

Friday, 2 December 2022

1
2 (10.00 am)
3 **MR BEER:** Good morning, sir. If can I call Mr Alan Milburn,
4 please.
5 **ALAN MILBURN (affirmed)**
6 **Questioned by MR BEER**
7 **MR BEER:** Good morning, Mr Milburn.
8 **A.** Good morning.
9 **Q.** My name is Jason Beer, as you know, and I ask questions
10 on behalf of the Inquiry. Please can you give us your
11 full name?
12 **A.** Alan Milburn.
13 **Q.** Many thanks for coming to give evidence today and also
14 for the detailed witness statement that you have already
15 provided to the Inquiry. Can we look at that witness
16 statement, please. There should be a hard copy in front
17 of you. For the transcript, the reference is
18 WITN03500100 and on page 21 there should be a signature.
19 **A.** Yes.
20 **Q.** Is that your signature?
21 **A.** It is.
22 **Q.** Are the contents of the witness statement true to the
23 best of your knowledge and belief?
24 **A.** They are.
25 **Q.** Thank you. Can I start with some questions about your

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1 Finance Initiative, modernising Government, peacekeeping
2 in Sierra Leone, so there's a wide variety of issues
3 you're dealing with, Departments that you're liaising
4 with. And, very often, the more informal role, I guess,
5 is you're trying to solve or help solve what have become
6 knotty cross-governmental problems, of which Horizon
7 would be an example. The final role, I guess, is that,
8 at the time, I was responsible for PPPs, Public Private
9 Partnerships, and Private Finance Initiative, and also
10 for regulation in the City.
11 **Q.** So, as far as this Inquiry is concerned, in the Horizon
12 project there were two particular aspects of the role,
13 as well as obviously the financial element of your role,
14 where it intersects with your responsibilities.
15 Firstly, that this was, when you started office, still a
16 Private Finance Initiative contract, a PFI contract, and
17 secondly, would you agree that this was a knotty problem
18 involving cross-departmental disagreement?
19 **A.** I think that would be a polite underestimate --
20 understatement. Yes, it was.
21 **Q.** Thank you. One of the first communications that you
22 received concerning Horizon was from the General
23 Secretary of the National Federation of SubPostmasters,
24 Colin Baker. Can we look at that, please. It'll come
25 up on the right-hand screen for you. It's NFSP00000372.

3

1 background and experience. I think you were elected as
2 MP for Darlington in May 1992; is that right?
3 **A.** It is.
4 **Q.** You served as a backbench MP until May 1997 when, as
5 part of the New Labour Government, you were appointed
6 Minister of State at the Department of Health?
7 **A.** That is correct.
8 **Q.** You serve in that role for a year and eight months, by
9 my calculations, until on 23 December 1998 you were
10 appointed as Chief Secretary to the Treasury?
11 **A.** Yes.
12 **Q.** You served in that role for a little over nine months
13 until 11 October 1999, when you were appointed Secretary
14 of State for Health?
15 **A.** That is correct.
16 **Q.** It's that nine-month period that we are principally
17 interested in, when you were Chief Secretary to the
18 Treasury. What's the role, in general terms, of the
19 Chief Secretary to the Treasury?
20 **A.** It's a pretty impressive role in Government, because you
21 really have a finger in many pies, largely as
22 a consequence of effectively being responsible for all
23 aspects of public expenditure. So at any one time you
24 can be dealing with an issue like this, or I think,
25 during my time, the war in Kosovo, issues around Private

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1 Thank you.
2 You'll see at the top of the page there that it's
3 a letter to you. It's from Colin Baker, the General
4 Secretary of the Federation. Although the date is
5 typewritten as 13 August 1998, somebody has handwritten
6 "8th January 1999". That date, the handwritten date,
7 would make sense, the typewritten date would not, given
8 that this is a letter congratulating you on becoming
9 Chief Secretary to the Treasury.
10 **A.** Yes.
11 **Q.** So would you agree that the second date appears more
12 likely to be the correct one?
13 **A.** I guess so, yes, that must be right. I guess it must
14 have been a standard letter, by the looks of things,
15 maybe sent to my predecessor as well.
16 **Q.** I was going to ask you about that. Is it normal to
17 receive these congratulatory letters from, in
18 particular, the unions?
19 **A.** It's normal at the beginning. You do tend to get
20 congratulatory letters at the beginning of your term,
21 less so at the end, in my experience. Yes, and, not
22 just from the unions. So whether or not I saw it, I've
23 got absolutely no recollection. It's possible I did but
24 I don't know.
25 **Q.** Just help us to understand, we've received some evidence

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1 on this issue already, the general public might think
 2 that if a letter is written to you with your name on it,
 3 you will see it.

