

IN THE POST OFFICE HORIZON IT INQUIRY

CLOSING SUBMISSIONS ON BEHALF OF
FUJITSU SERVICES LIMITED

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PART 1. Introduction

1. These Closing Submissions are made on behalf of Fujitsu Services Limited (“**Fujitsu**”).
2. Fujitsu has reflected carefully upon the evidence in this Inquiry. In Phase 1, the Inquiry heard clear, detailed, and profoundly affecting evidence of the human impact of hostile investigations and wrongful civil and criminal proceedings commenced by Post Office Limited (“**Post Office**”) against sub-postmasters and their employees (“**SPMs**”). Phases 2–7 of the Inquiry have exposed in detail the failings which brought about these appalling miscarriages of justice.
3. Fujitsu fully acknowledges and accepts its share of those failings, which are outlined in more detail throughout these Closing Submissions. Fujitsu deeply regrets its role in the suffering of affected SPMs and their families, and reiterates its sincere apology to them.
4. Fujitsu has remained throughout fully committed to supporting the important work of this Inquiry, having produced over 240,000 documents to the Inquiry, assisted more than 30 witnesses in the provision of written and oral evidence, and produced five detailed corporate statements.
5. These Closing Submissions should be read together with the previous written closing submissions made by Fujitsu in respects of Phases 2, 3 and 4 of the Inquiry. These previous submissions are not repeated, but are briefly summarised where necessary to provide context.
6. The *technical* picture is now clear in the evidence before the Inquiry:
 - 6.1. The Horizon IT System was and is an immensely complex system,¹ interfacing with numerous different Post Office and third-party systems. The Horizon IT System was, and remains, but one part of Post Office’s IT infrastructure.
 - 6.2. The design and development of the Horizon IT System posed challenges from inception. The inapt use of the Private Funding Initiative introduced unnecessary complexities for design and development. The different contracting parties (i.e. Post Office and the Benefits Agency) had misaligned, and often poorly articulated, objectives (including in relation to the enforcement of financial compliance). The Benefits Agency withdrew from the project, but the decision was taken by the Government shareholder for Post Office to proceed with the Horizon IT System.

¹ **INQ00001018**, Transcript, 17 November 2022, p.136, ln.22-p.138, ln.18 (Mr Cipione). Mr Cipione identified seven factors which drove the complexity of the Horizon IT System and its implementation: **EXPG0000001**, Expert Witness Report of Charles Cipione dated 14 September 2022, §4.5.6.

- 6.3. Bugs, errors and defects (“**BEDs**”) are an inherent aspect of any computer system (particularly one of the scale and complexity of the Horizon IT System). Both Post Office and Fujitsu were aware from the outset that BEDs were present in the Horizon IT System. This remains the case, with the risk increasing as the Horizon IT System ages. That said, the Horizon IT System functions for a significant proportion of the estate on a daily basis and its performance is subject to Service Level Agreements.
- 6.4. Certain Fujitsu staff had and continue to have the ability to remotely access the Horizon IT System from outside the branch, and to make alterations that impact branch accounts. Remote access was and remains a necessary part of the suite of support tools available to manage the live operation of the Horizon IT System, including the rectification of BEDs.
- 6.5. The system remains highly complex and now faces the added challenge of being an ageing system, dependent upon ‘End-of-Service-Life’ IT infrastructure. In view of the ‘New Branch IT’ (“**NBIT**”) project, Post Office has not wanted to invest sufficiently in the Horizon IT System in recent years. However, Post Office has failed to implement the proposed replacement for a number of years. Fujitsu is working daily with Post Office to maintain the Horizon IT System but it has made Post Office well aware of the limitations.
7. The evidence received by the Inquiry has demonstrated that the issues which have arisen are not exclusively (or even primarily) IT issues. The miscarriages of justice with which this Inquiry is concerned were not caused by technological failures alone, but are the product of serious human and organisational failures in conduct, ethics, governance and culture. Those failures were laid bare by the evidence heard in this Inquiry, in respect of (i) the investigations and civil and criminal proceedings against SPMs, and (ii) the inappropriately defensive legal, governance, and public relations responses to the scandal, which persisted for over a decade.

1.1 Executive summary of key themes

8. This **Part 1.1** provides an overview of the key themes which have emerged over the course of the evidence in the Inquiry.
9. **The Horizon IT System was affected by BEDs, which had the potential to cause, and which did in fact cause, discrepancies in Post Office branch accounts.** As they did for Fraser J in *Bates & ors v Post Office Limited (No 6: Horizon Issues)* [2019] EWHC 3408 (QB) (the “*Horizon Issues Judgment*”), those technical failings provide a starting point for the Inquiry’s analysis. In this Inquiry, Fujitsu has consistently acknowledged that BEDs affected the Horizon IT System throughout its period of operation.² It is not possible, even on the evidence now available, to identify with precision the total number or nature of BEDs that have affected the Horizon IT System. However, the evidence does enable the Inquiry safely to conclude that: (i) a number of BEDs were not immediately identified by technical and human systems designed for that purpose; (ii) a number of BEDs were not immediately rectified; and (iii) some fixes implemented for BEDs had the capacity to, and did in fact, generate further issues capable of affecting branch accounts. The Horizon IT System (as designed) was a particularly complex system and (as with any system of comparable size) was capable of producing errors.
10. **Throughout the relevant period, Post Office had knowledge of the potential for, and existence of, BEDs in the Horizon IT System.** Post Office was aware from the outset of the potential for unknown and unresolved BEDs to affect the Horizon IT System, and to impact upon the integrity of branch accounts.³ The sharing of information concerning BEDs was and is a routine part of the business-as-usual operation of the Horizon IT System and has continued throughout its period of operation. Post Office was also aware from an early stage of categories of documents which recorded the existence of BEDs (such as KELs, PinICLs, Peaks and event logs). The evidence supports the conclusion that the formal and informal systems for information sharing in relation to BEDs were generally (although, it is accepted, not uniformly) effective in practice. In particular, the evidence is clear that individuals who held key roles in the conduct of civil and criminal proceedings against SPMs had knowledge of the potential for, and existence of, BEDs in the Horizon IT System.
11. **Certain Fujitsu staff had the ability to remotely access the Horizon IT System from outside the branch, and to make alterations that impacted branch accounts.** Remote access was part

² **SUBS0000002**, Opening Statement on behalf of Fujitsu Services Limited, §§21-22; **SUBS0000020**, Phase Two Closing Submissions on behalf of Fujitsu Services Limited, §17; **SUBS0000025**, Phase Three Closing Submissions on behalf of Fujitsu Services Limited, §3; **SUBS0000026**, Phase Four Closing Submissions on behalf of Fujitsu Services Limited, §33.

³ See for example, **FUJ00118186**, Third Supplemental Agreement, dated 19 January 2000, §5.3.

of the suite of support tools available to manage the live operation of the Horizon IT System, including rectification of BEDs. To the extent that evidence is available, it supports the view that substantive remote access (i.e. where remote access was used to perform actions necessary to remedy errors in transaction data and branch accounts) was used on only a limited number of occasions. There is also no evidence to support the view that remote access privileges were used for any malign purpose, nor any purpose other than to provide necessary technical support to Post Office branches. In its opening submissions, Fujitsu submitted that the evidence would establish that Post Office was aware of Fujitsu's remote access capabilities from an early stage.⁴ That submission has been borne out in the evidence heard by the Inquiry, which establishes that Post Office staff (including a number of senior executives) were aware of the ability of certain Fujitsu staff to remotely access branch accounts, and to make alterations that impacted those accounts. In particular, the evidence is clear that a number of individuals who held key roles in the conduct of civil and criminal proceedings against SPMs were aware that the technology made it possible for employees of Fujitsu to remotely access and amend branch accounts.

12. **Training for users of the Horizon IT System was inadequate.** In view of the complexity of the Horizon IT System, it was plainly necessary that SPMs should receive adequate training to enable their routine use of the system. Training was unlikely ever to be able to replicate all the ways in which users would be required to interact with the Horizon IT System and could not anticipate all possible issues. Nonetheless, the evidence does enable the Inquiry safely to conclude that the training provided to SPMs was inadequate. That is true, both: (i) in the period prior to and during the national rollout of Legacy Horizon, when ICL Pathway was responsible for training; and (ii) throughout the period of the operation of the Horizon IT System, during which training has been the responsibility of Post Office.⁵
13. **Both Post Office and Fujitsu helpdesk services for users of the Horizon IT System were inadequate.** The evidence overall supports the conclusion that staff, in both the Post Office- and Fujitsu-operated support services, for the most part worked to resolve issues raised by SPMs.⁶ Nonetheless, it is clear that each of the helpdesk services available to users were inadequate to resolve the problems experienced by SPMs. Some problems appear, on the evidence, to have been common to both the Post Office and Fujitsu helpdesk services, for example: (i) matters

⁴ **SUBS0000002**, Opening Statement on behalf of Fujitsu Services Limited, §24 (“*Post Office has been aware from an early stage of Fujitsu’s ability to remotely access the Horizon system*”).

⁵ On Post Office knowledge of shortcomings in training see: **SUBS0000025**, Phase Three Closing Submissions on behalf of Fujitsu Services Limited, §32.

⁶ From around the end of 2002, the scope of the Fujitsu helpdesk changed in material respects. Whilst the Fujitsu helpdesk continued to be responsible for resolving hardware, software and network problems, it was no longer responsible for managing calls from branches relating to advice and guidance, and cash accounting issues: **SUBS0000025**, Phase Three Closing Submissions on behalf of Fujitsu Service Limited, §17.

raised were ‘resolved’ prematurely; and (ii) problems were not always referred appropriately within the bifurcated (Post Office / Fujitsu) support system, such that technical problems were not always referred to the appropriate helpdesk for support. The result of the foregoing was that users of the Horizon IT System were not provided with the standard of support which they properly required.

14. **The conduct of criminal prosecutions on behalf of Post Office fell considerably short of the important duties which apply to a private prosecutor.** Post Office wrongfully prosecuted hundreds of SPMs. Indeed, the evidence now available to the Inquiry suggests that the failings in the conduct of Post Office prosecutions were considerably more fundamental than even those acknowledged by the Court of Appeal in *Hamilton & ors v Post Office Limited* [2021] EWCA Crim 21; [2021] 4 WLR 115 (“*Hamilton & ors*”). The Inquiry could safely conclude that there were pervasive failures within Post Office’s investigative, legal and prosecutorial functions throughout the Inquiry’s relevant period: (i) to advise upon and to pursue all reasonable lines of inquiry, including those which point away from the guilt of the suspect; (ii) to conduct an independent, objective, and even-handed assessment of the available evidence – including, importantly, to conduct an assessment of the reliability of computer data; (iii) to take reasonable steps to obtain material in the control of third parties (including Fujitsu) which would be disclosable if in the possession of the prosecutor; (iv) to disclose prosecution material which reasonably could be considered capable of undermining the case for the prosecution against the accused, or assisting the case for the accused (including information within Post Office’s own knowledge as to the existence of BEDs); and (v) to properly instruct expert witnesses on behalf of the prosecution, and to oversee, interrogate, and make appropriate disclosure as to the conclusions reached by such experts (see below). The evidence supports the view that those failures were not isolated to any one individual, but affected Post Office prosecutions in many, if not all, of the case studies examined by the Inquiry. Moreover, many of those criticisms apply with equal force to the conduct of Post Office’s external criminal legal advisors.

15. Rather than acting as a ‘minister for justice’, it is clear that many Post Office staff with responsibility for the conduct of prosecutions (including investigators and lawyers) acted in a zealous, aggressive, and partisan manner – in particular, in pursuing ‘test cases’ designed to defend the integrity of the Horizon IT System. A number of those involved in investigations and prosecutions were inappropriately encouraged with financial incentives tied to debt recovery, and were in any event overwhelmingly and misguidedly motivated by debt recovery. Post Office’s conduct of investigations, litigation and prosecutions fell considerably short of required standards, as well as the standards expected of a publicly funded body.

16. **There were important failings by Post Office in relation to the ‘expert’ witness evidence relied upon in support of shortfall recovery, civil and criminal proceedings brought against SPMs.** It is clear that there were a number of aspects of Post Office’s engagement of ‘expert’ witnesses (including Gareth Jenkins and Anne Chambers) which were inappropriate, including that: (i) Post Office never provided Fujitsu staff acting as ‘expert’ witnesses in criminal proceedings with a formal letter of instruction, setting out the duties of an expert witness; (ii) Post Office never otherwise informed ‘expert’ witnesses in criminal proceedings of the duties of an expert witness; (iii) Post Office never ensured that ‘expert’ witnesses in criminal proceedings had reviewed all data relevant to the potential for apparent ‘shortfalls’ to be caused by BEDs; and (perhaps most significantly) (iv) on a number of occasions, Post Office employees and external advisors inappropriately amended ‘expert’ witness statements to remove or dilute references to the existence of, and potential for, BEDs in the Horizon IT System.
17. **Fujitsu failed to recognise the issues and risks associated with its provision of witness evidence in Post Office led prosecutions.** The Codified Agreement between Fujitsu and Post Office contained novel provisions contractually obliging Fujitsu to provide support to Post Office in respect of prosecutions. That work was atypical for an IT services provider such as Fujitsu, and was outside the normal work of Fujitsu technical staff. It is a matter of profound regret to Fujitsu that it ever provided services to support Post Office proceedings against SPMs. Fujitsu was never sighted as to the full scale of Post Office’s prosecutorial conduct or misconduct. Nonetheless, Fujitsu accepts that, (i) it was inappropriately deferential to Post Office as its client, and (ii) its senior management were insufficiently interventionist in their management and oversight of the Post Office Account. This led to a failure to properly challenge or scrutinise the appropriateness of requests made by Post Office and resulted in Fujitsu providing a service (i.e., prosecution support) which fell short of its own corporate values. In light of this, Fujitsu recognises that it failed properly to support those of its employees who engaged directly with Post Office and its lawyers in respect of prosecution support. This is particularly so for those who engaged in the provision of documentary and witness evidence in relation to Post Office prosecutions and civil actions – with technical employees often left to engage directly with Post Office’s internal and external lawyers, rather than having appropriate mechanisms by which to monitor and support those employees.
18. **There were issues with the Audit Record Query (“ARQ”) data provided by Fujitsu to Post Office in the context of proceedings against SPMs.** In relation to the provision of ARQ data, Fujitsu has already admitted in previous submissions to the Inquiry⁷ that: (i) the ARQ data provided by Fujitsu to Post Office was on its own inadequate to enable Post Office, or any

⁷ SUBS0000026, Phase Four Closing Submissions on behalf of Fujitsu Services Limited, §§37-43.

affected SPM, to interrogate (properly, or at all) whether any apparent ‘shortfall’ was, or may have been, the result of BEDs in the Horizon IT System; and (ii) there were a number of errors, defects, and inadequacies in the system for the production of ARQ data which cast fundamental doubt upon the reliability of that data, some of which appear to have beset the system for the production of ARQ data since its inception. Post Office were aware of the inherent limitations of ARQ data (indeed, they were the product of contractual agreement between Post Office and Fujitsu, which Post Office declined to revise or broaden in scope) and that it would not necessarily capture all potentially relevant data from the Horizon IT System.⁸ Post Office were also aware of sufficient information to raise substantial doubts as to its reliability.

19. **Post Office’s response to the emerging public scandal was inappropriately defensive.**

Moreover, the response to the public scandal tended to frame this as primarily or exclusively an *IT issue* – rather than to recognise the serious failures in conduct, ethics, governance, culture, and systems that have been revealed in evidence before the Inquiry. The tenor of Post Office’s public response to the emerging scandal is all the more concerning given the widespread knowledge within Post Office as to the potential for and existence of BEDs and remote access in the Horizon IT System, throughout its period of operation. That defensive posture in relation to the integrity of the Horizon IT System and the safety of Post Office led prosecutions affected: (i) Post Office’s engagement with, and response to, the work of Second Sight; (ii) the conduct of the Working Group for the Internal Complaint Review and Mediation Scheme; (iii) the response to the claims advanced in the *Bates & ors v Post Office* group litigation and the conduct of that litigation; (iv) the ‘lines’ adopted in response to escalating media criticism regarding the Horizon IT System; and (v) engagement with Government and Members of Parliament, as they sought to investigate repeated concerns raised by constituents. The public defence of the Horizon IT System was demonstrably wrong. Fujitsu regrets that it ever assisted in such a defensive posture being advanced by Post Office in relation to the Horizon IT System. A concerning feature of the evidence which emerged in Phases 5 and 6 of the Inquiry was that a number of senior individuals at Post Office, responsible for developing and advancing the ‘lines’ that the Horizon IT System was not affected by BEDs or that remote access was not possible, appear to have known (or ought, on the information readily available to them, to have known) that these ‘lines’ were untrue.

20. **The conduct of the *Bates & ors v Post Office Limited* group litigation was inappropriately hostile.** Post Office pursued a strategy of “*attrition*” that would “*force*” SPM claimants to “*burn*

⁸ See, for example, the issue identified in relation to the Lepton branch in 2013 where Post Office discussed with Fujitsu the possibility of adding extra fields to ARQ data such that it distinguished between a transaction that had been reversed automatically as part of the recovery process and a transaction that had been reversed manually by the SPM in branch. See: **POL00134139**, Email chain dated 7 February 2013 to 13 February 2013, ‘Lepton logs’, p.2; **WITN00460400**, Fourth Witness Statement of Gareth Jenkins, dated 29 April 2024, §§50-51; **INQ00001137**, Transcript, 26 April 2024, p.41, ln.4-p.49, ln.9 (Ms Angela van den Bogerd).

money” such that SPM claimants and their litigation funders would “*decide that it is too costly to pursue the litigation and give up*”. The conduct and strategy of the group litigation proved impervious to proper Government oversight. Fujitsu deeply regrets that it lent any support to Post Office, by the provision of witnesses, in the group litigation.

21. **There were important shortcomings in the mechanisms for oversight of Post Office by Government.** The Government’s role as sole shareholder of Post Office was, in theory, intended to enable oversight, via UK Government Investments (formerly the Shareholder Executive) (“**ShEx**”) / the Department of Trade and Industry (“**DTI**”), to ensure that, as a public asset, the affairs of Post Office were managed in the public interest. However, the issues considered in this Inquiry have plainly exposed the shortcomings of those oversight arrangements – including the serious consequences where officials, far from providing robust and challenging oversight, go “*rogue*”. In particular, the evidence enables the Inquiry safely to conclude that: (i) systems proved inadequate to ensure that information necessary for the effective public oversight of Post Office reached ShEx / DTI / Ministerial level; (ii) an overly rigid distinction between ‘operational matters’ and ‘strategic matters’ served to insulate important aspects of Post Office’s operation, including the conduct of private prosecutions, from necessary oversight by Government; (iii) even where issues concerning the Horizon IT System and the treatment of SPMs were directly raised with Members of Parliament or Ministers, the oversight arrangements within ShEx / DTI / Ministerial offices remained inadequate for relevant matters to be identified, escalated, and appropriately mitigated. More concerning, ShEx / DTI officials accepted (without serious challenge) Post Office ‘lines’ regarding the integrity of the Horizon IT System and the safety of Post Office led prosecutions, and fed those lines into Government – seriously undermining the ability of Government to oversee the affairs of Post Office. Post Office and/or ShEx / DTI officials frustrated, rather than facilitated, effective oversight of Post Office by Ministers. Those failures in oversight had important consequences for the way in which the matters at the heart of this Inquiry developed.

22. **There were significant cultural and governance failings within Post Office.** The evidence before the Inquiry has exposed a hierarchical culture within Post Office, which was innately hostile to the interests of SPMs, a culture which may well continue to exist in some parts of Post Office’s business. Further, Post Office fostered a culture which was inappropriately defensive, and hostile to external oversight and criticism. It is clear that a number of (inaccurate) ‘messages from the top’ permeated Post Office’s business, including as to the “*robustness*” of the Horizon IT System, and (without evidence, or further interrogation) became the unassailable foundation for Post Office’s response to the emerging scandal.

1.2 The position today

23. It is right that the Inquiry, and indeed the public, should carefully scrutinise the position today in relation to the operation of the Horizon IT System, and the conduct of Post Office, Fujitsu, and others. The public rightly expect that lessons have been learned and implemented from the appalling miscarriages of justice exposed clearly in the evidence before the Inquiry.
24. **Fujitsu has been clear and consistent in its position on ongoing criminal investigations and prosecutions**, namely that: (i) Fujitsu will never again provide witness evidence of any kind in support of Post Office-led criminal investigations or prosecutions of SPMs; (ii) Fujitsu has offered, and will continue to offer, full and conscientious cooperation to any police force conducting an independent investigation into potential criminal wrongdoing in connection with Post Office branches (including by the provision of factual witness evidence); and (iii) Fujitsu is determined not to repeat the mistakes of the past. Fujitsu has made that position clear, both publicly and in private to Post Office and police forces. This applies with equal force to any civil investigations and enforcement action by Post Office against SPMs.
25. **Real concerns arise as to the manner in which Post Office continues to conduct criminal investigations, and in Post Office's interactions with police forces in relation to potential criminal prosecutions.** In particular, correspondence in evidence before the Inquiry raises real concerns as to whether Post Office's Assurance & Complex Investigations Team (the "**A&CI Team**") may be repeating some of the serious errors which led to the appalling miscarriages of justice under investigation by the Inquiry, namely: (i) viewing enforcement action against SPMs as a deterrent; (ii) adopting a narrow focus on proof of BEDs affecting a particular branch at a particular time (at the expense of considering wider issues concerning the potential for unknown BEDs); (iii) inappropriately seeking 'expert' evidence from Fujitsu employees who, given their lack of independence, are in no position properly to provide such evidence; and (iv) perpetuating overconfident assessments of the "*robustness*" of the Horizon IT System. Viewed in that context, attempts by the A&CI Team to circumvent the scrutiny of the Post Office Board in relation to their engagement with police forces appear all the more problematic.
26. **Fujitsu has worked conscientiously to learn lessons from the work of the Inquiry, and to implement remediations in its operations and governance designed to prevent a recurrence of anything akin to the miscarriages of justice at the heart of this Inquiry.** Fujitsu also candidly acknowledges that, while it has not wanted to pre-empt the conclusions of this Inquiry, more by way of reform and remediation activities could and should have been completed sooner. Fujitsu is committed to its remediation activities, particularly as regards governance and values, continuing and developing following the conclusion of this Inquiry.

PART 2. Key themes in relation to Phases 2-4

27. As referred to above, Fujitsu has made detailed closing submissions in respect of Phases 2-4 of the Inquiry.⁹ It is not necessary or desirable to repeat the detail of those previous submissions. Nonetheless, the key themes which arose in Phases 2-4 inevitably inform the proper approach to the assessment of the evidence in Phases 5-7 of the Inquiry. Therefore:

27.1. This document should be read together with the closing submissions made on behalf of Fujitsu at the conclusions of Phases 2-4 of the Inquiry. Fujitsu continues to stand by the submissions made previously, which have been further reinforced by the evidence subsequently heard by the Inquiry. The Inquiry is invited to take account of the submissions advanced in Fujitsu's Phases 2-4 closing submissions in its assessment of later evidence.

27.2. In order to contextualise Fujitsu's submissions in respect of Phases 5-7 of the Inquiry, this **Part 2** provides a brief summary of the key themes which arose in earlier Phases.

2.1 Post Office knowledge of BEDs

28. Post Office had considerable institutional knowledge of the potential for, and existence of, BEDs in the Horizon IT System prior to its rollout and throughout its period of operation. That knowledge plainly existed from at least July 1999,¹⁰ and continued to develop throughout the Inquiry's relevant period.¹¹ In addition, from an early stage, Post Office, including lawyers acting

⁹ **SUBS0000020**, Phase Two Closing Submissions on behalf of Fujitsu Services Limited; **SUBS0000025**, Phase Three Closing Submissions on behalf of Fujitsu Services Limited; **SUBS0000026**, Phase Four Closing Submissions on behalf of Fujitsu Services Limited.

¹⁰ **WITN05210100**, First Witness Statement of Ruth Reid, dated 13 October 2022, §88 (*"The incident was identified by Interim TIP project team. Dave Parnell and Peter Jones brought it to the business' attention"*). See further: **WITN04060100**, First Witness Statement of Robert Booth, dated 16 September 2022, §151 (*"From the documents supplied, [in the summer of 1999] POCL were aware of several items that did not work as expected and were managing the risks they were aware of, seeking answers from ICL Pathway on why things did not go as expected and assurances that lessons had been learnt and problems identified"*); **INQ00001020**, Transcript, 15 November 2022, p.58, ln.15-ln.22 (Mr Robert Booth) (Q. *"[...] you were aware, were you not, that an incident had been raised relating to the accounting integrity of the Horizon System under AI376"* A. *"Yes, I would have been aware of – because the Acceptance Incident form went through all of the incidents, I would have been party to that, yes"*).

¹¹ See, for example: **WITN11200100**, First Witness Statement of Alan Barrie, dated 31 October 2024, §110 (*"During my time at POL, as with any significant IT system, the Horizon system did periodically experience technical faults in both hardware and software"*), and §114 (*"I do not recall specific circumstances, but ultimately it was considered inevitable that there would be some problems, as with any system on this scale"*); **WITN11130100**, First Witness Statement of Michael Young, dated 8 August 2024, §30 (*"Like any IT system, they all have BEDs requiring fixes or updates"*); **WITN05690100**, First Witness Statement of Jane Smith, dated 8 November 2024, §43 (*"if there was a subsequent connection failure with the datacentre, the transaction could not be completed, causing confusion in branch as to whether or not to pay out funds to the customer. POL did not initially train postmasters on what to do in the event of such a failure, and though I did raise concerns with the project managers about this, it was considered that connection failures would*

on its behalf, were aware of categories of documents which evidenced BEDs (such as KELs, PinICLs, Peaks and events). In order to assist the Inquiry, Fujitsu has prepared an **Annex** to these Closing Submissions, which identifies (chronologically, and by reference to key individuals) the state of Post Office's knowledge of BEDs, and categories of documents evidencing BEDs.

29. It is important to recall that the sharing of information concerning BEDs between Fujitsu and Post Office was a routine part of the business-as-usual operation of the Horizon IT System, and continued throughout its period of operation. That includes by way of: (i) various reports passing between ICL Pathway / Fujitsu and Post Office throughout the relevant period in respect of identified technical issues within the Horizon IT System; (ii) various forums and channels of communication which existed between Fujitsu and Post Office, in the course of which BEDs and system integrity issues were routinely discussed;¹² (iii) the close working relationship between Post Office and ICL Pathway / Fujitsu, which was noted by a number of witnesses before the Inquiry;¹³ (iv) joint Fujitsu and Post Office test teams;¹⁴ (v) joint working documents that demonstrate Fujitsu's and Post Office's mutual understanding regarding the existence of, and potential impacts of, BEDs¹⁵ (joint working is also evident in the management of particular BEDs

not be frequent enough to make training on it worthwhile"); **WITN04730100**, First Witness Statement of Simon Baker, dated 25 October 2024, §24 ("I do not recall thinking the Horizon Online-related challenges were a "big deal" at the time. I was not concerned as it is typical and expect IT issues in new large IT deployments. For example, it is expected to discover BEDs outside of a testing environment because the real-world environment is different, and therefore, it is common to slow down the rollout of an IT programme. I would have been more surprised if there were no IT issues"); **WITN10340100**, First Witness Statement of Arthur Leslie Owen, dated 9 October 2024, §18 ("From my professional experience, I know that bugs, errors and defects ("BEDs") in IT systems are common"); **WITN11160100**, First Witness Statement of Peter Corbett, dated 14 October 2024, §27 ("The POL board discussed the Horizon IT system periodically in relation to [...] the relatively high level of errors which required a large team to be maintained (c 300 people) to correct them"), and §30 ("I was aware that the Horizon system had [...] a large number of errors arose which needed to be manually reviewed and corrected").

- ¹² See, for example: **WITN11200100**, First Witness Statement of Alan Barrie, dated 31 October 2024, §113 ("Generally, my team would liaise with Fujitsu on a regular basis about BEDs. [...] If Fujitsu simply patched, remedied or found workarounds to a BED, this would be considered business as usual at this stage").

- ¹³ **INQ00000998**, Transcript, 10 January 2023, p.79, ln.25-p.80, ln.7 (Mr Bruce McNiven) ("there were continuous conversations on all these issues"); **INQ00000997**, Transcript, 11 January 2023, p.37, ln.11-p.38, ln.7 (Mr Steve Bansal). Further, see, for example: **WITN11200100**, First Witness Statement of Alan Barrie, dated 31 October 2024, §102 ("The IT department acted as the interface team with Fujitsu: They were the point of contact between the business and the supplier, and my team would meet with their counterparts in Fujitsu on a regular basis to discuss performance against the SLA, which was made up of 76 individual performance metrics, and look to remedy any issues"); **WITN04730100**, First Witness Statement of Simon Baker, dated 25 October 2024, §62 ("From what I observed during the Joint Board Meetings [in 2012], POL and Fujitsu's Horizon Online team maintained a professional and effective working relationship. Throughout the delivery of the complex Horizon Online IT project, POL and Fujitsu developed a productive collaboration [...] POL and Fujitsu successfully navigated and resolved any issues that arose during difficult times").

