

Filed on behalf of the: Defendant
Witness: Andrew Paul Parsons
Statement No: Fourth
Exhibits: AP 4
Date Made: 9 October 2017

Claim No: HQ16XO1238 and HQ17X02637

**THE POST OFFICE GROUP LITIGATION
IN THE HIGH COURT OF JUSTICE
QUEEN'S BENCH DIVISION**

B E T W E E N:

ALAN BATES & OTHERS

Claimants

AND

POST OFFICE LIMITED

Defendant

FOURTH WITNESS STATEMENT OF ANDREW PAUL PARSONS

I, ANDREW PAUL PARSONS of Bond Dickinson LLP, Oceana House, 39 - 49
Commercial Road, Southampton SO15 1GA WILL SAY as follows:

1. I am a Partner at Bond Dickinson LLP, solicitors for the Defendant, Post Office Limited (**Post Office**). I make this statement in advance of the first Case Management Conference in this matter (**CMC**). This statement is being filed alongside the Defendant's Skeleton Argument, which was required to be lodged on 9 October 2017. It addresses factual matters that are relied on in the Skeleton Argument.
2. Facts in this statement about the operations of Post Office are taken from my own knowledge and/or from conversations and instructions from Post Office personnel. Information about Horizon has generally been provided by Fujitsu, sometimes indirectly through Post Office personnel. Other facts in this statement are within my own knowledge unless otherwise stated. This statement is accompanied by an

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exhibit marked Exhibit AP 4 and, except where the context indicates otherwise, page references in this statement are to the pages of this exhibit.

3. I provided a relatively brief description of the background to this dispute and of Post Office in sections 1 and 2 of my second witness statement in this matter, which was dated 22 December 2016 (**Parsons 2**) and can be found at J.17 of the CMC bundle. The court may find it helpful to read paragraphs 18-20, 23-27 and 37-57 of Parsons 2.

Summary

4. The principal purpose of this statement is to explain the issues that have arisen between the Claimants and Post Office regarding orders for early disclosure. In particular, I set out the facts that I believe are relevant to any decision to order such disclosure and I explain why the disclosure orders sought by the Claimants would require huge and disproportionate effort and cost and would also be likely to produce vast numbers of irrelevant documents.
5. Perhaps unusually for group litigation, the claims made by the Claimants in these proceedings (and, in particular, the acts and omissions by Post Office on which these claims are based) are likely to be factually very different from one another. The diverse nature of these claims and the need for a clear understanding of the facts on which they are based is explained in paragraphs 11, 99-116 and 173 of Parsons 2. Post Office agreed to a GLO in order to address common issues, principally as to the legal duties (including the construction of its contracts). It did not agree to a GLO so that individual Claimants might avoid having to provide a proper account of the claims they make (and, in particular, the breaches they allege and the losses that they claim to have suffered).
6. At the hearing before Senior Master Fontaine on 26 January 2017 (**the GLO Hearing**), Post Office was concerned that this might happen. In its view, its concerns have been borne out by events. Nine months further into these proceedings, Post Office still does not have a clear understanding of the claims that it faces. The minimal details so far provided by the Claimants (in their Generic Particulars of Claim (**GPOC**) and their Schedules of Information (**SOIs**)) omit vital information. This makes it difficult, if not impossible, for Post Office to give the vast disclosure now sought by the Claimants and makes it impossible to assess to what extent that disclosure would assist in the fair and efficient resolution of the claims actually being made in these proceedings.

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7. Post Office's approach to disclosure is more targeted than the Claimants'. It proposes directions providing for early disclosure of key documents so that the important common issues can be addressed in a proportionate and timely manner.
8. Post Office does not want these proceedings hanging over its business any longer than necessary, not least because they have an obvious impact on its relationships with current postmasters. Further, although it is a large company, it has finite resources, and continues to receive government support so as to provide critical services to local communities. Unlike the Claimants, it does not have the benefit of the ample litigation funding described in paragraphs 11.7 and 128 of Parsons 2. The Claimants would no doubt disagree, but from Post Office's perspective, they have dragged out the litigation process. Post Office is concerned that their strategy is to keep this litigation alive for as long as possible without exposing the facts of their claims to scrutiny, forcing Post Office to incur very high legal costs. In this context, it is relevant to note that Post Office considers that many of the claims it faces are hopeless, for the reasons summarised in paragraphs 11.6 and 91 of Parsons 2.
9. The structure of this statement is as follows:
 - 9.1 In Section 1 (paragraphs 10-49), I outline what I believe to be the material events that have occurred since the GLO Hearing.
 - 9.2 In Section 2 (paragraphs 50-141), I address facts which are relevant to the Claimants' proposed directions.
 - 9.3 In Section 3 (paragraphs 142-156), I address facts which are relevant to Post Office's proposed directions.
 - 9.4 In Section 4 (paragraphs 157-169), I give some basic information regarding the claims advanced in these proceedings, the claims that appear to be time-barred and the claims that appear to have been settled.

SECTION 1: EVENTS SINCE THE GLO HEARING

10. Since January 2017, my firm has exchanged extensive correspondence with the Claimants' Solicitors, Freeths, on a number of matters relevant to these proceedings. I summarise the principal correspondence below.

Pleadings

11. As required by paragraph 30 of the GLO, the Claimants served their GPOC on 23 March 2017. The GPOC was very different from the draft GPOC that had been

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circulated before the GLO Hearing two months earlier. Indeed, it was 33 pages longer than the original draft. Nevertheless, it did not include several of the causes of action asserted in the Claim Form, including claims for conspiracy (which the Claimants had confirmed during the GLO hearing that it was not pursuing – see page10), misfeasance in public office (which the Claimants had confirmed in correspondence it was not pursuing – see page 43 of the Claimants' Letter of Response at tab 13 of the CMC bundle), and breaches of the European Convention on Human Rights (which the Claimants had said nothing about). However, none of these causes of action has been removed from the Claim Form (or the second Claim Form subsequently issued on 24 July 2017).

12. Post Office requested Further Information in respect of the GPOC on 27 April 2017 (see tab 6 of the Case Management Bundle). This RFI was narrow in nature, being limited to 12 requests. The response provided by the Claimants was minimal and refused to address many of the requests, relying in large part on an argument that the questions related not to generic issues but to the facts of individual claims, such that the request was premature.
13. On 6 July 2017, four months after service of the GPOC, Freeths produced a proposed Amended GPOC (see tab 3 of the Case Management Bundle). Freeths explained that this *'simply plead[s] a term implied by the Supply of Goods and Services Act and make[s] clear that error and detection and repellency in the Horizon system is an issue'* (page1). The amendments changed the nature of the Claimants' case in relation to Horizon significantly. They were now alleging that Horizon was provided by Post Office as a service to postmasters, that it had to be fit for purpose from a user's perspective and that it was not so fit, including (but apparently not only) because it was not sufficiently "error repellent". None of these points were particularised.
14. The proposed Amended GPOC was served just 8 working days before Post Office's Generic Defence was due (and 15 months after the Letter of Claim). It was not explained why it had been left to the last minute. Nevertheless, Post Office was anxious that preparations for the CMC should not be adversely affected. Accordingly, it consented to the amendments on 11 July 2017 (page 10) and it served its Generic Defence as the GLO required on 18 July 2017, without seeking any extension of time.
15. Freeths requested Further Information in respect of the Generic Defence on 31 July 2017 (see tab 7 of the Case Management Bundle). In contrast to Post Office's short RFI, the Claimants' requests sought to question nearly all aspects of Post Office's case. 98 requests were made, spread over 61 topics. Post Office's

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response was requested by 4 September 2017, which meant that the bulk of the work was to be done over the summer vacation.

16. My firm wrote to Freeths on 4 September 2017 to explain that Post Office's response would not be ready until the week commencing 11 September 2017 (page 18). In the event, the response was provided on 13 September 2017, 9 days after the date requested and 7 days before the Claimants' Reply was due.
17. On 13 September 2017, Freeths indicated that it would require an extension of time for the Generic Reply from 20 September 2017 to 2 October 2017 (the extension sought was subsequently shortened to 29 September 2017) (page 19). On 13 September 2017 and 18 September 2017 (pages 21-22), my firm asked Freeths to identify the reasons why an extension was required, specifically asking them to identify any part of Post Office's RFI response that was causing difficulty. Freeths did not provide this information. As explained in my firm's letters of 1 September 2017 and 20 September 2017 (pages 12 and 35), Post Office required sight of the Generic Reply before it felt able to propose its own directions, and the requested extension would only allow 6 working days in which to agree directions before skeleton arguments were due to be filed. On 18 September 2017 and 20 September 2017 (pages 22 and 35), Post Office offered to agree to an extension to 25 September 2017 to give the parties two weeks to discuss directions.
18. These offers were not acceptable to Freeths. On 20 September 2017, it applied for an extension of time, which was granted (with costs reserved to the CMC). The Generic Reply was served on 29 September 2017. This delay has affected Post Office's ability to prepare for the CMC.
19. Having reviewed the Generic Reply, Post Office still does not understand why its RFI response required the requested, or indeed any, extension. For the reasons explained in my firm's letter of 4 October 2017 (page 38), I believe the Generic Reply has been used more as a vehicle for articulating arguments, rather than as a means of addressing the factual claims made in the Generic Defence, and has not therefore helped in clarifying or narrowing the issues in dispute.
20. For completeness, I should mention that Freeths has objected to Post Office's RFI response, suggesting that Post Office should have adopted a very different (and in fact quite impossible) approach to the generic statements of case. However, on 19 September 2017, Freeths indicated that, if the Claimants sought an order for further responses, it would write to my firm identifying the relevant responses in respect of which it would seek an order (page 34). It has not done so, which makes it unnecessary for Post Office to adduce the evidence on which it would otherwise wish to rely.