4 **A.** Yes.

5 **Q.** Can you explain whether that would be an accurate
 6 assumption or not?

7 **A.** That is an inaccurate assumption. So there's a sausage
 8 machine in government, and for understandable reasons,
 9 really. As a minister you receive a huge amount of
 10 correspondence so there's obviously internal
 11 correspondence, no doubt we'll come to, between
 12 ministers and then there's a lot of external
 13 correspondence from either members of the public or
 14 organisations like the Federation. And, in truth, what
 15 happens two lot of them is that there's simply -- they
 16 never come into a ministerial office or to a private
 17 office they go into the machine of government and there
 18 will be a correspondence unit, I guess, somewhere in the
 19 Treasury, who would effectively either respond to it
 20 directly or alternatively draft a response which would
 21 come up to a ministerial office, and then you would sign
 22 it off.

23 **Q.** So if there was a reply to this letter, which was just
 24 an acknowledgement and a thank you, that wouldn't come
 25 up to you to okay it?

5

1 **A.** I have no recollection of them doing so.

2 **Q.** Thank you. In your witness statement, maybe if we just
 3 look at it please, at paragraph 22, it'll come up on the
 4 screen, as well. It's page 8, thank you. Paragraph 22.
 5 You say:

6 "My primary responsible as Chief Secretary was
 7 overseeing public centre. While Horizon's technical
 8 viability and robustness would have been an issue of
 9 concern to [the Treasury], the operational
 10 responsibility for ensuring that it worked in practice
 11 would have rested Mr Directly with DTI and DSS."

12 The sentence that "operational responsibility for
 13 ensuring it worked in practice would have rested more
 14 directly with" -- and I'm interested in DTI here -- is
 15 that right, that the Department for Trade and Industry
 16 would have had operational responsibility for ensuring
 17 that Horizon worked in practice, as opposed to the Post
 18 Office?

19 **A.** I think what I mean there is that the DTI is the
 20 sponsoring Department --

21 **Q.** Sorry, can I stop you in mid-answer. The transcript has
 22 apparently stopped. We've got a live time transcript
 23 and it appears to have frozen.

24 I'm told it's of the variety of the ten-minute
 25 issue. Therefore, I'd ask you to rise and we break

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1 **A.** No, it wouldn't.

2 **Q.** If there was a reply of more substance we would expect
 3 to see a backing paper, a ministerial submission,
 4 saying, "This is the issue, here's the letter, here's
 5 a proposed reply in annex B"?

6 **A.** It could take one of two forms. Either there would be
 7 a backing paper and a draft letter. Very often, there
 8 would only be a draft letter and then it would be
 9 a matter for the minister, in this case myself, to
 10 determine whether or not the draft reply was a suitable
 11 one. So I could either sign it off or I could alter it
 12 and it would go back and be retyped or whatever, and
 13 then come up for signature again.

14 But the fact there doesn't seem, certainly in my
 15 bundle of papers, to be a reply to Mr Baker suggests
 16 that that didn't happen in this case.

17 **Q.** To what extent was there a channel of communication
 18 between you and the NFSP in the nine-month period?

19 **A.** From recollection, I don't know whether there was.
 20 I think probably not.

21 **Q.** Does it follow that, to your recollection, the
 22 Federation did the not raise with you issues about the
 23 integrity or reliability of the Horizon System in that
 24 nine-month period when you were Chief Secretary to the
 25 Treasury?

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1 whilst the transcribers regain connectivity.

2 **SIR WYN WILLIAMS:** I should have kept a table of whether
 3 this was more or less likely to happen when I'm present,
 4 Mr Beer! All right.

5 **MR BEER:** Ten minutes.

6 **SIR WYN WILLIAMS:** Sorry about that.

7 **THE WITNESS:** No problem.

8 **(10.14 am)**

9 **(A short break)**

10 **(10.23 am)**

11 **MR BEER:** I'm sorry for that delay.

12 **SIR WYN WILLIAMS:** Can I ask you, as a matter of interest,
 13 is the transcribing, or if that's the correct
 14 description, actually stopped or is it just that the
 15 display that has stopped.

16 **MR BEER:** The former. The transcriber who is remote, who is
 17 not in this building, loses connection --

18 **SIR WYN WILLIAMS:** Fine, I'm with you.