- ¹⁴ See, for example: **WITN04760100**, First Witness Statement of Mark Ascott, dated 4 August 2022, §51-59 ("This team was based in Bracknell and consisted of around 75 people, around 25 of whom were Post Office employees. Fujitsu and Post Office worked together as a team to test the elements of the solution across the HNG-X test rigs").

- ¹⁵ **FUJ00081214**, Email chain dated 11 November 2010 to 12 November 2010, 'Receipts and Payments issue', p.1 ("I've been sending a report every week to Pol Duty Manager, Gareth and Mike S. Maybe Duty manager is not sending the information out inside POL?").

about which the Inquiry heard evidence in Phase 3); and (vi) the release management process, which was an important measure in the management of BEDs.¹⁶ Further, there were (and are) a number of systems in place to identify and rectify BEDs in the Horizon IT System. Those systems are described in detail in Fujitsu's Second Corporate Statement, and Fujitsu's submissions in this regard are set out in §§17-18 of its Phase 2 Closing Submissions and in §§11-21 of its Phase 3 Closing Submissions.

30. As a matter of terminology, Fujitsu would urge some caution in adopting the language of “robustness” to draw general conclusions about the operation of the Horizon IT System. As is clear from the *Horizon Issues Judgment*, that was a term adopted in the pleadings in the group litigation, and which the parties to that litigation nonetheless used imprecisely (§36) and struggled to define with clarity (§§36-56). Put shortly, although it may be accepted that the term is one used in software engineering, as a standard or threshold, it lacks clarity and precision (not least because it can mean different things to different people, or different things in different contexts). Fraser J adopted the following definition of “robustness” (*Horizon Issues Judgment*, §54):¹⁷

“Robustness ... means the ability of any system to withstand or overcome adverse conditions. A robust system is strong and effective in all or most conditions. The robustness of a system is the effectiveness of the system in managing the risks of imperfections (which are inevitable in any system) and their consequences ... Robustness does not mean perfection.”

31. Fujitsu also recognises that some witnesses have appeared to offer more general assessments as to the “robustness” of the Horizon IT System and/or the quality of its source code. While, undoubtedly, that evidence was given in the spirit of providing assistance to the Inquiry, it does not provide a sufficient evidence base from which to draw firm conclusions as to the overall operation (or “robustness”) of the Horizon IT System. Put simply, no witness before the Inquiry has examined the Horizon IT System code – the minimum that would be required in order to enable such a conclusion to be drawn. Nonetheless, as above, Fujitsu accepts that the Horizon IT System was affected by numerous BEDs, which BEDs had the potential to impact, and did in fact impact, upon branch accounts.
32. The evidence supports the conclusion that information about the potential for, and existence of, BEDs in the Horizon IT System was shared with and available to: (i) individuals across a range

¹⁶ See, for example: **WITN11200100**, First Witness Statement of Alan Barrie, dated 31 October 2024, §112 (“Some [BEDs] were dealt with through software patches (repairs) whilst others would be designed out of the system as part of major software releases”).

¹⁷ The same could also be said of other general terms, such as “reliability”.

of teams within Post Office; (ii) individuals of varying levels of seniority within Post Office (up to, and including, senior executives within Post Office, and members of the Post Office Board); (iii) relevant individuals engaged as external advisors to Post Office (including external legal advisors); (iv) individuals and organisations involved in relevant investigations of Post Office systems and processes; and (v) individuals involved in the oversight of Post Office by Government. The evidence in support of these submissions is set out in the **Annex**.

2.2 Remote access

33. Certain Fujitsu staff had the ability to remotely access the Horizon IT System from a location other than the branch, i.e. “**remote access**”.¹⁸ It is necessary to distinguish between different *types* of remote access capabilities, namely: (i) the use of read-only remote access by support teams for diagnostic and investigative purposes; (ii) the use of remote access to make technical system changes, but without any direct impact upon transactions in branch accounts (“**housekeeping remote access**”);¹⁹ and (iii) the use of remote access to correct a transaction which was the subject of an error by inserting an additional credit or debit transaction (referred to herein as “**substantive remote access**”).²⁰ Of those, it is substantive remote access which is likely to impact the branch account trading position. Remote access was and remains a necessary part of the suite of support tools available to manage the live operation of the Horizon IT System, including the rectification of BEDs. Ms Chambers’ evidence was that remote access was essential to the proper functioning of the SSC: “*we could not have done our job otherwise*”.²¹

¹⁸ Fujitsu acknowledges that this definition of “remote access” is broader than that adopted by Fraser J in **AMCL0000013**, *Bates & ors v Post Office Limited (No.6) “Horizon Issues”* [2019] EWHC 3408 (QB), §534 (“*action taken remotely to either inject new transactions or to edit existing transactions or to delete existing transactions in a way that could change the accounting position of the relevant branch*”).

¹⁹ See, for example: (i) **INQ00000981**, Transcript, 2 May 2023, p.205, ln.12-14 (Mrs Anne Chambers) (“*making the changes would not necessarily be changes to financial data*”). A common situation which would require housekeeping remote access was where a system variable (for example, a status flag) was in the wrong position, and required to be changed (for example, ‘Stock Unit Unlock’ and ‘End of Day Marker’); (ii) **POL00028922**, Spreadsheet of logged incidents, dated 17 September 2004. This record of Mr Roll’s work on the SSC records him as dealing with a number of issues described variously as ‘Unlock user’ (row 10, row 11) or ‘User Locked out of SU’ (row 41), which reflect this kind of housekeeping remote access; (iii) Mr Parker gave a further example of housekeeping remote access in Legacy Horizon, where Riposte records had to be “*re-played*” into the correct message store, see **WITN00680100**, First Witness Statement of Stephen Parker, dated 27 March 2023, §84 (“*these SSC workarounds did not involve the construction or amendment of transactions. SSC would be re-playing records that had already been committed to a Message Store but that for some reason, were not in the correct place*”).

²⁰ See, for example: **FUJ00120588**, ‘Peak PC0143500’, dated 13 February 2007.

²¹ **WITN00170100**, First Witness Statement of Anne Chambers, dated 15 November 2022, §194. See further: **WITN00680100**, First Witness Statement of Stephen Parker, dated 27 March 2023, §76 (“*A computer system with geographically separated components needs to support remote [sic] access to those component systems. This remote access allows suitably trained staff to maintain the system and assist the users of that system from a distance*”); **WITN00460200**, Second Witness Statement of Gareth Jenkins, dated 1 June 2023, §147(c) (“*I do not know how it would have been feasible to operate Horizon without it. ... As far as I am aware, every computer system large or small, has a form of remote access built into it*”).

34. The evidence before the Inquiry continues to support the conclusion that Post Office staff were aware of the ability of Fujitsu staff to remotely access branch accounts, and to make alterations that might impact those accounts. As to that:

34.1. One of the controls upon the use of substantive remote access was the OCR / OCP procedure,²² which involved Fujitsu seeking the approval of Post Office personnel (usually, if not invariably). A procedure which was in place from at least 2001.²³ Plainly, those personnel were aware (or ought reasonably to have been aware) of the nature of the technical operations which they were authorising. By way of illustration, former Post Office employee, Gary Blackburn described the OCP procedure to the Inquiry as the “*audit trail*” created in respect of any alteration, by Fujitsu staff, to the branch ‘message store’.²⁴

34.2. In any event, it is clear that Fujitsu’s remote access capabilities were described in a number of contemporaneous procedural documents available to the Post Office. By way of example, in around March 2004, a Fujitsu procedural document, ‘Customer Service Operational Change Procedure’, which described various controls concerning the issue of remote access, was provided to John Bruce of Post Office.²⁵

34.3. A number of Post Office staff members admitted having, or were demonstrated in evidence to have had, contemporaneous knowledge of Fujitsu’s remote access capabilities. Those individuals included: Paula Vennells,²⁶ Lesley Sewell,²⁷ Susan Crichton,²⁸ Mark Davies,²⁹ Jarnail Singh,³⁰ and Rodric Williams,³¹ among others.³²

34.4. In a meeting between Post Office and Fujitsu regarding the Receipts and Payments

²² Described in, for example, **FUJ00079816**, ‘CS Support Services Operations Manual’, dated 7 February 2000, pp.17-18 (in respect of the OCR process); and **POL00029282**, ‘Customer Service Operational Change Procedure’, dated 18 March 2004 (in respect of the OCP process).

²³ **FUJ00152239**, ‘PinlCL PC0067793’, dated 12 July 2001, p.5 (“*Anne Chambers: Awaiting POCL authorisation for message store changes*”), p.7 (“*Anne Chambers: Authorisation for messagestore amendment now received from mick.theobald*”).

²⁴ **INQ00000986**, Transcript, 28 February 2023, p.204, ln.8-ln.21 (Mr Gary Blackburn).

²⁵ **POL00029282**, ‘Customer Service Operational Change Procedure’, dated 18 March 2004; see further: **INQ00001062**, Transcript, 10 May 2023, p.107, ln.15-p.108, ln.14 (Mr Stephen Parker).

²⁶ **INQ00001151**, Transcript, 22 May 2024, p.156, ln.11-p.159, ln.7 (Ms Paula Vennells).

²⁷ **POL00141531**, Email chain dated 22 May to 3 June 2013, ‘Branch database – support team changes’ pp.1-2; **POL00296795**, Email chain dated 6 October 2010 to 28 June 2013, ‘Q16919737 Summary report Receipts/Payments mismatch’; **INQ00001148**, Transcript, 16 May 2024, p.90, ln.2-p.97, ln.7 (Ms Lesley Sewell).

²⁸ **INQ00002021**, Minutes titled ‘Conf Call with SC, AI and IRH re Paula Briefing’, dated 22 May 2013.

²⁹ **INQ00001146**, Transcript, 14 May 2024, p.138, ln.11-p.173, ln.15 (Mr Mark Davies).

³⁰ **POL00097216**, Email dated 27 November 2012, ‘Fujitsu expert report – URGENT’, pp.1-2.

³¹ **INQ00001133**, Transcript, 19 April 2024, p.34, ln.22-p.49, ln.19 (Mr Rodric Williams).

³² **WITN05690100**, First Witness Statement of Jane Smith, dated 8 November 2024, §71, (“*I wish to make the Chair aware that during my time as a problem manager (July 2003 - April 2005), I became aware that Fujitsu had the capability to access and make amendments to branch data in the Messagestore*”).

Mismatch bug in around September 2010, the ability of Fujitsu to “*manually write an entry value to the local branch account*” was discussed as a potential solution to be applied to impacted branches.³³ In this regard, it was noted that: “*This has significant data integrity concerns and could lead to questions of “tampering” with the branch system and could generate questions around how the discrepancy was caused. This solution could have moral implications of Post Office changing branch data without informing the branch*”. These notes were circulated to Rob Wilson, Mr Singh and Juliet McFarlane of Post Office’s legal team on 8 October 2010.³⁴

35. There is no evidence to support the suggestion³⁵ that remote access privileges were used for any purpose other than to provide necessary technical support to Post Office branches, i.e. there is no evidence to support any suggestion of the malign use of remote access capabilities.³⁶ Abuse of remote access privileges by a malign actor is impossible to *positively exclude* on the evidence. However, it is difficult to see how an individual Fujitsu employee (who has no financial stake in the performance of an individual Post Office branch) could have any incentive to abuse remote access privileges in that way.

2.3 Post Office prosecutions

36. Post Office investigations and prosecutions did not begin with the introduction of the Horizon IT System. Rather, it is clear that Post Office had an established, active investigation and prosecution function in place prior to the national rollout of the Horizon IT System in 2000. The available evidence demonstrates a significant increase in investigative and prosecutorial activity during the period 1992 to 1998. For example, Appendix II to the second witness statement of Simon Recaldin shows an increase from 1 shortfall-related conviction in 1992 to 14 in 1998 and 21 in 1999. Post Office’s 24 September 2024 response to a Freedom of Information request dated 13 January 2024 then shows an increase in financial misconduct related investigations from 7 in 1992 to 378 in 1998, and in financial misconduct related prosecutions from fewer than 5 in 1992 to 44 in 1998.³⁷ This initial increase in investigative and prosecutorial activity occurred following the introduction of an in-house accounting system called Capture in Post Office branches in 1992 and pre-dates the Horizon IT System.

³³ **POL00028838**, ‘Receipts/Payments Mismatch issue notes’, dated 29 September 2010, p.3.

³⁴ **POL00055410**, Email chain dated 8 October 2010, ‘Branch discrepancy issues’.

³⁵ See, for example: **WITN01050200**, Second Witness Statement of Ronald Warmington, dated 10 June 2024, §16.

³⁶ Indeed, all available evidence is to the contrary. See, for example: **WITN00680100**, First Witness Statement of Stephen Parker, dated 27 March 2023, §86 (“*I do not remember any examples of unauthorised or malicious use of remote access while I was working with Horizon*”).

³⁷ **RLIT0000485**, Letter from Post Office Information Rights Team to Byron Harrison dated 24 September 2024.

37. The conduct of criminal prosecutions on behalf of Post Office fell considerably short of the important duties which apply to a private prosecutor. Post Office wrongfully prosecuted hundreds of SPMs. In its Phase 4 Closing Submissions, Fujitsu made detailed submissions as to the range of serious deficiencies which undermined the integrity of Post Office prosecutions.³⁸ That included:

37.1. A failure to advise upon and to pursue all reasonable lines of inquiry, including those which point away from the guilt of the suspect. Instead, a number of witnesses admitted to operating under an *assumption* that SPMs were necessarily to blame for any apparent ‘shortfall’.³⁹

37.2. A failure to conduct an independent, objective, and even-handed assessment of the available evidence – including, importantly, to conduct an assessment of the reliability of computer data.

37.3. A failure to take reasonable steps to obtain material in the control of third parties (including Fujitsu) which would be disclosable if in the possession of the prosecutor. In respect of a number of the case studies examined by the Inquiry in Phase 4: (i) no ARQ data was obtained by Post Office from Fujitsu;⁴⁰ and, in many cases (ii) there is no evidence of direct contact between Post Office and Fujitsu.⁴¹

37.4. A failure to disclose prosecution material which reasonably could be considered capable of undermining the case for the prosecution against the accused, or assisting the case for the accused. In particular, Post Office failed to disclose information within its own knowledge as to the existence of BEDs in the Horizon IT System and in other relevant Post Office and third-party systems, and as to the capacity of those BEDs to impact upon branch accounts.

³⁸ **SUBS0000026**, Phase Four Closing Submissions on behalf of Fujitsu Services Limited, §§6-8, 20-36.

³⁹ See, for example: **INQ00001076**, Transcript, 20 September 2023, p.76, ln.13-ln.22 (Mr Andrew Wise) (“*the assumption was that it was a mistake. So we’re looking for where that mistake has been made*”).

⁴⁰ This appears to be true in the cases of: Ms Lisa Brennan, Mr David Yates, Mr David Blakey, Mr Tahir Mahmood, Mr Carl Page, Ms Suzanne Palmer, Ms Joan Bailey, and Ms Allison Henderson. See: **INQ00001109**, Transcript, 18 December 2023, p.96, ln.1-ln.8; p.96, ln.14-p.97, ln.16; p.97, ln.17-p.99, ln.2; p.102, ln.4-p.103, ln.7; p.106, ln.3-ln.11; p.106, ln.12-ln.24; p.118, ln.7-p.119, ln.7; p.119, ln.14-p.120, ln.3 (Mr Duncan Atkinson KC).

⁴¹ This appears to be true in the cases of: Ms Lisa Brennan, Mr David Yates, Mr David Blakey, Mr Tahir Mahmood, Ms Suzanne Palmer, Ms Joan Bailey, and Ms Allison Henderson. See: **INQ00001109**, Transcript, 18 December 2023, p.96, ln.1-ln.8; p.96, ln.14-p.97, ln.16; p.97, ln.17-p.99, ln.2; p.102, ln.4-p.103, ln.7; p.106, ln.12-ln.24; p.118, ln.7-p.119, ln.7; p.119, ln.14-p.120, ln.3 (Mr Duncan Atkinson KC). Mr Atkinson further stated that the position was “*not absolutely clear*” in relation to the case of Mr Peter Holmes because, while “*a degree of Horizon material*” was obtained, the source of that material was unclear, and there was no evidence of “*the results of any such contact [with Fujitsu], or, indeed, any document that set out such contact*”. See: **INQ00001109**, Transcript, 18 December 2023, p.110, ln.8-p.111, ln.2 (Mr Duncan Atkinson KC).

37.5. A failure to properly instruct expert witnesses on behalf of the prosecution, and to oversee, interrogate, and make appropriate disclosure as to the conclusions reached by such experts. That included a failure to: (i) set out the expert's instructions in a formal letter of instruction; (ii) provide to the expert all information relevant to their instructions; and (iii) inform the expert of the scope and nature of their relevant duties to the Court. This failure was accepted by a number of Post Office witnesses.⁴² As Mr Atkinson KC summarises the position in relation to Mr Jenkins: "*Communication with him in writing appears to have been informal and brief, and at no point made any reference to the duties of either Mr Jenkins as expert or the Post Office as prosecutor in relation to material underlying or undermining his opinions*".⁴³ Those failures were not always visible to those supporting employees purporting to act as 'expert' witnesses.

38. In relation to the instruction of expert witnesses, Fujitsu's previous submissions⁴⁴ were entirely consistent with Mr Jenkins' subsequent evidence that: (i) he never received a formal letter of instruction;⁴⁵ (ii) he was never informed of the scope and nature of an expert's duty to the Court;⁴⁶ and (iii) he did not, at any stage when he was giving evidence on behalf of Post Office, understand the nature of an expert's duty to the Court.⁴⁷ Given that Mr Jenkins' evidence is consistent with that of Post Office witnesses responsible for the conduct of criminal prosecutions, and with the contemporaneous documentary evidence (as noted by Mr Atkinson KC, quoted above), the Inquiry is respectfully invited to accept that evidence. In relation to Mr Jenkins, the failure of

⁴² **INQ00001098**, Transcript, 24 November 2023, p.43, ln.25-p.44, ln.17 (Ms Diane Matthews); **INQ00001093**, Transcript, 14 November 2023, p.28, ln.9-p.29, ln.20; p.29, ln.21-p.30, ln.1; p.32, ln.23-p.33, ln.13 (Ms Deborah Stapel); **INQ00001102**, Transcript, 1 December 2023, p.124, ln.22-p.129, ln.8 (Mr Jarnail Singh) (Q. "*Do you agree that that's a serious dereliction of your duties as a prosecutor?*" A. "*Yes, yes it is*").

⁴³ **EXPG0000004**, Expert Report of Duncan Atkinson KC, Volume 2, §674.

⁴⁴ **SUBS0000026**, Phase Four Closing Submissions on behalf of Fujitsu Services Limited, §§44-50.

⁴⁵ **INQ00001166**, Transcript, 25 June 2024, p.121, ln.16-ln.21 (Mr Gareth Jenkins) (Q. "[...] you say you were never provided with written instructions to be an expert witness in any case in which the Post Office asked you to give evidence?" A. "*Correct*"). To be clear, the fact that Mr Jenkins appears to have been forwarded a separate letter of instruction to "Fujitsu Services" (**FUJ00152601**, Email from Brian Pinder to Gareth Jenkins dated 5 June 2006, 'Post Office – subpostmatser [sic] disputes', p.1; **FUJ00152603**, Letter from Bond Pearce to Fujitsu dated 18 November 2005) does not alter the position. The fact remains that there is no case in which Mr Jenkins was instructed as an expert witness in which Post Office explained to Mr Jenkins the obligations attendant upon the task he was specifically being requested to perform, i.e. acting as an expert witness.

⁴⁶ **WITN00460300**, Third Witness Statement of Gareth Jenkins, dated 21 March 2024, §10 ("*I have referred to having no recollection of anyone mentioning to me that I was subject to expert duties or of ever having received any instructions about these duties. I want to be clear that I don't believe that this ever happened*"); **INQ00001166**, Transcript, 25 June 2024, p.71, ln.13-ln.25 (Mr Gareth Jenkins) ("*I mean, I think I would have remembered if it had been sent to me because I can see there that it's clearly set out what the duties are and I wasn't aware of any of those duties*").

⁴⁷ **WITN00460300**, Third Witness Statement of Gareth Jenkins, dated 21 March 2024, §10; **INQ00001166**, Transcript, 25 June 2024, p.71, ln.13-ln.25 (Mr Gareth Jenkins) ("*I have referred to having no recollection of anyone mentioning to me that I was subject to expert duties or of ever having received any instructions about these duties. I want to be clear that I don't believe that this ever happened*").

Post Office and its external legal advisors to give proper and detailed instructions had particularly serious consequences. Mr Jenkins explained, in his evidence to the Inquiry, that his mindset when approaching witness evidence in support of Post Office prosecutions was primarily to focus on what was occurring at a particular branch in a particular period of time; rather than focussing more generally upon the operation of the Horizon IT System as a whole.⁴⁸ Of course, *had* it been intended that Mr Jenkins ought to have provided a more general certification as to the integrity of the Horizon IT System, that is *precisely* the sort of matter which could, and should, have been made clear to him (and to Fujitsu generally) by way of formal instructions. Indeed, it is not clear that there is *in fact* any one person at Fujitsu who, either at the relevant time or today, would be capable of providing a general certification as to the operation of the Horizon IT System as a whole, exclusively from their own knowledge.⁴⁹

39. Fujitsu acknowledges that it failed properly to support those of its staff who engaged directly with Post Office and its lawyers in respect of Post Office's civil and criminal proceedings. The prosecution support which Fujitsu was contractually obliged to provide to Post Office was atypical among Fujitsu's other contracts, and was certainly atypical work for its technical staff to undertake. Given that the Fujitsu staff who appeared as witnesses were generally *technical* staff with little (or no) familiarity with the procedures for, and duties associated with, the provision of witness evidence in court proceedings, Fujitsu recognises that there was a missed opportunity for Fujitsu to intervene to ensure that witnesses were properly prepared and supported, and conducted themselves in accordance with their duties.

⁴⁸ **INQ00001166**, Transcript, 25 June 2024, p.51, ln.18-p.52, ln.23 (Mr Gareth Jenkins).

⁴⁹ In his evidence to the Inquiry, Chris Brocklesby stated that he does not consider that "*any IT professional can give a guaranteed assurance of the integrity of data on any IT system*", **INQ00001190**, Transcript, 2 October 2024, p.20, ln.24-p.22, ln.11 (Mr Chris Brocklesby).

PART 3. Responses to concerns regarding the Horizon IT System and prosecutions

40. The Inquiry has heard a substantial volume of evidence regarding the various responses made to growing public concern regarding the integrity of the Horizon IT System, and the prospect of wrongful prosecutions by Post Office. In this **Part 3**, Fujitsu makes submissions on three aspects of the response to those concerns: (i) Post Office's relationship with Government and Members of Parliament; (ii) Second Sight; and (iii) the advice of Simon Clarke dated 15 July 2013 (the "**Clarke Advice**"). Fujitsu addresses the group litigation separately in **Part 4**, below.
41. Before turning to the substance of Post Office's response to increasing public concern regarding the integrity of the Horizon IT System and the safety of Post Office led prosecutions, it is helpful to summarise the key submissions made in previous Phases of the Inquiry:
- 41.1. All those involved in formulating Post Office's response to the emerging scandal were aware of BEDs in the Horizon IT System which had the capacity to impact upon branch accounts.
- 41.2. All those involved in formulating Post Office's response to the emerging scandal were also aware of the ability of Fujitsu staff to remotely access, and to make alterations to, branch accounts.
- 41.3. The foregoing is true, in particular, of Ms Vennells,⁵⁰ Ms Sewell,⁵¹ Ms Crichton,⁵² Mr

⁵⁰ **INQ00001151**, Transcript, 22 May 2024, p.156, ln.11-p.159, ln.7; p.35, ln.21-p.36, ln.1 and p.107, ln.23-p.108, ln.4 (Ms Paula Vennells) (Q. "By [...] August 2015 [...] you personally were aware of at least three bugs that had impacted on subpostmaster balances in different ways, correct?" A. "Yes"); **POL00098797**, Email from Alwen Lyons to Paula Vennells dated 28 June 2013, 'next steps on Horizon issues – update', p.2 ("Rod Ismay and Lesley working the detail of the 2 bugs, to understand them"); **POL00295355**, Email from Paula Vennells to the Post Office Board dated 21 June 2012, 'News Coverage' ("Subpostmasters have claimed the Horizon system caused errors, resulting in them being falsely accused and/or convicted of fraud"); **POL00117096**, Email from Jane Hill to Paula Vennells dated 2 February 2015, 'addendum and key facts'; attaching **POL00117097**, 'ADDENDUM TO Q&A', p.2 ("Transaction data in branch accounts can't be changed remotely... No functionality in Horizon for PO or Fujitsu to edit, manipulate or remove transaction data once it has been recorded in a branch's accounts... If pushed: Stress again that there is no remote access that enables branch transaction data to be edited, changed or manipulated... If injection of new transaction in a branch's account is raised: There is functionality to add transactions – this is the Balancing Transaction Process and would only be used in the event of an error that cannot be corrected by a TA [Transaction Acknowledgement] or TC [Transaction Correction]").

⁵¹ **POL00141531**, Email chain dated 22 May 2013 to 3 June 2013, 'Branch database – support team changes'; **POL00296795**, Email chain dated 28 June 2013, 'Q16919737 Summary report Receipts/Payments mismatch', p.1; **INQ00001148**, Transcript, 16 May 2024, p.90, ln.2-p.97, ln.7 (Ms Lesley Sewell).

⁵² **INQ00002021**, Minutes titled 'Conf Call with SC, AI and IRH re Paula Briefing', dated 22 May 2013; **WITN00220100**, First Witness Statement of Susan Crichton, dated 30 January 2024, §35 ("In respect of post separation discussions at Executive Meetings regarding the issues outlined above [...], I recall Horizon, BEDs, alleged integrity issues with Horizon, and possibly sub-post masters [...] balancing branch accounts, being discussed").

Davies,⁵³ Alisdair Cameron,⁵⁴ Chris Aujard,⁵⁵ Patrick Bourke,⁵⁶ and Angela van den Bogerd.⁵⁷

42. It is fair to observe that, right from the publication of the first *Computer Weekly* article in 2009, Post Office's approach was one of institutional defensiveness and denial in respect of concerns raised about the integrity of the Horizon IT System and the safety of convictions which Post Office pursued. That was a consistent position throughout the Inquiry's relevant period. It is particularly reflected in Post Office's engagement with Government and Members of Parliament as they sought to investigate repeated concerns raised by constituents, the approach to the review conducted by Second Sight, and the public-facing 'lines' adopted in response to escalating media criticism.
43. Fujitsu recognises that, at times, it also was defensive in respect of the Horizon IT System. Fujitsu deeply regrets that it ever took this posture, and that it ever acquiesced to, or assisted in, such a posture being advanced by Post Office.

3.1 Post Office's relationship with Government / Members of Parliament

44. The evidence in Phases 5, 6 and 7 explored Post Office's relationship with Government in considerable detail, including the manner in which senior Post Office representatives briefed Government officials and Members of Parliament on matters relating to the integrity of the Horizon IT System and Post Office led prosecutions. Plainly, that evidence raised concerns regarding the sufficiency and accuracy of information provided to Government officials and Members of Parliament. On the basis that Fujitsu has no involvement in the relationship or

⁵³ **INQ00001146**, Transcript, 14 May 2024, p.138, ln.11-p.173, ln.15 (Mr Mark Davies); **WITN09860100**, First Witness Statement of Mark Davies, dated 10 April 2024, §§18-19 ("*Issues relating to Horizon were addressed regularly at Board and Executive level*") and §84 ("*[W]e recognised that Horizon, like all computer systems, was not perfect. This was a long-standing position*").

⁵⁴ **WITN09840100**, First Witness Statement of Alisdair Cameron, dated 18 April 2024, §405 ("*In July 2016, Paula Vennells asked myself and Rob Houghton for a report into the Dalmellington Error bug which was an issue raised in a blog by Tim McCormack.*" [referring to **POL00029993**]). Mr Cameron was copied in exchanges with SPMs in which issues were raised, see: **POL00244301**, Email chain dated 26 July 2016 to 1 September 2016, 'Missing euros/potential system issue'; **POL00174666**, Letter from Nisha Kaur to Paula Vennells dated 22 June 2017; **POL00163587**, Email chain dated 18 April 2019 to 21 May 2019, 'MP enquiry'.