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21. On 26 April 2017 and 25 May 2017, my firm wrote to Freeths asking them to provide an update on the new Claimants who were going to join the proceedings and an indication of who the likely new Claimants might be (pages 77 and 78). Post Office wished to begin investigating the positions of any new Claimants from its records. Freeths did not respond to this request but, in the meantime, information was shared with the media about there now being over 1,000 Claimants in these proceedings (see, for example, the Computer Weekly article of 28 March 2017 reporting that *'1,000 sub-postmasters apply to join IT-related group litigation against Post Office'* at page 80).
22. On 24 July 2017, just before the Group Register was closed to new Claimants, Freeths served a second Claim Form which included an additional 324 Claimants. This was the first indication Post Office had of who the new Claimants were.
23. There are now 510 Claimants, namely 522 Claimants who have issued Claim Forms, less 12 who have discontinued their claims.

Schedules of Information (SOIs)

24. Pursuant to paragraph 26 and Schedule 3 of the GLO, the Claimants are required to serve SOIs giving basic information about their claims. Amongst other things, each Claimant is required to give brief details about any training said to have been inadequate, of any helpline advice said to have been inadequate, of any investigations of which they complain, of any pressure exerted on them to resign, and of any steps taken to impede the sale of their businesses. Each Claimant is also required to say how they treated apparent shortfalls in the accounts they submitted to Post Office (i.e. whether they falsely accounted for such shortfalls) and why, and to state the amounts or give brief details of their various heads of claim. Post Office argued for these requirements at the GLO Hearing because it believed that the parties and the Court would at least need these details before they could sensibly be expected to make important decisions about how best to manage the claims made in these proceedings and bring them to a resolution. It hoped, for example, that the details might enable the Claimants (of whom there are now 510) to be broken down into classes or groups from whom Lead Claimants could be selected whose claims were representative of the broad range of claims made.
25. Freeths served SOIs for the first 198 Claimants on 20 June 2017 (with the exception of Claimants 86 and 122, for whom extensions to 2 October 2017 were agreed). On reviewing these SOIs it became apparent that there were serious

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problems with them. Post Office wrote to explain the problems and express its concerns about them on 1 September 2017 (pages 83-92). Given its importance to some of the issues to be considered at the present hearing, this letter should be read in full. Amongst other things, it pointed out that:

- 25.1 The answers given in the SOIs are often inconsistent with other answers given in the same SOI, or are inconsistent with the Amended GPOC.
 - 25.2 Imprecise / evasive language is used, making it time-consuming, difficult and in some cases impossible to make sense of what is / is not being claimed.
 - 25.3 In many cases, no details are given at all and, insofar as details are provided, they are provided with such brevity that they are of little or no help in understanding crucial features of the claims asserted and, in particular, the breaches alleged and the losses claimed.
 - 25.4 In many cases, critical issues have been inadequately addressed or omitted altogether, such as false accounting by postmasters. This was surprising given the attention that the Amended GPOC gives to that issue.
 - 25.5 It was intended that the SOIs would provide Post Office with a fair indication of the value of most of the Claimants' claims and therefore a fair idea of the total value of their claims. However, many claims have not been valued at all, some claims have been valued in ways that seem duplicative or obviously inflated and others have been valued in ways that are inconsistent with the Claimants' Amended GPOC.
26. Some examples of SOIs served by Freeths are at pages 93-132. Consistently with the Solicitor's Code of Conduct, Indicative Behaviour 11.8, Post Office and its legal team had anticipated that the SOIs, which were required to be confirmed by Statements of Truth, would be the subject of meaningful scrutiny by the solicitors on the record so as to ensure that claims were not advanced without any proper basis. However, these problems appeared to demonstrate that the SOIs had been prepared with minimal input from Freeths.
27. In its letter of 1 September 2017, my firm asked Freeths to correct the first tranche of SOIs and ensure that the next tranche of SOIs avoided these problems. We also invited Freeths to provide its proposals as to how and by when this could be done, as we were mindful that this exercise would require some time (page 91).
28. The remaining SOIs were served on 4 September 2017 (save for a handful where Post Office has agreed extensions of time). These suffer the same problems as the original tranche of SOIs (see the further examples at pages 133-152).

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29. Freeths wrote to my firm on 20 September 2017 refusing to make any changes to any SOIs on the basis that it would be disproportionate to provide more complete or accurate information at this stage in the litigation process (page 153). I note Freeths did not deny that the SOIs were prepared largely without its input. This seems extraordinary to me, given that those claims that have been quantified in the SOIs, although prone to a significant margin of error and suffering from the problems discussed in paragraph 25 above, add up to around £120 million, or approximately £240,000 per Claimant.

Second Sight

30. There has been discussion between the parties regarding allowing the Claimants to speak to the forensic accountants (**Second Sight**) who were involved in the inquiry and subsequent Post Office Complaint Review and Mediation Scheme described in paragraph 25 of Parsons 2 (**the Scheme**).
31. On 13 October 2016, Post Office had proposed a protocol under which the Claimants could freely speak to Second Sight, save in relation to three protected topics where there was a higher risk of privileged information being mentioned (page 158). On 24 February 2017, Freeths objected to this proposal (page 166). Rather than accepting the protocol as a temporary measure that would have allowed them immediate access, they refused to agree anything and pressed for unfettered access.
32. However, on 15 June 2017, Freeths wrote to my firm seeking to accept the protocol with a small number of very minor tweaks (page 168). I do not know why it changed its position or why it took 8 months to engage with Post Office's proposal. The protocol was signed on 1 September 2017 (page 169).

Known Error Log

33. There has also been discussion between the parties regarding a Fujitsu database known as "**the Known Error Log**". As Post Office explained at paragraph 50(4) of its Generic Defence, the Known Error Log is *'used by Fujitsu [to explain] how to deal with, or work around minor issues that can sometimes arise in Horizon for which (often because of their triviality) system-wide fixes have not been developed and implemented...it is not a record of software coding errors or bugs...[and]...to the best of Post Office's knowledge and belief, there is no issue in the Known Error Log that could affect the accuracy of a branch's accounts or that secure transmission and storage of transaction data'*.
34. On 6 July 2017, whilst writing to seek Post Office's consent to the proposed Amended GPOC, Freeths requested that Post Office urgently disclose the Known

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Error Log because it is *'plainly of central relevance to the case and, in particular, the issues which depend on upon the presence or absence of bugs, errors or defects in the Horizon system'* (page 1).

35. Despite Post Office explaining the irrelevance of the Known Error Log and that it was not within Post Office's control (pages 13 and 180), Freeths continued to demand disclosure of the Known Error Log (page 177).
36. On 1 September 2017, Post Office explained that, according to its information from Fujitsu, the Known Error Log is *'a proprietary database with approximately 4,000 entries [and is] a constantly rolling document, the current version in use has evolved over time and may not reflect the version in place at [a] time which is relevant to the Claimants' claims'* (page 13).
37. Due to the large amount of information involved and the fact that the Known Error Log is not in Post Office's control, Post Office stated that *'whether and, if so, how your client should have access to the Known Error Log therefore needs to be considered in the context of any wider directions that are made'* (page 135). Post Office did not refuse access to the Known Error Log (for which purpose it needed Fujitsu's consent), but it was concerned about the timing and logistics of arranging access with Fujitsu.
38. I understand from Fujitsu that the Known Error Log cannot be easily downloaded as it comprises data that is stored on a database, rather than being a document in a conventional form. Unless one has the necessary database software, reading the data in the Known Error Log is very difficult. The alternative is to manually copy or print each entry, but this would produce poorly formatted material and would take significant time and work. Fujitsu believe that the best solution is for a person with appropriate expertise to read the Known Error Log on a screen at its offices where the information can be presented in a user-friendly format.
39. To avoid incurring needless time and costs arguing about this, Post Office wrote to Freeths on 22 September 2017 offering to arrange in the first instance for an opportunity for the Claimants' IT expert to inspect the Known Error Log at Fujitsu's premises (page 180). This offer was subject to Fujitsu's requirement that the Claimants' IT expert signs a standard form Non-Disclosure Agreement in order to protect Fujitsu's commercially sensitive know-how that might be revealed in the Known Error Log.
40. However, if having seen the Known Error Log the expert believes that disclosure of some sort is needed, the inspection process offered by Post Office should enable

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Freeths to indicate precisely what is needed and to explain why, as my firm proposed in its letter dated 29 September 2017 (page 181).

