

Filed on behalf of the: Defendant
Witness: Angela Margaret Van Den Bogerd
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Claim No: HQ16X01238, HQ17X02637 and HQ17X04248

IN THE HIGH COURT OF JUSTICE

QUEEN'S BENCH DIVISION

ROYAL COURTS OF JUSTICE

B E T W E E N:

ALAN BATES AND OTHERS

Claimant

AND

POST OFFICE LIMITED

Defendant

WITNESS STATEMENT OF
ANGELA MARGARET VAN DEN BOGERD

I, ANGELA MARGARET VAN DEN BOGERD WILL SAY as follows:

1. I am the People Services Director, of Post Office Limited (**Post Office**). I am duly authorised to make this statement on behalf of Post Office.
2. The facts set out in this statement are within my own knowledge, or if they are outside my knowledge, I have explained the source of my information or belief.

INTRODUCTION

3. In this statement, I describe the Post Office business, the role of a Subpostmaster and the operations of a Post Office branch. I also provide some commentary on what the real-world effects of the Claimants' alleged interpretation of the Subpostmaster contracts.

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4. In this statement:

- 4.1 Paragraph references are to paragraphs in this statement unless otherwise stated.
- 4.2 The term "Subpostmaster" is used to generally refer to agents of Post Office who operate branches on its behalf, including subpostmasters, subpostmistresses, postmasters, franchisees and operators.
- 4.3 References to "all material times" mean from 1994 to present, unless the context indicates otherwise.

A. MY BACKGROUND

5. I started my employment with Post Office on 1 April 1985. I have operated at all levels during my career, from branch level to senior positions, while remaining at all times close to the day-to-day operational procedures.

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6. I began working as a Branch Counter Assistant as part of the directly managed network of branches (see paragraph XX), and continued in that position for around 2 years. During this time I was also called upon to undertake on-site training for newly appointed Subpostmasters.
7. I was a Branch Manager responsible for the day-to-day management and financial performance of Directly Managed Branches between 1987 and 1996.
8. Between 1996 and 2001 I was a Retail Network Manager, responsible at an area level for the operational and financial performance of 24 post offices: 6 directly managed branches employing approximately 130 staff, and 18 agency branches. As part of this role I was responsible for interviewing applicants for the position of Subpostmaster, appointing the Subpostmasters, managing performance and dealing with any contract breaches (including contract termination) as appropriate.
9. I was Head of Area for the rural agency in Wales between 2001 and 2005, responsible for maintaining the provision of Post Office services and the operational and financial performance of the rural network of 950 branches in Wales and the Welsh Marches. As part of this role I was accountable for a line management team of 18 and for the conforming of Post Office services to quality and efficiency standards.
10. I was General Manager for the Community Network of branches between 2005 and 2006, responsible for a team of 9 senior managers and a field based team of 40 managers, and for the day-to-day operational and financial management of 9,000 rural and 500 urban branches.
11. As National Network Development Manager between 2006 and 2009 I designed, developed and deployed the process (known as the Network Change Programme) to deliver 3,000 changes to the Post Office network (2,500 closures and the establishment of 500 new type services). By new type services, I mean Post Office's outreach services (where a normal branch provides a temporary service to another location) and mobile post offices in the back of vans which service more remote areas of the UK.
12. As Head of Network Services between 2009 and 2012, with a UK-wide geographically dispersed field team of 200 people, I delivered a yearly average of (a) 1200 network change projects (i.e. branch relocations, refurbishments, closures and re-openings) across the Post Office network, (b) in excess of 5500 financial and compliance branch audits and interventions, (c) new entrant training

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for approximately 1000 agents/franchisees and employees and (d) 2000 recruitment and/or contractual interviews.

13. I was also responsible for maintaining the size and reach of the Post Office network, including determining whether branches in new locations should be opened.
14. As Head of Partnerships between September 2012 and August 2013, I was responsible for the relationship between Post Office and various representative bodies, such as the Communication Workers Union, Unite the Union and the National Federation of Subpostmasters (**NFSP**, see Nick Beal's statement for more details).
15. As Programme Director for the Branch Support Programme between August 2013 and March 2015, I was responsible for improving operations across Post Office, including the handling of in-branch transactions.
16. As Director of Support Services between April 2015 and December 2016, I was responsible for our helpline for Subpostmasters (**NBSC**), our customer helpline, the Financial Service Centre (**FSC**), the Human Resources Service Centre (**HRSC**), and also managing the Contract Advisors and Contract Administration teams.
17. From January 2017 until January 2018, I was the People and Change Director, responsible for HRSC, Health and Safety and the Change Portfolio across the organisation. The Change Portfolio covers any business transformation projects such as the introduction of new products and services, changes to working practices and new IT projects.
18. From January 2018, in my role as People Services Director, I have been responsible for HR services within the Finance & Operations business unit, Health, Safety and well-being and the HR Service Centre.

B. POST OFFICE AS A BUSINESS

19. In this section, I describe the Post Office business, its commercial model and the changing commercial and regulatory context in which it operates.

Public ownership

20. A Post Office service has existed in England for nearly 400 years and throughout that time it has always been owned by the English or UK state. It was originally known as the General Post Office and then the Post Office Corporation. In 1986 Post Office Counters Limited was formed as a subsidiary of the Post Office Corporation, with services being split between the two entities: the delivery of mail was handled by the Corporation and the Post Office retail network was transferred to the new subsidiary. In 2001, the Post Office Corporation became Royal Mail Group and Post Office Counters Limited was renamed Post Office Limited. On 1 April 2012, the UK government privatised the Royal Mail Group, with Post Office Limited remaining in public ownership, its shares being transferred to and held by the UK Government. Up to this point, although Post Office was a separate legal entity, it shared some back-office services with Royal Mail and key decisions would be taken by, or at least approved by, Royal Mail as its parent company.
21. Today, the ultimate shareholder of Post Office is the Secretary of State for the Department of Business, Energy and Industry Strategy (**BEIS**). Post Office acts, and has at all material times acted, under the direction of its chairman and board of directors, rather than ministerial control. However, because the ultimate owner of Post Office is, and always has been, the Government, it is not a fully independent commercial business. We at Post Office often describe it as a commercial business with a social purpose. This sets it apart from nearly all other organisations in the UK and means its decisions are not driven solely by commercial returns, but also by its public purpose to support local communities and to deliver services to the general public. I return to this point below when explaining Post Office's approach to major changes to its network of branches.
22. It also means that Post Office is exposed to changing political sentiments. A change of government can have an effect on Post Office's high-level priorities. For example, in 2011 the coalition government led by David Cameron privatised Royal Mail, leading to a change in the Post Office management structure. The current Labour Party manifesto pledges to renationalise Royal Mail¹ which would likely bring further changes for Post Office. Post Office therefore needs to be able to adapt its operations and commercial models in line with political changes.

¹ Page 19 - <https://labour.org.uk/wp-content/uploads/2017/10/labour-manifesto-2017.pdf>

Commercial operating model

23. Post Office is the UK's largest retail network and financial services chain with around 11,500 branches. To put this in context, Tesco has around 3,400 stores² and Lloyds Bank has about 1,100 branches³.
24. Post Office acts as the "shop front" for the general public to access a range of products and services, from government benefit payments to postal and banking services. Nearly all of these products⁴ and services (just referred to as **products** in this statement for ease of reference) are provided by third parties (known as **Clients**). Post Office sells the Client's products to the public, charging the Client a fee or commission for that service. This allows a range of businesses and government departments to have a physical access point for their products without the need to directly invest in real estate. For example, customers can do their banking through Post Office. If they deposit cash into their bank account at a Post Office branch, Post Office takes the cash and effects an electronic transfer of the cash to the customer's bank who deposit the customer's account. Post Office then charges the customer's bank a fee for this service. This allows a bank to have a virtual network of bank branches without needing significant investment in new properties.
25. Post Office tries to provide all its services for a commercial profit. This applies even when providing government services (e.g. driving licence renewals). In practice, however, Post Office has typically not been profitable overall. It made a profit last year (2016/17) of £13m against operating revenue of £957m, but this was the first time it has made a profit in 16 years. Post Office is still reliant on a government subsidy to support transformation activities and rural services (see paragraph X). A combination of nationwide austerity measures, government spending cuts and a corporate desire to be self-funding has seen that subsidy reduce from £210m in 2012/13 to £80m in 2016/17.⁵
26. Post Office provides its services through Post Office branches. These fall into two categories. The first category is Crown branches (now known as Directly Managed Branches), which are directly operated by Post Office. Post Office owns or rents the physical branch premises and the branch staff (known as counter clerks) are employees of Post Office. Crowns tend to be larger branches. As at April 2018, there are approximately 250 Crown Branches.

² <https://www.tescoplccom/about-us/our-businesses/tesco-uk/tesco-in-the-uk/>

³ <https://www.lloydsbankinggroup.com/media/media-kit/faqs/lloyds-banking-group-fast-facts/>

⁴ Postal Orders are the only product fully "owned" and provided by Post Office.

⁵ Statistics taken from Post Office's public Annual Report for 16/17:
http://corporate.postoffice.co.uk/sites/default/files/ARA%20Master_FINAL.pdf.

