

**Sent:** Tue 06/11/2018 5:59:53 PM (UTC)  
**To:** Watson, Richard - UKGI [GRO] Fox, Joshua - UKGI [GRO]  
**Cc:** Aldred, Tom - UKGI [GRO] Clarke, Stephen - UKGI [GRO]  
**Subject:** Litigation

Richard

Is it within the scope of the judge's remit in this case to express a view that prosecutions for fraud or false accounting were unsafe? Some of the press (eg the Computer Weekly article) seem to be pointing this way.

I'm wondering about the relationship between contract law (where postmasters take on the liability for missing cash where there is a discrepancy between the Horizon system and the actual cash in the till – this is the agency principle in the contract) and criminal law (where there usually needs to be intent and evidence that cash was actually stolen). I'm wondering whether the complainants can argue that even though contractually postmasters are responsible for missing cash, prosecutions should not have been made without actual evidence of theft (ie it is insufficient to prosecute simply on the basis that some cash was missing without having proof that it had been stolen). I also wonder to what extent any coercive behaviour by POL (eg in encouraging a guilty plea as an alternative to a fraud trial) could be relevant to this argument as well – the judge in the last ruling mentioned POL's style in previous correspondence as being dismissive.

Is there a risk that some of the implied contractual terms being asked for by the complainants could feed this argument eg the implied term requiring losses to be investigated before deeming postmasters liable.

Tom

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