41. My firm has provided Freeths with the Non-Disclosure Agreement and the parties are currently arranging a mutually convenient date for Fujitsu and the Claimants' expert to meet (see page 182).

Directions

42. On 6 July 2017, Freeths provided a draft Directions Order for consideration: its proposed order (**the Freeths Order**) is at page 5 and its covering letter at page 1. This was sent (i) the same day as Freeths proposed the Amended GPOC; (ii) while Post Office and its legal team was hard at work on the Generic Defence; (iii) before all the SOIs had been served; and (iv) before the Group Register had closed, so at this stage Post Office was only aware that there were 198 Claimants. I thought it odd that Freeths felt able to propose directions before it had even seen Post Office's Generic Defence and did not understand how it expected Post Office to be in a position to respond. Indeed, I did not (and do not) understand how the parties could sensibly be expected to decide important matters of this kind until after the statements of case had closed. I believe that the CMC was fixed with this point in mind.
43. As I explain in paragraph 29, 32 and 33 of Parsons 2, Post Office has previously felt that it is being frogmarched into agreeing important matters before it is in a position to do so. A practice almost appears to have developed in which Freeths makes significant proposals on matters that are not yet ripe for decision and then criticises Post Office for wishing to take a considered and properly contextualised approach to such matters.
44. During July and August my firm was busy preparing Post Office's Generic Defence and response to the Claimants' RFI. We were also reviewing the first 198 SOIs and checking the details of the 324 Claimants added to the Group Register.
45. By letter dated 1 September 2017, my firm explained that Post Office would not be in a position to comprehensively deal with directions until it had seen the Claimant's Generic Reply, due on 20 September 2017 (page 12)). We did however raise a number of issues that could be dealt with without first needing sight of the Generic Reply. These included dealing with certain heads of claim that had not been pleaded in the Amended GPOC, the discontinuance of claims by a number of Claimants and the possible strike out of certain categories of Claimants whose claims appeared to be unsustainable. Some of these points are addressed in Section 3 below (starting at paragraph 142). As explained further in my firm's letter

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of 20 September 2017 (page 35), the following matters could not be dealt with constructively until Post Office had sight of the Reply:

- 45.1 Preliminary issues: Regarding the contracts between Post Office and its postmasters, there are profound issues between Post Office and the Claimants. For example, the Claimants contend that most of the relevant express terms of the contracts do not reflect the “true agreement” between the parties or are unenforceable. Moreover, while Post Office alleges that two implied terms are necessary to give the contracts business efficacy, the Claimants are arguing more than 20 implied terms. The parties also take different views on the agency duties between the parties and on how the express terms should be construed. Sight of the Reply was required to understand whether and to what extent any of these matters were agreed or disputed and whether the outstanding issues could be considered as potential preliminary issues.
- 45.2 Factual disputes: The Generic Defences set out what Post Office contends to be the relevant factual background to the legal and factual relationships between the parties. I had expected the Reply to accept or dispute this on a point-by-point basis, which would reveal whether the parties would be able to reach an agreed statement of facts that, amongst other things, might form the factual basis for the determination of preliminary issues.
- 45.3 Lead cases, disclosure and expert evidence: Until the scope of potential preliminary issues and factual matrix was known, it would not be possible to make informed decisions as to the immediate case management decisions to be made (especially bearing in the mind the great difficulty in this regard that results from the inadequacy of the SOIs).
- 45.4 Limitation and concealment: These matters were not addressed in the Amended GPOC nor covered in the SOIs but they were raised in the Generic Defence. Until Post Office saw what the Claimants said about them in the Generic Reply, it could not know whether and how these matters might need to be taken into account in discussing directions.
- 46. As explained above, the Generic Reply was only served on 29 September 2017. It has had a direct impact on the preliminary issues that Post Office has suggested for consideration and on the further information Post Office is seeking.
- 47. In the evening of 4 October 2017, my firm wrote to Freeths suggesting its own Directions Order: the suggested order (**the Bond Dickinson Order**) is at page 51 and my firm’s explanatory letter is at page 38 onwards.

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48. In the last few days, Freeths has accused my firm of having ambushed them with the Bond Dickinson Order, apparently with a view to prejudicing orderly preparation for the CMC. I reject these accusations absolutely and I hope they are not repeated.
49. In Section 2 below (paragraphs 50-141), I address the directions proposed in the Freeths Order, with particular reference to the proposed orders for disclosure. I discuss the directions proposed in the Bond Dickinson Order, and compare them to the directions proposed by Freeths, in section 3 (paragraphs 142).

SECTION 2: CLAIMANTS' PROPOSED DIRECTIONS

Background

50. In its letter of 6 July 2017 (page 1), Freeths proposed that:
- 50.1 Lead Cases be selected, without setting out what is to be done with those Lead Cases;
 - 50.2 Post Office be required to provide a huge amount of disclosure on the basis that such disclosure is "staged" and "generic";
 - 50.3 permission is given for expert evidence in relation to Horizon without setting out what issues and questions that expert would address; and
 - 50.4 all other questions be deferred to a future CMC.
51. Freeths also tentatively suggested that the question of whether the postmaster contract is a "relational" contract be considered as a preliminary issue although this was not included in their draft Order (page 4).
52. The Claimants' directions require a great deal of work to be done by Post Office for little obvious or immediate purpose or benefit. How they might help resolve this litigation is not explained, either in the draft Order or in any related correspondence. Post Office believes that the extremely wide disclosure they seek is disproportionate, will not help progress the key points in dispute and / or is impossible to comply with. It is concerned that the Claimants are seeking to force Post Office into providing a vast number of documents and information, which may or may not be relevant, but which they can wade through in the hope that something might turn up to support their speculative claims.
53. I deal with Lead Claimants, preliminary issues and experts when discussing Post Office's proposed directions in Section 3 below (starting at paragraph 142). Post Office takes particular issue with the Claimants' orders for disclosure and I address

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these immediately below. To place Post Office's objections in context, in paragraphs 54-82 below I provide a detailed explanation of how Post Office holds information and in paragraphs 83-129 I explain the difficulties that would be caused by the unilateral "generic" disclosure provided for in paragraph 3 of the Freeths Order. In paragraphs 130-134 I then explain why I believe the mutual "standard" disclosure provided for in paragraph 2b of the Freeths Order would be unworkable.

Information held by Post Office

54. Post Office is a large corporate entity. As at 1 October 2017, it had around 5,000 employees working from around 320 different offices and locations, with around 500 employees either working from home or in the field, with no fixed office base.
55. Like other large corporates, Post Office will have potentially relevant documents spread amongst a significant number of different people, teams and locations. Most of Post Office's employees will have either had contact with postmasters, and therefore hold relevant documents, or will have been involved with support and planning of operations that affect postmasters. This litigation, and the Claimants' wide disclosure requests, have the potential to touch on nearly all areas of its business.
56. It should also be borne in mind that Post Office's organisational structures and its staff have changed significantly since Horizon was fully rolled out in 2000. This includes a major restructuring in 2012, when Royal Mail was privatised and Post Office was retained by the Secretary of State for Business Innovation and Skills. Until then, Post Office had been a subsidiary of Royal Mail and the Royal Mail group had been run with a number of integrated teams and functions covering both businesses. Any disclosure order will therefore require a review of innumerable archived documents, backed-up data and legacy IT systems.

Post Office's IT systems

57. The majority of relevant documents will be held electronically. However, this does not mean that it would be easy to identify and recover them. In order to give a sense of the difficulties involved, in the following paragraphs I describe some of the principal IT systems that Post Office has in place and which might be relevant in this litigation.
58. Post Office's internal IT team estimates that it has in excess of 100 individual systems that may hold relevant documents. However, it outsources the majority of its IT systems, including IT support for those systems. Any extraction of documents from these outsourced IT systems will probably require Post Office to incur charges from these IT providers.

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59. Horizon is the IT system through which business is transacted in branches. In simple terms, it is provided to Post Office by Fujitsu. The key information tracked by Horizon is transaction data and event data. Transaction data is the line-by-line record of each transaction that has been input into Horizon. Event data shows other actions undertaken by a Horizon user on a terminal, such as their time of log-on and reports they have printed.
60. To retrieve all transaction and event data for all of the Claimants will be a considerable undertaking because it is a labour-intensive process. As a rough guide, Fujitsu tells me that with its current resource it would take over a year to extract one month of data for each of the Claimants' branches, in part, due to the checks that are conducted on the data's integrity when it is extracted. If Fujitsu dedicates two additional full time employees to the extraction of data (at a cost of at least £500 each per day to Post Office) in 4 months it can provide data for 1 month for all of the Claimants' branches. However, some of the Claimants have been in post for more than 17 years. Even with the additional resource, it would take decades to provide all of the transaction and event data for all Claimants.