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27. The majority of the network is comprised of branches in the second category - agency branches. These are also sometimes referred to as Subpostoffices. These branches are run by third parties, who own the branch premises and employ their own staff. Agency branches take a variety of different forms. The majority are owned by independent small business owners, who usually locate the branch within a larger retail offering like a newsagent or convenience store. Some branches are operated by larger commercial chains such as WH Smiths or The Co-operative. Post Office pays Subpostmasters remuneration for operating the agency branch. This remuneration is, and has at all material times been, Post Office's single largest line item of operating expenditure, and currently accounts for a third of Post Office's operating costs.⁶
28. Last year, around 47m transactions were undertaken in Post Office branches every week. On any given day, around £643m on average in cash is held within the network. My colleague Kjetil Fuglestad has provided me with some information on average volumes of transactions per branch in order to give a sense of scale. Based on data over the last 6 weeks, there were on average around 900 transactions per week in smaller branches and 2,500 transactions per week in larger branches.
29. The Post Office branch network has on average 17 million customer visits a week and this footfall is driven by a wide range of services, both those provided on behalf of Post Office and those provided by the associated retail offering. 25% of customers visit a Post Office at least fortnightly, and 14p in every £1 spent in the UK is channelled through a Post Office.
30. For the Post Office network to be financially sustainable, Post Office of course needs to generate more revenue from clients than it incurs in transaction costs and remuneration paid to Subpostmasters. However, reducing Subpostmaster remuneration too much would make the position of Subpostmaster unattractive, leading to branches closing or vacancies in the network, which could cause the network to shrink below commercially viable and legally required levels (see paragraph X).
31. This has led to Post Office using a number of different models of Subpostmaster contracts.⁷ This is so that it can provide a commercially viable offering to Subpostmasters across the wide range of constituencies that it serves, from small rural communities, to competitive high street locations through to large branches

⁶ Subpostmasters fees of £388m against trading costs of £978m: page 56-57, Annual Report 16/17.

⁷ See Witness Statement of Nick Beal for details.

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in urban centres. It also provides pop-up branches called "outreach branches" that may be only temporarily open in a location 1 or 2 days a week but provide valuable services to remote communities.

32. More often than not the interests of Post Office and Subpostmasters are aligned, in the sense that a strong sustainable network is good for both, as is the success of any particular branch. However Post Office needs also to look at the network as a whole, and what might be good for the network as a whole might not be good for some Subpostmasters in particular circumstances (see below in relation to Change Programmes at paragraph X). An obvious example of this is where Post Office decides not to continue a relationship with a Client but a particular Subpostmaster's business has benefitted substantially from the ability to sell that Client's products.

Network size and coverage

33. The UK government considers it important that a large proportion of the public have easy access to branches. This is driven by a number of factors including:
 - 33.1 Post Office is a key route through which government services, particularly pensions and benefits, are provided. The elderly and those on low incomes have a higher propensity to have limited means of transport and need a branch close by.
 - 33.2 The decline in bank branches and local shops over the last decade means that the Post Office branch is sometimes the "last shop in the village". This leads to political pressure from local politicians and MPs to keep branches open, even where a branch may be making a trading loss.
34. Accessibility criteria were originally laid down by the Government in 2007 and have been reconfirmed by successive Governments since. The Government's national access criteria are: 99% of UK population to be within three miles of their nearest Post Office branch; 90% of the UK population to be within one mile of their nearest Post Office branch; 99% of total population in deprived urban areas across the UK to be within one mile of their nearest Post Office branch; 95% of the total urban population across the UK to be within one mile of their nearest Post Office branch; and 95% of the total rural population across the UK to be within three miles of the nearest Post Office branch. In addition, the following applies at local level to ensure a minimum level of access for customers living in remote and rural areas: 95% of the population of every postcode district to be within six miles of their nearest Post Office branch.

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35. This requires Post Office to maintain a network that is larger than would otherwise be commercially optimal, and is reflective of the public service pressure on its business.⁸
36. Post Office produces a Network Report by reference to these criteria.⁹ The Network Report contains tables of figures showing fluctuations of branch numbers over time, including figures showing the quarterly change in network size. The Network Report for 2017/18 shows that at the end of March 2018 there were 11,547 Post Office branches. The size of the network has been stable for about a decade. It had been significantly larger in earlier decades: at its peak in 1965/6 it was 25,056 branches. The decline over subsequent decades has been driven by a number of factors including Government business reducing, changes in consumer trends, and increasing competition (see paragraph XX). To reflect such marketplace changes, improve the network's prospects and avoid unmanaged decline there have been periodic closure programmes (see paragraph XX).
37. In addition to Post Office's legal obligations to maintain a network of a certain size, a large network also brings economies of scale. There are substantial fixed or capital costs in building and maintaining complex IT infrastructure, designing a new sales process or negotiating a new contract with a client. These costs only marginally increase with the size of the network. If the network were to shrink too much, this would reduce Post Office's overall revenue and these overheads would not be commercially sustainable.

Brand

38. Post Office is one of the most recognised brands in the UK and is consistently rated as a trusted and high quality brand by independent reports.¹⁰ Post Office is deeply embedded in the hearts and minds of many local communities. Subpostmasters are sometimes well-known to local residents, and problems with a Post Office attract a higher level of attention in the local press than they would

⁸ This obligation is documented in a letter from the UK Government to Post Office: <https://www.gov.uk/government/publications/entrustment-of-post-office-with-the-delivery-of-public-services-letter-from-ukgi-to-paula-vennells-2018>

⁹ www.corporate.postoffice.co.uk/sites/default/files/Network%20Report%202018%20FINAL.pdf

¹⁰ <https://www.onepostoffice.co.uk/secure/latest-news/our-business/new-postmasters-boost-business/on-the-business-of-mattering/?p=1>

<https://www.campaignlive.co.uk/article/aa-post-office-boots-named-uks-trusted-brands/1289624>

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for other local retailers. A Google search will usually show up a number of stories about local branch issues.

39. Local branch issues also attract the attention of MPs. MPs regularly write to BEIS, or directly to Post Office, to raise issues on behalf of their constituents regarding their branches. The allegations that underlie this litigation led to questions to the Prime Minister in the House of Commons, Parliamentary debates and a Select Committee hearing before these proceedings began.
40. Major changes in the network often attract national media attention. Again, as an example, the allegations that underlie this litigation were the subject of a Panorama documentary on the BBC in August 2015.
41. This heightened level of media attention means Post Office has to carefully protect its brand at all times. The strength of its brand is one of the key features that draws customers to branches and that makes operating an agency branch attractive to Subpostmasters. It is important that Subpostmasters act in a way that does not damage the brand. A consistent presentation of services at the Post Office counter and good customer service are important elements. Post Office also needs to take prompt action to stop any improper conduct which, at its worst, includes fraud by Subpostmasters (see Helen Dickinson's statement).
42. Post Office also needs to maintain continuity of service to customers. Customers become frustrated if branches are not open when expected or cannot provide services as promised. This is also important in helping to ensure that Post Office continues to meet the access criteria and avoid the migration of customers to Post Office's competitors (see paragraph X). Achieving continuity of service has many elements including ensuring that branches have the stock and cash they need to trade, branches are opening and closing on time, and new Subpostmasters are found to take on branches that would otherwise close.

Market change and competition

43. Over my time at Post Office, its business has been subject to market changes and increased competition which have led it to change its operating and commercial models so as to achieve its twin objectives of maintaining network access whilst aiming for profitability and reducing its government subsidy. I set out below a few of the changes I am aware of to illustrate this.

- 43.1 Over the last 5 years or so, there has been a steady decline in market share by independent small convenience stores, which are a prime

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location for a Post Office branch. More local shops are run by, or franchises of, large national chains. Post Office has therefore needed to make sure its offering is attractive to large, sophisticated corporate businesses as well as small independents. Today a larger proportionate of Having made enquiries of my colleagues, I have been told that more Post Office branches are sited in national retail chains than ever before (during the period from March 2012 to August 2018 independents have decreased by around 14% (currently 7,681) whilst branches run by multiple partners have increased by around 45% (currently 2,090)).