19 **MR BEER:** -- so an Internet connection and so, therefore,
 20 the transcript has to stop. We see that because the
 21 display ceases to work.

22 Mr Milburn, sorry for that interruption to your
 23 evidence. At the time of receiving the letter that we
 24 were looking at, so that was early January 1999, were
 25 you aware of any concerns that were circulating within

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1 Number 10 Downing Street that the Horizon System itself
2 was flawed and unreliable?

3 **A.** There were certainly concerns, I think, across
4 Government, in Number 10, Treasury, DTI and the then
5 DSS, about the operationalising of the Horizon contract
6 since it was so late. It was delayed and, obviously,
7 ICL were in breach of contract and had been for some
8 considerable time, and there were a number of other
9 structural problems as you're aware, in terms of the
10 relationships between the parties, and so on and so
11 forth.

12 If your question is a much narrower question about
13 the operational performance, so to speak, of the
14 rollout, I think that's a different matter. I don't
15 think, from recollection, operational performance
16 issues, even when there was live testing, which as is
17 clear from my evidence, and I think from other
18 ministers' evidence, is something the Government was
19 insisting on, for perfectly obvious reasons -- the
20 results of live testing, ie what was actually happening,
21 I don't think were visible.

22 **Q.** The Inquiry has seen correspondence circulating within
23 Number 10 at Christmastime, so Christmas 1998, over the
24 narrower issue -- so not the concept of involving the
25 Benefits Agency through the use of a Benefit Payment

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1 there. There was the assessment of Adrian's report and,
2 indeed, as I've read in the documents that have been
3 presented to me, the Isabel Anderson note from
4 October '98, which talked about technical feasibility.
5 I think Adrian talked about technical viability, so
6 broadly the same concept.

7 So I guess that was a theoretical appraisal of
8 whether or not it was possible that the programme could
9 be implemented. That was on one side. And I think, as
10 the scepticism amongst Government and officials, I would
11 guess, but speaking for myself as a minister -- as the
12 scepticism about the rollout grew, then I think the
13 reliance on a presumption may well have diminished, and
14 that's why, as you'll see from the Select Committee
15 evidence that I cite in my statement, Alistair Darling,
16 my colleague, in particular, given the fact that the DSS
17 had been so scarred by previous IT programmes, was
18 heavily insistent upon live testing. So was the thing
19 actually working in practice, as distinct from
20 theoretically could it work?

21 **Q.** Before the decision was taken in May 1999 to go with
22 option B3, essentially, as it was styled, were you aware
23 of any independent assessment of the operation of the
24 system, as it had then been built?

25 **A.** No.

11

1 Card, but the narrower issue of whether the system
2 itself was flawed, was unreliable. At that time, and
3 subsequently, those weren't concerns that were shared
4 with or raised with you.

5 **A.** Not to my recollection.

6 **Q.** You refer in your witness statement, on a number of
7 occasions, to a report that was co-authored by Adrian
8 Montague, back in July 1998, and the conclusion or one
9 of the conclusions of that report that the system was,
10 as it then stood, technically viable. I have in mind,
11 no need to turn them up, paragraphs 21, 55, and 57 of
12 your statement.

13 Were you given, to your recollection, a copy of the
14 Montague report, as I'm going to call it, when you took
15 up office?

16 **A.** Not to my recollection.

17 **Q.** So this is you in your statement reflecting back on what
18 you now see the Montague report to say?

19 **A.** Correct.

20 **Q.** Still, even though it is reflecting back, do you
21 understand the Montague report to refer to the
22 feasibility of a system that was yet to be trialled, as
23 opposed to an assessment and a conclusion that the
24 system in operation was robust and had integrity?

25 **A.** Yeah, I think there are two separate issues, aren't

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1 **Q.** Any external consultant involvement in an independent
2 assessment of the operation of the system, as it was
3 then operating, other than looking back to the slightly
4 different issue that you've mentioned: technical
5 feasibility or viability in July '98?

6 **A.** No.

7 **Q.** Do you know why that was, that that type of assessment
8 was not commissioned?

9 **A.** I don't know.

10 **Q.** Have you a view on whether it ought to have been?

11 **A.** Yes, though I think it is one of the -- look, my direct
12 recollections of all of this period are limited, as
13 I made clear in my statement, but from a careful reading
14 of the documents that the Inquiry has made available to
15 me, one of the clear fault lines, in my view, is that
16 there was no independent, ongoing technical expertise
17 that was able to take a view about whether the so-called
18 live testing was actually throwing up more problems than
19 it was creating solutions.

