might be a loophole available for legal on the basis that they are also solicitors acting for POL rather than POL itself but we would need to look into this incredibly carefully (it is us on the record for example).

Please let me know if you would like me to dig deeper on this. A lot will depend on what precisely Fraser orders but we need to be alive to the possibility of an embargo that restricts us from discussing (or sharing) the draft judgment with POL.

Many thanks

Charlie

Charlie Temperley
Trainee Solicitor
Womble Bond Dickinson (UK) LLP

d:
t:
e:

GRO

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From: Amy Prime <GRO>
To: Imogen Randall <GRO>
Cc: James Hartley <GRO>, Dave Panaech <GRO>, Chloe Oram <GRO>, Nicola Pettit <GRO>, Andrew Parsons <GRO>
Subject: Flowcharts [WBDUK-AC.FID26896945]
Date: Fri, 14 Dec 2018 15:42:37 +0000
Importance: Normal
Attachments: Flowchart_1_-_Transaction_Corrections_(V2).docx; Flowchart_2_-_Branch_Trading_Statement[1].docx
Inline-Images: imagef2e581.PNG; image5b3e4e.PNG; image96f87a.PNG

Imogen

At the end of the Common Issues Trial, the Managing Judge requested two flowcharts: one which explained the transaction correction process and a second which explained the branch trading statement process. The Managing Judge also requested that the parties seek to agree the contents of these documents.

Please find attached our proposed flowcharts, and it would be appreciated if you could provide any comments on these as soon as possible.

Kind regards

Amy

Amy Prime
Solicitor
Womble Bond Dickinson (UK) LLP

d: GRO
m:
t:
e:

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From: Dave Panaech <GRO>
To: Owain Draper <GRO>, Amy Prime <GRO>
Gideon Cohen <GRO>, David Cavender <GRO>
Cc: Andrew Parsons <GRO>
Subject: RE: Post Office Group Litigation: Flowcharts [WBDUK-AC.FID26896945]
Date: Mon, 17 Dec 2018 14:47:54 +0000
Importance: Normal
Inline-Images: image12fcf1.PNG; image295551.PNG; image736c63.PNG

All ,

Re the Settle Centrally box, to reach agreement I suggest we adopt Freeths's wording + the highlighted bit.

(1) A credit or debit entry for value of the TC is made in the SPM's branch account; and

(2) A corresponding debit or credit is made in the SPM's customer account with Post Office. If a debit, this will be treated as a debt by Post Office unless the SPM contacts NBSC to lodge a dispute.

Views?

Dave

Dave Panaech
Associate
Womble Bond Dickinson (UK) LLP

d: GRO
m:
t:
e:

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From: Owain Draper [mailto: GRO
Sent: 17 December 2018 13:58
To: Amy Prime; Gideon Cohen; David Cavender
Cc: Andrew Parsons; Dave Panaech
Subject: Re: Post Office Group Litigation: Flowcharts

TC

The change to the Settle Centrally box is not remotely "neutral" – it is contrary to our pleading that a

WBON0000646

disputed sum that is settled centrally is not a debt.

I am otherwise relaxed about the changes.

BTS

I do not object to references being removed.

Best,

Owain

Owain Draper

One Essex Court, Temple

EC4Y 9AR

Switchboard: GRO

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From: Amy Prime <GRO
Date: Monday, 17 December 2018 at 13:20
To: Owain Draper <GRO>, Gideon Cohen <GRO>, David Cavender <GRO
Cc: Andrew Parsons <GRO>, Dave Panaech <GRO
Subject: Fwd: Post Office Group Litigation: Flowcharts

Dear All

Please find attached the Cs response to the flowcharts - we are currently reviewing this.

Kind regards
Amy

Amy Prime
Solicitor
Womble Bond Dickinson (UK) LLP

d:
m:
t:
e:

GRO

GRO

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Begin forwarded message:
From: Stephanie Jameson GRO
Date: 17 December 2018 at 13:03:43 GMT
To: Andrew Parsons GRO >>, Jonathan Gribben GRO >>, Amy Prime GRO >>, "emma.campbell-danesh GRO GRO GRO >>, "victoria.brooks GRO GRO GRO >, Michael Wharton GRO >>, "anna.martin GRO GRO >, "dave.panaecl GRO GRO GRO >, Lucy Bremner GRO "beth.hooper GRO GRO >, "katie.simmonds GRO GRO GRO >, Charlie Temperley GRO GRO >>
Cc: James Hartley GRO >>, Imogen Randall GRO >, Stephanie Jameson GRO >>, Chloe Oram GRO >>, Nicola Pettit GRO >>, Francesca See GRO >>, Miranda Bond GRO >>, Angélique Richardson GRO >
Subject: Post Office Group Litigation: Flowcharts
Dear Sirs

Please see attached.

Yours faithfully
Freeths LLP

Stephanie Jameson
Solicitor
T:
F: GRO

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From: Andrew Parsons GRO
To: Charlie Temperley GRO
Cc: Amy Prime GRO, Dave Panaech GRO
Subject: Common Issues Judgment planning [WBDUK-AC.FID26896945]
Date: Mon, 7 Jan 2019 09:49:01 +0000
Importance: Normal
Inline-Images: image7146f1.PNG; imagedd4bf3.PNG; image965d9b.PNG

Charlie

I've had several calls with Rod about planning for what we do when the Common Issues judgment lands. UKGI are getting very jumpy so he wants everything super slick.

Please can you therefore prepare a series of draft emails to go out when the CI judgment gets here. Please prepare them all in one Word doc that we can send to Rod for comments.

To be sent immediately

Email to go from WBD to Rod, Mark and Jane enclosing the Judgment. To include warning about use and distribution of draft judgments.

Email to go from Rodric to Senior Management: Paula Vennells; Al Cameron; Tim Parker; and Mark Davies, telling them that the Judgment has landed and will be circulated shortly and a call will be put in the diary within the next 24 hours.

To be sent within 4 hours

Email to go from Rodric to Senior Management: Paula Vennells; Al Cameron; Tim Parker; and Mark Davies, enclosing the Judgment and to include:

a. Above warning + an extra warning for Tom Cooper (he is a director but also works for PO's shareholder and so needs to be warned that he cannot send the Judgment to UKGI).

b. A blank template section (to be completed later) that summarises the judgment

c. A description of the next steps eg. call with Counsel in next 24 hours to discuss:

   i. Key findings in the Judgment

   ii. Commercial impact

   iii. Media impact

   iv. Cost consequences

   v. Appeal possibilities

WBON0000647

To be sent after call with senior management

Email to go from Rodric to Portland (PO's comms team), copying Mel Corfield and Mark Davies, enclosing the Judgement and including the usual warning on non-distribution.

Email to go from Rodric to UKGI, informing them that the Judgment has landed, not being provided due to CPR restrictions, explain that Rodric will call Richard (??) the GC at UKGI to discuss.

Email from Mark Underwood to go to the PO Steering Group informing them that the Judgment has landed, not getting a copy so to control circulation; summarising the key findings (blank section for now); explaining next steps (eg. senior management briefed; appeal or not; being reviewed by Portland; handing down hearing on DATE.

Email from Jonny G to Chris Jay (legal counsel at FJ) explaining that we have the judgment; cannot provide a copy as in draft; to be handed down on DATE and will then get a copy.

To be sent after handing down hearing:

Email from Rodric to UKGI enclosing the Judgment, with section providing a brief summary of the key findings and planned actions.

Email from Mark Underwood to PO steering group enclosing the judgment.

. Email from Jonny G to Chris Jay (FJ) enclosing the Judgment, with section providing a brief summary of the key findings and planned actions.

. Email from Jonny G to Robert enclosing the Judgment, with section providing a brief summary of the key findings and planned actions.

Thanks
A

Andrew Parsons
Partner
Womble Bond Dickinson (UK) LLP

d:
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t:
e:

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WBON0001446

From: Andrew Parsons GRO
To: David Cavender GRO, Gideon Cohen GRO, Dave Panaech GRO, Amy Prime GRO
Cc: Rachel Scott GRO
Subject: FW: Common Issues Judgment: Instructions Table + Subsequent Actions - Subject to Legal Privilege [WBDUK-AC.FID26896945]
Date: Fri, 8 Mar 2019 19:28:20 +0000
Importance: High
Attachments: 190308_Subject_to_Legal_Privilege_-_Judgment_Actions.docx
Inline-Images: image001.png; imageffdb55.PNG; image6ad47e.PNG; imagefada25.PNG

All - please see attached the PO plan of action.

There are several actions for us over the weekend:

1.2 – David C please can you take this one and send me an email with your thoughts (caveated as necessary given the speed of the advice).

1.3 – Dave P, please keep doing your note on the recoverability of loss bits of the judgment. I'll do the wider analysis on all other issues.

1.4 – Amy please can you answer this questions and email it to me.

1.5 – Me (and then I'll pass this to Rachel).

This work essentially sets the legal foundation for what PO needs to do next so they need it asap.

Thanks all

A

Andrew Parsons
Partner
Womble Bond Dickinson (UK) LLP

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m:
t:
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WOMBLE BOND DICKINSON

From: Mark Underwood [redacted]
Sent: 08 March 2019 19:18
To: Jane MacLeod; Mark R Davies; Melanie Corfield; Julie Thomas; Zoe Brauer; Ben Beabey
Cc: Andrew Parsons; Rodric Williams; Angela Van-Den-Bogerd; Rachel Scott
Subject: Common Issues Judgment: Instructions Table + Subsequent Actions - Subject to Legal Privilege
Importance: High

Dear all

Further to the exchange of emails todays on the Common Issues Trial Judgment, please find attached an initial actions list which I think captures what everyone has fed in and is purposely simple. Further actions and work will be required as advice is received from the lawyers but hopefully this will get the ball rolling. Please do send me anything that I have missed.

There are a number of deliverables required before Monday, but necessarily so as they provide the springboard for everything else (next steps, reporting, briefing papers etc). I will set up a meeting for first thing on Monday (with dial ins for those not in FD) so that we can assess where we are, based upon the advice which will be provided over the weekend.

Jane: can we please use the Chairman's Office as a 'base'?

Jane & Al: would you like David Cavender QC to come to GE on Monday / the Board call on Tuesday? What are the timings of these meetings please?

Andy / Rachel: Can you please get the relevant instructions out to One Essex / your team. Please give me a call to discuss anything in the attached table which isn't clear.

Thanks all

Mark

POST OFFICE

Mark Underwood
Portfolio Director: Legal, Risk & Governance

Ground Floor

20 Finsbury Street
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From: Andrew Parsons [GRO]
To: David Cavender [GRO], Gideon Cohen [GRO]
Cc: Dave Panaech [GRO], Amy Prime [GRO], Victoria Brooks [GRO], Sushma MacGeoch [GRO], Rachel Scott [GRO], "Paula Bartlett" [GRO]
Subject: Summary of the Common Issues judgment [WBDUK-AC.FID123822914]
Date: Sat, 9 Mar 2019 19:11:14 +0000
Importance: Normal
Attachments: _DOC_154696974(1)_Summary_of_CIT_Judgment.DOCX
Inline-Images: image72fc94.PNG; image570ee3.PNG; image9116c0.PNG

David, Gideon

Would you mind reviewing the attached over the weekend?

This is a very early and initial summary of the key findings in the Judgment. PO have asked for something like this by close on Sunday so that they can start mitigation planning on Monday morning.

I would very much like to be able to say that you agree with me on point 1.6 but do say if you don't.

A

Andrew Parsons
Partner
Womble Bond Dickinson (UK) LLP

d:
m:
t:
e: GRO

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WBON0000653

From: Tom Beezer GRO
To: Amy Prime GRO, Andrew Parsons GRO
GRO
Cc: Dave Panaech GRO
Subject: RE: Super Silk Ideas [WBDUK-AC.FID26896945]
Date: Mon, 11 Mar 2019 18:06:26 +0000
Importance: Normal
Inline-Images: image001.png; image002.png; image003.png; image29174c.PNG; image4e2eaa.PNG; image2a066b.PNG

My initial inclination is to go with the QC that would actually be able to be in an appeal process…

Just a view.

Could go some way to answering the Al C point about "you lost" as my guess is he will at least want new blood in any appeal team – so super silk will be needed……

Tom Beezer
Partner
Womble Bond Dickinson (UK) LLP

d: m t: e: GRO

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From: Amy Prime
Sent: 11 March 2019 18:04
To: Andrew Parsons; Tom Beezer
Cc: Dave Panaech
Subject: Super Silk Ideas [WBDUK-AC.FID26896945]

Hi Andy, Tom

WBON0000653

Have spoken with OEC and the possibilities on super silks are:

We can instruct Lord Neuberger to review the matter and provide advice on the merits of an appeal / recusal. He would however not be able to represent POL in court at an appeal. **If we want to instruct him we would need to instruct him this week and get documents to him tomorrow as he is travelling to South Africa.** He is GRO

Lord Grabiner is currently under brief but would be able to review the matter and provide merits / advice on the appeal. If we would like to instruct him we will also need to instruct a couple of juniors (his working style). He is GRO

I will put together an email to go to Jane, Rod, Mark with the two options. My thoughts are that we should get an initial view from Lord Neuberger and if we decide that we want an super silk at the appeal then we could consider using Lord Grabiner, but would welcome your thoughts.

Thanks

Amy

Amy Prime
Solicitor
Womble Bond Dickinson (UK) LLP

d:
m:
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WBON0000320

From: Amy Prime [GRO]
To: Andrew Parsons [GRO]
Cc: Lucy Bremner [GRO], Jonathan Gribben [GRO]
Subject: FW: Post Office Group Litigation: HIT - Disclosure of Audit Reports [WBDUK-AC.FID26896945]
Date: Wed, 13 Mar 2019 18:44:14 +0000
Importance: Normal
Attachments: Letter_to_WBD_-_Audit_Reports.pdf; _LETTER_154771370(1)_Freeths_13_Mar_19__Disclosure_of_Audit_Reports.docx
Inline-Images: image001.png; image4e570a.PNG; imaged499b5.PNG; imagec651c6.PNG; imageda3ccc.PNG; image24d044.PNG; imagedf69bd.PNG

Andy

Sorry this is my mistake – I completely forgot to phone Rod about the RMG audit reports.

Attached is a draft letter to Freeths. My plan (which needs some help from Rod is):

- Rod calls RMG legal and confirms that they won't give disclosure of the documents. If so, Rod warns them that we are going to jointly ask with the Claimants that the Judge makes an order for third party disclosure. The order should be limited to pre-2011 annual audit reports of Horizon produced by Ernst & Young, which they are able to locate under a reasonable and proportionate search. It would be helpful if RMG could confirm how long it would take them to find the documents.
- We need to work out how to deal with the costs of the third party disclsoure – I think they should be borne by the Cs, but not sure if the joint approach to the judge causes an issue with this.
- Once this has been set up we can then send the attached letter to Freeths.

Sorry and let me know if you want me to phone Rod.

Thanks
A

Amy Prime
Solicitor
Womble Bond Dickinson (UK) LLP

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From: Angélique Richardson [mailto: GRO]
Sent: 13 March 2019 13:45
To: Andrew Parsons; Amy Prime; Emma Campbell-Danesh; Victoria Brooks; Jonathan Gribben; Michael Wharton; Anna

WBON0000320

Martin; Dave Panaech; Lucy Bremner; Beth Hooper; Katie Simmonds; Sushma MacGeoch; Rachel Lawrie; Jane Atkinson; Charlie Temperley
Cc: James Hartley; Imogen Randall; Dean Hill; Stephanie Jameson; Chloe Oram; Nicola Pettit; Francesca See; Miranda Bond; Angélique Richardson
Subject: Post Office Group Litigation: HIT - Disclosure of Audit Reports

Dear Sirs,

Please see attached correspondence.

Yours faithfully,
Freeths LLP

Angélique Richardson
Legal Assistant
T: GRO

FREETHS

Freeths LLP
Floor 3, 100 Wellington Street
Leeds LS1 4LT

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From: Amy Prime <GRO>
To: Gideon Cohen <GRO>; Tom Beezer <GRO>
David Cavender <GRO>
Cc: Andrew Parsons <GRO>, Dave Panaech <GRO>
GRO
Subject: RE: Recusal application steps [DRAFT] [WBDUK-AC.FID26896945]
Date: Fri, 15 Mar 2019 15:07:28 +0000
Importance: Normal
Inline-Images: imageb0f496.PNG; image7a2e74.PNG; image36740b.PNG

Tom, Gideon

Thanks and understood. We are starting work on this here now.

Many thanks

Amy

Amy Prime
Solicitor
Womble Bond Dickinson (UK) LLP

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From: Gideon Cohen [mailto GRO
Sent: 15 March 2019 14:42
To: Tom Beezer; David Cavender
Cc: Amy Prime; Andrew Parsons; Dave Panaech
Subject: RE: Recusal application steps [DRAFT] [WBDUK-AC.FID26896945]

Tom,

That is exactly my thinking too. We have picked out the 'greatest hits' for the Note to Lord Neuberger, but that was the product of a few hours of rushing through transcripts etc. We want to do a more thorough trawl, and then include all key refs in the statement. I agree that this part of the statement will not involve any

WBON0000664

analysis.

The parts of the statement in which we identify what the judge has said in this judgment, and point out the ways in which that is problematic either because (a) it prejudges future issues, or (b) it is so vitriolic as to display apparent bias, arguably do involve a modicum of analysis, in that we will want to identify where and how we say he has gone wrong. But that should be done with a very light touch - the Note should be a good starting point in that regard. Obviously the more detailed analysis, by reference to the authorities, will come in the skeleton argument.

In terms of timing, and as I indicated yesterday, my view is that we need to separate out the serving of the application and the hearing of the application.

The application needs to be served as soon as possible. This witness statement would be served at the same time, in support. There is obviously a balance to be struck - we want to be thorough and careful. But speed is imperative too - we must serve the application (and witness statement) next week, and preferably in the earlier part of the week. Hopefully Amy will find the Note a useful base for the bulk of the witness statement.

That is also the stage at which we should propose adjourning the Horizon trial (although inevitably that will not happen).

The timing of the hearing of the application is then somewhat out of our hands. We are obviously not going in ex parte, so there will have to be time for the parties to prepare and exchange skeleton arguments. Obviously we will push to get a hearing in as soon as possible, but speaking for myself, I do not think next week is a realistic prospect.

Best wishes

Gideon

Gideon Cohen
Barrister

One Essex Court
Temple
London EC4Y 9AR

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From: Tom Beezer GRO
Sent: 15 March 2019 14:28
To: Gideon Cohen; David Cavender
Cc: Amy Prime; Andrew Parsons; Dave Panaech
Subject: RE: Recusal application steps [DRAFT] [WBDUK-AC.FID26896945]

Gideon

Many thanks for your e mail.

Timing will be all important here ! When do you anticipate that we'll deploy the statement ?

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If I am on your wavelength what needs to be collated is:

- in chrono' order, every time we have told Freeths or the Judge (in particular) info on our perceived scope of CIT and why his/their plan is wrong and the warnings given and answers received

- That will (I am told) go back to the dust-up over the GLO itself when some of these issues were predicted

- then through a load of correspondence with Freeths after that (to the extent those letters were shown to the Judge (?))

- and into the Strike Out application and evidence and transcripts from that outing

to set out each time scope of CIT was aired.

So it is not a witness statement with any analysis in really – it is just a vehicle to contain the "who said what to who & when" info' on scope of trial and admissibility of evidence around CIT.

Along the way (and I suppose mostly from the Strike Out in addition to CIT itself) we need to capture any snide or adverse comment made by the Judge and set that out too.

Are we thinking along the same lines ? Then that historic stuff needs to be married up to info from the CIT daily transcripts and the Judgment (largely done in DCQC note to LNQC).

As to who gives a statement, I am neutral. If it just needs to be one of us who say "I have seen documents that say X, Y, Z" then could be me. If it needs to be someone who was there (as I was not), then one of the others.

This is a large task and will require lots of trawling of electronic files. Amy will (I believe) be the centre of that web and get people searching and cutting and pasting into a chrono' order, and then you and Amy can make that into a witness statement if more is needed, but I doubt it will be – for as I say this is not about analysis – it is more a list of what has been said on relevant topics looking backwards.

Am I making sense……??

t

Tom Beezer
Partner
Womble Bond Dickinson (UK) LLP
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m:
t:
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From: Gideon Cohen [mailto: GRO
Sent: 15 March 2019 13:01
To: David Cavender
Cc: Tom Beezer; Jane MacLeod GRO Amy Prime; Andrew Parsons; Rodric Williams GRO ; Ben.Foat GRO Dave Panaech
Subject: RE: Recusal application steps [DRAFT] [WBDUK-AC.FID26896945]

Just following up on this - while, as I noted below, I think the actual hearing of the application will not be as quick as originally planned (given the need for skeletons etc - NB there is a fair amount of law in this area), we should certainly get in the application (and propose an adjournment of the current trial) as soon as possible after we get instructions.

To that end, if possible we should start working up a supporting witness statement, including the material set out in our Note (as referred to by Lord Neuberger in his Note), and adding in anything else which is helpful. i.e. we should go through everything that was said, and set out in Orders, about the scope of this trial (including the various warnings we gave at the trial about its scope), and then list the various objectionable bits of the judgment (as handed down), which either (a) made findings of fact beyond the scope of the trial, or (b) expressed unnecessary vitriol. Is that something we can start working up? If so, who is best placed to do it? Let me know if it would be useful to discuss.

Best

Gideon

PS As soon as judgment is handed down, it would also be helpful to do a compare-write against the draft judgment.

Gideon Cohen
Barrister

One Essex Court
Temple
London EC4Y 9AR

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From: Gideon Cohen
Sent: 14 March 2019 19:09
To: David Cavender
Cc: Tom Beezer; Jane MacLeod GRO Amy Prime; Andrew Parsons; Rodric Williams GRO ; Ben.Foat GRO Dave Panaech

WBON0000664

Subject: Re: Recusal application steps [DRAFT] [WBDUK-AC.FID26896945]

Only two comments. The first (perhaps unsurprisingly) is on point 6. I would suggest additionally instructing Stephanie Wood, who has been assisting for the last week and is now familiar with the case. I will try to clear my diary for next week, but even if I can do so there will be some very tight deadlines to meet.

The second comment is a query as to whether the timetable can be abbreviated quite this aggressively. We should certainly put the application in as soon as we have instructions, but the application will be contested inter partes. Do we not need to build in time for skeletons etc? Apologies if this ground has already been traversed.

On 14 Mar 2019, at 18:28, David Cavender GRO wrote:

Tom,

Many thanks for this. This all looks very sensible and reflects our recent discussion.

Best,

David.

David Cavender Q.C.

<image001.jpg>

One Essex Court
Temple
London EC4Y 9AR

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From: Tom Beezer [mailto GRO
Sent: 14 March 2019 18:07
To: Jane MacLeod GRO >; David Cavender GRO >; Gideon Cohen GRO
Cc: Amy Prime GRO ; Andrew Parsons GRO ; Rodric Williams GRO GRO
Ben.Foat GRO ; Dave Panaech GRO GRO
Subject: Recusal application steps [DRAFT] [WBDUK-AC.FID26896945]

All

My current view of steps to be taken in the recusal process (if triggered) are as follows (in time order so far as I can predict):

1) [Optional but recommended] POL (through WBD) engage with the QC who is likely to be instructed to make recusal application ASAP (if one is made) to get QC "warmed up" to application, arguments to be deployed and (potentially) to speak to POL Board if needed, as the person who would in fact be the mouthpiece of POL. Timing: Friday for choice of QC and delivery of papers.

2) Assuming a QC is to be "warmed up" David Cavender QC to brief on background as fully as possible. Timing: Friday.

3) POL to decide if it is to make a recusal application. Timing: By (say) Monday.

4) POL Board may wish to speak to Lord Neuberger as part of their decision making process. The Clerks at OEC have confirmed that is possible and have contact numbers for Lord Neuberger as needed. Please NOTE Lord Neuberger is not in South Africa as we had understood, but in South America (Argentina) which is currently 3 hours behind us.

5) As soon as decision to make application has been made (if that transpires) Freeths & Judge to be put on notice. Suggested "appropriate" notice period is one day (or more if decision made earlier than early next week). Freeths put on notice by letter from WBD (or possibly Counsel to Counsel) and the Judge by a note between the Clerks ? Timing: early next week once decision to proceed made.

6) Gideon (at OEC) to be instructed to be Junior to chosen QC. Timing: Friday, if "warm up" route followed.

7) QC & Gideon prepare Application Notice and Skeleton for recusal application. This work could start now

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if we follow the "warm up" route.

8) Application is made first half of next week at 10am during the Horizon trial. Thereafter there are variables:

a. Judge may agree. Unlikely but possible. HIT trial is adjourned there and then and POL appeals the CIT findings and (if successful) we re-list CIT & HIT.

b. Judge may pass matter to another judge to hear. Unlikely.

c. Judge refuses (likely) and POL takes that refusal to Court of Appeal asap. That could be same day (possible but unlikely) or at that same week at some point if CofA recognise urgency.

d. CofA may agree with recusal application. If so, POL appeals the CIT findings and (if successful) we re-list CIT & HIT.

e. CofA may refuse recusal application in which case HIT rolls on.

Please note in any scenario where HIT is adjourned then there will be possible increased costs consequences for Claimants that POL could bear if it is ultimately unsuccessful.

Possible outcomes of recusal application:

a) It is successful and HIT adjourned then appeal of CIT goes ahead and new judge is put in place for remaining aspects of trials.

b) It is unsuccessful (at first request and CofA) then it is likely that Fraser is cross but he is also aware the CIT appeal is progressing which includes the "procedural unfairness" assertion. Possible impact in that scenario is Fraser is more cautious as to behaviours to (possibly) POL's benefit.

c) The theoretical downside to a recusal application is that it fails and that Fraser remains the judge at Trial 3 which will require multiple findings of fact. Findings of fact are more tricky to appeal and this is a point to be cognisant of.

All comments on the above welcomed.

T

Tom Beezer
Partner
Womble Bond Dickinson (UK) LLP

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From: David Cavender GRO
To: Gideon Cohen <
Cc: Andrew Parsons GRO, Amy Prime GRO
GRO Tom Beezer GRO, Dave Panaech
GRO
Subject: Re: Recusal application steps [DRAFT]
Date: Sun, 17 Mar 2019 15:25:21 +0000
Importance: Normal
Inline-Images: image5851a0.PNG; image7471e7.PNG; image069b6d.PNG; image5851a0(1).PNG; image069b6d(1).PNG

I think the way to finesse this is to say - a Judge with experience of complex financial disputes - possibly a Judge of the commercial court ? So indicative - not prescriptive ?

Best

D.

Sent from my iPhone

On 17 Mar 2019, at 14:52, Gideon Cohen <GRO> wrote:

We'll certainly have to stay it - I think beyond that it starts to look like we are trying to pick our judge, which may be very sensible (I agree a knock-about QBD judge would be mad), but optically wouldn't be great for the application...

I wonder if the best way to deal with the new judge is to suggest a more detailed way forward only if and when it looks like the wind is blowing our way on recusal?

Gideon Cohen
Barrister

One Essex Court
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London EC4Y 9AR

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From: Andrew Parsons GRO
Sent: 17 March 2019 14:46
To: Gideon Cohen; Amy Prime; Tom Beezer; David Cavender
Cc: Dave Panaech
Subject: RE: Recusal application steps [DRAFT]

Gideon

WBON0000674

I think we'll have to at least stay the Horizon Issues trial?

Do we want to specify the replacement Judge? Ie. to be selected by the President of the QBD? not to be a TCC judge? To be a Commercial Court judge? The last one might be too far, but quite frankly is the only option if you can't put it back in the TCC.

Could you imagine a knock-about QBD judge running this….?!!!!

A

Andrew Parsons
Partner
Womble Bond Dickinson (UK) LLP
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From: Gideon Cohen GRO
Sent: 17 March 2019 14:31
To: Amy Prime; Tom Beezer; David Cavender
Cc: Andrew Parsons; Dave Panaech
Subject: RE: Recusal application steps [DRAFT] [WBDUK-AC.FID26896945]

To feed into this prep, first stab at a draft Order attached. Not sure there is any standard template for this sort of thing - all comments gratefully received.

One issue that I have dodged here, but which we will have to take a position on at some point, is whether we are saying that the Horizon trial will have to be restarted. Not sure what the alternative would be. I will have a further think about that, because this must have come up before, e.g. if a judge becomes ill or dies in the middle of a long trial.

Best

Gideon

Gideon Cohen

WBON0000674

Barrister

One Essex Court
Temple
London EC4Y 9AR

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From: Amy Prime GRO
Sent: 15 March 2019 15:07
To: Gideon Cohen; Tom Beezer; David Cavender
Cc: Andrew Parsons; Dave Panaech
Subject: RE: Recusal application steps [DRAFT] [WBDUK-AC.FID26896945]

Tom, Gideon

Thanks and understood. We are starting work on this here now.

Many thanks
Amy

Amy Prime
Solicitor
Womble Bond Dickinson (UK) LLP
d:
m:
t:
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From: Gideon Cohen GRO
Sent: 15 March 2019 14:42

WBON0000674

To: Tom Beezer; David Cavender
Cc: Amy Prime; Andrew Parsons; Dave Panaech
Subject: RE: Recusal application steps [DRAFT] [WBDUK-AC.FID26896945]

Tom,

That is exactly my thinking too. We have picked out the 'greatest hits' for the Note to Lord Neuberger, but that was the product of a few hours of rushing through transcripts etc. We want to do a more thorough trawl, and then include all key refs in the statement. I agree that this part of the statement will not involve any analysis.

The parts of the statement in which we identify what the judge has said in this judgment, and point out the ways in which that is problematic either because (a) it prejudges future issues, or (b) it is so vitriolic as to display apparent bias, arguably do involve a modicum of analysis, in that we will want to identify where and how we say he has gone wrong. But that should be done with a very light touch - the Note should be a good starting point in that regard. Obviously the more detailed analysis, by reference to the authorities, will come in the skeleton argument.

In terms of timing, and as I indicated yesterday, my view is that we need to separate out the serving of the application and the hearing of the application.

The application needs to be served as soon as possible. This witness statement would be served at the same time, in support. There is obviously a balance to be struck - we want to be thorough and careful. But speed is imperative too - we must serve the application (and witness statement) next week, and preferably in the earlier part of the week. Hopefully Amy will find the Note a useful base for the bulk of the witness statement.

That is also the stage at which we should propose adjourning the Horizon trial (although inevitably that will not happen).

The timing of the hearing of the application is then somewhat out of our hands. We are obviously not going in ex parte, so there will have to be time for the parties to prepare and exchange skeleton arguments. Obviously we will push to get a hearing in as soon as possible, but speaking for myself, I do not think next week is a realistic prospect.

Best wishes

Gideon

Gideon Cohen
Barrister

One Essex Court
Temple
London EC4Y 9AR

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From: Tom Beezer GRO
Sent: 15 March 2019 14:28

WBON0000674

To: Gideon Cohen; David Cavender
Cc: Amy Prime; Andrew Parsons; Dave Panaech
Subject: RE: Recusal application steps [DRAFT] [WBDUK-AC.FID26896945]

Gideon

Many thanks for your e mail.

Timing will be all important here ! When do you anticipate that we'll deploy the statement ?

If I am on your wavelength what needs to be collated is:

- in chrono' order, every time we have told Freeths or the Judge (in particular) info on our perceived scope of CIT and why his/their plan is wrong and the warnings given and answers received

- That will (I am told) go back to the dust-up over the GLO itself when some of these issues were predicted

- then through a load of correspondence with Freeths after that (to the extent those letters were shown to the Judge (?))

- and into the Strike Out application and evidence and transcripts from that outing

to set out each time scope of CIT was aired.

So it is not a witness statement with any analysis in really – it is just a vehicle to contain the "who said what to who & when" info' on scope of trial and admissibility of evidence around CIT.

Along the way (and I suppose mostly from the Strike Out in addition to CIT itself) we need to capture any snide or adverse comment made by the Judge and set that out too.

Are we thinking along the same lines ? Then that historic stuff needs to be married up to info from the CIT daily transcripts and the Judgment (largely done in DCQC note to LNQC).

As to who gives a statement, I am neutral. If it just needs to be one of us who say "I have seen documents that say X, Y, Z" then could be me. If it needs to be someone who was there (as I was not), then one of the others.

This is a large task and will require lots of trawling of electronic files. Amy will (I believe) be the centre of that web and get people searching and cutting and pasting into a chrono' order, and then you and Amy can make that into a witness statement if more is needed, but I doubt it will be – for as I say this is not about analysis – it is more a list of what has been said on relevant topics looking backwards.

Am I making sense……??

t

Tom Beezer
Partner
Womble Bond Dickinson (UK) LLP
d:
m:
t:
e: GRO
GRO

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GRO

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From: Gideon Cohen GRO
Sent: 15 March 2019 13:01
To: David Cavender
Cc: Tom Beezer; Jane MacLeod GRO
Amy Prime; Andrew Parsons; Rodric Williams
GRO
Ben.Foat GRO ; Dave Panaech
Subject: RE: Recusal application steps [DRAFT] [WBDUK-AC.FID26896945]

Just following up on this - while, as I noted below, I think the actual hearing of the application will not be as quick as originally planned (given the need for skeletons etc - NB there is a fair amount of law in this area), we should certainly get in the application (and propose an adjournment of the current trial) as soon as possible after we get instructions.

To that end, if possible we should start working up a supporting witness statement, including the material set out in our Note (as referred to by Lord Neuberger in his Note), and adding in anything else which is helpful. i.e. we should go through everything that was said, and set out in Orders, about the scope of this trial (including the various warnings we gave at the trial about its scope), and then list the various objectionable bits of the judgment (as handed down), which either (a) made findings of fact beyond the scope of the trial, or (b) expressed unnecessary vitriol. Is that something we can start working up? If so, who is best placed to do it? Let me know if it would be useful to discuss.

Best

Gideon

PS As soon as judgment is handed down, it would also be helpful to do a compare-write against the draft judgment.

Gideon Cohen
Barrister

One Essex Court
Temple
London EC4Y 9AR

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From: Gideon Cohen
Sent: 14 March 2019 19:09
To: David Cavender
Cc: Tom Beezer; Jane MacLeod GRO;
Amy Prime; Andrew Parsons; Rodric Williams
GRO
Ben.Foat GRO; Dave Panaech
Subject: Re: Recusal application steps [DRAFT] [WBDUK-AC.FID26896945]

Only two comments. The first (perhaps unsurprisingly) is on point 6. I would suggest additionally instructing Stephanie Wood, who has been assisting for the last week and is now familiar with the case. I will try to clear my diary for next week, but even if I can do so there will be some very tight deadlines to meet.

The second comment is a query as to whether the timetable can be abbreviated quite this aggressively. We should certainly put the application in as soon as we have instructions, but the application will be contested inter partes. Do we not need to build in time for skeletons etc? Apologies if this ground has already been traversed.

On 14 Mar 2019, at 18:28, David Cavender <GRO
GRO> wrote:

Tom,

Many thanks for this. This all looks very sensible and reflects our recent discussion.

Best,

David.

David Cavender Q.C.

<image001.jpg>

One Essex Court
Temple
London EC4Y 9AR

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From: Tom Beezer GRO
Sent: 14 March 2019 18:07
To: Jane MacLeod GRO
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GRO; David Cavender
GRO; Gideon
Cohen GRO
Cc: Amy Prime GRO
GRO Andrew Parsons GRO
GRO; Rodric Williams
GRO
GRO
Ben.Foat(GRO ; Dave
Panaech GRO -
GRO
Subject: Recusal application steps [DRAFT] [WBDUK-AC.FID26896945]

All

My current view of steps to be taken in the recusal process (if triggered) are as follows (in time order so far as I can predict):

1) [Optional but recommended] POL (through WBD) engage with the QC who is likely to be instructed to make recusal application ASAP (if one is made) to get QC "warmed up" to application, arguments to be deployed and (potentially) to speak to POL Board if needed, as the person who would in fact be the mouthpiece of POL. Timing: Friday for choice of QC and delivery of papers.

2) Assuming a QC is to be "warmed up" David Cavender QC to brief on background as fully as possible. Timing: Friday.

3) POL to decide if it is to make a recusal application. Timing: By (say) Monday.

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4) POL Board may wish to speak to Lord Neuberger as part of their decision making process. The Clerks at OEC have confirmed that is possible and have contact numbers for Lord Neuberger as needed. Please NOTE Lord Neuberger is not in South Africa as we had understood, but in South America (Argentina) which is currently 3 hours behind us.