- 43.2 As mentioned above, the decline in numbers of bank branches has led to more banks becoming clients of Post Office so as to provide their customers with a physical access point to their services. This has led to financial services becoming a key product offering in branches.
- 43.3 From 2003, Post Office began to increase its own-branded financial products, such as bank accounts, loans, mortgages and insurance. Post Office is not a financial services business and so these products are provided by, or through joint venture arrangements with, selected Clients. For examples, Post Office branded mortgages are provided by Bank of Ireland.
- 43.4 Over the last decade, there has been a nationwide change in the profile of mail services. The postal services market was also liberalised in 2006, breaking Royal Mail's monopoly. As more communications are delivered by email there has been less need to communicate by letter but there has also been a rise in the number of parcels and packages due to the increase in online retail.¹¹
- 43.5 There has been a gradual but material decline in government business, particularly the number of customers drawing pensions and benefits from branches. Traditionally this was done by way of paper pensions or benefits books being presented at the Post Office counter and exchanged for cash. The government now pays more benefits by direct bank transfer. This is an important trend because it was common for a person to draw their benefits at the Post Office counter and then spend some of that money in the Subpostmaster's associated retail business.
Government business fell from 43% of revenue in 2003/4 to 26% in 2007-

¹¹ See page 81 of the Ofcom Communication Market Report 2018, which states that letter volumes decreased by 5% during 17/18 but that parcel volumes increased by 12% during 16/17.

https://www.ofcom.org.uk/__data/assets/pdf_file/0022/117256/CMR-2018-narrative-report.pdf

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2008.¹² This pattern of change continues today. The Post Office Annual Report for 2016/17 notes a £14 million decrease in turnover from Department of Work and Pensions contracts.¹³

44. Consumer preferences have moved strongly towards online transactions over the last 20 years. This trend is affecting all traditional "bricks and mortar" retailers including Post Office. The growth of online transactions has led to Post Office developing its digital offering (now the preferred option for financial services products). Increasing consumer demand for fast and flexible fulfilment solutions has also driven the modernisation of the network. . There is a general move in the retail sector to what is called omni-channel delivery, where goods are offered through multiple sales channels (online, mail order, telesales, physical stores. etc.) simultaneously. A good example in Post Office's business is the ordering of travel currency online and the pick-up of the physical currency at the branch.
45. Post Office has also seen a rise in direct competitors and I provide a few examples below.
 - 45.1 Set up in 1997, PayPoint was originally a way for customers to pay utility and energy bills. Small retailers would sign up to be part of the PayPoint network, and would then install a bill payment terminal in their shop. PayPoint has now expanded to new areas. In 2006, it became the exclusive cash payment network for the BBC's TV Licence fee. In February 2011, it launched its Collect+ parcel sending and collection service. This was a joint venture between PayPoint and Yodel; the latter being an entrant into the postal services market following that market being liberalised.¹⁴
 - 45.2 The rise of FinTech and technology driven payment providers has increased competition for financial product lines. Post Office now competes against the likes of Paypal, Western Union and TransferWise, in the overseas money transfers market, with more of these transactions being conducted online rather than face-to-face in a branch.
 - 45.3 The UK government competitively tenders some of its services. Recently Post Office lost the Biometric Resident Permits service which was awarded to Sopra Steria. As a result, from November of 2018 Post Office will no longer offer this service.

¹² Source?

¹³ See page 17

¹⁴ <https://www.paypoint.com/en-gb/about/our-history>

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46. In the future, Brexit may affect Post Office in ways that cannot be fully anticipated. I can foresee the possibility of changes to a number of services provided by Post Office including identity documents, travel insurance, foreign exchange transactions and overseas mail.

Technological change

47. Improvements in technology have changed the way that products have been delivered to customers. These changes are invariably to reduce transaction costs, which is frequently achieved through a reduction in the amount of manual labour required in branch for each transaction. Due to the size of the network and volume of transactions, even eliminating, for example, a 30 second manual task from each transaction can deliver a considerable cost saving to a Client and a Subpostmaster.
48. An example of this is the Post Office Card Account. The Government's decision to pay benefits via direct bank transfers created a need for everyone to have bank accounts. For various reasons, there are thousands of people in the UK who cannot get a regular bank account. The Post Office Card Account is available to people in receipt of pensions and benefits. This change from paper-based benefits to digitalised benefits through the Post Office Card Account required new contracts to be entered into with the Department of Work and Pensions and JP Morgan, who provide the banking facilities. It also caused changes to the nature of the work undertaken in branches, which had previously handled paper vouchers.
49. Another example of a technology change is the removal of paper paying in slips for customers making banking deposits, who now instead use a chip and pin card. This change was made to ensure consistency, security and standardisation throughout our branch network. The changes were implemented from 2016-2018, in favour of utilising the well-adopted chip and pin system, proven to be more secure and less prone to fraud. This required the banks to change their internal systems and communicate accordingly to their customers, and Post Office to ensure all chip and pins terminals in branches were fully compliant and able to accept the changes, and then to change the operating and accounting processes for these transactions. This in turn changed ways of working in branches

Client products and requirements

50. Post Office provides dozens if not hundreds of products and services to the public.¹⁵ The Post Office has approximately 130 Clients including large companies such as Royal Mail, Bank of Ireland and the high street banks. Working with its Clients, Post Office is active in the mail delivery, financial services, banking, telecoms and bill payment marketplaces amongst others.

51. A key benefit for Post Office's Clients is its large physical network which reaches customers throughout the UK. Some of our Client contracts contain provisions that require Post Office to maintain a minimum level of geographic coverage and continuity of service.

52. Clients also often have particular requirements as to how they want their products to be presented and sold in branches. I set out below a few examples.

52.1 Historically, but at material times, customers were able to come into a branch and cash a Giro slip. They handed over the paper Giro slip and in return they received the amount of cash stated on the slip. Girobank¹⁶ required Post Office to submit to it the Giro slip in order for Post Office to recover payment from Girobank for the cash it had paid to the customer. This required Post Office to design and implement a process in branch for slips to be stored in branch and dispatched, via a delivery service, to Girobank.

52.2 Camelot, the Client who sells lottery products through Post Office, provides display instructions to all Post Office retailers on the specific amounts and values of Scratchcards that are required to be displayed in their dispensers.

52.3 Branches are required to display a Collection Point barcode for Royal Mail and Parcelforce services.

53. Many of the products offered by Post Office relate to the communication of information. Financial services and bill payments, for example, are really the communication of information about money transfers. This requires the IT systems in branch to tie into and communicate with Clients' IT systems. I am not a technical expert on IT systems but I understand from discussions with

¹⁵ Setting an exact number depends on how you define a "product" or "service". For example, you could say that "lottery" is a single product, but there are several different types of lottery service: Lotto, Scratchcards, Prize payouts, etc. I believe it would be fair to say that there are over XX obviously distinguishable services offered at most Post Office branches.

¹⁶ Girobank was part of the General Post Office. In 2003, it was sold to Alliance & Leicester which was subsequently acquired by Santander in 2008.

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colleagues over the years that Clients set parameters for how those IT systems interact, the nature and format of data transferred and security requirements.

54. Some Clients also place restrictions on Post Office from providing competing products in branches. For example, Royal Mail restricts Post Office from offering any other postal services. Similar restrictions also apply to Subpostmasters, who are not allowed to sell "restricted products" in their retail businesses. These restrictions change over time with the evolving nature of Clients' products, their businesses and their competition, which means Post Office needs the flexibility to able change the restrictions flowed down to Subpostmasters.
55. There is a minimum list of products that are sold in every branch so that a customer has a guaranteed minimum offering no matter which branch they go into across the country. This currently includes mail products, cash withdrawals and some types of bill payments. It would be a very frustrating customer experience if these basic products were not available, causing damage to the Post Office brand and general damage to the network. This minimum product range changes over time in accordance with customer preferences and the other factors set out in this section.
56. Not all products are sold in all branches. The primary reason for this is financial. For example, it would not make commercial sense for Post Office to agree to supply a full range of travel currency to a small, rural branch where the demand for such currency is likely to be very low and sporadic. There is a cost to Post Office in providing branches with the full range of currencies and it also poses greater security risks. Another reason can be client requirements. For example, nearly every branch would have a demand for DVLA services e.g new driving licences and renewals. However DVLA restricts this to a certain number of branches because their experience is that by restricting the number of branches that offer theses services, fewer errors are made.

Regulatory requirements

57. The wide range of products offered by Post Office means that it encounters considerable regulations specific to those products or Clients. Not all those regulations apply directly to Post Office; some apply to its clients, and are then reflected in their contracts with Post Office. It is also subject to general legal requirements applicable to many businesses. I set out below a few examples of how regulations affect Post Office's business.

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- 57.1 Foreign exchange transactions are a high risk area for money laundering and fraud. Post Office is required to obtain proof of identity of the customer before conducting a transaction.
- 57.2 There are statutory and international restrictions on sending "dangerous goods" through Royal Mail postal services unless specially marked.¹⁷ Royal Mail requires Post Office, and therefore its Subpostmasters, to comply with those restrictions.
- 57.3 The General Data Protection Regulation has required Post Office to update its contractual terms with suppliers, clients and Subpostmasters and change ways of working across its business.

Change programmes

58. In light of the above objectives, requirements and pressures on Post Office, it is almost always in a constant state of change and improvement, and as far as I can predict this will continue into the foreseeable future.
59. There have been over the last 20 years a number of major transformation projects, which I describe below. When Post Office makes major network-wide changes, they come under intense scrutiny from MPs and the media (especially when large scale branch closures are involved). Closing a single branch, for example because the incumbent Subpostmaster has retired or been terminated, can soak up a lot of time but is manageable in the grand scheme of Post Office given its size. When that scales up to thousands of branches, the impact on Post Office could be significant if not effectively managed. Where a large transformation programme is underway, the government and Post Office prefer to close branches on a voluntary basis and this generally means offering a payment to exiting Subpostmasters that goes above and beyond their usual termination rights. This payment is for pragmatic reasons: it smooths the exit process and avoids the programme becoming unmanageable, as would be the case if every closure was contested.
60. Outside nationwide planned closure programmes, Post Office rarely gives notice to terminate a Subpostmaster's contract because it wishes to close a branch for commercial reasons. If a branch is closing for other reasons (retirement of the Subpostmaster, termination for breach, etc.) it will generally consider whether the branch is still needed in its current location and operating model, but a decision

¹⁷<https://www.royalmail.com/business/system/files/Royal-Mail-Prohibitions-and-restrictions-UK-and-international-mail-contract-and-account-customers-June-2015.pdf>

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not to re-open a branch in these circumstances is still rare. Generally the pressure is the other way around: Post Office is keen to maintain the size of the network and keep branches open.