⁵⁵ **WITN00030100**, First Witness Statement of Christopher Aujard, dated 15 March 2024, §94.1 ("*I can see there were two issues mentioned as known bugs or defects [in the Second Sight Interim Report] (which had been fixed) so I must have been aware of those at the time*").

⁵⁶ **INQ00001147**, Transcript, 15 May 2024, p.24, ln.17-p.26, ln.3 (Mr Patrick Bourke) (in respect of remote access) and p.36, ln.1-p.37, ln.11 (Mr Patrick Bourke) (in respect of BEDs).

⁵⁷ **INQ00001136**, Transcript, 25 April 2024, p.125, ln.2-p.126, ln.7 (Ms Angela van den Bogerd) ("*[W]e've looked already [...] at the December 2010 email, by which email you were notified of the receipts and payments mismatch bug*", albeit Ms van den Bogerd maintains she does not "*recall seeing this at all*"); **WITN09900100**, First Witness Statement of Angela van den Bogerd, dated 20 March 2024, §29 ("*The first time I recall becoming formally aware of any bugs, errors or defects in the Horizon IT system [...] was when POL disclosed to Second Sight two anomalies*").

interactions between Post Office and Government, Fujitsu does not propose to make detailed submissions on this issue, which will no doubt be the subject of careful consideration by the Inquiry.

3.2 Second Sight

45. Fujitsu makes four over-arching submissions in relation to the investigations by Second Sight:

45.1. The investigations by Second Sight were a significant opportunity for concerns regarding the integrity of the Horizon IT System to be exposed. It represented the only independent investigation of the Horizon IT System during the Inquiry's relevant period which had sufficient access to: (i) the sort of detailed technical information required to identify BEDs in the Horizon IT System; and (ii) information on Post Office led prosecutions, sufficient to identify the kinds of serious miscarriages of justice at the heart of this Inquiry.

45.2. The Second Sight investigations also significantly went beyond simply looking at the Horizon IT System and importantly sought to understand in a more holistic way what was at the root of the concerns raised by SPMs. It looked at Post Office's business processes and contracts with SPMs, training, helpdesk, investigations, amongst other matters, all of which were clearly flagged as potential failings.⁵⁸

45.3. The evidence suggests that, on the whole, interactions between Second Sight and Fujitsu were mediated by Post Office.⁵⁹ Second Sight did, however, have some direct interactions with Mr Jenkins (one in-person meeting in September 2012 and, thereafter, by email).⁶⁰ Ian Henderson described Mr Jenkins as being "*very open*" in relation to issues of remote access.⁶¹ Mr Henderson's view was that Mr Jenkins was a "*technical expert*", who "*didn't strike [him] as a company person or feeling that he had to stick to a particular party line*,

⁵⁸ While significant attention has, rightly, been given to the findings of the 8 July 2013 Interim Report (and Post Office's response to them), the later Second Sight reports flagged to Post Office numerous further failings and concerns. For example, **POL00021791**, 'Initial Complaint Review and Mediation Scheme Briefing Report – Part Two', dated 9 April 2015, flagged: (i) the unfairness of the contract between SPMs and Post Office and the transfer of accounting risk to postmasters (pp.6-7); (ii) problems with ATMs and their ability to cause shortfalls (p.14); (iii) foreign currency transactions (p.20); (iv) National Lottery (p.21); (v) delays in the issuance of Post Office Transaction Corrections (p.28); and (vi) the lack of information and data available to enable SPMs to investigate and resolve discrepancies (pp.28-30). The findings of Second Sight are consistent with the Detica Report (**POL00004408**) commissioned by Post Office in 2013, which was widely disseminated amongst Post Office's senior managers in October 2013, including Lesley Sewell, Dave Pardoe, Chris Aujard, Chris Day, Rod Ismay, Hugh Flemington, Angela van den Bogerd and Gayle Peacock (**POL00342987**).

⁵⁹ **WITN00420100**, First Witness Statement of Ian Henderson, dated 20 May 2024, §154 ("*I only had one meeting with Fujitsu [...] I then had some limited email contact with Gareth Jenkins*"); **INQ00001162**, Transcript, 18 June 2024, p.64, ln.16-ln.19 (Mr Ian Henderson).

⁶⁰ **WITN00420100**, First Witness Statement of Ian Henderson, dated 20 May 2024, §§43, 154.

⁶¹ **INQ00001162**, Transcript, 18 June 2024, p.71, ln.8-ln.19 (Mr Ian Henderson).

in terms of supporting Fujitsu".⁶² Mr Henderson specifically denied that Mr Jenkins was *"taking the defensive position that the Post Office was"*.⁶³ That is consistent with what Mr Henderson told Ron Warmington of his interactions with Mr Jenkins.⁶⁴

45.4. In relation to Mr Jenkins' dealings with Post Office in the context of Second Sight's investigations, the evidence of Simon Baker, then Head of Programmes and Planning at Post Office and a key liaison during Second Sight's work, mirrored that of Second Sight. Mr Baker described his discussions with Mr Jenkins as *"formal, helpful, transparent, and technical"*.⁶⁵

46. For the avoidance of doubt, there is no merit in the suggestion that Fujitsu withheld information from Second Sight or minimised the prevalence of BEDs in the Horizon IT System in its interactions with Second Sight. Any such submission would be contrary to the evidence directly from Mr Henderson, Mr Warmington and Mr Baker.

3.3 The Simon Clarke Advice and post-conviction disclosure

47. The Inquiry may well consider that a particularly significant vignette in relation to the conduct of Post Office led prosecutions is the reaction to the Clarke Advice, which concerned the use of expert evidence relating to the integrity of the Horizon IT System.⁶⁶

48. Fujitsu is grateful to the Chair for inviting submissions from Core Participants in relation to the duty of post-conviction disclosure as described in the decision of the Supreme Court in *Nunn, R (on the application of) v Chief Constable of Suffolk Constabulary* [2015] AC 225.⁶⁷ Fujitsu agrees with the Chair's provisional view that, since at least 1 January 2000, prosecutors have been under a duty to disclose any material to a convicted defendant which might cast doubt upon the safety of the conviction.

49. The evidence in Phases 5 and 6 of the Inquiry concerning the handling of the Clarke Advice by Post Office and its external legal advisors was startling. Beyond the obvious issues concerning evidence provided by Mr Jenkins, the Clarke Advice raised fundamental issues and risks regarding Post Office's conduct of prosecutions, and its non-compliance with the duties of a

⁶² INQ00001162, Transcript, 18 June 2024, p.82, ln.14-ln.20 (Mr Ian Henderson).

⁶³ INQ00001162, Transcript, 18 June 2024, p.82, ln.21-p.83, ln.5 (Mr Ian Henderson).

⁶⁴ WITN01050100, First Witness Statement of Ronald Warmington, dated 20 May 2024, §104.

⁶⁵ WITN04730100, First Witness Statement of Simon Baker, dated 25 October 2024, §64.

⁶⁶ POL00006357, 'Advice on the use of Expert Evidence relating to the integrity of the Fijitsu [sic] Services Ltd Horizon System', dated 15 July 2013.

⁶⁷ INQ00002034, Statement by the Chair relating to Written Closing Submissions, dated 13 November 2024.

prosecutor. Those fundamental issues were made known to key members of Post Office's Executive. Significantly, Post Office's receipt of the Clarke Advice closely coincided with the publication of Second Sight's Interim Report on 8 July 2013 ("**Second Sight Interim Report**"), which raised issues concerning the Horizon IT System, Post Office's poor treatment of SPMs and inadequacies in its investigations function. The Inquiry may well conclude that the handling of the Clarke Advice by Post Office executives was a pivotal moment in Post Office's response to the public concerns regarding the Horizon IT System and its wrongful prosecution of SPMs. The Inquiry may well also conclude that the handling of the Clarke Advice by the lawyers who were aware of its content demonstrated a potential failure by those lawyers, both internal and external, to comply with their professional duties, including duties of independence and to the Court.⁶⁸

⁶⁸ See for example: **POL00155555**, Rodric Williams' handwritten note of a meeting with Martin Smith of Cartwright King, dated 2 September 2013, p.1 ("*Don't think [Mr Jenkins has] ever been advised of his duties*"); **INQ00001132**, Transcript, 18 April 2024, p.170, ln.8-p.171, ln.13 (Mr Rodric Williams); **INQ00001138**, Transcript, 30 April 2024, p.109, ln.22-p.110, ln.4 (Mr Hugh Flemington); **INQ00001139**, Transcript, 1 May 2024, p.21, ln.23-p.22, ln.12 (Mr Harry Bowyer); **INQ00001143**, Transcript, 8 May 2024, p.23, ln.22-p.24, ln.1 (Mr Brian Altman KC); **INQ00001141**, Transcript, 3 May 2024, p.77, ln.15-p.88, ln.9 (Mr Jarnail Singh).

PART 4. The group litigation: *Bates & ors v Post Office Limited*

50. The Inquiry has been rightly concerned to identify what went wrong in the conduct of the *Bates & ors v Post Office Limited* group litigation.
51. At the outset, Fujitsu makes one over-arching observation: Fujitsu was not party to the group litigation. It follows that Fujitsu did not: (i) participate in those proceedings by way of adducing evidence and submissions on its own behalf; (ii) control the conduct of the proceedings by Post Office, including in relation to disclosure and witness evidence; or (iii) have disclosure obligations of its own in connection with the proceedings. It is right to say that some Fujitsu employees provided information and support to Post Office in connection with the group litigation, and that some Fujitsu employees provided evidence in support of Post Office in those proceedings. Fujitsu recognises that Fraser J made a number of criticisms of the conduct of Fujitsu (and of its employees), particularly in the *Horizon Issues Judgment*. However, it is right to note that those criticisms were, with respect, made without the benefit of evidence or submissions on behalf of Fujitsu in the proceedings.
52. **Post Office advanced a number of positions in defence of the group litigation which were obviously inconsistent with information which was known, or ought reasonably to have been known, by Post Office at that time.** Crucially, a number of the positions advanced by Post Office in the group litigation appear inconsistent with information available to senior members of the Post Office legal team at the relevant time. By way of illustration, Post Office averred that the Horizon IT System was “robust”.⁶⁹ Fujitsu has already set out at §§30-31, above, why that term is problematic and apt to mislead. In any event, it is clear that the pleading required *significant* qualification, based upon information which was known to Post Office at the relevant time (see the **Annex**, below).
53. **Post Office continued to rely significantly upon information provided by Mr Jenkins in the group litigation,⁷⁰ at a time when Post Office had concluded that Mr Jenkins was ‘tainted’**

⁶⁹ **POL00113328**, Post Office’s Written Opening Submissions: Horizon Issues Trial, §19 (“*The evidence shows that Horizon is a robust system which works at least as well as any comparable system*”).

⁷⁰ See, for example, **WITN00460400**, Fourth Witness Statement of Gareth Jenkins, dated 29 April 2024, §181 (“*I worked collaboratively with (then) current employees of Fujitsu, in particular John Simpkins, Steve Parker and Torstein Godeseth (as well as others on occasion such as Alan Holmes, Mark Wright and Gareth Seemungal) to provide technical information to POL and its lawyers, Womble Bond Dickinson (WBD). We gave this technical information in relation to those parts of the expert and witness evidence which WBD asked us to assist with*”; see further **INQ00001166**, Transcript, 25 June 2024, p.13, ln.4-8 and p.14, ln.25-p.15, ln.10 (Mr Gareth Jenkins) (Regarding his engagement in the group litigation, Mr Jenkins states (i) he was working “*probably an average of about one to two days a week, for a period of about five or six months*”, and (ii) in 2018 to 2019, he recalls doing preparation work for what he now realises was the group litigation).

as an expert witness.⁷¹ That was not appropriate (at least, without clear disclosure of that fact, and the basis of Post Office’s concerns). Further, in the group litigation, Post Office continued to conceal the concerns expressed by Mr Clarke regarding Mr Jenkins. The Inquiry has heard how the decision not to call Mr Jenkins as a witness was made when Post Office’s external legal team was informed that he “*was not a reliable witness*” as he had “*given misleading evidence*” in past cases.⁷² However, the reason underlying this decision, that Mr Jenkins “*had said things and not said things in criminal proceedings which would have undermined his credibility as a witness*”, was not communicated to the Court or the Claimants.⁷³ Fujitsu had no role in the decision not to call Mr Jenkins nor in determining what the Court was told as to the reason for that decision.

54. **Post Office adopted a particularly aggressive litigation strategy, in connection with the group litigation.** The advice provided by Womble Bond Dickinson in September 2017 was that a strategy of “*attrition*” was a legitimate one, the hallmark of which was to “*stretch out the litigation process to increase costs in the hope that the Claimants, and more particularly their litigation funder, decide that it is too costly to pursue the litigation and give up*”.⁷⁴ This was followed by advice in November 2018 that “*tactically, the best options for PO are (i) to force the Cs to burn money*”.⁷⁵
55. In March 2019, Post Office pursued its, ultimately unsuccessful, application for Fraser J to recuse himself on the basis of advice from Lord Grabiner and Lord Neuberger. This was despite a lack of enthusiasm within (i) the Post Office Board⁷⁶, and (ii) the Department for Business, Energy & Industrial Strategy (“**BEIS**”), regarding the application. In particular, BEIS deemed the application “*unlikely to succeed and too likely to aggravate the situation and prolong the litigation process*”.⁷⁷ According to Sir Alex Chisholm, the application “*was the wrong move strategically and presentationally, as well as on the substance*” and it risked “*positioning POL in public as aggressive and in denial about its shortcomings (which impression would be consistent with the judge’s findings to date)*”.⁷⁸

⁷¹ **POL00006357**, ‘Advice on the Use of Expert Evidence Relating to the Integrity of the Fijitsu [sic] Services Ltd Horizon System’, dated 15 July 2013, §38 (“*Dr. Jenkins credibility as an expert witness is fatally undermined; he should not be asked to provide expert evidence in any current or future prosecution*”).

⁷² **INQ00001158**, Transcript, 11 June 2024, p.72, ln.6-ln.19 (Mr Anthony de Garr Robinson KC).

⁷³ **INQ00001158**, Transcript, 11 June 2024, p.78, ln.20-p.79, ln.24 and p.134, ln.10-p.136, ln.8 (Mr Anthony de Garr Robinson KC).

⁷⁴ **POL00006379**, Steering Group Meeting note, ‘Litigation Strategy Options’, dated 11 September 2017, p.3.

⁷⁵ **POL00006379**, Steering Group Meeting note, ‘Litigation Strategy Options’, dated 11 September 2017; **POL00111290**, Email chain dated 1 November 2018 to 2 November 2018, ‘May 2019’, p.5.

⁷⁶ **BEIS0001147**, Email chain dated 19 March 2019, ‘Update on Horizon Issues Trial – Post Office Group Litigation – Subject to legal privilege – Do not forward’, p.2 (“*feedback from the recent POL board call on this topic is that the board are not enthusiastic about this application but feel there is no option given the legal advice received*”).

⁷⁷ **WITN00180100**, First Witness Statement of Sir Alex Chisholm, dated 14 October 2024, §152.

⁷⁸ *Ibid*, §153.

56. Post Office’s conduct was criticised by Fraser J in *Bates & ors v Post Office Limited (No 3: Common Issues)* [2019] EWHC 606 (QB) (the “*Common Issues Judgment*”). Such criticisms included that:

56.1. Post Office’s actions in relation to at least one Claimant during the early stages of the litigation “*could potentially be construed as threatening, oppressive, and potentially discouraging to other potential Claimants to become involved in the litigation, whether by accident or design*” and that “*the Post Office continued to act in a highly regrettable fashion*”.⁷⁹

56.2. In relation to Post Office’s approach to the preservation and disclosure of relevant documents to the same Claimant, “*This would be a worrying position were it to be adopted by any litigant; the Post Office is an organisation responsible for providing a public service, which in my judgment makes it even worse*”.⁸⁰

56.3. There was a “*culture of excessive secrecy at the Post Office about the whole subject matter of this litigation. They are directly contrary to how the Post Office should be conducting itself*”.⁸¹

56.4. “*Post Office in particular has resisted timely resolution of this Group Litigation whenever it can*” and that “*I do not intend to allow this litigation to become wholly bogged down with considerable costs rising on both sides, whether that approach is a specific one being sought for forensic reasons, or an unintended side effect*”.⁸²

56.5. Attempts were made by Post Office to “*put the court in terrorem*” by “*threatening dire consequences to national business should their case not be preferred*”.⁸³

57. Post Office’s litigation strategy has been equally criticised by those working at BEIS at the relevant time. By way of example, Sir Alex Chisholm, then Permanent Secretary to BEIS, described Post Office’s conduct of the group litigation as having “*exposed historic failings in POL’s dealing with SPMs and POL’s complacency in preparing for and reacting to the adverse judgment*”.⁸⁴

⁷⁹ **FUJ00200281**, Common Issues Judgment, §517.

⁸⁰ *Ibid*, §523.

⁸¹ *Ibid*, §561.

⁸² *Ibid*, §§14-15.

⁸³ *Ibid*, §30.

⁸⁴ **WITN00180100**, First Witness Statement of Sir Alex Chisholm, dated 14 October 2024, §196.

58. **Post Office and its legal advisors used legal professional privilege to cease the implementation of Jonathan Swift QC's (as he then was) recommendations.** In or around June and July 2016, Post Office sought legal advice, which was designed to provide cover to a decision to bring to an immediate end the work being undertaken in relation to the recommendations set out in the report prepared by Mr Jonathan Swift QC (as he then was) and Mr Christopher Knight earlier that year (the “**Swift Review**”), and instead to address these recommendations “*under the aegis of the litigation*”.⁸⁵ By way of summary of the relevant timeline:

58.1. On 8 June 2024, Andrew Parsons of Womble Bond Dickinson stated in an email to Anthony de Garr Robinson KC that “*Tim Parker, POL's chairman, feels that he has made a commitment to Baroness Neville Rolfe (Minister at BIS) to follow through on the [Swift] recommendations unless he is presented with a persuasive case not to do so. POL are therefore looking to us (and quite frankly you with your magic QC seal!) to give them some reasons for Tim completing the [Swift] recommendations would be ill-advised*”. Mr Parsons suggested reasons why Mr Parker should not continue work on the recommendations in the Swift Review, including that “*there is a greater risk that this work is not privileged [...]. It would be much safer for these investigations to be conducted as part of the litigation*”. Mr Parsons further noted “*I'm conscious that this feels somewhat unpleasant in that we are being asked to provide political cover for [Mr Parker]*”.⁸⁶

58.2. On 10 June 2016, Jane MacLeod (then-General Counsel of Post Office) stated in an email to Mr Parker that “*we met with [Mr de Garr Robinson KC] last night to discuss the Postmaster Litigation*” and that “*His strong advice was that the work being undertaken under the aegis of your review should not continue in light of the litigation. However, he also recommended that the subject matter of that work should continue provided it is re-scoped and re-instructed for the purposes of the litigation*”.⁸⁷

58.3. A letter from Mr Parsons to Post Office dated 21 June 2016 referred to Mr de Garr Robinson KC's “*very strong advice*” that “*Mr Parker's review should cease immediately. Given the overlap of issues between Mr Parker's review and the Group Action, Mr Robinson advised that it would still be prudent for Post Office to implement the 4th, 5th, 6th*

⁸⁵ **POL00006600**, Email chain dated 24 May to 26 July 2016, ‘Post Office Limited – Update and Request for Further Advice’; **POL00168551**, Email chain dated 27 May to 10 June 2016, ‘Chairman's Review – Confidential and Subject to legal privilege’, p.1; **POL00243170**, Email chain dated 11 to 12 July 2016, ‘Sparrow – speaking notes for Chairman's meeting with BNR’, p.1.

⁸⁶ **POL00242402**, Email chain dated 8 June 2016, ‘Jonathan Swift recommendations’, p.4.

⁸⁷ **POL00168551**, Email chain dated 27 May to 10 June 2016, ‘Chairman's review – CONFIDENTIAL AND SUBJECT TO LEGAL PRIVILEGE’, p.1.

*and 8th recommendations of Mr Swift to the extent that these were required to advance Post Office's case in the Group Action and as appropriately adapted to meet the needs of the litigation. This work should however be instructed and overseen exclusively by Post Office's legal team [...] so to maximise the prospect of asserting privilege over this work and protect against the risk that material related to these actions could be disclosed to the Claimants in the Group Action, undermining Post Office's prospects of success and/or negotiating position".*⁸⁸ Mr de Garr Robinson KC accepted in oral evidence to the Inquiry that the advice recorded in this letter (to take the recommendations forward insofar as they advanced Post Office's case) differed from that set out in his emails with Mr Parsons dated 8 June 2016.⁸⁹

59. **Post Office and its legal advisors took a restrictive approach to disclosure in the group litigation.** In relation to Post Office's approach to its disclosure duties in the group litigation, Post Office was advised by Womble Bond Dickinson to withhold its Investigations Guidelines from disclosure "*until such time as we sense the criticism is becoming serious*". No objection to this approach was mounted by Post Office's internal lawyers.⁹⁰
60. In a draft Post Office Board update dated 19 October 2019 regarding the disclosure of new KELs to the Claimants, Mr Williams wrote that:⁹¹
 - 60.1. "*In relation to the other KELs not used at the trial (i.e. the majority of the c.14,000 new KELs), the key risk of reviewing these is that the Claimants have not yet asked for the documents so by reviewing them now we are doing the Claimants' work for them*".
 - 60.2. "*The legal advice therefore is that we should not review the 14,000 other KELs unless the Claimants ask for them*".
 - 60.3. "*The best way to mitigate the risk of generating adverse/disclosable documents through an audit is to keep it focussed on Fujitsu's litigation support provided to date, with any operational audit to follow once the litigation has been resolved and its associated disclosure duties concluded*".

⁸⁸ **POL00006601**, Letter from Bond Dickinson to Post Office Limited dated 21 June 2016, p.2.

⁸⁹ **INQ00001158**, Transcript, 11 June 2024, p.58, ln.18-p.64, ln.10 (Anthony de Garr Robinson KC).

⁹⁰ **WBON0000467**, Email chain dated 5 October 2016, 'Disclosure of Security Investigations Guidelines', p.2; **INQ00001132**, Transcript, 18 April 2024, p.66, ln.21-p.68, ln.6 (Mr Rodric Williams).

⁹¹ **POL00043169**, Email chain dated 19 to 24 October 2019, 'KEL documents', p.5.

61. Mr Williams accepted in oral evidence that the suggested approach set out in his Board update was that Post Office “*shouldn’t look at documents that might contain adverse material because we might have to disclose them; instead, let’s wait until the litigation is over and our duties of disclosure have ceased to arise*” and that this was “*a way to mitigate risk*”.⁹²
62. **Notwithstanding that Fujitsu was not a party to the group litigation, it accepts that it did not properly support its staff who engaged directly with Post Office and its lawyers in respect of the group litigation.** These roles again fell outside of Fujitsu’s usual work as an IT services provider. With this context, there are examples where, at times, Fujitsu could have exercised additional rigour when supporting these individuals in their engagement with Post Office and its legal advisors during the group litigation. These examples include:
- 62.1. Matthew Lenton, Document Manager at Fujitsu, accepted in oral evidence that with hindsight he did not think there was much oversight by Fujitsu in the processes he was carrying out. He stated that, with advice, oversight and more resource, there would have been the capacity for greater information gathering “*to be sure that we had all of the information that was available*”.⁹³
- 62.2. Peter Newsome, Account Manager in the Post Office Account, noted in his statement to the Inquiry that the information and records provided by Fujitsu to Post Office in respect of remote access functionality in Legacy Horizon was not adequate. Mr Newsome considered that the error in this case was relying on documentation, as opposed to asking members of the support teams about their knowledge.⁹⁴
- 62.3. In the context of the late disclosure of KELs, Mr Newsome and Mr Lenton recognised that the statement in Post Office’s electronic disclosure questionnaire,⁹⁵ that previous entries / versions of the current KEL entries were no longer available, was incorrect.⁹⁶ Mr Newsome acknowledges that the contents of Post Office’s electronic disclosure questionnaire should have been checked with subject matter experts before comments were provided to Womble Bond Dickinson.⁹⁷

⁹² INQ00001132, Transcript, 18 April 2024, p.71, ln.23-p.80, ln.16 (Mr Rodric Williams).

⁹³ INQ00001159, Transcript, 12 June 2024, p.186, ln.9-ln.23, p.187, ln.5-p.188, ln.14 (Mr Matthew Lenton).

⁹⁴ WITN04580100, First Witness Statement of Peter Newsome, dated 12 November 2024, §88.

⁹⁵ FUJ00158119, ‘Appendix D, Databases of Electronic Documents’ (undated), p.1.

⁹⁶ WITN00530100, First Witness Statement of Matthew Lenton, dated 14 May 2024, §78; WITN04580100, First Witness Statement of Peter Newsome, dated 12 November 2024, §72-73.

⁹⁷ WITN04580100, First Witness Statement of Peter Newsome, dated 12 November 2024, §73.

PART 5. Governance

63. Phases 6 and 7 of the Inquiry have rightly considered the extent to which relevant governance failings contributed to, or exacerbated, the matters at issue in this Inquiry. It is clear that there were a number of relevant governance failings. In these submissions, Fujitsu addresses: (i) governance failings by ShEx / DTI (i.e. by Government); (ii) governance failings by Post Office; and (iii) governance failings by Fujitsu. As is made clear at 5.3, below, Fujitsu candidly accepts that the evidence discloses its own share of governance failings.

5.1 Governance failings by ShEx / DTI

64. It would be open to the Inquiry to conclude, on the evidence now available, that Government *consistently* failed properly to oversee and manage the affairs of Post Office. There were a number of significant missed opportunities in the oversight of Post Office by ShEx / DTI, and an overall surprising lack of curiosity by those in Government responsible for the management of the affairs of Post Office. In particular:
65. It would appear that the maintenance of a rigid distinction between ‘operational’ and ‘strategic’ issues appears to have insulated Post Office’s IT and prosecution functions from oversight by ShEx / DTI for much of the Inquiry’s relevant period. That is surprising:
- 65.1. On one level, it may be doubted that problems with the integrity of the Horizon IT System (in particular, together with Post Office’s systemised prosecution function) are properly characterised as ‘operational’ matters. Post Office’s private prosecution function was a highly unusual part of Post Office’s business – and one which carried unique and substantial risks to Post Office and to Government.⁹⁸ Indeed, certain ShEx witnesses specifically recognised the strategic significance of Post Office’s prosecution function – not least because of its potential for significant impacts upon third parties (i.e. SPMs).⁹⁹

⁹⁸ **WITN11260100**, First Witness statement of Michael Whitehead, dated 17 October 2024, §§27, 29 (“*For the avoidance of doubt, I do not consider that it was the role of ShEx to oversee or monitor the conduct of prosecutions at an operational level, as this was the responsibility of the Post Office. Our interest in SPM prosecutions arose from our overarching requirement to ensure that the appropriate governance structures to manage such activities were in place, as well as the need to seek information in relation to specific cases as a result of correspondence to Ministers from MPs, direct representations by SPMs, or, later, approaches by the JFSA.*” Further, Mr Whitehead quotes Stephen Byers MP’s speech to Parliament dated 8 July 1999 (**RLIT0000219**) (“*although the Government will set out clear objectives for the Post Office, they will not be involved in the day to day business operations: In line with this policy statement, the stance taken by ShEx and the Department was that complaints relating to the Horizon IT system were operational matters for the Post Office*”).

⁹⁹ **WITN11000100**, First Witness Statement of Patrick O’Sullivan, dated 12 June 2024, §31.3.