5) As soon as decision to make application has been made (if that transpires) Freeths & Judge to be put on notice. Suggested "appropriate" notice period is one day (or more if decision made earlier than early next week). Freeths put on notice by letter from WBD (or possibly Counsel to Counsel) and the Judge by a note between the Clerks ? Timing: early next week once decision to proceed made.

6) Gideon (at OEC) to be instructed to be Junior to chosen QC. Timing: Friday, if "warm up" route followed.

7) QC & Gideon prepare Application Notice and Skeleton for recusal application. This work could start now if we follow the "warm up" route.

8) Application is made first half of next week at 10am during the Horizon trial. Thereafter there are variables:

a. Judge may agree. Unlikely but possible. HIT trial is adjourned there and then and POL appeals the CIT findings and (if successful) we re-list CIT & HIT.

b. Judge may pass matter to another judge to hear. Unlikely.

c. Judge refuses (likely) and POL takes that refusal to Court of Appeal asap. That could be same day (possible but unlikely) or at that same week at some point if CofA recognise urgency.

d. CofA may agree with recusal application. If so, POL appeals the CIT findings and (if successful) we re-list CIT & HIT.

e. CofA may refuse recusal application in which case HIT rolls on.

Please note in any scenario where HIT is adjourned then there will be possible increased costs consequences for Claimants that POL could bear if it is ultimately unsuccessful.

Possible outcomes of recusal application:

a) It is successful and HIT adjourned then appeal of CIT goes ahead and new judge is put in place for remaining aspects of trials.

b) It is unsuccessful (at first request and CofA) then it is likely that Fraser is cross but he is also aware the CIT appeal is progressing which includes the "procedural unfairness" assertion. Possible impact in that scenario is Fraser is more cautious as to behaviours to (possibly) POL's benefit.

c) The theoretical downside to a recusal application is that it fails and that Fraser remains the judge at Trial 3 which will require multiple findings of fact. Findings of fact are more tricky to appeal and this is a point to be cognisant of.

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All comments on the above welcomed.

T

Tom Beezer
Partner
Womble Bond Dickinson (UK) LLP

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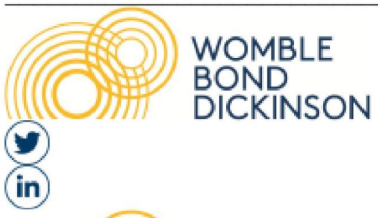
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WBON0001503

From: Gideon Cohen <GRO>
To: Andrew Parsons <GRO>, Tom Beezer <GRO>, <GRO>, Dave Panaech <GRO>, Amy Prime <GRO>, <GRO>, David Cavender <GRO>, Owain Draper <GRO>
Cc: Anthony Grabiner <GRO>, Stephanie Wood <GRO>
Subject: Compiling spreadsheet/ feeding into WS
Date: Mon, 18 Mar 2019 10:50:41 +0000
Importance: Normal
Attachments: Notes_for_recusal_application.docx

All,

Following discussion with AGQC, I have worked up the attached, which seeks to synthesize our arguments on the key bias points.

Any comments/ suggestions gratefully received.

A few important things to note:

- Particularly helpful if people can play devil's advocate and come up with arguments for why some of these findings should have been included. For a number of them I have drawn a complete blank.

- This analysis should also plug into the witness statement being prepared by WBD in support of the application.

- I am conscious that I am not close to the detail of the Horizon trial. Would be good if those who are involved could scrutinize the parts dealing with that overlap especially carefully.

- As I have commented before, this is a 'target-rich' environment. We have to choose the best egs. Accordingly, I have ditched the couple of glancing references to matters relevant to loss and damage.

- This does not include the 'vitriol' points. I note that some of these are toned down in the final version of the Judgment. We will have to decide precisely what role we want these points to play in the application.

Best

Gideon

Gideon Cohen
Barrister

One Essex Court
Temple
London EC4Y 9AR

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From: Amy Prime[/O=EXCHANGE-ORG/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=AB7222DDA3A9453EAED5751238A59562-AMY PRIME]

Sent: Tue 19/03/2019 10:00:05 PM (UTC)

To: Gideon Cohen[GRO]; Tom Beezer[GRO]

Cc: David Cavender[GRO]; Andrew Parsons[GRO]; Stephanie Wood[GRO]; Dave Panaech[GRO]

Subject: RE: timing of readiness for recusal [WBDUK-AC.FID26896945]

Attachment: _DISPUTERESOLUTION_154878848(1)_Recusal Application - Witness Statement.DOCX

Gideon

Please find attached a very rough draft of the witness statement, which includes the "back story".

We have been through all the CMC Skeles and transcripts to locate relevant material – the only thing missing is anything which is contained in the transcripts for the CIT which we are checking tomorrow. I however inserted the sections which were in David's note

The structure of the witness statements is then as follows:

- **Section 1: Background** – very short introduction. Query how much procedural detail we want to include in this section. If this document is more aimed at Court of Appeal (on the assumption that the judge will not recuse himself) then we may want to include more detail, or potential an Annex with a chronology. We would welcome your thoughts on this.

- **Section 2: Scope of Common Issues Trial**. This includes all relevant quotes from the numerous CMCs are which the scope of witness evidence has been discussed. Each CMC is in separate section and it runs through them in chronological order.

  At the moment, we are included far more detail / quotes then I think are necessary but for now have included everything so as you have visibility of the material there is.

- **Section 3: Scope of disclosure**. This contains the relevant quotes from the CMCs on 2 Feb and 22 Feb 18 at which the scope of disclosure was limited by the Judge. Again, we have included more material than necessary so as you have visibility.

- Section 4: Common Issues Judgment. This section needs completing once we have decided which parts of the judgment are going to be concentrated on. Subject to views, I have suggested the key areas should be:

  - **Witnesses** - Criticisms of POL's witnesses which is going to have an impact on future trials;

  - **Findings** - Findings which have been made but where full disclosure or evidence has not been given since the finding is outside of CIT. Emphasise on point that judge has caused this issue by the way in which he ordered staged trials and Model C disclosure. Show that biased as stuck with these decisions going forward.

  - **PGQC XX** - Examples where he has not stopped PGQC with out of scope XX.

  - **Disclosure** - Examples where narrow disclosure and then made findings on this – ie. helpline and Horizon investigations features.

One other question to consider – do we want to include stuff in the witness statement which has happened in the HIT? For example, POL being asked to do a witness statement for disclosure of audit reports, but no pushing over the lack of Cs disclosure; and I am sure Owain will be able to provide us with other example which show the bias has continued into Trial 2.

POL00364150

Once you have had a chance to look at this, it might be helpful to have a call to discuss the plan for finalising this - I am conscious this is a very rough document and will need quite a lot of polishing.

Many thanks
Amy

Amy Prime
Solicitor
Womble Bond Dickinson (UK) LLP

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From: Gideon Cohen [GRO
Sent: 19 March 2019 21:21
To: Tom Beezer
Cc: Amy Prime; David Cavender; Andrew Parsons; Stephanie Wood
Subject: Re: timing of readiness for recusal [WBDUK-AC.FID26896945]

On 19 Mar 2019, at 20:28, Tom Beezer < GRO >> wrote:

All

Jane at POL is wanting an update on timing of readiness for recusal if the button is pressed tomorrow.

Could each of you comment on what I set out below (and what I do set out below is just my understanding of where we are, so do correct at will…)…:

- Letter to Freeths – Amy is doing that. Yet to be done, but is only short.

- Application Notice. Gideon. Done I believe?

Stephanie has done a draft, on which I have commented. Stephanie, once you are happy with it, could you please circulate?

- Draft Order. Done I believe. I think I have seen a copy.

Yes, circulated on Sunday. Please let me know if any comments.

- Draft witness statement. Work in progress. Amy P is collating the back story (quotes from hearings etc) and then Amy and Gideon to bully that into a first draft. Realistic for tomorrow ?

POL00364150

Difficult to comment on timings until I've seen a draft. More fundamentally, spoke about this to Tony today. His view was that we might want to hold this back for the hearing, and not put in a WS at all. That would involve beefing up the App Notice slightly.

- Skeleton Arg'. David, Gideon – where is that sitting and how far off a draft to AGQC are we ?

I spent much of today drafting it with AGQC. We are well advanced - and anyway we will obviously not be putting this in with the application notice.

Are there any other bits I have missed ?

If POL said "yes" tomorrow when would we serve Freeths and Judge ? When do we think we will try an engineer the hearing to be ? Friday ? Next week ?

Won't be Friday, because it will be contested and the other side will want to put in a skeleton argument. I think back end of next week would be the very earliest.

Also, we need to think REALLY carefully about ensuring that Lord Grabiner is available to do the hearing. Andy P says this Judge is very much of the "do it when I say" camp and not when Counsel is free.

David, Gideon – how can we ensure that lord Grabiner will be free for the hearing ? Is that a note from him to the Judge ? Is that something the Clerks sort out ?

Have you spoken to the clerks?

All thought gratefully received.

Jane wants me to send her a timing update early tomorrow morning.

T

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From: Gideon Cohen GRO
To: Amy Prime GRO Tom Beezer GRO
Cc: David Cavender GRO, Andrew Parsons GRO GRO, Stephanie Wood GRO, "Dave Panaech" GRO, Anthony Grabiner GRO
Subject: RE: timing of readiness for recusal [WBDUK-AC.FID26896945]
Date: Tue, 19 Mar 2019 23:18:00 +0000
Importance: Normal
Inline-Images: image74cffd.PNG; image54948e.PNG; image8349a8.PNG

Amy,

Been going over this. I think it will be incredibly useful as a treasury of useful material.

The immediate question to consider, following discussion with AGQC (cc'ed), is whether we should be putting in a WS at all. Interested to know what others' views are on that.

If not, I think we will have to beef up the Application Notice a bit to spell out our key contentions, at least by listing the areas in which the Judge made improper findings.

Best

Gideon

Gideon Cohen
Barrister

One Essex Court
Temple
London EC4Y 9AR

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From: Amy Prime GRO
Sent: 19 March 2019 22:00
To: Gideon Cohen; Tom Beezer
Cc: David Cavender; Andrew Parsons; Stephanie Wood; Dave Panaech
Subject: RE: timing of readiness for recusal [WBDUK-AC.FID26896945]

Gideon

Please find attached a very rough draft of the witness statement, which includes the "back story".

We have been through all the CMC Skeles and transcripts to locate relevant material – the only thing missing is anything which is contained in the transcripts for the CIT which we are checking tomorrow. I however inserted the sections which were in David's note

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The structure of the witness statements is then as follows:

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Once you have had a chance to look at this, it might be helpful to have a call to discuss the plan for finalising this - I am conscious this is a very rough document and will need quite a lot of polishing.

Many thanks
Amy

WBON0000678

Amy Prime
Solicitor
Womble Bond Dickinson (UK) LLP
d:
m:
t:
e: GRO

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From: Gideon Cohen [mailto: GRO
Sent: 19 March 2019 21:21
To: Tom Beezer
Cc: Amy Prime; David Cavender; Andrew Parsons; Stephanie Wood
Subject: Re: timing of readiness for recusal [WBDUK-AC.FID26896945]

On 19 Mar 2019, at 20:28, Tom Beezer GRO wrote:

All

Jane at POL is wanting an update on timing of readiness for recusal if the button is pressed tomorrow.

Could each of you comment on what I set out below (and what I do set out below is just my understanding of where we are, so do correct at will…)…:

- Letter to Freeths – Amy is doing that. Yet to be done, but is only short.

- Application Notice. Gideon. Done I believe?

Stephanie has done a draft, on which I have commented. Stephanie, once you are happy with it, could you please circulate?

- Draft Order. Done I believe. I think I have seen a copy.

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WBON0000678

- Draft witness statement. Work in progress. Amy P is collating the back story (quotes from hearings etc) and then Amy and Gideon to bully that into a first draft. Realistic for tomorrow ?

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David, Gideon – how can we ensure that lord Grabiner will be free for the hearing ? Is that a note from him to the Judge ? Is that something the Clerks sort out ?

Have you spoken to the clerks?

All thought gratefully received.

Jane wants me to send her a timing update early tomorrow morning.

T

Tom Beezer
Partner
Womble Bond Dickinson (UK) LLP
d:
m:
t:
e: GRO

GRO

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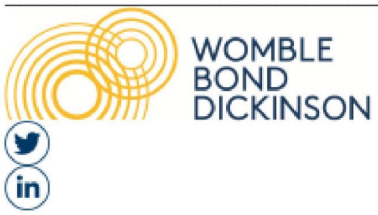
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From: Gideon Cohen <GRO>
To: 'Amy Prime' <GRO>, Tom Beezer <GRO>
Cc: David Cavender <GRO>, Andrew Parsons <GRO> <GRO>, Stephanie Wood <GRO>, "Dave Panaech" <GRO>, Anthony Grabiner <GRO>
Subject: RE: timing of readiness for recusal [WBDUK-AC.FID26896945]
Date: Wed, 20 Mar 2019 09:42:47 +0000
Importance: Normal
Inline-Images: image001.png; image002.png; image003.png

Amy,

After discussing with DCQC and AGQC, the counsel view is that we should put in a short WS. I am going to strip down the version you very helpfully sent over, and send back an amended draft which hopefully can be finished off today/ early tomorrow.

Accordingly, I won't send over a marked-up App Notice.

Best

Gideon

From: Amy Prime [mailto GRO
Sent: 20 March 2019 08:38
To: Gideon Cohen; Tom Beezer
Cc: David Cavender; Andrew Parsons; Stephanie Wood; Dave Panaech; Anthony Grabiner
Subject: RE: timing of readiness for recusal [WBDUK-AC.FID26896945]

Gideon

Thank you.

I think (although not having discussed with Tom) that we will be guided by Counsels' thoughts on whether a witness statement should be filed with the application or not. It would however be helpful if we could see what the beefed up Application Notice would look like, even if in rough draft / bullet points.

Is this something which you could put together this morning?

WBON0001514

Kind regards

Amy

Amy Prime
Solicitor
Womble Bond Dickinson (UK) LLP

d:
m: GRO
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e: GRO

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From: Gideon Cohen [mailto: GRO
Sent: 19 March 2019 23:18
To: Amy Prime; Tom Beezer
Cc: David Cavender; Andrew Parsons; Stephanie Wood; Dave Panaech; Anthony Grabiner
Subject: RE: timing of readiness for recusal [WBDUK-AC.FID26896945]

Amy,

Been going over this. I think it will be incredibly useful as a treasury of useful material.

The immediate question to consider, following discussion with AGQC (cc'ed), is whether we should be putting in a WS at all. Interested to know what others' views are on that.

If not, I think we will have to beef up the Application Notice a bit to spell out our key contentions, at least by listing the areas in which the Judge made improper findings.

Best

Gideon

Gideon Cohen
Barrister

One Essex Court
Temple
London EC4Y 9AR

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GRO
Fax number:
GRO

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On 19 Mar 2019, at 20:28, Tom Beezer <GRO <mailto:GRO > wrote:

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From: Jane MacLeod[GRO
Sent: Wed 20/03/2019 10:26:49 AM (UTC)
To: Tom Beezer[t GRO
Subject: RE: recusal [WBDUK-AC.FID26896945]

Thanks Tom

The question will be put – if not this, then is there any other alternative to recusal?

The Board will want to know that there are no other options.

Thanks

jane

Jane MacLeod
Group Director of Legal, Risk & Governance
Ground Floor

20 Finsbury Street
LONDON
EC2Y 9AQ
Mobile number: GRO

From: Tom Beezer [GRO
Sent: 20 March 2019 10:15
To: Jane MacLeod <, GRO >
Cc: andrew.parsons < GRO ; Rodric Williams < GRO >; Ben Foat < GRO >; Amy Prime <, GRO ; Dave Panaech < GRO >
Subject: RE: recusal [WBDUK-AC.FID26896945]

Jane
As requested, Counsel team response below:

Dear Tom,

This proposal does not work. Indeed, if made, this application would make matters (even worse). Even if PO decide not to seek to recuse Fraser J I would advise strongly against the proposed course. I say this for the following reasons:

(1) The immediate (and likely irreversible) prejudice PO are suffering is the effects of the apparent bias Fraser J showed in the CIT upon his current handling of the Horizon issues trial. There is also the future prejudice of him handling the breach trial in November 2019.
(2) The only way of seeking to deal with the prejudice is to seek his recusal on an urgent basis.
(3) Seeking to appear before him indicating that PO is going to appeal against his CIT judgment on grounds of procedural unfairness – will assuredly not result in him adjourning the Horizon trial. He will not do so because the unfairness in the CIT trial itself does not infect the Horizon trial. It is the apparent bias of Fraser J that infects the Horizon trial. The only remedy for that is recusal.
(4) If, on this proposal, Fraser J's refusal to adjourn the Horizon trial is then appealed to the

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Court of Appeal – they would assuredly not adjourn that trial and would not recuse him- because there would not application before them to do so.

(5) *Furthermore, an appeal against a refusal to recuse is much more likely to come on as an urgent appeal – than an appeal against the refusal of a judge to adjourn a trial on the basis that he showed procedural unfairness in an earlier trial between the same parties. Indeed the latter appeal is very likely to come on after the Horizon trial is completed and the Judgment handed down. This fact would make it more unlikely the Court of Appeal would intervene.*

(6) *And, if all this comes to pass (as it most assuredly would) is the proposal that then PO applies to the judge to recuse himself ? And then appeal him if he does not ? This make no sense- and would all come too late to be effective to deal with the prejudice in (1). Indeed, this course of action would look very much as if PO were seeking to delay matters and behave badly- in the manner presently charged by the Judge.*

(7) *If there are good grounds for a recusal (and clearly there are) and good prospects of success (as advised) then the Court of Appeal would expect PO to apply to the Judge to recuse himself and then appeal him if he did not. There is no middle ground here.*

Best,

D.

David Cavender Q.C.

ONE ESSEX COURT

One Essex Court
Temple
London EC4Y 9AR

Tom Beezer
Partner
Womble Bond Dickinson (UK) LLP

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From: Jane MacLeod [GRO]
Sent: 20 March 2019 07:14
To: Tom Beezer
Cc: Andrew Parsons; Rodric Williams
Subject: recusal

Tom

I have been asked to see whether an approach along the following lines (as an alternative to recusal) would be possible procedurally:

"1. inform the judge that the company is appealing on the law and unfair procedure

2. ask the judge to stop the Horizon trial until the outcome of the appeal is determined on the grounds that if the unfairness claim is upheld it would also put the fairness of the Horizon trial at risk

3. If the judge refuses 2, seek and order from a higher court to the same effect and ask the judge at least to stop the Horizon trial until such an order can be obtained (or not)

If the remedy in 3 is sought but isn't obtained we will at least have tested the relevance and implications of unfairness issues on the second trial. And effectively a higher court will have told us that any unfairness in the first trial would not impact the Horizon trial (obviously contrary to POL's view).

If the remedy in 3 doesn't exist in law then recusal would be an alternative at that point. It seems to me the judge's refusal to agree to 2 would support a recusal application as he would be unwilling to accept that if unfairness took place in the first trial the nature of it would necessarily affect the conduct and fairness of the Horizon trial - a view which logically suggests bias as it is absurd."

Could we please test this with the Counsel team? It may have the outcome that the judge is asked to recuse himself, but not necessarily. And seems to assume that we could get an appeal quite quickly, which must be uncertain. I'm also not sure that the logic in 2. holds up, and 3 means arguing procedural unfairness without (necessarily) arguing mis-application of the law etc.

Thanks,

Jane

POL00268876

Jane MacLeod
Group Director Legal, Risk & Governance
Post Office
GRO

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From: Anthony Grabiner <GRO>
To: Tom Beezer <GRO>
Cc: Gideon Cohen <GRO>, Andrew Parsons <GRO>, GRO, Dave Panaech <GRO>, "Amy Prime" GRO, David Cavender <GRO> Owain Draper <GRO>, Stephanie Wood <GRO>
Subject: Re: Application docs [WBDUK-AC.FID26896945]
Date: Wed, 20 Mar 2019 14:22:29 +0000
Importance: Normal
Inline-Images: image306b08.PNG; image1c37a2.PNG; imagea860f7.PNG

Thanks Tom. I really don't think the clients had any choice. I'm not one for adjectives and adverbs anyway so it should be firm but polite.

Regards,

Tony

Lord Grabiner QC
One Essex Court
Temple
London, EC4Y 9AR

GRO

On 20 Mar 2019, at 14:17, Tom Beezer <GRO <mailto:GRO> > wrote:

All

Just spoken to Jane M from Post Office.

Instructions from Post Office Board are "do it". Make the application.

One point – Post Office Board did not enjoy what it read about Post Office in CIT Judgment (the "vitriol" points from the Judge). Jane asks that we collectively bear that in mind and when drafting letters, witness statements etc we err on the reasoned side of life – in other words fewer adjectives than normal – to try and demonstrate that we are very reasonable.

But main point – instructed to do it.

I have predicted, to Jane, but not promised, that we would be likely to issue and serve at some point tomorrow ?

t

Tom Beezer
Partner
Womble Bond Dickinson (UK) LLP
d:
m:

WBON0001806

t:
e: GRO
GRO
GRO <mailto GRO

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<https://www.linkedin.com/company/womble-bond-dickinson-uk-llp/>

From: Gideon Cohen [mailto GRO
Sent: 20 March 2019 13:22
To: Tom Beezer; Andrew Parsons; Dave Panaech; Amy Prime
Cc: David Cavender; Anthony Grabiner; Owain Draper; Stephanie Wood
Subject: Application docs

In anticipation of (hopefully) getting the green light for this application from PO, please see attached the application documents. There are various bits to be filled in (particularly references in the WS).

Grateful if everyone could take a careful look at all of these though.

I have gone for a time estimate for the hearing of 4 hrs. Thoughts on that appreciated too.

Thanks

Gideon

Gideon Cohen
Barrister

One Essex Court
Temple
London EC4Y 9AR

Switchboard:
GRO
Fax number:
GRO

WBON0001806

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WBON0001806



POL00023769

Message

From: Amy Prime [GRO]
Sent: 20/03/2019 21:32:40
To: Jane MacLeod [GRO]
CC: Mark Underwood [GRO] Rodric Williams [GRO] Ben Foat [GRO] Andrew Parsons [GRO] [GRO] Tom Beezer [GRO] Dave Panaech [GRO]
Subject: Recusal application - draft documents [WBDUK-AC.FID26896945]
Attachments: _DOC_154900148(2)_Final - 14th Witness Statement of Parsons - Recusal.DOCX; _DOC_154895011(1)_Final - Draft application notice.DOCX; _DOC_154894860(1)_Final - Draft Order Recusal.DOCX

Jane

Please find attached the papers for the recusal application, on which we would welcome any comments. These are subject to a careful proofread by us in the morning.

- Application notice
  Standard form document explaining at high level the order sought.

- Draft Order
  Order which Post Office will be seeking from the Judge (recusal and Horizon Trial to be adjourned)

- Witness Statement
  The witness statement has evolved to become a simple, concise document which introduces (i) structure of the litigation; (ii) how the scope of the Common Issus Trial was set up; (iii) the dispute over admissibility of evidence; and then from these draws a conclusion that the judgment made findings / observations which fall to be decided at future trials and these findings give the impression that the judge has formed a view on these matters which will prevent him from taking an impartial view in future trials.

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  This also connects into the approach being taken with the skeleton. The skeleton will cover the law / procedural matters but also itemise in more detail then the witness statement the paragraphs of the judgment where the judge has offended the principles, with cross reference to how the judge set up these issues. A shorter witness statements therefore prevents too much cross over with the matters to be dealt with in the skeleton argument. Lord Grabiner would then also expand on these points in his oral submissions.

If there are any questions please let either Tom or me know.

Kind regards
Amy

Amy Prime
Solicitor
Womble Bond Dickinson (UK) LLP

d: GRO
m:
t:
e:

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POL00023769



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WBON0000686

From: Tom Beezer GRO
To: Jane MacLeod GRO Amy Prime GRO GRO
Cc: Mark Underwood1 GRO, Rodric Williams GRO, Ben Foat GRO Andrew Parsons GRO Dave Panaech GRO
Subject: RE: Recusal application - draft documents [WBDUK-AC.FID26896945]
Date: Thu, 21 Mar 2019 07:29:31 +0000
Importance: Normal
Inline-Images: imageedd7f1.PNG; image155c9b.PNG; image06c446.PNG; image001.png; image002.png; image003.png

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Jane

The answer to this Q gets into how the subject matter of the application is presented to the court and (most importantly) what evidence can be given on in a witness statement. Points that go through my mind are as follows:

- We had initially done a much more fulsome w/s so I suspect our initial reactions are somewhat aligned

- Lord Grabiner initially wanted no w/s and wanted to develop the narrative through the content of the Application Notice and mostly through oral argument. There are points in here about not wanting to give Green too much advance notice and about Lord Grabiner's faith in his own advocacy

- The "test" or bar that we have to meet for bias (real or apparent) is:

    - "*whether the fair minded and informed observer, having considered the facts, would conclude that there was a real possibility that the tribunal was biased*" [Porter –v- Magill 2 AC 357, para 103]

- When looking at whether that test is met the court (and the Court of Appeal) will look hard at the procedure adopted here. In other words the sequential trial structure and timings (and warnings given historically) that have got us to this point. That is something a witness statement **can** deal with as it is "story". We can set out (in short form) that narrative. Lord Grabiner's point is at one level you don't need to as it is all there in the court records and transcripts – one just needs to point to it during oral argument. That debate has been had, and the shorter witness statement you have seen is suggested to POL notwithstanding it gives Green a partial roadmap to our complaint.

- The important point to recognise is that a witness statement can say nothing really about the witnesses own view on whether the procedure adopted and what happened in the past amounts to bias as that is opinion. It is the court that has to form the view that historic actions meet the test (see above) not the witness. In this regard the court is *the fair minded observer* looking in. So the witness statement (and application notice) do deal mostly with procedure and backstory as the overlay (put another way, the second half of the argument) being "*and so that must be biased*" comes in oral argument to a degree but really is the function of the court to make that conclusion and not the witness.

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One last non legal point – it is possible that once the recusal application is served it gets mentioned by the judge or Green. That could theoretically occur today. Unlikely but possible. If it does get mentioned is POL Comms'/PR ready to deal and brief both at court and more widely ?

Tom Beezer
Partner
Womble Bond Dickinson (UK) LLP

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t:
e: GRO

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From: Jane MacLeod [mailto: GRO
Sent: 20 March 2019 23:29
To: Amy Prime
Cc: Mark Underwood1; Rodric Williams; Ben Foat; Andrew Parsons; Tom Beezer; Dave Panaech
Subject: Re: Recusal application - draft documents [WBDUK-AC.FID26896945]

Amy

I have read these quickly and suspect that I have missed the point of the witness statement. Reading it however suggests that The foundation of our claim is procedural unfairness. There is little about why we believe that there is the potential for bias (I have not correctly stated the test).

Sorry ...

Jane

Jane MacLeod

Group Director Legal, Risk & Governance

Post Office

WBON0000686

GRO

From: Amy Prime GRO
Sent: Wednesday, March 20, 2019 9:33 pm
To: Jane MacLeod
Cc: Mark Underwood1; Rodric Williams; Ben Foat; andrew.parsons; Tom Beezer; Dave Panaech
Subject: Recusal application - draft documents [WBDUK-AC.FID26896945]

Jane

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Amy Prime
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Womble Bond Dickinson (UK) LLP

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From: Jane MacLeod GRO
To: Tom Beezer GRO, Amy Prime GRO
Cc: Mark Underwood1 GRO, Rodric Williams GRO, Ben Foat GRO, andrew.parsons GRO, Dave Panaech GRO GRO
Subject: Re: Recusal application - draft documents [WBDUK-AC.FID26896945]
Date: Thu, 21 Mar 2019 07:38:50 +0000
Importance: Normal
Inline-Images: image001.png; image002.png; image003.png; imageedd7f1.PNG; image155c9b.PNG; image06c446.PNG

Thanks for the explanation Tom - as I said in my email, I suspected I had missed the point! It will be for AGQC to direct how the various documents are constructed to give him the best chance of winning the case.

On Comms - yes, we have a response in draft which will be finalised during the day. I will send over shortly. To that end, I need to be aware of proposed timings, so please let m know as this develops.

Jane

Jane MacLeod
Group Director Legal, Risk & Governance
Post Office
GRO

From: Tom Beezer GRO
Sent: Thursday, March 21, 2019 7:29 am
To: Jane MacLeod; Amy Prime
Cc: Mark Underwood1; Rodric Williams; Ben Foat; andrew.parsons; Dave Panaech
Subject: RE: Recusal application - draft documents [WBDUK-AC.FID26896945]

Jane

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Tom Beezer
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From: Jane MacLeod [mailto: GRO
Sent: 20 March 2019 23:29
To: Amy Prime
Cc: Mark Underwood1; Rodric Williams; Ben Foat; Andrew Parsons; Tom Beezer; Dave Panaech
Subject: Re: Recusal application - draft documents [WBDUK-AC.FID26896945]

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Sorry ...

Jane

Jane MacLeod

Group Director Legal, Risk & Governance

Post Office

GRO

From: Amy Prime GRO
Sent: Wednesday, March 20, 2019 9:33 pm
To: Jane MacLeod
Cc: Mark Underwood1; Rodric Williams; Ben Foat; andrew.parsons; Tom Beezer; Dave Panaech
Subject: Recusal application - draft documents [WBDUK-AC.FID26896945]

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If there are any questions please let either Tom or me know.

Kind regards

Amy

Amy Prime
Solicitor
Womble Bond Dickinson (UK) LLP

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POL00022982

Message

From: Melanie Corfield [GRO]
Sent: 21/03/2019 11:37:49
To: Jane MacLeod [GRO]; Tom Beezer [/o=Exchange-Org/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=179d9f227294473d81b50e72aacb0623-Tom Beezer]; Amy Prime [/o=Exchange-Org/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=ab7222dda3a9453eaed5751238a59562-Amy Prime]; Rodric Williams [GRO]; Mark Underwood [GRO]; Ben Foat [GRO]
CC: Andrew Parsons [/o=Exchange-Org/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=ad9ed344815e47e4aaa3c0e7e1740919-Andrew Pars]; Dave Panaech [/o=Exchange-Org/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=0310835f6adc435ab1b160664f370de9-Dave Panaec]; Mark R Davies [mark.r.davies@GRO]; Patrick Bourke [patrick.bourke@GRO]
Subject: RE: Recusal application - filed documents [WBDUK-AC.FID26896945]

cc-ing Mark D and Patrick.
I agree – no reason to do anything differently.

Mel

From: Jane MacLeod
Sent: 21 March 2019 11:37
To: Tom Beezer <t GRO >; Amy Prime < GRO >; Rodric Williams < GRO >; Mark Underwood [GRO]; Melanie Corfield <m GRO >; Ben Foat < GRO >
Cc: andrew.parsons < GRO >; Dave Panaech <d GRO >
Subject: RE: Recusal application - filed documents [WBDUK-AC.FID26896945]

Thanks Tom – I agree with that, and its consistent with the approach adopted in the trial which is that documents (eg witness statements) aren't provided until they are discussed in Court (eg witness sworn in).

Jane MacLeod
Group Director of Legal, Risk & Governance
Ground Floor
20 Finsbury Street
LONDON
EC2Y 9AQ
Mobile number: GRO

From: Tom Beezer [mailto GRO
Sent: 21 March 2019 11:28
To: Amy Prime [GRO]; Jane MacLeod <j GRO >; Rodric Williams < GRO >; Mark Underwood [GRO]; Melanie Corfield <m GRO >; Ben Foat <[GRO]>
Cc: andrew.parsons <a GRO >; Dave Panaech < GRO >
Subject: RE: Recusal application - filed documents [WBDUK-AC.FID26896945]

Mel

I have spoken to Amy. I have a different view here. I don't think you should give out any documents at all, save for the holding statement you have been working on with Jane.

My thinking is as follows:

POL00022982

- Post Office is (put simply) launching an application that criticises this Judge.
- If this judge feels that Post Office does anything that could be seen as publically briefing against him, he may use that as further rationales in his own narrative of "aggressive" etc.
- As to which of these documents is publically available, it is certainly NOT the witness statement or exhibit as that is only public once referred to in open court – and that has yet to happen.
- The letter is private to the court.
- The Application Notice is an odd one. I don't know if the public could eventually get a copy of such a document.

But my rationale remains. In this sensitive scenario err on the side of extreme caution and avoid any possibility of Post Office being seen to launch a briefings campaign against the Judge. And certainly release nothing until we KNOW the public could get in through other channels, and that does not (yet) include the witness statement (and as I have said, I'd need to work on the issue of the Application Notice).

T

Tom Beezer
Partner
Womble Bond Dickinson (UK) LLP

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m: GRO
t:
e: tom.beezer GRO

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From: Amy Prime
Sent: 21 March 2019 11:09
To: Jane MacLeod; Rodric Williams; Mark Underwood (GRO ; Melanie Corfield; Ben Foat
Cc: Andrew Parsons; Tom Beezer; Dave Panaech
Subject: Recusal application - filed documents [WBDUK-AC.FID26896945]

Dear All

Please find attached a copy of the application documents which will be filed with the Court in the next 10 minutes. A copy of the exhibit to the witness statement is not attached due to its size but can be provided separately.

We have requested that the application be heard on either Thursday 28 March, or Friday 29 March. The next stage of the process is for the Judge to list the hearing date and we will update you further once we have received confirmation of this.

Mel – Andy is going to let me know if the application is mentioned by the Judge during Court today. If so, we will let you know. If any of the press in the court room ask for copies of the application documents, Andy is going to direct them towards your team. From a legal perspective, we don't have any objections to the application documents being provided

POL00022982

to the press today, but please feel free to handle this in a way which fits in with your communications strategy – if it is your preference to wait until the day of the hearing, this is fine.

Kind regards
Amy

Amy Prime
Solicitor
Womble Bond Dickinson (UK) LLP

d: GRO
m:
t:
e: amy.prime GRO

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From: Amy Prime GRO
To: David Cavender GRO, Gideon Cohen GRO
"Stephanie Wood GRO, Anthony Grabiner GRO, Owain Draper GRO
Cc: Tom Beezer GRO, Andrew Parsons GRO
GRO, Dave Panaech GRO
Subject: Recusal Application - Timetable [WBDUK-AC.FID26896945]
Date: Thu, 21 Mar 2019 16:42:45 +0000
Importance: Normal
Inline-Images: image6bea26.PNG; image6a123c.PNG; image0a303c.PNG

Dear All

Further plans of actions and thoughts will follow, but in the meantime the timetable for the recusal application is as follows:

Post Office to file a witness statement by 12pm on **26 March** (further detail below)

Cs to confirm whether they will oppose the application by 12pm on **27 March**

Cs responsive evidence to be filed on **29 March**

Skeletons on **2 April**

Hearing on **3 April**

The first work stream is the Post Office witness statement, for which the Judge has directed that (taken from transcript):

"Post Office to provide a witness statement by noon on Tuesday 26th -- but we can come and discuss the timing in a moment -- that sets out: 1, the specific findings in the judgment referred to in paragraph 24 of Mr Parson's 14th witness statement; 2, the critical invective referred to in paragraph 25 of Parsons 14; and 3, the criticisms of the Post Office witnesses referred to in paragraph 25."

I anticipate that the work which has already been done towards the draft skeleton argument will cross-over with the information which the Judge now wishes to be included within a witness statement. **Gideon** – would it be possible for this information to be lifted out / to be finessed into a witness statement?

Kind regards

Amy

Amy Prime
Solicitor

WBON0000688

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From: Gideon Cohen <GRO>
To: Amy Prime <GRO>
Cc: David Cavender <GRO>, Stephanie Wood <GRO>, Anthony Grabiner <GRO>, Owain Draper <GRO>, Tom Beezer <GRO>, Andrew Parsons <GRO>, GRO, Dave Panaech <GRO>
Subject: Re: Recusal Application - Timetable [WBDUK-AC.FID26896945]
Date: Thu, 21 Mar 2019 19:01:20 +0000
Importance: Normal
Inline-Images: image033b9c.PNG; image6daf45.PNG; imaged8af7e.PNG

Ok, let me know when you want to speak.
G

On 21 Mar 2019, at 17:34, Amy Prime <GRO> wrote:

Gideon

Thanks, once I have spoken with Andy it might be helpful if we discuss the scope/contents of the witness statement just to make sure that it covers exactly what the Judge is looking for. Owain was also in Court (I believe) so may be able to provide you directly with some thoughts on the extent of the statement as well.