61. The first major change programme was the Urban Network Reinvention Programme. This programme was primarily a 'voluntary closure' programme within the urban segment of branches and took place between 2001 and 2004. The Government provided the funding for Post Office to carry out rationalisation in areas where there were too many Post Office branches serving the same district for them all to remain viable. Post Offices in the 10% most deprived urban areas, with no other branch within half a mile, were ring-fenced and protected from consideration for closure (other than in exceptional circumstances). The programme involved around 2,500 closures. The programme also involved a £30 million investment fund to make remaining Post Office branches more attractive for customers, as well as payments to exiting Subpostmasters.
62. The second was the Network Change Programme, which was a compulsory closure programme which impacted all of the network and took place between 2005 and 2008. It was also Government funded. The predecessor to BEIS, the Department for Business Innovation and Skills, agreed with Post Office a £1.7 billion strategy to make the network financially sustainable, including a £150 million annual subsidy. One element of the plan was the Network Change Programme, whereby up to 2,500 Post Office branches were to be closed. The other elements of the strategy, alongside Network Change, were the restoration of Crown branches to profitability and central cost cutting efficiencies.
63. The Network Transformation Programme, which started in November 2011 and is continuing to March 2019, sought to change the way that Post Office services were offered in branches. Network Transformation is the biggest retail transformation ever in the UK and has transformed around 7,700 branches for Subpostmasters and customers. The purpose of Network Transformation was to modernise and sustain Post Office services for customers so that every community that had a Post Office service at the start of NT would retain that service and in most cases have a modern open plan counter service with longer opening hours so that customers could use services outside traditional hours. Longer opening hours were achieved through utilising retail staff to offer Post Office services. Under the Network Transformation programme agency branches transferred to either a "Main" branch model (with dedicated Post Office counter, physically separated from the Subpostmaster's retail business) or a "Local" branch model (where Post Office equipment and stock was placed on the retail

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counter)¹⁸. This often means that Post Office services can be offered for longer hours than before, in some cases from early morning until late at night, seven days a week to meet customer demand, without needing to engage more staff.

C. SUBPOSTMASTERS AND THEIR BRANCHES

64. In this section, I explain the role of a Subpostmaster and the basic operation of a Post Office branch. This is only a high-level overview, reflecting information which I believe that new applicants for Subpostmaster could reasonably be expected to know, or to have found out, before being appointed as a Subpostmaster.

Subpostmasters' businesses

65. By joining the Post Office network, Subpostmasters get access to a wide range of benefits that would be very difficult for them to procure independently. The key benefits are as follows:

- 65.1 Subpostmasters get the right to use Post Office's brand, which immediately gives their business credibility without needing to build up its own goodwill. The presence of a Post Office, its brand and the wide range of products offered attracts customers. This increases footfall to the Subpostmaster's retail offering and has the potential to increase the profits on the retail side of the business.
- 65.2 The Subpostmaster gets a source of revenue in the form of remuneration from Post Office. Subpostmasters receive fixed monthly remuneration and / or variable remuneration according to the volumes of sales of products in branch. The amount and structure of remuneration has changed over time but broadly speaking larger branches receive more remuneration.
- 65.3 Subpostmasters are able to sell a wider range of products than a small business would normally be able to sell. Post Office negotiates all the terms with its Clients for the sale of products. Without these often long term and complex framework agreements, small business owners would need to contract directly with each Client to provide these services, which I think would be practically impossible for them to do.

¹⁸ See the Witness Statement of Nick Beal for more details on these branch types.

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- 65.4 Post Office provides the cash and stock needed to conduct transactions. It does this on an unsecured basis¹⁹ and therefore the Subpostmaster has no working capital requirements for branch trading. I doubt that many Subpostmasters would have the financial means to fund the working capital for a Post Office branch.
- 65.5 Post Office provides the equipment, including IT equipment, needed to conduct customer transactions and maintain the branch accounts, including safes, mail scales, Horizon, printers, barcode scanners and chip and pin machines.²⁰ It also provides the back-end IT infrastructure that connects each branch with Post Office's Clients. I do not believe that a small business owner could put this infrastructure in place on their own.
- 65.6 Post Office facilitates the payments required for each transaction. It provides cash management planning and cash delivery vans to get cash to and from each branch, it banks customers' cheques, recovers payment for debit and credit card transactions and processes payments to Clients. Small business owners could arrange this themselves but it would be an added administrative burden for them to manage.
- 65.7 Post Office or its Clients are liable to customers if products are defective or not fit for purpose and provides customer helplines so that branches do not need to field some queries. This reduces the liabilities of Subpostmasters and helps save Subpostmasters' time.
- 65.8 Post Office or its Clients are responsible for building legally compliant processes. Subpostmasters get the benefit of Post Office's expertise in doing this and Post Office or its clients bear the legal and regulatory risks of non-compliance so long as a Subpostmaster follows the stipulated practices.
66. The first factor is a major (and in many cases the dominant) reason why people become Subpostmasters. Post Office does not maintain aggregated information on whether a branch is located within an associated retail unit. However, in my experience I would say that less than 5% of agency branches are pure Post Office branches offering nothing but Post Office services. Those that are pure Post Office branches tend to be the very large branches that are profitable as a freestanding Post Office (having typically been converted from Crown branches).

¹⁹ Where the Subpostmaster is a company, Post Office may require a shareholder or director guarantee.

²⁰ I note that this equipment can be recycled between branches so this is not a direct investment in a specific branch by Post Office but part of the overall cost of operating the network.

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In my 30 years at Post Office, I can only recall coming across a handful of small or medium sized branches that had no associated retail offering at all.

67. When taking on a branch, the Subpostmaster will have some costs and capital outlay. These include the following:
 - 67.1 The Subpostmaster needs to acquire a legal interest in the branch premises if they do not already own it. This may be either a lease or the freehold. They will likely incur transaction costs in securing the property interest (e.g. legal fees, stamp duty, etc.) and may also incur finance costs (e.g. mortgage interest repayments). However, the capital value of the property can often be recovered (potentially with an uplift) when selling the property.
 - 67.2 If acquiring an existing business, they may need to pay for the goodwill associated with the business. That goodwill will usually be higher if there is an existing Post Office branch in the retail business because, as explained above, the Post Office branch usually increases the profit made on the retail side. Again, however, the price paid for the goodwill can often be recovered (potentially with an uplift) on the sale of the business.
 - 67.3 The Subpostmaster may need to pay for some fit-out works to bring the branch up to Post Office standards. This is more likely to be needed for a new branch than an existing one. Again, it may be possible to recover some of these costs on a future sale if they have improved the premises' or business' value.
 - 67.4 A Subpostmaster may incur some time / salary costs in recruiting and training assistants when opening a new branch. These are ordinary business costs. For Subpostmasters taking on existing branches, it is likely that the incumbent staff of the outgoing Subpostmaster will transfer to the new Subpostmaster, so in some cases there will be no recruitment or training costs at all.
68. Post Office historically charged an introductory fee, licence fee or franchise fee when an incoming Subpostmaster began to operate a new branch (generally only charged for larger, more profitable branches). The rationale for charging this fee was that there was a commercial benefit to a retailer in operating a Post Office branch. This fee took the form of a fixed percentage abatement of the Subpostmaster's remuneration for the first year and so was not a capital outlay.
[CORRECT?]

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69. One allegation made in these proceedings is that the Subpostmaster loses the ability to "sell" his branch, and therefore the ability to recoup any capital outlay, if his contract is terminated by Post Office. This is not necessarily correct. Regardless of his contractual status, a Subpostmaster cannot "sell" a branch because it is not a saleable asset. The Subpostmaster has the benefit of a contract with Post Office that cannot be assigned. However, the goodwill of his business attaches to the branch's location, premises and customers. This is not destroyed if the Subpostmaster's contract is terminated. Often a temporary Subpostmaster²¹ takes over the branch and so the business (retail and Post Office) continue to trade together. Due to the need to maintain a minimum network size and continuity of service, it is likely that Post Office will want to continue to locate a branch in the Subpostmaster's retail unit. Often the buyer of a retail unit will make the acquisition conditional on the buyer being appointed as Subpostmaster. The combination of these factors means that the value of the business is usually preserved, and initial capital outlays recovered, even if the Subpostmaster's contract is terminated.
70. Combining a retail business with a Post Office can create a highly valued community service and business. In the 2017 Local Shop Report published by the Association of Convenience Stores, Post Office was recognised as the number 1 service for the positive impact it has on the local area, ahead of both convenience stores (2nd) and banks (8th).²² Having appointed, spoken to and worked with Subpostmasters for many years, I understand that when they are considering joining Post Office, they make an assessment about whether the additional cost of running a branch (principally set-up costs, labour costs and the reduction in retail floor space) and the risks (principally in the form of liabilities for shortfalls if mistakes are made by them or their employees) are outweighed by their Post Office remuneration and the potential for increased profit in their retail offering.
71. Further, an incoming Subpostmaster will be aware of the above before they enter into a contract with Post Office and therefore can pull out if they do not like the risks or might look to renegotiate the price they will pay for acquiring the outgoing Subpostmaster's business to reflect these risks.
72. In addition to the commercial advantages, the role of a Subpostmaster also offers a lot of choice and flexibility. Most of the Subpostmasters whom I have appointed or worked with relished the autonomy of the role. They are proud to be

²¹ See the Witness Statement of Michael Shields for more information on temporary Subpostmasters.