65.2. Even when issues concerning the Horizon IT System *were* identified as a risk, the evidence suggests that the nature of that risk was persistently downplayed.¹⁰⁰

66. Nonetheless, issues concerning the integrity of data produced by the Horizon IT System, and the propriety of Post Office led prosecutions, were consistently brought to the attention of officials within ShEx / DTI during the Inquiry's relevant period. By way of illustration:

66.1. From as early as 2011/12, ShEx were liaising with Post Office regarding responses to growing public concerns regarding the integrity of the Horizon IT System.¹⁰¹ A 27 June 2012 briefing note prepared by Mike Whitehead of ShEx for a meeting with the Justice for Sub-Postmasters Alliance, while noting that "*the concerns raised by JFSA relate to operational and contractual matters for POL*", nonetheless plainly lent ShEx support to Post Office's "*view ... that the system is fully robust*".¹⁰²

66.2. From 2012, Post Office provided ShEx with routine updates concerning the progress of cases against SPMs, and circumstances in which challenges to the integrity of the Horizon IT System had been raised.¹⁰³

66.3. ShEx were also provided with regular updates concerning the progress of the Second Sight investigation.¹⁰⁴ On 8 July 2013, the Second Sight Interim Report was published.¹⁰⁵ That report confirmed, amongst other things, that two BEDs had led to errors in branch accounts (in addition to, amongst other things, failings in training, helpdesk, root cause analysis and

¹⁰⁰ **WITN00920100**, First Witness Statement of Susannah Storey, dated 23 May 2024, §§22, 215 ("*it is now clear to me [...] that the POL executive had significantly more information than was provided to the Board in a number of important respects*"). Ms Storey further describes the POL Executive as having a "*defensive and closed mindset*"; **WITN00920100**, First Witness Statement of Susannah Storey, dated 23 May 2024, §70 ("*throughout the entirety of my tenure as Shareholder NED the consistent and unequivocal message given to the Board by the POL executive was that it had complete confidence in the accuracy, integrity and robustness of the Horizon system*"); **WITN10930100**, First Witness Statement of Kelly Tolhurst, dated 19 June 2024, §§30, 103 ("*I did find that [POL] were sometimes difficult about what information they would volunteer. There was never a refusal to provide information if it was requested, but I did feel that details were not always forthcoming in a proactive way*"; "*information flow was an ongoing issue in respect of which I never saw much progress*").

¹⁰¹ **UKGI00001482**, Correspondence involving Post Office and ShEx employees dating from 2011 to 2012.

¹⁰² **UKGI00000065**, Briefing for Norman Lamb from Mike Whitehead, 'Meeting with Alan Bates: Chairman of Justice for SubPostmasters Alliance (JFSA)', dated 27 June 2012, pp.2, 8.

¹⁰³ **POL00295498**, 'Paula Vennells - Brief for meeting with Will Gibson August 2012'; **POL00406673**, Email chain dated 26 July 2012 to 7 August 2012, 'Priti Patel MP'; **POL00406694**, Email from Mike Granville to Mike Whitehead dated 17 August 2012, 'Cases in confidence'; **UKGI00001445**, Email from Mike Whitehead to Martin Humphreys and Mike Granville dated 31 August 2012, (no subject); **POL00099141**, Email chain dated 9 July 2013, 'Second Sight report – follow up to Friday'.

¹⁰⁴ **POL00167917**, Email chain dated 28 June 2013 to 1 July 2013, 'PO/BIS meeting on Second Sight investigation', p.1.

¹⁰⁵ **POL00004406**, Second Sight Interim Report, dated 8 July 2013.

investigations). At least a summary of that report was made available to ShEx at around the time of its publication.¹⁰⁶ ShEx officials told the Inquiry that they did not, at the time, appreciate the significance of Second Sight's conclusions (including as to the integrity of the Horizon IT System).¹⁰⁷ Such an oversight raises real concerns as to the sufficiency of ShEx risk management.

67. However:

67.1. It would appear that there was also a failure of information sharing *within* ShEx / DTI such that, although relevant information (for example, concerning matters relevant to the integrity of the Horizon IT System) were known to some ShEx / DTI officials, they were not appropriately escalated to the ShEx / DTI Boards, or to Ministers. By way of illustration, Patrick O'Sullivan (Chair of the ShEx Board at a critical period from March 2012 to September 2014) provided the Inquiry with an extensive list of matters not ultimately raised by officials with the ShEx Board, including the existence of BEDs in the Horizon IT System, the 'Helen Rose Report', the Second Sight Interim Report, the Clarke Advice, the Deloitte 'Project Zebra' report, etc.¹⁰⁸ The Inquiry may well conclude that this reflected a significant breakdown in oversight arrangements. Sir Stephen Lovegrove's assessment is to similar effect: "*It appears that information did not flow as it should have done, so that those charged with overseeing the governance of POL, starting with officers in POL itself, were unaware of the risk, or even in some instances that POL was responsible for prosecuting sub-postmasters using Horizon data*".¹⁰⁹

67.2. Further, the Inquiry may well conclude that ShEx / DTI failed to recognise those matters as reflective of a *systemic* problem within Post Office.¹¹⁰ That is, they were treated as

¹⁰⁶ **INQ00001171**, Transcript, 9 July 2024, p.84, ln.14-ln.22 (Mr Mark Russell).

¹⁰⁷ **INQ00001171**, Transcript, 9 July 2024, p.85, ln.8-ln.24 (Mr Mark Russell).

¹⁰⁸ **WITN11000100**, First Witness Statement of Patrick O'Sullivan, dated 12 June 2024, §§45-46.

¹⁰⁹ **WITN11010100**, First Witness Statement of Sir Stephen Lovegrove, dated 14 June 2024, §54.

¹¹⁰ See, for example: **INQ00001171**, Transcript, 9 July 2024, p. 98, ln.13-ln.24 and p.111, ln.16-ln.17 (Mr Mark Russell) ("*[W]e had no idea of the scale of what was going on here*") and (Q. "*Can you help with why the Shareholder Executive and UKGI did not have more scepticism and curiosity at the time?*") A. "*I mean, this is clearly a hindsight point and you crawl over the [...] indications that we could have latched on to, and I don't have any easy explanation as to why we didn't latch on to them, other than they, at the time, didn't appear significant, profound*"; **INQ00001173**, Transcript, 12 July 2024, p.54, ln.5-ln.12 (Mr Richard Callard) ("*[T]he position I understood, as I came into the role, was that there was no systemic failures, given there's probably a discussion about what that really means, and then there were two known bugs.*"); **INQ00001174**, Transcript, 15 July 2024, p.71, ln.24-p.72, ln.7 (Sir Stephen Lovegrove) ("*It's catching this when it became clear that there was a systemic problem should have been done earlier.*"); **WITN11010100**, First Witness Statement of Sir Stephen Lovegrove, dated 14 June 2024, §89 ("*[I]t seems that at the time the officials in question, having sought assurances from POL and the NFSP, did not perceive fully the possibility of failings of the system or the magnitude of the issue*").

isolated incidents, to be managed and responded to on an individual basis.¹¹¹ Sir Stephen (rightly) accepted that the failure by ShEx to identify, (i) the risk of errors in the Horizon IT System, and (ii) risks associated with Post Office investigations and prosecutions, on ShEx's risk register was a significant oversight.¹¹²

67.3. In any event, the Inquiry may well conclude that ShEx / DTI failed to respond appropriately to those concerns.¹¹³ It may be that, as a number of ShEx witnesses suggested,¹¹⁴ officials simply failed to appreciate the *significance* of the issues brought to their attention (in the context of other, broader, concerns regarding the operations of the Post Office). However, the inescapable conclusion from the chronology set out at §66 above, is that there were a number of significant missed opportunities.

68. The Inquiry may well conclude that the evidence in Phase 6 demonstrated a striking divergence in expectations between, on the one hand, ShEx / DTI officials and, on the other hand, relevant Ministers, concerning the role which was to be performed by ShEx / DTI in respect of arm's length bodies such as Post Office:

68.1. In his evidence, Mr O'Sullivan was emphatic in stating that it was "*not ShEx's role to second guess ... what the POL Board was doing*", and that he was not concerned that ShEx

¹¹¹ See, for example: **INQ00001173**, Transcript, 12 July 2024, p.181, ln.18-ln.23 and p.185, ln.23-p. 186, ln.8 (Mr Richard Callard) ("*I wasn't really concerned about systemic failures in that sense because I thought, well, a very sensible way to look for problems with the system is to -- rather than look top-down is to look at the things that people are saying, and investigate those individually*") and ("*[T]o my mind, those instances where it might be just single one-off were being investigated and, if there was a problem, I hoped, with the combination of Post Office and then Second Sight looking at it, that that error would be found.*"; **WITN00920100**, First Witness Statement of Susannah Storey, dated 23 May 2024, §§87-88 ("*Although I cannot now recall exactly what I understood by this list of 11 criminal cases, I expect my assumption would have been that potential offences had been identified by POL, reported to the police, and that prosecutions had followed in the usual way.*").

¹¹² **WITN11010100**, First Witness Statement of Sir Stephen Lovegrove, dated 12 June 2024, §53.

¹¹³ See, for example: **UKGI00005914**, ShEx Dashboard, dated September 2015, p. 3 ("*'Governance – Top Priorities' [...] minimise POL exposure (financial and reputational) to Project Sparrow (Horizon IT system)*"; **WITN00200100**, First Witness Statement of Thomas Cooper, dated 13 June 2024, §279 ("*[M]y personal view is that at the outset of my tenure, the Department was not as engaged with POL matters as much as I would have liked*"; **WITN10800100**, First Witness Statement of Robert Swannell, dated 14 June 2024, §161 ("*[T]he the SPM actions and GLO could, perhaps should, have featured more clearly on the UKGI risk register earlier than January 2019*"; **WITN11000100**, First Witness Statement of Patrick O'Sullivan, dated 12 June 2024, §38 ("*Moreover, as is evident from these documents, the ShEx Team considered this was an operational issue for POL.*"; **INQ00001171**, Transcript, 9 July 2024, p.97, ln.21-ln.25 (Mr Mark Russell) ("*[W]hat would I have done differently? I think lots of things differently. I think I'd have escalated it to our Board, to -- I'd have had conversations within the Department, I'd have gone to see ministers. I think there's a variety of things I'd have done.*"; **INQ00001174**, Transcript, 15 July 2024, p.61, ln.10-p.62, ln.12 (Sir Stephen Lovegrove) ("*I think it is absolutely undeniable that this whole situation should have been on Shareholder Executive's risk register*").

¹¹⁴ See, for example, **INQ00001171**, Transcript, 9 July 2024, p.85, ln.8-ln.24 (Mr Mark Russell); **INQ00001171**, Transcript, 9 July 2024, p.141, ln.13-ln.18 and p.152, ln.3-ln.13 (Mr Robert Swannell); **INQ00001173**, Transcript, 12 July 2024, p.75, ln.10-p.76, ln.5; p.96, ln.7-ln.16; p.98, ln.13-ln.22 (Mr Richard Callard).

officials were providing “[t]he messaging from post Office”, because it was for the Post Office Board to “*determine the significance of these issues*” (i.e. to determine the ‘message’).¹¹⁵

68.2. That evidence stands in contrast to that of a number of relevant Ministers, who plainly expected ShEx to provide more robust scrutiny of the ‘messages’ provided by Post Office. For example, Pat McFadden’s evidence was that he “*relied on ShEx for briefings and, as with other policy areas, expected information on these matters to be true, accurate, and reliable*” (i.e. he relied upon ShEx to interrogate information provided by Post Office).¹¹⁶ Margot James was clear in her criticisms of the quality of the information provided by ShEx: “*With hindsight I feel that I was not properly or adequately briefed by UKGI on the scope of the issues pertaining to Horizon*”.¹¹⁷ Further, Kelly Tolhurst expressed concerns that Tom Cooper of ShEx had “*gone native*” and “*lost his independence from POL and was not providing effective challenge or scrutiny*”, such that she “[*lost*] confidence in Mr Cooper”.¹¹⁸

69. It is clear that successive relevant Ministers were aware of concerns regarding the integrity of the Horizon IT System, and many relevant Ministers were also aware of the potentially serious implications of those concerns for the conduct of Post Office prosecutions.¹¹⁹ Indeed, many relevant Ministers had become aware of such issues *initially* as constituency matters affecting their own constituents, or those of their colleagues.¹²⁰ Concerningly, however, there is evidence that, in some circumstances, Post Office and/or ShEx / DTI officials *frustrated*, rather than *facilitated* effective oversight of Post Office by Ministers. In particular:

¹¹⁵ **INQ00001172**, Transcript, 10 July 2024, p.186, ln.19-p.190, ln.6 (Mr Patrick O’Sullivan).

¹¹⁶ **WITN10250100**, First Witness Statement of Pat McFadden, dated 20 June 2024, §35. See, to similar effect, **WITN10910100**, First Witness Statement of Margot James, dated 26 June 2024, §§24-26 (“*I relied on officials for objective and honest advice*”).

¹¹⁷ **WITN10910100**, First Witness Statement of Margot James, dated 26 June 2024, §§76-77.

¹¹⁸ **WITN10930100**, First Witness Statement of Kelly Tolhurst, dated 19 June 2024, §§89, 102.

¹¹⁹ See, for example: **WITN10250100**, First Witness Statement of Pat McFadden, dated 20 June 2024, §§42-79; **POL00027890**, Letter from Robert Porteous to Alan Cook dated 30 April 2009; **UKGI00018266**, Briefing note ‘HORIZON LITIGATION UPDATE (CONTAINS LEGALLY PRIVILEGED MATERIAL RELATING TO POL)’, dated 10 August 2018; **WITN10930100**, First Witness Statement of Kelly Tolhurst, dated 19 June 2024, §§14-25; **UKGI00023171**, Email chain dated 2 May 2019 to 8 May 2019, ‘Official-Sensitive: Letter from Alan Bates on the Post Office Litigation Judgment & CWU lobbying’; **UKGI00016119**, Letter from Alan Bates to Edward Davey dated 20 May 2010; **UKGI00002524**, Letter from Margaret Dauncey to Jo Swinson dated 14 October 2014, p.1; **POL00072892**, Letter from Lee Castleton to Christopher Knight dated 6 December 2004.

¹²⁰ **WITN10910100**, First Witness Statement of Margot James, dated 26 June 2024, §71; **POL00072892**, Letter from Lee Castleton to Christopher Knight dated 6 December 2004; **WITN10250102**, Letter from Jacqui Smith to Pat McFadden dated 9 January 2009; **UKGI00016119**, Letter from Alan Bates to Ed Davey dated 20 May 2010; **UKGI00002524**, Letter from Margaret Dauncey to Jo Swinson dated 14 October 2014; **POL00232847**, Letter from Greg Clark to Paula Vennells dated 27 March 2015, p.1.

69.1. Ms Tolhurst expressed the view that Post Office were “sometimes difficult about what information they would volunteer. There was never a refusal to provide information if it was requested, but I did feel that details were not always forthcoming in a proactive way”, and considered that “information flow was an ongoing issue in respect of which I never saw much progress”.¹²¹ Ms Tolhurst raised those concerns with Post Office at the relevant time.¹²² Ms Tolhurst’s experience is plainly reflected in that of other Ministers: see Ms James¹²³ and Jo Swinson.¹²⁴

69.2. A particularly striking example which emerged in the evidence before the Inquiry was in ShEx’s response to the *Common Issues Judgment*. Greg Clark’s evidence was that, as Secretary of State, he regarded the *Common Issues Judgment* as “seminal”, not least because it made clear Fraser J’s conclusion that “the Post Office had behaved disreputably ... and to the considerable detriment of the claimants”.¹²⁵ Mr Clark arranged a meeting the following day (a Saturday morning) with officials, during which Mr Clark said that he was “pretty emphatic” that his “objective [was] to see justice done”.¹²⁶ Nonetheless, the evidence establishes that the “emphatic” views of Ministers were, at the intervention of ShEx, not communicated to the Post Office Board.¹²⁷ In his evidence to the Inquiry, Mr Clark’s assessment of this episode was frank: “I thought it was outrageous that UKGI contrived to keep the unambiguous view of ministers from the Post Office Board ... I thought [Mr Cooper of UKGI’s statement that he had ‘no intention of engineering’ a situation where the Minister could object to a recusal application regarding Fraser J] was wrong and appalling”.¹²⁸ The Inquiry may well take the same view.

¹²¹ **WITN10930100**, First Witness Statement of Kelly Tolhurst, dated 19 June 2024, §§30, 103.

¹²² **UKGI00010232**, Letter from Alisdair Cameron to Kelly Tolhurst dated 4 June 2019, p.3; **UKGI00015887**, UKGI Shareholder Risk Register, tab 2, row 56.

¹²³ **WITN10910100**, First Witness Statement of Margot James, dated 26 June 2024, §49 (“I formed an impression that Horizon was the last thing that the POL Board or CEO ever wanted to discuss, that they would never bring it up pro-actively and, if I asked questions about it, they were reluctant to speak about it in detail. To begin with, I simply put this down to it being a difficult issue which was subject to ongoing litigation, but as time went on and as I started to get a number of letters from MPs raising complaints from SPMs in their constituencies, and some letters from SPMs themselves which contained accounts of their personal experience of Horizon which was at odds with the minimal details disclosed to me by the CEO of the POL. I started to feel that there might be more to the Horizon issues than I was being told”). See also: **INQ00001180**, Transcript, 24 July 2024, p.44, ln.3-19 and p.56, ln.2-5 (Ms Margot James) (Ms James notes that POL provided her “selective briefing[s]”).

¹²⁴ **INQ00001178**, Transcript, 19 July 2024, p.63, ln.12-p.64, ln.10 (Ms Jo Swinson).

¹²⁵ **INQ00001181**, Transcript, 25 July 2024, p.149, ln.5-p.150, ln.10 (Mr Greg Clark).

¹²⁶ **INQ00001181**, Transcript, 25 July 2024, p.150, ln.24-p.154, ln.20 (Mr Greg Clark).

¹²⁷ **UKGI00009296**, Email chain dated 19 March 2019, ‘Official Sensitive: Post Office Litigation Update’, p.3; **UKGI00009308**, Email chain dated 17 March 2019 to 20 March 2019, ‘Recusal CONFIDENTIAL AND SUBJECT TO LEGAL PRIVILEGE’, pp.1-5.

¹²⁸ **INQ00001181**, Transcript, 25 July 2024, p.158, ln.4-p.165, ln.13 (Mr Greg Clark).

69.3. In March 2019, also following the *Common Issues Judgment*, Post Office input into a draft ‘Dear Colleagues’ letter concerning the implications of Fraser J’s judgment, which had the effect of “*water[ing] down the sentiment held by me and the Secretary of State*”. Ms Tolhurst considered this to be reflective of Post Office “*not really accepting the [judgment] is so bad*”.¹²⁹

5.2 Governance failings by Post Office

70. The Inquiry has heard considerable evidence of serious governance failures within Post Office. It is clear beyond argument that those governance failures contributed to the significant miscarriages of justice which are the subject of this Inquiry. For example, there is evidence of a problematic culture within Post Office, which was inherently hostile to SPMs, which did not take seriously concerns raised by SPMs, and which was inappropriately defensive of Post Office and the Horizon IT System. A number of witnesses described that toxic culture:

70.1. The evidence of Jane Hill, Post Office’s Head of Public Affairs from 2013 to 2020, was that she found the communication strategy employed by Post Office with Lord Arbuthnot and other Members of Parliament raising concerns about the Horizon IT System “*to be very robust and defensive*”.¹³⁰ Ms Hill recalls that the “*strategy was to demonstrate what the mediation scheme was doing and what it was designed to achieve rather than engage in the suggestion that the SPMs had been treated unfairly or that there was a flaw in the Horizon system*”.¹³¹

70.2. Robert Swannell’s evidence was that, in around 2019, Post Office’s culture was “*shocking*” – a “*closed, defensive culture*”, which was “*toxic*”.¹³²

70.3. In his 19 November 2020 ‘What Went Wrong? A Draft for Discussion’ document, Mr Cameron described Post Office as having “*maintained an unacceptable relationship with Postmasters that was self-serving, based on an imbalance of power and information and a skewed contract*”.¹³³ Mr Cameron’s view was that (i) Post Office’s “*culture, self-absorbed and defensive, stopped [Post Office] from dealing with Postmasters in a straightforward and acceptable way*”, and (ii) Post Office’s problems with SPMs “*were cultural before they were contractual*”.¹³⁴

¹²⁹ WITN10930100, First Witness Statement of Kelly Tolhurst, dated 19 June 2024, §§65-69.

¹³⁰ WITN10680100, First Witness Statement of Jane Hill, dated 24 October 2024, §§20-21.

¹³¹ WITN10680100, First Witness Statement of Jane Hill, dated 24 October 2024, §21.

¹³² INQ00001171, Transcript, 9 July 2024, p.138, ln.23-p.139, ln.13 (Mr Robert Swannell).

¹³³ POL00175235, ‘What Went Wrong? A Draft for Discussion’, dated 19 November 2020, p.1.

¹³⁴ *Ibid*, pp.1-2.

70.4. Henry Staunton considered that Post Office had “*an issue with regard to cultures and how poorly postmasters were viewed by the organisation*”.¹³⁵

70.5. The SPM Non-Executive Directors on the Post Office Board, Mr Saf Ismail and Mr Elliot Jacobs recorded, as recently as January 2024, that Post Office had a culture that “*Post Masters are not to be trusted*”, that those SPMs who had not come forward to have their convictions overturned were “*guilty as charged*”, and that there was a ‘mantra’ that “*all [SPMs] are on the take*”.¹³⁶ Notably, Mr Staunton’s evidence was that he “*totally agreed*” with the cultural issues identified by Mr Ismail and Mr Jacobs.¹³⁷

71. Further, there is evidence of a concerning failure by senior staff within Post Office to share serious concerns regarding the Horizon IT System, and the propriety of Post Office’s prosecution of SPMs, with the Post Office Board. By way of illustration:

71.1. In September 2011 (during her first month on the Post Office Board), Alice Perkins attended a meeting with Angus Grant, the Ernst & Young partner responsible for the Post Office audit account. That was a meeting without any Post Office executives present. Ms Perkins’ hand-written note of that meeting¹³⁸ makes clear that Mr Grant told Ms Perkins that: (i) in contractual negotiations with Fujitsu, Post Office “*drove a very hard bargain on price*” which had compromised “*quality/assurance*”; (ii) that “*Horizon ... is a real risk for us*” – with issues including “*Does it capture data accurately*” and “*Cases of fraud – suspects suggest it’s a systems problem*”. Ms Perkins inevitably accepted in evidence that this was a “*very significant piece of information to receive*”.¹³⁹ There is no evidence that Ms Perkins communicated that “*very significant*” information to any person (whether any Post Office executive, any other member of the Post Office Board, or anyone in Government).¹⁴⁰ That is totally incomprehensible. More surprisingly, there is no evidence that these “*very significant*” disclosures from Ernst & Young informed Ms Perkins’ conduct in relation to the emerging public scandal (in which Ms Perkins played a critical role in shaping Post Office’s response) in any respect whatsoever. Again, that is (at minimum) a significant governance failure.

¹³⁵ INQ00001189, Transcript, 1 October 2024, p.33, ln.11-ln.12 (Mr Henry Staunton).

¹³⁶ POL00448302, Email chain dated 14 January 2024 to 15 January 2024, ‘Project Pineapple’, pp.2-5.

¹³⁷ INQ00001189, Transcript, 1 October 2024, p.107, ln.5 (Mr Henry Staunton).

¹³⁸ WITN00740122, Manuscript of Alice Perkins’ notebook, dated 27 September 2011.

¹³⁹ INQ00001156, Transcript, 5 June 2024, p.13, ln.20-ln.23 (Ms Alice Perkins).

¹⁴⁰ INQ00001156, Transcript, 5 June 2024, p.22, ln.14 (Ms Alice Perkins) (Ms Perkins’ evidence was that she “*simply [doesn’t] remember*” whether she communicated that “*very significant*” information to any other person. In circumstances where (i) there is no documentary evidence that Ms Perkins did so; and (ii) there is no witness who attested to having been provided that information by Ms Perkins – the Inquiry is invited to conclude that she did not do so).

- 71.2. In February 2016, when then-Chair of the Post Office Board, Mr Parker, received the Swift Review, a decision was taken not to share that report with the Board. Mr Parker's evidence was that he received advice from then-General Counsel, Ms MacLeod, the effect of which he understood to be that he should not brief the Board on the contents of the Swift Review on grounds of legal professional privilege.¹⁴¹ Ms MacLeod disputes that evidence.¹⁴² In the event, the critical point (from a governance and culture perspective) would seem to be that the failure to disseminate the Swift Review more widely among senior Post Office leadership is a matter of real concern.
- 71.3. In other instances, information was plainly sanitised before being provided to the Post Office Board. As the Inquiry is aware, the report to the Board following the Second Sight Interim Report underwent a number of revisions – including amending a sentence which would have informed the Board that Post Office “*external lawyers have advised ... that they believe there will be around 5-10% of [convictions] which may be successfully overturned and the convictions quashed*”.¹⁴³ This was amended to suggest that lawyers believed “*there will be around 5% where they need to disclose the additional evidence*”.¹⁴⁴ Ms Crichton accepted that she “*must have*” made that amendment, and that it reflected a “*very significant difference*”, but denied that it had been “*intentionally watered down*” (despite the obvious inference arising from the terms of Ms Crichton's amendment).¹⁴⁵
72. Further, as Fujitsu has previously submitted,¹⁴⁶ there is evidence that information concerning BEDs within the Horizon IT System was ‘siloe’d’ within various Post Office teams – indicating a concerning lack of information sharing. That is, notwithstanding that information concerning BEDs was widely known within Post Office, it would also be open to the Inquiry to conclude that, (i) organisational silos within Post Office contributed to a failure by certain staff within Post Office to consider that BEDs in the Horizon IT System were capable of producing transaction errors and impacting upon branch accounts, and (ii) significantly, there was a routine failure by Post Office staff (particularly within the investigations team) to share internally important information concerning integrity issues identified in the Horizon IT System with their

¹⁴¹ **INQ00001170**, Transcript, 3 July 2024, p.78, ln.8-ln.19 (Mr Tim Parker).

¹⁴² **WITN10010100**, First Witness Statement of Jane MacLeod, dated 30 April 2024, §184.

¹⁴³ **POL00191681**, Update to Post Office Board, ‘Update following the publication of the Interim Report on Horizon’, dated 10 July 2013, p.2.

¹⁴⁴ **POL00145428**, Update to Post Office Board, ‘Update following the publication of the Interim Report on Horizon’, dated 12 July 2013, p.4.

¹⁴⁵ **INQ00001134**, Transcript, 23 April 2024, p.109, ln.9-ln.25 (Ms Susan Crichton).

¹⁴⁶ **SUBS0000025**, Phase Three Closing Submissions on behalf of Fujitsu Services Limited, §§10, 18.2, 31.4; **SUBS0000026**, Phase Four Closing Submissions on behalf of Fujitsu Services Limited, §23.

colleagues.¹⁴⁷ That was a critical missed opportunity.

5.3 Governance failings by Fujitsu

73. Fujitsu recognises that the evidence concerning governance issues received by the Inquiry in Phases 5, 6 and 7 was predominantly given by current and former employees of Post Office and Government. Nonetheless, Fujitsu has reflected upon, and candidly accepts its own governance failings. In particular:

73.1. Fujitsu failed properly to consider whether its contractual prosecution support obligations were consistent with Fujitsu's fundamental corporate values. That is, in agreeing to support Post Office in its conduct of criminal investigations and prosecutions, Fujitsu's leadership failed to critically assess whether the provision of such support was consistent with Fujitsu's corporate values. As above, the contractual prosecution support obligations were atypical for Fujitsu, and certainly well outside the typical work of Fujitsu technical staff.

73.2. As Fujitsu has acknowledged at §39 above, it failed properly to support those engaged in the provision of prosecution support (and, in particular, those engaged in providing witness evidence in support of Post Office proceedings).

73.3. As Fujitsu has acknowledged at §43 above, Fujitsu deeply regrets that, at times, it adopted a position which was defensive in relation to the Horizon IT System and that its senior management were insufficiently interventionist.

73.4. As acknowledged in its Phase 4 Closing Submissions, Fujitsu failed to act on Mrs Chambers' 'Afterthoughts' memo, which identified a number of important shortcomings in respect of her instruction as a witness in the *POL v Castleton* case. These included the following: (i) Mrs Chambers was asked to liaise directly with solicitors to the Post Office, rather than such conduct being 'mediated' by Fujitsu's own legal team; (ii) Mrs Chambers was repeatedly assured that a court attendance would not be necessary, which assurances "*proved to be unfounded*"; (iii) the initial analysis which Mrs Chambers performed involved no "*technical review of the Horizon evidence*"; and (iv) Mrs Chambers was

¹⁴⁷ See, for example: **WITN05850100**, First Witness Statement of Davyd Nash, dated 16 August 2024, §§34-36. Mr Nash recalls an incident in 2015 where he emailed a Post Office operational team about an issue that he believed (at the time) could have led to branches being potentially "*flagged up as committing fraud*" due to the SPM making an inadvertent error on the Horizon IT System. Ms Van Den Bogerd was forwarded this email and according to Mr Nash "*[Ms Van Den Bogerd] informed us that we must stop sending emails related to this and commit nothing in writing until we had discussed it with her [...] and the explanation from Angela Van Den Bogerd was that this could affect cases of ex-postmasters who had been caught committing fraud, and who were now looking for an excuse to 'get off' – and this issue might have given them that 'excuse'.*"

surprised that she “*found [herself] being treated as an **expert** witness and answering a wide variety of questions about the system, although nominally [she] was a **witness of fact***”. Fujitsu accepts that Mrs Chambers’ identification of these shortcomings involved properly justified criticisms of Fujitsu. Fujitsu also accepts that following Mrs Chambers’ identification of those shortcomings, Fujitsu failed to implement sufficiently robust mechanisms to support its employees in the provision of witness evidence in Post Office cases. Fujitsu deeply regrets that missed opportunity.