POL SAP and Core Finance

61. Post Office's Finance Service Centre (**FSC**) runs Post Office's back-end accounting for its business, branches and clients. There are nearly 150 different financial functions within the FSC. Operating practices across the FSC differ widely, with some teams being primarily paper-based, some using the POL SAP and Core Finance IT systems (see paragraphs 62 to 63 below) and others principally working from emails and SharePoint (see paragraph 68 below).
62. POL SAP is currently the main software used by the FSC to record financial information across the Post Office network. There are approximately 24.2 terabytes of data in POL SAP and its archive.
63. POL SAP is a database provided under licence from SAP, a global IT company. It is not possible to simply extract all information from it for each of the Claimants as this would produce information in database format which would be meaningless without the necessary SAP licence. There are plans to move from POL SAP to a new but similar IT system called Core Finance in 2018, but a similar issue with extracting data will still exist.
64. An example of a report that can be run from POL SAP and Core Finance is the **Customer Account**. The Customer Account shows the dates of how shortfalls

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accrued and any payments or deductions from remuneration that were taken to reduce the shortfall. This document is discussed further at paragraph 149.3 below.

HR SAP

65. HR SAP is a similar database platform to POL SAP but holds records on Post Office employees (i.e. those that work in its Crown branches). It should be noted that HR SAP does not provide a full picture of Crown employees since other records, such as on performance, will be held locally at a branch. HR SAP also holds some information on Post Office's postmasters, including their remuneration and assistants that have been registered at their branches.

Dynamics and Remedy

66. Dynamics and Remedy are the different call logging systems used by the National Business Support Centre (**NBSC**), which is the main helpline contacted by postmasters. Between 2000 and 2014, the NBSC used software called 'Remedy' to log calls from Agent branches. In 2014, this system was replaced by 'Dynamics'. The logs describe briefly the nature of the question asked and answer given.

Other databases

67. Post Office also has access to other databases from across its business that help provide information on its postmasters. For example, the Network and Strategic Analysis team have access to a Network Reinvention Database that provides dates of service of its postmasters.

SharePoint

68. SharePoint is a web-based Microsoft platform that allows teams across Post Office to save documents to it so that they can be shared. SharePoint is widely used across Post Office, with many teams having created several sites to hold documents. Examples of teams that use SharePoint are the Contract Adviser and Field teams.
69. The Contract Adviser team is responsible for managing contractual actions related to postmasters during the lifecycle of their contract. A Contract Adviser will be involved in recruitment of postmasters, they will manage any contractual variations such as requests to change opening hours, as well as managing processes such as suspensions or contractual terminations. Since around 2012, the Contract Adviser team has been storing electronic documents on a SharePoint site, which is divided into sub-sites. The Contract Adviser team SharePoint site is around 131

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GB in size and it is estimated to contain in excess of 140,000 documents. This is just one SharePoint site. It has only been in operation for 5 years, while these proceedings span 17 years.

70. For these proceedings, Advanced Discovery, an e-disclosure specialist, has been engaged to help begin scoping the extraction of data from SharePoint and it began with the Contract Adviser site. This process was a significant project for Post Office, with input required from Computacenter (Post Office's IT supplier that manages access to SharePoint), as well as internal input from Post Office's data and information security teams, IT team and owners of the SharePoint sites. It took over 100 man hours of Post Office's time and over 25 hours of this firm's time across 4 months to find a successful way to extract data from this one SharePoint site. Once a working solution to extract the data was determined, it took over a week to simply download the data, with the extraction tools running around the clock.

Lotus Notes

71. Prior to the introduction of SharePoint in around 2012, many teams across Post Office used e-filing cabinets within Lotus Notes, a form of email software that is now not commonly used (**E-Filing Cabinets**).
72. The E-Filing Cabinets were on a server hosted by Royal Mail. Following Post Office's separation from Royal Mail on 1 April 2012, access to various data across Post Office was lost, including access to the E-Filing Cabinets.
73. On 28 June 2017, Royal Mail provided Post Office with a copy of the E-Filing Cabinets. However, this copy is not complete, with for example some attachments to emails and files embedded in other documents not having been transferred to Post Office. Significant work will be required by Royal Mail to complete the extraction exercise from its systems and have these made available to Post Office.

Email

74. Outlook is Post Office's principal email software used by all employees. Advanced Discovery advises me that in its experience, an average user can be expected to send and receive 20,000 emails a year (90 emails sent and received a day for 225 working days a year). If it is assumed that there are at least 100 key staff at Post Office whose email accounts need collecting (which may be a conservative assumption) over a 17 year period, this would mean capturing around 35,000,000 documents. A particular difficulty here and in many other contexts is that the absence of specificity in the Claimants' allegations would make it very difficult (and perhaps impossible) to devise a reliable system for narrowing down the review by

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using search terms, date ranges and the other methods ordinarily used to reduce the pool of documents to those that require human review.

Network drives

75. Some teams, such as the Security Team (which investigates fraud and criminal misconduct) and Post Office's in-house Legal team, do not use SharePoint, but use shared drives on a Post Office IT network. As an example of the volume of data on these Network Drives, in July 2015 data was collected from the drives of the Security and Legal teams in response to mandatory statutory requests for information made by the Criminal Cases Review Commission, who are reviewing a small number of Post Office's past prosecutions. This exercise alone extracted around 200,000 documents.

Archived and local data

76. The systems outlined in this section represent the current and more recent IT usage. There have been other systems and databases that have been taken offline. Depending on the nature of specific allegations raised by Claimants, it may be necessary to access back-up tapes of data to reconstruct the state of databases at a certain date. Some teams also hold data on archived hard drives and memory sticks, or store data on their personal devices, such as laptop hard-drives. Post Office may need to collect all of these in and review them, depending on the scope of disclosure that is ordered.

Hard copy documents

77. In addition to the above IT systems, there are several teams at Post Office that are still paper-based, or regularly use paper records. I describe some of the principal teams below.

Former Agent Debt Team

78. The Former Agent Debt team manages shortfalls that have accrued in postmasters' accounts who no longer have a relationship with Post Office or have been suspended. The team's records are primarily paper based and many of them have been archived. Retrieving these files, and then scanning them into a data room so that they can be disclosed, will be a significant exercise, taking many months.

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79. The Contract Adviser team maintains hard copy files. The hard copy files are not duplicates of the electronic files discussed above. Current postmaster files are kept at Post Office's Chesterfield office and former postmaster files are archived. The files are organised by branch so that each file will contain information relevant to all those postmasters and temporary postmasters who have operated a branch. They will need a manual review to extract information that pertains to the Claimants.

Branch records

80. Postmasters are required as part of branch process to run certain reports every month and retain a paper copy. Once a postmaster's contract terminates, the paperwork is typically sorted into archive storage boxes and stored with Box-It, Post Office's off-site storage provider. Generally, there can be up to 5 boxes of paperwork removed from each branch. Taking into consideration that there are currently 11,500 branches in the Post Office network and that in recent years through both Network Transformation and general turnover there has been significant change in the branches across the network, there is likely to be thousands of boxes stored with Box-It.
81. The paper reports are not printed on A4 sheets but on till rolls. These rolls will each be several feet long. To catalogue and disclose all of these till rolls will be a large task for Post Office, even bearing in mind the logistical difficulties of trying to scan or copy sections of numerous long till rolls.
82. It should be noted that those Claimants who are still operating as postmasters will hold this information in their branches and that Post Office's ability to retain the paperwork is limited by the postmaster having printed and stored it in the first place and then allowing Post Office access to remove it.

The Claimants' orders for "generic" disclosure

83. In the light of the information set out above, I now discuss the 7 categories of disclosure that the Claimants seek in paragraph 3 of the Freeths Order. In my respectful view, the Claimants' requests are a fishing expedition. Complying with them would be vastly expensive and would take many months.

Horizon system architecture

84. In paragraph 3a of the Freeths Order, the Claimants are seeking documents about "the Horizon system architecture".

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85. The Horizon system has undergone many changes since it was fully rolled out in 2000, with Horizon Online introduced in 2010. In the original Horizon system, changes were released in batches for different parts of the system. There were dozens of major releases on the main system, with many more minor releases. Since the introduction of Horizon Online, there have been 15 major releases, each with up to 10 sub-releases. Any of these could contain a number of changes in functionality driven by code changes.
86. There is also a programme of patching and updating of operating systems and associated code changes, where required, to maintain the relationship between Horizon and other systems that communicate with it.
87. Fujitsu keeps a library of the key technical documentation regarding Horizon and Horizon Online in a content management system called Dimensions. Dimensions holds 4,165 live technical documents for the current Horizon system. There are also 22,025 technical documents for historical versions of Horizon.
88. Whilst the documents do show the date they were updated and signed off, for an expert to read into the system would be an extremely time-consuming task. In order for that expert to understand what the system looked like on a particular date, they would need to digest all of these documents, check for the version of the documentation that was in force on the date in question and link each relevant document together to recreate a picture of the system on that date. Fujitsu doubt that this would create a perfect picture of all aspects of a historic version of Horizon, but believe it would allow an expert to understand the high-level system architecture on a given date.
89. On average, around 250 to 350 people at Fujitsu work on the Post Office account at one time, although this number varies depending if specific project work is being undertaken. Over the 17 years since the system was rolled out, there have been thousands of people at Fujitsu who have worked on Horizon and it is not now possible to trace who worked on the system at what time. All of these people will have created emails, documents and draft documents, in addition to the technical documents described above.
90. Consequently, whilst the Horizon technical documentation can, with Fujitsu's consent, be located and extracted relatively easily, to capture all documents regarding the Horizon system architecture would require an enormous search. In my respectful view this is a disproportionate exercise at this stage in the litigation, especially where the problems in Horizon about which the Claimants purport to complain have not been identified, making it impossible to narrow down the exercise to targeted areas.