²² www.acs.org.uk/sites/default/files/local_shop_report_17_low_res.pdf

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independent small business owners, with the ability to grow their businesses as they see fit. This autonomy includes:

72.1 Being able to hire assistants (see paragraph X in relation to assistants).

This allows each Subpostmaster to strike their own balance between working in the branch and delegating that work to others.

72.2 It is possible for a Subpostmaster to completely delegate responsibility to an assistant to run the branch, with the Subpostmaster being absent.

Some Subpostmasters have no involvement in their branches at all, to the extent that they would not even know how to run a branch or they may even live abroad. These Subpostmasters treat the branch as nothing more than a financial investment and may have multiple businesses, including potentially as a Subpostmaster of multiple branches.

72.3 Subpostmasters are free to allocate responsibilities within the branch.

Subpostmasters could treat all assistants equally or could have a hierarchy with more senior staff supervising junior staff. In larger branches, assistants may have designated roles e.g. just doing mail-work or having authority to cash up and submit monthly accounts.

72.4 Subpostmasters can flexibly move their employees between the retail and Post Office businesses. It may be that their employees work mainly on the retail side but help out in the branch during busy periods or vice versa.

73. This autonomy is not absolute. The key control asserted by Post Office is that it sets down minimum operating standards on the way Post Office business is conducted and the way transactions are recorded. This is described below.

Operating a branch

74. Unlike an ordinary retailer, Post Office branches do business in both debit and credit transactions. Most retailers take in payments and hand out goods or services. Post Office branches are different in that they often make payments out, nearly always in cash. The most common type of physical asset transferred by a Post Office is not stock or goods but physical cash. Bank withdrawals and benefit payments are examples of outflows of cash. In some branches, the outflows are greater than the incoming cash, leading them to be "cash negative".

75. Post Office provides every branch with a quantity – varying according to local demand and branch size – of Post Office cash and stock (such as stamps) with which the Subpostmaster may undertake transactions on behalf of Post Office.

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The physical cash and stock remain the property of Post Office, even though they are in the Subpostmaster's possession. It is for these reasons that Subpostmasters are agents of Post Office, rather than franchisees who would trade with their own cash and stock and be directly liable to customers for those transactions. Subpostmasters are required to keep Post Office cash and stock separate from their retail cash and stock.

76. In order to meet the demands on Post Office described in Section B above, Post Office sets down operating rules on how Post Office business is to be conducted in branch. These rules are also sometimes set to reflect best practice, e.g. keeping cash in a safe overnight is not a legal or client requirement but is a very good idea for obvious reasons. These operating rules require Post Office's assets to be handled in a certain way and require certain information to be captured, recorded and dispatched (digitally or physically) in relation to each type of transaction.
77. When a Client product is transacted, details of the transaction are communicated to the Client. Post Office is liable to account to the Client for the transaction value or vice versa (depending on whether the payment is a credit transaction e.g. bill payment, or a debit transaction e.g. bank withdrawal). Before 1999, these records were kept in paper form, known as the branch accounts. In around 1999/2000, Post Office rolled out the Horizon IT system in branches. This digitised the branch accounts. The basic operation of Horizon is that it records, like a traditional double entry bookkeeping account, all movements of cash and stock in and out of a branch.
78. For example, if a customer pays an £80 utility bill by cash then, if entered correctly by the Subpostmaster, the branch accounts, whether in the old paper form or on Horizon, will record an increase in £80 in the branch's cash holdings.²³ Post Office will then pay the £80 recorded in the branch accounts to the customer's utility company. The Subpostmaster is not responsible for the cost of this onward payment to the utility company so long as he has recorded the transaction correctly in branch. If, for some reason, the onward payment to the utility company failed to go through (leaving the customer with an outstanding liability), this would not directly affect the branch's accounting position. The branch accounts would still show a £80 bill payment, the receipt of £80 in cash and, if the Subpostmaster has done the transaction correctly, he should have £80 in the till. A similar allocation of responsibility exists for all transactions, with the Subpostmaster being responsible for keeping his end of the transaction records

²³ I do not take into account in what I say here the Claimant's allegations regarding defects in Horizon because I understand that these are not within the scope of the Common Issues Trial.

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accurate, namely the branch accounts. Put simply, the Subpostmaster's responsibility is to ensure that the physical movement of cash and stock over the branch counter is reflected in the branch accounts.

79. Post Office reconciles transaction data recorded in branch with corresponding transaction data from clients, where available and appropriate to do so. If a discrepancy is identified, it may send a "Transaction Correction" to the branch through Horizon.²⁴ The Transaction Correction only enters the branch accounts when accepted by the Subpostmaster. This means that the Subpostmaster has complete control over the branch accounts and transactions only enter the branch accounts with the Subpostmaster's (or his assistant's) knowledge.²⁵
80. The accounting system was designed to separate the Subpostmaster's branch accounts from the client side of the accounts, with the only connection back to the branch accounts being Transaction Corrections and Transaction Acknowledgments, over which the Subpostmaster exercises control. This means that, in theory, a diligent Subpostmaster can keep a perfectly accurate set of accounts without any input from Post Office, without Post Office effecting the underlying transaction with the client or customer and without any information from the client.
81. The alternative, that Post Office has to effect all customer transactions for the branch accounts to be accurate and then, as a necessary consequence, provide Subpostmasters with access to all Client data, would be completely unworkable.
 - 81.1 The sheer volume of branches (11,000+) and transactions (43,000,000 per week) would require a very significant effort just to get the correct data to the correct branch.
 - 81.2 It would undermine one of the key benefits of the Subpostmaster relationship – that Post Office handles this on behalf of the Subpostmaster.
 - 81.3 It would make Post Office's management of its Client relationships impossible. All commercial supplier relationships involve a degree of ongoing negotiation, variation and compromise. If every interaction with a

²⁴ These were previously called Error Notices. Transaction Acknowledgements work on a similar principle.

²⁵ I put to one side here the Claimant's allegations around Post Office remotely editing branch accounts without a Subpostmaster's knowledge as these issues are the subject of the Horizon Issues trial. I note however that these allegations appear to me to be absurd and, in my experience, would be contrary to Post Office's ways of working with Subpostmasters.

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Client needed approval by Subpostmasters because it might affect their branch accounts, those relationships would fail.

- 81.4 It would be contrary to the overall scheme of the Subpostmaster relationship. Nobody at Post Office would say that it effects customer transactions on behalf of Subpostmasters or that Post Office acts as the agent of Subpostmasters in recording and processing transactions.
82. Post Office's operating rules require a Subpostmaster to undertake daily cash declarations²⁶ and to submit the branch's accounts to Post Office at regular intervals. This used to be done weekly but it is now every 4 or 5 weeks (called a Trading Period). This is now all done online through Horizon. In submitting the accounts, the Subpostmaster must count all the cash and stock in the branch and compare it to the cash and stock holdings on Horizon which reflect the net effect of all transactions recorded by the Subpostmaster in a given period. Should the actual cash on hand be less than the cash position recorded in the accounts by the Subpostmaster, there will be a 'shortfall' of cash. If the opposite is true, there will be a 'surplus' of cash. In this way, any surplus or shortfall is declared by the Subpostmaster and not Post Office.
83. When setting operating rules Post Office consciously balances the need for consistent practice across the network with respect for the autonomy of Subpostmasters to run their businesses as they see fit.
 - 83.1 A consistent approach is needed because it would be unworkable if each branch operated in its own way, conducting transactions as it saw fit and submitting accounts in a variety of formats. It would be very onerous for Post Office to interact and cooperate with the branches if each one did things differently. This would likely require Post Office to hire hundreds more back-office staff to run the network - at a guess, I would say around five times more staff than currently have doing this work. The cost would be massive.
 - 83.2 The rules however cannot be too prescriptive as this could put an undue burden on Subpostmasters. An operational change can cause more or less labour time to be needed in branch, which has a direct impact on a Subpostmaster's staffing costs (or their own time). A change that would require an extra hour of work each week for all 11,000 branches would be equivalent to the workload of around 300 full-time assistants.

²⁶ This involves a count of all cash in the branch by denomination and the submission of that cash declaration to Post Office. Once the cash declaration is done, the Subpostmaster will be able to know if there are any shortfalls or surpluses that have occurred that day.