PART 6. Lessons learned

74. The public rightly expect those involved in the matters addressed in this Inquiry to have learned appropriate lessons, so as to safeguard relevant technological, human, and governance systems and ensure that this appalling miscarriage of justice can never be repeated. With that in mind, Fujitsu addresses three important topics: (i) Ongoing criminal investigations and prosecutions; (ii) NBIT; and (iii) Fujitsu's own remediation efforts.
75. Fujitsu was concerned by the results of the YouGov Survey commissioned by the Inquiry to capture the experience of current SPMs using the Horizon IT System today.¹⁴⁸ Of particular note to Fujitsu was the finding that 92% of the SPMs who responded to the survey had experienced issues with the Horizon IT System over the course of the last 12 months, with 57% having experienced unexplained discrepancies during that time. As stated by Paul Patterson in his evidence to the Inquiry, there are any number of reasons why these discrepancies are continuing to occur, including as a result of issues in aspects of the Horizon IT System that are managed and maintained by third parties other than Fujitsu. All such aspects of the Horizon IT System, as well as Post Office business processes relating to balancing and accounting, need to be investigated in order for a comprehensive explanation to be provided as to the cause of these discrepancies.¹⁴⁹
76. One important topic which Fujitsu does not address in this Part 6 is financial redress and compensation. Fujitsu recognises the importance of that topic to affected SPMs and their families. Fujitsu will engage with Government on contribution to the Government's compensation costs. The timing of this engagement will commence once this Inquiry has published its findings.

6.1 Ongoing criminal investigations and prosecutions

77. In the course of Phase 7, the Inquiry explored with a number of witnesses issues regarding *ongoing* and *future* criminal investigations and prosecutions involving Post Office. Post Office's renewed interest in criminal investigations and prosecutions appears driven by a perceived need within Post Office (i) for a deterrent,¹⁵⁰ and (ii) to recover apparent shortfalls.¹⁵¹ A significant

¹⁴⁸ **EXPG0000007**, Report produced by YouGov on behalf of the Inquiry, dated September 2024.

¹⁴⁹ **INQ00001205**, Transcript, 11 November 2024, p.179, ln.9-p.180, ln.2 and p.201, ln.22-p.202, ln.3 (Mr Paul Patterson).

¹⁵⁰ See, for example, **BEIS0000789**, Minutes of a Post Office Quarterly Shareholder Meeting on 10 January 2023 attended by representatives from Post Office, BEIS and ShEx, p.4: "*It was noted as not a good time to prosecute postmasters due to the current historical cases, but this is seeing a rapid rise in losses for POL*". See also **POL00448354**, Post Office Limited Group Executive Report, dated 6 July 2022, §2.4; **POL00448320**, Post Office Limited Board Report, dated 27 September 2022, §2.4.

¹⁵¹ This perceived need is longstanding at Post Office, see, for example, **POL00158391**, 'Cash Shortages Held in Suspense Account Discussion document HoA Workshop - 30 January 2002', pp.1-2: "*...in the event of the postmaster refusing to make any shortages good. [sic] One recourse in these situations would be to take the*

focus of that evidence (and, regrettably, a source of confusion in the Phase 7 evidence) was on the nature of assistance, if any, which Fujitsu had provided, or was willing to provide, in support of such investigations. This is a significant issue because, according to a Post Office paper entitled ‘passing material to law enforcement’ dated 26 June 2024, at that time there were “22 police forces requesting or awaiting Horizon-based evidence across 33 police investigations”.¹⁵² Moreover, Post Office’s engagement with ongoing law enforcement investigations raises real questions as to the extent to which lessons have been learned regarding the matters which have been the subject of this Inquiry.

78. To date, Fujitsu has been contacted by only four police forces in relation to four cases.¹⁵³ Fujitsu does not know why it has not been contacted by the other police forces, or in connection with the other investigations.

79. Fujitsu’s position regarding ongoing and future criminal prosecutions has remained consistent since its declared position in its 16 June 2020 letter to the BEIS Select Committee that it will provide information to the police or other appropriate judicial authorities (see §79.3 below). That is consistent with the explanation provided by Mr Patterson in his evidence to the Inquiry.¹⁵⁴ Further:

79.1. Fujitsu has offered,¹⁵⁵ and will continue to offer, full cooperation to any police force conducting an investigation into potential criminal wrongdoing in connection with Post Office branches. Fujitsu will also, where appropriate and necessary, cooperate with police forces in the preparation of factual witness statements to address matters relevant to those criminal investigations.

postmaster to court - but on the many cases we have tested - we are very short of the evidence that would be required. Further, the document notes that “*With tremendous effort in Territories and BSM the shortages were brought back to acceptable levels at the Year End (£3.6M)*”. Fujitsu observes that this acceptable level of shortages mirrors exactly the number provided by Mr Bartlett during his evidence to the Inquiry when asked what the current figure is: “*if you take it as not what could be recovered by the total value of potential loss, is [sic] about 3.6 million*” (INQ00001198, Transcript, 17 October 2024, p.85, ln.11-ln.15 (Mr John Bartlett)).

¹⁵² POL00448345, Post Office SEG Report, ‘Passing of material to law enforcement’, dated 26 June 2024, p.2; INQ00001194, Transcript, 10 October 2024, p.13, ln.12-p.14, ln.11 (Mr Nick Read) (in his evidence to the Inquiry, Mr Read noted that the volume of such cases had come as a “surprise” to him and his colleagues and had caused some “discomfort”).

¹⁵³ FUJ00243168, Email chain dated 7 February 2024 to 22 May 2024, ‘City of London Police’; FUJ00243329, Email chain dated 23 May 2024 to 11 September 2024, ‘Police Scotland Enquiry [OFFICIAL]’; FUJ00243181, Email chain dated 30 May 2024 to 31 May 2024, ‘Post Office Fraud Investigation’; FUJ00243191, Email chain dated 30 April 2024 to 24 July 2024, ‘Evidence required from Fujitsu’.

¹⁵⁴ INQ00001205, Transcript, 11 November 2024, p.207, ln.7-p.209, ln.17 (Mr Paul Patterson).

¹⁵⁵ FUJ00243303, Letter from Fujitsu to City of London Police dated 23 August 2024; FUJ00243307, Letter from Fujitsu to Sussex Police dated 26 August 2024; FUJ00243312, Letter from Fujitsu to Police Scotland (South Highland Criminal Investigations Department) dated 26 August 2024; FUJ00243315, Letter from Fujitsu to Lancashire Constabulary dated 28 August 2024.

79.2. Fujitsu is, however, determined not to repeat mistakes of the past, which have been so starkly revealed by this Inquiry. In this context: **(i)** Fujitsu is acutely aware that it is not in a position to offer *independent* expert opinion, from any employee, regarding the operation of the Horizon IT System; **(ii)** Fujitsu is also aware of the need to make full and appropriate disclosure regarding its knowledge of BEDs in the Horizon IT System (including the potential for unknown, undiscovered, and unresolved BEDs affecting the live system, particularly as it ages without further investment) and the existence of substantive remote access; and **(iii)** Fujitsu is also mindful that a consistent theme of the evidence before the Inquiry was the error, in producing evidence for criminal proceedings arising from Horizon IT System data, of focussing overly narrowly on whether there is *specific evidence* of a BED affecting a particular branch at a particular time, as compared to the *potential for* BEDs (including unknown BEDs) within the network more broadly, and is eager that police forces do not repeat the same error (i.e. by asking Fujitsu to provide evidence *limited to* a particular branch).

79.3. As explained in Fujitsu’s 16 June 2020 letter to Darren Jones MP, Chair of the BEIS Strategy Committee,¹⁵⁶ Fujitsu “*will not provide witness evidence in the future to support Post Office led prosecutions of sub-postmasters*”.¹⁵⁷ That reflects a decision, taken by Fujitsu, on the basis of real concerns as to the probity and integrity of Post Office’s investigation and internal prosecution functions – not least those demonstrated clearly in the evidence before the Inquiry. However, Fujitsu’s position does not, in reality, present any impediment to criminal investigations because, in his letter to Mr Patterson dated 30 May 2024, Nick Read confirmed that “*Post Office is not now - and will not be in the future - undertaking any prosecutions against postmasters or any third parties as the prosecuting body*”, and that such criminal investigations or prosecutions are pursued instead “*by independent third parties, such as the Police or the Crown Prosecution Service*”.¹⁵⁸ As above, Fujitsu will continue to cooperate with investigations conducted by police forces.

80. Having made its position clear to the Inquiry, Fujitsu turns to address the relevant correspondence.

¹⁵⁶ **POL00112955**, Letter from Rob Putland to Darren Jones MP dated 16 June 2020. The letter was sent following the criticisms in Fraser J’s Common Issues Judgment (**FUJ00200281**) and Horizon Issues Judgment (**AMCL0000013**), but before the criticisms made by the Court of Appeal (Criminal Division) in *Post Office v Hamilton & ors*. Fujitsu’s position is only fortified by the conclusions in the latter judgment.

¹⁵⁷ **POL00112955**, Letter from Rob Putland to Darren Jones MP dated 16 June 2020, p.4.

¹⁵⁸ **FUJ00243201**, Letter from Nick Read to Paul Patterson dated 30 May 2024, p.2.

81. It is important to understand the breadth of the requests which have been made of Fujitsu to date. Fujitsu plainly is not in a position to provide independent expert opinion, from any employee, regarding the operation of the Horizon IT System. Put shortly: no Fujitsu employee could possibly give an *independent* opinion concerning the operation of the system, consistently with the duties of an expert now enumerated in Criminal Procedure Rules 2020, r 19.2. Evidence is ‘opinion evidence’ where it expresses an inference drawn from perceived facts.¹⁵⁹ Evidence that ‘Horizon was working properly’ (generally, or at a particular branch) is opinion evidence – because it involves an inference (‘Horizon was working properly’) drawn from facts (evidence of known BEDs, evidence of systems for the identification and rectification BEDs, evidence as to the use of remote access, transaction data, etc.). Moreover, it is *expert* opinion evidence, because it requires particular technical qualifications and training for an individual properly to draw such an inference. However, that is precisely the evidence which a number of police forces have requested of Fujitsu. By way of illustration:

81.1. On 7 February 2024, City of London Police asked Fujitsu to provide “*a statement regarding the reliability if [sic] the current version of Horizon*”.¹⁶⁰

81.2. On 23 May 2024, Police Scotland asked Fujitsu for “*input from someone suitable at Fujitsu to explain in layman’s terms why the data from the current or recent version of Horizon can be relied upon in contrast to it’s [sic] predecessors. (In light of the ongoing enquiry [sic], any prosecution that involves data from Horizon is going to need an extra strand or two of evidence to give confidence that it can be relied upon. In the current climate, it would be to [sic] easy for the defence to muddy the waters and claim Horizon cannot be trusted without some robust evidence that this is not the same system that lies at the centre of the controversy, and COPFS might need some extra reassurance that it is safe to proceed with a case)*”.¹⁶¹

81.3. On 30 May 2024, Sussex Police asked Fujitsu “*to provide a statement attesting to the reliability and trustworthiness of the new Horizon system (post 2015)*”.¹⁶²

81.4. On 7 June 2024, Lancashire Constabulary asked Fujitsu for “*a formal signed statement / report in an evidential format which shows why you believe the Horizon system in place at [redacted] was reporting correctly...*”.¹⁶³

¹⁵⁹ RLIT0000495, *May on Criminal Evidence* (6th ed, 2015), §6-01.

¹⁶⁰ FUJ00243168, Email chain dated 7 February 2024 to 22 May 2024, ‘City of London Police’, p.8.

¹⁶¹ FUJ00243329, Email chain dated 23 May 2024 to 11 September 2024, ‘Police Scotland Enquiry’.

¹⁶² FUJ00243181, Email chain dated 30 May 2024 to 31 May 2024, ‘Post Office Fraud Investigation’, p.4.

¹⁶³ FUJ00243191, Email chain dated 30 April 2024 to 24 July 2024, ‘Evidence required from Fujitsu’, p.3.

82. Fujitsu has explained – both to Post Office, and to the relevant police forces – why it is unable to comply with a request for expert opinion evidence (while reiterating its willingness to cooperate with the production of, e.g., factual material). In particular:

82.1. In a letter to Mr Read on 8 July 2024, Mr Patterson explained that “[a] witness statement from FSL attesting to the reliability of the system and of data from it in criminal proceedings would amount to expert opinion evidence. FSL is incapable of providing expert opinion evidence as it is neither independent nor has it sufficient information to provide such an opinion”.¹⁶⁴ A position repeated by Mr Patterson in his meeting with Owen Woodley on 18 July 2024¹⁶⁵ and in Fujitsu’s Fifth Corporate Statement.¹⁶⁶

82.2. That position was ostensibly accepted by Post Office in Mr Woodley’s letter to Mr Patterson on 23 July 2024¹⁶⁷ and by Mr Read when he gave evidence to the Inquiry on 9 October 2024, who had anticipated that relevant police forces would engage with Fujitsu “on very specific issues”, and that he did not consider a “blanket expert statement was necessarily what we were trying to achieve”.¹⁶⁸ John Bartlett in his evidence to the Inquiry also understood Fujitsu to have been asked by relevant police forces to provide “evidence of particular transactions at particular times, and that’s it, together with a description of their Control Framework”.¹⁶⁹

82.3. Plainly, the quotes set out at §81 above demonstrate that Mr Read and Mr Bartlett were mistaken – the relevant requests received by Fujitsu from the police forces were not “on very specific issues”, nor were they requests for “evidence of particular transactions at particular times, and that’s it”. Rather, they were plainly (and often *in terms*) requests for opinion evidence, which Fujitsu is simply not in a position to provide.

83. Fujitsu has become particularly concerned by some of the correspondence it has reviewed between Post Office and the relevant police forces.

¹⁶⁴ **FUJ00243204**, Letter from Paul Patterson to Nick Read dated 8 July 2024, p.1.

¹⁶⁵ **FUJ00243206**, Email from Paul Patterson to Chris Breen, Daniel Walton and others dated 19 July 2024, ‘Notes from Owen Woodley/Neil Brockenhurst 18 July 2024’, p.1 (“To be clear Fujitsu will not provide expert witness statements and will only work when requested with the Police service”).

¹⁶⁶ **WITN06650500**, Fifth Corporate Statement of Fujitsu Services Limited, dated 23 September 2024, §65.1.

¹⁶⁷ **FUJ00243209**, Letter from Owen Woodley to Paul Patterson dated 23 July 2024.

¹⁶⁸ **INQ00001193**, Transcript, 9 October 2024, p.161, ln.22-p.162, ln.3 (Mr Nick Read).

¹⁶⁹ **INQ00001198**, Transcript, 17 October 2024, p.152, ln.5-ln.16 (Mr John Bartlett).

84. On 25 April 2024, Mr Bartlett (with input from Post Office in-house criminal counsel Stuart Lill) wrote to Lancashire Constabulary concerning a particular investigation which Lancashire Constabulary had decided not to progress to a charging decision.¹⁷⁰ Post Office (via Mr Bartlett) sought to encourage Lancashire Constabulary to review that decision. Several features of that letter are significant:

84.1. The impression given by Mr Bartlett’s analysis of Fraser J’s *Horizon Issues Judgment* is that the “*numerous bugs errors and defects affecting the Horizon system that were capable of generating unexplained shortfalls in branch accounts*” were confined to Horizon Online and HNG-X (and, by implication, do not affect the operation of the current broad phase of the Horizon IT System, HNG-A). Such an impression is not consistent with Fraser J’s finding (which was simply that HNG-A is “*far more robust*” – i.e., *comparatively* – than “*Horizon in earlier times*”). To be clear: Fujitsu would not stand by any analysis which suggested that HNG-A was ‘BED free’ – not least, because two of the BEDs in Fraser J’s ‘BED Table’ are recorded as having affected HNG-A. Fujitsu continues to identify and manage BEDs as part of its operational services.

84.2. Mr Bartlett asserts that “[i]f the defence were to challenge the reliability of Horizon data, which POL accepts is highly likely, the prosecution would be entitled to rely upon the findings of Fraser J and the CACD as set out above”. That assertion is, as a matter of law, obviously wrong. Mr Bartlett’s attempt to explain away his clear error of law was incoherent, and impossible to reconcile with the language used in Mr Bartlett’s own letter of 25 April 2024.¹⁷¹ In criminal proceedings, the common law rule known as the ‘rule in *Hollington v F Hewthorn & Co Ltd*’ means that a judgment or other decision by a court or tribunal is not admissible in subsequent proceedings as evidence of the truth of the decision, or of the grounds upon which it was made.¹⁷² Put shortly, in any future criminal proceedings, the prosecution (or, for that matter, the defence) would not, as a matter of law, be entitled to rely upon the factual findings in Fraser J’s *Horizon Issues Judgment* or in *Hamilton & ors*. The prosecution would be required to prove, by admissible evidence, the integrity of the Horizon IT System in each and every prosecution.

84.3. Mr Bartlett asserts that Post Office’s “*analysis report ... that reviews transactions conducted at the branch*” supports Post Office’s belief that “*Horizon was reporting correctly throughout the period in question*”. The evidence heard by this Inquiry in Phase 4

¹⁷⁰ **FUJ00243192**, Letter from John Bartlett to Lancashire Constabulary dated 25 April 2024.

¹⁷¹ **INQ00001198**, Transcript, 17 October 2024, p.131, ln.16-p.132, ln.17 (Mr John Bartlett).

¹⁷² See: **RLIT0000486**, *Hollington v F Hewthorn & Co Ltd* [1943] KB 587; **RLIT0000487**, *Rogers v Hoyle* [2015] QB 265. See further: **RLIT0000494**, *Phipson on Evidence* (20th ed, 2022), §43-77.

exposes why such a narrow approach – i.e. focusing solely on evidence from one particular branch at a specific point in time, and seeking to identify evidence of the impact of a BED – is apt to mislead. It should have been clear to Mr Bartlett that a wider investigation – capable of identifying *unknown*, *unidentified*, and *unrectified* BEDs, and of testing the strength of relevant controls and systems for identifying BEDs – would be required before any assessment that “*Horizon was reporting correctly throughout the period in question*” could possibly be appropriate.

85. There is no merit whatsoever to the suggestion (made principally by Mr Bartlett) that Fujitsu has been obstructive or uncooperative with police investigations. Fujitsu is surprised by that suggestion, which is plainly at odds with the evidence. Further, given the significant miscarriages of justice with which this Inquiry is concerned, a cautious approach in these cases is both reasonable and appropriate.
86. During August 2024, Fujitsu wrote to the four police forces which had sought assistance in relation to criminal investigations.¹⁷³ Those letters are entirely consistent with Fujitsu’s core approach, described above. That is, they are consistent with Fujitsu’s intention to offer full cooperation to any police force conducting an investigation into potential criminal wrongdoing in connection with Post Office branches. Equally, they are consistent with Fujitsu’s (hopefully, readily comprehensible) caution, in seeking in good faith to avoid any repetition of the serious mistakes of the past, which have led to the matters considered by this Inquiry.
87. The Inquiry has ample evidence of Fujitsu’s cooperative approach with police investigations.¹⁷⁴ The reality is that many of these investigations are, insofar as they involve engagement with Fujitsu, at a very early stage. Nonetheless, Fujitsu’s approach is entirely consistent with that described above.
88. In view of the foregoing matters, attempts by the A&CI Team, and in particular Mr Bartlett, to circumvent the scrutiny of the Post Office Board in relation to engagement with police forces appear all the more problematic.

¹⁷³ **FUJ00243303**, Letter from Fujitsu to City of London Police dated 23 August 2024; **FUJ00243307**, Letter from Fujitsu to Sussex Police dated 26 August 2024; **FUJ00243312**, Letter from Fujitsu to Police Scotland (South Highland Criminal Investigations Department) dated 26 August 2024; **FUJ00243315**, Letter from Fujitsu to Lancashire Constabulary dated 28 August 2024.

¹⁷⁴ **FUJ00243168**, Email chain dated 7 February 2024 to 22 May 2024, ‘City of London Police’; **FUJ00243329**, Email chain dated 23 May 2024 to 11 September 2024, ‘Police Scotland Enquiry’; **FUJ00243183**, Email chain dated 30 May 2024 to 5 June 2024, ‘Post Office Fraud Investigation’; **FUJ00243187**, Email chain dated 30 May to 27 June 2024, ‘Post Office Fraud Investigation’; **FUJ00243190**, Email chain dated 23 May 2024 to 12 July 2024, ‘Production Order’; **FUJ00243191**, Email chain dated 30 April 2024 to 24 July 2024, ‘Evidence required from Fujitsu’.

89. Post Office witnesses explained to the Inquiry that current policy requires approval from the Post Office Board before evidence can be provided to police forces to support the criminal investigation of SPMs.¹⁷⁵ There has been some debate during Phase 7 as to the appropriateness of such a policy, in relation to which Fujitsu does not comment.
90. During Phase 7, the Inquiry heard evidence from Mr Ismail, Rachel Scarrabelotti and Mr Read in relation to a proposed change to Post Office’s policy surrounding cooperation with law enforcement. In particular:
- 90.1. One of the papers tabled and noted by the Post Office Board during its meeting on 31 October 2023 related to a “*discussion of broader policy change*” in respect of the disclosure of evidence to relevant police forces. The action recorded in respect of this item was that “*it could be valuable for Postmasters to look at the policies and process[es] in place and perhaps for a mock case to be run under these*”. It was suggested that “*the Postmaster director could participate*” (the “**October 2023 Action**”).¹⁷⁶
- 90.2. During the Post Office Board meeting on 4 June 2024, it was noted by Mr Ismail that the October 2023 Action had been closed. Accordingly, Nigel Railton requested that “*J Bartlett attend the July Board meeting to clarify the proposed position*”.¹⁷⁷ When discussing this meeting with the Inquiry, Mr Ismail explained that his “*alarm bells were ringing*” when he saw the item had been closed. Mr Ismail’s view was that “*this created misinformation within the wider Executive, based on a decision that had not happened...*”.¹⁷⁸
- 90.3. On 26 June 2024, Mr Bartlett submitted to the Post Office Strategic Executive Group (“**Post Office SEG**”) the paper entitled ‘passing of material to law enforcement’, which proposed “*a streamlining of the governance of providing law enforcement with information*”.¹⁷⁹ In particular, the paper described the current involvement of the Post Office Board in the authorisation process as “*unnecessary*”, and suggested that approvals should instead be limited to, (i) the Director of the A&CI Team, Mr Bartlett, and, (ii) in-house criminal counsel, Mr Lill (i.e., the authors of the 25 April 2024 letter to Lancashire

¹⁷⁵ **POL00448313**, Post Office ‘Legal Playbook’ on ‘Cooperation with Law Enforcement and Addressing Suspected Criminal Misconduct’, dated 24 June 2020; **POL00447936**, Post Office Group Policy on ‘Cooperation with Law Enforcement Agencies and Addressing Suspected Criminal Misconduct’, dated 8 November 2021.

¹⁷⁶ **POL00458017**, Minutes of a Post Office Board Meeting on 31 October 2023, p.15.

¹⁷⁷ **POL00448648**, Minutes of a Post Office Board Meeting on 4 June 2024, p.3.

¹⁷⁸ **INQ00001186**, Transcript, 24 September 2024, p.35, ln.19-p.36, ln.3 (Mr Saf Ismail).

¹⁷⁹ **POL00448345**, Post Office SEG Report, ‘Passing of material to law enforcement’, dated 26 June 2024, p.1.

Constabulary). Post Office SEG declined to approve the submission of the paper to the Post Office Board.

90.4. In her evidence to the Inquiry, Ms Scarrabelotti confirmed that this matter was not resubmitted to the Post Office Board in July 2024, as stipulated by Mr Railton in June 2024, neither had the matter been resubmitted to the Board since.¹⁸⁰ It also appeared that the consultation stipulated in the October 2023 Action had not yet been carried out.¹⁸¹

91. The appropriateness of Post Office’s current policy in respect of Post Office’s cooperation with relevant police forces is a matter for the Inquiry. Fujitsu nevertheless observes that the actions outlined above, which have the effect of circumventing Post Office’s current governance processes and avoiding additional scrutiny by the Post Office Board, have been undertaken by the same team within Post Office that has been described in evidence before this Inquiry as the “*untouchables*”,¹⁸² and which (as above) have been responsible for some suspect communications with police forces in connection with ongoing investigations.

6.2 New Branch IT System

92. In its opening statement to the Inquiry on 4 October 2022, Post Office submitted that it had “*embarked upon an ambitious and accelerated large-scale effort to retire Horizon by 2025 and replace it with a new system*”.¹⁸³

93. Over the course of Phase 7, the Inquiry has received evidence concerning NBIT and the progress that has been made towards replacing the Horizon IT System. Increasingly, it has become clear that the NBIT programme has experienced prolonged delays and technical challenges. It has also become clear that Post Office is no closer to replacing the Horizon IT System as it was at the time of its opening statement in this Inquiry.

94. The Post Office Board and senior executives responsible for the NBIT programme, including its two channels, the Strategic Platform Modernisation Programme (“**SPMP**”) and Retail

¹⁸⁰ **INQ00001191**, Transcript, 4 October 2024, p.55, ln.3-ln.5 and p.67, ln.15-ln.17 (Ms Rachel Scarrabelotti).

¹⁸¹ **INQ00001191**, Transcript, 4 October 2024, p.53, ln.25-p.54, ln.2 (Ms Rachel Scarrabelotti).

¹⁸² **INQ00001188**, Transcript, 27 September 2024, p.75, ln.6-p.76, ln.7 (Ms Amanda Burton).

¹⁸³ **SUBS0000005**, Opening Statement on behalf of Post Office Limited, §59. Post Office also submitted that the design and testing for the new system was being “*undertaken in conjunction with a focus group of 240 postmasters to ensure that their views and needs [were] fully taken into account*”; initial “*small-scale pilots of the new system*” had commenced in October 2022, which would be “*carefully evaluated... before gradually being expanded to more branches*”; and by the time of Phase 7, Post Office would “*be in a position to demonstrate in real life what its future electronic point of sale system will look like*”.

Transformation Programme (“RTP”),¹⁸⁴ have been aware of delays and increased costs in the NBIT programme since as early as June 2022. However, it appears that Post Office’s NBIT team failed to report the full extent of the problems being experienced by the NBIT programme to the Post Office Board and Post Office SEG, including in respect of BEDs in NBIT and the management of the programme. This appears to have compounded the programme’s delays and increased costs.¹⁸⁵ In May 2023, Mr Staunton became aware that Mr Cameron had informed Jane Davies that “*he felt the full cost exposure of the NBIT replacement was being hidden from the Board and that the Board would have a huge shock later in the year, once the true costs were revealed*”.¹⁸⁶ Mr Staunton’s evidence is that he raised this with Mr Read who felt that Mr Cameron was “*overstating things*”.¹⁸⁷

95. On 27 June 2023, an anonymous whistleblower going by the monicker, ‘John Doe’, emailed Mr Staunton and raised concerns about NBIT (the “**John Doe Report**”). The John Doe Report alleged that: “*The disaster of NBIT [was] well known across different levels within the business*”.¹⁸⁸ Further ‘John Doe’ alleged that Mr Read had been told by multiple individuals that the NBIT team and “CIO”, which is understood to refer to Zdravko Mladenov, had told the Post Office Board “*untruths... about the extent of defects and timescales*” for NBIT’s Release 2 rollout. These defects were “*not under control*”.¹⁸⁹ It was alleged that the NBIT and RTP teams worked in silos, and the NBIT team was “*secretive and told not to share updates or information with anyone from the wider business*”.¹⁹⁰ Mr Mladenov was said to have been “*open about misleading the [Post Office] Board with inaccurate dates and costs for NBIT and [was] incapable of making a decision or having a difficult conversation. He [had] no previous delivery experience and [had] openly said to members of his team that he [was] doing this job to get the experience because he’s never done any delivery before*”.¹⁹¹ When this section of the John Doe Report was put to Mr Staunton, he noted that “*clearly, when you see a project go up to £1 billion from £300 million in the course of three months, clearly something is being hidden from you*”.¹⁹² The author

¹⁸⁴ It appears from the documentary evidence that Post Office’s project to replace Horizon was initially known as the SPMP. Following a restructuring in or around May 2023, it appears that the project was then called the “NBIT programme”, which had two channels or workstreams, the SPMP and RTP (see, for example, **UKG100044336**, Minutes of a Post Office Audit, Risk and Compliance Committee meeting on 16 May 2023; **WITN11380100**, First Witness Statement of Owen Woodley, dated 28 August 2024, §147).