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91. It should also be noted that many of these documents are not under Post Office's control. Fujitsu maintains some documents for Post Office to which Post Office has a right of access, but there are many other documents that are Fujitsu's internal documents, many of which are commercially sensitive know-how which belong to and are confidential to Fujitsu. Post Office is reliant on Fujitsu's cooperation in gaining access to these documents.
92. Moreover, I understand that these documents may contain highly sensitive information about the security controls in Horizon. Public release of this information could undermine the security of the system. This is a particular concern in this litigation, where a number of the Claimants have convictions for offences of dishonesty.
93. These concerns apply to the technical documents library. However, Fujitsu is at present willing to allow access to those documents on a voluntary basis, subject to certain safeguards. Those safeguards are that (i) the Claimants' expert initially views the technical documents at Fujitsu's office in Bracknell and (ii) the IT expert signs a Non-Disclosure Agreement. If copies of technical documents need to be provided, this can be considered once those documents have been identified and their content and sensitivity are understood by both sides to the litigation.
94. In the meantime, Fujitsu has identified what it believes to be the 4 best documents describing Horizon. These are listed in Schedule 1 of the Bond Dickinson Order. Provided a suitable Non-Disclosure Agreement is signed, Fujitsu is prepared to release these directly to the Claimants' IT expert. Fujitsu has also offered to allow him to inspect the 4,165 documents described in paragraph 87 above, so that he can form a view as to what further documents he needs and why.
95. I believe that this approach to disclosure will give the Claimants access to the information they need without the disproportionate disclosure exercise that they are proposing.

Bugs, errors or defects in the system

96. In paragraph 3b of the Freeths Order, the Claimants are seeking disclosure of "bugs, errors or defects in the Horizon system which were, or may have been, the cause of discrepancies or alleged shortfalls" attributed to the Claimants. This request is extremely broad, being based on the very vague allegations in the Amended GPOC (see paragraphs 22 to 24 of Amended GPOC), which provides the only basis on which Post Office could presently guess as to whether or not any bug or defect "may" have been the cause of a discrepancy or shortfall. Moreover, bugs are not given unique designations and there are no convenient

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keywords that could be searched within the millions of documents held by Fujitsu in order to locate documents relating to them. The order sought by Freeths would be extremely difficult and costly to comply with, and would be likely to produce considerable irrelevant material.

Operation of the helpline

97. In paragraph 3c of the Freeths Order, the Claimants are seeking documents in relation to "the operation of the helpline". As I have already sought to explain, the Amended GPOC and SOIs are vague, and give little indication as to the particular things the helpline is alleged to have said to particular Claimants in particular contexts at particular times.
98. There is more than one "helpline" available to postmasters and the different helplines have different documents and store them in different ways.

NBSC Helpline

99. The NBSC helpline is usually the first contact point for queries from branches for operational support. On average over the last 17 years, between 50 and 70 members of staff have worked at the NBSC at any particular point in time. NBSC receives on average 35,700 calls per month (based on data obtained for 2016/17). I note that the Amended GPOC tends to make allegations about how Post Office generally instructed staff to do or say things or how the helpline is generally run, rather than identifying specific advice given by the helpline to specific Claimants in specific contexts or at specific times. Post Office may need to trawl through millions of calls and gather documents from hundreds of staff in order to give disclosure relevant to these allegations.
100. NBSC advisers all have access to a tool called Knowledge Base which is used to answer questions. Dynamics will direct the adviser to an article depending on the points raised by the caller. There are currently around 5,000 different articles within Knowledge Base, which is hosted on a SharePoint site. Given the lack of particulars from the Claimants it is therefore not possible at this stage to identify which parts of the Knowledge Base may be relevant to the Claimants' claims. This only leaves the option of disclosing the whole Knowledge Base of around 5,000 articles. This would be a difficult thing to do, because unless all of the articles are printed manually, scoping would need to be carried out to identify how, and where the articles are stored in SharePoint. I explain at paragraph 70 above the difficulties with extracting data from the Contract Adviser SharePoint site.

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101. As described at paragraph 66 above, logs of calls to the NBSC are entered into Remedy or Dynamics. It should be possible to give disclosure of logs of particular calls that were made between particular Claimants' branches and NBSC.
102. Other documents generated on the operation of NBSC include training materials. New NBSC staff receive training and ongoing training is provided to NBSC staff on new products and services as they are introduced. There will also be other planning documents on the operation of the NBSC. These will generally be stored in emails and potentially on SharePoint. Accessing these materials would require the capture and review of potentially dozens of email accounts and laptops. Information on staffing planning is contained within a system called Verint. The Amended GPOC does not say enough to make it clear whether these materials will be relevant.

Horizon support

103. Post Office and its postmasters have access to a help desk called Horizon Service Desk (**HSD**) to manage technical issues with Horizon. The HSD is currently provided by an external IT provider, ATOS. It was provided by Fujitsu prior to June 2014.
104. Both Fujitsu and ATOS retain logs of calls from their tenure running the HSD. However, it will be technically very difficult to access logs from during Fujitsu's tenure between 2001 and September 2009. This is because the call logging system Fujitsu used for this period (Powerhelp) was taken offline due to it being run on redundant software. Fujitsu estimate that the cost of attempting to access the Powerhelp data could be up to £50,000, with no guarantee of success. There would also be a cost for maintaining access to the data if the restoration was successful, but Fujitsu is unable to provide a quotation for this until a solution has been devised.
105. ATOS estimates that to retrieve its call logs for around 50 branches over a 4 month period would take 10 working days and cost up to £5,000. If one assumes that this litigation may require the retrieval of logs for 100 branches over a 3 year period (noting that ATOS took over the HSD in 2014), this could cost over £500,000.
106. Post Office's on-site IT engineers are provided by Computacenter. If the HSD is unable to resolve an issue over the telephone, then support from Computacenter and Fujitsu may be needed. Both suppliers hold relevant records of this support. As with the Horizon documentation discussed in paragraphs 87 to 92 above, it is likely that some of this material is not within Post Office's control and substantial cooperation from Computacenter and Fujitsu will be needed.

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107. In light of the above, an unfocused disclosure of documents relating to helplines would be a very difficult and expensive exercise and be liable to either miss relevant documents or disclose irrelevant documents. The key material will be the logs of calls made by Claimants to the NBSC helpline and Post Office can provide disclosure of these in a proportionate manner if limited to a reasonable number of Claimants who have recently been postmasters.

Conduct of investigations

108. In paragraph 3d of the Freeths Order, the Claimants are seeking documents on the "conduct of investigations". However, I understand that the term "investigation" could include the activities of a wide variety of teams at Post Office including the FSC, Field Support, Fraud Analysis, Cash Management, Security and Contract Adviser teams.
109. Documents for all of these teams will be held in different places across the business. The Contracts and Policy Development Team develops policies for the business in conjunction with individual teams. Whilst the Policy team drafts the policy, guidance on interpretation is held within individual teams, for example the Contract Adviser Team may also issue informal guidance and updates by email or memo to its members. Locating a policy on "investigations" and related guidance would therefore require a search of email inboxes, laptop hard drives, SharePoint sites and network drives for many staff within each team. To put this in context, the Contract Adviser team has had around 40 employees since 2000 and this is just one of the teams that would need searching and probably manually reviewing.
110. The Policy team has since around 2013 used a SharePoint site for documents but prior to this some documents were kept in paper form. To locate old records of policies would require Post Office looking back through the records of former members of the Policy team for outdated documents no longer in use. This may involve pulling archives of hardcopy documents.
111. One important "investigation" document is an audit report, which details the findings of a Post Office audit of a branch. The audit reports may be in the form of an email or a spreadsheet but are clearly identifiable as a report prepared following a branch audit, typically with a summary table showing any shortfalls that were found and in respect of which of Post Office's assets. Although audit reports can be saved in many different locations they are commonly used documents that Post Office can usually locate.
112. In light of the above, Post Office considers that to give disclosure in relation to "investigations" would be a huge exercise, requiring it to review years of emails and

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documents and then largely guess at what might or might not be relevant in light of the vaguely pleaded issues in the Amended GPOC.