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83.3 The rules need to be capable of being applied to branches of all sizes. What may be appropriate in a large branch may be unduly onerous in a small branch. The operating rules therefore reflect minimum required practice and Subpostmasters may decide to go further. A good example of this is whether Subpostmasters undertake more accounting checks than are required by Post Office. A small branch run by a single long-serving and experienced Subpostmaster who has no track record of shortfalls may be comfortable only doing a full set of cash and stock accounts at the end of each month. To do it more often would be time-consuming and costly, for little corresponding benefit. A larger branch with, say, 4 assistants and 2 customer serving positions, which is suffering from repeated shortfalls, may decide it necessary to do a full cash and stock count every day or week.

Assistants

84. Subpostmasters are allowed to employ staff, known as assistants, to conduct Post Office business on their behalf. Subpostmasters are free to decide how many people to employ (if any), who to employ, for what working hours and in what roles. Subpostmasters are responsible for assistants' wages and set their salary levels. Subpostmasters are responsible for taking disciplinary action, dismissals and for all the legal requirements that come with being an employer.

85. Subpostmasters are required to register assistants with Post Office. However, Post Office cannot accurately know how many assistants are active in the network because:

85.1 Post Office is not present in branches so cannot monitor first-hand who is serving customers or handling Post Office cash and stock.

85.2 Some Subpostmasters do not register assistants. Post Office relies on Subpostmasters to do this, rather than itself trying to monitor the position (which would be impracticable).

85.3 Even if an assistant is registered that does not mean that they are actively working in a branch.

86. It is therefore not possible to accurately state how many Subpostmasters are actively employing assistants to work in branches at any one time. In my experience, only in very small branches would the Subpostmaster be able to run

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the branch on their own. I would estimate that over 90% of branches have assistants working in them.

87. In the above section on "operating a branch", any reference to actions in branch by Subpostmasters could also be actions by assistants. Subpostmasters are free to delegate as much or as little of the branch work to an assistant as they see fit.
88. It is for the Subpostmaster to decide whether an assistant is suitable for the role. Post Office cannot do this because it does not know the assistant and cannot regularly supervise their work in branch.
89. It would also be inappropriate for Post Office to strictly and directly control the use of assistants when the consequences of those decisions will fall on the Subpostmaster. For example:
 - 89.1 If a Post Office were to decide that an assistant should be dismissed, any resulting grievance or tribunal claim would be against the Subpostmaster as his employer. Post Office could not therefore sensibly exercise those dismissal powers (which are the ultimate sanction for poor performance or gross misconduct by an assistant).
 - 89.2 If Post Office were to compel mandatory training for an assistant, he would generally be entitled to be paid by the Subpostmaster for that period of training. The Subpostmaster might prefer not to pay that cost, being happy to run his branch with untrained assistants or to dismiss an assistant. It may be that the Subpostmaster has given the assistant only a limited role in the branch, such that some parts of the training may not be needed for their job.
 - 89.3 Post Office does not know what, if any, supervisory regime the Subpostmaster has put in place. It may be that the Subpostmaster is closely supervising his staff, on the one hand, or providing no supervision at all (in the case of an "absentee" Subpostmaster), on the other hand. Subpostmasters can tailor the training that they provide to reflect the roles that they have given to their assistants and the extent of oversight that they themselves wish to provide.
90. Post Office may offer advice to Subpostmasters in relation to their assistants but the only circumstance in which it would get actively involved is when an assistant has acted dishonestly or failed vetting checks. Post Office may then require the Subpostmaster to exclude that assistant from the branch in order to protect Post Office cash and stock. Even here, however, Post Office's intervention is through the Subpostmaster.

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91. From my experience, I would say that the only commercially sustainable arrangement is for Subpostmasters to choose, employ and supervise their assistants. They are in the best position to detect incompetence or dishonesty by assistants and to put in place a supervisory regime and operating controls to detect these things when they are themselves not present in the branch.

Horizon

92. Horizon is Post Office's accounting IT system used in branches. I am not an IT expert but have used or been involved with the system since its rollout in 1999. The Horizon Issues are being addressed in a separate trial so I only briefly describe the Horizon system below. I would expect any reasonably diligent applicant for the position of Subpostmaster to be aware of this information or to be provided with this level of information if he requested it during the application process.
93. I describe Horizon to new users as a big calculator. I think this captures the essence of the system in that it records the transactions inputted into it, and then adds or subtracts from the branch cash or stock holdings depending on whether it was a credit or debit transaction. The Horizon user just needs to remember what they need to do to initiate a transaction (e.g. scan the barcode; put the card in the pin-pad or touch the screen) on the Horizon system and then follow the on-screen prompts.
94. The system keeps a record of transactions, automatically generates the branch accounts and flags any shortfalls or surpluses to the user. I have always argued that this means it is better than the old paper ledger system which would require multiple ledgers to be tallied and manual calculations made before the true branch position could be seen. Horizon saved Subpostmasters and Post Office time and cost by automating these exercises. In my experience, the introduction of Horizon substantially reduced the burden on Subpostmasters in respect of preparing, maintaining and submitting accounts.
95. Horizon also allows transaction information to be quickly filtered and sorted, giving the Subpostmaster the ability to more quickly target areas of interest than in a paper system, making investigating problems easier than would be the case if the Subpostmaster had to interrogate various paper records.
96. Originally, a branch user could look back through 42 days of transaction data but now it goes back 60 days. Having spoken to my colleagues in Post Office's IT team, this date range was set so to strike a balance between giving the

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Subpostmaster the ability to review recent transactions (noting that they should be completing their accounts every 4-5 weeks) and keeping down the cost of holding very large volumes of transaction data in a live and readily accessible database (as opposed to cheaper long term secure storage). I understand from discussions over the years with Post Office's IT team that to keep years of transaction data in a live database, directly accessible by branches, would be expensive and create information security risks. Also, this information will be irrelevant for nearly all branches most of the time, because they will have little need to look back further than the last trading period as their accounts should be balanced within the 4 or 5 week trading period. The only exception is where there is a Transaction Correction, but this will relate to a particular transaction or group of transactions noted on the Transaction Correction and targeted information can be provided as necessary without the need for providing months or years of historic transaction records. [Angela – can you say this?]

97. I should add that it is of course possible to do things wrongly on Horizon, like any computer system I have used. If the user does not exercise sufficient care, he or she might input incorrect information into the system, e.g. processing a deposit as a withdrawal or vice versa. And of course the system is only as good as the information input into it, and Horizon does not know whether the user has entered correct data. Entering incorrect data or not using the system properly could cause shortfalls or, for that matter, gains.
98. As with any IT system, there are instances where the system or the screen goes down. In light of this inevitable risk, which exists in any IT system, Post Office provides helplines and support manuals so that users can get guidance on how to deal with issues.
99. No-one truly expects an IT system to be perfect but they would expect it to be robust and for Post Office to have in place reasonable processes for detecting and correcting any problems. I believe that my view of Horizon is held by the vast majority of Subpostmasters in the network. The NFSP has publicly supported Post Office's view that Horizon is robust.²⁷ I would therefore expect any applicant for the position of Subpostmaster, who has done a reasonable level of due

²⁷ ComputerWorld UK – 27 June 2012: "George Thomson, general secretary of the National Federation of SubPostmasters (NFSP), backed the Post Office: "We continue to have complete confidence in the Horizon system, which carries out hundreds of millions of transactions every week at 11,500 Post Office outlets across the country. The NFSP has seen no evidence to suggest that Horizon has been at fault and we believe it to be robust."

<https://www.computerworlduk.com/it-vendors/post-office-hires-firm-investigate-horizon-it-systems-3366588/>

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diligence or spoken to other Subpostmasters or Post Office, to have a similar view about Horizon when they took on the role of Subpostmaster.

Training and support

100. The aim of training is to equip the Subpostmaster with the skills to perform the role that they have been asked to do. There are strong incentives for Post Office to deliver effective training:
 - 100.1 It reduces the chance of an accounting or cash / stock handling error in branch, thereby reducing shortfalls.
 - 100.2 It helps deliver a better customer experience, thereby improving the Post Office brand and the prospects of the whole network.
 - 100.3 It helps ensure consistent practice across the network.
 - 100.4 It may reduce the amount, and therefore cost, of other support needed by Subpostmasters (eg. calls to the NBSC helpline).
 - 100.5 It avoids the cost of having to repeat training.
 - 100.6 It may reduce other costs at Post Office (eg. back-office processing of transaction corrections; handling customer complaints, etc.).
101. Training nevertheless comes at a relatively high cost to Post Office because it can be very labour intensive. It is not therefore, on its own, a cure for all problems. For some issues, it may be more effective and cost-efficient for Post Office to, for example, send out a reminder notification to each branch, update in-branch user guides, provide better advice through NBSC, develop an improvement to Horizon, build more on-screen prompts into Horizon, change the way it communicates with branches and / or re-design a sales or accounting process. Training cannot therefore be considered in isolation but only as part of wider Post Office and branch operations, otherwise significant cost could be wasted in delivering training when there may be better solutions.
102. This similarly applies when Post Office introduces new products or changes to products. If a new product is introduced that is similar to a product Post Office has already trained its Subpostmasters to use, then Post Office would likely not do face to face training as this would be an inefficient use of resources. Instead it would more likely issue new instructions and user guides. Further, it may be

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disruptive to a branch to enforce mandatory training when a Subpostmaster may be comfortable dealing with the new product.