¹⁸⁵ See, for example, **POL00448375**, Minutes of a Post Office Board Meeting on 7 June 2022; **POL00448623**, Minutes of a Post Office Board Meeting on 27 September 2022; **POL00448789**, Minutes of a Post Office Board Meeting on 9 March 2023; **POL00448617**, Draft Minutes of a Post Office Board Meeting on 6 June 2023.

¹⁸⁶ **WITN11410100**, First Witness Statement of Henry Staunton, dated 6 September 2024, §40; **INQ00001189**, Transcript, 1 October 2024, p.60, ln.22-p.61, ln.8 (Mr Henry Staunton).

¹⁸⁷ **WITN11410100**, First Witness Statement of Henry Staunton, dated 6 September 2024, §40.

¹⁸⁸ **POL00448689**, Email from ‘John Doe’ to Henry Staunton dated 27 June 2023, ‘Whistleblowing’, p.1.

¹⁸⁹ *Ibid.*

¹⁹⁰ *Ibid.*

¹⁹¹ *Ibid.*, p.2.

¹⁹² **INQ00001189**, Transcript, 1 October 2024, p.77, ln.1-ln.14; p.61, ln.9-ln.19 (Mr Henry Staunton).

concluded that there had been “*no governance in place for NBIT for a long time and what had been in place had not done what it was supposed to*”.¹⁹³ It appears that the allegations in the John Doe Report concerning the misinformation provided to SEG and the Post Office Board on NBIT are now being investigated by Pinsent Masons and Grant Thornton as part of Project Willow 2.¹⁹⁴

96. The evidence in Phase 7 has demonstrated that Post Office has underestimated and failed to appropriately assess the scale of the work required to deliver the NBIT programme, including the time and resources needed to develop and roll out the technical solution. The system is “*significantly more expensive than originally planned*”.¹⁹⁵ In August 2023, when Christopher Brocklesby joined Post Office as its Chief Transformation Officer, he found “*no credible plan to deliver*” by March 2025.¹⁹⁶
97. Fujitsu has been concerned about the significant delays to the NBIT programme for some time. As set out in its Fifth Corporate Statement to the Inquiry, Fujitsu’s primary concern is that delays to the rollout of NBIT will present significant challenges to the feasibility of the continued delivery of the Horizon IT System and its associated services.¹⁹⁷
98. At the time of these Closing Submissions, Post Office and Fujitsu have agreed a 1-year extension to the Horizon Contract. In its Fifth Corporate Statement, Fujitsu noted that “*any extension to the Horizon Contract should necessarily see the removal of the Court Case Support Services provisions*”. These provisions have now been removed from the Horizon Contract.¹⁹⁸ The DBT and Post Office have requested that Fujitsu considers a longer extension, and that Fujitsu continues to discuss with Post Office its requirements in this regard. Fujitsu’s position remains that any extension carries significant risks. The Horizon IT System is on ‘End-of-Service-Life’

¹⁹³ **POL00448689**, Email from ‘John Doe’ to Henry Staunton dated 27 June 2023, ‘Whistleblowing’, p.1.

¹⁹⁴ See, **POL00448907**, Post Office presentation, ‘Ad Hoc A&CI Board Report’, dated 1 August 2024 and the evidence of Mr Bartlett and Ms Burton. Mr Bartlett’s evidence was that the Project Willow2 investigation is “*currently open and is being externally – by an external organisation, one of the law firms and accountancy firms*”: **INQ00001198**, Transcript, 17 October 2024, p.189, ln.8-ln.14 (Mr John Bartlett). Ms Burton’s evidence was that Grant Thornton is investigating the allegations raised in the John Doe Report. **INQ00001188**, Transcript, 27 September 2024, p.49, ln.14-p.51, ln.6 (Ms Amanda Burton). Note, Mr Brocklesby is also being investigated by an external investigator appointed by Post Office under the project “Willow3”. It is alleged that during a briefing to the Post Office Board on alternatives to NBIT, Mr Brocklesby (i) misrepresented a possible alternative offered by Escher, and (ii) the “*true extent and completeness of the bid/offer by Escher to POL was incorrectly discounted and suppressed as a viable alternative without broader consideration*” (**POL00448907**, p.8). Mr Brocklesby has denied the allegation. **INQ00001190**, Transcript, 2 October 2024, p.44, ln.14-p.45, ln.12 (Mr Chris Brocklesby).

¹⁹⁵ **BEIS0000631**, BEIS Meeting Brief, ‘Introductory Meeting, Henry Staunton (Chair, Post Office Ltd)’, dated 3 January 2023, p.3.

¹⁹⁶ **INQ00001190**, Transcript, 2 October 2024, p.33, ln.14-p.34, ln.7 (Mr Chris Brocklesby).

¹⁹⁷ **WITN06650500**, Fifth Corporate Statement of Fujitsu Services Limited, dated 23 September 2024, §§75-77.

¹⁹⁸ *Ibid*, §77.

IT infrastructure and, due to this status and its age, there is an increasing risk of the existing Horizon IT System infrastructure failing, which could adversely impact the delivery of services to the public. Since 2020, Fujitsu has consistently communicated its concerns to Post Office in relation to supporting end of life infrastructure, and that it wishes to exit the Horizon Contract.¹⁹⁹

6.3 Fujitsu's remediation efforts

99. The technical remediation undertaken by Fujitsu in respect of the Horizon IT System is summarised in Fujitsu's Fourth Corporate Statement.²⁰⁰ In particular, Fujitsu has implemented a range of technical remediation measures concerning: (i) the management of BEDs; (ii) controls on the use of 'privileged access' (i.e. remote access); and (iii) measures to monitor compliance with contractual obligations regarding incident management and privileged access.

100. Fujitsu's cultural and governance remediation efforts are summarised in its Fifth Corporate Statement.²⁰¹ Fujitsu frankly acknowledges that its work to learn lessons, and to change and improve its business practices and culture, is ongoing. That is consistent with concessions made by Mr Patterson in the course of his oral evidence to the Inquiry.²⁰² Fujitsu also candidly acknowledges that, while it has not wanted to pre-empt the conclusions of this Inquiry, more by way of reform and remediation could and should have been done sooner. Fujitsu is committed to continuing its remediation activities following the conclusion of this Inquiry.

101. By way of summary in relation to Fujitsu's cultural and governance remediation efforts:

101.1. Fujitsu has implemented a specific remediation scheme, the 'Rebuilding Trust Programme', designed to implement a range of improvement initiatives in relation to: (i) people; (ii) process and governance; and (iii) technology.

101.2. In 2023, Fujitsu engaged a business ethics consultancy (Ethisphere LLC) to assist Fujitsu in better understanding how its ethical culture could be improved. Fujitsu has engaged that consultancy to work to improve Fujitsu's ethical culture and compliance over a 3-year period. The consultancy has been engaged in practical work within Fujitsu, including in providing workshops and training to all Fujitsu employees (and targeted workshops to leadership and senior management).

¹⁹⁹ See, for example, **POL00448622**, Post Office Board Report, 'Belfast Data Centre Fortification', dated 24 January 2023, p.1 ("*the Fujitsu position since 2020 has consistently been that they wish to exit the Horizon contract and that they harbour multiple concerns about supporting out of date hardware and software in the Data Centres*").

²⁰⁰ **WITN06650400**, Fourth Corporate Statement of Fujitsu Services Limited, dated 8 August 2024.

²⁰¹ **WITN06650500**, Fifth Corporate Statement of Fujitsu Services Limited, dated 23 September 2024, §§7-26.

²⁰² **INQ00001205**, Transcript, 11 November 2024, p.176, ln.8-ln.25 (Mr Paul Patterson); **WITN06650500**, Fifth Corporate Statement of Fujitsu Services Limited, dated 23 September 2024, §3.

- 101.3. Fujitsu has worked to embed a stronger whistleblowing culture within the organisation, and has implemented practical measures to facilitate employees raising concerns, ideas, and questions within the organisation.
- 101.4. Fujitsu has taken steps to ensure that its legal department is actively engaged in Fujitsu's cooperation with police forces in respect of criminal proceedings against SPMs. That serves to ensure that any support provided by Fujitsu in relation to a criminal investigation or prosecution is: (i) compliant with relevant legal duties; and (ii) consistent with Fujitsu's ethical culture and corporate values.

PART 7. Conclusion

102. At the core of this Inquiry are the SPMs and their families who were so profoundly and tragically affected by these appalling miscarriages of justice. Fujitsu reiterates its sincere apology to the SPMs and their families.
103. The Inquiry has conducted a thorough and searching investigation. The work of the Inquiry has revealed the technical, human, and organisational failings which contributed to the suffering of SPMs and their families. Fujitsu accepts its share of those failings as outlined in the following paragraphs of these Closing Submissions: §§13, 17, 18, 19, 39, 43, 73.
104. Prior to the commencement of this Inquiry, the appalling miscarriages of justice that have now been laid bare by this Inquiry were framed as resulting primarily or exclusively from *IT issues*. The evidence revealed by the Inquiry has demonstrated that these miscarriages of justice were not caused by technological failures exclusively, or even primarily, but are instead the product of serious human and organisational failures in conduct, ethics, governance and culture.
105. Fujitsu hopes that, having supported the Inquiry through its work, it has gone some way to demonstrating its commitment to learning lessons from the Inquiry process and to ensuring that the mistakes of the past are never repeated.

RICHARD WHITTAM KC
SAMANTHA KNIGHTS KC
TIM JAMES-MATTHEWS
ROSALIND COMYN
Matrix Chambers

9 December 2024

ANNEX: Evidence as to Post Office's knowledge of BEDs

1. The purpose of this **Annex** is to provide a convenient summary of some of the evidence as to Post Office's knowledge of BEDs. As the Inquiry will appreciate, there is *extensive* evidence to support the conclusion that Post Office had knowledge of the potential for, and the existence of, BEDs in the Horizon IT System. This **Annex** is necessarily a summary of that evidence.
2. Fujitsu has previously acknowledged that, throughout its period of operation, the Horizon IT System was affected by BEDs, which had the potential to cause, and which did in fact cause, discrepancies in Post Office branch accounts.
3. On one level, that is unsurprising. As a number of witnesses acknowledged, in any large IT system – particularly one of the scale and complexity of the Horizon IT System – the existence of BEDs is inevitable.²⁰³ That basic fact was well understood by those who interacted with the Horizon IT System. However, contemporaneous knowledge of BEDs (within both Post Office and Fujitsu) went well beyond acknowledgment of the mere *theoretical* possibility of BEDs.
4. The evidence before the Inquiry has consistently illustrated that Post Office had knowledge of the potential for, and the existence of, BEDs in the Horizon IT System from the outset and throughout the relevant period.²⁰⁴ Further, Post Office were aware of the potential for *unknown* and *unresolved* BEDs to affect the Horizon IT System, and to impact upon branch accounts. Any submission to the contrary, or any suggestion that Post Office may have been *misled* as to the nature and extent of BEDs, is untenable in light of the totality of the evidence before the Inquiry.²⁰⁵ In addition, from an early stage, Post Office, including lawyers acting on its behalf, were aware of categories of documents which evidenced BEDs (such as KELs, PinICLs, Peaks and events).²⁰⁶

²⁰³ See, for example, **INQ00001196**, Transcript, 15 October 2024, p.16 ln.12-ln.14 (Mr Michael Young) (Q. “But you knew from your previous roles that all systems have bugs, errors and defects; is that right?” A. “That’s correct”); **INQ00000988**, Transcript, 24 February 2023, p.137, ln.20-p.138, ln.11 (Mr David Smith) (Q. “Do you accept that any system as complex as Horizon was bound to have some level of bugs, errors and defects?” A. “Absolutely, absolutely”); **WITN10340100**, First Witness Statement Arthur Leslie Owen, dated 9 October 2024, §31 (“all IT systems have a level of BEDs and I do not recall being given any evidence to suggest that the level of BEDS in Horizon was unusual”).

²⁰⁴ **SUBS00000020**, Phase Two Closing Submissions on behalf of Fujitsu Services Limited, §17; **SUBS00000025**, Phase Three Closing Submissions on behalf of Fujitsu Services Limited, §4; **SUBS00000026**, Phase Four Closing Submissions on behalf of Fujitsu Services Limited, §21 and §32.

²⁰⁵ **SUBS00000016**, ‘Phase End’ Closing Submissions: Phase 2 on behalf of Post Office Limited, §§5-20 (Post Office made the submission that there was no sharing of “technical challenges” regarding the Horizon IT System between Fujitsu and Post Office).

²⁰⁶ See §§10-13 of the Annex below.

5. The sharing of information concerning BEDs between Fujitsu and Post Office was a routine part of the business-as-usual operation of the Horizon IT System, and continued throughout its period of operation. As set out at §§6-8 below, the evidence supports the conclusion that those systems for sharing information regarding BEDs were generally effective in practice. Further, in order to assist this Inquiry, Fujitsu has identified certain key milestones in respect of Post Office's knowledge of BEDs (see §9 below) and examples of Post Office's awareness of certain categories of documents that evidenced the existence of BEDs (see §§10-13 below). Fujitsu has also identified and summarised evidence that key individuals within Post Office were aware of BEDs (see §§14-22 below).

Business-as-usual information sharing regarding BEDs

6. The systems established for information sharing in respect of BEDs are set out in some detail in Fujitsu's closing submissions for Phase 3.²⁰⁷ Fujitsu reiterates that information concerning BEDs was shared with Post Office as a routine part of the business-as-usual operation of the Horizon IT System throughout its period of operation. That includes by way of: (i) various reports passing between ICL Pathway / Fujitsu and Post Office throughout the relevant period in respect of identified technical issues within the Horizon IT System;²⁰⁸ (ii) various forums and channels of communication between Fujitsu and Post Office, in the course of which BEDs and system integrity issues were routinely discussed;²⁰⁹ (iii) the close working relationship between Post Office and ICL Pathway / Fujitsu, which involved extensive *ad hoc* communications concerning the identification of BEDs being shared between the organisations;²¹⁰ (iv) joint Fujitsu and Post Office test teams;²¹¹ (v) joint working documents which demonstrate Fujitsu's and Post Office's mutual understanding regarding the existence of, and potential impacts of, BEDs (joint working is also evident in the management of particular BEDs about which the Inquiry heard evidence in Phase 3);²¹² and (vi) release management process, which was an important measure in the management of BEDs.²¹³

²⁰⁷ SUBS0000025, Phase Three Closing Submissions on behalf of Fujitsu Services Limited, §§5-9.

²⁰⁸ SUBS0000025, Phase Three Closing Submissions on behalf of Fujitsu Services Limited, §7.1.

²⁰⁹ SUBS0000025, Phase Three Closing Submissions on behalf of Fujitsu Services Limited, §7.2.

²¹⁰ SUBS0000025, Phase Three Closing Submissions on behalf of Fujitsu Services Limited, §7.3.

²¹¹ WITN04760100, First Witness Statement of Mark Ascott, dated 4 August 2022, §§51-59 (*"This team was based in Bracknell and consisted of around 75 people, around 25 of whom were Post Office employees. Fujitsu and Post Office worked together as a team to test the elements of the solution across the HNG-X test rigs"*).

²¹² SUBS0000025, Phase Three Closing Submissions on behalf of Fujitsu Services Limited, §7.4; FUJ00081214, Email chain dated 11 November 2010 to 12 November 2010, 'Receipts and Payments issue', p.1. (Mr Wright emails: *"I've been sending a report every week to Pol Duty Manager, Gareth and Mike S. Maybe Duty manager is not sending the information out inside POL?"*).

²¹³ SUBS0000025, Phase Three Closing Submissions on behalf of Fujitsu Services Limited, §7.5.

7. Fujitsu now also produces, (i) reports regarding issues identified in Peaks which have been tagged as either ‘Live Defects’²¹⁴ or ‘HDR Defects’,²¹⁵ and (ii) a weekly ‘HDR Defects Update Report’, which notes all identified issues which, among other things, have the ability to impact upon branch accounts.²¹⁶
8. The evidence therefore compels the conclusion that, in general, Fujitsu routinely and continually shared information concerning the existence of, and impact, of BEDs with Post Office.

Post Office knowledge of BEDs: Key milestones

9. Throughout this Inquiry, Fujitsu has consistently advanced the position that Post Office had institutional knowledge of the potential for, and existence of, BEDs in the Horizon IT System prior to its rollout and throughout its period of operation. That timeline has both been borne out by the evidence the Inquiry has heard and adopted by Counsel to the Inquiry when putting questions to Post Office witnesses.²¹⁷ In the section which follows, Fujitsu has sought to identify the key milestones in the development of Post Office’s knowledge of BEDs in the Horizon IT System, and the direct link to their potential to impact upon branch accounts. It will be noted that two of these milestones formed the basis of detailed case studies by Dame Sandra Dawson and Dr Katy Stewart in Part 2 of their governance expert report.²¹⁸ These milestones are by no means exhaustive.

- 9.1. **July 1999:** The evidence suggests that the existence of integrity issues related to balancing were known within Post Office during the testing and rollout of the Horizon IT System. The Inquiry heard evidence that an acceptance incident termed AI376 was first identified

²¹⁴ A ‘Live Defect’ is any issue which (i) is present on the live system, (ii) falls within Fujitsu’s scope of obligations, and (iii) is, or appears to be, inconsistent with the agreed design or service specification: **FUJ00243314**, Appendix, ‘Letter to the Lancashire Police dated 28 August 2024’, p.6.

²¹⁵ A ‘HDR Defect’ is a subset of ‘Live Defects’, and is an issue which has the potential to affect (i) branch financial outcomes; (ii) the way an end user of Horizon in-branch (such as an SPM) is required to use the system; or (iii) the experience of a Post Office customer or client: **FUJ00243314**, Appendix, ‘Letter to the Lancashire Police dated 28 August 2024’, p.6.

²¹⁶ **WITN06650400**, Fourth Corporate Statement of Fujitsu Services Limited, dated 8 August 2024, §163 and §168: Fujitsu commenced weekly HDR meetings in June 2021, and implemented reporting on Live Defects in August 2022.

²¹⁷ See, for example, the question put to Adam Crozier by Mr Beer KC: “[...] as a result of the findings of a series of court cases, it has been established that, within the period 2000 to 2010 [...] there were a series of bugs, errors and defects in the Horizon system, of which the Post Office knew and which either caused or were capable of causing financial irregularities and balancing problems?”; **INQ00001129**, Transcript, 12 April 2024, p.176, ln.20-p.177, ln.2 (Mr Adam Crozier).

²¹⁸ **EXPG0000010_R**, Report 2 ‘Reflections on a selection of evidence before the Inquiry in the light of Report 1 on ‘expected and best practice in respect of the standards of Governance, Management and Leadership in companies such as the Post Office Companies’, dated 29 October 2024 (updated on 11 November 2024), pp.42-107.

by Post Office on 19 July 1999.²¹⁹ The problem was described as a data integrity issue associated with imbalances in cash accounts. The Second Supplemental Agreement dated 24 September 1999 predicated acceptance on Fujitsu/ICL Pathway using reasonable endeavours to resolve a series of BEDs, including A1376.²²⁰

9.2. **2004:** Post Office received expert analysis concluding that most errors which were logged in respect of one Post Office branch could not be attributed to the relevant SPM. In the course of civil proceedings brought against Mrs Julie Wolstenholme concerning alleged ‘shortfalls’ at the Cleveleys branch, Post Office jointly instructed IT expert Jason Coyne to provide a report on the use of the Helpdesk at Cleveleys. Mr Coyne’s report, dated 21 January 2004, concluded that there was “*clearly defective in elements of [the Horizon IT System’s] hardware, software or interfaces. The majority of the errors as noted in the fault logs [in respect of Cleveleys] could not be attributed to being of Mrs Wolstenholme’s making or operation of the system*”.²²¹ The civil claim was then settled, and the evidence suggests that it was a priority for Post Office to keep the adverse opinion expressed by Mr Coyne about the Horizon IT System out of the public domain by entering into a confidentiality agreement.²²²

9.3. **January 2006:** Post Office had knowledge of the existence of the Callendar Square bug. The contemporaneous records show that Post Office was aware of the Callendar Square bug, which created duplicate transactions, from early 2006.²²³ In December 2006, Post Office lawyers discussed the Callendar Square bug, and how any issues arising at the Callendar Square branch, or others impacted, could be distinguished from those arising in Post Office’s civil case against Mr Lee Castleton in respect of the Marine Drive branch.²²⁴

²¹⁹ **WITN05210100**, First Witness Statement of Ruth Reid, dated 13 October 2022, §88; **INQ00001020**, Transcript, 15 November 2022, p.104, ln.19-p.105, ln.4 (Mr John Meagher).

²²⁰ **POL00090428**, Annex, ‘Second Supplement Agreement’, dated 24 September 1999, p.3. Note that this issue was also carried forward in the Third Supplemental Agreement, dated 19 January 2000. See **SUBS0000025**, Phase Three Closing Submissions on behalf of Fujitsu Services Limited, §8.

²²¹ **WITN00210101**, Letter from Jason Coyne to Susanne Helliwell dated 21 January 2004, p.4.

²²² **FUJ00121637**, Email from Jan Holmes to Colin Smith-Lenton dated 7 June 2004, ‘Cleveleys’, p.1 (Mr Holmes emails: “[The Post Office] are still taking advice as to how best to deal with this and Mandy [Talbot]’s view/belief was that the safest way to manage this is to throw money at it and get a confidentiality agreement signed. She is not happy with the ‘Experts’ report as she considers it to be not well balanced and wants, if possible, to keep it out of the public domain. This is unlikely to happen if it goes to court”).

²²³ **FUJ00083722**, Email chain dated 8 February 2010, ‘Callendar Square – FAD 160868’.

²²⁴ **POL00070133**, Email from Mandy Talbot to Stephen Parker dated 6 December 2006, ‘Callendar Square URGENT’, p.1 (Ms Talbot emails: “If [Lee Castleton’s evidence is allowed] you will have to pull out all the stops to investigate what if anything went wrong at these branches and why we can distinguish them from Mr. Castleton at Marine Drive”).

- 9.4. **Mid-2006:** Post Office was on notice of analysis by Fujitsu staff to the effect that technical failings were normal occurrences in the Horizon IT System. The Inquiry has records of track changes made by Graham Ward to a draft witness statement provided by Mr Jenkins in support of the prosecution of Mr Hughie Noel Thomas. Mr Ward, a former Post Office financial investigator, deleted references to “*system failure*” being one of “*three main reasons why a zero value transaction may be generated*” on the Horizon IT System in respect of Mr Thomas’ branch, and that such failures were “*normal occurrences*”.²²⁵
- 9.5. **Late 2006:** In Post Office’s civil case against Mr Lee Castleton, independent experts BDO Stoy Hayward wrote a letter to lawyer, Stephen Dilley of Bond Pearce (now Womble Bond Dickinson), who was acting for Post Office noting, “*we have found there is some indication of possible problems with Horizon*” and that “*some problems may exist i.e. that the double entry is not being put through*”.²²⁶ A draft report prepared by BDO a few months later also raised the prospect of “*possible computer problems*” apparent from differences in the cash account (albeit these were said to be small).²²⁷
- 9.6. **July 2010:** In a meeting with the Defence expert, Professor McLachlan, in Post Office’s prosecution of Mrs Seema Misra, Mr Jenkins informed Professor McLachlan that, (i) Fujitsu recorded “*all testing and Live faults in the same system*” (a reference to the Peak database), and (ii) there were “*around 200,000*” faults recorded.²²⁸ Mr Jenkins’ note of this meeting was circulated to at least John Longman and Mr Singh of Post Office, and Post Office external counsel, Warwick Tatford, on 27 July 2010.²²⁹
- 9.7. **September/October 2010:** Post Office became aware of the Receipts and Payments mismatch bug. Post Office was aware of this bug from at least September/October 2010, when a joint meeting was held between Fujitsu and Post Office staff to discuss the bug which caused discrepancies at Horizon counters.²³⁰ The minutes from that meeting record concerns being expressed that, if the bug was widely known, it “*could cause a loss of confidence in the Horizon System by branches*”, potentially “*impact upon ongoing legal*

²²⁵ **POL00047895**, Draft Witness Statement of Gareth Jenkins, dated 24 March 2006, p.2 (Mr Ward replaced the reference to system failures with the following comment: “*This is a really poor choice of words which seems to accept that failures in the system are normal therefore may well support the postmasters claim that the system is to blame for the losses !!!*”); **INQ00001124**, Transcript, 1 February 2024, p.173, ln.1-ln.25 (Mr Graham Ward).

²²⁶ **POL00069592**, Letter from Michael Mason to Stephen Dilley dated 5 September 2006, p.3.

²²⁷ **POL00069955**, Draft Expert Report of Geoffrey Porter, dated 29 November 2006, §2.1.2(a).

²²⁸ **FUJ00153159**, Email chain dated 22 to 27 July 2010, ‘REGINA V SEEMA MISRA – GUILDFORD CROWN COURT – TRIAL’, p.1.

²²⁹ **POL00055073**, Email chain dated 27 July 2010, ‘West Byfleet’, p.1.

²³⁰ **FUJ00081584**, ‘Receipts/Payments Mismatch issue notes’ (undated).

cases where branches are disputing the integrity of Horizon” and provide “*branches ammunition to blame Horizon for future discrepancies*”.²³¹ A report concerning the bug was sent to Post Office employees, including Post Office lawyer Mr Singh, in October 2010, just three days before Mrs Misra’s trial commenced.²³² It was not disclosed in those proceedings. The meeting minutes, if disclosed, would also have revealed the ability of remote access powers to be used to correct branch accounts without an SPM being aware.

9.8. **September 2011:** The Post Office Board were put on notice by Post Office’s external auditors at that time, Ernst & Young, that there were questions about whether the Horizon IT System captured data accurately. Ms Perkins attended a meeting with Ernst & Young in which the risks the Horizon IT System posed for the Post Office was raised. Ernst & Young also drew Ms Perkins’ attention to the fact that there were questions as to whether the Horizon IT System captured data accurately, noting that SPMs alleged to have engaged in fraud had suggested that discrepancies were the result of a “*systems problem*”.²³³

9.9. **July 2013.** The Second Sight Interim Report was produced, drawing attention to three BEDs in the Horizon IT System.²³⁴ Members of the Post Office Board, the executive, and various Post Office teams were provided with the report in draft.²³⁵ The three BEDs were in fact already known to Post Office prior to the issuance of the report.²³⁶

²³¹ *Ibid*, p.2.

²³² **POL00055410**, Email chain dated 8 October 2010, ‘Branch discrepancy issues’, p.1.

²³³ **WITN00740122**, Manuscript, Alice Perkins notebook entry on meeting with Angus Grant, dated 27 September 2011, p.1.

²³⁴ **POL00004406**, Second Sight Interim Report, dated 8 July 2013.

²³⁵ **POL00167933**, Email from Simon Baker to Mark Davies, Martin Edwards, Lesley Sewell, Susan Crichton, Alwen Lyons, Angela van den Bogerd, Rodric Williams, Hugh Flemington, Nina Arnott, Ruth Barker and Paula Vennells dated 5 July 2013, ‘Draft Report’, p.1; **POL00297497**, Email chain dated 6 to 8 July 2013, ‘Update on SS review – 7 July’.

²³⁶ **POL00004406**, Second Sight Interim Report, dated 8 July 2013, §6.4 (“*POL has disclosed to Second Sight that, in 2011 and 2012, it had discovered “defects” in Horizon online that had impacted 76 branches*”), §6.10 (“*POL has informed us that it had disclosed, in Witness Statements to English Courts, information about one other subsequently-corrected defect or “bug” in the Horizon software*”); **WITN04580100**, First Witness Statement of Peter Newsome, dated 12 November 2024, §24(a) (Mr Newsome recalls a presentation by Mr Jenkins to Second Sight which covered “*two known bugs that had affected accounts in the early days of HNG-X and how they were dealt with by Fujitsu and POL*”).