113. Moreover, several of the Claimants have been convicted of criminal offences and there are questions over the honesty of other Claimants. The Fraud Analysis, Cash Management and Security Teams are concerned that, unless protective measures are put in place, disclosing their process and policy documents, especially to current postmasters, would put Post Office's cash at risk because it would reveal what indicia are relied upon to trigger an investigation. Without revealing the precise nature of the controls that are in place, I can only say that Post Office considers that a postmaster aware of the precise controls and triggers would be far better able to remove Post Office cash or stock without this being apparent to Post Office. It may well be that disclosure of these policy documents, if / when needed, will have to be made subject to special confidentiality terms or other protections.

Training policies and practices

114. In paragraph 3e of the Freeths Order, the Claimants are seeking documents on training policies and practices, particularly where Post Office imposed new practices or systems or required new services.
115. Post Office provides a combination of classroom and on-site training for new postmasters depending on the postmaster's previous experience (some may already have been or be operating other branches). The materials for these courses have changed over time depending on the products offered by Post Office and its policies.
116. Whilst training is given when an agent first joins the Post Office network or when their branch undergoes a change of model, training is also given at various other points in time. For example, when auditors visit a branch and see that processes are not being followed, they may give on the spot training. Training given may be recorded in the branch file or in an audit report. Training can also be given for more specific purposes, such as for the introduction of Horizon Online, or by external companies, such as the Bank of Ireland on how to use ATMs.
117. Retention of training materials for the initial training courses depends on the staff responsible for developing the materials having kept them. Some training materials have been uploaded to SharePoint, some are kept on network drives and some have been kept on laptop hard drives. To attempt to locate all of the training materials, Post Office would need also to contact all trainers since 2000 to understand what materials were produced and where they were kept. To put this

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in context, Post Office estimates that at any one time around 100 - 200 staff may be involved in giving training.

118. Again, the allegations in the Amended GPOC are very imprecise. They do not identify particular types of training, but call into question training of all types given by Post Office over 17 years. As things stand, the Claimants' request for disclosure would require Post Office to search for and review hundreds of thousands of documents and then guess at what might be relevant. I anticipate that this would lead to the disclosure of at least tens of thousands of irrelevant documents. The better way to proceed would be for each Claimant to identify the aspects of their training that they believe were deficient and then Post Office can provide further disclosure on these issues in a more targeted manner.

Post Office suspense accounts

119. In paragraph 3f of the Freeths Order, the Claimants are seeking documents relating to Post Office's suspense accounts, with no clear explanation as to what they mean by this phrase.
120. The Letter of Claim of 28 April 2016 did not make any allegation in relation to suspense accounts. It was not until the Claimant's 62-page letter of 27 October 2016 that the issue was raised, at paragraph 23 which referred to *'circumstances where Post Office holds surpluses in suspense accounts, which after 3 years are credited to its profits'* and alleged that Post Office benefits from errors wrongly attributed to postmasters (see also paragraph 72).
121. The Amended GPOC repeated this issue, in that it refers at paragraphs 38 and 39 to suspense accounts in which Post Office is alleged to have *'held unattributed surpluses'* and that after *'3 years, such unattributed surpluses were credited to the Defendant's profits'*.
122. From discussions with Post Office's finance team, I understand that the term "suspense account" does not have a fixed meaning in accounting jargon; it is a generic accounting term. This broad topic was briefly discussed during the Scheme with Second Sight, but it is not clear whether the Claimants' case is based on and/or goes beyond the points raised by Second Sight. It is therefore unclear as to what the Claimants mean when they refer to a suspense account or unattributed surpluses. I note that the Claimants say in their Generic Reply that Post Office must know what is meant, which I believe is regrettable given that Post Office's Generic Defence is clear on this point and is confirmed by a Statement of Truth. In any event, I will explain why the Claimants' allegations are not as clear as they think.

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123. The Claimants appear to allege that there are specific suspense accounts where monies are held that have not been resolved, with Post Office then benefiting from those discrepancies because they are ultimately released to profit. Almost any account operated by Post Office could in theory hold unattributed sums, and identifying accounts that may, at one time or another, be considered to have operated in part in this way is difficult.
124. Within Post Office's finance system, POL SAP, and its archive there is approximately 24.2 terabytes of data. Post Office's finance teams have been asked to identify which of these might be classed as suspense accounts. They estimate that there are 119 ledgers that might fall into this bracket, however this exercise was subject to numerous assumptions as to precisely how to classify an account's functions. It is important to understand that these accounts were not just or even mainly used for "suspense account" type movements but other purposes as well, such as moving items between back office accounts and profit and loss in the usual course of business.
125. As matters stand, the Claimants' current request for disclosure would require a disclosure of all accounting information in at least these 119 accounts, much of which would be irrelevant. Provision of this vast amount of information in a usable format would not be straightforward as it would be coming in a database format that is not readily accessible without certain software. Moreover, unless the Claimants intend to undertake a forensic accounting exercise on this data, Post Office cannot see what utility this information would be to the Claimants at this stage of the proceedings. As far as I am aware the Claimants have not yet engaged a forensic accounting expert, and there has been no request for an order permitting expert evidence of this kind.

Documents delivered up by Second Sight

126. At paragraph 3g of the Freeths Order, the Claimants are seeking disclosure of 35,000 documents delivered up by Second Sight following termination of its contract for services to Post Office arising out of the Post Office Complaints Review and Mediation Scheme described at paragraphs 24-25 of Parsons 2.
127. These documents contain a significant amount of privileged material that would need to be removed. It will also contain irrelevant material relating to people who are not Claimants and relating to the operation of the Scheme.
128. A significant part of the documents consists of large numbers of emails with drafts of reports and internal Second Sight discussions on particular cases before finalising its reports. In my view, the most important documents would plainly be

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the reports actually produced by Second Sight (rather than documents showing only what Second Sight might have considered saying but did not say). The Claimants already have these. The Claimants also have direct access to Second Sight. From my own experience of the Scheme, I do not think it likely that much could be extracted from these documents that would be of any significant use to the Claimants. I estimate that to review all the documents returned by Second Sight will cost around £75,000.

129. Nevertheless, Post Office is prepared to disclose these documents on the basis set out in the Bond Dickinson Order.

Standard disclosure in Lead Cases

130. For the reasons stated above, giving so-called generic disclosure of the type sought by the Claimants from Post Office would be extremely difficult, time consuming and expensive, not least because of the lack of specificity in the claims, the wide date range of the Claimants' claims, the many different locations in which documents are held and the many different teams that will hold them. The difficulty is compounded by the lack of clarity in the SOIs, the Amended GPOC and the Generic Reply.
131. Turning to the Claimants' proposal for standard disclosure on Lead Cases sought in paragraph 2b of the Freeths Order, I believe that such an order will neither be possible nor proportionate.
132. It is important to understand that the Claimants are not providing for the Lead Cases to be pleaded out before disclosure is given. Post Office will not therefore know what specific issues each Lead Case is raising. In this situation, it does not make sense to talk about "standard disclosure": in the absence of pleadings, there would be no fact-specific allegations and issues on the Lead Claims that would enable the CPR test to be applied in any meaningful way. For example, one would not know what Post Office is alleged to have said or done to a particular Lead Claimant or when it is alleged to have been said or done, and one would not know how or when that postmaster is alleged to have suffered the loss and other injuries he claims.
133. Without pleadings setting out the parties' respective cases with the requisite degree of particularity, I do not understand how standard disclosure would be possible. It may be that the Claimants are expecting Post Office to give disclosure of all dealings and other interactions between Post Office and the Lead Claimants. However, a full disclosure process of that sort would plainly be disproportionate. In

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any event, even if standard disclosure could sensibly be given, it would still give rise to all the problems outlined above in relation to “generic” disclosure.

134. At this stage, I would estimate that the cost to Post Office of Freeths’ disclosure orders (including both generic and standard disclosure) would likely be between £2 million and £6 million, and that it would take at least 9 months, and possibly as much as 15 months, to complete the exercise.