Initial training

103. One common feature of Post Office's training was that at all material times initial training was offered to new Subpostmasters. This has evolved in line with the changing size of the network, the costs of providing training and the mix of products offered in branches and improvements in technology. The general pattern has been a move away from only in branch training to a mix of online training, classroom training and on-site in branch training with follow-up visits.
104. Not all 'new' Subpostmasters needed training. A Subpostmaster may choose not to attend training, or only attend part of a training session if, for example, he or she has worked in a branch previously and therefore already knows how to operate Horizon and carry out transactions. Some may already been Subpostmasters of other branches, some may have worked in branches as assistants or some may have no intention of working in their branch – as an absentee Subpostmaster there may take the view that there is little need for them to know how the branch operates. For those Subpostmasters who were truly new to Post Office and were intending to work in their branch, Post Office would strongly insist that they attended and it would be very rare and odd if they did not do so, to the extent that Post Office might reconsider their suitability for the role.
105. No matter the method of delivery there are some core features that have always been covered in initial training programmes:
 - 105.1 How to conduct basic transactions.
 - 105.2 How to deal with remittances of cash and stock in and out of the branch.
 - 105.3 How to submit the required daily, weekly and monthly accounts.
 - 105.4 How to declare, investigate, make good and dispute shortfalls.
 - 105.5 How to get further advice and support.
106. I set out below a short summary of how initial training was delivered over the years. This reflects the standard training that most Subpostmasters received but there would be exceptions and variations from this due to individual circumstances eg. very remote branch, Subpostmaster was ill during training, etc.
107. Pre-Horizon, initial training was carried out on site (at the branch) over a period of around two weeks, as "on the job" training. I recall that training at this time was

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one week for branches with no car tax and two weeks for those that did car tax. This was due to the volume of car tax renewals being processed through branches at that time; that business now having greatly reduced due to car tax now being done online. Post Office would come back on site to help the Subpostmaster complete his first two sets of accounts that were due to Post Office – known as "follow-up balances".

108. From around the time Horizon was rolled out to 2002, there was a move to classroom training being offered to new Subpostmasters followed by around ten days of onsite training and support. There would then be a follow-up balance .
109. From 2003 to 2006, between five and ten days of classroom training was offered to new Subpostmasters and then five to ten days of onsite training and support was then given depending on whether the classroom training was attended. This would be followed by a further day of follow-up balance support.
110. From 2007 to 2011, new Subpostmasters received five, eight or ten days of training on foundation, sales and other specialised modules. Six days of onsite training and support was provided, again followed by one day of follow-up balance support.
111. In 2007 follow-up telephone calls were introduced at intervals of one month and six months after a branch was taken over by a new Subpostmaster, with a one-day site visit taking place three months after the branch was taken over.
112. In 2012, as part Network Transformation, Post Office tailored its training to reflect the specific role being undertaken, whether he/she is taking over an existing branch with existing staff, the size of the branch, the branch operating model (i.e. Main or Local) and the types of products and services to be transacted. The number of days over which the training took place depended on which model of training was provided. The training usually took place over 8 to 10 days and involved some classroom and some on-site training.
113. The current position is that the Subpostmaster will be sent a link to the online training that they access on their own device e.g. a laptop. The online training is interactive and requires user participation. The online training happens before the classroom and on-site training. This is a change I introduced in 2015; this approach ensures the Subpostmaster has a variety of methods to take in the training, namely online, classroom and on-site.
114. I would expect the above level of information to be known by an applicant from their own enquiries when applying to be a Subpostmaster or to be communicated to an applicant during the appointment process.

Further and support training

115. As any diligent applicant would have appreciated, Post Office can provide further training and support where a need was identified to it during a Subpostmaster's time in office. As Post Office is not present in branches, it is often not possible for it to know whether training is needed by a Subpostmaster. It could be that the Subpostmaster is absent from the branch and requires no training at all. It could be that the Subpostmaster is well trained but there are errors in branch caused by assistants. I think it would have been obvious to an applicant that if they needed more training after their appointment, it was for them to take the initiative and request that help.
116. An incoming Subpostmaster would also be aware that other support mechanisms were available that they could use. This ranged from operational instructions and help guides in branch to helplines provided by Post Office for operational questions and IT issues. They could also seek help from the NFSP²⁸ or speak to their Contract Advisor at Post Office²⁹ about contractual issues.

Causes of shortfalls

117. When becoming a Subpostmaster, a person will know that there is a risk of losses of cash and stock from a branch. This is a known risk in any retail environment and is commonly called shrinkage. There are many ways that a shortfall or surplus may arise. I set out some examples below.
118. Mis-key. If a Subpostmaster enters the wrong value of a transaction into Horizon this could cause a discrepancy. By way of example, if a banking customer deposits £1,000 into his/her account and the person serving the customer mistakenly enters £10,000. This would create a shortfall of £9,000 for the branch. The same thing would sometimes happen with paper records.
119. Mixing retail and Post Office business. Subpostmasters are supposed to maintain a separation of retail and Post Office cash. Mixing these two sets of cash can lead to Post Office cash being lost to the retail business (and vice versa), as it can become difficult to track the amount of cash that should be allocated to the Post Office and retail sides.
120. Errors in cash handling. At the end of a customer transaction, payment normally needs to be made to or received from the customer. Even if the transaction is

²⁸ See Nick Beal's statement for more details on the NFSP.

²⁹ Previously Retail Line Manager and before than Retail Network Manager.

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correctly recorded in Horizon, branch staff may take or hand out the wrong amount of cash. This error could be as simple as miscounting cash before handing it to, or receiving it from, the customer. This error may also happen when cash is sent from a branch to Post Office or vice versa.

121. Miscounting cash on hand. When completing the physical cash count, notes and coins can sometimes be miscounted or missed altogether. If cash is temporarily mislaid one day and found the next, it can lead to related shortages and surpluses on different days or in different trading periods.
122. Stock handling. In the same way that cash can be mishandled, stock can also be mishandled, e.g. giving the wrong type of stamps to a customer.
123. Cheque handling. Branches can accept cheques as payment for certain products and services. There are set procedures that must be followed in branch to ensure that the cheques are handled correctly and submitted to Post Office promptly so that they can be entered into the banking system. A failure to follow these processes may make it impossible to recover the value of the cheque and the cost of this may be passed back to the branch.
124. Product specific errors. A failure to follow the correct process for accounting for certain products can also cause errors. A good but historic example is the accounting process for Motor Vehicle Licence (MVL) discs (commonly referred to as tax discs). Branches will receive MVL discs from Post Office, which they have to record as part of their stock using Horizon. When the discs become out of date, the branch is responsible for destroying the discs and following a process to inform Post Office that they have been destroyed. When destroying the discs, if the branch does not follow all of the steps of “spoiling the disc” and remitting it to Post Office, Horizon will still record the disc as being in the branch even though it has been destroyed.
125. Accidental loss. Other losses may occur accidentally in branches; for example, money dropped in bins with rubbish, money dropped or knocked into mail bags, and money left on counter tops which is taken by a customer without branch knowledge.
126. Theft. Theft by branch staff has occurred, involving staff taking cash or stock, or colluding with a customer to generate a gain for the customer and an offsetting loss for the branch.

Reliance on Subpostmasters

127. Post Office is not present in branches, except when its staff are on site providing training or support or conducting audits. It does not have first-hand knowledge of:

127.1 The interaction between the Subpostmaster and the customer, what was said or what was handed across the counter.

127.2 Whether the Subpostmaster entered a transaction correctly on Horizon. Post Office only sees what was recorded by Horizon and what may be communicated to it by Clients and customers. It does not know whether that entry accurately reflects the transaction that actually happened.

127.3 Whether the correct related paperwork is completed for certain transactions (eg. endorsing backs of customer cheques with the transaction details).

128. Because of this lack of first-hand knowledge and direct control, Post Office relies on Subpostmasters to accurately conduct and record transactions undertaken in their branches. This is important because:

128.1 Post Office pays or receives money from Clients based on the value of the transactions recorded in branch. Incorrect transactions could lead to it paying more or receiving less than it is due, thus potentially creating a loss to Post Office.

128.2 Customers trust Post Office to complete their transactions accurately. Its brand would be damaged and customers would stop coming to Post Offices if, for example, when they deposited money, their accounts were not credited in the correct amount.

128.3 Subpostmasters are remunerated by reference to the transactions completed in branch.

129. Post Office sets minimum requirements for accounting checks to ensure the accurate handling of cash and stock and recording of transactions. The exact frequency and nature of accounting checks have changed over time but are, and have at all material times been, in line with the practices of other retailers (big and small), where the industry standard is for the tills to be "cashed up" at the end of every day. This is good practice because (i) it allows a retailer to quickly spot any problems and (ii) for security reasons a retailer will want large volumes of cash to be secured in a safe overnight. I would expect any reasonable person entering the retail business to understand the importance of regular cash and accounting

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checks, and I would also expect them to know that it is best practice that this is done at the end of every trading day and that any problems will need to be promptly corrected. It is obviously particularly important where the business involves a large throughput of cash, as does a Post Office branch.