20 And I think it is one of the potentially important
21 lessons to be learned from this sort of implementation,
22 which is that that sort of ongoing technical independent
23 expertise is something that would be of relevance, going
24 forward.

25 Now, I'm speaking blind, so to speak, because it may

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1 well be that, nowadays, that's exactly what happens,
 2 I don't know. But I would have thought that that might
 3 have been something that would have been helpful, in
 4 particular for ministers, to have line of sight of.

5 **Q.** To what extent did it feel, at the time, that you were
 6 taking this decision blind to an independent and
 7 rigorous assessment of the technical merits or demerits
 8 of the system?

9 **A.** I think we were reliant on two things: first of all, the
 10 Montague assessment, that it was viable; and, secondly,
 11 the assurance that the system -- which ICL, I think,
 12 were uncomfortable with, because I think from what I've
 13 read, that there were more wanting to see laboratory
 14 testing than live testing -- that the live testing would
 15 demonstrate the workability of the system.

16 **Q.** Can you remember whether anyone raised that issue,
 17 "We're lacking here consultancy, input, or" -- and I'm
 18 not thinking of kind of City consultancy, KPMG-type
 19 input, but somebody outside of POCL and ICL giving us
 20 a cold, hard assessment of the technology here?

21 **A.** Look, it's a quarter of a century ago, almost, and so --
 22 but I have no recollection of that, no.

23 **Q.** Can we look, please, at paragraph 11, still dealing with
 24 January 1999. In paragraph 11, you exhibit a copy of
 25 an undated draft letter from Stephen Byers to the Prime
 13

1 public. Did you form a view at the time as to whether
 2 or not the substance of what was being said was fair?

3 **A.** I think there was -- there were clear structural
 4 problems from the outset with this. The Government, of
 5 which I was a member, inherited what was a failing
 6 contract, and maybe the way it was set up from the
 7 outset, it could be argued, it was designed almost to
 8 fail. Given that there were different objectives on the
 9 part of the principal sponsors, the Benefits Agency, DSS
 10 on the one side, DTI and the Post Office on the other,
 11 there was huge ambiguity there.

12 However -- and, of course, the Programme Delivery
 13 Authority and all of the issues that ICL-Fujitsu raise
 14 about continual chopping and changing, and so on and so
 15 forth, it does take two to tango, however, and there was
 16 also another pattern through all of this, I think, which
 17 is that ICL had signed up to something that they were
 18 unable to deliver. And I think, when I look at it
 19 today, it's pretty clear that the complexity of the
 20 contract was dramatically underestimated. The
 21 timescales were heroic and, to put it politely, the
 22 management and governance structures were deeply
 23 ambiguous.

24 But the job of the contractor, particularly in a PFI
 25 deal, is to take that responsibility and absolve those
 15

1 Minister, and you say that:
 2 "This document shows, despite the serious problems
 3 with the contract, ICL were still expecting new money
 4 from the Government and to make a financial return, in
 5 order to make the deal agreed between ICL and POCL in
 6 December 1998 work."

7 If we can just look at that letter, please. That's
 8 BEIS0000167. This is the letter to which you refer, and
 9 if you just scan, I'm not going to read them out in
 10 full, but if you scan the first part of the letter on
 11 page 1, and then go over to page 2, and the first couple
 12 of paragraphs on page 2, before we get to the part where
 13 ICL is looking for a revenue stream. It's clear there,
 14 as well as the issue of ICL asking for new money from
 15 Government to make a financial return, the balance of
 16 the letter also refers to Fujitsu's sense of having been
 17 badly treated by the Government, as well as the
 18 commercial background of ICL having spent significant
 19 sums of money in developing the project, in addition to
 20 future investment proposals. Would that be fair?

21 **A.** Yes. Fair in terms of the content of the letter.
 22 Whether it's fair is a different point.

23 **Q.** Yes, fair in terms of the content of the letter. I'm
 24 just asked to ensure that, in the interests of balance,
 25 other parts of the letter are drawn to your attention in
 14

1 risks. That's the point about PFI. It's about the
 2 transferal of risk.

3 So all the parties bear some responsibility.

4 **Q.** You said, in the course of that answer, that the
 5 governance and management structures were deeply
 6 ambiguous. What were you referring to in particular
 7 there?

8 **A.** Well, my view about these things is that clarity beats
 9 ambiguity every single time, particularly when it comes
 10 to something as complex as the delivery of this huge
 11 programme, 19,000 post offices, 40,000 counters, and yet
 12 it was pretty obvious, and all the papers bear this out,
 13 really, that the DSS and the Benefits Agency have
 14 a different objective from the DTI and the Post Office,
 15 and those objectives were -- there was an attempt to
 16 marry them thorough the mechanism of the Programme
 17 Delivery Authority. But all that really did was bring
 18 together different points of view and different
 19 interests.