Disclosure already given by Post Office

135. The Claimants’ proposals for disclosure should also be assessed in the context of the amount of disclosure that Post Office has already given voluntarily, and what the Claimants appear to have done (or not done) with this disclosure.
136. By their Letter of Claim of 28 April 2016, the Claimants made 32 wide-ranging requests for disclosure, many of which did not seem relevant, reasonable or proportionate, particularly where grounds for the disclosure had not been particularised, and some of the requested disclosure was privileged. By its Letter of Response of 28 July 2016, Post Office agreed to provide disclosure in respect of 8 of those requests (as far as it was reasonably able), it requested clarification in respect of 4 requests and it referred Freeths to its clients in respect of a further 4 requests, since many of the relevant documents would have been provided as part of the Scheme (hundreds of pages of documents were shared with most of the participating postmasters).
137. On 31 August 2016, Post Office gave disclosure of the following items:
- 137.1 Copies of the contractual documents and variations between Post Office and its postmasters. These included:
 - (a) 1994 Subpostmaster contract (consolidated version)
 - (b) Acknowledgement of appointment of postmaster
 - (c) Branch standards booklet
 - (d) Branch standards contract variation
 - (e) Conformance booklet
 - (f) Subpostmaster Paystation terms and conditions
 - 137.2 Fujitsu contract
 - 137.3 Course materials for Horizon training

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- 137.4 Audit guidelines
 - 137.5 Documents surrounding the termination of the Scheme
 - 137.6 Draft witness statement of Martin Rolfe (regarding an allegation of "remote access" to Horizon)
 - 137.7 Internal email correspondence between Alan Lusher and Andrew Winn of Post Office regarding branch accounts
 - 137.8 Post Office documents on certain Horizon issues previously discussed with Second Sight
 - 137.9 Second Sight's terms of engagement
 - 137.10 Post Office notes on retract fraud on ATMS and audit trails on Girobank deposits
 - 137.11 A report by Graham Brander of Post Office on the investigation into the branch run by Josephine Hamilton (Claimant 69)
 - 137.12 The Scheme rules
 - 137.13 The Scheme Working Group's terms of reference
 - 137.14 Minutes of the Scheme Working Group's meeting of 17 October 2014
 - 137.15 Post Office notes on suspense accounts
 - 137.16 A sample branch trading statement
138. As noted in paragraph 136 above, Post Office had referred Freeths to its clients for several of these documents (of the 198 Claimants named on the first claim form, 88 participated in the Scheme). Although Freeths confirmed on 29 March 2017 that it had *'advised all of our clients in respect of their obligations to preserve all disclosable documents'*, no indication of what documents the Claimants hold that would assist them or narrow their disclosure requests has been given. Freeths has recently provided a disclosure report which contains practically no information about the documents held by its clients. This seems consistent with little or no work having been done to obtain the many significant documents many of them will have. The Claimants have declined to give Post Office any disclosure of their own.
139. The disclosure given by Post Office also does not appear to have been properly considered by the Claimants. On 10 April 2017, Post Office gave disclosure of 140 contractual documents relating to the Claimants. This took at least 100 man hours

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of Post Office's time as well as the costs of my firm in assisting in the collation and review of the contracts.

140. Having undertaken this large and costly exercise, in its letter of 10 April 2017 (page 184) my firm asked the Claimants to '*undertake a similar exercise in locating the contractual documents held by each Claimant*' to ensure the parties held matching documentation and to help fill the gaps for contracts Post Office had been unable to find (in part due to the time since some of the contracts were terminated). No such contracts have been provided by the Claimants
141. On reviewing the SOIs, it was clear that the disclosed documents had not been taken into account. Examples of this are set out in paragraph 3 of my firm's letter of 1 September 2017 (page 85).

SECTION 3: POST OFFICE'S PROPOSED DIRECTIONS

142. The Bond Dickinson Order is at page 51. Its main provisions are explained in my firm's covering letter at page 38. In summary:
- 142.1 Paragraph 1 of the Bond Dickinson Order provides for a process by which 40 Potential Lead Claimants are selected by the parties.
- 142.2 Paragraph 2 provides for Post Office (i) to make certain Horizon documents available for inspection by the Claimants' IT expert and for Post Office to disclose three categories of documents to the Claimants, namely (ii) a full set of Post Office's standard postmaster contracts (although most of these have already been provided), (iii) relevant and non-privileged copies of the documents delivered up by Second Sight at the end of the Scheme (see paragraphs 126-129 above) and (iv) copies of the settlement agreements entered into between Post Office and many Claimants (see paragraph 147 below).
- 142.3 Paragraph 3 provides for those Claimants who have claims for personal injuries to disclose their medical records to Post Office.
- 142.4 Paragraphs 4 to 7 provide for Post Office and the Lead Claimants to give early disclosure of certain specified categories of documents.
- 142.5 Paragraph 9 leaves a gap for what Post Office hopes will be an agreed questionnaire process by which sufficient details of the individual claims made by the Claimants are provided to enable a proper assessment to be made of the range of claims which Post Office faces and of how that

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range of claims can be broken down into categories and managed accordingly.

142.6 Paragraphs 10 to 14 provides for the court to consider directing a trial of certain contractual questions as preliminary issues, for which purpose Lead Claimants are to be selected and their claims pleaded out.

142.7 Paragraphs 15 to 18 provide for the striking out of certain claims, unless certain steps are taken by the Claimants.

142.8 Paragraphs 19 to 23 provide for the Claimants to give information as to (i) the factual bases on which Claimants whose claims are more than 6 years old contend that their claims are not time-barred, (ii) the factual bases on which Claimants who have settled their claims against Post Office contend that their claims are not barred by their settlement agreements, (iii) the Claimants who submitted false accounts to Post Office and why they say they did so, and (iv) the amounts of the Claimants' various heads of claim.

142.9 Paragraphs 24 to 32 address various other matters, including costs.

143. I do not propose in this statement to recite the arguments in favour of these directions, but there are some factual points which I believe it would be helpful for me to address.

Early Disclosure

144. To address the problems with the disclosure sought in the Freeths Order, Post Office proposes a targeted approach which should not impose undue difficulty or expense on any of the parties. The categories of Post Office disclosure provided for in paragraph 2 and the categories of mutual disclosure provided for in paragraphs 4 to 7 should be clear in the light of the matters discussed in Sections 1 and 2 above.

145. This disclosure is designed to provide (i) documents that will assist the parties in pleading as to the Lead Claims; (ii) documents that will help the Claimants better understand Horizon's operations and help the parties to discuss case management in this regard, including as to any orders for expert evidence and disclosure in relation to Horizon that may be appropriate; and (iii) documents connected with the further information being sought by Post Office. It is a form of staged disclosure and it is not intended to be a substitute for standard disclosure.

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146. Post Office hopes that providing the Claimant's expert with access to documents in relation to Horizon will ultimately allow them to take a more realistic view of the merits of their vague allegations about Horizon. Post Office does not accept that any proper or viable claim has been formulated or pleaded in this regard, and it proposes to give disclosure to break the current impasse in which the Claimants insist that they do not know enough to enable them to plead a properly particularised claim. Post Office proposes to facilitate access for the Claimants' IT expert to the 26,000 technical documents described at paragraph 87 above. This is in addition to access to the Known Error Log and Second Sight, which have been offered in correspondence.

Settlement Agreements

147. As I explain in paragraphs 166 to 169 below, Post Office contends that at least 114 Claimants have entered into settlement agreements by which they have settled the claims they are seeking to make in these proceedings. It is proposing an order that it disclose the relevant settlement agreements to the Claimants and, as I explain in paragraph 155 below, it is also proposing an order that the relevant Claimants set out the essential facts they rely on in order to avoid those settlement agreements.

Medical reports

148. More than 65% of the Claimants have asserted a claim for personal injury in their SOIs, which Post Office assumes means psychiatric injury. However, in the light of the questions it has raised about the preparation of the SOIs as discussed in paragraph 25 above, Post Office is gravely concerned that many Claimants have asserted a personal injury claim when no recognisable psychiatric injury has in fact been suffered, thereby artificially increasing the true scope of the claims. Post Office is therefore seeking disclosure of the Claimants' medical records in accordance with what I understand to be common practice in personal injury cases.

Disclosure between Post Office and Lead Claimants

149. Paragraphs 4-7 of the Bond Dickinson Order requires disclosure of certain defined documents for every Potential Lead Claimant. These categories vary slightly between postmasters and assistants and also vary depending on whether the disclosure is to be given by Post Office or Claimant. Some of the categories are self-explanatory and some have been explained above. As to the others:

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- 149.1 The signed Confirmations of Appointment and signed Prefaces are the contractual documents signifying that the postmaster accepts Post Office's terms.
- 149.2 Transaction and Event data recorded on Horizon for the Potential Lead Claimant's Branch(es) as described in paragraph 59 above. It will show details of transactions undertaken in the Branch(es), as well as actions undertaken by the Horizon user, which can assist in understanding how any issues arose. As set out at paragraph 60 above, the extraction of transaction and event data is a time consuming process. It should be possible to devise a method for extracting the necessary data by the deadline set out in the Bond Dickinson Order but this could only be confirmed once the parties have chosen Potential Lead Claimants and Post Office knows the amount of data involved.
- 149.3 The Customer Account from POL SAP or Core Finance (as applicable) is a report produced from POL SAP or Core Finance that shows shortfalls in a postmaster's account at FSC. It shows how that shortfall has accrued, for example at audit or if the debt has been settled centrally, and the payments or deductions that have been made in respect of the shortfall.
150. The disclosure documents proposed by Post Office could be said to cover the life-cycle of a typical postmaster from appointment, operation of their branch, termination and then any post-termination actions. As a solicitor at Bond Dickinson, I have been working for Post Office for nearly ten years and in my experience the documents Post Office proposes to disclose are those most commonly referred to in any dispute between a postmaster and Post Office.
151. In relation to the disclosure which Post Office proposes for the Potential Lead Claimants, an additional category sought from lead Claimants is documents relating to the losses they claim to have suffered (as only the Claimants will hold these).