Post Office knowledge of BEDs: Documents evidencing BEDs

10. From an early stage, Post Office, including lawyers acting on its behalf, were aware of categories of documents which evidenced BEDs (such as KELs, PinICLs, Peaks and events). By way of example:
11. **PinICL / Peak:** PinICL was the customised incident logging and resolution tracking system adopted for use by ICL Pathway to support the Horizon IT system during the period 1996 to 2003, when it was replaced by the Peak system.
 - 11.1. The Resolution Plan for Acceptance Incident 298 dated 23 September 1999 and distributed to both Post Office and ICL Pathway recipients, includes at section 5.5.1 a ‘PINICL Analysis’, which considers the content of 133 PinICLs. As a result of this analysis, 50 PinICLs were identified as relating to faults in the Live Trial of Legacy Horizon. These 50 PinICLs were then categorised as faults relating to, (i) “*Usability/Robustness*”, of which there were 38, (ii) “*Stability/Performance*”, of which there were 5, and (iii) “*Application Logic*” or “*Plain software bugs*”, of which there were 7.²³⁷
 - 11.2. In August 2004, Jan Holmes of Fujitsu provided to lawyers acting for Post Office (Susanne Helliwell, Weightmans Vizards solicitors)²³⁸ in the civil proceedings relating to the Cleveleys branch a signed witness statement intended for use in that case.²³⁹ In this witness statement, Mr Holmes described the four lines of support provided by Fujitsu, referring extensively to the PinICL system and how it linked both to the PowerHelp system used by the helpdesk and the KEL database (as addressed in more detail below).
 - 11.3. Former senior managers of Post Office’s technical teams, Jeremy Folkes and John Meagher, knew of the existence of the PinICL system prior to the national rollout of Legacy Horizon.²⁴⁰ Further, during this time, the content of PinICLs was shared by ICL Pathway’s PinICL Impact Assessment Team with members of Mr Meagher’s team and others at Post Office, either via access to the PinICL database or printed copies of extracts from that database.²⁴¹

²³⁷ **POL00090428**, Annex, ‘Second Supplement Agreement’, dated 24 September 1999, pp.91-92.

²³⁸ **WITN04600214**, Email from Jan Holmes to David Barker dated 12 August 2011, ‘Cleveleys WS – Final’, p.1.

²³⁹ **WITN04600213**, Draft Witness Statement of Jan Holmes, dated 1 August 2004.

²⁴⁰ **INQ00001005**, Transcript, 3 November 2022, p.5, ln.15-p.6, ln.8 (Mr Jeremy Folkes); **INQ00001020**, Transcript, 15 November 2022, p.87, ln.18-p.89, ln.2 (Mr John Meagher).

²⁴¹ **INQ00001020**, Transcript, 15 November 2022, p.87, ln.18-p.89, ln.2 (Mr John Meagher) (“[...] *I didn’t personally [see the PinICLs], but people who worked for me and other people reviewed PinICLs, and that*

12. **Known Error Log / KELs:** The “Known Error Log” was a knowledge management tool used by both ICL Pathway and Fujitsu to explain how to deal with, or work around, issues that arose in the Horizon IT System. Each entry in the Known Error Log was referred to as a “KEL” (collectively, “**KELs**”). The term “Known Error Log” or “KEL” was replaced in around July 2019 by the term “Knowledge Base” or “KB”. As will be clear from the evidence summarised below, any suggestion that there was some reluctance within Fujitsu to reveal the existence of the KEL database or the records it contained is unfounded.

12.1. In the monthly Service Review Book dated 7 April 2000, which was circulated to both Post Office and Fujitsu recipients, it is noted that the helpdesk and second line support teams had become “*over cautious*” due to “*a number of software issues, which have manifested themselves as hardware failure*”. This had led the support teams to “*review all hardware call symptoms against the 'Known Error Log' (KEL) before passing the call to Field Engineering...*”.²⁴²

12.2. The existence of KELs was also referred to in at least the following witness statements provided by Fujitsu employees in the context of Post Office proceedings against SPMs, (i) the witness statement of Penny Thomas dated 17 June 2004 in respect of the Forest Gate branch,²⁴³ (ii) the witness statement of Mr Holmes dating from August 2004 in civil proceedings relating to the Cleveleys branch,²⁴⁴ (iii) the witness statement of William Mitchell dated 7 March 2005 in respect of the Abbots Cross branch,²⁴⁵ (iv) the witness statements of Andy Dunks in respect of the Rugeley,²⁴⁶ Bowburn,²⁴⁷ and Torquay Road²⁴⁸ branches during April to June 2006, and (v) the witness statement of Mrs Chambers dated 14 September 2006 in civil proceedings relating to the Marine Drive branch.²⁴⁹

was the assessment they made based on the PinICL, whether the impact was such that needed to have a software fix, or whether it could be handled in a work around... whether we were presented with printed PinICLs or whether we had access to the system I'm not sure. I don't remember having direct access to the PinICL system. I think we were consulted on PinICLs as they emerged”).

²⁴² **FUJ00058223**, ‘Service Review – Performance Statistics’, dated 7 April 2000, p.24.

²⁴³ **FUJ00121987**, Witness Statement of Penelope Thomas, dated 17 June 2004, p.4.

²⁴⁴ **WITN04600213**, Draft Witness Statement of Jan Holmes, dated August 2004, §10 and §17 (“*Workarounds are often required due to the backlog of software releases and unless a fix is absolutely required the PinICL is linked to a KEL entry and, with the agreement of the customer, a workaround agreed pending final resolution*”).

²⁴⁵ **FUJ00122059**, Witness Statement of William Mitchell, dated 7 March 2005, p.3.

²⁴⁶ **FUJ00122250**, Witness Statement of Andy Dunks, dated 21 April 2006, p.3.

²⁴⁷ **FUJ00122274**, Witness Statement of Andy Dunks, dated 28 June 2006, pp.1-2.

²⁴⁸ **FUJ00122273**, Witness Statement of Andy Dunks, dated 28 June 2006, p.4.

²⁴⁹ **LCAS0001265**, Witness Statement of Anne Chambers, dated 14 September 2006, §6.

12.3. In the context of Post Office’s prosecution of Mrs Misra, it is clear that Mr Jenkins discussed the existence of the Known Error Log with the Defence expert, Professor McLachlan.²⁵⁰ During his cross-examination at trial, Mr Jenkins was also asked questions about and acknowledged the existence of the Known Error Log.²⁵¹

13. **Event Logs:** Event logs are produced by Microsoft Windows NT, the operating system used on post office branch counters.²⁵² These logs record “events”, which are “*indications of conditions that have operational significance*” to the Horizon IT System, and include software, hardware or security conditions that require investigation.²⁵³ Microsoft Windows NT manages three logs for security, system and application respectively, reporting on the operation of Windows, and other applications in the Horizon IT System may also report into these logs.

13.1. On 24 January 2002, Mr Holmes produced a witness statement in respect of the Camberwell Green branch.²⁵⁴ In this statement, Mr Holmes provided a description of Tivoli Event Logs and an analysis of the logs produced during the period being examined. Mr Holmes notes in his second witness statement to the Inquiry that he does not know what happened with his statement after it was produced.

13.2. Mr Holmes’ statement in the Camberwell Green case was later circulated by Mr Dilley of Bond Pearce in the context of Post Office’s civil case against Mr Castleton.²⁵⁵

13.3. During Mr Castleton’s trial in January 2007, Mrs Chambers discussed the existence of event logs and her consideration of them during her investigation of issues at the Marine Drive branch.²⁵⁶ It appears in the context of Mr Castleton’s case that event logs were provided by Fujitsu to Post Office, but these logs were not subsequently disclosed by Post Office to Mr Castleton.²⁵⁷

²⁵⁰ **FUJ00153159**, Email chain dated 27 July 2010, ‘RE; REGINA V SEEMA MISRA – GUILDFORD CROWN COURT – TRIAL’, p.3.

²⁵¹ **POL00112838**, Transcript from Crown Court at Guildford before His Honour Judge N.A. Stewart, Regina v Seema Misra, ‘Transcript of Proceedings Day 4’, dated 14 October 2010, p.96.

²⁵² **WITN04110100**, First Witness Statement of John Simpkins, dated 4 August 2022, §46.

²⁵³ **FUJ00126035**, Second Corporate Statement of Fujitsu Services Limited, dated 29 December 2022, §51.

²⁵⁴ **WITN04600217**, Draft Witness Statement of Jan Holmes, dated 24 January 2002, pp.4-5.

²⁵⁵ **POL00070733**, Email from Stephen Dilley to Julian Summerhayes and Tom Beezer dated 7 December 2005, ‘Statements’, p.1.

²⁵⁶ **LCAS0000444**, ‘Claimant’s Note of the Trial before His Honour Judge Havery’, dated 6 December 2006, p.112.

²⁵⁷ See: **FUJ00152299**, ‘Afterthoughts on the Castleton case’, dated 29 January 2007, p.2 (Mrs Chambers quotes from an email by a Post Office solicitor: “*Previously, I [the Post Office solicitor] had asked Fujitsu to let me have all the info it had and had been helpfully given HSH call logs, transaction logs and events logs*”); **LCAS0000444**, ‘Claimant’s Note of the Trial before His Honour Judge Havery’, dated 6 December

Post Office knowledge of BEDs: Key individuals

14. The evidence supports the conclusion that information about the potential for, and existence of, BEDs in the Horizon IT System was shared with and available to: (i) individuals across a range of teams within Post Office; (ii) individuals of varying levels of seniority within Post Office (up to, and including, senior executives within Post Office); (iii) relevant individuals engaged as external advisors to Post Office; (iv) individuals and organisations involved in relevant investigations of Post Office systems and processes; and (v) individuals involved in the oversight of Post Office by Government.
15. In order to assist the Inquiry, Fujitsu has grouped the key individuals within Post Office below, and set out by way of illustration certain of the evidence that supports the conclusion that they knew of the potential for, and existence of, BEDs in the Horizon IT System.
16. **Members of the Post Office Board of Directors.** Allan Leighton (Non-Executive Director and Chairman, Consignia plc / Royal Mail Group plc; Non-Executive Director and Chairman, Post Office, 2001-2009),²⁵⁸ Sir Michael Hodgkinson (Senior Non-Executive Director, Royal Mail Holdings plc, Chair, Post Office, 2003-2007),²⁵⁹ Alan Cook (former Non-Executive Director and Managing Director, Post Office, 2005 – 2010)²⁶⁰, Alice Perkins (Chair, Post Office, 2011-

2006, p.112 (which records Mr Richard Morgan noting “we don’t appear to have given disclosure of this, if LC wants to see this we will make this available”).

²⁵⁸ **WITN04380100**, First Witness Statement of Allan Leighton, dated 28 February 2024, §§37-38 (“during the roll out of the Horizon system [...] there would have been at least some performance issues relating to the Horizon system reported to the Board”).

²⁵⁹ **WITN10660100**, First Witness Statement of Sir Michael Hodgkinson, dated 27 February 2024, §54 (“One of the senior area managers [...] had recently received an audit report about a large deficit in one of the Post Offices in her area. She told me that her team had not been able, to date, to understand what the problem was, and she said she was wondering whether there could be a problem with Horizon”); **INQ00001128**, Transcript, 11 April 2024, p.156, ln.15-ln.25 (Sir Michael Hodgkinson).

²⁶⁰ **POL00032147**, Minutes of Post Office Board Meeting on 17 August 2005, p.7 (regarding the IMPACT programme: “the rollout was not expected to be ‘noise-free’, and potential risks included [...] concern regarding debt recovery”); **POL00021420**, Minutes of Post Office Risk and Compliance Committee Meeting on 22 March 2006, p.8 (regarding the IMPACT programme: “The system is not yet processing all transactions correctly [...]”); **POL00027890**, Letter from Robert Porteous MP to Mr Cook dated 30 April 2009, p.3 (“I have spoken to several current and former sub-post masters, who say that random flaws in the IT are causing deficits in their weekly accounts, sometimes of thousands of pounds at a time.”); **POL00295318**, Letter from Edward Leigh MP to Mr Cook dated 10 December 2009, p.1 (“Mrs Rayner [an SPM] asked me to visit in the summer to discuss the problems she has had with the Horizon computerised system [...] she perceives as deficiencies to the system that threaten the viability of small Post Office outlets”) (Paula Vennells responded to this letter, **POL00295317**); **POL00065047**, Letter from Jacqui Smith MP to Mr Cook dated 1 December 2009, pp.37-38 (“[...] there are numerous other cases of a similar vein across the country, all of which involve sub-postmasters/mistresses accused of financial irregularities but who claim the Horizon system was to blame [...]”); **POL00141142**, Email from Dave Posnett to Sue Lowther and Dave King, ‘Horizon Integrity’ dated 20 October 2009, p. 1 (“[...] Alan Cook is asking for more robust defence of Horizon”).

2015),²⁶¹ Tim Parker (Chair, Post Office, 2015-2022),²⁶² Neil McCausland (Senior Independent Director, Post Office, 2011-2015),²⁶³ Susannah Storey (Shareholder Non-Executive Director, Post Office, 2012-2014),²⁶⁴ Virginia Holmes (Non-Executive Director, Post Office, 2012-2018),²⁶⁵ and Alasdair Marnoch (Non-Executive Director, Post Office, 2012-2015).²⁶⁶

17. **Senior Executives of Post Office.** Paula Vennells (Network Director, Chief Operating Officer, Managing Director, and Chief Executive Officer, 2007-2019),²⁶⁷ Alisdair Cameron (Chief Financial Officer, 2015-present, and Interim Chief Executive Officer, 2019),²⁶⁸ Chris Day (Chief Financial Officer, 2011-2014),²⁶⁹ Mike Young (Operations Director, Chief Technology and Operations Services Director, Chief Operations Officer, 2008-2012),²⁷⁰ Alwen Lyons (Company

²⁶¹ **WITN00740100**, First Witness Statement of Alice Perkins, dated 26 March 2024, §170 (“at no point before meeting with Lord Arbuthnot and the other MPs [on 17 May 2012] did I ever (a) become aware of any BEDs or (b) understand that there were any actual or potential problems with the integrity of the Horizon IT System that could compromise its safety from the perspective of prosecutions”); **WITN00740122**, Alice Perkins note of a meeting with Angus Grant, dated 27 September 2011, p.1 (“Horizon – is a real risk for us [...] does it capture data accurately [...] cases of fraud – suspects suggest it’s a systems problem”); **POL00105479**, ‘Pack for James Arbuthnot and Oliver Letwin meeting scheduled for 17th May 2012’, p.25 (“Each basket is checked to balance to zero at the data centre; if it did not (eg because of a bug in the software) it would be rejected”); **POL00295355**, Email dated 21 June 2012, ‘News Coverage’, p.1 (“Subpostmasters have claimed the Horizon system caused errors, resulting in them being falsely accused and/or convicted of fraud”); **POL00098797**, Email dated 28 June 2013, ‘next steps on Horizon issues – update’, p.2 (“Rod Ismay and Lesley working the detail of the 2 bugs, to understand them”); **INQ00001156**, Transcript, 5 June 2024, p.112, ln.1-p.113, ln.2 (Ms Alice Perkins) (regarding knowledge of BEDs in the Second Sight Interim Report, **POL00004406**).

²⁶² **POL00006355**, ‘A review on behalf of the Chairman of Post Office Limited concerning the steps taken in response to various complaints made by sub-postmasters’, dated 8 February 2016, §118.

²⁶³ **WITN10290100**, First Witness Statement of Neil McCausland, dated 6 June 2024, §56 (“as a member of the Board, I received regular updates on Horizon issues”), §61 (“Over time, I became aware that Horizon was clunky and not particularly user friendly and that some controls needed improving”); **POL00295355**, Email dated 21 June 2012, ‘News Coverage’, p.1 (“Subpostmasters have claimed the Horizon system caused errors, resulting in them being falsely accused and/or convicted of fraud”).

²⁶⁴ *Ibid*; **WITN00920100**, First Witness Statement of Susannah Storey, dated 23 May 2024, §§77-78, 115.

²⁶⁵ **POL00295355**, Email dated 21 June 2012, ‘News Coverage’, p.1

²⁶⁶ *Ibid*.

²⁶⁷ *Ibid*; **INQ00001151**, Transcript, 22 May 2024, p.35, ln.21-p.36, ln.1 and p.107, ln.23-p.108, ln.4 (Ms Paula Vennells) (Ms Vennells confirmed that by August 2015, she was “personally were aware of at least three bugs that had impacted on subpostmaster balances in different ways”); **POL00098797**, Email dated 28 June 2013, ‘next steps on Horizon issues – update’, p.2 (“Rod Ismay and Lesley working the detail of the 2 bugs, to understand them”).

²⁶⁸ **WITN09840100**, First Witness Statement of Alisdair Cameron, dated 18 April 2024, §405 (“In July 2016, Paula Vennells asked myself and Rob Houghton for a report into the Dalmellington Error bug which was an issue raised in a blog by Tim McCormack.” [referring to **POL00029993**]). Mr Cameron was copied in exchanges with SPMs in which issues were raised: see **POL00244301**, **POL00174666**, **POL00163587**.

²⁶⁹ **INQ00001155**, Transcript, 4 June 2024, p.21, ln.15-p.22, ln.3 and p.22, ln.19-p.23, ln.6 (Mr Christopher Day) (Q. “Now this paragraph of the report [**POL00294837**] alerted you to system issues, did it not –” A. “Yes.” and Q. “it was not an error caused by the user but by the system itself. That’s right, isn’t it?” A. “Yes”. Q. “the issue dated back to 2005, so this is five years before this report was prepared?” A. “Correct.”).

²⁷⁰ **WITN11130100**, First Witness Statement of Mike Young, dated 8 August 2024, §37 (“I was only aware of two significant BEDs within Legacy Horizon: (i) Blue Screen errors; and (ii) Integrated Services Digital Network (“ISDN”) errors”); §§149-150 (“I first became aware of the Receipts and Payments mismatch bug when Sewell gave me an early indication that an issue had been found”).

Secretary, 2011-2017, but with various other roles from 1985),²⁷¹ Lesley Sewell (Head of IT & Change, Interim Chief Operating Officer, Chief Information Officer, 2010-2015),²⁷² Patrick Bourke (Government Affairs and Policy Director, 2017-present),²⁷³ Mark Davies (Communications Director and Communications and Corporate Affairs Director, 2012-2019),²⁷⁴ Rod Ismay (Head of Risk and Control, 2003-2016),²⁷⁵ Angela van den Bogerd (Head of Network Services, 2010-2012, Director of Support Services, 2015-2016, Business Improvement Director, 2018-2010, various other roles from 1985),²⁷⁶ and David Miller (Horizon Programme Director, 1998-1999, Managing Director Post Office Network, 1999-2001, various other roles 1970-2006).²⁷⁷

18. **Members of the Post Office legal teams.** Susan Crichton (General Counsel, 2010-2013),²⁷⁸ Chris Aujard (Interim General Counsel, 2013-2015),²⁷⁹ Ben Foat (Head of Legal, Group Legal Director, General Counsel, 2015-present),²⁸⁰ Rob Wilson (Head of Criminal Law Team, 1986-

²⁷¹ **INQ00001150**, Transcript, 21 May 2024, p. 105 ln. 17-ln. 20 (Ms Alwen Lyons) (Q. “So around 28 June [2013], you were aware of three bugs, one of which as we’ve seen, Gareth Jenkins gave evidence relating to in [sic] the Misra case?” A. “I believe so”); see also **POL00371710**, which was referred to in this line of questioning.

²⁷² **INQ00001148**, Transcript, 16 May 2024, p.57, ln.2-ln.12 and p.66, ln.7-ln.10 (Ms Lesley Sewell) (“I was made aware of [the suspense account bug] once we understood it was a fault, so that would have been in 2013”).

²⁷³ **INQ00001147**, Transcript, 15 May 2024, p.36, ln.1-p.37, ln.11 (Mr Patrick Bourke); **WITN09830100**, First Witness Statement of Patrick Bourke, dated 11 April 2024, §20 (“By the time I arrived at POL in September 2014, it was clear that concerns about the Horizon IT system (“Horizon”) had been expressed to POL for some time [...] at the heart of the complaints was the suggestion that Horizon was producing anomalies”).

²⁷⁴ **WITN09860100**, First Witness Statement of Mark Davies, dated 10 April 2024, §§18-19 (“Issues relating to Horizon were addressed regularly at Board and Executive level”) and §84 (“[W]e recognised that Horizon, like all computer systems, was not perfect. This was a long-standing position”).

²⁷⁵ Mr Ismay accepted that he “must have” known about the issues arising from the ‘Receipts and Payments Mismatch’ bug, notwithstanding his earlier denial that he was aware of BEDs affecting the integrity of the Horizon IT system: compare **INQ00001063**, Transcript, 11 May 2023, p.40, ln.2-ln.16 (Mr Roderick Ismay) and **INQ00001064**, Transcript, 12 May 2023, p.66, ln.16-ln.23 (Mr Roderick Ismay).

²⁷⁶ **INQ00001136**, Transcript, 25 April 2024, p.125, ln.2-p.126, ln.7 (Ms Angela van den Bogerd) (“[W]e’ve looked already [...] at the December 2010 email, by which email you were notified of the receipts and payments mismatch bug”, albeit Ms van den Bogerd maintains she does not “recall seeing this at all”); **WITN09900100**, First Witness Statement of Angela van den Bogerd, dated 20 March 2024, §29 (“The first time I recall becoming formally aware of any bugs, errors or defects in the Horizon IT system [...] was when POL disclosed to Second Sight two anomalies”).

²⁷⁷ **INQ00001130**, Transcript, 16 April 2024, p.15, ln.3-p.17, ln.12 (Mr David Miller) (Mr Miller agrees he was aware of a number of issues with Horizon as early as March 1999, including awareness “of issues being experienced by subpostmasterstrialling the system” and “concerns about transactions being completely and accurately recorded”).

²⁷⁸ **WITN00220100**, First Witness Statement of Susan Crichton, dated 30 January 2024, §35 (“In respect of post separation discussions at Executive Meetings regarding the issues outlined above [...], I recall Horizon, BEDs, alleged integrity issues with Horizon [...] being discussed”).

²⁷⁹ **WITN00030100**, First Witness Statement of Christopher Aujard, dated 15 March 2024, §94.1 (“I can see there were two issues mentioned as known bugs or defects [in the Second Sight Interim Report] (which had been fixed) so I must have been aware of those at the time”).

²⁸⁰ **WITN09980400**, Fourth Witness Statement of Ben Foat, dated 3 May 2024, §217 (“in the course of mediation, external lawyers advised me that [...] (Legacy Horizon) “was not robust”; the previous system

2012),²⁸¹ Jarnail Singh (Senior Lawyer, Criminal Law Team, 1992-2015),²⁸² Hugh Flemington (Head of Legal, 2010-2014),²⁸³ Rodric Williams (Head of Legal, 2012-present),²⁸⁴ Juliet McFarlane (Principal Lawyer, 2005-2012),²⁸⁵ and Mandy Talbot (Team Leader, 1990-2011).²⁸⁶

19. **Members of the Post Office security and investigations teams.** Alan Simpson,²⁸⁷ Graham Ward,²⁸⁸ John Longman,²⁸⁹ Frederick Leslie Thorpe,²⁹⁰ Suzanne Winter,²⁹¹ Raymond Grant,²⁹²

(HNG-X, 2010-2018) was “questionable” and did not justify the confidence placed in it by POL in terms of its accuracy [...]”; **INQ00001199**, Transcript, 18 October 2024, p.52, ln 2-ln.10 (Mr Ben Foat) (“I remember a reference about that there was very little bugs given the broader context”);

- ²⁸¹ **INQ00001106**, Transcript, 12 December 2023, p.77, ln.6-ln.11 (Mr Rob Wilson) (Q. “You were being told here that there had been at least one missed or unnoticed or unseen error causing a financial imbalance, which had not initially been picked up by Fujitsu systems intended to pick up such issues, correct?” A. “Yes”); **WITN04210200**, Second Witness Statement of Robert Wilson, dated 15 November 2023, §15.5 (“During the course of the Seema Misra case I was notified of three instances where “bugs, errors or defects” were present in the Horizon IT system”).

- ²⁸² **FUJ00152930**, Email chain dated 5 February 2010, ‘WEST BYFLEET ISSUES – SEEMA MISRA – Legally Privileged’, p.1 (“It is possible for there to be problems where transactions have been “lost” in particular circumstances due to locking issues”); **INQ00001102**, Transcript, 1 December 2023, p.107, ln.19-p.108, ln.9 (Mr Jarnail Singh) (Mr Singh agreed this was “a huge red flag”).

- ²⁸³ **INQ00001138**, Transcript, 30 April 2024, p.63, ln.23-ln.25 (Mr Hugh Flemington) (Q. “Would you accept that, in early July 2013, you became aware of something called the Callendar Square bug?” A. “Yes”).

- ²⁸⁴ **INQ00001132**, Transcript, 18 April 2024, p.83, ln.18-ln.22 (Mr Rodric Williams) (Q. “In mid-2013 you had cause to enquire about past cases and that enquiry had led you to two cases in which Horizon bugs had been discussed: Lee Castleton and Seema Misra?” A. “Correct”); **WITN08420100**, First Witness Statement of Rodric Williams, dated 11 March 2024, §§43-51.

- ²⁸⁵ **POL00055410**, Email chain dated 8 October 2010, ‘Branch discrepancy issues’. Ms McFarlane’s tenure has been estimated based on contemporaneous documents.

- ²⁸⁶ **INQ00000979**, Transcript, 28 September 2023, p.75, ln.15-p.76, ln.11 (Ms Mandy Talbot) (“we had become aware of potential glitches”).

- ²⁸⁷ **POL00028838**, ‘Receipts/Payments Mismatch Issue Notes’, 29 September 2010; **POL00055410**, Email chain dated 8 October 2010, ‘Branch discrepancy issues’.

- ²⁸⁸ **INQ00001124**, Transcript, 1 February 2024, p.112, ln.10-p.113, ln.20 (Mr Graham Ward).

- ²⁸⁹ **INQ00001131**, Transcript, 17 April 2024, p.15, ln 5-ln.7 (Mr John Longman) (Q. “were you aware that that Callendar Square bug was a bug that could cause discrepancies in Horizon?” A. “I became aware of it as the case progressed”).

- ²⁹⁰ **INQ00001122**, Transcript, 30 January 2024, p.58, ln.20-ln.25 and p.60, ln.10-ln.19 (Mr Frederick Thorpe) (Q. “do you understand that to be him raising issues with the Horizon system when his branch first moved over?” A. “Well, yeah”).

- ²⁹¹ **POL00165450**, Email chain dated 4 June 2014, ‘GY:15665193 - Notice #4 - P2 - SERVICE/SYSTEMS DOWN OR OFFLINE - Issues with transfer acknowledgment in National Lottery system — this is causing duplicate tickets’.

- ²⁹² **INQ00001119**, Transcript, 24 January 2024, p.30, ln.20-ln.25 and p.41, ln.18-ln.24 (Mr Raymond Grant) (“Q. “When I asked you a moment ago about whether you had heard whether there were any suggestions that the Horizon computer system had created errors that could have caused cash shortages, and you said no, in fact the answer would be yes, because this document [POL00093246] shows that you had?” A. “Yes”).