Kind regards
Amy

Amy Prime
Solicitor
Womble Bond Dickinson (UK) LLP
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m:
t:
e: GRO
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GRO

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From: Gideon Cohen [mailto GRO]

WBON0001847

Sent: 21 March 2019 17:15
To: Amy Prime; David Cavender; Stephanie Wood; Anthony Grabiner; Owain Draper
Cc: Tom Beezer; Andrew Parsons; Dave Panaech
Subject: RE: Recusal Application - Timetable [WBDUK-AC.FID26896945]

Yes, that's fine. We will obviously want to frame it as arising "in particular" from these paras, so that we don't limit ourselves in future argument.

Gideon Cohen
Barrister

One Essex Court
Temple
London EC4Y 9AR

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From: Amy Prime [GRO]
Sent: 21 March 2019 16:42
To: David Cavender; Gideon Cohen; Stephanie Wood; Anthony Grabiner; Owain Draper
Cc: Tom Beezer; Andrew Parsons; Dave Panaech
Subject: Recusal Application - Timetable [WBDUK-AC.FID26896945]

Dear All

Further plans of actions and thoughts will follow, but in the meantime the timetable for the recusal application is as follows:

1. Post Office to file a witness statement by 12pm on 26 March (further detail below)

2. Cs to confirm whether they will oppose the application by 12pm on 27 March

3. Cs responsive evidence to be filed on 29 March

4. Skeletons on 2 April

5. Hearing on 3 April

The first work stream is the Post Office witness statement, for which the Judge has directed that (taken from transcript):

"Post Office to provide a witness statement by noon on Tuesday 26th -- but we can come and discuss the timing in a moment -- that sets out: 1, the specific findings in the judgment referred to in paragraph 24 of Mr Parson's 14th witness statement; 2, the critical invective referred to in paragraph 25 of Parsons 14; and 3, the criticisms of the Post Office witnesses referred to in paragraph 25."

I anticipate that the work which has already been done towards the draft skeleton argument will cross-over with the information which the Judge now wishes to be included within a witness statement. Gideon – would it be possible for this information to be lifted out / to be finessed into a witness statement?

WBON0001847

Kind regards
Amy

Amy Prime
Solicitor
Womble Bond Dickinson (UK) LLP
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From: Owain Draper [GRO]
Sent: Mon 25/03/2019 9:04:39 AM (UTC)
To: Gideon Coher [GRO]; Amy Prime [GRO]; Stephanie Wood [GRO]; Andrew Parsons [GRO]; Tom Beezer [GRO]; Dave Panaech [GRO]
Cc: Anthony Grabiner [GRO] David Cavender [GRO]
Subject: Re: Witness Statement [WBDUK-AC.FID26896945]
Attachment: 15th Witness Statement of Parsons - Recusal [ORD].docx

Dear All,

Attached with some minor changes from me.

Kind Regards,

Owain

Owain Draper

One Essex Court, Temple

EC4Y 9AR

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From: Gideon Cohen < GRO
Date: Sunday, 24 March 2019 at 22:25
To: Amy Prime < GRO >, Stephanie Wood < GRO >, Andrew Parsons < GRO > Tom Beezer < GRO >, Dave Panaech
Cc: Anthony Grabiner < GRO > David Cavender < GRO >, Owain Draper < GRO >
Subject: RE: Witness Statement [WBDUK-AC.FID26896945]

All,

First draft of the WS attached. All comments gratefully received.

Thanks

Gideon

Gideon Cohen
Barrister

POL00364173

One Essex Court
Temple
London EC4Y 9AR

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Fax number:
GRO

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From: Amy Prime GRO
Sent: 22 March 2019 18:11
To: Gideon Cohen; Stephanie Wood
Subject: Witness Statement [WBDUK-AC.FID26896945]
Hi Gideon, Stephanie

Please could you let me know an ETA for the witness statement being circulated – not chasing, just planning diaries.

Many thanks
Amy

Amy Prime
Solicitor
Womble Bond Dickinson (UK) LLP

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t:
e:

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amy.prime@ GRO

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From: Amy Prime GRO
To: Andrew Parsons GRO, Tom Beezer GRO
GRO Dave Panaech GRO
Subject: RE: Witness Statement [WBDUK-AC.FID26896945]
Date: Mon, 25 Mar 2019 10:00:09 +0000
Importance: Normal
Attachments: _DOC_154958621(1)_15th_Witness_Statement_of_Parsons_-_Recusal.nrl
Inline-Images: image8bd7fd.PNG; imagee32f22.PNG; image55dcc4.PNG

Andy, Tom

Please find attached the witness statement with proposed amendments in tracked (including Owain's). My amends are just to split the Witness Statement into sections so as it is a bit easier to read and formatting fixed.

A

Amy Prime
Solicitor
Womble Bond Dickinson (UK) LLP

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From: Owain Draper [mailto: GRO
Sent: 25 March 2019 09:05
To: Gideon Cohen; Amy Prime; Stephanie Wood; Andrew Parsons; Tom Beezer; Dave Panaech
Cc: Anthony Grabiner; David Cavender
Subject: Re: Witness Statement [WBDUK-AC.FID26896945]

Dear All,

Attached with some minor changes from me.

Kind Regards,

WBON0000689

Owain

Owain Draper

One Essex Court, Temple

EC4Y 9AR

Switchboard: GRO

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From: Gideon Cohen GRO
Date: Sunday, 24 March 2019 at 22:25
To: Amy Prime GRO, Stephanie Wood GRO, Andrew Parsons GRO, Tom Beezer GRO Dave Panaech GRO
Cc: Anthony Grabiner GRO, David Cavender GRO, Owain Draper GRO
Subject: RE: Witness Statement [WBDUK-AC.FID26896945]

All,

First draft of the WS attached. All comments gratefully received.

Thanks

Gideon

Gideon Cohen
Barrister

One Essex Court
Temple
London EC4Y 9AR

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From: Amy Prime GRO
Sent: 22 March 2019 18:11
To: Gideon Cohen; Stephanie Wood
Subject: Witness Statement [WBDUK-AC.FID26896945]
Hi Gideon, Stephanie

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Please could you let me know an ETA for the witness statement being circulated – not chasing, just planning diaries.

Many thanks
Amy

Amy Prime
Solicitor
Womble Bond Dickinson (UK) LLP

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From: Owain Draper [GRO]
Sent: Tue 26/03/2019 9:09:26 AM (UTC)
To: Andrew Parsons [GRO]; Anthony Grabiner [GRO]; Gideon Cohen [GRO]
Cc: Amy Prime [GRO]; Stephanie Wood [GRO]; Tom Beezer [GRO]; Dave Panaech [GRO]; David Cavender [GRO]
Subject: Re: Witness Statement [WBDUK-AC.FID26896945]
Attachment: _DOC_154958621(1)_15th Witness Statement of Parsons - Recusal [ORD].docx

Dear All,

Please find attached with some proposed changes. Many are simply agreement with Gideon's suggestion that paras be removed.

Kind Regards,

Owain

Owain Draper

One Essex Court, Temple

EC4Y 9AR

Switchboard: GRO

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From: Andrew Parsons [GRO]
Date: Tuesday, 26 March 2019 at 07:49
To: Anthony Grabiner [GRO], Gideon Cohen [GRO]
Cc: Owain Draper [GRO], Amy Prime [GRO], Stephanie Wood [GRO], Tom Beezer [GRO], Dave Panaech [GRO], David Cavender [GRO]
Subject: RE: Witness Statement [WBDUK-AC.FID26896945]

Thanks all.

Happy with Gideon's changes. We'll finalise, get client approval and file at 12noon.

A

Andrew Parsons
Partner

POL00364183

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d:
m:
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andrew.parsons GRO mailto GRO

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From: Anthony Grabiner [mailto: GRO
Sent: 25 March 2019 22:15
To: Gideon Cohen
Cc: Andrew Parsons; Owain Draper; Amy Prime; Stephanie Wood; Tom Beezer; Dave Panaech; David Cavender
Subject: Re: Witness Statement [WBDUK-AC.FID26896945]

If Gideon thinks they're problematic please leave them out. We've got a lot of good material and I don't want it undermined by taking points that don't really work. What time tomorrow is this due to be served? I'm in an arbitration hearing all day but I could look at any disputed bits over lunch (1pm to 2pm) if that would help.

Tony

Lord Grabiner QC
One Essex Court
Temple

POL00364183

London, EC4Y 9AR

GRO
GRO

On 25 Mar 2019, at 22:08, Gideon Cohen [mailto:GRO] wrote:

Thanks Andy. Agree with the approach. Nonetheless, I have highlighted a few of these which I think we should not include - some of them seem a bit problematic to me. But subject to that, from my perspective this is good to go.

All best

Gideon

Gideon Cohen
Barrister

One Essex Court
Temple
London EC4Y 9AR

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From: Andrew Parsons [mailto:GRO]
Sent: 25 March 2019 19:01
To: Owain Draper; Gideon Cohen; Amy Prime; Stephanie Wood; Tom Beezer; Dave Panaech
Cc: Anthony Grabiner; David Cavender
Subject: RE: Witness Statement [WBDUK-AC.FID26896945]

All

As per my discussion earlier today with Gideon, we have added more sections of the Judgment to the attached statement. Our approach has been to include anything that we might rely on, unless plainly not relevant to the application. The objective being to avoid any challenge on appeal that a point in the Judgment was not put to Fraser on the application.

All comments welcomed.

Kind regards
Andy

Andrew Parsons

POL00364183

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From: Andrew Parsons
Sent: 25 March 2019 10:37
To: 'Owain Draper'; Gideon Cohen; Amy Prime; Stephanie Wood; Tom Beezer; Dave Panaech
Cc: Anthony Grabiner; David Cavender
Subject: RE: Witness Statement [WBDUK-AC.FID26896945]

Thanks – I've got carriage of this now and will respond in the next couple of hours.

Andy

From: Owain Draper [mailto GRO
Sent: 25 March 2019 09:05
To: Gideon Cohen; Amy Prime; Stephanie Wood; Andrew Parsons; Tom Beezer; Dave Panaech
Cc: Anthony Grabiner; David Cavender
Subject: Re: Witness Statement [WBDUK-AC.FID26896945]

Dear All,

Attached with some minor changes from me.

Kind Regards,

Owain

Owain Draper

One Essex Court, Temple

POL00364183

EC4Y 9AR

Switchboard: GRO

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From: Gideon Cohen GRO <mailto GRO >>
Date: Sunday, 24 March 2019 at 22:25
To: Amy Prime GRO <mailto GRO >>, Stephanie Wood GRO <mailto GRO >, Andrew Parsons GRO <mailto GRO >>, Tom Beezer GRO <mailto GRO >, Dave Panaech GRO <mailto GRO >
Cc: Anthony Grabiner GRO <mailto GRO >, David Cavender GRO <mailto GRO >, Owain Draper GRO <mailto GRO >
Subject: RE: Witness Statement [WBDUK-AC.FID26896945]

All,

First draft of the WS attached. All comments gratefully received.

Thanks

Gideon

Gideon Cohen
Barrister

One Essex Court
Temple
London EC4Y 9AR

Switchboard:
GRO
Fax number:
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From: Amy Prime GRO <mailto: GRO]
Sent: 22 March 2019 18:11
To: Gideon Cohen; Stephanie Wood

POL00364183

Subject: Witness Statement [WBDUK-AC.FID26896945]
Hi Gideon, Stephanie

Please could you let me know an ETA for the witness statement being circulated – not chasing, just planning diaries.

Many thanks
Amy

Amy Prime
Solicitor
Womble Bond Dickinson (UK) LLP

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From: Andrew Parsons <GRO>
To: Gideon Cohen <GRO>, Amy Prime <GRO>, Owain Draper <GRO>, Anthony Grabiner <GRO>
Cc: Stephanie Wood <GRO>, Tom Beezer <GRO>, Dave Panaech <GRO>, David Cavender <GRO>
Subject: RE: Witness Statement
Date: Tue, 26 Mar 2019 11:00:31 +0000
Importance: Normal
Inline-Images: image001.png; image002.png; image003.png; image6bf32e.PNG; imagec5b780.PNG; imagef44196.PNG

Fair enough. We'll take it out.

But 32 is wrong in relation to TCs – for TC disputes the SPMs contact FSC not the helpline (as per the contact details stated on the TC).

A

Andrew Parsons
Partner
Womble Bond Dickinson (UK) LLP

d:
m: GRO
t:
e: GRO

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From: Gideon Cohen [mailto: GRO]
Sent: 26 March 2019 10:45
To: Amy Prime; Owain Draper; Andrew Parsons; Anthony Grabiner
Cc: Stephanie Wood; Tom Beezer; Dave Panaech; David Cavender
Subject: RE: Witness Statement [WBDUK-AC.FID26896945]

Sorry, one final point on this. Not sure we want to include Factual Matrix Point 32. We accept that this was true. So even though it is being used illegitimately by the Judge (to determine the status of the BTS), I do not think it falls within 23-24 of Parson 14, which is focused on findings which we say he has made too early, and in the absence of full evidence and disclosure. Further evidence and disclosure will not make any difference to this point, because we accept that it is true.

WBON0001522

From: Amy Prime [mailto GRO
Sent: 26 March 2019 10:05
To: Gideon Cohen; Owain Draper; Andrew Parsons; Anthony Grabiner
Cc: Stephanie Wood; Tom Beezer; Dave Panaech; David Cavender
Subject: RE: Witness Statement [WBDUK-AC.FID26896945]

Thanks Gideon

Amendment made.

Many thanks

Amy

Amy Prime
Solicitor
Womble Bond Dickinson (UK) LLP

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t:
e: GRO

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From: Gideon Cohen [mailto GRO
Sent: 26 March 2019 09:59
To: Amy Prime; Owain Draper; Andrew Parsons; Anthony Grabiner
Cc: Stephanie Wood; Tom Beezer; Dave Panaech; David Cavender
Subject: RE: Witness Statement [WBDUK-AC.FID26896945]

Amy,

On more thought re the factual matrix section: we should remove point 67. It is too close to the matrix we contend for at Point 67 of the Factual Matrix document.

WBON0001522

Thanks

Gideon

From: Amy Prime [mailto: GRO
Sent: 26 March 2019 09:47
To: Owain Draper; Andrew Parsons; Anthony Grabiner; Gideon Cohen
Cc: Stephanie Wood; Tom Beezer; Dave Panaech; David Cavender
Subject: RE: Witness Statement [WBDUK-AC.FID26896945]

Owain

Thank you, these have been fed into the witness statement.

Kind regards

Amy

Amy Prime
Solicitor
Womble Bond Dickinson (UK) LLP

d:
m: GRO
t:
e: GRO

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From: Owain Draper [mailto: GRO
Sent: 26 March 2019 09:09
To: Andrew Parsons; Anthony Grabiner; Gideon Cohen
Cc: Amy Prime; Stephanie Wood; Tom Beezer; Dave Panaech; David Cavender
Subject: Re: Witness Statement [WBDUK-AC.FID26896945]

WBON0001522

Dear All,

Please find attached with some proposed changes. Many are simply agreement with Gideon's suggestion that paras be removed.

Kind Regards,

Owain

Owain Draper

One Essex Court, Temple

EC4Y 9AR

Switchboard: GRO

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From: Andrew Parsons <GRO>
Date: Tuesday, 26 March 2019 at 07:49
To: Anthony Grabiner <GRO>, Gideon Cohen <GRO>
Cc: Owain Draper <GRO>, Amy Prime <GRO>, Stephanie Wood <GRO>, Tom Beezer <GRO>, Dave Panaech <GRO> <GRO>, David Cavender <dcavender@oeclaw.co.uk>
Subject: RE: Witness Statement [WBDUK-AC.FID26896945]

Thanks all.

Happy with Gideon's changes. We'll finalise, get client approval and file at 12noon.

A

Andrew Parsons
Partner
Womble Bond Dickinson (UK) LLP

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t:
e:

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From: Anthony Grabiner [mailto GRO
Sent: 25 March 2019 22:15
To: Gideon Cohen
Cc: Andrew Parsons; Owain Draper; Amy Prime; Stephanie Wood; Tom Beezer; Dave Panaech; David Cavender
Subject: Re: Witness Statement [WBDUK-AC.FID26896945]

If Gideon thinks they're problematic please leave them out. We've got a lot of good material and I don't want it undermined by taking points that don't really work. What time tomorrow is this due to be served? I'm in an arbitration hearing all day but I could look at any disputed bits over lunch (1pm to 2pm) if that would help.

Tony

Lord Grabiner QC
One Essex Court
Temple
London, EC4Y 9AR

GRO

On 25 Mar 2019, at 22:08, Gideon Cohen <GRO <mailto: GRO >> wrote:

Thanks Andy. Agree with the approach. Nonetheless, I have highlighted a few of these which I think we should not include - some of them seem a bit problematic to me. But subject to that, from my perspective this is good to go.

All best

Gideon

Gideon Cohen
Barrister

One Essex Court
Temple
London EC4Y 9AR

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From: Andrew Parsons GRO <mailto: GRO
Sent: 25 March 2019 19:01
To: Owain Draper; Gideon Cohen; Amy Prime; Stephanie Wood; Tom Beezer; Dave Panaech
Cc: Anthony Grabiner; David Cavender
Subject: RE: Witness Statement [WBDUK-AC.FID26896945]

All

As per my discussion earlier today with Gideon, we have added more sections of the Judgment to the attached statement. Our approach has been to include anything that we might rely on, unless plainly not relevant to the application. The objective being to avoid any challenge on appeal that a point in the Judgment was not put to Fraser on the application.

All comments welcomed.

Kind regards
Andy

Andrew Parsons
Partner
Womble Bond Dickinson (UK) LLP
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From: Andrew Parsons
Sent: 25 March 2019 10:37

WBON0001522

To: 'Owain Draper'; Gideon Cohen; Amy Prime; Stephanie Wood; Tom Beezer; Dave Panaech
Cc: Anthony Grabiner; David Cavender
Subject: RE: Witness Statement [WBDUK-AC.FID26896945]

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Andy

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Cc: Anthony Grabiner; David Cavender
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Dear All,

Attached with some minor changes from me.

Kind Regards,

Owain

Owain Draper

One Essex Court, Temple

EC4Y 9AR

Switchboard: GRO

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From: Gideon Cohen <GRO <mailto:GRO >>
Date: Sunday, 24 March 2019 at 22:25
To: Amy Prime <GRO <mailto:GRO >>, Stephanie Wood <GRO <mailto:GRO >>, Andrew Parsons <GRO <mailto:GRO >>, Tom Beezer <GRO <mailto:GRO >>, Dave Panaech <GRO <mailto:GRO >>
Cc: Anthony Grabiner <GRO <mailto:GRO >>, David Cavender <GRO <mailto:GRO >>, Owain Draper <GRO <mailto:GRO >>
Subject: RE: Witness Statement [WBDUK-AC.FID26896945]

All,

First draft of the WS attached. All comments gratefully received.

Thanks

Gideon

Gideon Cohen

WBON0001522

Barrister

One Essex Court
Temple
London EC4Y 9AR

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From: Amy Prime GRO <mailto: GRO
Sent: 22 March 2019 18:11
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Subject: Witness Statement [WBDUK-AC.FID26896945]
Hi Gideon, Stephanie

Please could you let me know an ETA for the witness statement being circulated – not chasing, just planning diaries.

Many thanks
Amy

Amy Prime
Solicitor
Womble Bond Dickinson (UK) LLP

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m:
t:
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From: Gideon Cohen GRO
To: 'Amy Prime' GRO
Cc: Stephanie Wood GRO, Tom Beezer GRO
Owain Draper GRO, Dave Panaech GRO
David Cavender GRO, Andrew Parsons GRO
GRO, Anthony Grabiner GRO
Subject: RE: Letter from Freeths - Recusal [WBDUK-AC.FID26896945]
Date: Tue, 26 Mar 2019 15:05:15 +0000
Importance: Normal
Inline-Images: image001.png; image002.png; image003.png

Yes. If they think our submissions go beyond the scope of the WS, that is something they can complain about at the appropriate time. They have more than enough information.

From: Amy Prime [mailto: GRO
Sent: 26 March 2019 15:02
To: Gideon Cohen
Cc: Stephanie Wood; Tom Beezer; Owain Draper; Dave Panaech; David Cavender; Andrew Parsons
Subject: Letter from Freeths - Recusal [WBDUK-AC.FID26896945]

Gideon

Please find attached a letter from Freeths complaining that Post Office have not complied with the Order since the list provided in Parsons 15 is non-exhaustive and did not identify all matters, and that we have simultaneously gone further than permitted by the Order by seeking to rely on the *"structure, tenor and subject-matter of the judgment as a whole"*.

The Cs have requested that we confirm whether we intend to rely on other parts of the Judgment and to identify them in a further witness statement by 6pm today. If we do not do so the Claimants are considering to seek an unless order / tell Fraser.

I assume the approach when responding will be that the information required to understand the basis for POL's application and to enable the Cs to respond has been provided, but we would welcome your thoughts and comments.

In particular, POL may ask what is the risk of the Managing Judge forcing POL to provide further information and thereby delaying the recusal hearing.

Kind regards

Amy

WBON0000695

Amy Prime
Solicitor
Womble Bond Dickinson (UK) LLP

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From: Owain Draper GRO
To: Gideon Cohen 'Amy Prime' GRO
Cc: Stephanie Wood GRO, Tom Beezer GRO
Dave Panaech GRO David Cavender
GRO, Andrew Parsons GRO, Anthony
Grabiner GRO
Subject: Re: Letter from Freeths - Recusal [WBDUK-AC.FID26896945]
Date: Tue, 26 Mar 2019 15:17:17 +0000
Importance: Normal
Inline-Images: image001.png; image002.png; image003.png

Agreed.

How about this?

"We do not agree that the witness statement fails to comply with the Order. If your client wishes to contend at the hearing that any argument made by Post Office goes beyond the witness statement and/or amounts to an "ambush", that submission can be made. We do not propose to provide a further statement."

Owain Draper

One Essex Court, Temple

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From: Gideon Cohen GRO
Date: Tuesday, 26 March 2019 at 15:05
To: 'Amy Prime' GRO
Cc: Stephanie Wood GRO, Tom Beezer GRO, Owain Draper
GRO, Dave Panaech GRO David Cavender
GRO, Andrew Parsons GRO Anthony Grabiner
Subject: RE: Letter from Freeths - Recusal [WBDUK-AC.FID26896945]

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Subject: Letter from Freeths - Recusal [WBDUK-AC.FID26896945]

Gideon

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The Cs have requested that we confirm whether we intend to rely on other parts of the Judgment and to identify them in a further witness statement by 6pm today. If we do not do so the Claimants are considering to seek an unless order / tell Fraser.

I assume the approach when responding will be that the information required to understand the basis for POL's application and to enable the Cs to respond has been provided, but we would welcome your thoughts and comments.

In particular, POL may ask what is the risk of the Managing Judge forcing POL to provide further information and thereby delaying the recusal hearing.

Kind regards
Amy

Amy Prime
Solicitor
Womble Bond Dickinson (UK) LLP

d:
m:
t:
e:

GRO

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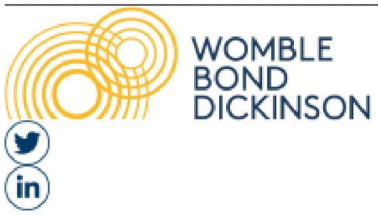
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From: Owain Draper <GRO>
To: Amy Prime <GRO>, Gideon Cohen <GRO>, David Cavender <GRO>
Cc: Andrew Parsons <GRO>, Tom Beezer <GRO> <GRO> Dave Panaech <GRO> "Anthony Grabiner" <GRO>
Subject: Re: Post Office Group Litigation - Recusal Application [WBDUK-AC.FID26896945]
Date: Wed, 27 Mar 2019 10:16:43 +0000
Importance: Normal
Inline-Images: image001.png; image002.png; image003.png; image004.png; image005.png; image006.png; image007.png

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We could, however, respond with something like this (just so Cs cannot say we ignored their letter):

"We have responded fully to your letter of yesterday. We have nothing to add."

Owain Draper

One Essex Court, Temple

EC4Y 9AR

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From: Amy Prime <GRO>
Date: Wednesday, 27 March 2019 at 09:54
To: Gideon Cohen <GRO>, Owain Draper <GRO>, David Cavender <GRO> Anthony Grabiner <GRO>
Cc: Andrew Parsons <GRO> Tom Beezer <GRO>, Dave Panaech <GRO>
Subject: FW: Post Office Group Litigation - Recusal Application [WBDUK-AC.FID26896945]

Dear All

Please find attached Freeths' response to our letter of last night. The back correspondence is also attached.

They are planning to "proceed on the basis that you will not be relying on any parts of the Judgment to which you have not expressly referred in Parsons 15" unless we tell them otherwise by 11am and may seek a hearing with the Judge to discuss this matter and delay the recusal hearing.

Thoughts and comments welcomed.

Kind regards
Amy

Amy Prime

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Solicitor
Womble Bond Dickinson (UK) LLP

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From: Miranda Bond [mailto:GRO
Sent: 27 March 2019 09:42
To: Dave Panaech; Charlie Temperley; Andrew Parsons; Amy Prime; Emma Campbell-Danesh; Victoria Brooks; Jonathan Gribben; Michael Wharton; Anna Martin; Lucy Bremner; Beth Hooper; Katie Simmonds; Sushma MacGeoch; Rachel Lawrie; Jane Atkinson; Mandy Robertson
Cc: James Hartley; Imogen Randall; Dean Hill; Stephanie Jameson; Chloe Oram; Nicola Pettit; Angélique Richardson; Sarah Bogues; Francesca See
Subject: Post Office Group Litigation - Recusal Application

Dear Sirs,

Please see attached our firm's letter of today's date.

Yours faithfully,
Freeths LLP

Miranda Bond
Legal Assistant
T: GRO

[Freeths Website]<https://www.freeths.co.uk/>
Freeths LLP
Floor 3, 100 Wellington Street
Leeds LS1 4LT

[@freeths]<https://twitter.com/freeths>

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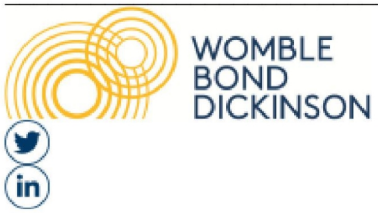
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From: Owain Draper <GRO>
To: Andrew Parsons <GRO> Amy Prime <GRO> <GRO> Gideon Cohen <GRO> David Cavender <GRO>
Cc: Tom Beezer <GRO> Dave Panaech <GRO> Anthony Grabiner <GRO>
Subject: Re: Post Office Group Litigation - Recusal Application
Date: Wed, 27 Mar 2019 10:34:48 +0000
Importance: Normal
Inline-Images: image001.png; image002.png; image003.png

The main alternative is to confirm that, subject to our point about the Judgment being read as a whole, we have identified all the passages on which we intend to rely. We would, in effect, be deleting the words "in particular" from the sentences that introduce each category of point.

Whether or not we want to do that depends on whether the rest of the counsel team thinks that amounts to tying our hands too much.

One further option would be to say practically the same thing as below but with slightly more words. For example:

"We have responded fully to your letter of yesterday. There are no further paragraphs that we wish to identify in accordance with the Order.

Your clients now have the benefit of a 44-page witness statement filed in accordance with the Order and have notice of the parts of the Judgment to which Post Office objects. We offered to provide a Skeleton Argument, which would have given you early sight of the arguments on the application as well as the relevant passages, but you preferred to seek a witness statement.

Your clients can, on the basis of the witness statement, form a view as to whether or not they wish to oppose the application. We invite you to inform us of your clients' position in accordance with the deadline in the Order."

Kind Regards,

Owain

Owain Draper

One Essex Court, Temple

EC4Y 9AR

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From: Andrew Parsons <GRO>
Date: Wednesday, 27 March 2019 at 10:21

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To: Owain Draper [GRO], Amy Prime [GRO], Gideon Cohen [GRO], David Cavender [GRO]
Cc: Tom Beezer [GRO], Dave Panaech [GRO], Anthony Grabiner [GRO]
Subject: RE: Post Office Group Litigation - Recusal Application

I would normally agree, but given historic allegations of PO being dismissive, do we want to write something more substantive?

A

Andrew Parsons
Partner
Womble Bond Dickinson (UK) LLP

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From: Owain Draper [mailto:[GRO]]
Sent: 27 March 2019 10:17
To: Amy Prime; Gideon Cohen; David Cavender
Cc: Andrew Parsons; Tom Beezer; Dave Panaech; Anthony Grabiner
Subject: Re: Post Office Group Litigation - Recusal Application [WBDUK-AC.FID26896945]

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“We have responded fully to your letter of yesterday. We have nothing to add.”

Owain Draper

One Essex Court, Temple

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To: Gideon Cohen <GRO>, Owain Draper <GRO>, David Cavender <GRO>, Anthony Grabiner <GRO>
Cc: Andrew Parsons <GRO>, Tom Beezer <GRO>, Dave Panaech <GRO>
Subject: FW: Post Office Group Litigation - Recusal Application [WBDUK-AC.FID26896945]

Dear All

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Thoughts and comments welcomed.

Kind regards
Amy

Amy Prime
Solicitor
Womble Bond Dickinson (UK) LLP

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Cc: James Hartley; Imogen Randall; Dean Hill; Stephanie Jameson; Chloe Oram; Nicola Pettit; Angélique Richardson; Sarah Bogues; Francesca See
Subject: Post Office Group Litigation - Recusal Application

Dear Sirs,

Please see attached our firm's letter of today's date.

Yours faithfully,
Freeths LLP

Miranda Bond
Legal Assistant
T: GRO

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Freeths LLP
Floor 3, 100 Wellington Street
Leeds LS1 4LT

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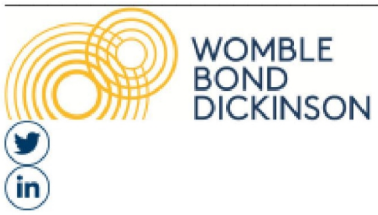
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Wednesday, 12 June 2024

(9.45 am)

MR STEVENS: Good morning, sir.

SIR WYN WILLIAMS: Good morning.

MR STEVENS: We're hearing from Mr Beezer today.

SIR WYN WILLIAMS: Yes.

THOMAS MATHEW BEEZER (sworn)

Questioned by MR STEVENS

MR STEVENS: Thank you. Before we begin, sir, I should say we're due to have the usual fire alarm test at 10.00. I propose we simply sit through it.

SIR WYN WILLIAMS: Yes, of course.

MR STEVENS: Please could you state your full name?

A. Thomas Mathew Beezer.

Q. Thank you for attending the Inquiry today to give evidence. Mr Beezer, you've made two statements to this Inquiry, and thank you for your written evidence. The first has Unique Reference Number WITN09510100. That was read into the record on 2 February 2024 but, as you're called to give evidence now, I'll ask you to affirm it. Can I ask you to turn to the front of that witness statement in front of you, please?

A. Yes, I have it.

Q. Thank you. It should be dated 13 June 2023 and, if I could ask you please to turn to page 32 of that

statement, you'll see it runs to 82 paragraphs.

A. Yes.

Q. Is that your signature?

A. Yes, it is.

Q. You made a second witness statement on 8 May 2024. Could I ask you to turn to that, please?

A. I have it.

Q. Thank you. Page 41, please.

A. Yes.

Q. Is that your signature?

A. It is.

Q. Now, as part of your statement, you have exhibited several handwritten notes or attendance notes of various meetings you had. You also exhibited versions you'd typed recently, transcribing what those notes said --

A. To assist the Inquiry.

Q. Yes, and we're grateful for that. I understand that since you've re-read your statement you have a four corrections to make to those?

A. Yes.

Q. I'll deal with those shortly now. Please can we bring the first one up. It's WBON0001751.

If you go right to the bottom, please, I understand that the first correction is where it says, "distraction" at the bottom line, that should read

"distinction"?

A. It should.

Q. The second document, please, is WBON0001747 and about six lines down, I think it says "but only insofar as clause x 12" and that should say "clauses X, Y, Z"?

A. Agreed.

Q. Thank you. Can we then, please, turn to WBON0001752. If we could turn to the second page, please, midway down there's an asterisk and it says "contract incorp is a problem in this Clause". I understand that "clause" should read "class"?

A. Agreed.

Q. Finally, can we turn to WBON0001888. I'm playing catch-up with myself, sorry. I think here, if we turn the page, please, on the third line at the end it says "May view (QC)". I understand that should read "My view"?

A. Agreed.

Q. Thank you. That can be taken down now. Subject to those corrections to the exhibits, are the contents of your first and second statement true to the best of your knowledge and belief?

A. They are.

Q. Thank you. That stands as your evidence in the Inquiry. The first statement has already been published but

second statement will be published on the website shortly. Before I ask you questions about your evidence, I understand there's a statement you'd like to make?

A. Yes, thank you. I'd like to take this opportunity at the outset of my evidence to reiterate my apology in my second witness statement. To each and every subpostmaster and mistress, I'm sorry that the recusal application added to the complexity and challenges they faced in the GLO.

Additionally, I'd like to apologise to Mr Castleton personally. I submitted a witness statement in the Inquiry in its Phase 4 work and I had anticipated I'd be called in that phase. I had wanted and planned to make an apology to Mr Castleton in Phase 4 had I been called. I was not, hence taking this opportunity to now express my deep regret about the circumstances he and his family were placed in.

At the time of the case in 2005 and 2006, I was confident in the assertions made to me by POL about the robustness of the Horizon system and I believed I was acting properly and in accordance with my instructions when dealing with that case. However, with the information that has come to light over the course of this Inquiry, my confidence in such assertions has been

eroded, so I'm taking this opportunity to now say that I'm truly sorry.

Q. I'd like to start with some background questions, if I may. You qualified as a solicitor in 1996?

A. Correct, yes.

Q. You joined Bond Pearce in 2003?

A. Yes.

Q. As the Inquiry knows well, Bond Pearce subsequently became Bond Dickinson --

A. Yes.

Q. -- and Bond Dickinson then became Womble Bond Dickinson ?

A. Yes.

Q. I'll use the terms interchangeably, treat them as effectively the same body.

A. Fine.

Q. You were made a partner of Bond Pearce in 2005?

A. Yes.

Q. You remain a partner of Womble Bond Dickinson today?

A. Yes.

Q. Have you practised in civil litigation throughout your career as a solicitor?

A. Yes.

Q. Do you have any experience of practice in criminal law?

A. No.

Q. I'm going to primarily focus in evidence today on two

areas: firstly, the case of Post Office v Lee Castleton, which you've just alluded to and, second, the recusal application in the GLO proceedings. Before we do that, I want to turn to Bond Pearce/Womble Bond Dickinson's relationship with Post Office.

In 2005, when you say you became involved in the Castleton case, you described the Post Office then as a significant client?

A. Yes.

Q. Why did you consider the Post Office to be a significant client at that stage?

A. Bond Pearce had acted for the Post Office, I believe, for many years in a number of streams of work, commercial work, employment work, some litigation work, and it was a household name and a significant client. It was a client we were proud to have.

Q. You've named a few streams of work there. You didn't mention criminal proceedings. Is that because Bond Pearce didn't take on criminal work?

A. In the Civil Litigation Team we didn't take on criminal work. There may have been parts of the firm that did criminal work. We have regulatory teams, for example. So I can't say no criminal work in the firm at all. I did no criminal work for Post Office.

Q. Prior to dealing with the case of Lee Castleton, in

summary form, what experience did you have of conducting litigation for Post Office itself?

A. I find that quite hard to answer at this distance. It's 18/19 years ago. I suspect it will have been some of the more complex debt recovery, I suspect. But I'm dredging my memory.

Q. Please can we bring up your first witness statement, which is WITN09510100, and page 5, paragraph 12, please. Thank you.

You make a point about an engagement letter relating to the Castleton litigation, and you then say:

"I cannot now recall why this was done, not least because my firm had a global engagement in place with Post Office throughout this period (and, so far as I am aware, at all times in our relationship) ..."

Could you please describe to me what you mean by "global engagement"?

A. I understand that you could call it a framework agreement; you could call it an appointment agreement. I can't picture it, I may never have seen it, I may just know that each year or at the recommencement of successful tenders a new framework agreement between Post Office and its panel law firms was put in place. So there's a fully termed framework agreement, I believe. Although I can't picture it and may never

have seen it, I just know it existed.

Q. Based on your knowledge of it or whatever knowledge you had, would that global agreement then be supplemented by individual retainers on specific matters?