Preliminary issues

152. As indicated in my firm's letter of 4 October 2017, Post Office's proposal regarding the trial of preliminary issues is a tentative one. It is conscious that there are risks and disadvantages associated with seeking to determine this relationship separately from other issues that are in dispute.

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153. Regarding the Claimants' claims for conspiracy, misfeasance in public office and for breach of the ECHR, none of which are pleaded in the Amended GPOC, the following points should be noted:

- 153.1 Conspiracy: By its letter of 11 July 2017, my firm objected to the continued inclusion of this claim in the claim forms (page 13). Freeths responded on 19 September 2017, stating that the Claimants would agree to amend the claim forms to withdraw the conspiracy claims if Post Office was minded to apply to strike the claims out (page 26). Post Office is so minded. It is strongly of the view that the claim should never have been made in the first place.
- 153.2 Misfeasance: Freeths' Letter of Claim dated 28 April 2016 asserted a claim for misfeasance in public office, and in its Letter of Response of 28 July 2016, my firm explained by reference to the authorities why Post Office could not be treated as a public authority for the purposes of the tort. In its Letter of Reply dated 27 October 2016 Freeths stated that it had considered the objections my firm raised and decided not to pursue the point. Consistently with this, no claim for misfeasance was asserted in the Amended GPOC. However, the claim remains in the original claim form, and it was subsequently repeated in the second claim form.
- 153.3 By its letter of 1 September 2017, my firm objected to the continued inclusion of this claim in the claim forms (page 13). In its response of 19 September 2017, Freeths claimed for the first time that misfeasance in public office related to the malicious prosecution claims and that any particularisation would depend on the outcome of the Criminal Cases Review Commission's review into the Claimants' prosecutions (page 27). This contention is not consistent with the Claimants' previous correspondence and I believe that it is obviously untenable. I further believe that the Claimants have no real prospect of succeeding on any claim for misfeasance in public office and that it would be in accordance with the overriding objective for the claim to be struck out.
- 153.4 ECHR: At no point in the Letter of Claim, in any subsequent correspondence or in the Amended GPOC did the Claimants articulate a claim under the ECHR. In response to my firm's objection to the claim in its letter of 1 September 2017 (page 13), Freeths also claimed that the ECHR claims related to the malicious prosecution claims (page 27).

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153.5 I believe that these Claimants have no real prospect of succeeding on any claim under the ECHR and that it would be in accordance with the overriding objective for the claim to be struck out.

154. In the correspondence at pages 14 and 47, my firm has asked various questions about whether various Claimants who have been made bankrupt or who have died have standing to bring their claims. In the light of that correspondence, the orders suggested by the Claimants require no further explanation.

Further information

155. The orders sought for details of the Claimants' cases on limitation, settlement, false accounting and quantum are matters for submission. However, in paragraphs 162-169 below, I explain why Post Office believes that the claims of a considerable number of claimants are either time-barred or have been settled. In their Generic Reply, the Claimants dispute this with little more than bare denials. It appears that the relevant Claimants do not wish to reveal the particular facts they rely in support of their denials. In Post Office's view, all or most of these Claimants have no proper evidential basis for denying these things, and it is in the overriding interest for them to be required to reveal their hand. It is in no-one's interest to allow their claims to escape scrutiny indefinitely.

Other orders

156. I hope that the parties will be in agreement in relation to ADR and costs. I should make it clear note that security for costs remains a live issue. Discussions with Freeths are continuing on the question of whether and if so how security should be given and Post Office reserves its right to make a security application in the future.

SECTION 4: THE CATEGORIES OF CLAIMANTS

157. By the Bond Dickinson Order, Post Office is proposing:

157.1 that specific provisions be made for Claimants who are bringing claims as postmasters or assistants;

157.2 that information be provided regarding potentially time-barred claims; and

157.3 that further information be provided regarding potentially settled claims.

158. This section contains an analysis of the Claimants falling in these categories, so as to show the number of Claimants who are likely to be affected.

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Categories of Claimants

159. In paragraphs 69 to 86 of Parsons 2 I explained the different types of Claimants. From a review of the SOIs provided by the Claimants, I understand that the Claimants fall into the following groups:

159.1 453 of the Claimants are / were postmasters.

159.2 25 of the Claimants are / were assistants.

159.3 4 of the Claimants are / were crown employees.

159.4 11 of the Claimants are / were companies.

159.5 3 of the Claimants have entered into guarantee agreements with Post Office in respect of a company which has contracted with Post Office.

159.6 6 of the Claimants are / were directors of their respective companies which have contracted with Post Office.

160. These numbers are not precise because the information in the SOIs is unclear (sometimes to the extent that Post Office has not been able to categorise some Claimants at all) and some Claimants have had multiple roles e.g. they were an assistant who became a postmaster. I believe however the above figures broadly reflect the split of different types of Claimants in these proceedings.

161. At paragraph 1 of the Bond Dickinson Order, it has been proposed that the selection of Lead Claimants is limited to Claimants who are asserting claims as a Subpostmaster or an assistant. Bond Dickinson's Order seeks to exclude Crown employees, companies' guarantors and directors from being selected as Potential Lead Claimants since they are not representative of the Claimants as a group.

Time-barred Cases

162. The Bond Dickinson Order requires certain Claimants to give details of the facts on which they rely in order to avoid limitation.

163. Post Office is not yet in a position to positively assert a limitation date for each of the Claimants, because the Claimants have not particularised their claims to an extent which would enable Post Office to carry out the analysis needed to advance a comprehensive case on limitation. However, each of the Claimants has provided Post Office with a SOI which includes their termination date. This provides a rough indication as to the likelihood of a limitation defence to be available

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164. It should be noted that not all the Claimants have the same prima facie limitation date. Ignoring the claims made for personal injury (for which the limitation period is 3 years), those Claimants named in the original Claim Form have a limitation date of 11 April 2010, those Claimants whose names were added to the amended Claim Form have a limitation date of 3 August 2010 and those Claimants named in the Second Claim Form have a limitation date of 24 July 2011.

165. From a review of the SOIs, I am aware that:

165.1 192 Claimants (38% of the total number of Claimants) have termination dates prior to their respective limitation dates indicated above. These Claimants are highly likely to be time-barred. They are the Claimants identified in Schedule 5 to the Bond Dickinson Order.

165.2 A number of Claimants are bringing claims in relation to their tenures at multiple branches and, of these, 23 (4.5%) are advancing a claim in respect of a branch where their termination date is prior to their respective limitation date.

165.3 About 90 (18%) of the remaining Claimants' appointments were mainly prior to their respective limitation date. In the event that losses have been sought for these periods, the losses claimed by these Claimants may be exaggerated.

165.4 Only 100 Claimants (19%) have been appointed within the last 6 years. These are the only Claimants for whom it can be said with certainty that they will not be subject to a limitation defence.

Settled Cases

166. The Bond Dickinson Order requires certain other Claimants who have previously entered into settlement agreements with Post Office to specify the facts on which they rely to avoid these settlements. These Claimants can be split into two categories:

166.1 Claimants who were part of the Scheme; and

166.2 Claimants who were part of the Network Transformation programme.

167. The Scheme handled complaints raised by postmasters and where mediation was successful, formal settlement agreements were entered into. 12 of the Claimants are party to such settlement agreements with Post Office, which provided that they were in full and final settlement, to release any and all claims, whether or not

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presently known to the parties that they ever had against Post Office and/or any of its related parties in relation to their respective complaints.

168. As part of Post Office's Network Transformation programme, certain postmasters were provided with two options, as follows:

168.1 To convert their branch into a NTC Main or Local branch. If a postmaster chose this option, then their existing contract with Post Office would be terminated. In addition to funding equipment and works to update the postmaster's branch, Post Office made a payment to the postmaster to support their transition to a Network Transformation Contract, on certain conditions. These included a condition that the payment was made in full and final settlement of any and all claims that the postmaster had or may have against Post Office howsoever arising and whether arising out of the termination of the existing contract and whether under common law, contract, statute or otherwise. The level of payments differed depending on the type of model the postmaster was converting to, but for Local branches the payments made were up to £60,000. Post Office believes there are 60 Claimants who fall within this category.

168.2 To leave the Post Office network. If a postmaster chose this option, he or she was invited to submit their resignation from their contract with Post Office. If the postmaster's contract was terminated, Post Office would make a "Leaver's Payment" to the postmaster, on certain conditions, including a full and final settlement condition as set out above. The Leaver's Payment was typically in the region of £100,000 but could be up to £200,000. Post Office believes there are 42 Claimants who fall within this category.

169. Thus, there are 114 Claimants (22% of the total number of Claimants) who have already entered into settlement agreements with Post Office.

STATEMENT OF TRUTH

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

Signed:

GRO

Date:

9 October 2017