Robert Daily,²⁹³ Stephen Bradshaw,²⁹⁴ Lisa Allen,²⁹⁵ Christopher Knight,²⁹⁶ Kevin Ryan,²⁹⁷ Mike Wilcox,²⁹⁸ Gary Thomas,²⁹⁹ David Posnett,³⁰⁰ Graham Brander,³⁰¹ Diane Matthews,³⁰² Ged Harbinson,³⁰³ Paul Whitaker,³⁰⁴ Natasha Bernard,³⁰⁵ John Scott,³⁰⁶ Andrew Hayward,³⁰⁷ Tony Marsh,³⁰⁸ and Andrew Hayward.³⁰⁹

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- ²⁹³ **INQ00001118**, Transcript, 23 January 2024, p.76, ln.6-ln.13 (Mr Robert Daily) (Q. “[*Mr Holmes*] was suggesting here that the apparent shortfall might have been caused by the Horizon system, wasn’t he?” A. “Yes”).
- ²⁹⁴ **INQ00001112**, Transcript, 11 January 2024, p.57, ln.2-p.58, ln.14 (Mr Stephen Bradshaw).
- ²⁹⁵ **INQ00001111**, Transcript, 20 December 2023, p.30, ln.12-ln.18 and p.53, ln.19-p.54, ln.14 (Ms Lisa Allen) (Ms Allen accepted that she was “involved in a number of cases where subpostmasters were attributing shortfalls to problems with the Horizon system?”).
- ²⁹⁶ **INQ00001107**, Transcript, 13 December 2023, p.54, ln.3-ln.20 (Mr Christopher Knight) (Q. “if you had read that email, you must have understood that the attachment contained 20 cases where Horizon integrity issues had been raised?” A. “Yes [...]”); See also, **POL00021244**, Transcript of interview with Ms Alison Hall, p.5.
- ²⁹⁷ **POL00165450**, Email chain dated 4 June 2014, ‘GY:15665193 - Notice #4 - P2 - SERVICE/SYSTEMS DOWN OR OFFLINE - Issues with transfer acknowledgment in National Lottery system - this is causing duplicate tickets’; **POL00044222**, ‘Area Intervention Manager Visit Log, Branch Fazakerley’, dated 6 September 2005, p.1; **POL00044223**, ‘Area Intervention Manager Visit Log, Branch Fazakerley’, dated 6 February 2006, p.1; **INQ00001107**, Transcript, 13 December 2023, p.161, ln.14-p.163, ln.2 (Mr Kevin Ryan).
- ²⁹⁸ **POL00172809**, ‘Security 4 Weekly Report’, dated 12 March 2010, p.3. This document was sent to Mr Wilcox, see: **POL00172808**, Email dated 12 March 2010, ‘Security- 4 Weekly Highlight Report 12 March 2010’; **INQ00001105**, Transcript, 7 December 2023, p.69, ln.17-ln.21 (Mr Mike Wilcox) (Q. “So [**POL00004708**] is referring, isn’t it, in terms, to the wider subpostmasters’ fight to question the integrity of Horizon. So multiple people raising this issue, a high profile issue with MPs involved” A. “Correct, yes.”).
- ²⁹⁹ **INQ00001105**, Transcript, 7 December 2023, p.210, ln.7-ln.19 (Mr Gary Thomas) (Mr Thomas accepted that he was told by multiple SPMs that they were having problems with Horizon).
- ³⁰⁰ **INQ00001103**, Transcript, 5 December 2023, p.25, ln.9-ln.16 (Mr David Posnett) (Q. “[...] would you say that your experience was that testing had revealed some problems, no problems or significant problems with the operation of Horizon?” A. “I would personally say some to significant”).
- ³⁰¹ **INQ00001099**, Transcript, 28 November 2023, p.81, ln.22-p.84, ln.19; p.92, ln.18-p.93, ln.24 (Mr Graham Brander).
- ³⁰² **INQ00001098**, Transcript, 24 November 2023, p.11, ln.11-ln.17 (Ms Diane Matthews) (A. “I was aware there was issues, yes”).
- ³⁰³ **INQ00001097**, Transcript, 22 November 2023, p.66, ln.16-ln.23 (Mr Ged Harbinson) (Q. “You were being told, among others in this memo, that a plea on the basis that the loss was due to the computer not working properly would not be accepted”).
- ³⁰⁴ **INQ00001095**, Transcript, 16 November 2023, p.121, ln.9-p.122, ln.12 (Mr Paul Whitaker) (Mr Whitaker was informed by Andy Dunks that “he was unable to say for definite that the Horizon system was working okay”); p.126, ln.14-p.127, ln.15 (Mr Paul Whitaker) (Mr Whitaker received an email from Jane Owen making him “aware of this issue, the duplication of transaction records”).
- ³⁰⁵ **INQ00001092**, Transcript, 10 November 2023, p.34, ln.5-p.35, ln.16 (Ms Natasha Bernard) (Ms Bernard confirmed she would have read **POL00026980**, dated 15 January 2010, this possibly being “the first time [she] became aware of anyone questioning the Horizon system”); p.75, ln.4-ln.10 (Ms Natasha Bernard) (**FUJ00122540** suggests that, by 2008, Ms Bernard “would at least have been aware that there were challenges to the integrity of Horizon”).
- ³⁰⁶ **WITN08390100**, First Witness Statement of John Scott, dated 12 May 2023, §104 (Mr Scott “understood that certain issues within the system had been identified”).
- ³⁰⁷ **WITN08160100**, First Witness Statement of Andrew Hayward, 11 May 2023, §47 (“In respect of **POL00095547** I was made aware of issues raised regarding Horizon Integrity [...]”)
- ³⁰⁸ **INQ00001068**, Transcript, 5 July 2023, p.158, ln.1-p.159, ln.2 (Mr Tony Marsh) (“my belief at the time was that hopefully the number of errors would go down, but the responsibility for those errors should not be [POL’s]”).
- ³⁰⁹ **INQ00001082**, Transcript, 10 October 2023, p.113, ln.4-ln.6 (Mr Andrew Hayward); cf **INQ00001082**, Transcript, 10 October 2023, p.117, ln.1-p.118, ln.6 (Mr Andrew Hayward).

20. **Members of the NBSC.** Andrew Wise,³¹⁰ Shaun Turner,³¹¹ and Gary Blackburn.³¹²
21. **Members of other Post Office teams.** Antonio Jamasb,³¹³ Emma Langfield,³¹⁴, Julia Marwood,³¹⁵ David Pardoe,³¹⁶ Tony Utting,³¹⁷ Elaine Cottam,³¹⁸ Marie Cockett,³¹⁹ Brian Trotter,³²⁰ Anne Allaker,³²¹ Gayle Peacock,³²² Stephen Grayston,³²³ David Smith,³²⁴ Susan

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- ³¹⁰ **INQ00001076**, Transcript, 20 September 2023, p.54, ln.3-ln.9; p.109, ln.8-p.110, ln.12; p.110, ln.23-p.112, ln.3 (Mr Andrew Wise); **WITN09090100**, First Witness Statement of Andrew Wise, dated 31 May 2023, §87.
- ³¹¹ **INQ00000986**, Transcript, 28 February 2023, p.35, ln.24-p.36, ln.9 (Mr Shaun Turner) (regarding the Callendar Square bug). See also, p.93, ln.1-ln.14 (regarding receipts / payments misbalancing issue in 2018/19, which Mr Turner suggests was known at “quite senior levels” within Post Office).
- ³¹² **INQ00000986**, Transcript, 28 February 2023, p.139, ln.25-p.141, ln.5 (Mr Gary Blackburn).
- ³¹³ **POL00028838**, ‘Receipts/Payments Mismatch issue notes’, 29 September 2010, p.1.
- ³¹⁴ *Ibid.*
- ³¹⁵ *Ibid.*
- ³¹⁶ **POL00165450**, Email chain dated 4 June 2014, ‘GY:15665193 - Notice #4 - P2 - SERVICE/SYSTEMS DOWN OR OFFLINE - Issues with transfer acknowledgment in National Lottery system - this is causing duplicate tickets’; **INQ00001100**, Transcript, 29 November 2023, p.112 ln.19-23 (Mr David Pardoe) (Q. “[...] On its face, this seems to be reporting a systems issue [...]?” A. “It does, yes”); **POL00165493**, Email chain dated 10 July 2014, ‘GY:15804252 - Notice #2 - P1 - SERVICE/SYSTEMS PERFORMANCE DEGRADED - Reference Data Integrity Not proven error in Horizon’.
- ³¹⁷ **INQ00001096**, Transcript, 17 November 2023, p.74, ln.24-p.75, ln.6 (Mr Tony Utting) (Mr Utting was at a meeting where Mandy Talbot gave “a warning about the collection of data concerning the reliability of Horizon and the potential for the compromise of future proceedings and compromise the reliance on Horizon itself”).
- ³¹⁸ **INQ00001090**, Transcript, 7 November 2023, p.50, ln.18-p.51, ln.2 (Ms Elaine Cottam) (Ms Cottam is “recorded as calling in and raising an issue or complaining about a Horizon system fault or problem”).
- ³¹⁹ **INQ00001089**, Transcript, 20 October 2023, p.58, ln.24-p.60, ln.6 (Ms Marie Cockett). See also: **INQ00001089**, Transcript, 20 October 2023, p.49, ln.16-p.50, ln.3 (Ms Marie Cockett) (Ms Cockett accepted that she must have been aware of cases where the integrity of Horizon was being challenged).
- ³²⁰ **INQ00000984**, Transcript, 2 March 2023, p.28, ln.1-p.42, ln.21 (Mr Brian Trotter) (Mr Trotter acknowledged that his involvement with the Callendar Square bug “could have been” a “huge wake-up call” regarding “whether or not there were system errors when shortfalls arose for subpostmasters”).
- ³²¹ **INQ00000985**, Transcript, 1 March 2023, p.29, ln.5-ln.6 (Ms Anne Allaker) (“[...] certainly things did occasionally crop up that were described to me as bugs, errors and defects [...]”).
- ³²² **INQ00000985**, Transcript, 1 March 2023, p. 141, ln. 17-p.142, ln.7 (Ms Gayle Peacock) (Q. “Can you give us a flavour of the kinds of correspondence that subpostmasters and their assistants or managers made in relation to bugs, errors and defects in Horizon” A. “[...] I think it was one of those where if that was where it was flagged, I think they were put to the Legal Department. [...]”).
- ³²³ **INQ00000987**, Transcript, 27 February 2023, p.3, ln.13-p.4, ln.1; p.19, ln.16-p.20, ln.1 (Mr Stephen Grayston) (“you will inevitably always find some defect even if you’ve gone through extensive testing. But something will always turn up”). **WITN03920100**, First Witness Statement of Stephen Grayston dated 14 September 2022, §49.
- ³²⁴ **INQ00000988**, Transcript, 24 February 2023, p.137, ln.22-p.138, ln.11 (Mr David Smith) (Q: “Do you accept that any system as complex as Horizon was bound to have some level of bugs, errors and defects?” A: “Absolutely, absolutely”).

Harding,³²⁵ Mark Burley,³²⁶ Andrew Winn,³²⁷ Mark Haldane,³²⁸ Richard Poulton,³²⁹ Shaun White,³³⁰ Thomas Pegler,³³¹ and Bruce McNiven.³³²

22. **Post Office's external lawyers.** Stephen Dilley,³³³ Richard Morgan KC,³³⁴ Andrew Parsons,³³⁵ Tom Beezer,³³⁶ Anthony de Garr Robinson KC,³³⁷ Simon Clarke,³³⁸ Warwick Tatford,³³⁹ Brian

³²⁵ **INQ00000990**, Transcript, 22 February 2023, p.5, ln.13-ln.20 (Ms Susan Harding).
³²⁶ **INQ00000990**, Transcript, 22 February 2023, p.214, ln.2-ln.7 (Mr Mark Burley) (“*there’s always a risk that bugs do creep in and that’s why you have to, you know, keep testing it and, you know, keep on top of it*”), cf Mr Burley’s answers in relation to particular BEDs in HNG-X at p.216.
³²⁷ See, for example: **POL00028838**, ‘Receipts/Payments Mismatch issue notes’, 29 September 2010; **INQ00001059**, Transcript, 3 March 2023, p.76, ln.14-ln.20 (Mr Andrew Winn) (Q. “*The notes for this meeting generally suggest that the Post Office knew that knowledge of the bug should create caution over the accuracy of some of the data that Horizon was producing?*” A. “*Yes*”); **POL00090726**, Letter from Mr Andrew Winn to Mr Afzal dated 11 October 2011, p.15.
³²⁸ **WITN05740100**, First Witness Statement of Mark Haldane, dated 27 March 2023, §§16-18.
³²⁹ **WITN07570100**, First Witness Statement of Richard Poulton, dated 6 February 2023, §10.
³³⁰ **WITN05820100**, First Witness Statement of Shaun White, dated 16 March 2023, §2.6.
³³¹ **INQ00001085**, Transcript, 13 October 2023, p.156, ln.12-p.157, ln.14 (Mr Thomas Pegler).
³³² **WITN04120100**, First Witness Statement of Bruce McNiven, dated 17 September 2022, §§19, 44, 48; **INQ00000998**, Transcript, 10 January 2023, p.82, ln.16-p.83, ln.19 (Mr Bruce McNiven).
³³³ **INQ00001077**, Transcript, 21 September 2023, p.103, ln.19-ln.21 (Mr Stephen Dilley) (Q. “*So there you have become aware of a problem at the Callendar Square branch?*” A. “*Yes, that’s right*”); **WITN04660100**, First Witness Statement of Stephen Dilley, dated 8 June 2023, §105 (“*[...] the experience Mr Booth reported having on 25 or 26 October 2006 suggested on the face of it that Horizon could (albeit rarely) lose transactions*”).
³³⁴ **INQ00001078**, Transcript, 22 September 2023, p.89, ln.2-ln.13 (Mr Richard Morgan KC) (Mr Morgan KC was aware of “*occasions when screens had frozen or whatever but nothing ever specific*”); p.100, ln.19-p.101, ln.15 (Mr Booth’s evidence seemed “*concerning because it suggests that Horizon can (albeit rarely) lose transactions*”).
³³⁵ **INQ00001160**, Transcript, 13 June 2024, p.29, ln.4-ln.20 (Mr Andrew Parsons) (Q. “*we’re in the summer of 2013, 8 July, at least three bugs known to you?*” A. “*I knew of three bugs at that time*”).
³³⁶ **INQ00001159**, Transcript, 12 June 2024, p.42, ln.2-p.43, ln.7 (Mr Tom Beezer) (Mr Beezer was concerned in September 2006 to receive a report which “*found that there is some indication of possible problems with Horizon*”).
³³⁷ **WITN10500100**, First Witness Statement of Anthony de Garr Robinson KC, dated 14 May 2024, §38 (“*WBD addressed three particular bugs that had been identified by Second Sight. The Schedule admitted that these three bugs had in way one [sic] or another caused shortfalls*”).
³³⁸ **INQ00001144**, Transcript, 9 May 2024, p.178, ln.7-ln.14 (Mr Simon Clarke) (Q. “*[...] on 27 June [2013], Martin Smith told you about an unpublished report, the Second Sight Report, which stated there were bugs in the Horizon system.*” A. “*That’s correct*”); cf **WITN08130100**, First Witness Statement of Mr Simon Clarke, dated 23 March 2024, §41 (“*I first became aware of the issue of bugs within Horizon on 27 June 2013 [...]*”).
³³⁹ **WITN09610100**, First Witness Statement of Warwick Tatford, dated 25 October 2023, §11.

Altman KC,³⁴⁰ Martin Smith,³⁴¹ Harry Bowyer,³⁴² Andrew Bolc,³⁴³ and Susanne Helliwell.³⁴⁴

‘Siloing’ of information regarding BEDs

23. Notwithstanding that information concerning BEDs was widely known within Post Office, it would also be open to the Inquiry to conclude that organisational silos within Post Office contributed to a failure by certain staff within Post Office to consider that BEDs in the Horizon IT System were capable of producing transaction errors and impacting upon branch accounts. That is, there was a routine failure by Post Office staff (particularly in relation to the investigations team) to share internally important information concerning integrity issues identified in the Horizon IT System with their colleagues.³⁴⁵ That was a critical missed opportunity.
24. The Inquiry heard consistent evidence from present and former Post Office employees that there was a ‘message from the top’ that the Horizon IT System was ‘robust’. That ‘message from the top’ was obviously contrary to the extensive material available to Post Office which demonstrated the existence of BEDs in the Horizon IT System. Nonetheless, that message was pervasive:

³⁴⁰ **INQ00001143**, Transcript, 8 May 2024, p.103, ln.11-ln.17 (Mr Brian Altman KC) (“*in my mind, it must have included I knew about the Callendar Square bug in Legacy, that was the only bug I knew about in Legacy*”); cf **WITN10350100**, First Witness Statement of Mr Brian Altman KC, dated 4 April 2024, §25(1) (“*I was aware of the Callendar Square/Falkirk bug as to which I had been given to understand a software fix had been distributed into the system by March 2006 (see [POL00006803_0042]). Certain other concerns and problems were suggested in Harry Bowyer’s Response to the Interim Review of Cartwright King’s Current Process by Brian Altman QC [POL000066807_0002] but, as I understood it, these were in Horizon Online, as they arose in the summer of 2013*”).

³⁴¹ **INQ00001139**, Transcript, 1 May 2024, p.108, ln.1-ln.8 (Mr Martin Smith) (“*So I think I was made aware of a single bug in the Legacy case, I believe that was the Falkirk/Callendar Square bug, which was subsequently discussed*”); see also p.130, ln.7-9 (Q. “*I think this is 28 June?*” A. “*So that was probably the day after we’d been informed of the bugs*”).

³⁴² **WITN10990100**, First Witness Statement of Harry Bowyer, dated 2 April 2024, §14 (“*We became aware at CK through conversations that Martin Smith had with senior POL executives that the Second Sight Interim Report would reveal the existence of bugs in the Horizon system*”).

³⁴³ **INQ00001108**, Transcript, 15 December 2023, p.2, ln.1-ln.16 (Mr Andrew Bolc) (“*Subsequent to this statement, I received further documentation including an email I was copied into. [...] I suspect that would be counted as potentially a defect in the system*”).

³⁴⁴ **WITN09420100**, First Witness Statement of Susanne Helliwell, dated 14 July 2023, §20 (“*[...] the first time any issues concerning errors or defects came to light was in Mr Coyne’s Report*”); **INQ00001071**, Transcript, 26 July 2023, p.137, ln.22-p.138, ln.5 (Ms Susanne Helliwell) (Q. “*would you have sent this opinion from Mr Coyne to your primary Post Office contact from Legal services in the first instance?*” A. “*Yes, I’d have sent it to Jim Cruise, I think, at the time, would I? But yeah, I’d have sent it to my primary contact immediately, yes*”).

³⁴⁵ See, for example: **INQ00000985**, Transcript, 1 March 2023, p.134, ln.19-p.135, ln.9; p. 136, ln.3-ln.15 (Ms Gayle Peacock) (Q. “*So as at 2014, despite working closely with Angela van den Bogerd, you still, at that stage, weren’t aware of the fact that the Horizon System could cause discrepancies [...] in cash shortfalls*” A. “*No.*”); **INQ00001099**, Transcript, 28 November 2023, p.80, ln.21-p.81, ln.21 (Mr Graham Brander) (“*I’m not aware of anyone that knew any bugs, errors, or defects and you would have thought that we would have been advised of that.*”); **INQ00001105**, Transcript, 7 December 2023, p.16-ln.24-p.17-ln.16 (Mr Michael Wilcox) (“*At no stage did anybody sit me down or call a team meeting and say, “We may have problem here, this is what’s happening, and this is how we’re going to handle it.”*”).

24.1. Witnesses identified a number of different potential *sources* of that ‘message from the top’, including “*Post Office Limited*”,³⁴⁶ “*the business*”,³⁴⁷ “*the organisation*”,³⁴⁸ “*senior management*”,³⁴⁹ “*the top*”,³⁵⁰ “*above*”,³⁵¹ “[f]airly senior levels in the company”,³⁵² “*Senior Managers*”,³⁵³ “*the board*”,³⁵⁴ “*senior individuals within POL*”,³⁵⁵ the Post Office “*Head of Security*”,³⁵⁶ John Scott,³⁵⁷ Rob Wilson,³⁵⁸ David Smith,³⁵⁹ Rod Ismay,³⁶⁰ Julie Thomas,³⁶¹ the Post Office “*Communications Team*”,³⁶² and persons responsible for staff training.³⁶³

24.2. The evidence of Alan Lusher was that Post Office Contracts Advisers were given a “*statement to read out at application interviews*”, prepared by “*the legal team*”, in order “*to assure people that the Horizon system was sound*”.³⁶⁴ That evidence is consistent with the evidence of Andrew Wise to the effect that Post Office gave investigators “*tools to get*

³⁴⁶ **INQ00001087**, Transcript, 18 October 2023, p.6, ln.12-p.7, ln.8 (Mr Alan Lusher) (“*We were – “we” being the team of Contracts Advisers – were repeatedly advised by Post Office Limited that there was nothing to be concerned about with the Horizon system and the integrity was complete*”); **INQ00000979**, Transcript, 28 September 2023, p.52, ln.2-ln.20 (Ms Mandy Talbot) (“*I think it was coming from Post Office Limited*”).

³⁴⁷ **INQ00001103**, Transcript, 5 December 2023, p.58, ln.5-ln.9 (Mr David Posnett) (“*the business were constantly saying “There’s nothing wrong with it, there’s nothing wrong with it”*”); **INQ00001083**, Transcript, 11 October 2023, p.130, ln.14-ln.25 (Mr John Scott) (“*I think the feedback from the business and from people like Dave Smith was that the Horizon system was robust and reliable*”).

³⁴⁸ **INQ00001086**, Transcript, 17 October 2023, p.84, ln.16-p.85, ln.2) (Mr John Breeden) (“*The organisation told us it was robust*”).

³⁴⁹ **INQ00001087**, Transcript, 18 October 2023, p.8, ln.18-p.9, ln.5 (Mr Alan Lusher).

³⁵⁰ **INQ00001103**, Transcript, 5 December 2023, p.41, ln.8-p.42, ln.17 (Mr David Posnett); **INQ00001085**, Transcript, 13 October 2023, p.156, ln.12-p.157, ln.14 (Mr Thomas Pegler) (“*So my understanding is that came from the top, that came from the board*”).

³⁵¹ **INQ00001099**, Transcript, 28 November 2023, p.97, ln.24-p.99, ln.1 (Mr Graham Brander).

³⁵² **INQ00001085**, Transcript, 13 October 2023, p.16, ln.17-p.17, ln.17 (Mr Paul Inwood).

³⁵³ **WITN10400100**, First Witness Statement of Suzanne Winter, dated 2 January 2024, §29.

³⁵⁴ **INQ00001085**, Transcript, 13 October 2023, p.156, ln.20-p.157, ln.4 (Mr Thomas Pegler).

³⁵⁵ **WITN05690100**, First Witness Statement of Jane Smith, dated 8 November 2024, §72.

³⁵⁶ **INQ00001076**, Transcript, 20 September 2023, p.112, ln.4-p.113, ln.16 (Mr Andrew Wise). The Head of Security at the relevant time was Mr John Scott and, later, Mr Mark Raymond, see p.121, ln.7-p.122, ln.7.

³⁵⁷ **INQ00001099**, Transcript, 28 November 2023, p.203, ln.24-p.204, ln.14 (Mr Graham Brander); **INQ00001107**, Transcript, 13 December 2023, p.66, ln.20-ln.23 (Mr Christopher Knight); **INQ00001121**, Transcript, 26 January 2024, p.48, ln.18-ln.21 (Ms Suzanne Winter); **INQ00001107**, Transcript, 13 December 2023, p.66, ln.13-p.67, ln.20 (Mr Christopher Knight).

³⁵⁸ **INQ00001093**, Transcript, 14 November 2023, p.73, ln.13-ln.23 (Ms Deborah Stapel).

³⁵⁹ **INQ00001083**, Transcript, 11 October 2023, p.130, ln.14-ln.25 (Mr John Scott) (“*[...] feedback from the business and from people like Dave Smith [Head of Change & IS] was that the Horizon system was robust and reliable*”).

³⁶⁰ **INQ00000979**, Transcript, 28 September 2023, p.13, ln.10-p.14, ln.12 (Ms Mandy Talbot).

³⁶¹ **WITN08350100**, First Witness Statement of Paul Southin, dated 9 January 2024, §109 (“*I attended a meeting in February 2019 at which the system was described as “robust” by Julie Thomas, who was a senior manager within POL*”).

³⁶² **INQ00001098**, Transcript, 24 November 2023, p.116, ln.3-p.118, ln.16 (Ms Diane Matthews) (“*That was the Communications Team. It’s like a media team where, I don’t know, the press, et cetera, would go to them for comment, and that’s what I was told to put [...] there was some lengths that were being gone to to try and protect the system, let’s say*”).

³⁶³ **INQ00001101**, Transcript, 30 November 2023, p.208, ln.11-p.208, ln.23 (Mr Jarnail Singh); **INQ00001121**, Transcript, 26 January 2024, p.9, ln.12-p.10, ln.4 (Ms Suzanne Winter).

³⁶⁴ **INQ00001087**, Transcript, 18 October 2023, p.7, ln.20-ln.24 (Mr Alan Lusher).

*round those messages [i.e. complaints regarding the integrity of Horizon] from postmasters. So to be able to challenge them”.*³⁶⁵ The evidence of Jane Smith was that “*in or around 2011... there was a communication to NBSC helpline and P&BA staff which said that when a postmaster called the NBSC helpline to raise an issue with Horizon, staff should not use the phrase ‘system issue’ when speaking about Horizon”.*³⁶⁶

24.3. Further, it is clear this ‘message from the top’ that the Horizon IT System was ‘robust’ was communicated to Post Office’s external legal advisors. The Inquiry heard evidence from a number of Post Office’s external legal advisors, who suggested that they had been provided assurances by Post Office that the Horizon IT System was ‘robust’. Those witnesses included: Stephen Dilley,³⁶⁷ Richard Morgan KC,³⁶⁸ Martin Smith,³⁶⁹ and Warwick Tatford.³⁷⁰

25. To the extent that some Post Office employees sought to suggest that the ‘message from the top’ originated with *Fujitsu*,³⁷¹ that evidence is of doubtful reliability and should be rejected. That is because:

25.1. The consistent evidence from Post Office employees involved in criminal investigations and prosecutions was that they had only very limited personal or direct interactions with Fujitsu staff.³⁷² Indeed, a curious feature of the evidence on this issue is that a number of Post Office witnesses who sought to cast blame upon Fujitsu for the ‘message from the top’, *also* gave evidence that they had limited (if any) personal or direct interactions with Fujitsu staff: see, for example, the evidence of Catherine Oglesby,³⁷³ Suzanne Winter,³⁷⁴ and Kevin Ryan.³⁷⁵

³⁶⁵ **INQ00001076**, Transcript, 20 September 2023, p.119, ln.20-p.121, ln.6 (Mr Andrew Wise).

³⁶⁶ **WITN05690100**, First Witness Statement of Jane Smith, dated 8 November 2024, §72.

³⁶⁷ **INQ00001078**, Transcript, 22 September 2023, p.7, ln.6-ln.12 (Mr Stephen Dilley).

³⁶⁸ **INQ00001078**, Transcript, 22 September 2023, p.110, ln.8-p.113, ln.25 (Mr Richard Morgan KC).

³⁶⁹ **WITN09680100**, First Witness Statement of Martin Smith, dated 21 November 2023, §105.

³⁷⁰ **INQ00001094**, Transcript, 15 November 2023, p.194, ln.2-ln.8 (Mr Warwick Tatford).

³⁷¹ See, for example: **INQ00001088**, Transcript, 19 October 2023, p.138, ln.2-ln.22 (Ms Alison Bolsover);

INQ00000979, Transcript, 28 September 2023, p.13, ln.5-p.14, ln.12 (Ms Mandy Talbot).

³⁷² **INQ00001087**, Transcript, 18 October 2023, p.92, ln.23-p.93, ln.2 (Mr Alan Lusher) (“*I would never refer to Fujitsu for Information [...] I didn’t have the avenue through which to do that*”); **INQ00001083**, Transcript, 11 October 2023, p.132, ln.5-ln.6 (Mr John Scott) (“*The team didn’t access directly to Fujitsu; they made requests for records*”).

³⁷³ **INQ00001095**, Transcript, 16 November 2023, p.159, ln.18-p.160, ln.5 (Ms Catherine Oglesby) (Ms Oglesby states she did not have a “*direct contact to Fujitsu*”). However, when asked from where she received the message that the Horizon IT System was “*robust and working properly*”, she suggested she was “*getting messages back from Fujitsu and from the Business Support Centre and the Horizon System Helpdesk*”: p.140, ln.7-16.

³⁷⁴ **INQ00001121**, Transcript, 26 January 2024, p.19, ln.16-ln.18 (Ms Suzanne Winter) (“*I never had direct contact with Fujitsu*”).

³⁷⁵ **INQ00001107**, Transcript, 13 December 2023, p.167, ln.8-ln.17 (Mr Kevin Ryan) (Q. “*Who from Fujitsu assured you that Horizon was robust?*” A. “*I had no contact direct from Fujitsu*”).

- 25.2. A number of the Post Office employees who suggested that such a message had come from ‘Fujitsu’ were entirely vague in their recollection as to the circumstances of such an assurance, or the terms on which it was given.³⁷⁶ There is, moreover, no contemporaneous documentation of which Fujitsu is aware to support those suggestions.
- 25.3. Indeed, where there *is* available evidence of the information being provided by Fujitsu directly to those engaged in the investigation and criminal investigation of SPMs, the suggestion that Fujitsu was providing fulsome assurances as to the integrity of the system did not bear scrutiny. By way of illustration, although Mr Singh sought to suggest that relevant assurances had been provided by Mr Jenkins, there are contemporaneous email records of Mr Singh being aware that Mr Jenkins had explained that he was “*not currently in a position to make a clear statement*” that the system was functioning properly, because “[i]t is possible for there to be problems where transactions have been ‘lost’ in particular circumstances”.³⁷⁷

³⁷⁶ **INQ00001104**, Transcript, 6 December 2023, p.94, ln.5-ln.21 (Mr David Posnett); **INQ00000979**, Transcript, 28 September 2023, p.11, ln.23-ln.24; p.191, ln.11-ln.19 (Ms Mandy Talbot) (“*I would be lying if I tried to put a name to it after this period of time. I’m very sorry*”); **INQ00001089**, Transcript, 20 October 2023, p.52, ln.5-ln.9 (Ms Marie Cockett) (“*I would guess it would be coming from the IT guys*”); **INQ00001121**, Transcript, 26 January 2024, p.48, ln.21-ln.23 (Ms Suzanne Winter).

³⁷⁷ **FUJ00152930**, Email chain dated 5 February 2010, ‘West Byfleet Issues – Seema Misra – Legally Privileged’, p.1.