A. It may have been. It may have been.

Q. The Inquiry heard evidence from Chris Aujard, who was General Counsel between October 2013 and March 2014, with some overlap with Jane MacLeod, as a General Counsel of Post Office Limited. In his evidence, he described during that period that Bond Dickinson was so embedded within Post Office that, in many ways, they acted as an extension of the in-house team. Would you accept that is a fair characterisation of how Bond Dickinson operated with Post Office at that time?

A. 2013/2014?

Q. Yes.

A. I probably wasn't much to do with the Post Office relationship at that time, so I can't answer that with any precision. I suspect I was doing no Post Office work at all at that time. As a partner in the firm, I would say we always had a proper lawyer-client relationship but, from my personal experience, I can't answer. I wasn't doing Post Office work.

Q. In respect of when you were doing Post Office work, would that description be fair for any period of time

which you were involved with it?
A. I don't think so. I did Post Office work in those early years and then, later on, as we will see, in the recusal but in the intervening years not at all.
Q. So you say "early years", we're talking --
A. Early 2000s, yeah.
Q. When do you think you stopped doing that work?
A. It's a guess but, if you want me to guess, I will. 2007/8/9, somewhere like that. Before, probably 2007/8, I drop out of that vein of work and that relationship.
Q. As a partner in the litigation team during that period, would you have had any oversight at all of the Post Office relationship, even when you weren't specifically working on cases for them?
A. No, not oversight of the relationship but, as a partner in the litigation team, I will have had a connection with the people in the litigation team, yes, and they may have been doing Post Office work. So I would have known about stuff going on but we had a proactive relationship partner for Post Office and that wasn't me.
Q. Who was that?
A. That was a gentleman called Simon Richardson.
Q. We may come back to that period of time in due course. I want to look at the early years first and let's start with 2005, please, and some emails relating to the case

against Gillian Blakey and David Blakey. Can we please turn to POL00142517.

(Pause for fire alarm test)

Right, I think that's over.

So we have an email on the screen here, if you could just scroll up slightly, thank you. So this is from a solicitor at Bond Pearce, is it Dave Panaech?
A. Panaech.
Q. Panaech, thank you. It's to Cheryl Woodward at Post Office and Mandy Talbot, and you are in copy, and it's referring to sending a letter before action off on the Riby Square Post Office case. Why would you have been copied in as a partner on a correspondence such as this?
A. Dave was a solicitor in the team. In those early times, I had a footprint within the Post Office relationship. I think that's why Dave is copying me in.
Q. Okay if we look for an email further on in the timeline, it's POL00142534, please, from Dave Panaech again to Cheryl Woodward, you're in copy, dated 22 November. This concerns civil proceedings and it sets out that Particulars of Claim were enclosed with the email. The penultimate paragraph, it says:

"The facts of the case were ascertained from the documents prepared by the investigators in the POID file, in particular, the witness statements produced in

anticipation of the criminal trial, Paul Whitaker's report and his interview of David Blakey."

So, at this stage, you were aware of an overlap in some cases between civil proceedings being brought by the Post Office and criminal proceedings; is that right?
A. No, probably not. My read of this, when I was sent this recently by the Inquiry, is that we were doing the debt recovery afterwards, is what I think, but I don't know that.
Q. Let me rephrase my question, sorry. You were aware that, in some cases where you were instructed to pursue debts on behalf of the Post Office, the Post Office had prosecuted the people you were pursuing?
A. I believe that must be right, from this email, yeah.
Q. Presumably, you were aware that Post Office relied on Horizon data when pursuing those criminal prosecutions?
A. Yes, probably, but -- I say, "yes, probably" in answer to that question because I think the first time that was gone into intellectually as a topic was in the Castleton case. Everything in the Castleton case suggests to me we -- me and the people in that case -- are on that journey for the first time. You know, the language is -- we're not saying we did this in the last case. I think that's the first forensic investigation. So --
Q. Just to clarify, are you saying that Castleton was the

first time at least you turned your mind to data produced by Horizon being used as an evidential basis to pursue claims for debt?
A. Yes, I think so. I think so but, given that Horizon underpinned their business, the debts being chased at this time -- if that's what's happening because I don't remember this at all -- must have been generated from Horizon.
Q. It seems that, from here, Bond Pearce, as part of its debt recovery work, were being sent bundles of documents relevant to those criminal prosecutions?
A. That seems to be some of the background material that we sent but, as I say, I've no memory of this whatsoever.
Q. So, as a broad question, if a solicitor at Bond Pearce at this time, who was handling a debt recovery action, if they had or discovered evidence that called into question the reliability of the Horizon IT System, to what extent do you think they would have a responsibility to consider whether that document or information ought to be disclosed to subpostmasters convicted of theft or false accounting in criminal proceedings that relied on data generated by the Horizon IT System?
A. As a civil practitioner, I'm not sure I'm really placed to answer that. Can we unpack that question a little

bit? So if there was a document that demonstrated the --
Q. Well, let me unpack it. There's a civil practitioner dealing with a claim for debt --
A. Yes.
Q. -- and that claim for debt relies on data generated by the Horizon IT System.
A. Yeah.
Q. That civil practitioner is aware that his or her client also prosecutes subpostmasters for theft or false accounting based on Horizon data?
A. Yes, if that was what had happened in the Blakey case but I don't know that.
Q. Yes, setting out some hypotheticals here.
A. Yes.
Q. In those circumstances, if that civil practitioner discovered evidence or information that undermined or tended to undermine the reliability of the Horizon IT System, do you think there was any responsibility on the civil practitioner to consider whether that document ought to be disclosed to subpostmasters who had been convicted of theft or false accounting?
A. The specific subpostmasters or subpostmasters generally as a class?
Q. Well, let's start with generally as a class first.

A. I don't know how to answer that, to be honest with you. I'm not trying to avoid answering it. It would need the civil practitioner to have sufficient knowledge of criminal process to be able to navigate those waters. It would certainly have an impact on the civil case that was on the desk at the time, of course it would. Absolutely. Would it trigger a solicitor out there in law land to take on a proactive disclosure duty? I don't know the answer to that.
Q. Let's not go as far as to say they have a disclosure duty but do you think there's any responsibility to raise or discuss it with the client and say, "You may need to consider your criminal prosecutions" or --
A. If they had a full enough picture of what was going on, and so, if a case on a desk had -- if someone was -- became -- actually knew that the data that had underpinned a civil case or a criminal case was wrong, I believe there would be a conversation with the client.
Q. I want to move to look at the Lee Castleton case now. It's a case the Inquiry has looked at in some detail in Phase 4. Just to refresh on the background, Mr Castleton was a subpostmaster of the Marine Drive Post Office from 18 July 2003.
A. I believe so.
Q. You're nodding, yes?

A. Yes, I believe so. We're going way back into my memory.
Q. Following an audit on 23 March 2004, the Post Office suspended Mr Castleton because of alleged discrepancies?
A. I believe, so.
Q. The Post Office subsequently instructed Bond Pearce to pursue Mr Castleton for the shortfall as a debt?
A. Yes.
Q. This was initially handled by a team called CMS within Bond Pearce?
A. Yes.
Q. A claim was issued and served on Mr Castleton --
A. Yes.
Q. -- and he served a defence and counterclaim on 15 August 2005?
A. Yes.
Q. The Post Office failed to file a defence to the counterclaim by the deadline --
A. Yes.
Q. -- and that was because of an error by a fee earner. We don't need to go into the details of it but that was subsequently resolved?
A. Yes.
Q. But the court had entered judgment in default of a defence being served, which led to your involvement in the case?

A. It did.
Q. Let's have a look at a document, then. It's POL00070496, please. Could we go to page 2, please, right at the bottom. There's an email from Stephen Dilley; he was an associate, was he, at the time in Bond Pearce?
A. Yes.
Q. Did he report to you?
A. Yes, on this case.
Q. We see there this is to Bob Heckford on 18 November. Who was Bob Heckford?
A. I believe Bob Heckford was one of our internal risk people. I'm not absolutely sure but I think that's the role he fulfilled.
Q. So we see "Private, Privileged and Confidential and Prepared for the Purposes of a Possible Claim Against the Firm", and this goes on to set out the background which we've just discussed. We can see you're copied in to it there. So, against that background, can we turn to your email on page 1, please. Thank you. So 21 November, you say that you have spoken to Mandy, that's Mandy Talbot?
A. Agreed.
Q. What was your working relationship with Mandy Talbot at that point?

A. Solicitor-client, cordial. Which aspect do you?
Q. Well, how often did you work with her?
A. I can't remember but sporadically but regularly.
Q. You said cordial?
A. Yes.
Q. Is your evidence that it was a cordial relationship?
A. Yes, yes.
Q. You say:
"I spoke to Mandy. She is understandably a little disturbed."
Presumably that's by the default judgment?
A. She was angry.
Q. We've said already in your witness statement you describe Post Office Limited as a very significant client. Were you effectively being brought in --
A. Yes.
Q. -- to calm Post Office's nerves?
A. Yes.
Q. So it was being brought in to show that a partner was having clear oversight of this case?
A. Yes.
Q. Would you usually have been brought into a debt claim such as this?
A. No.
Q. If we go down -- it's already there, sorry. You see at

number 2 it says:
"Hugh James are currently trying to contain an embryonic and not yet issued class action relating to the Horizon [IT] system. A judgment in relation to it (even a default) is currently very bad news for RM."
Presumably that's Royal Mail?
A. Royal Mail, POL; at that time they were the same entity.
Q. So breaking that down, Hugh James are another firm of solicitors?
A. Yes.
Q. They are acting for Post Office in relation to what's described here as a potential class action?
A. Yes.
Q. Can you recall what Mandy Talbot told you about this potential class action?
A. No, because it's 18/19 years ago. I can go on, if you want me to, to give you some colour.
Q. Well, yes, what was your understanding of the scale of the action at this point?
A. I don't think I had an understanding at this point in time. What I think was going on here was Mandy was pretty peeved with the firm. We'd got a default judgment against them, which -- for £250,000, which is thoroughly bad news. Mandy -- as I said, I did interact with Mandy periodically, I knew her reasonably well and

she could be quite forceful, and, at this time, I think she was saying to me words to the effect of "You've really stuffed up, there's an embryonic class action" to put fear into me and to tell me off.
That's what I thought at this point, when this conversation took place. As time moved on, although I didn't know it at the time this conversation took place, I think she was overstating the embryonic class action because, as I understand it, it was, in fact, two cases, I think, and I think she was overstating the position to extract her ounce of flesh from the firm for having made a mistake, is what I think was going on but I don't know that for certain.
Q. But, at this stage, there's a clear link being drawn between Mr Castleton's case and an overall background worry of other cases relating to the integrity of the Horizon IT System?
A. Yes.
Q. Point 1, under "Requests from Mandy", you say "I feel we MUST comply with", the first one is:
"that she is kept fully informed on this matter -- including steps to be taken. I will lead on this.
"2) that she be sent a full set of proceedings (in order) and a full set of correspondence ..."
You go on to say:

"As you know I would like a full set too please."
So you're envisaging a very hands-on role for yourself, it seems, in this case.
A. We need to get that default judgment set aside.
Q. So that's getting the default judgment set aside. Was it also because of wider concerns about a class action that had been raised?
A. At this point, I mean, it's a long time ago but, knowing me because I know me, I will have been laser focused on the default judgment, the mistake the firm had made, and responding to the urgency that the client is putting upon me. And so my concern, my irritation that's coming across to my internal team here is saying "We're going to get this default judgment set aside". That's what I think is going on.
Q. Well, if we look at (3), it says:
"due to matters handled by Hugh James relating to Horizon, Mandy asks that we speak to them to ensure we are all pulling in the same direction. This is even more important given the threatened class action."
You go on to say at (4) about not issuing proceedings in a claim based on Horizon evidence without her consent, and (5):
"... wants a report on how many Horizon based claims we currently handle."

So you may be focused on the default judgment but the class action was certainly playing a part in your --
A. Yes.
Q. -- mind and work going forward?
A. Yes.
Q. At that point, did you or anyone at Bond Dickinson have a desire to become more involved in handling the wider potential class action?
A. I don't believe so, not at that point.
Q. Could we look, please, at POL00070480. This is an attendance note dated 23 November 2005. We see on the left in the second tramlines, it says "Name: Stephen Dilley", and it says:
"I had a telephone conference with Tom Beezer and Mandy Talbot."
So this is Stephen Dilley's note of that?
A. Agreed.
Q. Would you have seen that at the time or not?
A. No. I have seen it since.
Q. So, at this stage, default judgment hadn't been set aside?
A. No.
Q. If you just read, as best you -- well, as much as you need, points 1 to 5, would you agree those are all about the substance of the case and not the default judgment?

A. No, I wouldn't agree with that, because -- do you want me to say why?
Q. Yes, please do.
A. So the witness statements at (3), John Jones, Helen Hollingsworth and Cath Oglesby, were the set aside witness statements, I think. You've got to remember we're going back 18 years here. I think those were the witness statements in support of the set aside application and so I think, in these early stages -- so the question was: do all five relate only to the forward facing actions in the case? The answer to that is no. I think some probably do.
Q. So as I understand what you're saying is the -- admittedly it is a long time ago --
A. A long time.
Q. -- but, presumably for the purpose of overcoming the merits test of setting aside a default judgment, rather than simply putting the solicitor's witness statement, your evidence is that you're going to obtain witness evidence of fact --
A. Yes.
Q. -- from the actual witnesses --
A. Yes.
Q. -- in the substantive case --
A. Yes.

Q. -- and serve that as part of the --
A. I think that's what happens. If I'm wrong, I'm really sorry but I think that's what's happened.
Q. We then have point 6 about recommendations for counsel: Richard Morgan, now Richard Morgan KC, who we know came on to be counsel in this case.
A. Yes.
Q. At 7, referring to Mandy Talbot, and you say there that is to attend a hearing on 6 December. Now, that's not a hearing for the default judgment application to be heard, was it, because it was still being prepared at this point?
A. I don't know but there is a file note on the file that I read in preparing for hearing this that that hearing gets vacated. I don't know what it is. Maybe you do, I don't know.
Q. Then as we carry on, if we go down, Mandy Talbot asked a question at the meeting on Friday to ask whether rebooting the system will change the cash accounts, and then asked for a copy of the expert reports.
Would you accept that the conversation -- I know you said this is about default judgment and preparation for default judgment but it's also forward looking to the substance of the case as a whole.
A. I -- yes, I suspect, yeah, I -- I think I agree with you

but what I think is going on here is Mandy and me desperately trying to get up to speed. I think my first substantive involvement is on 21 November, I think. when I sent that note that you've shown me to Bob Heckford after my first conversation with Mandy, when she told me off. Mandy then says, "I want a full set of papers"; I say, "I want the same".
We've had a call with Stephen, I think it's certainly in part -- and I probably would say in large part -- about understanding what we can know with two days' worth of exposure to this case about the merits. At 3 we have the witness statements that I think are going to be prepared to support the set aside application and, at 9, we're talking here about Mr Castleton's expert reports.
It was the Bentley Jennison one and the White Hoggard or something like that, that had come in in September before my involvement, I believe, and they must have been mentioned on this call. So Mandy is asking here for those expert reports that Mr Castleton sent on a without-prejudice basis. We didn't have any expert reports at this point.
Q. Before we turn the page, was it your usual practice in making an application to set aside default judgment to lead witness evidence from some or all of the witnesses

you actually intended to call in the litigation, rather than simply rely on a solicitor's witness statement?
A. I'm going to say something that I don't mean to be jocular: I hope I don't have a usual practice in setting aside default judgments but, at this distance, I don't know, I just don't know. But this was our mistake, and and me being the way I'm wired, the kitchen sink was going to go at this to get that default judgment set aside for what was an important client of our firm.
Q. If we can turn the page, please, it says:
"Tom made it clear that we were to get counsel involved at an early stage as [Bond Pearce] were picking up the tab for rectifying the default judgment and he wanted to go for a sledge-hammer approach."
Do you recall using the term "a sledge-hammer approach"?
A. Not at all.
Q. Is it wording you would use?
A. In that circumstance, probably.
Q. What do you mean by that?
A. I mean my firm has made a mistake and, as a partner of my firm, I'm going to get that mistake rectified.
Q. Did the sledgehammer approach go to the overall conduct of the case, not just the default judgment?
A. Not at all, and I've pondered that and I can answer that

more fully if you'd like me to.
Q. Please do.
A. We can see from later emails that maybe we will go to, that, after the default judgment is set aside, there is a definite pause and "What shall we now do", both with Mandy and from the Bond Pearce side. So, once the case is regularised, what shall we now do to take this forward? And so the sledgehammer approach or the kitchen sink approach isn't a comment about the action in general and, in fact, it's worth just remembering that, in November 2005, Stephen Dilley had already suggested mediation to Mr Castleton's lawyers and, in January 2006, before the default judgment was set aside -- I think that's right, in terms of timeline -- a Part 36 offer had already been made. The offer of mediation was rejected the very next day by Mr Castleton's lawyers back in November 2005.
So there wasn't a set plan to have litigation here at all. There was a set plan in my mind to get rid of a default judgment, absolutely, yes. But sledgehammer, call it what you will, I was going to do everything that I could to rectify my firm's mistake for my client. But there was definitely post-post-set aside of default judgment, which happened by consent, but quite late in the day. There was a step back and reflect, further

attempts at settlement and there was no desire for litigation.
Q. Well, let's just look at this point. You're told at this point that there's a potential class action in the background; in your own words in the email before a default judgment was "very bad news"?
A. Very bad news.
Q. I assume that, at this stage, Post Office or Mandy Talbot was saying that the Horizon system is -- has -- it's an -- sorry. Was Mandy Talbot saying to you that there were any difficulties or problems with the Horizon IT System?
A. Not at all.
Q. Presumably, Post Office wished to defend any class action at this stage?
A. Yes, I assume.
Q. In this conference, it appears that you do touch on the merits of the case?
A. Yes, because we are collating evidence to put in, in support of the set aside.
Q. So standing back from all that, in that context, is it really your evidence that the sledgehammer approach was purely limited to the default judgment or to dealing with these Horizon claims generally?
A. It is my evidence that it was purely limited to default

judgment. I'm absolutely sure of that.
Q. Could we look at, please, POL00119895. This is a document that was sent to you relatively recently by the Inquiry.
A. It was.
Q. It's a note of a meeting this Inquiry has seen on numerous occasions. My understanding is the attendance list, there's no one from Bond Pearce on that list; is that correct?
A. That's what it shows to me. I hadn't seen this document before and I hadn't seen it come up in the Inquiry. It was a new document to me completely when you sent it to me.
Q. I appreciate at this distance: can you recall Mandy Talbot referring to a meeting such as this to discuss Post Office's approach to cases that involve challenges to the integrity of Horizon?
A. No.
Q. If we turn to page 3, please, we see paragraph 14 there's a reference to Mr Castleton's case, scheduled for 7 February. Your evidence is that, at this stage, you weren't consulted, in respect of Mr Castleton's case, about it being part of this broader strategy meeting?
A. No, this is -- when is this, 2006?

Q. 2005, sorry.
A. 2005?
Q. 6 December 2005, so shortly after the conference note we just --
A. So this is Mandy saying, on 7 February 2006, because the date is not there, is it, so -- because this is December 2005.
Q. Yes, it'll be --
A. So that must be something to do with --
Q. I think it's a case management conference?
A. Was it, or is it to do with the set aside? Anyway. Nothing turns on it.
Q. Your evidence is that you cannot recall being consulted about this meeting?
A. No.
Q. Thank you. Can we turn, please, to POL00070910. If you could turn to page 3, please, that's perfect. Thank you.

So now, further on in the chronology, this is an email from Stephen Dilley to Mandy Talbot with you in copy on 20 February 2006. If we look at number 1, it says:

"[Post Office's] view of pursuing the claim in the light of the favourable evidence from John Jones, Cath Oglesby and Helen Rose ..."

So causing there, those are witness statements in relation to Mr Castleton's case in particular --
A. And they were the ones in support of the set aside application.
Q. Mr Dilley's view is that's in favour, in effect, of pursuing the claim against Mr Castleton?
A. Yes. He's saying -- I mean, the Inquiry has heard from Mr Dilley already but my understanding from reading the file is his view of the merits of the case improved in the collation of the evidence for the set aside, and what he's saying here is, in his view, there's favourable evidence from those three witness statements that was got in support of the set-aside application so I think his view -- my reading of the file -- improved on the merits of the case.
Q. He says:

"... balanced against any broader concerns over Horizon issues ..."

Is that talking about the potential class action?
A. I suppose the straight bat answer is I don't know what was in his mind but that may be. That may be.
Q. Sorry, I'm not asking you about what's in his mind. Let me rephrase it in another way. At this point, reading this, do you suggest that, on the one hand, there's the evidence in the case --

A. Yeah.
Q. -- which is suggesting pursue the claim --
A. Yes.
Q. -- and, on the other hand, balanced against that, or not pursuing it, are broader concerns over Horizon issues?
A. Yes, it says that but I can't be put that into context for you.
Q. You can't recall because, obviously, you were dealing with this case to provide reassurance to Post Office?
A. Yes.
Q. You presumably discussed it with Mandy Talbot since November --
A. Yes.
Q. -- and February?
A. Absolutely.
Q. Can you recall being told anything about concerns about Horizon issues, broader concerns about Horizon issues, which would, in your view, lean the Post Office in favour of not pursuing Mr Castleton?
A. No, I know Mandy Talbot was concerned that there was a case that was an issued case that had a counterclaim for £250,000 that had a challenge to Horizon in the defence, and so that might be the broader concern. She was absolutely concerned about that. But that's against the background of my understanding and I believe Mandy's

understanding that Horizon was robust, to use a word that we've heard many times.
Q. Can we turn to page 1, then, please. This is Stephen Dilley to Julian Summerhayes on 24 February and says:

"Since my last email, I have spoken to Mandy to agree the strategy moving forward."

Do you recall if you were involved in that conversation as well?
A. I don't know.
Q. "Internally, the [Post Office] feel conflicted about the Castleton case. The [Post Office] believes to be the Horizon system is robust but the downside is the cost (in [Post Office] time and money) of proving a negative (ie that there are no faults) is expensive."

It goes on at (2):

"However, her view is that the [Post Office] must not show any weakness and, even if this case will cost a lot, there are broader issues at stake other than just Castleton's claim: if the [Post Office] are seen to compromise on Castleton, then 'the whole system will come crashing down' ie it will egg on other subpostmasters to issue speculative claims. She knows that Castleton is talking to Bajaj (the other subpostmaster bringing a Horizon based claim). Her clear message is that we must be seen to take a firm

line. With this in mind, our instructions are as follows ..."

Can you recall if, at this point, you thought there was a change in approach to Castleton based on wider concerns to do with Horizon, from -- I should say, sorry, change in approach from Post Office?

A. No, no, and so we tried to mediate in November, we'd issued the Part 36 in January 2006 and there were -- absolutely right, Mandy had broader concerns, as is displayed quite clearly here. But once a case is issued and once a counterclaim is issued, you can't get rid of it unless you settle it or unilaterally walk away.

Q. I think we're talking at cross purposes. So, in the first email from Stephen Dilley, we had, on the one hand the evidence in the case from the witness statements was suggesting go ahead --

A. Yes.

Q. -- and, in his view, on the other hand, broader Horizon concerns --

A. Yeah.

Q. -- saying try to settle it?

A. Yes.

Q. Here we have an email saying, well, actually, at number 2, the broader concerns is a reason to pursue the case, even if it costs a lot. Was that a change in

position from Post Office?

A. I don't read it as that. They're sort of veins of thought that go through this difficult situation. We have some issue proceedings. You can't magic them out of existence. Unless you settle it, which of course is -- it needs consent of both parties or unless you unilaterally discontinue -- pay the costs -- you're still left with the counterclaim of £250,000.

This is a difficult situation that the Post Office has become locked into and, in fact, if we read on, the very next step, "With this in mind, our instructions are as follows: Please can you draft a Part 18 request", now that Part 18 request was March 2006 and was, I think, completely directed at what is the problem, what's the defence, what is the allegation over Horizon, because we didn't know. We wanted further information. We weren't trying to avoid engaging with that in any way. We actually wanted that information. So the very next thing Mandy says is "Go and get information. Let's try and get some clarity here".

We wanted to move this case forward. It's a problem. We as a firm have had a default judgment entered against our client. That's now sorted. That still lurks in this case as a sensitivity. There are issued proceedings. There's a vastly inflated

counterclaim. What do we do? We've got to get rid of this. We've got to try to settle it.

Q. If someone is trying to simply settle a case, just because, for the reasons I think you said earlier, publicity or whatever it might be, you adopt a different litigation strategy to those types of cases, than you do to, for example, a test case where you're trying to make a point irrespective of the cost. Would you accept that?

A. As a proposition, yes, I would accept that, I think -- I think.

Q. So, in this case, are we seeing here a change from your firm thinking this may be a case to settle to, "Well, now we're going to litigate it and treat it as a test case"?

A. We tried to settle it throughout, all the way through. The Inquiry has Stephen Dilley's long witness statement and I can picture the table in it that sets out every attempt at settlement. Post Office wanted to settle this case. The counterclaim, the £250,000 counterclaim that sat there as a poison pill was only stepped away from and dropped to about £11,000 on 7 November 2006, and that was about a month before trial, and so that was held on to all the way through, which created huge problems: how do we get rid of this? Mr Castleton held

on to that overinflated counterclaim, which I think actually sat in the hands of a company, really, if one looks at legal entities.

Q. Well, we have your evidence on that. Let's look at how the strategy developed in those months, in March. Can we look at POL00071202, please. Can we turn to page 9. I think this is a hard copy document, which is why it's presented like this, but we see there's an email, top left, from Mandy Talbot, is date is 1 March 2006. There's Post Office addressees there and then, in the cc list, this has been sent to you and Stephen Dilley?

A. Yeah.

Q. It says:

"I write further to the meeting in December 2005 which most of us attended to bring you up to date with the current state of play."

I think that refers to the note we showed earlier but you weren't in attendance at?

A. No.

Q. Do you recall receiving this email?

A. No, I don't think -- I only saw this very recently when the Inquiry sent it to me. So it's a new one to me, other than it was sent to me 18 years ago. I've only seen it recently.

Q. Can we look at, then, page 6, please. This is further

on in the chain, it appears to have been printed by Stephen Dilley at the top --

A. Yes.

Q. -- from Mandy Talbot to him and you. If we go down, please, to where it says, "Both", it says:

"I copied you into my epic email on 1 March 2006 but the response to the same has been limited in the extreme."

It goes on to say:

"I have also been contacted by John Cole asking for assistance in preparing a spec for an external expert or experts but I think that this is of limited use until we have reports completed by Fujitsu on the system and [the Post Office] on the data provided. However in respect of an external expert from the field of computer systems and accounting can you suggest any names or firm who may be suitable?"

Can you recall at this time being involved or instructed by Post Office to find an expert to assist with Horizon claims generally, not just in relation to Mr Castleton?

A. No.

Q. Can we please bring up POL00070850. This is a conference note on 7 April 2006. You're in attendance and Ian Herbert of Hugh James, the firm we heard from

earlier, dealing with what was described as the embryonic class action. So was this conference to deal with strategy or consistent strategy on how to deal with Horizon related claims?

A. I think this is the call that Mandy has asked the two firms to have. I think that's what's going on. What date is this?

Q. 7 April 2006.

A. Mandy wanted there to be some interaction between the two firms in dealing with cases of a similar nature. That's absolutely right.

Q. So it refers to a discussion between you, Stephen Dilley and Ian Herbert, before Mandy Talbot joined. It referred to Post Office having:

"... difficulty obtaining information from Fujitsu and that the strategy should be to identify key individuals at Fujitsu who could provide the relevant information we require in terms of evidence and then for Stephen Dilley of Bond Pearce and Ian Herbert of Hugh James to make an appointment to visit those individuals ... to take Proofs of Evidence. Each solicitor could prepare witness statements for their respective cases for Fujitsu to sign, thereby making it easy for them."

In broad terms, was this proposition here to get evidence of fact from Fujitsu witnesses?

A. I'm not sure because I think, at the early stage of the Castleton case -- and I'm going to class April as an early stage -- I think there was a -- there's a letter that Stephen wrote to Fujitsu in the early stages that suggests they might give an expert report. Now, with hindsight, that's misconceived because Fujitsu is too close to be an independent expert, so --

Q. Just pausing there, you say "with hindsight", if you look at the fourth paragraph, it says:

"Tom Beezer explained that if Fujitsu were not going to put forward an expert, we would need to take Fujitsu through questions we have for them."

A. Okay, so I have already got there: they're not going to be an independent expert. Okay, that's right, but there had been a notion early in this case that Fujitsu could be a Part 35 expert and I think that was misconceived and I've clearly got to that place here. So, yes, that must have been attending to get witness statements of fact from Fujitsu.

Q. So it says:

"The information we get from Fujitsu will not be an independent expert report ..."

It says:

"We will need to obtain a separate independent report as well, but this will be easier if we have

Fujitsu's evidence first because then we will be able to focus the independent expert's report (which [the Post Office] will need to pay for) on relevant issues."

Then it goes on to refer to more generic issues of negotiation between Slaughter and May relating to the Horizon Online contract.

Now, where you're talking about a separate independent expert report here and it says, "We will need to obtain", is that across the board as an independent expert report, generic report, going to the integrity of Horizon?

A. No. I don't believe that. That's a new concept on me. So, with 18 years passing, it's hard to be absolutely definitive but at no point have I ever thought we would get a one-size-fits-all. I don't believe I ever thought that. I think the "we" here in Stephen Dilley's note -- remember it's his note -- is us, Womble Bond, not a joint -- I believe that's right.

Q. Were you involved in -- because you obviously had client care responsibilities in oversight?

A. Yes.

Q. Were you involved in discussing evidence in the Castleton case with any representatives of Fujitsu?

A. Me?

Q. Yes.

A. No.
Q. Were you involved in discussions with any representative of Fujitsu about the Horizon IT system generally?
A. Before preparing for this Inquiry, I would have said no. I see from the file I did attend a meeting at counsel's chambers where Anne Chambers was present and there must have been a discussion but, before preparing for this event, I would have denied that even took place. So I've got no memory of it. I clearly met Anne Chambers once. I don't believe I ever spoke to anybody from Fujitsu at any other time.
Q. Just on that, so I cover this off, I take it from your evidence that if were to ask you any questions about a meeting with Anne Chambers you would simply point me to the attendance note of that?
A. I would.
Q. Could we look at one of the draft --
Actually, sir, looking at the time it may be a good time to take our first morning break.
SIR WYN WILLIAMS: *(Microphone muted)*
MR STEVENS: Sir, I think you're on mute, I think.
SIR WYN WILLIAMS: How much longer have we got on Mr Castleton?
MR STEVENS: Not very long at all.
SIR WYN WILLIAMS: Well, let's finish Mr Castleton and then

we'll have a break.
MR STEVENS: Of course. Can we look at POL00081490_008. This a letter of 5 September 2006 to Stephen Dilley from Michael Mason of BDO Stoy Hayward LLP. They had been instructed to provide expert evidence subsequently not relied on in the proceedings.
A. Yes.
Q. Yes. Can we turn to page 3, please, and if we could go to the bottom, please. Under "Early indications of problems with the Horizon system", it says:
"We have found that there is some indication of possible problems with Horizon from our initial review of the electronic information you sent us. You sent the transaction summaries for January, February and March 2004. In theory the system should reflect the double entry nature of each transaction, eg the system should show the sale of a stamp and the receipt of the cash paid by the customer. Therefore the Horizon transaction entries for a period (whether day or month) should total zero. From our initial review we can see that March balances but January is out by £2.47 and February by £4.05. We have found which transactions cause the differences and will investigate them in due course. Although these are very small amounts they do indicate that some problems may exist, ie that the

double entry is not being put through."
You say in your witness statement that you were initially concerned by this?
A. Yes.
Q. Why were you concerned?
A. Because if there is a problem with the system, that is concerning in the case.
Q. These are small numbers.
A. Yes.
Q. But the fact that Horizon wasn't adding transactions or the allegation appears to be that double entry accounting wasn't being put through, that's quite a significant issue for Horizon integrity altogether, isn't it?
A. It would be.
Q. Can we look at POL00069612. This is a note of a telephone call on 6 September 2006, so two days after that report has been received. Again, I understand this is Stephen Dilley's note?
A. Yes.
Q. It refers to a conversation with you and says:
"Also Tom [expressed] his concerns that the expert said that they found some early indications of possible problems ..."
It refers to the problem we've just described. It

says:
"My comment to Tom is that I thought those amounts were quite small and that there will probably turn out to be a rational explanation because I have met with Fujitsu and they are utterly convinced of the integrity of their system and really it is just an electronic calculator so it is only as good as the person who inputs information into it."
Did that assuage your concerns at the time?
A. To a degree. We've got to remember the 5 September letter 2006 from BDO was their initial letter; they hadn't done their work; they hadn't prepared a report. It was more than a passing comment but it wasn't their concluded view. They had yet to do their work and so, in this case, as you may know if you've looked into the history of it, there were lots of blind alleys and lots of issues that were chased down unbelievably diligently by Stephen Dilley, for example the Greg Booth screen-freezing issue.
Q. Well, let's focus on this one?
A. Yeah, for sure, but what I'm saying is we chased down issue, after issue, after issue. We were diligent and forensic. This was a comment from BDO before they'd done any work and it's against that background that I would have been thinking about these things.

Q. Well, let's assume this analogy or comparison with Horizon being an electronic calculator, let's be favourable to Mr Dilley and assume that's accurate. Would you agree that for an electronic calculator to be fit for purpose, it should be able to add up numbers accurately?
A. Yes.
Q. So the fact that addition errors were potentially found by BDO, Mr Dilley's point about it being an electronic calculator doesn't really take anything anywhere, does it?
A. I think you're probably reading too much into an internal filenote but I agree with you: an electronic calculator would have to work.
Q. If we look at the third paragraph, it says:
"Agreeing with Tom that the strategy should be that we pick up the phone to Lee Castleton's solicitors, point out to them that Castleton has made an error analysing the cash account ... tell them what our accountancy expert alone is going to cost and invite them to ADR before we instruct an expert."
Was this a strategy to try to dissuade Mr Castleton from obtaining expert evidence on the basis of how much it would cost?
A. No, we wanted to understand the defence being put.

There was a real desire to get information from Mr Castleton. We'd Part 18ed in March 2006 on exactly that point, to try and get information.
Q. Well, let's focus here though, you'd received an additional letter from an expert that raises potential problems and the immediate response appears to be to raise the costs of an expert and go to ADR. Was it actually the strategy that you didn't want to dig any further into --
A. Not at all.
Q. -- into what BDO had found?
A. Not at all. Not at all.
Q. Can we look at the draft report, this will be the last question we ask on this. POL00069955, please. This is a draft report dated 29 November 2006.
A. Yes.
Q. Did you receive this?
A. Yes, I will have done.
Q. Would you have reviewed it?
A. At a high level, given the circumstances and the imminence of the trial, but yes, I will have looked at it yes.
Q. Can we turn to page 18, please, and if we could go down to 6.2. We see "Addition errors", and it refers to the same addition errors as before.

A. It does.
Q. Over the page, 6.2.4:
"I do not have an explanation for these errors but my review of the transaction listings for the three months has given no indication of any other errors."
Can we then go to page 4, please, and paragraph 2.1.2(a), summarising the conclusion:
"The only indications of possible computer problems that are apparent from the accounting records are three very small differences in the cash account (trial balance) but each are less than £5. This is discussed in section 6.2."
So you get the draft report on 29 November and this addition issue is still raised?
A. Yes.
Q. So the problem is still there. It's possible or it's at least raised that Horizon in this case wasn't implementing double entry bookkeeping?
A. It's possible.
Q. Did you discuss the BDO report with anyone at Post Office?
A. I don't remember but I suspect the answer is yes.
Q. Who would you have discussed it with?
A. Mandy Talbot.
Q. Anyone else?

A. I doubt it. No, I would have been speaking only to Mandy at this time.
Q. Did you discuss the BDO report with anyone at Bond Pearce?
A. Stephen Dilley.
Q. After the Castleton case had come to an end, did you speak about the BDO report with anyone at Bond Pearce or Womble Bond Dickinson?
A. No. So that BDO report, just to give you some context around it, contained one huge glaring error that I knew about, which has become called the 3,500 point, that was a glaring error, and that BDO report was a draft report. It was dreadfully late. It was after all evidence -- expert evidence has been debarred. It had a huge error in it and it was six days before trial.
There was no time to have the normal toing and froing that would happen on a draft expert report to bottom out issues. I simply don't know what would ever have happened to those small addition errors, as to whether they would have remained in that report or not, but no work was done to find out because it was pointless. The report was privileged, there was no time to do it. I'd lost confidence in the report, because it had a huge error in it already, the duplication error, the 3,500 point, and we were debarred by the order of

Mr Justice Seymour QC *(sic)* on 27 November, at which point we had still been wanting to try to get some expert evidence in. We were not running away from expert evidence at all. That expert report was meant to be in reply to something Mr Castleton was meant to have served on 10 November. He never served it, although we know he had it because his solicitors told us, on 17 November, that he had an expert report but they were not instructed to send it to us.