130. With over 11,000 agency branches each producing a daily cash declaration, this amounts to over 26,000 cash declarations each month.³⁰ It would be completely impractical for Post Office to review all these accounting submissions. It would also be pointless. The only information Post Office would have at the end of each day's trading would be the cash declaration. If there was a shortfall, it would have no way of knowing which transaction on that day might be the cause of the problem. The only person with this information is the Subpostmaster.
131. The problem is exacerbated when looking at weekly or monthly accounts. As the period of time extends so does the pool of data and thus finding a problem transaction becomes more difficult.
132. I have always taken the position that a diligent businessperson would check their accounts daily to identify any discrepancies and look to resolve them there and then, while the information is fresh in their mind. If a material problem is identified, I would expect the Subpostmaster to work hard to find the problem. The starting point is a recount of cash in the branch to make sure there have been no counting mistakes. One would then look at the cash, cheque and stock remittances in and out of the branch to make sure everything has been logged as being sent or received. It would also be prudent to speak to any assistants to see if any of them had any idea as to what might have happened.
133. The next step would be to review all the day's transactions looking for an anomaly. From the branch accounts, it has always at all material times been possible to review a list of all transactions completed that day, their value and the corresponding payment method (cash, card, cheque, etc). It would be sensible to start looking for a transaction by reference to the value of the loss, e.g. if there was a loss of £900, I would be looking for a mis-keyed transaction where £100 might have been entered as £1,000.
134. Most Post Office branches have repeat regular customers e.g. a customer who always draws their benefits on a Wednesday morning or the local garage that deposits its weekly takings on a Friday afternoon. You get to know the ebb and flow of trade in a branch and when you look down the daily transaction log you do not just see numbers, you see patterns of customers. This allows a

³⁰ Assuming that there are 26 trading days in a month.

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Subpostmaster to spot anomalies in a way that Post Office never could. An experienced Subpostmaster will often have his own ways of quickly spotting when something has gone wrong in the branch and putting it right.

135. Subpostmasters also have knowledge of how their branch runs in practice: knowledge that Post Office does not have. They understand when they have had busy trading periods that make mistakes more likely, or have had difficult customers with complex transactions. They will know which assistants are more reliable. They could know if their assistants are having any personal or financial difficulties that might have affected their performance or created a greater risk of theft. Small things, like rushing to close the branch early one evening to go to an event or see your family, can increase the risk of errors. Subpostmasters own risk for tolerance for errors will be important: some will want their accounts to balance to the last penny every day; others will be happy to allow small losses to rollover for a period of days without any investigation. This is not unique to Post Office but reflects the ordinary challenges of running a small or medium sized business. In some cases an error over the counter may be brought to the attention of the branch by the customer returning to the branch. If the customer had not returned to branch the Subpostmaster may not have known about the cause of the discrepancy he would have suffered. In such instances Post Office is unaware of the situation unless of course the branch or customer advises Post Office.
136. It is fair to say that small shortfalls or surpluses sometimes cannot be tracked down, as in any business. For example, a simple mistake of handing over to a customer a £10 note rather than a £5 note will be nearly impossible for either a Subpostmaster or Post Office to spot after the event. Practically, I would not expect a Subpostmaster to put much time into trying to discover the cause of a very small loss or gain. It will depend on the level of tolerance of the individual Subpostmaster. Some will want to account for a discrepancy of 10 pence whereas others may tolerate a discrepancy of say £50. However, if a Subpostmaster conducts their business responsibly and with care, I am confident that they should be able to identify any substantial or recurring problems, or at least localise them to a particular transaction, type of transaction or member of staff so that a solution can be found. In this context, I would consider a £100 shortfall (dependent on the size of the branch) to definitely be at the level that it would be worth a Subpostmaster trying to work out what had happened but people will differ in the level of loss or gain that they will want to investigate further. It would be unlikely that a Subpostmaster, having kept his accounts diligently, still had no idea where a material problem was arising from.

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137. By contrast, it can be very difficult, if not impossible, to find the root cause of shortfalls if the Subpostmaster has not kept regular and accurate accounts. I think this would be obvious to anyone who thought about how a branch works and the fact that only the Subpostmaster (and the assistants) are actually there, in possession of the cash and stock and actually carrying out the transactions.
138. Multiple errors make finding a loss more difficult. It could be that two errors are made in one day, a loss of £300 and a gain of £100, making it look like a net loss of £200 at the end of the day. Disaggregating these types of errors can be done on a small scale, but if not addressed for even a few days or weeks, they compound and make it increasingly difficult to locate the underlying cause of problems.
139. False accounting is a major problem when it comes to identifying and correcting errors. As with any business where accounts are kept, there is a risk that the book-keeper may make false entries to hide problems. Post Office has to trust Subpostmasters to be honest. False accounting takes a number of forms, but the simplest way is to declare that the business has more physical cash than it actually has or to declare in the accounts that a shortfall has been made good when in fact it has not been. These would both make the accounts look like they are in balance (with no shortfalls or gains) when in the real world there is a shortfall. .
140. Save when opening new branches, closing branches and undertaking audits, Post Office does not undertake a first-hand manual count of a branch's cash. It only sees the accounts submitted by the Subpostmaster. It generally does not know whether the Subpostmaster has submitted false entries or not.³¹ False accounting causes two principal problems:
 - 140.1 It makes it very difficult, if not impossible, to know on what day an error occurred because the falsified accounts will likely show that they were in balance every day. It will likely not even be possible to tell from the accounts when the false accounting started.
 - 140.2 There is no way for Post Office to know which transactions in the accounts are real transactions that are innocently incorrect and which are intentionally false. False accounting therefore puts the entire set of

³¹ There are patterns of behaviour or transactions that could suggest a problem, for example, a branch asking Post Office to send out more cash deliveries even though its declared cash position in its accounts should be sufficient to cover its usual daily trading. These patterns only tend to come to light after extended periods of false accounting.

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accounts under suspicion. It also means that Post Office can no longer trust the Subpostmaster with its cash, stock or its brand.

141. False accounting could in theory happen, and not be discovered by Post Office for weeks, months or even years. This means that long periods of the accounts may be subject to challenge, and genuine errors in these periods will have been hidden from Post Office. This often makes it impossible for Post Office to investigate retrospectively the root cause of problems at a branch where there has been false accounting. Post Office is reliant on the honesty of Subpostmasters for the network to function.

Responsibility for shortfalls

142. Where a Subpostmaster is at fault for a shortfall, it is reasonable that he should be held liable for that shortfall and should compensate Post Office for that loss. If a Subpostmaster was not held so responsible he would lose an incentive to run his branch properly. This would lead to mounting losses in the network, with Subpostmasters, customers and Clients taking the benefits of those errors and Post Office suffering the consequences. In this situation, the network would become financially unsustainable very quickly.
143. Subpostmasters are solely responsible for their branch accounts. There is no transaction that enters their accounts without their consent (or their consent by proxy through their assistants).³² This includes transaction corrections issued by Post Office, which must be accepted by the Subpostmasters before they form part of the branch accounts. Subpostmasters have a variety of ways to contest any shortfall and would expect them to do so promptly should they not believe they are responsible for it.
144. If there is a shortfall, the most likely cause is an error by the Subpostmaster given that he has control over (a) the transactions conducted (b) the entries made in the accounts and (c) physical control of the cash and stock in the branch. It is therefore generally fair to assume that if a shortfall is declared, and not disputed, then the Subpostmaster is responsible for it.
145. It would be very difficult for Post Office if this assumption was reversed. If Post Office had to positively prove every shortfall was the fault of a Subpostmaster, the administrative burden would be massive. It would also potentially require a disproportionate amount of effort to be put into proving very small losses in

³² I dismiss here the groundless accusation about Post Office or Fujitsu maliciously editing branch accounts.

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branches, which to a single branch may be immaterial, but across 11,000 branches could add up to significant losses.

146. In any event, for the reasons set out above, the Subpostmaster is best placed to investigate shortfalls and Post Office generally cannot find the root cause of a shortfall without the Subpostmaster's cooperation. A reversal of the burden for determining the root cause of shortfalls would also create the perverse situation whereby the greater the scale and sophistication of the false accounting by a Subpostmaster, the less likely Post Office will be able to find the root cause of a shortfall, and thus the more likely the Subpostmaster would not be held liable for that shortfall. This would expose Post Office to uncontrollable losses.

STATEMENT OF TRUTH

I believe that the facts stated in this witness statement are true.

Signed:

Date:

Filed on behalf of the: Defendant
Witness: Angela Margaret Van Den Bogerd
Statement No.: First
Date Made: 23 July 2018

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HQ17X04248

IN THE HIGH COURT OF JUSTICE

QUEEN'S BENCH DIVISION

ROYAL COURTS OF JUSTICE

B E T W E E N:

ALAN BATES AND OTHERS

Claimant

AND

POST OFFICE LIMITED

Defendant

WITNESS STATEMENT OF ANGELA
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