And so that draft document was meant to be sequential. It was never meant to be a standalone document. It was late, it was debarred. It was wrong. I know it was wrong, in huge degree, and so it was debarred. We couldn't use it.

Q. You said you know it was wrong in huge degree. You're referring to a point about £3,500 --

A. Yes --

Q. -- at trial and a balanced snapshot?

A. Something like that, yes.

Q. You didn't know that the addition errors raised -- their position --

A. No, we didn't but there was no time to bottom out those kind of issues as you would do with any normal expert report.

Q. At this stage, you were aware that Post Office was

relying on Horizon data for civil and criminal claims?

A. Yes. Well, certainly civil. Certainly civil. I don't know what they were doing in criminal claims.

Q. You were aware that there were other cases where subpostmasters were challenging the integrity of the Horizon IT System?

A. At a high level. I mean, I knew of them. I didn't know any detail.

Q. You had a report that raised a potential issue with double entry bookkeeping in the Horizon IT System?

A. Yes, but for all the reasons I've just been through it went one we were confident in.

Q. But on the addition error, you couldn't say that was an incorrect opinion?

A. Nor could I say it was correct but, yes, I agree with you.

Q. Do you accept that it was incumbent on you to advise the Post Office to investigate that issue further because there were other -- it would have started a train of inquiry as to whether the Horizon IT System lacked integrity?

A. I don't know that I didn't say that, I don't remember. I will have discussed it with Mandy.

Q. Let me ask you, is your evidence that you did advise that or can you not remember?

A. I just don't know.

MR STEVENS: Sir, that's a good time to break and we'll move on to the recusal next.

SIR WYN WILLIAMS: Right, thank you very much. I make it 11.05. Do we need to be as limited as ten minutes, given that we have just got one topic to cover before? What's the timetable, Mr Stevens? Is Mr Lenton coming in this afternoon or is he available before that, so to speak?

MR STEVENS: I understand he's available before that.

SIR WYN WILLIAMS: Right, I see.

MR STEVENS: I'm in your hands, sir. I'm happy to take ten minutes or happy to take 15, whichever you prefer, but I don't think we're pressed for time.

SIR WYN WILLIAMS: Right. So let's take 15 minutes but it's on the basis that we might jiggle the day, so to speak. We'll take 15 minutes and then, if we complete Mr Beezer before 1.00, we'll make a decision about whether we start Mr Lenton or have an early lunch then. All right?

MR STEVENS: Yes, sounds good. Thank you, sir.

(11.06 am)

(A short break)

(11.20 am)

MR STEVENS: Good morning, sir.

SIR WYN WILLIAMS: Good morning.

MR STEVENS: On timetabling, I anticipate that we will finish well in advance of 1.00. Whether we have an early lunch or plough straight on, I think we'll need to decide when the evidence is finished. I have spoken to Ms Hodge and there's a couple of logistical matters that need to be seen to.

SIR WYN WILLIAMS: Yes. Whatever, Mr Stevens. All I'm indicating is my willingness to be flexible in the way we deal with these things.

MR STEVENS: Thank you, sir.

I will carry on, then. I want to turn to the recusal application and, at this point, I'm going to make a point, almost word for word, that was made by Mr Beer yesterday. The authoritative legal position in relation to the issues addressed in the Group Litigation are set out in the judgments of Mr Justice Fraser -- now Lord Justice Fraser but, for historical purposes, I'll refer to Mr Justice Fraser -- so, for the purpose of your evidence, those judgments include the Common Issues judgment of 15 March 2019; the recusal judgment, 9 April 2019; and, insofar as relevant, the Court of Appeal's decisions refusing permission to appeal those. I'm not going to be exploring the factual legal position definitively established in Mr Justice Fraser and the Court of Appeal's judgment.

A. Understood.
Q. You say in your witness statement that you were broadly aware of the GLO proceedings but that you didn't have any material involvement until the recusal application?
A. Yes.
Q. Now, this was Andrew Parsons' case, effectively, wasn't it, the GLO proceedings?
A. Yes.
Q. You hesitate there. Why wasn't it Andrew Parsons' case, as solicitor?
A. Yes, it was but there were other people involved -- the run in to the GLO was -- took some time and there were other people involved. So was Andrew Parsons the lead person? Yes, I think he was, if that's the question you're asking.
Q. Yes, he was the partner with responsibility for the conduct of the case?
A. Yes -- sorry, yeah, I was talking about a different issue.
Q. In terms of the management structure of Womble Bond Dickinson, during the currency of the Group Litigation, where did Mr Parsons sit in relation to you?
A. So the Group Litigation started in 2016?
Q. It did, yes.
A. So I was a partner in the Southampton office. I was the

team leader of the Commercial Disputes Team and he was a partner in the Commercial Disputes Team.
Q. Did you have any oversight of Andrew Parsons's work at this stage?
A. Not his work. I mean, I had oversight of the team and the things going on the team but day-to-day work, no; concern over day-to-day work, yes, absolutely. So I'm not using that answer to try to step away from anything but would I check another partner's work? No.
Q. For background, Mr Justice Fraser distributed a draft judgment in common issues on 8 March 2019?
A. 8 March, yes.
Q. The Horizon Issues trial was due to start on 11 March 2019?
A. Agreed.
Q. What had you heard from members of Womble Bond Dickinson who worked on the GLO about how the GLO proceedings were going, in effect, prior to the common issues draft judgment being distributed?
A. I had heard positive -- I was going to say positive signs. You can't hear a positive sign. The mood music was okay. It wasn't -- if the question you're asking is, from a management perspective, me, was this a case that was flagging up as a difficulty pre-Common Issues draft judgment, it was not, and so the judgment was

a huge surprise to the internal team at Womble Bond. So the mood music about the Common Issues trial pre-8 March was not negative.
Q. I take it from that that no concerns had been raised with you about the impartiality, apparent or otherwise, of the judge, before 8 March?
A. No.
Q. In your second witness statement -- we don't need to have it up but it's page 5, paragraph 9 -- you say:
"I understood from the Womble Bond Dickinson GLO team that the draft Common Issues trial judgment was very unfavourable to Post Office, that the Womble Bond Dickinson team and Post Office were dismayed by the outcome and that there was talk of a possible urgent appeal."
Who within Womble Bond Dickinson told you about the Common Issues trial judgment?
A. It would have been Andrew Parsons, Amy Prime, those kind of people. I can kind of picture them sitting, the judgment on their knees, turning the pages getting more and more distraught, as it were. So I can picture that. It was --
Q. What did they say to you?
A. Oh, I don't know. I don't know in detail, "This isn't good", "He's got that wrong", "Oh, my God", you know,

those kind of comments. But those aren't verbatim quotes.
Q. When was the first time you were aware of the proposition to issue or potentially issue an application for an order that the judge recused himself?
A. So the first it was either the 11 or 12 March but which one, I don't know. I was provided some papers on 11 March, I think in that tranche of papers was the David Cavender note on 10 March, I think, and I think that included a paragraph on recusal so I'm going to say 11 March.
Q. I think in your witness statement you say -- we don't need to have it up -- at paragraph 14, page 7, to the best of your understanding, the idea of recusal came from David Cavender KC?
A. I think that's right. There's an email of 9 March, where I think its first raised by him. I'm not copied in on that, I'm not involved at that stage. But that, to my knowledge, that's the first time in this matter -- reading in and preparing for this Inquiry, that's the first time I've seen that the recusal is mentioned.
Q. You were brought in to assist on the recusal application because the rest of the GLO team in Womble Bond Dickinson were preparing for the Horizon Issues trial; is that right?

A. Yes, not all of them. Some were working on the further issues trial. So a nucleus of the Womble Bond Dickinson team absolutely was preparing for the Horizon because 8 March was a Friday, there was an intervening weekend, the 11 was the Monday, when Horizon Issues trial started. So there was no time at all in which to do anything, hence me being brought in as a senior person in a point of difficulty for the client with a judgment that's gone against them.

Q. To what extent, if at all, do you think your lack of familiarity with the GLO proceedings limited your ability to advise on the recusal application?

A. It must be a factor. I don't -- I did not have familiarity with the GLO proceedings. That's absolutely right. Was it an impediment? With what I was asked to do rapidly, which is to get independent advice, it was not an impediment to carrying out that instruction. As I got more up to speed, I think comment was passed and advice was given, although I have to say the client was not after our advice, Womble Bond's advice, my advice.

They did not want that advice, they wanted new voices -- you will have seen from the file, the phrase "new voices" comes up quite a lot -- and independent advice. So it must be an impediment on hour zero because I know nothing about it but, as we go forward

over the intense few days, I knew more. In any event, what the client wanted from me was organisation and logistics to get independent advice from, as it turned out, Lord Neuberger, and then Lord Grabiner.

Q. I want to look at some of your early conversations with Jane MacLeod in organising the recusal application. Can we look at a conversation you had with her on 12 March 2019 and I want to bring up your handwritten note and your transcript of it, just for ease. So can we have at the same time, please, WBON0001734 and also WBON0001735.

Now, this is the first time -- we'll see a few of these. We'll see this is a handwritten note, this is taken from a notebook of yours --

A. Yes.

Q. -- and there are parts which are covered out in yellow, which are redacted and the Inquiry understand that those have been redacted for either privilege or relevance reasons.

A. Agreed. And the redaction, I should say, is nothing to do with Post Office. It'll be other clients or -- so none of the redactions at all relate to Post Office. Just so that's an issue we cover off.

Q. Yes. So we see there 12 March 2019, it says "Jane MacLeod" and then a redacted bit. Further down we then kept, your note which says, "Neub = insight", presumably

Neuberger equals insight?

A. Yes.

Q. "Only 2 days off SA", and this is, presumably, the note you took of the conversation at the time?

A. It will be scribbled notes. It's not verbatim, it's scribbled notes. Obviously this was done out of habit as a lawyer. This isn't a verbatim note but, yes, these are my notes of that conversation.

Q. Was this the first conversation you had with Jane MacLeod?

A. There might have been an earlier one, if you tell me this is the first one I'll say yes to that but I can picture one in blue ink that says "in-depth advice", I thought that was the first conversation, but if you tell me this is a later one.

Q. Well, we'll come to another note. Let me rephrase my question. On 12 March, was that the first time you'd had some material conversation with Jane MacLeod?

A. Must have been. I've got documents on the 11th. I was reading in on the 11th, trying to get up to speed and the 12th is when I suspect I began to interact with Jane.

Q. Can you recall on this conversation, we see you're talking about the instructing counsel --

A. Yes.

Q. -- what, if anything, did Jane MacLeod say about her view of whether the Post Office should bring a recusal application at this stage?

A. I think they were interested in the concept of an application but trepidatious. That's reconstructing what I think was going on. This is some good few years ago now. It was a topic that had to be investigated if there was legal purpose in doing it. That's my impression.

Q. Did, at this stage, Jane MacLeod say anything about Post Office's motivation in investigating the recusal application?

A. I don't know if it was in this conversation but my impression -- one of the main planks of their motivation, I think, was to get to a legally correct Common Issues judgment. That's what I think was going on. Whether that was said in this conversation or in later conversations, I don't know. But that's my impression of their motivations.

Q. So we'll come to the later conversations but, just taking that there, on what basis did you form that impression from why that was Jane MacLeod's motive?

A. Because I suppose, and this me reconstructing, so on the 11th I'm reading in, there are two topics knocking around. They're intertwined but not necessarily

intertwined, being appeal of Common Issues judgment and recusal, and the interconnection with those two topics is large parts of the Common Issues judgment was perceived to be wrong and perceived to be the judge, as we've heard from Lord Grabiner, had gone too far. The apparent bias point.

So in any early conversations with Jane, I must have been talking about why we're doing any of this. Why we're on this journey, to look at appealing, to look at recusing the judge.

Q. You say then "Neuberger = insight, only 2 days off SA", and then it says "can assist but not be briefed in person". What does that mean, "Can assist but not be briefed in person"?

A. He either had gone, or was about to go, I don't know, to what we now know to be South America, Argentina, but at times we thought was South Africa.

Q. So that's referring to whether or not he could attend in person?

A. Yes.

Q. Thank you.

A. Yes, face to face.

Q. Could we please then turn to WBON0001739. So this is your email to Andrew Parsons and Amy Prime --

A. Yeah.

Q. -- on 12 March at 8.23. You referred to a "Good chat with GC Jane", and just timing it, you see the third para down, you say:

"Issue I raised is inability to brief N QC ..."

Presumably that's Lord Neuberger?

A. Yes.

Q. "... in person."

So do I take it that this email follows the note that we just saw then?

A. Yes. Yes.

Q. It says:

"Think she begins to agree -- Grab."

A. Yes.

Q. Is that referring to Lord Grabiner?

A. It is.

Q. When you say, "Think she begins to agree", what is that referring to?

A. Instructing Lord Grabiner.

Q. That reads almost like she needed to be persuaded into it or she had a view and, you know, begins to agree to the instruction of Lord Grabiner. Why is it written in that way?

A. What I think is going on here is this is on day two of my involvement. I'm -- knowing how I'm wired, I'm perceiving urgency. If you're going to do something

like a recusal, you've got to get on with it, especially with the Horizon Issues trial under way. This is urgent and I remember being frustrated that -- I simply wanted to know who we were instructing and to get on with it. And there was prevarication about who to instruct and I remember being really quite frustrated by that, and I wanted, personally, to instruct -- and we might come on to these topics later -- the advocate who could do the advocacy, the barrister who could do the advocacy. This two-staged approach, whilst, with hindsight, makes sense, at the time it frustrated me because it's a time impediment as to what I see as being urgent.

Q. Just to be sure I've got your evidence right on this, your frustration is a decision on who to instruct. Was there any hesitancy from Ms MacLeod at this time as to whether or not Post Office should even investigate --

A. No.

Q. -- the recusal application?

A. No, I don't believe so. I don't believe so. There wasn't a dead set plan to do it, the Board were nervous but there was, I felt, some prevarication as to who to instruct and I just wanted to get on with it, to find out what the independent advice would say, yes/no, and so there wasn't a concrete plan of any sort at this point.

Q. Could we then turn, please, to WBON0001745. Fortunately you've got a typed version, WBON0001747, on the same screen, please. So this is a note on the 14 March 2019. I'm going to work from the left one. It says, "Jane and DCQC call", so that's Jane MacLeod and David Cavender?

A. Agreed.

Q. When it says, "CC Gideon" is that referring to Gideon Cohen?

A. Yes, but I don't know what the "CC" means because, obviously, this wasn't a letter, so I don't know if he was there or not. I've no idea.

Q. Briefly looking at the document on the right, we have black pen and then blue pen. The blue pen, it sort of fits around the text that's already been written in the black. Are both entries made by you?

A. Yes.

Q. Presumably, the blue pen is made later?

A. Maybe not. I have many pens, a slight fascination of mine, and multiple colours are habitual and changing pen is a habit. So I can't say that that didn't happen on that call.

Q. If we look down, I'm looking at the left again, we see halfway down two bullet points. It says, "Had LN note", so that's referring to Lord Neuberger's note of advice, I assume?

A. Yes.
Q. So the call happens after that?
A. Yes.
Q. It says, then "Stages: 1. What does POL want to do?", and "3. [Post Office Limited] not able to make a decision by 12 tomorrow".
A. Yes.
Q. At this call, do you recall if there was any discussion of what the Post Office directors thought about whether or not they should bring in application for recusal?
A. At this point, no, but this -- you will see that this builds into the narrative that I'm frustrated -- "What do you want to do?"
Q. Did you have any impression at this stage of the Board's position?
A. 14th? No, I don't think I would have done.
Q. If we could go further down, please. Thank you. So at the bottom, it says "Board call", presumably that's referring to the need to set up a board call?
A. It will have been, yes.
Q. Now, help us with how this is structured, because we've got a second bullet point saying, "Real possibly Board to speak Neuberger -- possible outcomes"?
A. Yes.
Q. Does that mean there's a real possibility that the Board

want to speak to Lord Neuberger about his advice?
A. I suspect this is Jane speaking, saying, well, to take this forward, we're going to have to have a -- POL will have to have a Board call. POL will need to take this issue to the Government but -- that's little number 2 -- and there's a real possibility POL's Board will want to speak to Lord Neuberger about possible outcomes. So that -- my impression, as I sit here now, is that's me capturing what Jane is saying.
Q. Okay. What was said at this stage, if you can recall, about government's involvement in the decision to -- of whether or not to issue the recusal application?
A. I think at this stage, Jane is saying, "I will need to get the Government involved". I think that's all that's going on at this stage.
Q. Could we --
A. This is the 14th, yeah?
Q. 14th, yes. We'll look at the next day now, please, WBON0001749 and, at the same time, could we have WBON0001752, please. So assuming that means telephone call in --
A. Yes.
Q. -- from Jane?
A. Yeah, she's called me.
Q. She's called you?

A. Yes.
Q. It records, I assume, what she said, "Tom Cooper, Chairman, setting up Board call [for] Monday night"?
A. Yes.
Q. "Board to form a view"?
A. Yes.
Q. Do you recall whether anything else was said, at that stage, on the Board's view or individual director's views?
A. No, this is me, I think, probably, in that way lawyers do, jotting down bits of information, as they're given. This is Jane MacLeod speaking to me, telling me things and I'm scribbling them down out of habit.
Q. It says, "Tom C", so that's Tom Cooper?
A. Yes.
Q. Tom Cooper was a UKGI official?
A. I believe so.
Q. He was the Non-Executive Director appointed to represent the Government Shareholding interest?
A. I believe so.
Q. It says, "Tom [Cooper] will struggle to get this through Shareholder". So in that, "shareholder" means Government?
A. I think so, yes.
Q. Do you recall what Jane MacLeod said to you that led you

to make this note?
A. I think that's what she will have said. This is me scribbling down -- I will not have really known at this point, who Tom Cooper was. I probably, had I turned my mind to it, would have understood the ownership structure but this is Jane saying things to me and me writing them down.
Q. You've said that you were -- I think frustrated was the word you used --
A. Yes.
Q. -- it may not have been but it conveyed that meaning -- of getting a decision.
A. Yes.
Q. This presumably, then, wasn't welcome news, if there's going to be a difficulty to get it through the shareholder?
A. It's only unwelcome news if you're going to go for it. If you're not going to go for it, it doesn't matter either way.
Q. Did you enquire as to why she formed that view that Tom Cooper would struggle to get it thorough the shareholder.
A. No, the Post Office relations with the Government and its shareholder, being the Government, were something I didn't get involved in. We never had substantive

discussions about that, beyond these kind of, I suppose, why is she telling me this? I suppose it's a timing conversation this, isn't it? This is all about timing.

Q. Then it seems it refers to a brief note over the weekend. That's a note to the Board that you assisted in preparing to explain --

A. She is asking us. It became called -- she wanted a plain English note, I think she called it. So I think Jane is saying to me "I'm going to need a note over the weekend for the Board", and that's indeed what happened. Yes. So this is about timing and steps on the way.

Q. I want to just cover the timing of the note a bit because I think it's relevant to understanding how that note was formed and what your instructions were. Can we look, please, at WBON0001499 and page 4, please. Thank you. If we could go down the page slightly. Thank you.

So your email to David Cavender and Andrew Parsons is included in copy, "See attached":

"I may be on Jane's wavelength -- I may not be ..."

So this is attaching your initial draft of that note --

A. Yes.

Q. -- that she asked for. You said:

"... be as harsh as you like."

A. Yes.

Q. You're inviting comments, basically?

A. Yes.

Q. If you go to the bottom of page 3, please.

A. I'm inviting comments because I'm aware of my paucity of information and background on this. So I have broken the back of -- everybody's busy, I thought I've broken the back of this task and got something down on paper and got it out to people to finesse.

Q. Then it's Andrew Parsons's email to you, he attaches another version. It says:

"Did Jane want us to offer a recommendation on whether to do this or not? It seems like we are sitting on the fence slightly, but sometimes she prefers that."

If we then go up to your response -- so just for timing, that was Andrew Parsons sent at 11.50 pm on the 15th; your response is just before 4.00 in the morning --

A. It was a busy time.

Q. -- on the 16th. You refer to the drafting and then you say:

"As to recommendations ... I am unsure. My current feeling is we simply set matters out and then let [Post Office] Board discuss rather than pushing them one way (which the note already does to be fair, as it has to as we have to point out the 'inconsistency' risk etc) as we

know there are competing views around the Board so I don't want us looking fully partisan."

At that stage, what were you aware of the competing thing views around the Board?

A. I don't remember and so, reading this, I must that have known something to write it. I cannot recall what I knew about competing views. I just don't know.

Q. Can you assist with this and if this is a fair reading of that email: what you appear to be saying there is your current feeling was not to expressly set out, "We recommend you do this"?

A. Yeah.

Q. But your view was the substance of the note as drafted --

A. Yeah.

Q. -- pushed them in a direction to recuse anyway?

A. Yes, because -- we mentioned earlier the interconnection between the appeal on the law of the Common Issues judgment and the connection with recusal, which is driven by the procedural unfairness point. So if they were going to go forward with a head of appeal based on procedural unfairness, for reasons we might not need to go into but you'll be aware of, that there had to be -- or it was felt at the time there had to be an application to recuse.

And so that's what I mean by the inconsistency point. If you appeal on procedural unfairness but don't try and recuse, the Court of Appeal may later say, well, that's an inconsistent position to adopt. That's what the inconsistency phrase is there. And I am saying, because I know that Jane wants independent advice, I know that she doesn't want our advice, hence me drafting a neutral note, but it does have to push them one way, because, if they do want to go down the route of procedural unfairness, it's inevitable that you have to promote the concept of a recusal.

Q. If you could turn to page 1, please. So this is David Cavender's email to you and Andrew Parsons. It's at 11.05 on 16 March, and the final substantive paragraph says:

"On the issue of giving" --

Sorry, before I ask that: had you spoken, on the telephone, not in email, to Jane MacLeod in between your email of just before 4.00 on 16 March and David Cavender's email?

A. I've no idea. If we don't have a note, I have no idea.

Q. So Mr Cavender says:

"On the issue of giving [Post Office] a steer I understand the sensitivity but [it should be 'I think'] that advisers should advise and not simply

leave it to the Board to come up to their own untutored view. Surely we should be setting out the options but making our recommendation?"

We can go to the documents if you wish but, as I understand it, that advice was accepted and the note sent following that said that Mr Cavender and Womble Bond Dickinson recommended that the application be made as soon as possible?

A. Yes.

Q. So you accepted that advice from Mr Cavender, effectively?

A. Yes, and the amendments that the document were taken in, and sent to Jane in mark-up, so she could see who had done what.

Q. Could we please turn to POL00022969. If we could turn to page 4, please. So we have here an email from Jane MacLeod, 16 March 2019 to you and Andrew Parsons. So this is just before, I think a matter of ten minutes or so, before Mr Cavender's email?

A. Yeah, okay, yeah.

Q. It says, "Many thanks". It refers to a call with the Chairman, Al Cameron, and the Minister, Kelly Tolhurst MP:

"... although I don't believe that recusal will be part of the discussion. I have been advised by the UKGI

[General Counsel] that 'government' will not express an opinion on recusal as they will not want the 'executive' to be seen as criticising the 'judiciary'.

"This will put more pressure on our Board, and the Chairman is acutely conscious that such an application will not sit well with the perception that [the Post Office] is arrogant, whereas we are trying to edge towards 'contrition'.

"The effect of that is we need to be very clear what the risks will be of not proceeding with the application ..."

It goes on to set out what she wants.

A. Yes.

Q. Had you communicated the content of that email to David Cavender before he sent his email recommending that a position should be taken on how to advise?

A. If the -- I don't know, is the straight bat answer. If the file doesn't show I did, I simply don't know. It's the kind of information I would have circulated but I'm unsure as to the timing.

Q. Can we move on actually, please, to POL00330036. If we go down, thank you. So this is an email later on that day:

"... it would be helpful to have a call on this, and in particular ... to understand whether Lord Grabiner

has formed any views on this yet, and if so what they are?

"The Board is highly nervous of this strategy (our Chairman has already said to our Minister that while he recognises that the Board has a fiduciary duty to act in the best interests of the company, he feels it is unlikely that they would want to adopt this course of action)."

Just pausing there, the talk of fiduciary duty, had there been any discussion of there being a fiduciary duty on the directors to act, prior to this being raised?

A. At that point -- because I know it came up later but forcefully from Lord Grabiner.

Q. Well, I want to come to that in due course?

A. I don't know if it had come up already. I don't recall.

Q. It says:

"So we need to be very clear on both why doing it is the best course of action, and what our prospects of success are."

You said:

"Jane

"I'll call in 20 minutes."

Now, you recently and helpfully provided another note --

A. Yes.

Q. -- which I want to go to now. For our Core Participants, it won't be on CPview(?) yet, it was very recently provided. That's no criticism but can we turn, please, to WBON0001899, please, and the typed version that you've created, WBON0001900. Is this a note of the call that we were referring to in the email just now?

A. I suspect so but I don't time these scribbles so, I'm sorry, but I suspect it may well be.

Q. Do you recall what, if anything, Jane MacLeod said about the Board or the Chair's concerns about the recusal application?

A. No, other than as I've said, they were trepidatious about -- they were nervous about making it.

Q. Do you recall if anything was said about the Government's position on the recusal application?

A. Beyond the emails that we've seen saying that they would be neutral, no.

Q. Please could we -- it's either scroll down or turn over the page. I don't have a printed copy.

A. I think it's scroll down on my note.

Q. Sorry, is there a second page to that document? Yeah, thank you.

So it says here "BIG PIC": big picture, presumably?

A. Big picture.

Q. "Told Jane to Jane", what does that mean?
A. If we can get the handwritten one up, I might be ...
Q. Yes, of course it's on the right. If we could turn to page 2, please.
A. "Told Jane", so I suspect they're two different blocks of conversation "Told Jane" and "to Jane loss all the way through". So I think they're bits of different jottings, if you see what I mean. So it's not one sentence that says, "Told Jane to Jane".
Q. I see. So would it be "Told Jane" --
A. PR --
Q. -- "PR v Trial"?
A. Yeah, and "To Jane loss all the way through". I think if you can draw a line mentally down the centre of the page in that part, anyway.
Q. It says "PR v Trial loss all the way through."
A. Yes.
Q. "If not, recuse."
A. Yes.
Q. So is this what you were saying, you were advising or telling Jane MacLeod?
A. By this stage, we'd had the Lord Neuberger note, I believe, on the 14th. We were developing our note that became the note of the 17th, and there was a process of mutual drafting with Andrew, David Cavender

and Jane herself, and there was the view that, if the judge remained in place, there was risk to the coming trials due to the view of apparent bias and entrenched views.
Q. So it then says:
"High tempo step.
"Jane warned."
A. Yeah.
Q. What does that mean?
A. So that's -- so -- and, if you recall, the red ink note that we saw earlier, that also had the "PR" bit in it. So this is my shorthand to myself. I'm warning Jane about the risk of -- in doing this, "This is a really aggressive step, Jane, the PR of doing this. So it's a high tempo step. I've never done this. I've never had cause to do this in my whole career, Jane. This is unusual step to take, its high tempo"; that's me warning Jane.
Q. At this stage, what was your impression of Jane MacLeod's view of whether or not to pursue the recusal application?
A. I think she was -- well, I know she was seeking independent views. To be blunt, she couldn't care what I thought. She wanted the views of Lord Neuberger and Lord Grabiner, or whoever we went on to instruct -- by

that time, we had decided on Lord Grabiner -- and she wanted information in from those people. So even our note that was drafted between the 15th and the 17th, what she really wanted was what's Lord Grabiner's view on that note? That's all she wanted.
Q. Well, I am going to turn now to a conference with Lord Grabiner. Now, you set out your recollection of that conference in your statement. You've exhibited typed and handwritten notes?
A. Yes.
Q. We heard from Lord Grabiner yesterday and I don't propose to deal with lengthy issues on that. I want to cover two points, briefly. Could we please have POL00006397. So this is a note of a conference on the 18 March 2019, and then this is the version that's updated to include 20 March Board dial-in as well?
A. Yes, Jane wanted a compendium note, as it were, in the end.
Q. Can we turn to page 2, please? Thank you. So we have "Duty to act":
"Lord Grabiner explained that in his view if there is no recusal application made then Post Office will lose the series of trials set up in this matter. Without a recusal application Post Office is stuck with this judge. An appeal on the law may correct some of

the very significant errors in the [Common Issues trial] judgment but then the case will be sent back to this judge, who has demonstrable apparent bias against Post Office and hence the firm conclusion that Post Office will lose and the financial impact of that will be substantial. Recusal is therefore essential and Lord Grabiner asserted that in the face of legal advice from Lord Neuberger that recusal should be applied for and the quantum of damages that Post Office will pay out on a loss, then it was Lord Grabiner's view that there was a duty on Post Office to seek recusal."
What did you understand from that point: that there was a duty on Post Office to seek recusal?
A. So to act in the best interests of the company is what I think I will have taken at that point, from that word, "Duty to act".
Q. Was your understanding of the advice given by Lord Grabiner that there was a legal duty to apply for recusal, or something else?
A. I don't know and I don't know how hard I would have turned my mind to that question. Duty to act in the best interests, did that tip over into the legal meaning of that in that conference? I don't know. I don't know.
SIR WYN WILLIAMS: Can you tell me, Mr Beezer, this note is

on Womble Bond Dickinson notepaper?
A. Yes.
SIR WYN WILLIAMS: Someone obviously composed it. Do you know who actually composed this minute or note?
A. Me.
SIR WYN WILLIAMS: It was you, right.
A. Absolutely, it was me, yes. Yes.
SIR WYN WILLIAMS: Right.
MR STEVENS: Sir, we have on the documents a series of emails of it being amended, which --
SIR WYN WILLIAMS: Yes, that's fine. I just wanted to have it clear in my mind while we were discussing it. That's all.
MR STEVENS: Thank you, sir.
THE WITNESS: So this, whilst not absolutely verbatim, it will be not far off and the Inquiry has the contemporaneous handwritten notes that I produced this from.
SIR WYN WILLIAMS: Yes.
MR STEVENS: I want to turn to that now for a second point. Could we please bring up WBON0001776 and, sorry, I should orientate ourselves, so could we also get up WBON0001737. So we see this is referring to the handwritten note of the conference call you were just referring to.

A. Yes.
Q. Can we please go to page 5 of both notes. Thank you. You see there's, towards the bottom, "JANE" underlined; that's Jane MacLeod, isn't it?
A. Yes.
Q. I read this as, tell me if I am wrong, instructions to prepare on the basis that the recusal application will go ahead?
A. Yes.
Q. Then it says, "Need to get Board over line"?
A. Yes.
Q. What did Jane MacLeod say that led you to make that note?
A. That is what she will have said. I mean, that is what she will have said, that "I need to get the Board over the line, there's going to be a Board call today and we are going to schedule a Board call for next Monday". So that's what she said.
Q. So, at this stage, was it Jane MacLeod's position that the right decision was to issue the recusal?
A. No, no, no. Okay, I understand what you're asking. So she was saying -- because I'm saying, "It's urgent, Jane. We're waiting. This is -- you know, it's annoying me".
So she's saying, "Okay, press on, draft, do your

stuff, lawyers, as if we're going to go. I still need to get the board over the line". So we are preparing as if we are going to -- or, more to the point, the counsel team is preparing as if it is going to go; she is going to need to still get the Board over the line.
Q. So at this stage, did you have any impression of what Jane MacLeod thought of the merits of the recusal application?
A. No, I don't think I did. What she thought personally?
Q. Yes.
A. I don't think I did.
Q. Your evidence is that wasn't discussed in this conference?
A. No. If this note doesn't -- I mean, whilst this is not an absolutely verbatim note, I will have tried to capture the salient points. So, no, I don't think so.
Q. I want to ask one brief question on the call of 20 March 2019. If you want to see the note, we can bring it up. As the note reads, it appears that you and Lord Grabiner attended the call, Lord Grabiner gave advice and then you and Lord Grabiner left the call?
A. Yes. That's exactly what happened.
Q. From that call on 20 March 2019, did you get any impression of any of the Directors' views on the merits of the recusal application or whether it should be

brought?
A. No. It was -- no. There wasn't free-flowing discussion at all. As the handwritten contemporaneous note will probably sort of give you the impression, Lord Grabiner said his bit. There were three or four questions from unknown voices, unknown to me at the time. So the Board asked, you know, "Is there a middle way?", I don't know who, and then we left the call. And so Lord Grabiner and I were not there for any of the -- what I assume must have followed as being discursive, "Should we do it? Shouldn't we do it?" We weren't there for any of that, if that, in fact, occurred. I wasn't there; I don't know.
Q. Last document or two documents from me. Please can we bring up WBON0001792 and, at the same time, please, WBON0001795. So on the handwritten note we see it says 20 March 2019.
A. Yes.
Q. There's a "17" on the typed copy. Is that an error?
A. Yeah, that shouldn't be there. I think that's someone putting a page number on, isn't it?
Q. Fine.
A. So sorry about that.
Q. No need to apologise. Just so we're clear, it's 20 March 2019.

A. Yeah.
Q. It says, "Jane" and in quotes "go". Is that go on the recusal application?
A. Yes.
Q. Yes. Then we get this:
"Uncomfortable [regarding] tone in Judgment."
A. Yes.
Q. "Board really uncomfortable."
What did Jane MacLeod say to you that led to that note?
A. I mean, it's probably exactly what -- this is my scribbles during a phone call and so that is what she will have said. She'll have said, "The Board is really uncomfortable, they're really sensitive around tone. You've got to tell the counsel team. I don't want any high tempo language. I want calm". So that's what she will have been saying to me in that call.
Q. So what was she saying the Board were uncomfortable about: was it the language or the making of the application itself?
A. "Re tone in judgment". So no, the Board is uncomfortable with how Post Office is portrayed as aggressive in the Common Issues judgment and she's saying, "I want these documents that support any recusal and any witness statement to be calm". So the

uncomfortable is how the Post Office is portrayed in the Common Issues judgment. That's what's going on here.
Q. Did Jane MacLeod say to you anything else about her view on the application itself?
A. I don't think she did and, since you asked that question, I've been pondering. I don't think I ever knew what Jane's own position on it was.
Q. At this point, did you have any understanding of what the Board's motivation was in making the application?
A. My understanding of why Post Office wanted to do this is about the desire to get a legally correct judgment in the Common Issues, the desire to avoid what seemed to be a near inevitable series of losses of trials going forward. They were the motivations, and I can only speak from my impression that I got from Jane, because that's all I -- the only person I really interacted with substantively on any of this, and all of those motivations seemed, based on the understanding that we had at the time, proper.
Q. To what extent, if at all, was there any discussion when concerning the recusal application, that it should be made to put pressure on the claimants or the litigation funders?
A. Not at all, from within my visibility, not at all. Yeah, not at all.

MR STEVENS: Sir, I have just been handed a note. That may be the end of my questions but, if I may just have a moment to discuss it with Ms Price?
SIR WYN WILLIAMS: Yes, of course.
MR STEVENS: Thank you. *(Pause)*
Sir, there's no further questions from me but I will just check the room to see if there's --
Ms Page has asked for one issue to be dealt with. Ms Page has asked for five minutes, sir.
SIR WYN WILLIAMS: Well, I'm sure that we can accommodate that, Ms Page.
MR STEVENS: Thank you, sir.
Questioned by MS PAGE.
MS PAGE: Thank you.
Mr Beezer, I am going to ask you about a particular note which is to do with the relationship between the Bates litigation and the criminal appeals. If I could ask, please, to bring up WBON0001511, and if we go to page 4. As far as I've been able to work out, the blue typing is you chipping in to these emails?
A. That's right, yes.
Q. There's this paragraph in the middle. It reads:
"Also on the topic of settlement it is necessary to remember that 30 out of the 557 claimants have been convicted for shortfalls. Those 30 are relevant to the

process currently under way at the CCRC. Post Office cannot therefore currently simply settle with the entire claimant group as that would throw serious doubt on safety of those 30 convictions."
First of all, you obviously came in to the Bates litigation relatively fresh. Can you remember how you came to find out that some of the claimants had been convicted?
A. I will have picked up this information -- and this is probably the totality of my knowledge on this -- by osmosis, by being in the office around people who were dealing with this case. And I don't have deep knowledge on that, but it seemed a relevant point to put in this email, because it seems an impediment to settlement, based on what I was picking up that other people might be dealing with.
Q. Do you have recollection of others having this sort of issue, in other words the interrelationship between the civil and the criminal proceedings being something that was at the forefront of minds?
A. I don't believe so. I just knew from conversations in the office that, in the claimant group, there were people who had been convicted and that would be an -- how do you pay someone who's been convicted, if you want to settle? As to detail of who was dealing with that,

where that was being dealt with, I'm really not sure.
Q. Do you think that the GLO was contested, in that very vigorous way that it was, partly because to settle would have been to concede that past convictions were unsafe?
A. I can't answer that. I don't have enough information but I really shouldn't think that was the case but I don't know.
MS PAGE: Thank you. Those are the questions I ask, sir.
SIR WYN WILLIAMS: Can you just show me the date when this observation is made, please?
MR STEVENS: That will be coming up shortly, sir.
SIR WYN WILLIAMS: That's fine, yes.
A. 19 March.
SIR WYN WILLIAMS: 19th. So it's still in the same period as you are dealing with the logistics for the recusal application?
A. Absolutely. I had a sort of short, three-week burst, and then drifted out.
SIR WYN WILLIAMS: Yes, I follow. That's fine, thanks.
A. Yeah.
MS PAGE: Thank you, sir.
SIR WYN WILLIAMS: Is that it, Mr Stevens?
Thank you, Ms Page.
MR STEVENS: Yes. I'm just doing a final check and that seems to be everything.

SIR WYN WILLIAMS: All right.
Well, then thank you very much, Mr Beezer, for making two witness statements dealing with two, in effect, discrete issues and I'm grateful to you for giving oral evidence before the Inquiry this morning.
THE WITNESS: Thank you.
MR STEVENS: Thank you, sir. I have heard from Ms Hodge. We think that the best approach, subject to you agreeing, is to take an early lunch now.
SIR WYN WILLIAMS: Yes.
MR STEVENS: So if we could come back for Mr Lenton's evidence at 1.20.
SIR WYN WILLIAMS: Yes, by all means, Mr Stevens. We will resume at 1.20.
MR STEVENS: Thank you, sir.
(12.21 pm)
(The Short Adjournment)
(1.20 pm)
MS HODGE: Good afternoon, sir, can you see and hear us?
SIR WYN WILLIAMS: Yes, I can, thank you.
MS HODGE: Thank you, sir. Our next witness is Matthew Lenton. Please could the witness be sworn.
MATTHEW GUY LENTON (affirmed)
Questioned by MS HODGE
MS HODGE: Good afternoon, Mr Lenton. As you know, my name

is Ms Hodge and I ask questions on behalf of the Inquiry. Please state your full name.
A. Matthew Guy Lenton.
Q. You should have in front of you a hard copy of your witness statement dated 14 May 2024; is that right?
A. Yeah.
Q. That statement should run to 54 pages, including an index of documents; is that correct?
A. Correct.
Q. Could I ask you, please, to turn to page 51 of your statement.
A. Yeah.
Q. You should see there in the middle of the page a statement of truth and a signature. Is that your signature?
A. Yes, it is.
Q. Is the content of this statement true to the best of your knowledge and belief?
A. Yes, it is.
Q. Thank you. I'm going to begin just by asking some short questions about your academic and professional background, please.
A. Okay.
Q. In 1987, you obtained a bachelor's degree in film studies and philosophy from the University of Kent; is

that right?
A. Correct.
Q. Before joining Fujitsu in 2006 you worked for various companies in the field of document control; is that right?
A. Correct.
Q. Could you please explain for those who are unfamiliar with the term, what document control entails?
A. Yes, so, basically, it's -- somebody doing that role is normally employed by, obviously, an organisation that generates large volumes of normally technical but -- or otherwise formal documentation. So I worked for Arup, the consulting engineers, also for British Gas, and that was before working for Fujitsu. And, obviously, those companies all produce large volumes of technical drawings, specifications, et cetera.
It's clearly important that people using those documents know what version they're using, et cetera, and that old documents are preserved and records are correctly kept, basically and, because of the volume, they employ somebody specifically, or often a team, in fact, specifically to do that.
And it also involves things such as formal reviews and approvals of documents with other parties, and internal peer reviewers.

Q. Thank you. When you joined Fujitsu in November 2006, that was the role of Document Manager; is that right?
A. Correct.
Q. You initially worked on several different accounts, albeit temporarily on the Post Office Account, as well -- is that right --
A. Correct, mm-hm.
Q. -- before you were employed permanently as a Document Manager in May 2009?
A. Yeah, before being employed permanently as a Document Manager on Post Office Accounts, I was actually recruited by Fujitsu to work on the NHS Account.
Q. Thank you. You remain in that role to the present day; is that right?
A. Correct.
Q. Is there more than one Document Manager on the Post Office Account or are you the Document Manager?
A. No, that is me and I have an assistant. That's it.
Q. Who is your assistant?
A. So currently, it's somebody called Ashwini Vishian(?), who works in Chennai.
Q. And previously?
A. Previously we had somebody called Hanifa Thariq Mohammed, who also works in Chennai, and, before that, there have also been various other people who have

worked with me from 2008 until about 2015 or 2016.
Q. Thank you. We may come on to identify some of those shortly?
A. Sure.
Q. So far as you're aware, for how long had the role of Document Manager existed in the Post Office Account?
A. Since around 1998, I think.
Q. Just some small points of clarification, please. Is it right you don't have any formal qualifications or training in information technology?
A. Um ... mm, I'm not sure about that. I think I do actually have a formal qualification in IT. I think it's what used to be known as an NVQ but I'm not sure that exists any longer, so it's probably not recognised.
Q. Okay, thank you. Would it be correct that you don't have any legal qualifications or training?
A. Correct.
Q. I'd like to ask you, please, some questions about the core part of your role as Document Manager for the Post Office Account. Please can we show the witness's statement WITN00530100.

Thank you. On page 3, please, you describe the Post Office Account Document Manager role, and in your statement, you say at paragraph 8:

"The core part of my role as Document Manager for

the [Post Office Account] is the responsibility for ensuring that design documentation and key process documentation is controlled. The basis of that control is the use of a single repository for such documentation, which is a configuration management database known as Dimensions. The database provides the [Post Office Account] clarity on the latest versions of current documents, and that previous (superseded) versions, as well as obsolete documents, are retained."

Would it be right to say that here you're emphasising the need for there to be one place where all design and key process documentation are held?
A. Correct.
Q. One of the reasons for that would be to ensure that such documents are distributed or disclosed appropriately; is that right?
A. Disclosed -- um, mm, so the original purpose of it is not for that purpose. It's so that people using the documents in terms of the staff in the company can know that they are referring to the correct version of a document, so that we don't have, you know, multiple versions of documents in various places on local hard drives, et cetera, that people are looking at that may be out of date.
Q. So the principal purpose would be an internal one?

A. Correct.
Q. But it would equally be --
A. It could -- can therefore be used --
Q. -- useful --
A. -- for other purposes --
Q. -- externally?
A. -- such as you suggest, yeah.
Q. Another reason for having a single repository would be to ensure that they're retained appropriately; is that fair?
A. Correct, yeah.
Q. Is it right that, during the period with which we are concerned, the Post Office Account did not adhere to this key principle of document control?
A. It may -- well, mm, no, I'm not sure that's true, actually. So, in terms of the documentation that is stored within Dimensions, as far as I am aware, all of the documents that have been placed into Dimensions since, I think, before 2000 are still there and are still version controlled.
Q. I'm going to ask you, Mr Lenton, about another repository which is the SSC website?
A. Sure.
Q. We may explore whether or not that contains key process documentation, as you've defined there?

A. Mm-hm, mm-hm.
Q. Now, one of the repositories to which you refer in your statement is a dedicated website that was used by the SSC for incident management and support documentation; is that right?
A. Right, yes, correct.
Q. That website you say contained work instructions relating to the reporting and management of bugs, errors and defects; is that right?
A. Sorry, can you just repeat the last bit of that?
Q. Yes, work instructions relating to the reporting and management of bugs, errors and defects?
A. I'm not sure that it did contain work instructions for that. I mean, certainly there may be some overlap with processes that do deal with that issue.
Q. So if we could look, please, at page 6. At paragraph 20, please. The final sentence there reads:
"There are also internal SSC-specific work instructions that relate to the reporting and management of [bugs, errors and defects] which are stored" --
A. Sure. So reporting and management, yes. So at a low level, I would say. So they're work instructions rather than procedures and processes.
Q. Thank you. What's also contained on the website are PEAKs and KELs; is that correct?

A. Correct, yes.
Q. Now, would it be fair to characterise those documents as key process documents, and Known Error Log?
A. A Known Error Log isn't really a process document; it's actually a record of an incident or of the symptoms of certain incidents, whereas a process document would be one that tells you how to actually record or manage incidents generally. So I think -- I mean, I see the point you're making but I think that KELs are very specific to individual incidents, whereas when I am referring to process documents about how to manage incidents, I'm talking about much higher level, such as incident management procedure, for example, which wouldn't in itself contain any details of any BEDs.
Q. Thank you. When did you first learn about the existence of the SSC website?
A. I suspect I probably heard of it shortly after joining the account, maybe in 2009 or 2010.
Q. What did you understand the website to contain at that stage?
A. It's hard to say what I understood at that time. I mean, I think I knew that it contained PEAKs and I think I had a fairly vague idea of what PEAKs were but I didn't regularly come across them, to be honest, as I wasn't really involved in that area of work.

Q. When did you first attain access to the website?
A. In 2016.
Q. Before you were granted access to the SSC website, so far as you are aware, was it accessed and controlled solely by members of the SSC?
A. That is my understanding, yeah.
Q. Why was that the case; do you know?
A. I'm not totally sure. My understanding is that, for historic reasons, the SSC were originally part of a division in Fujitsu, which wasn't directly part of the Post Office Account. So they would have dealt with other accounts as well as the Post Office. So it's kind of like a shared services support team. So, because of that, they would have had their own repository for dealing with incidents across the various accounts, so it would be owned by that division rather than by the Post Office Account itself.
Q. Do you know who within the SSC was responsible for administering the website?
A. In the time since I've worked there, I believe it is -- has been administered by John Simpkins and Mark Wright and probably with the assistance of various other people.
Q. Did you consider it was appropriate, in your role as Document Manager, for the SSC to have exclusive control

over this website and its content?
A. I'm not sure whether -- so that probably is a question that I had debated with my learned friend at certain times and I think it -- I just accepted it as being the way that it was and had been for many years. And so -- I mean, I think if I'd questioned it, I'm not sure that I would necessarily have changed anything, shall we say.
Q. Why were you granted access to the website in 2016?
A. I can't remember now, actually, what the specific reason was that prompted it but I think it was possibly looking at wanting to look at PEAKs, which related to document updates, so that occasionally, if it had been noticed that during something like testing, for example, that a document that an incorrect statement in it, then the testers may raise a PEAK that says the document needs to be updated and, therefore, I think when I was being asked whether a document had been updated correctly or not or whether progress had been made on that update, then it was useful to look at PEAK. But I think that possibly -- well, as I say, I'm not sure why particularly in 2016 that came up.
Q. Thank you.
A. I'll just say I don't think it's in any way related to the issues that we're discussing here. I think it's something unrelated.

Q. Part of your role as Document Manager involved liaison with the Post Office; is that correct?
A. Yes, correct, yeah.
Q. If we could turn to page 3, please, of your witness statement at paragraph 8. You say there in the final sentence:
"Document issues and receipts between Fujitsu and Post Office Limited, as well as other parties, are controlled via a central mailbox owned by me, and those transactions are recorded and the emails stored."
You seem here to be referring to the present tense; is that fair, they "are" controlled by you?
A. Correct.
Q. Has that central mailbox been used throughout the time on which you've worked on the Post Office Account?
A. Yes, it has.
Q. Are you only the member of the account who has access to the central mailbox?
A. No, so the person I mentioned who assists me at the moment, she has access and, over -- since I've worked there, all the other people that have worked with me have also had access to it.
Q. Would it be right to understand that this is an internal Fujitsu mailbox, to which those outside the organisation wouldn't have access?

A. Correct.
Q. Did you respond to or oversee all requests for access to documents from the Post Office from the date of your appointment as Document Manager?
A. Well, only as far as I know. So if people -- if other people received -- other people on the Account received requests directly from people within Post Office, then it was expected that they would pass them to me, but it's perfectly possible that people may have answered them directly without me knowing.
Q. If you did not obtain access to the Account until July 2016, does it follow that you did not provide to the Post Office any documents that were held solely on that site before that date?
A. That sounds likely. I mean, I can't say that that's definitely the case because it's possible that somebody may have sent me something internally that I then passed on but that sounds unlikely to me because there wouldn't have been any need for me to record it.
Q. From quite an early stage in your tenure as Document Manager you started to handle requests relating to Horizon data integrity; is that correct?
A. Yes.
Q. In your statement you say you recall processing and disclosing to the Post Office two reports produced by

Gareth Jenkins on the subject of data integrity; is that right?
A. Correct.
Q. What caused these particular documents to stand out in your memory?
A. Well, only -- well, mainly the fact that they relate to the issues that we're discussing here. So, obviously, when I'm asked about them, then that's effectively the first documents that I remember dealing with that directly related to this issue. I mean, they were obviously also slightly unusual documents, in that they didn't -- most of the documents that I would have dealt with related to the implementation of the solution, or processes relating to the implementation, whereas these clearly are reports on an aspect of it, rather than being design documents, as it were.
Q. Were they documents that you held in Dimensions?
A. Yes.
Q. But they were of a different character to the other documents that you held there; is that what you're saying, in essence?
A. Well, I'm saying that, because of the nature of them, there's -- they were perhaps somewhat memorable in terms of being different from most of the other documents, which are things like high-level designs, test reports,

et cetera.
Q. At the point when you first came to handle and pass on these documents to the Post Office, what, if anything, did you know about Gareth Jenkins' role in the Post Office Account?
A. Yeah, um, I already knew who he was. I mean, he was a -- one of the most senior architects on the Account. He sat just upstairs from me, I'd spoken to him before, so I knew perfectly well who he was.
Q. Do you recall being asked in October 2013 to set up a SharePoint site on which to store documentation relating to data integrity?
A. Yes.
Q. This became known as the data integrity SharePoint; is that right?
A. Correct.
Q. Did you know why you were asked to set up that SharePoint?
A. I suppose, in general terms, I did, but I wasn't particularly aware at that time of the investigations going on within Post Office or of the Mediation Scheme or Second Sight, et cetera. So not in detail, basically.
Q. What did you understand in general terms?
A. Well, obviously, only that there was some question over

the integrity of the data and that various work was being done between Fujitsu and the Post Office and, I think, various other parties to investigate that issue.

Q. Who was granted access to the data integrity SharePoint?

A. So I don't think I'd be able to give you the full list but my recollection is that it's about ten people within the Post Office Account only. So people such as James Davidson, Torstein Godeseth, Gareth Jenkins and about five or six other people, I think.

Q. How did you determine who ought to have access to the SharePoint?

A. I'm sure I was just asked to provide access to those people.

Q. So far as you're aware, would any Post Office employees have had access to that SharePoint?

A. No.

Q. How did you decide which documents were to be stored on the SharePoint?

A. I was asked to download them from Dimensions and put them on there so, again, I can't really remember who it was who asked me to do it but, one of those same people that I mentioned earlier.

Q. Who would have identified to you which documents were relevant?

A. Yeah, so probably either Gareth Jenkins or Torstein Godeseth.

Q. Did you take any steps to consult with members of the SSC about what could or should be stored on the SharePoint relating to data integrity?

A. No.

Q. Why not?

A. I don't think there's any reason to do that. So I was really only doing what I was asked to do to set up the site, give access to certain people, add certain documents to it.

Q. Did you obtain any documents from sources other than Dimensions?

A. As far as I recall, no.

Q. Were you aware that Gareth Jenkins held a lot of relevant data on his laptop and on his server share at that time?

A. I don't think I knew that as a fact, no. I mean, I may have guessed that. It was common that people did hold lots of data on their laptops and on file shares at that time.

Q. Perhaps it might help if we just look at that email. FUJ00156902, please. Thank you. So this is an email from James Davidson. Is that who you believe asked you to set up the SharePoint site?

A. Yeah.

Q. You're not either the recipient or copied in to this email?

A. Mm-hm.

Q. But what it confirms, we can see at the second bullet point, is that you, Matthew Lenton, are in the process of setting up the site for all documentation relating to data integrity and for that to be stored. He goes on to say:

"Gareth has a lot of data which is on his laptop and on [his] server share currently but this will proved us [presumably 'provide us all'] with a place to keep drafts/WIP, [work in progress] and historical documentation."

So I think it's your evidence you weren't specifically told that by Mr Davidson; is that correct?

A. No, I don't think I was and I actually don't think that happened either. So I don't think we did end up storing a lot of data from Gareth into that SharePoint site.

Q. Thank you. So far as you can recall, did you have any contact or communication with Gareth Jenkins at this time about what he held on issues of data --

A. No, I don't think so. As I say, I think the SharePoint site only contained documents that I added to it from Dimensions, as far as I recall.

Q. Thank you. When did you first start liaising with Mr Jenkins directly over issues of data integrity?

A. I'm sure it was probably the two reports, so the Horizon and the HNG-X data integrity reports.

Q. Because you obtained those directly from him?

A. Well, I know they were written by him. So it seems perfectly possible -- even likely -- that they would have checked with him that they were the latest versions and that he hadn't made any other changes to them. Yeah, before that, I don't think I would have had any reason to discuss it with him.

Q. When you say you would have checked, this is from the point of view of version control --

A. Mm.

Q. -- rather than in relation to the content of the documents; is that right?

A. Yeah, I mean, simply I might have, say, version 1 and I would perhaps check with him that there wasn't a more recent version that I didn't yet have that he wanted to provide to Post Office instead.

Q. Thank you. I'd like to move on to a new topic, please, which concerns your involvement in the Group Litigation brought by subpostmasters and others against the Post Office?

In your statement you explain that your role was to

field requests for information and evidence from the Post Office's lawyers, Womble Bond Dickinson; to direct those requests to the appropriate subject matter expert within Fujitsu; and to provide responses back to Womble Bond Dickinson. Is that a fair summary?

A. Yes.

Q. You identify in your statement six individuals from whom you obtained information about Horizon; is that correct?

A. Yes.

Q. Perhaps if we could just turn up your statement, please, where that is addressed at page 18, paragraph 47. Can you tell us, please, for the benefit of those following your evidence, who each of those individuals were, and their roles? You've dealt already with Mr Jenkins.

A. Okay. So Pete Newsome was -- his job title was often something like Consulting Manager or something like that but he was somebody who worked on the Post Office Account and I believe had worked quite closely with Post Office themselves, in terms of actually working in their offices on some occasions. But he was also kind of in charge of commercial change, at a kind of high level, so in terms of discussing and fielding changes that the Post Office wanted to implement. So, effectively, he was a kind of senior kind of commercial change manager.

Stephen Parker was the Manager of the SSC.

John Simpkins and Mark Wright were both Team Leads in the SSC. So I think, basically, they were kind of Steve Parker's deputies. I think they had kind of half a dozen or so people working under them.

And Torstein Godeseth was the Senior Architect on the Account. So I think he was -- yeah, effectively he was senior to Gareth Jenkins, I think.

Q. Thank you. Would it be right to say that these would not be the only individuals from whom you obtained information; you say they are the principal ones?

A. That's right, yeah. So sometimes we would ask other members of the Account for help with obtaining certain bits of information, so various subject matter experts, from various teams.

Q. How did you determine to whom within Fujitsu a request for information should be directed?

A. So, often, that would just be simply by discussion with other the people. I mean, so the staff on the Account are kind of -- so all of the people listed here were on the Account for quite a long period of time and, obviously, I had also been on the Account for, you know, about 10 years, by this time, so we obviously knew who dealt with which types of issues and who had expertise in certain areas.

Personally, I would have seen many document updates

from being provided by various Architects, for example, or Service Managers. So I would know who was subject matter expert in certain areas.

Q. Who within Fujitsu was responsible for determining what was or was not disclosed to the Post Office's lawyers?

A. I suppose, ultimately, in terms of this exercise, it was Pete Newsome, I guess, as he was effectively managing this kind of small virtual team of people mentioned here, plus me.

Q. What were you told about the role that Gareth Jenkins was to play in supporting the Post Office's defence in the Group Litigation?

A. I'm not sure I was told anything specifically in those terms. I think it was simply that, when we were looking at providing answers to questions as it came to us from WBD, then I think it had been determined that this team of people would help to analyse the information in order to answer those questions. And he was one of those people, because of his longstanding expertise and knowledge on Horizon. So I don't think I was told anything specifically about what his role would be, other than in those terms.

Q. We know that some of the individuals named there gave witness statements in support of the Post Office's defence. Who was responsible for determining which of

Fujitsu's employees were to give witness evidence?

A. I suspect that was between -- probably, conversations between Pete Newsome, possibly Chris Jay, the Fujitsu -- I think he's a lawyer, I'm not quite sure what his qualifications are -- and with WBD, I suspect.

Q. Did you know why Mr Jenkins was not asked to provide a witness statement?

A. I believe I wasn't directly involved in that, so I'm not sure. I think it may be because of the fact that he was no longer a Fujitsu employee by that time.

Q. Did you know why he was being asked to feed information and evidence to other witnesses, such as Mr Godeseth?

A. Feed, mm. So, I mean, I think he's providing analysis, so he's being asked his opinion on various issues. So I'm not sure that I would necessarily have seen it as being characterised in that way but I'm aware that other people have characterised it like that.

Q. Did you have any concerns at the time about this approach to the preparation of the witness evidence that was being provided by Fujitsu?

A. Personally, no.

Q. The next topic I would like to address with you, please, concerns the very late disclosure by Fujitsu of a substantial number of Known Error Logs. Is it right that you were informed in late November 2017 that the

Post Office was required to declare the locations in which documents relevant to the operation of Horizon were held?
A. Yes, I was indirectly made aware of that by being presently with the EDQ, yes. When I say "indirectly", I wasn't told that that was what needed to be done in the terms in which you've just expressed it.
Q. You were asked, were you not, by Womble Bond Dickinson, to attend a conference call on 30 November 2017 --
A. Yes.
Q. -- the purpose of that call being to assist them to understand which documents were held by Fujitsu and where they were stored; is that right?
A. Yes.
Q. You attended that call with two other Fujitsu employees; is that right?
A. I believe so.
Q. Could you confirm their names and roles?
A. I think that was probably Pete Newsome and Chris Jay.
Q. You understand Chris Jay to be an internal Fujitsu lawyer; is that right?
A. So he's a member of the Fujitsu Legal Team at that time, yeah.
Q. To assist you, please could we turn up FUJ00158114. Thank you. In the second half of the page, please, we

have an email here dated 28 November 2017 from Amy Prime, an employee of Womble Bond Dickinson. It's addressed to you, Pete Newsome and Chris Jay, who is referred there as Defence Legal --
A. Yes.
Q. -- and others copied:

"Chris, Matthew, Pete.

"Post Office are required to inform the court of the location in which potentially relevant documents are located. 'Relevant document' is a very broad term and will encompass pretty much all dealings which Fujitsu have had with Post Office in relation to Horizon and HNG-X spanning emails (with both POL and internally), documents stored in Dimension, Transaction and Event data, HSD logs, PEAKs system and any other document produced by Fujitsu which relates to Horizon.
I appreciate that this may be a large volume of documents.

"So as we can understand the documents held by Fujitsu and where they are stored, it would be helpful if we could have a call."

Now, do you have any recollection of what was discussed at that meeting?
A. I must admit I don't really remember the meeting. I remember that I did attend it. I don't recall the

discussions that took place.
Q. A week later, you were sent by Womble Bond Dickinson a draft appendix to the Post Office's Electronic Directions Questionnaire -- is that right --
A. Yes.
Q. -- in which they had attempted to summarise the documents held by Fujitsu?
A. Yes.
Q. So if we just scan up while we're on this document, please, to the top, thank you, this is an email now from Michael Wharton, again to the same recipients:

"As discussed on Thursday's call, I have attached our draft appendix to the EDQ [the Electronic Directions Questionnaire], summarising the documents held by Fujitsu -- please could I ask you [first] to:

"review it generally and confirm you are happy with it; and [second]

"confirm the specific points highlighted in yellow in the attached."

He goes on to say:

"Please accept our apologies for the delay in getting this over to you such that it is now urgent, however, please can I ask you to come back to me with your comments by 14.30 this afternoon, as the EDQs need to be exchanged today. Your help is greatly

appreciated."

Now, obviously that email is timed at 10.18 am on the Wednesday, so you were given just over four hours?
A. Yes.
Q. Could we please look at the document attached to that email, so this is the draft appendix, which is at FUJ00158115.

Now, you make the point in your statement you didn't have very long to review the document. It wasn't very lengthy though, was it, it ran to just over two pages?
A. That's true.
Q. Would it be fair to say that you did have sufficient time to consult with your colleagues on a number of points that you raise in the statement?
A. Yes. Although, yeah, I mean, my recollection and what I see when I look back at the comments on it now are that, basically, I consulted with colleagues on the points which had been highlighted, as I think Michael Wharton mentions in his email and then, if I spotted any other things that I knew to be incorrect, then I commented on those as well. So I think if I saw -- if I read the rest of it and didn't either see highlighted -- sections of it highlighted to be queried or spot that there was something wrong myself, then I'm not sure that I'd -- I'm pretty sure I didn't generally

send this on a review to other people as a whole.
Q. Thank you.
A. If that makes sense.
Q. Just to look at what we have here, this is obviously one of several appendices dealing with databases of electronic documents but these specifically are Fujitsu's databases; is that right?
A. Correct.
Q. Now, if we look just above the table, it states:
"This information has been provided by Fujitsu to Post Office."
A. Yeah.
Q. Now, presumably that was in the meeting that you had on 30 November?
A. Um --
Q. Sorry, not attended solely by you but by Pete Newsome and Chris Jay, as well?
A. Yes, correct, yeah, although it is possible -- I have reflected on this and it does seem to me possible that Pete Newsome had separate either conversations or emails with WBD. But I -- as I say, I don't recall the details of the meeting and, certainly, information relating to KELs wouldn't have come from me, so it's not clear to me whether it was in that meeting or not.
Q. When you say it's possible he had other communications,

were you copied in to those?
A. I don't think so because I think I actually have looked to see whether that is the case or not. So ...
Q. You haven't found anything?
A. No.
Q. The first row in the table concerns the Known Error Log and, in the middle column, it provides a description of it to this effect:
"The KEL is a proprietary database with approximately 4,000 entries containing information which is used by Fujitsu to explain how to deal with or work around minor issues that can sometimes arise in Horizon for which (often, because of their triviality) system-wide fixes have not been developed and implemented."
Now, do you recall providing that information to the Post Office's lawyers during your call?
A. No.
Q. By whom do you think that information was provided?
A. So, if there was only three of us on the call, I could only assume that it would be Pete Newsome but, again, I would have -- so the reason that I say I think it's seems possible perhaps even likely that he got that information from elsewhere and provided it to WBD separately from that meeting is that -- or possibly

within the meeting but, certainly, not from me and it possibly came from elsewhere, is that I don't think he would have necessarily known -- come up with that definition on his own. So that sounds like something that somebody from the SSC would have provided him with.
Q. Was that something that you knew, that you had knowledge of at that time, what is described there in relation to the KEL?
A. No, not without asking somebody else to provide that information, no.
Q. The next entry, please, in the column entitled "Comments" reads:
"The KEL only contains the current database entries and is constantly updated and so the current version will not necessarily reflect the version that was in place at the relevant time."
Now here:
"The previous entries/versions of the current entries are no longer available."
Again, do you recall providing that information?
A. No.
Q. By whom do you think that information was provided?
A. So, again, I suspect that went to -- I mean, I'm guessing really but I could only assume that that went to WBD from Pete Newsome but I would also expect that he

had got that information from somebody in SSC. I mean, I have to say, we know that that last statement that you just read out is incorrect. But I don't know why it's incorrect and I don't -- you know, I've looked to see whether we can trace the source of that error but I haven't been able to and, I mean, it strikes me now that it's possibly even just been heard by somebody incorrectly. Perhaps it doesn't mean "available" but means "valid", or something like that.
Q. When you read that, when you reviewed the document, as you were asked to do by Womble Bond Dickinson, that didn't jump out at you?
A. No, I don't think that I was -- well, I know that I wasn't familiar enough with KELs at that time to have had an opinion on that actioning.
Q. In March 2018, so several months later, you provided to Womble Bond Dickinson approximately 8,300 KEL entries; is that correct?
A. I think that's right, yes.
Q. Who would supply those entries to you?
A. So those would have come from the SSC and I think it was probably John Simpkins who obtained them and provided them.
Q. At the time that you provided those entries, you were asked by Womble Bond Dickinson to confirm whether the

documents you had provided contained all historic and current KEL entries; is that right?
A. Sounds correct, yeah.
Q. Let's take a look at that email, please. FUJ00220950. On page 3, please -- thank you. So we have an email from Amy Prime again, of Womble Bond Dickinson, dated 23 March 2018, to you, and copied in to Chris Jay at Defence Legal, Pete Newsome and, I think, some other lawyers from Womble Bond Dickinson.
A. Yes.
Q. It reads:
"Matthew
"Thank you, we have safely received the documents.
"There is also a file named 'KELComplete' uploaded to the data room. Please could you confirm if this contains all historic and current KEL entries."
So that was a question that was raised specifically to you?
A. Yes.
Q. So what did you understand historic KEL entries to mean?
A. I think my interpretation of that was, and actually still is now, that it means KEL entries that are no longer applicable. So rather than old versions of KELs that have since been updated, it means old KELs that are no longer current KELs. So no longer applicable to the

current system.
Q. So obsolete but for a different reason?
A. Obsolete because they -- the KEL as a whole is no longer valid, rather than them being superseded versions of KELs, yeah.
Q. We'll come on in a bit to the terminology, it gets a little bit complicated but thank you. Now, bearing in mind what the electronic directions questionnaire had said, if the KEL only contained current database entries, from where had the historic entries been obtained?
A. So I think I go on to explain all of that, actually, in another email to Amy Prime, probably after this, I guess. So there are various statuses that KELs could have. So they could either be the currently applicable KELs, in other words the ones that the SSC would consult that were deemed to relate to the current version of Horizon.
Q. Sorry, can I pause you because we will come to that email.
A. Okay.
Q. That's quite some time later though. What I want to ask you about is what you thought at the time that you received this email. So we dealt firstly with a questionnaire in late November 2017 --

A. Sure, mm-hm.
Q. -- which said the KEL database only holds current entries of KELs. Now, here we have an email from Amy Prime, March 2018, which says, "Have we got all historic and current KEL entries?" So what I'm asking you is, at the time, did you ask yourself from where are these historic entries, if the database only holds current KELs?
A. I'm not sure that I did ask that but I may well have discussed it with John Simpkins but I think I took the KELs that he had provided me with, but again, I think this is the distinction between historic KEL and a superseded version of a KEL.
Q. Okay we'll come on to that terminology shortly. Now, to answer this question that Ms Prime had raised about the upload that had been made in March, as you say, you sought some clarification from John Simpkins; is that correct?
A. I think I probably did.
Q. If we scroll up, please, to page 1. Thank you. So your email to him of 23 March 2018 is at the bottom.
"John, I uploaded the KELs to [Womble Bond Dickinson's] site and let Pete know I'd done it, but it sounds like maybe he hasn't told them, so they are checking -- Amy Prime asking 'Please could you confirm

if this contains all historic and current KELs?'
"The answer presumably is yes, and am I okay to repeat the info you gave to Pete below as the answer to Amy?"
He answers "Yes, and Yes".
For information below related to the distinction between a Legacy Horizon KEL and a Horizon Online KEL; is that correct --
A. Yes, mm-hm.
Q. -- how to distinguish the two.
A. That's right. I think he includes a screenshot, doesn't he, showing the difference. Yeah.
Q. Is that the answer which you gave to Womble Bond Dickinson, to the effect that, yes, they had all of --
A. I assume it is, yes.
Q. Approximately six months later, you received a further request from the Post Office's lawyers to provide any KEL entries relating to the Callendar Square bug; do you recall that?
A. Yes.
Q. You initially provided to them some statements and material relating to the bug; is that correct?
A. Yes.
Q. You told them that you didn't believe that there was a KEL relating to that particular bug; is that right?

A. So I think it transpired that there wasn't one in the set that we had given to them and, therefore, it looked like there wasn't one available.
Q. Is that the basis on which you said, "I believe there isn't one"?
A. I'm not quite sure but I suspect that if I -- I may well have checked with either John Simpkins or Mark Wright and, if it wasn't in the set that we provided to WBD, then I expect that, if they went and looked for it, they wouldn't have found it.
Q. Just to assist you, the relevant email chain is at FUJ00179779, please. Thank you. The original requests can be found on page 4, please. Forgive me, if we just scroll down a little bit, please, to the email from Lucy Bremner, thank you.

So this is dated 11 September, addressed to you and Pete Newsome, this email not copied to Mr Jay on this occasion, the lawyer. It reads:

"Matthew, Pete,

"You may recall a while ago I asked you to provide information on Callendar Square, Falkirk. Apologies if I have missed your response, however I think this CEO may still be outstanding."

So chasing up an earlier request, it would appear; is that fair?

A. So it is actually a subsite within that site, yeah, that's correct. So it contained all of the KELs. So this is basically a means of keeping a record of what we had provided to WBD. So it seems perfectly possible that I would have searched that and then not found it but it also be the case, and seems very likely, that I would have spoken to John Simpkins about it or Mark Wright and they may have looked for it as well.
Q. Is this, you say, before this email --
A. Um ...
Q. Because we will come on to see that you did seek some clarification from John Simpkins?
A. Yes.
Q. But it's the basis of your assumptions?
A. So it's not completely clear from this because one thing you have to remember is that not all of the conversations I had with people, such as John and Mark, were done by email, since they sat on the floor directly above me. So I may well have gone and spoken to them.
Q. If we scroll up, please. So, essentially, forgive me, we can keep going up through, there's some back and forth between you and Ms Bremner over what materials held relevant to Callendar Square --
A. Yes.
Q. -- and you provide some additional material, including

A. It sounds like it, yes.
Q. "Please could you provide me with any information you have on this. Could you also confirm whether KELs exist for this bug?"

If we follow up to your initial response, please. You initially reply, 12 September:

"Lucy,

"The attached email I sent to you in July included the zip file that was originally provided to Second Sight, and which includes information relating to the Callendar Square case.

"I don't believe there is a related KEL but I will check for other information."

My question was what the basis of that assertion was and I think your answer is that it wasn't contained within the original batch and, therefore, you'd assumed that it didn't exist.
A. So I think it's -- looking at that now, I think it's quite likely that, when the -- when we provided WBD with the set of KELs, I believe we also uploaded the same set on to our SharePoint site, which, therefore, was separate from the SSC's original database, but then, in --
Q. Can I just clarify, which SharePoint site are you referring to? Is this the data integrity --

statements from Gareth Jenkins; is that correct?
A. Yes, I believe, so.
Q. Then -- thank you -- on 24 September Ms Bremner says:

"On our call last week you said you were waiting for Gareth to confirm whether there is a KEL for Callendar Square -- can you let me know?

"Kind regards,

"Lucy."

Now, is that something you recall raising with Gareth Jenkins at the time?
A. I don't recall it, no.
Q. It seems as though you've told Ms Bremner that that was something you were doing?
A. It seems likely that -- yeah, possibly. Or she may have thought that I -- I mean, it seemed to me from this email thread that I was talking to Gareth about other aspects of what they were looking at, at this point. So it may be that she thought I was waiting for him to confirm that as well, although that may not be the case -- it kind of seems more likely to me that I would have spoken to SSC about it, rather than Gareth, as to whether there was a KEL.
Q. Why is that?
A. Because they're the custodians of that system. I suppose it is possible that -- I mean, because we got

into the point of whether -- so I believe that Callendar Square was a Horizon issue rather than HNG-X issue, so it seems possible that the KEL may have been deleted, but since Gareth was working there at the time, I suppose it's possible in theory that he may have had a local copy of it that hadn't been deleted. But, I mean, that's speculating in some ways and I'm not -- don't think that is the discussion I was having with him.

Q. When you say a local copy, you mean stored on a laptop or --

A. Indeed.

Q. Thank you. Can we scroll up, please. So you contact John Simpkins, having been pressed again by Ms Bremner for an answer on this issue as to whether there exists a KEL for Callendar Square. You say:

"John,

"I am being asked if we can confirm if there is/was a KEL for the 'Callendar Square' issue. Are you able to confirm that definitively please?"

You say:

"Please see the attachment which describes it (points 1-4); it seems that it was a known issue that was fixed in S90 ..."

Do you recall what that is?

A. So that's a major release in Legacy Horizon.

Q. A software release?

A. Correct, yeah.

Q. "... and that in this context was of interest because it was brought up in connection with the West Byfleet case.

"If it was fixed, and therefore the bug wouldn't arise again, would a KEL, had it existed, have been deleted?"

So did that reflect an understanding you had at the time about the processes relating to the deletion of KELs or is this simply an assumption that you --

A. Yeah, I'm not sure. I mean, it seems from the way I've asked the question that I didn't know that at the time and that's why I was seeking clarification, yeah. I mean, I may have either started to suspect it, or -- yeah. I mean, logically, it seems possible, doesn't it?

So again, bearing in mind the fact that this Callendar Square was a Legacy Horizon issue, that related to Riposte. So by the time we got, you know, several years into operation of HNG-X then it would have had no operational relevance any longer.

Q. What was your understanding at this stage about Fujitsu's internal policy in relation to the retention or deletion of KELs?

A. In terms of KELs specifically, I don't know but I would

say that I think it shouldn't have been deleted.

Q. That's your opinion as a Document Manager?

A. Yeah.

Q. If we turn, please, to first page, we can see -- forgive me, at the bottom of the first page -- we can see the initial response you received from John Simpkins on 25 September 2018. He says:

"... Matthew,

"I have spent some time trying to track this down via the branch name, date range, release, problem description etc.

"However I have yet to find a matching KEL.

"I think that the best fitting PEAK is [and he gives a reference] which is for the branch [named] but the branch is in Falkirk."

He references another PEAK, which has:

"... a good description of the problem, which is in the Escher product, fixed in the new version at S90."

He then says:

"This KELJSimpkins338Q appears to apply which should have been in the extract supplied to [you]."

A. To them.

Q. Forgive me, to them, being the Post Office's lawyers.

A. Mm.

Q. If we scroll up the page, please, we can see your

response. You say:

"John,

"Thanks for this. It looks like [the KEL] JSimpkins338Q no longer exists, it wasn't in the set that we sent them. Do KELs get deleted?"

So, as you said before, some uncertainty on your part as to what the correct procedures were.

A. Yes.

Q. The response you received from John Simpkins:

"Yes KELs can get deleted.

"I will see if I can dig out the deleted KEL details, or would you prefer that it is just stay as 'deleted'."

Presumably that was meant to read that "it just stays as deleted"?

A. I think so.

Q. What did you understand Mr Simpkins to mean when he wrote, "would you prefer that it just stay as deleted"?

A. Yeah, I'm not sure. I mean, to be honest, I'm not really sure why he said that but, you know, I think I'd interpret it in the same way that I guess anyone would, which is that do you want me to not reveal it? I guess.

Q. Essentially, was he asking you whether or not he should be concealing the existence of a deleted KEL, even if it could be retrieved?

A. It certainly does sound like that. I don't really know what his intention is, to be honest.
Q. What did you make of that suggestion at the time?
A. I think that it -- I mean, I wouldn't agree with doing that and I don't think I did at the time, and I think that that we didn't follow or even discuss following that proposal, as it were.
Q. Just going back, please, to your email, that you sent him, beginning on the 26th, in that, you said it looks like that particular KEL no longer exists. Do you know how you established that, namely that the KEL no longer existed?
A. So, again, as I said before, I would guess that was by looking it up in the repository of KELs that I had on the SharePoint site and possibly also looking in the SSC website at the KEL repository. So the fact that it had been deleted does mean that it would no longer exist if you did a search in either of those places. You wouldn't find it.
Q. By deletion, did you understand at that stage that we were talking about data that was irretrievable?
A. I don't think that I was sure, because I think I was -- as you can see here, that I wasn't even clear at that stage whether they could be deleted or not. So I'm not sure that I would have known what "deleted" meant,

necessarily. But you're right, deletion could be deletion but retrievable or deletion but not retrievable.
Q. But that's not something to which you addressed your mind at the time, you don't think?
A. Not immediately.
Q. A short time later, so after confirming that he would make some enquiries and querying with you whether he should provide anything if he finds it, he writes to confirm that he has, in fact, retrieved the details of the deleted KEL; is that correct?
A. Yes, it looks -- that's what he says, yes.
Q. Could we please take a look at that email chain, which is at FUJ --
A. Sorry, just one sec. So "I will see if I can dig out the deleted KEL details". So he's not, actually, at that stage saying that he has found it, I don't think.
Q. No, we're going to move on to another chain. It's a different chain so we don't see that reference to whether it should stay deleted?
A. Right.
Q. This is at FUJ00179940, please, on page 2. So this is on the same day, about an hour later, after the email we have just looked at. He says:
"Matthew,

"I have managed to retrieve this from the deleted Horizon KELs table."
Then he proceeds to, in the body of the email he has copied and pasted the information that he has recovered --
A. Yes.
Q. -- in relation to that KEL. Now, so far as you're aware, from where had Mr Simpkins retrieved this information?
A. From something called the deleted Horizon KELs table I mean, yeah, that's all I knew at that stage.
Q. Did you know where that table resided?
A. Not -- not from that email, no. I mean, I think I found out later that it's somewhere within the SSC database.
Q. Was this the first time that you became aware that there existed deleted Horizon KELs which could be retrieved by Fujitsu?
A. Yeah, I think so.
Q. Were you concerned to discover that there existed a repository of KELs of which you'd not previously been aware?
A. Well, I think the answer is yes and I think from -- in the same email chain, you can see me asking whether we've told WBD that before and raising some issues around the fact that we have now some -- effectively

some more KELs that we haven't previously referred to.
Q. We'll come to that. Just staying where we are for now, it would have occurred to you, would it not, that the previous assurance which you had given to Womble Bond Dickinson about having provided all historic and current KELs, was incorrect?
A. I'm not sure that it did occur to me immediately in the context of the EDQ, no. I mean, this is like several months later, isn't it?
Q. Sorry, not in the context of the EDQ but you were asked by Womble Bond Dickinson to give a specific assurance --
A. Oh, right, yeah.
Q. -- that you had disclosed all historic and current KELs and, on the basis of what John Simpkins had told you, you confirmed that was correct. I think you confirmed that was correct?
A. Yes. Yes, correct. Yeah.
Q. Now, what I'm saying is, it would have occurred to you, wouldn't it, that, if there existed deleted KELs which could be retrieved, you had not, in fact, provided all historic and current KELs to the Post Office's lawyers?
A. Correct, yeah. So again -- well, I mean I don't think it occurred to me in terms of that statement but I think I go on to raise that question in this chain.
Q. We will come to it.

A. Yeah.
Q. Did you go back to Womble Bond Dickinson to notify them that your earlier assurance about the disclosure of all historic and current KELs was wrong?
A. Well, again, I think not immediately. But then, I think we discuss it in this email chain and then I think eventually we do go back and tell them that. Again, I don't know about specifically referring back to that email in which they asked that question and got that response but I think we did provide them.
Q. Well, let's look now at how the issue was handled by you and your colleagues. We're on the same document, please, at page 1. At the bottom of that page we see -- this is your email to Dave Ibbett. Could you just confirm his role, please?
A. So Dave Ibbett was a Project Manager, a Fujitsu Project Manager, who had been tasked with helping to project manage this exercise, basically.
Q. He was someone with whom you worked; is that correct?
A. Correct, yeah.
Q. So he was supporting you in the management of requests for information from the Post Office's --
A. Correct, yes.
Q. There's also Pete Newsome and John Simpkins. So this is following on from John's email to you; is that right?

A. I believe so.
Q. If we scroll down, please, sorry, slightly, we can see -- thank you. So you're forwarding John's email now, copying in Pete Newsome and Dave Ibbett?
A. Yeah.
Q. You say:
"Pete, in looking into Lucy Bremner's questions about whether there is a KEL for Callendar Square, John has identified two PEAKs which he believes describe the same issue, even if they were not raised in direct relation to that same branch, and from that a KEL, which has been deleted and was therefore not in the set of KELs that we have shared with [Womble Bond Dickinson]. John has managed to retrieve the content of the KEL as shown in the email below.
"When (if?) I share this KEL, indeed the PEAKs since they reference the KEL, I'll need to raise the subject of there being KELs which have been deleted. Is that okay, have we previously mentioned to them that there are deleted KELs?
"If we have to explain that then I suppose we need to know why; John, do you know the criteria? Was this a Horizon System only KEL that once fixed by S80, or once superseded by HNG-X, was no longer required?"
Now, here you appear to be considering the

possibility that you would not share the KEL and the associated PEAKs with the Post Office's lawyers; is that fair?
A. It is fair to say that. I mean, I -- I think when I wrote this email, I was assuming that we were going to share it, hence "when", and then I think I considered that someone else may have a different view, bearing in mind that Pete Newsome is, effectively, the manager of this exercise, and he may have taken a different view. So, in a way, it's not really my decision but I think I'm pretty clear that it's going to happen, actually.
Q. So your evidence is, essentially, you're looking to Pete for direction on how to deal with it --
A. Yes.
Q. -- did you consider that consider providing relevant information to the Post Office was optional?
A. Err --
Q. Was it your own view that it was optional?
A. I don't think it was, no.
Q. You do express here some concerns that the existence of deleted KELs appears to be inconsistent with information you've already provided to the Post Office's lawyers; is that fair?
A. Yeah, I think so.
Q. If we scroll up to the top of the page, please. We can

see the first response you received to your query from Pete Newsome. He says:
"Matthew
"I think we should send to [Womble Bond Dickinson] saying how we identified the KEL and that it was deleted from the database by John ..."
Sorry, presumably it should read 'but John'?
A. Mm-hm.
Q. "... was able to find a copy on a local drive.
"Pete."
So what Mr Newsome appears to say is, yes, we do disclose the deleted KEL; is that fair?
A. Yes.
Q. But, by way of explanation for the late disclosure, he suggests that you tell Womble Bond Dickinson that it was found on a local drive?
A. Yes.
Q. Did you consider that statement to be true?
A. No, because I think John had -- I think in hits -- well, in his email beneath this he had said that he'd found it in the deleted table and I think I probably had a discussion with him in which he said that it was a table within the database. So that, to me, would immediately sound like it wasn't a local drive but was a table within the SSC website somewhere.

Q. From where do you think Mr Newsome obtained the information that John had been able to find a copy on a local drive?
A. I think -- well, I mean, I can only assume he's making an incorrect assumption.
Q. Do you think it's possible that that was simply made up by Mr Newsome to avoid any further questions about deleted KELs?
A. It's possible.
Q. Please could we look at the response you received from John Simpkins to your query about why the KEL had been deleted. This can be found in a separate chain, please, at FUJ00179952.

Thank you. At the bottom of that first page, please, we can see an email from John Simpkins dated 26 September, in which he says, in answer to your question:

"Yes, I would expect that once S90 was released the proved that this was fixed the KEL was deleted."

So, obviously, some grammatical errors there but essentially saying that it was his expectation that it was deleted once the release was thought to have fixed the problem; is that fair?
A. Yes, well, he's saying he -- it looks like he's assuming that. He doesn't know that for a fact but --

why it was there; is that what you're asking?
Q. No, forgive me. I'm simply making the point that here, a short time later, he's advancing a further explanation.
A. Mm-hm.
Q. But forgive me, he's instructing you to give a different explanation as to why the KEL had been -- as to why the deleted KEL had been discovered.
A. Well, no, I'm saying that's too separate things though, isn't it? So the reason it's been discovered is not the same as the reason it was deleted.
Q. Forgive me.
A. Yeah, he's providing the reason why it was deleted, not how or why it was found.
Q. But providing an explanation as to why it wasn't disclosed in the first place; isn't that the underlying --
A. Um, yeah, I guess so. It's -- yeah. I mean, the fact that it was deleted is the reason that it wasn't disclosed in the first place, not why it was deleted though. I mean, why it was deleted, in some ways, could be another reason, couldn't it? But it's connected but it's not the same thing.
Q. No, I agree with that. But it's all part of, is it not, an attempt to explain away why Fujitsu has discovered

Q. He's making an assumption?
A. Yeah.
Q. Do you know why Mr Simpson would have been making an assumption rather than knowing the reason for the deletion of the KEL?
A. I mean, I think unless somebody had made a note as to why the KEL was deleted, then there wouldn't be any other explanation recorded anywhere. So I think he would just -- he's just kind of logically deducing that that is almost certainly the case, in his opinion.
Q. If we scroll up to the top of that first page, please, we now see a further instruction from Pete Newsome. So very shortly after the email we looked at earlier, in which he suggested providing explanation about a local drive. He now says:

"Matthew

"Include this as to why we deleted the KEL."

Now, this explanation didn't rely on a purported discovery of the KEL and a local drive but upon an assumption that Mr Simpkins had made that the KEL had been deleted; is that fair?
A. So that's two separate things, though, isn't it?
Q. Forgive me, I'm saying so we've moved on from the original explanation, which was --
A. So one of them is how he found it and the other one was

a KEL that wasn't previously disclosed?
A. I guess so, yeah.
Q. This is the explanation which you provided to Womble Bond Dickinson, is it not, when you handed over the deleted KEL; do you recall that?
A. The explanation as to why it was deleted, I believe that is what I told them.
Q. Can we look at FUJ00159985. Thank you. Your email is at the bottom of page 1, on to page 2. Thank you. So it's dated 28 September. You say:

"Lucy,

"We have locked into this, and it appears that the relevant PEAKs are [give the references] attached.

"The two related KELs were deleted, due to the fact that the S90 release was proven to have fixed the issue, and they so would not be included in the set of KELs which you have.

"We have been able to retrieve the text from one [of] them [it should presumably read] however, as attached [and you provide that as KEL JSimpkins338Q]."

Now, in this email, you assert as fact that the two related KELs had been deleted because it was shown the issue had been fixed by a software release, do you not?
A. Yes.
Q. You didn't know whether that was, in fact, the reason

why they'd been deleted, did you?
A. Well, I was given that explanation by John Simpkins, and assumed, therefore, that it was true, since that was his view, and I'm not sure what other explanation -- I mean, yeah, I -- I'm not --
Q. Forgive me, the point I'm trying to make is that you had an assumption that he'd made and you accepted that that was an assumption and you assert it here as a fact?
A. Okay. Yes.
Q. If you were being entirely accurate, you would have said, "We don't know why they were deleted but we assume it was because the problem had been fixed by a software release", would you not?
A. I could have stated it in that way. I'm not sure that it was clear to me how sure John Simpkins was of that -- his view. So, I mean, I -- if what I'm saying --
Q. If he wasn't sure if his view, how could you be sure --
A. Well, I'm not sure that I had any particular reason to doubt it but you're right though: maybe this is overstated in terms of sounding like it's a 100 per cent certainty.
Q. Were you hoping to shut down any further enquiries into the existence of deleted KELs?
A. I don't think so, no. I mean, to be honest, I am not sure that I would have had any interest in doing that.

Q. Do you think you were being entirely transparent in the explanation that you gave?
A. I think possibly more information could have been given but, I mean, to be honest, I think I thought I was being helpful and providing them with an answer to the question that they had given. I mean, I don't -- to be honest, I just don't think -- no -- it's of no interest to me to hide whether there were deleted KELs or not. It makes no difference to me.
Q. Would you have been concerned, though, about the reputation of Fujitsu and how it had handled the disclosure of KELs to date?
A. Not really.
Q. Two weeks later, you receive a number of queries from Womble Bond Dickinson about the deletion of KELs; is that right?
A. I think so, yeah.
Q. Can we take a look at that email, please, at FUJ00181400. Thank you. If we could scroll down, please, to page 4. So this is an email of 11 October from Lucy Bremner. She says:

"Matthew,

"We have sent the two KELs for Callendar Square to our IT experts. They have come back with the following questions for you relating to KELs being deleted when

the corresponding issues are fixed ..."

She then lists four questions. Firstly:

"Is that procedure a general rule?

"If so, is it enshrined in a formal process?"

Thirdly:

"If so, which -- and do we have the corresponding documentation?"

Fourthly:

"Are all deleted KELs available in a searchable archive? I assume that text could, in principle, be retrieved from other KELs."

She asked for an urgent response because they are having a call with the experts that morning.

Now, you refer these queries to John Simpkins; is that right?
A. I think so.
Q. It appears you carry out some research yourself into the processes for deletion of KELs; is that right?
A. I think so.
Q. On the basis of that research and the responses you received from Mr Simpkins, you respond to Ms Bremner. We can see that response, please, at FUJ00160063, at page 2, please. So we see a list of the original questions and your responses in bold; is that correct?
A. Correct, yeah.

Q. In square brackets, you've written "Matthew Lenton" to indicate you're the author of the text?
A. Yes.
Q. So you answer the first two questions in the affirmative, that's correct?
A. Yes.
Q. The third you provide some documentation that you've managed to source; is that from Dimensions?
A. Correct.
Q. Finally, the fourth question, about whether or not deleted KELs are searchable and can be retrieved, you state:

"They are not text searchable in their current location, but all deleted KELs can potentially be retrieved, although this would require additional time and effort to do, after which those retrieved would then be searchable. It is believed that all deleted KELs are still in the archive table."

Now, from where had you obtained that information?
A. Almost undoubtedly from John Simpkins.
Q. Did you make any specific enquiries of Mr Simpkins as to whether or not all deleted KELs could in fact be retrieved?
A. Well, I was going to say I think it transpires later on that that's not correct and that there were deleted KELs

that were retrievable and deleted KELs that were not retrievable.

Q. Thank you. We will come on to that shortly.

Now, I think within minutes of sending this response to Womble Bond Dickinson, you receive a further email asking you to confirm how many KELs have been deleted --

A. Right.

Q. -- is that right?

A. I think so.

Q. We can look at that, please, FUJ00160063. I think that may be where we are anyway. On the first page, please. Thank you. So she follows up with that query, which you refer to John Simpkins, please, at FUJ00181400. Thank you. So, at the bottom of the first page, please, we can see your email to John Simpkins:

"John, do you know how many KELs have been deleted to date?

"That's [Womble Bond Dickinson's] question for now, are you able to provide an answer please?

"I think I know what's coming next."

What did you mean by that?

A. Well, once we tell them, they'll ask for all of them.

Q. We can see Mr Simpkins' response, in the middle of the page, please, at 16.01. He says:

"Horizon deleted KELs -- [there are] 1,281.

"HNG-X [Horizon Online] deleted KELs -- 212."

He goes on to say:

"Please note however that come KELs would have been deleted because they were wrongly raised as well as those out of date. So we cannot confirm that all the information in these is valid, ie if the SMC raised a KEL wrongly the SSC may well have deleted it as such. Therefore I have reservations about supplying an export of deleted KELs."

What we appear to see here, do we not, is some reluctance by John Simpkins to consent to the disclosure of the deleted KELs; is that fair?

A. Yeah, I mean, I'm not completely clear what he means about reservations. I mean, I don't know whether he means reluctance to supply them at all or just those are his reservations, in that there may well be a significant number of deleted KELs that are actually not valid as KELs at all. I mean, I think I recall there was a fairly, fairly regular problem with SMC raising KELs for which there were already KELs. So you would end up with a duplicate. And I think he's referring to those also being included in that set.

So I'm -- it's possible that his reservation is more about we can't just send the whole load over because some of them just simply aren't valid and never were.

Q. I think it transpires in early November, you do provide a tranche of deleted KELs, 1,491, in response to their request; do you recall that?

A. I believe so, yeah.

Q. Now, in early February 2019, you receive several queries from Womble Bond Dickinson which were prompted by the claimants' technical expert. Do you have any recollection?

A. I'm sure I do. If you show me --

Q. Yes, of course.

A. -- more specifically what we're talking about.

Q. That email is at FUJ00086758, please. Thank you, page 3, please. If we could scroll down, please, to the bottom of page 3, thank you, so this is 6 February from Lucy Bremner, she says:

"Matthew,

Jason Coyne", who was the claimant's technical expert. Do you recall him as such?

A. Yes, yeah.

Q. "... has referred to a number of PEAKs/KELs in his supplemental report that he states have not been disclosed. Can you let me know why they are not in the PEAK/KEL extracts that we have received from you? Is it because they were all from the system 'PinICL'? If you can provide any dates relating to them that would be

appreciated."

We can see here you have again adopted the method of putting your responses in the body of the email in bold. In relation to the KELs, you say several of them are deleted, not deactivated, and they cannot be retrieved.

Now, that, of course, was different to what you'd said previously, which was that you'd understood them all to be retrievable.

A. Yes, although, as I say, later it transpired that some deleted KELs were not retrievable. I'm not quite clear whether this is before or after that statement. I mean, I think you can see from this that there's a kind of lack of knowledge on my part about whether -- about the status of deleted KELs.

Q. If we go to page 2, please --

Forgive me, sir, I may have an erroneous reference. In any event, I think we're due to give the transcriber a break, so I wonder if we could, please, briefly break now, whilst I make sure I have the correct reference when we come back and I can take Mr Lenton to the relevant email.

SIR WYN WILLIAMS: Certainly. When you say "briefly", do you mean we take a 15-minute afternoon break or just --

MS HODGE: Yes, please. Our regular break, thank you.

SIR WYN WILLIAMS: Fine. So it's 2.50, so 3.05.

MS HODGE: Thank you sir, yes.
(2.50 pm)
(A short break)
(3.05 pm)
MS HODGE: Good afternoon, sir, can you see and hear us?
SIR WYN WILLIAMS: Yes, thank you.
MS HODGE: Sir, thank you for the time.
The reference, please, is FUJ00086758.
Mr Lenton, you mentioned more than once in your evidence there was some ambiguity in the terminology used but that you did clarify that in an email to Womble Bond Dickinson. This is your email of the 13th -- well, it's Ms Prime's email of 13 February. We can see at the very top there you confirm that you've inserted your comments into the body of the email --
A. Yes.
Q. -- as you'd done on previous occasions. So if we scroll down, please, to Ms Prime's email, where we have her questions and your answers in bold. The first related to the PinICL system which was the predecessor to PEAK; is that right?
A. Yes, that's correct.
Q. The second point relating to deleted KELs. She asks:
"... are [these] not retrievable? Or were [they] provided to us on 5 November 2018 ..."

So this is triggered by some confusion as to whether or not deleted KELs were or were not retrievable?
A. Yes.
Q. You explained that there are two categories. Firstly, deleted KELs that are no longer retrievable because they've been completely deleted. You said:
"This was before the SSC started saving them into a 'deleted table'."
I think you said in your evidence that that was not something you would approve of from a document management perspective; is that correct?
A. Correct, yeah.
Q. You say:
"These cannot be provided, and if a KEL is referred to by us as not being retrievable, and, I believe, all KELs that are referred to in [the Claimants' expert's] report as not having been disclosed, then they fall into this category", so deleted KELs which you cannot retrieve.
The other category of deleted KELs are those which are retrievable due to being deleted into a deleted table, to which Mr Simpkins originally referred you in response to the Callendar Square bug query; is that correct?
A. I believe so, yeah.

Q. You go on to confirm that that is the set of KELs that had been provided to the Post Office's lawyers in November 2018.
Then we have another category which you describe as deactivated KELs. She says:
"... these were provided to us in the extract in [March or November]?"
You say:
"These are KELs that have <u>not</u> been deleted into the 'deleted table' but are excluded from the SSC's <u>default</u> searches which focus on live KELs, but can be included easily by changing the search criteria."
They formed part of the original March batch, so they were presumably the historic KELs that you did provide in March 2018; is that correct?
A. I believe so, yes.
Q. Then a fourth category is deprecated KELs, is that the correct pronunciation?
A. Yes.
Q. She said:
"... these were provided to us in the extract in March 2018, or on 5 November 2018?"
So asking "Have we had them?"
You say:
"When a KEL is updated, the old version of that same

KEL is deprecated, so these are superseded versions of live or deactivated KELs. We have only provided the most recent versions, so we have not separately provided these superseded versions. Note that there are no deprecated versions of KELs in the category 2a", that being KELs which were deleted before to the introduction of the deleted KEL table and which fall within your definition of irretrievable; is that right?
A. Correct.
Q. The final category she has are live KELs. You confirm these were provided in March and you confirm when she says, "Are there any other ... KELs", no, all KELs are covered by categories 2 to 5 above.
Now, the fourth category of deprecated KELs, this was another category of historic KELs which hadn't been disclosed; is that right?
A. So, rather than using the word "historic KELs", because that has possibly the implication that they're no longer current KELs, so deprecated KELs could be just superseded versions of any KELs that exist.
Q. So both current and historic?
A. Well, I'm assuming that deactivated KELs could be regarded as historic but, from what it says here there would be deprecated or superseded versions of those.
Q. Of the deactivated ones?

A. Yeah, as well as the live ones, yeah, of course.
Q. Now, as earlier iterations of either a current or a deactivated KEL -- sorry, these were earlier iterations, that's essentially the point you're making?
A. Yes.
Q. They would have contained information relating to the symptoms of the fault, it's underlying causes, the solution and related PEAKs, would it not?
A. Possibly.
Q. Be consistent with what we see in other KEL documents?
A. Yeah, mm-hm.
Q. If they contained that information, would they not have provided valuable evidence about the detection, diagnosis, and remedial action which had been taken previously in response to the --
A. Potentially.
Q. Possibly?
A. Yes. I mean, bearing in mind of course that the most recent versions were provided.
Q. The current versions?
A. Yeah.
Q. Now, I think the point you make later is that here in this email, perhaps not advertising, but you were drawing to the attention of the Post Office's lawyers that there is yet a further category which Fujitsu holds

which hasn't been disclosed?
A. Correct, yeah, and yeah, as I'm sure you're leading to already, this is contrary to what was stated in the EDQ, yeah.
Q. So we come, then, to a further query in late September 2019 and this relates to the accuracy of the Electronic Document Questionnaire. Do you recall that being raised with you by the Post Office's lawyers?
A. I do. It's -- did you just tell me the date just then it.
Q. This is late September?
A. Yeah, I mean, it was after this email, isn't it, I believe?
Q. That chain, please, is FUJ00166835.
A. Yeah, so it's considerably after that last email, I think, in fact, isn't it?
Q. Thank you. Pages 9 to 10. Bottom of page 9 on to page 10, please. Sorry, if we scroll down, please, a little further, we'll have the original email from Ms Bremner. Thank you. So that's 30 September 2019. She says:

"Matthew,

"Post Office is seeking to closed from its Electronic Documents Questionnaire submitted back in 2017. It's seeking to rely on the following quote in

relation to KELs ..."

That's the passage of course which we looked at earlier. She said:

"Can you confirm that this is definitely the correct position ... We need to respond to Freeths ..."

Now, your response a little further up, unsurprisingly, was that that was not entirely correct. You say:

"The second sentence is not correct, [that being]: 'The previous entries/versions of the current entries are no longer available'."

You say:

"You may recall that there are three status categories of KEL: current, deprecated and deleted. For those that are current or deprecated, they have been updated in such a way that previous content is not permanently overwritten, but instead a new version is created, with the previous versions being retained and accessible. For those that have been deleted, only the last version at the point of deletion has been retained."

Now, you had disclosed a batch of deleted KELs in November, that's correct, isn't it? We've covered that.
A. Yes.
Q. But you hadn't disclosed any of the KELs falling into

the deprecated category?
A. That's correct, yeah.
Q. Do you recall how many deprecated KELs existed?
A. I believe a figure of something like 5,000.
Q. Could we, please, turn to FUJ00166835. Thank you. So this is in early October. You've been asked to provide an entirely refresh extraction of KELs; is that correct?
A. Yes.
Q. Here you provide a breakdown of the different categories. We see there against deprecated KELs there were 6,155; is that right?
A. Right.
Q. Does that sound correct?
A. Yes.
Q. Is that the number of KELs which were disclosed by Fujitsu after the conclusion of the Horizon Issues trial?
A. That's the total number of new documents that were disclosed, yeah, because it says that there were 14,365 disclosed, of which about 8,000/9,000, had already been disclosed.
Q. I think you've accepted that these 6,155 documents might have provided valuable evidence about the detection, diagnosis and remedial action taken to address known errors in the system; is that right?

A. Potentially.
Q. I'd like to move on to a new topic, please, which relates to your knowledge of and information which you provided about remote access. In your statement, you say you were not aware until the Group Litigation that Fujitsu staff had the ability to insert transaction data into branch accounts without the express knowledge or consent of the subpostmaster; is that right?
A. Correct. Yeah.
Q. It appears, from the documents we have, that this issue was brought to your attention in or around May 2018 because of a request for information made by the claimants' technical expert; is that right?
A. Right. I think so.
Q. If we look, please, at FUJ00222620. Now, I think, please, if we could scroll to the very bottom of that document, we see the original request from Womble Bond Dickinson. Thank you. So this is just for reference. This was the genesis of the request that came in, requests for information from the claimants' experts.
You were asked, were you not, to identify documents which were responsive to that request?
A. Yes.
Q. One of the topics covered by the claimants' expert in his request for information was remote access; do you

recall that?
A. I believe so, yeah.
Q. I wonder, please, if we could show the information request, it bears the reference FUJ00222364. Thank you. The relevant section relating to remote access, please, is on page 2, under the heading "In relation to Issue 7". Forgive me, this contains the comments. It will be the following page. Thank you.
If we scroll down, please, "In relation to 7", thank you. So at question 1.13, the claimants' expert asked:
"When Fujitsu accessed branch accounts to modify or insert data, can it be described what the need for that access was and what modifications were performed? Can it be confirmed how many times this occurred?"
Now, we can see some small boxes with the letters and numbers J9, J10, J11. Do you recall what they were?
A. So I think these are comments by Jonathan Gribben from WBD.
Q. Thank you. So just dealing first with question 1.13, essentially, what you're being asked there is what records you hold or what records Fujitsu hold indicating for what reason and how often Fujitsu had inserted data into branch accounts; is that fair?
A. Right. Yes.
Q. Thank you. Could we scroll down, please, to the

following page -- forgive me, and one on, please. Thank you.
So the other questions relating to remote access 1.14 to 1.16. 1.14 states:
"Can it be described what privileges and capabilities administrators had in relation to branch remote access and the relevant processes and procedures?"
1.15:
"Please describe how transaction amendments (including reversals and balancing transactions) can be identified for those which were not carried out by the SPM in the audit/transaction data/logs ..."
So if we can, please, briefly look at the comments on the followed page, these are comments from the Post Office's lawyers. J14 and J15 indicate their understanding that the query relates both to balancing transactions and privileged user access; do you see that?
A. Mm-hm, yeah.
Q. Now, I think it's right, is it not, you took steps to identify documents which you understood to be responsive to those requests; is that right?
A. I believe so, yeah.
Q. You also sought information from a subject matter

expert, which, in this case, was Stephen Parker; is that right?
A. Yes, I think so.
Q. Let's look briefly at that exchange, please. It can be found at FUJ00222620. Thank you. Your email to Mr Parker can be found at the top of page 2, please. Thank you. It's dated 24 May 2018. You explain to him the documents which you've attached to your email. They comprised the request for information, which we've just looked at, as well as a table of documents, that you'd prepared that you understood to be responsive to the request; does that sound right?
A. Yes.
Q. You then say this, the third paragraph:
"Questions 1.13 to 1.16 all relate to issues around remote access to the live system and corrections ... Something I've tried to point out is that there are two different processes both named 'Transaction Correction' -- one is the TPS/POL Finance Systems corrections generated wholly within POL which are delivered via the file described in [you state the reference], and I understand this happens regularly. The other is the 'Transaction Correction Tool' which is described in [you state document reference] which happens very rarely (once?); this is where I'm getting

referred to SSC. Are you able to provide additional information in response to the questions in the comments labelled 'JONATHANG' for 1.13 to 1.16? Are there logs of it being requested, being done, and what is the procedure for authorising and doing it ..."

In that section we've just read, you identify two tools by which corrections can be made to branch accounts, the first is in the Post Office's back end accounting systems; is that correct?

A. I believe, so, yeah.

Q. The second being a transaction correction tool developed for the use in Horizon Online?

A. Yes.

Q. You don't make any mention there of privileged access rights; is that fair?

A. I don't, no.

Q. Why is that?

A. Well, I'm not sure. I'm just simply not commenting on it. I suppose it's sort of covered by the last sentence in that paragraph in a way, since that includes asking about the procedure for authorising and doing it.

Q. Were you aware at that stage of what those rights were and what they entailed?

A. I don't think so.

Q. You receive a response from Mr Parker on 25 May and, if

we scroll back to the top of the first page of this document, please, thank you. He says:

"Matthew,

"Starter for 10 as follows ..."

In response to that first query, question 1.13, he states:

"There is no functionality in Horizon for either a branch, Post Office or Fujitsu to modify or remove transaction data once it has been recorded in a branch's accounts. It is only possible to post auditable correcting transactions to a branch's accounts."

He then states:

"In the very rare circumstances where an accounting error cannot be corrected by POL's use of a TC [transaction correction, presumably] and it is necessary for support to make such a correction it has been subject to whatever change approval process is in use at that time. Currently MSC ..."

What is that referring to, please?

A. That's a system. It stands for Managed Service Change.

Q. "... latterly, OCP."

Which was?

A. Operational Change -- I'm struggling to remember what the P stands for -- process. Proposal, sorry. That's right.

Q. "These systems will contain full details of the required correction, method of execution, approval, etc."

Now, to which tools or methods of access did you understand Mr Parker to be referring here?

A. When he says "These systems", you mean?

Q. Yes?

A. So he's referring to MSC or OCP.

Q. But, specifically, MSC and OCP were not tools, were they, to insert data into a branch account?

A. Okay, so sorry, you're asking about --

Q. The method --

A. The methodology.

Q. -- of the record?

A. Okay, sure, um --

Q. To what method did you understand him to be referring?

A. So he's talking about the balancing transactions, so the HNG-X tool, that is referred to, the second one referred to in my previous email. So he's saying, not the POL-TC.

Q. You didn't understand him to be referring to privileged access rights?

A. He's not overtly referring to that, is he? But the ... he's not but, again, I think it's kind of -- in his mind, I'm sure it's contained in that last sentence where he talks about approvals, et cetera. So yeah.

He's not explicitly referring to it, though, I agree.

Q. Did you make any further enquiries with him at this stage, do you know?

A. I don't remember off the top of my head.

Q. The issue of remote access arose again in January 2019, so quite some time later, when the Post Office's lawyers requested disclosure of logs relating to the auditing of privileged user access.

A. Right.

Q. Do you have any recollection of that?

A. I think so, yeah.

Q. If we could look, please, at FUJ00188147. Thank you. Page 5 and on to page 6, we can see the original request, please. Thank you. So it arose in connection with, I think on this occasion, the evidence of Torstein Godeseth, and it was a query relating to managed service change, which we saw referenced in Mr Parker's previous email, and to what we call sign-off documents. What were they, please?

A. Well, managed service change involves a method of proposing and planning a change to a live system and then sign off means somebody approving it.

Q. So it was suggested at the time these provided an audit log of the use of privileged access; is that fair?

A. Correct, yeah. They're like a manual audit log though,

so somebody actually --
Q. It requires an individual --
A. Yeah, correct.
Q. Now, is it right you carried out some enquiries to locate relevant logs of the type we see here, the managed service change logs; do you recall doing that --
A. I think so, yeah.
Q. -- searching the system, which produced only nine positive results.
A. Err, yeah --
Q. If we scroll up please to page 3 --
A. I think so, yeah. I think I recall this, yeah.
Q. Thank you. So you email Mr Parker, Mr Ibbett and Mr Godeseth to say that you've, I think, run some searches on the MSC data archive and this has produced -- there are ten listed, you say, that match the search that you've run, the last one being the only MSC with APPSUP in its title?
A. Right.
Q. That being the Application Support privileged access; is that right?
A. Yeah, correct.
Q. You then cite one of the logs entitled "LIVE -- Remote access to APPSUP database role from SSC users". You say that one isn't relevant; that leaves nine examples --

A. Mm-hm.
Q. -- five of which are from 2010. You're saying to Mr Parker, Mr Ibbett, Mr Godeseth, "Does that sound realistically like it might be all there are?" So nine instances --
A. Mm-hm, yeah.
Q. -- of manually recording the use of the access right --
A. Yeah.
Q. If we scroll up a bit, please. You have a response back from Mr Parker, in which he says:

"For the use of APPSUP with full MSCs, that's a reasonable number BUT I'm surprised that the search is not throwing up any subtasks."

Can you translate that for us, please?
A. I think so, yeah, I think there's a concept within MSC of having an individual MSC for a task or a change and then there's also having -- I think it's called possibly a master MSC. So where it's effectively an MSC covering off a whole series of separate but possibly identical or similar tasks that are carried out under that authorisation, I think. That's what it's referring to.
Q. He then cites an example of where he's found such a subtask, is that right --
A. I think that's right, yeah.
Q. -- which hasn't been picked up by your search of the MSC

logs?
A. Yes, that's right, yeah, so -- yes, indeed.
Q. If we scroll down to the bottom of his email, he says:

"Not sure if this is an issue with the dataset or the search method?"

That is to say he's not agreeing that nine could be the right number --
A. It sounds --
Q. -- and he's querying why it is --
A. Yeah.
Q. -- that your search has thrown up that number?
A. Yeah, mm-hm.
Q. I think you then carried out some further searches, is that right, in which you established an additional 61 instances in which the privileged access rights have been used; is that correct?
A. I think so, yeah.
Q. When you referred those results back to Mr Parker, he suggested again that that appeared to be low, did he not?
A. Yeah, he did, yeah.
Q. Could we please take a look at his response, and the reasons which he gives, and that's at page 1, please, of this document. It's in the middle of the page, please, Mr Parker's email of 4 January. He says:

"It still seems low. The trouble is the systems were not designed for this kind of retrospective interrogation and just don't support it. There is no tag on an incident or change control which classifies the kind of remedial action needed, the description of any remedial action can be in a number of places."

Then he cites two examples of how a user might have recorded the use of the tool but not done so explicitly; is that fair?
A. Correct, yeah.
Q. He says:

"I think we need to give the claimants the results of this search while:

"(a) Clearly telling them the criteria used to search.

"(b) Caveatting that we do not believe it is complete and that it is not practical to return a complete list because they would require applying a mark one eye ball to all 220,000 PEAKs."

What did you understand Mr Parker to mean by applying a mark one eyeball to all 220,000 PEAKs?
A. I think he means that somebody is going to have to look at literally each one of them to determine whether that role was used in order to close out that PEAK or as part of that PEAK. I mean, I think, generally, my

understanding of this is when he says there is no tag, which classifies the kind of remedial action needed, he means there isn't a tick box, for example, that says, use APPSUP, tick, and therefore you'd be able to retrieve them more easily knowing that it had been used.

Q. So unless somebody went through each one of the PEAKs, you couldn't say definitively --

A. That's my understanding of what he's saying, yeah.

Q. -- how many times it had been used or why --

A. Correct.

Q. -- and what had been done with it?

A. Yes.

Q. Three days later you respond to Mr Parker, it appears following a conversation with the Post Office's lawyers, and we see that, please, at the very top of this page. You say:

"Steve, I think you are right -- we haven't yet covered off the MSC question, despite what Jonny just said."

Can you confirm who the reference to Jonny is?

A. Jonathan Gribben from WBD.

Q. You then say:

"Below is where we are up to in the discussion. As he has said he is happy, shall we let it lie for a bit and see if it comes up again? Or shall we provide what

we've worked out below?"

In his earlier email Mr Parker had stated that the results ought to be disclosed but that the disclosure should be accompanied by a caveat as to the scope of the searches that had been carried out; is that fair?

A. Yeah.

Q. By contrast, here you're suggesting that it might be simply better to let it lie for a bit, in the hope that the issue goes away; is that fair?

A. I'm not sure I'm saying it might be better. I'm just offering him -- basically, I'm asking him to make the decision on what we do.

Q. Were you concerned that the response which Mr Parker had provided raised more questions than it answered?

A. No, I don't think so. I mean, I must admit, the thing that is missing from this email that I don't recollect is what Jonny just said. So I'm assuming it's a phone call that we've just been involved with. So I don't know what was actually said and it could -- yeah, I just don't know.

Q. The implication seems to be that he's not pressing you for an answer?

A. It sounds like it, doesn't it? Yeah.

Q. So the opportunity is taken to let the issue slide?

A. I guess I'm offering that as a possibility to Steve

Parker, yeah, but I'm asking him to make the decision.

Q. Now, approximately two months later, you received a further query from WBD concerning the ability of SSC users to grant themselves privileged access without prior authorisation. Could we look at that, please, at FUJ00089798.

Thank you. It's on page 2, please. We can see the original request. So this one's from Andrew Parsons, a partner at Womble Bond Dickinson. He says:

"One follow-up question on APPSUP, which I think may be for Dave Haywood(??)"

Who was Dave Haywood, please?

A. So he is the -- well, he was and is the Lead Security Architect at Fujitsu, for Post Office Account.

Q. He says:

"I have attached the relevant PEAK. Could Dave (or someone at [Fujitsu]) explain why it took 4 years for this issue to get resolved?

"We suspect that Cs [a reference to the claimants] will attack [Fujitsu] on this PEAK saying that [Fujitsu] knew SSC had more access permissions than they should have had and that [Fujitsu] were dilatory in fixing that issue. If there is an explanation for why it took so long that would be good? Or an explanation for why it doesn't matter that it took so long?"

If we look at your response to that query, please, on page 1 -- thank you -- so that's dated 8 March 2019. You begin by clarifying what appeared to be some contradictory statements that you and your colleague, Mr Ibbett, had made; is that right?

A. Yes.

Q. Then you go on to say this, this the second paragraph under points 1 and 2:

"The ability for SSC users to switch themselves into the APPSUP role without prior authorisation was removed from existing users in August 2016; as to the reasons why this took so long, we don't have an explanation for the delay between the recognition of the preference for removing the role from being a permanent role for SSC, and that change actually being executed. Two things to note about [the relevant PEAK] however are [firstly] that was not originally raised in order to cover off this particular issue, and that original purpose of the PEAK was indeed closed off, [secondly] that it appears that it was closed incorrectly, so that instead of it being routed to Unix DBA as suggested by the penultimate ended, it was instead closed. Following an audit in August 2016 a new PEAK was raised ... in order to follow up the task to remove the APPSUP role."

Finally you say:

"As has been stated on previous occasions, even when SSC had the ability to switch into the role themselves, it was always a conscious decision to do so (so the role was never a permanently applied state) and the switch into it was always audited."

What did you mean when you said the switch into it was always audited?

A. Presumably it's recorded that they've used that permission or that role.

Q. You had established, had you not, in your earlier discussions with Stephen Parker that you, in fact, had no way of accurately establishing how often the role had been used without reviewing every single PEAK?

A. That sounds correct, yeah, although -- yeah. I'm not sure what happened in between that and this, so there may have been some other discussion about it.

Q. But are you not here giving false assurance that the use of the right is fully audited and can be accounted for --

A. On the face of it, yes --

Q. -- when, in fact, you can knew that that wasn't the case?

A. I suppose so, yes.

Q. Now, you received a further query from Womble Bond Dickinson in early March 2019, concerning the accuracy

of the evidence provided by Stephen Parker; do you recall that?

A. Not immediately. But --

Q. That reference is FUJ00089798, please. Can we go to page 9, please.

Forgive me, sir, I think on this occasion I do have the wrong reference so if I have an opportunity I'll return to it but we'll leave the subject of Mr Parker's evidence for the moment, please.

SIR WYN WILLIAMS: All right.

MS HODGE: My next topic, please, is the preparation of witness evidence.

Please could you describe your role in the reparation of witness statements provided by Fujitsu employees?

A. My role. Yes. So similar to what we've seen in the rest of the work that I did on this. It's largely around assisting people with finding information, answering questions or helping to answer questions or finding information for -- to answer questions put by WBD.

Q. Do you recall whether you had input into the drafting of statements?

A. I don't believe that I did but there are questions that I'm asked which I then obtained information for, which

end up probably going into the statement so, arguably, you could say that I did but, I mean, I wasn't actively involved in actually deciding what they would say, I don't think.

Q. I would like to ask you some questions about the wording of a statement provided by Andrew Dunks in the Group Litigation, please. Do you recall being asked to obtain a witness statement for the Post Office's lawyers concerning the extraction of audit data?

A. So I must admit I didn't recall it until you disclosed the emails to me in the last couple of days.

Q. Do you know why the request was directed to you?

A. Not really, no. I mean, only in that many of the requests did come through to me, and it's possibly just one that I was able to answer. I'm not quite sure now.

Q. Do you recall providing a draft statement to Womble Bond Dickinson, now that you've read those emails?

A. So the draft statement in this case, I believe, was the standard ARQ witness statement, so it was effectively like a templated statement used by the security Operations Team.

Q. From where had you obtained that draft statement?

A. I think it was provided to me by Jason Muir.

Q. Did you know by whom the standard form of words had been drafted?

A. No.

Q. Did you know in what context that statement had been prepared?

A. If I didn't -- I may not have known at that time but, I mean, since then, I do have an understanding of what it's for but I can't recall whether that was the first time that I was aware of it or not.

Q. Can we please look at some of the wording contained in that statement at FUJ00160508. Thank you.

This is a copy of the draft statement which you provided to the lawyers of the Post Office; is that right?

A. Yes.

Q. We can see it's dated 13 November 2018.

A. Mm-hm.

Q. So that's, I think, just the day before you provided it, so presumably you inserted that date?

A. I'm not sure. Possibly not.

Q. Just to orient ourselves, please, if we look at the first paragraph of the draft statement, it reads:

"I have been employed by Fujitsu Services Limited, on the Post Office Account, since 11 March 2002 as an Information Technology Security Analyst responsible for audit data extractions and IT Security. I have working knowledge of the computer system known as

Horizon, which is a computerised accounting system used by Post Office Limited. I am authorised by Fujitsu Services Limited to undertake extractions of audit archived data and to obtain information regarding system transactions recorded on the Horizon system."

Now, the statement goes on to provide an explanation of the Horizon system, as well as what might be described as controls around the extraction of data; is that correct?

A. Right. I think so. Mm-hm.

Q. The section of the statement I'd like to ask you about can be found at the bottom of page 4, please, and on to page 5. So the last two paragraphs read:

"A request was received on 3 October 2018 and asked for information in connection with the post offices at Caddington, Spencefield, Newport and Fleckney. I undertook extractions of data held on the Horizon System and followed the procedure outlined above. I produced a CD containing the required data."

Now, was that information that you inserted, do you recall?

A. No, I don't think so. So I think that WBD specified what they were asking for and this was basically inserted in order to provide the information requested. Whether I inserted that in there or not, I don't know.

It may well have been Jason Muir.

Q. It goes on to say:

"There is no reason to believe that the information in this statement is inaccurate because of the improper use of the system. To the best of my knowledge and belief at all material times the system was operating properly, or if not, any respect in which it was not operating properly, or was out of operation was not such as to affect the information held within it."

What did you understand that statement to mean?

A. So my understanding of that is that it's referring to the audit retrieval system.

Q. When it refers to the system was operating properly?

A. Yeah.

Q. You didn't understand it to be a generalised comment about the integrity of the Horizon system?

A. No.

Q. After providing this initial draft, you liaised with Womble Bond Dickinson to clarify the wording of the statement; do you agree with that?

A. I believe, so.

Q. You proposed some amendments?

A. Um --

Q. You can look at the email chain --

A. Did I?

Q. It's at FUJ00160649, please. Thank you. If we could go down to page 2, please. To the bottom of that page, please. So here, this is just one example, but here you say:

"Lucy,

"Section now reads as follows (and as attached)."

You proposed effectively some amended wording to the paragraph we just looked at:

"Does that need to be signed today, or can it be done on Monday?"

A. Right.

Q. Now, was that redrafting done by you or by someone else?

A. So I think it's at the -- I think either below this or another email that specifies what it is that they're looking for, so I think this is effectively just putting into the statement what's being requested.

Q. I think what -- I'm not suggesting that you were necessarily making a decision as to what information should be contained in it but you were actually doing the drafting, is that fair --

A. Um --

Q. -- based on the information that you had been fed?

A. I must say it is not what I would refer to as "doing the drafting" but, you know, I inserted some words into it at somebody else's request, yeah.

Q. Before we move on, please, to our final topic, at the top of this page we have an email from you -- forgive me, at the top of page 1 we have an email from you to Ms Bremner, about the extraction -- forgive me, we can see the middle of the page, 16 November 2018. You say:

"Lucy,

"Attached is the scan of the witness statement signed by Andrew Dunks, and the same in word format.

"Just to clarify, Andy has confirmed to me that the first retrieval was supplied to WBD on CD and to Gareth by loading to a laptop; the second request was supplied to Gareth on a CD, but not to WBD. So factually the statement is correct ..."

This is in relation to the method by which the data was supplied.

A. Right.

Q. What I want to ask you is this: why was it that Gareth Jenkins was being supplied with the audit data extracted in relation to the lead claimants?

A. I assume it's because he was being asked to carry out some analysis on it.

Q. Thank you.

Final topic, please, before a couple of clarifications. You've indicated in your statement that the process of disclosure by Fujitsu was not supported

by appropriate legal advice and oversight; is that right?
A. In my opinion. Correct.
Q. Now, we've seen in the documents to which I've referred you today that Chris Jay, a senior member of Fujitsu's Legal Team, attended meetings and was copied into emails to requests for information and to responses; is that fair?
A. Yes. But I think a relatively small number, from what we can see in many of the other emails that we've looked at, he's not included.
Q. He was quite closely involved in the early stages of disclosure; is that right?
A. In the early stages --
Q. Particularly --
A. -- more so.
Q. -- involving issues around the claimants' access to KEL software and Fujitsu's intellectual property rights?
A. I think that's right. I think he was involved in the discussion around the non-disclosure agreement, for example, yeah.
Q. He continues to be copied into emails -- I accept not all emails, but he continues to be copied into emails throughout the period, does he not?
A. I'm not sure whether that's true. I mean, without

looking at it and investigating it, I couldn't give you a definite answer off the top of my head, but I -- my impression is that he wasn't closely involved with the process.
Q. Some --
A. Latterly, particularly.
Q. -- not all? Sorry, I didn't mean to interrupt you. He was copied into some but not all, I think, is your --
A. That's my recollection and that's what I believe I see from emails I look at, including many of the ones we've looked at here today and that you've shown me over the last few weeks, yeah, correct.
Q. When you say that you feel that you weren't given appropriate advice and oversight, is that specifically directed at Mr Jay?
A. No, I mean, I don't think it would have mattered who it was, but maybe the Fujitsu Legal Department generally. So it's not about a specific person, it's about a --
Q. I didn't mean to imply it's personal but he obviously had some oversight. You're saying it wasn't sufficient oversight?
A. Um -- that's --
Q. So does responsibility for that fall on him, do you think?
A. I don't know. I mean, I recall recently seeing there

was an email where he said he was handing over to somebody else, I think. So I can't quite remember the name of the person but --
Q. Was the concern that you -- sorry, I interrupted.
A. Yeah, so I mean, as I say, I can't quite remember now but, in some ways, that's actually almost, you know, indicative of the fact that I don't think there was that much oversight, is that I don't quite remember what happened to him in the end and whether he was replaced by someone else. But I'm fairly sure that I saw an email from him earlier in which he said he was handing over to another person -- Julia someone, possibly -- anyway.
Q. Was this a concern which you had at the time?
A. I think it's -- I think it was much less clear to me at the time and I'm not sure that it particularly worried me at the time but I think, looking back on, that's quite clear.
Q. What prompted you to look back on it, to conclude in hindsight there wasn't sufficient advice and oversight?
A. I think particularly, for example, the amount of oversight that there has been in dealing with this Inquiry, for example, has been much greater than it was over our interaction with WBD for the trial.
Q. How do you think you would have acted differently, had

you had better advice and oversight?
A. I think, probably, there would have been a lot more resource, for one thing and, as I think I explain in my witness statement, effectively, many of the people involved in this were kind of doing it as well as their normal day-to-day jobs. In fact, I don't think it was really -- I suppose, probably apart from Dave Ibbett, but even then I'm not sure about him, whether anyone was actually doing it as their sole task.

And there would have been more resource, perhaps, in terms of tools, and just the ability to actually do greater amount of investigation and information gathering and to be sure that we had all of the information that was available.

I mean, in some ways -- yeah. No. That's ...
Q. Thank you. I have some very short points of clarification which I've been asked to raise and which I'll do briefly now, if I may.

During and after the Group Litigation, did you liaise with external lawyers other than Womble Bond Dickinson?
A. After the Group Litigation? Um ...
Q. The reason I ask this specifically is --
A. In any context, do you mean?
Q. So did you receive and deal with the requests for

disclosure from a Scottish law firm known as BTO Solicitors; do you have any recollection of that?
A. Possibly. I vaguely think I've heard of them, so I may have done but I don't recall.
Q. You're not able to provide any details in relation to that disclosure?
A. Not without looking it up, potentially, no. I don't remember that.
Q. Do you recall whether you disclosed any documents directly to the Crown Office or the Procurator Fiscal Service in Scotland?
A. I don't believe so. So I have been asked questions in relation to those bodies but via Peters & Peters, I think, for Post Office.
Q. Whilst you were dealing with document disclosure in the context of the Group Litigation, did you receive any advice or instruction about retaining documents for any of the following purposes: firstly, use by the Criminal Case Review Commission?
A. Not directly no.
Q. Secondly, compliance with the ongoing duty of disclosure in criminal proceedings, whether by the CPS or to --
A. No, I don't think so.
Q. Do you recall there being any discussions about documents which you provided to the Post Office's

lawyers being used in connection with any criminal proceedings or appeals?
A. No.
Q. In your role as Document Manager, have you been asked to locate and retain the scripts that were used by Fujitsu helpline?
A. I have been involved in that question, yeah, but I recall not being able to do that. So yeah, unsuccessfully, if I was asked to be involved in it.
MS HODGE: Thank you, sir.
With the exception -- sorry, excuse me one minute.
SIR WYN WILLIAMS: Yes.
MS HODGE: Forgive me, sir. With the exception of Stephen Parker's evidence, that would conclude my questions.
SIR WYN WILLIAMS: Yes.
MS HODGE: Some of the recognised legal representatives would like to ask questions. I'm conscious of the time. It's 4.00, sir, and I think we will need to give our transcriber, one additional break, perhaps a short break of ten minutes, so it's really a question of whether we can get things wrapped up today within the time available.
SIR WYN WILLIAMS: Well, that's -- who wants to ask questions and how long are they going to take? Let's see where we are?

MR STEIN: Sir, I have one question for the witness and it will take less than a minute.
SIR WYN WILLIAMS: All right, well, that's easy.
MR STEIN: I hope so sir, in terms of a break, I have a personal matter, that I need to deal with at 4.15, so, even if there is going to be a break would you allow me permission to ask that single question?
SIR WYN WILLIAMS: Of course. We'll have that in a second. Who is wanting to ask questions which will take longer than Mr Stein's one minute-ish?
MS PAGE: I also would like to ask some questions, sir. I could keep it to ten minutes.
SIR WYN WILLIAMS: Right. Anyone else?
MS OLIVER: Sir, yes, I would like to ask some questions, if possible. I can also keep it to ten minutes, please.
SIR WYN WILLIAMS: Right. So we will have Mr Stein's minute or so now, then we will have a short break and then we will have two 10-minute sessions. All right. I think that's reasonable, in all the circumstances.
Everyone at least content?
Fine.
So, Mr Stein. Ask your questions and then we'll have a short break.

Questioned by MR STEIN

MR STEIN: Mr Lenton, in my 60-second countdown, can I ask

you just this: you've just been asked by Ms Hodge questions that relate to the location and retention of scripts --
A. Right.
Q. -- from the Fujitsu helpline. Your answer was you recall not being able to do that. Why were you not able to do that?
A. Because I wasn't able to locate them or find anybody who knew where they were but I'm also aware of the fact that I wasn't the only person asked that question and it was also, fairly certain, investigated by some other people in Fujitsu. So I didn't -- I mean, I don't think I reached a definitive conclusion on it and others may have done.
Q. Right, the others being?
A. Other people working for the Fujitsu Legal Team.
Q. Okay. Do you know their names?
A. Um, God, I do. What are their names? Um --
Q. To assist us, would you put that in writing and provide that answer to the Inquiry?
A. I can do.
MR STEIN: Thank you.
Thank you, sir.
SIR WYN WILLIAMS: Right, we'll resume again at 4.15, and we will aim to conclude by 4.35.

MS HODGE: Thank you, sir.
(4.05 pm)
(A short break)
(4.15 pm)
MS HODGE: Sir, can you see and hear us?
SIR WYN WILLIAMS: Yes, I can, thanks.
MS HODGE: I'm not sure who is going to go first.
Ms Page, thank you.
Questioned by MS PAGE
MS PAGE: Thank you.
My first topic is short and I want to ask you about your recollection to do with the providing of the Jenkins reports on data integrity. In your witness statement, you appeared to have quite a clear memory of those reports and putting them on to your Dimensions system; is that fair?
A. Right, yes.
Q. Is there a reason why, given that this goes back, I mean, many years -- the first email correspondence is from 2010 and, presumably, a little earlier when you actually put them on the system -- is there any reason why you can remember these reports so clearly?
A. I think it really is because, obviously, subsequently their significance has become much more apparent to me but then, also, there's the limited number of times in

which we have provided them to Post Office, which we've done on more than one occasion, I think, and in the fact that there's only two of them, and there's one for each version of Horizon. So it's a kind of -- yeah. I mean, that's it really. They're just quite unusual, as I said earlier, in terms of the types of documentation that we hold.
Q. Was there a sense that there was a concern around data integrity and that these reports sort of highlighted that and something, something around that?
A. Well, clearly when you read them, then it's apparent that someone at least does have some concern about it, yeah, because that's clearly what they're about. I mean, they're not very long, either of them, and they're clearly attempting to address a question --
Q. Did you read them at the time? Do you have a memory of that?
A. I think I probably -- yeah, I think so. I mean, they're only, like, six pages, aren't they, I think?
Q. Indeed and that might be why they stick out because they are about these concerns; is that fair?
A. Possibly, and I think the other thing is that, unlike many of the documents I see, they're actually just written in kind of what you might call normal prose that anybody might understand, rather than being highly

technical.
Q. Yes. All right. Thank you. Then, in that case, what I'd like to move on to is the disclosure around remote access. You've described how the disclosure process was really iterative and responsive.
A. Yeah.
Q. But when it came to the issue of remote access, there did come a time when it became quite a structured approach, didn't it? With a long table, and various different issues relating to it that you were responding to?
A. Um -- yeah --
Q. We can come to it in due course.
A. I was going to say I'm not completely sure what you're referring to but I think there was a -- I think you're referring to there's an Excel file I think which has -- effectively is a big table showing all the different types of what could be regarded as remote access and who would be able to do them, et cetera?
Q. Yeah. All right --
SIR WYN WILLIAMS: Before you go any further, Ms Page, so that I'm not being slow, we're talking about disclosure relating to remote access in the GLO, are we?
MS PAGE: Yes, that's absolutely right, sir. Sorry.
SIR WYN WILLIAMS: Yes. That's fine.

MS PAGE: So, as part of that process, you looked into the history of the SSC team using what they call the change control process, in order to record occasions when they inserted transactions into branch accounts; do you remember that?
A. Yeah, I'm not sure that I did personally but I might have done some of the work contributing to that, yeah.
Q. All right. Well, let's look at a document. It's FUJ00189522. If we can scroll to page 3 when it comes up, please. So on this page here, perhaps if we just go up a little we can see what is going on. This is from Steve Parker to you, 24 January, various other people copied in, and he describes the -- it's sort of slightly in shorthand but it seems that the subject is in relation to Richard Roll, "Roll 2", and there seems to be a sort of a further subject heading in the sense that he says:
"Review a sample of OCPs to give an indication as to how frequently transaction data was injected."
A. Yeah.
Q. Then he addresses you:
"Matthew,
"Has become very difficult to provide.
"The original plan was to examine sample months of change control data and produce rough figures. This led

me to the realisation/remembering that support did not use change control in the earlier years for [Business As Usual] support actions. We relied on the audit trail within the incidents (PEAKs) to document support actions. We had auditability of the work done but no change control entries. Reasoning behind this was: implementing support actions ASAP, nobody around to sign off overnight anyway, audit trail is enough where no financial impact."

He then goes on to talk about trying to sample PEAK records.

A. Yeah.

Q. So one of the reasons -- well, the reason behind this, not using the proper change control process, was evidently a sort of a needs must; is that fair?

A. It sounds like it, doesn't it? Yeah.

Q. If we could please keep a sort of an eye on that wording and go to how it was then communicated by you in document FUJ00163098. This is quite a long email train. If we go down to, first of all, page 3, just to give us some location of where we are. So that email at the bottom, 24 January, from you to Jonathan Gribben, various other people copied in, including Gareth Jenkins and Andrew Parsons.

This is the sort of table that I was talking about,

it looks like it probably did come from Excel or something but it's --

A. Okay, it's not the one I was thinking of but, anyway.

Q. Right. Well, there's a long table with various aspects of disclosure that are being looked into. If we scroll all the way down, please, to page 10, we can look at the bit which follows the email that we were just looking at from Steve Parker. If we scroll a little further we can see that chunk in the middle that says "Matthew Lenton"?

A. Mm-hm.

Q. The header there is the same as we saw in the email from Steve Parker, "Review a sample of OCPs to give an indication as to how frequently transaction data was injected", and then you've inserted the description but slightly different wording:

"This is proving difficult to provide [the same]. The original plan was to examine sample months of change control data and produce rough figures."

Then, slightly different:

"As Pete Newsome already discussed with you, this led to it becoming apparent that support did not use formal change control in the earlier years for [Business As Usual] support actions."

So that's gone from Mr Parker saying that he actually remembered that they didn't use formal change

control in the earlier years. Do you think that was properly communicated?

A. I must admit, to me, I'm not sure if there's a big difference in those two things. I mean, it became apparent to us, looking at this question, as a result of Steve Parker remembering or whatever it was that he said.

Q. All right, well, let's go a little further down.

"We relied on the audit trail within the incidents (PEAKs) to document support actions. We had auditability of the work done but no change control entries."

Then:

"We assume that the reasoning behind this was to allow implementation of support actions ASAP, and the audit trail being good enough where there was no financial impact."

So that really is a slight softening, if you like, of the needs-must wording that we saw in Mr Parker's email; do you think that's fair?

A. Well, possibly. I mean, the meaning is almost the same, I would have said, isn't it?

Q. What we don't see there is the reference to there just simply being no one around on the overnight desk. There is still this attempt to assure and provide assurance,

but there is a sort of a softening; would you accept that or not?

A. Possibly. I mean, yeah.

Q. All right. Well, then just this: the answers that you received from Mr Parker about what the SSC team were doing and those needs-must actions that they were taking, the wording that you've used was more or less conveyed to Mr de Garr Robinson KC and that was in the context of him having said that answers around this issue and if it were true that the SSC were not using change control processes, it would be "disastrous for the case". I'll give the reference so that those interested can look it up -- we don't need to go there now -- POL00416010.

So, evidently, this answer was considered important by the person in charge of the litigation. Was there ever any comeback, ever anything further to you, or anything that you know of to Mr Parker on this subject?

A. Not that I recall specifically, no.

MS PAGE: No. All right. Well, thank you very much, Mr Lenton. Those are my questions.

A. Thank you.

SIR WYN WILLIAMS: Thank you, Ms Page.

Questioned by MS OLIVER

MS OLIVER: Thank you, sir. I ask questions on behalf of

Gareth Jenkins and I want to ask you some questions about Fujitsu's work in the context of the GLO proceedings, if I may.

You've been asked some questions earlier today about Mr Jenkins' role and you said, essentially, that there was a team of people who would help to analyse the information in order to answer questions from Womble Bond Dickinson --

A. Right.

Q. -- and he was one of these people because of his longstanding expertise and knowledge in Horizon.

A. Yeah.

Q. Is that right; have I paraphrased that correctly?

A. I think so, yeah.

Q. Thank you. But you weren't told anything specifically about his role, other than in those terms; is that correct?

A. No, not really. I mean, obviously I knew him fairly well, in any case, so yeah, I mean, I just accepted that that's what he was doing. He was analysing information that we were providing to him when he was asked to.

Q. Does it follow that you weren't informed as to why Mr Jenkins was not called as a witness in the GLO proceedings?

A. I don't believe so no.

Q. Were you ever told by WBD or POL not to direct queries to Mr Jenkins unless this was unavoidable?

A. No.

Q. You've also been asked about why Mr Jenkins, who was not himself a GLO witness, was being asked to feed information and evidence to individuals who were witnesses from Fujitsu --

A. Right.

Q. -- and I think Mr Godeseth was mentioned in particular in the context of that question.

A. Yeah.

Q. I think your answer was that you would not necessarily characterise it in that way; do you recall that?

A. Correct. Yeah.

Q. Was the position that there were multiple individuals within Fujitsu who assisted the Post Office with technical input into the expert and witness evidence that transpired as part of the GLO proceedings?

A. Yeah, and, in fact, there were people in that immediate virtual team who weren't witnesses, such as John Simpkins and Mark Wright.

Q. Yes, indeed, within the six that you have identified.

A. Yeah.

Q. Is this right: that these individuals were performing tasks such as providing analysis on material like PEAKs

and KELs, answering questions from WBD on discrete technical issues -- sorry, you're nodding.

A. Correct, yes.

Q. Thank you. Providing commentary on witness statements and expert reports, such as the Coyne Report, the Jason Coyne reports that had been served by the claimants in the proceedings?

A. Yes.

Q. Preparing technical analysis of bugs, errors and defects that had been identified?

A. Correct, yeah.

Q. And, indeed, commenting on the draft witness statements that were produced by the Fujitsu witnesses who were to be called by POL?

A. Yes. I believe so. Yeah.

Q. You, as you've said, identified six individuals who were part of that team but I think you've made clear that that wasn't an exhaustive list?

A. No, that's right. There were other people who also worked on the Post Office Account who were consulted about various matters, correct.

Q. So is it fair to say that Mr Jenkins was one of a number of Fujitsu personnel or, to use your phrase, a team of people, who performed these tasks including commenting on witness statements?

A. Correct. Yeah.

Q. Indeed, is this right: that it would have been practically impossible for one person in Fujitsu to perform that role because of its sheer scale but also the multiplicity of expertise that it demanded?

A. That's correct. So I recall, for example, that I think we'd split up all of the -- I'm trying to remember the phrase that was used but all of the issues that came out of the supplemental report of Jason Coyne were split among the members of that virtual team, yeah.

Q. You've identified one of the two examples I'm going to come to, the 22 bugs that Jason Coyne identified?

A. Right, and I think there your more than that originally, actually that they were asked to analyse, yeah.

Q. Thank you. Before I come on to those examples: is this also right: that this process that was going on within this team was collaborative; people were working together on these tasks?

A. Correct, yeah.

Q. I say it was collaborative, partly because there was a fundamental principle of peer review within that team: people would review each other's output?

A. That's correct, yeah.

Q. Also, there was sometimes something in the form of a dialogue between people of different expertise within

Fujitsu. So, for example, someone might say this is a question that's better placed within the SSC, it would be forwarded to someone like John Simpkins, he would feed back --

A. Yes.

Q. -- and it would all enter the mix.

A. I think that's definitely true, yeah, because, I mean, I think the issues items weren't just kind of randomly divided up among people, they were depending on who was seen as on being more expert in that area, yeah.

Q. Thank you very much if we can go to two examples. I'll take your example first, if I may, I think what you're referring to was the exercise that was conducted in May 2019 of effectively dividing up the 22 -- or I think it then transpired 29 -- bugs that had been identified by Mr Coyne --

A. Right.

Q. -- amongst individuals within this team.

A. Right.

Q. Do you recall that?

A. Yes.

Q. I'm not going to take you to the email, just because of time but, for everyone else's note, it's FUJ00081836. But do you recall an instruction from Pete Newsome, which was communicated to the likes of Dave Ibbett,

Steve Parker, Mark Wright, John Simpkins, Torstein Godeseth and Mr Jenkins, effectively saying we need to divide up this list of bugs, each one needs a lead person.

A. Yeah.

Q. Do you recall that? There will then be a process of consolidation and peer review; do you recall that being the process?

A. I believe so, yeah, and I believe that I actually tracked the progress on each of them, yeah. So yeah.

Q. I'm grateful. So you were effectively administering that process, were you?

A. Helping to keep track of what was going on, yeah.

Q. Thank you. Can I then go to a second example which I suggest is indicative of this collaborative way of responding to the GLO proceedings and, if we go to this document, please, it's FUJ00179541. Just while that is being brought up, this is in the context of Torstein Godeseth's first draft statement in September 2018. If we can go to the bottom of this chain, please.

Thank you. Sorry, can we just go up a little bit so I can -- thank you very much, that's perfect.

So this is an email from you to Alan Holmes, Gareth Seemungal and Gareth Jenkins, copying in Pete Newsome and Dave Ibbett:

"Alan, Gareth S and Gareth J,

"Please see attached Torstein's draft witness statement. He has asked that the three of you review it and provide any feedback/clarifications."

Moving down:

"Note that currently the draft has been provided to Torstein by WBD based on a previous statement with yellow highlighted sections where WBD are asking specific questions and, as you can see, Torstein has made amendments as tracked changes, and added comments."

If we go to the next email in that change, please, thank you. The following day, 21 September, Pete Newsome says:

"WBD have asked for a response today if at all possible.

"Let me know if you can't do this ..."

Just as a side note, was it often the case that Fujitsu were being asked to respond to requests by WBD within very tight and pressurised time frames?

A. Yeah, that happens -- happened quite often, yeah.

Q. Thank you. Also, of course, this is an example, isn't it, where technical input is being asked for but from Alan Holmes and Gareth Seemungal, who aren't in your shortlist of six people?

A. Correct, yeah.

Q. Thank you. If we can scroll up, then, please, to the next email in the chain, so we see Alan Holmes provides a version of the document with comments and then, if we scroll up, please. I think the two Gareths are being asked to build on that as a base so add their comments in to Alan Holmes' document?

A. Yeah.

Q. If we can go up then, please, an email from Gareth Jenkins:

"I've just got back in.

"I'll certainly add to Alan's comments. Not sure if I can finish this afternoon -- depends how long it is.

"I'll look after lunch".

Then up please, Gareth Seemungal, I think, at this stage, has added his comments so asks Gareth Jenkins:

"Are you okay to build on top of this version ... please?"

Then, if we go up to the next email, please, from Gareth Jenkins, later that same day:

"I've finally gone through it all. Attached is the version with everybody's comments.

"There are a couple of my comments that suggest that Gareth S may like to add clarifications, but I see he had not picked up on those areas."

Then the final email in this chain, from Gareth

Seemungal:

"Gareth

"Responded to your questions -- attached."

The reason I suggest this might be typical is because what we see here is a multiplicity of individuals commenting on a draft statement; is that right?

A. Certainly that's what there is here, yes.

Q. Also, something of that dialogue that I mentioned between the two Gareths, posing questions and answering questions between each other?

A. That's true. Yeah.

Q. Would you have said that this process that we see here with Torstein Godeseth's statement was relatively typical of the way that Fujitsu worked on these draft witness statements?

A. So, yeah, well -- I must admit I'm not quite -- so I think in terms of -- I'm trying to think of how many there were. So, obviously, this is Torstein's and then there was Steve Parker's. I mean, I assume that Steve Parker's was looked at in considerable detail, particularly by his SSC colleagues, and I think the Andy Dunks witness statement we've already looked at and that was very short and was more or less pre-written, as it were. Then I think the other one was Bill Membery and

I have to admit I don't really recall the content of that one.

So, certainly, in the case of this witness statement, it was done like that but there were only four witnesses, I think.

SIR WYN WILLIAMS: Can I shortcut it, in terms of the two technical witnesses, Mr Godeseth and Mr Parker, it seems clear from even this limited line of questioning that there was a good deal of collaboration before the witness statements were finalised?

A. Yes.

SIR WYN WILLIAMS: Fine. I think you've made your point.

MS OLIVER: Thank you, sir. No further questions.

SIR WYN WILLIAMS: Thank you. Right. Well, that brings the session to a close today.

Thank you very much, Mr Lenton, for your witness statement and for answering the questions of a number of people throughout the afternoon. I'm grateful to you.

So we'll break off now and resume again tomorrow morning with Mr Parker -- sorry, Mr Parsons, not Mr Parker. I shouldn't confuse those two people, I don't think.

All right. Thanks very much.

MS HODGE: Good afternoon, sir.

(4.39 pm)

(The hearing adjourned until 9.45 am the following day)

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