20 So, in the end, what I don't see from what I read
 21 today, is that there was a single point of
 22 accountability and responsibility for the delivery of
 23 this thing and that, it seems to me, is one of the big
 24 failures and maybe one of the lessons to be learnt.

25 **Q.** What ought to have occurred, then, what structure ought
 16

1 to have been put in place?

2 **A.** Somebody, somewhere should have had sole responsibility;
3 it should have been their responsibility.

4 **Q.** Was that not obvious at the time and didn't need
5 reflection of 20 years in the past?

6 **A.** Well, as I say, the Government of which I was a member
7 inherited both a governance structure and a contract
8 and, obviously, I don't know, none of us know, how that
9 was set up, how the decisions were made, why the
10 structures were designed in the way that they were.
11 But, of course, at the time, it's perfectly obvious from
12 reading all of these papers that those concerns were
13 pretty deeply felt. It was one of the reasons, not the
14 sole reason, it was one of the reasons, which
15 contributed to the view that we had to leave no stone
16 unturned, in order to try to find a way of making this
17 thing either work, or not, in terms of either to make it
18 work or to terminate it.

19 And the truth is that, you know, as I look at it
20 today, there were no easy solutions or easy answers
21 here. There were pretty fine judgements, and you were
22 in a position where, you know, quite a lot of bad money
23 had been thrown at this, and the question is whether you
24 threw more good money at it because we were into it, or
25 whether you did something more dramatic and terminated

17

1 or sight on the high and low level design of the system
2 that they were being asked to use, that they were being
3 presented with what was described as a black box that
4 just produced outputs that they needed to trust in. Was
5 that something that had filtered up to you?

6 **A.** Not that I can remember, no.

7 **Q.** Again, the same question: when it came to May '99 and
8 the resetting of the arrangements, can you recall
9 whether that was an issue of discussion? We can now use
10 this opportunity to address that problem?

11 **A.** I can't recollect that conversation taking place and
12 I suspect that, if it had taken place, it was taking
13 place at official level rather than ministerial level.
14 But that's my supposition.

15 **Q.** Can we look, please, just moving forward to
16 February '99, then, at POL00069088 and just highlight
17 the top of the page. This wouldn't have been an email
18 that you saw at the time, you're not on the copy list,
19 it's not something that would have come to your
20 attention. It's the content that I want to ask you
21 about, Mr Milburn, you understand.

22 So this from Jonathan Evans, and he states that
23 David Sibbick, a senior civil servant in the DTI:
24 "... rang late this afternoon to tell me that [you]
25 had earlier today passed to Stephen Byers a proposal for

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1 the thing, with pretty big consequences for the Post
2 Office and for subpostmasters in particular, or whether
3 you tried to find a way through it.

4 And I guess the effort over the course of January to
5 May period, when I was obviously involved with this
6 alongside Steve and Alistair, in particular, and Charlie
7 Falconer, was we were trying to find a way through
8 this.

9 **Q.** Just winding forwards to May, when the decision was made
10 to drop the Benefits Agency out of the Tripartite
11 Agreement, to stop the use of a PFI contract, to move to
12 a bilateral agreement between POCL and ICL, using a more
13 standard design and build contract for the provision and
14 supply of goods and services, was the opportunity taken
15 then to address the issue of governance, management and
16 oversight of the project at that stage?

17 **A.** Not to my recollection.

18 **Q.** Why was that? Did that not represent an opportunity
19 when very substantial elements of the programme were
20 being reset to address the issue that you have raised?

21 **A.** I don't know why that was.

22 **Q.** Can you recall, in the period between your appointment
23 and May 1999, whether concerns were raised with you, in
24 particular through the DTI, that the Post Office
25 considered that the PFI contract denied them visibility

18

1 a way forward on Horizon. Byers has until lunchtime
2 tomorrow ... to give comments back to [the Treasury].
3 Darling at DSS is in a similar position.

4 "The proposal is strictly confidential to Ministers
5 and officials -- [the Treasury] have not given clearance
6 for us or [the Benefits Agency] to be brought into the
7 consultation net.

8 "[I went this evening] over to DTI with Mena to help
9 David analyse what the proposal contains. Contrary to
10 rumours, it does not contain any suggestion of involving
11 a new partner, but essentially is option X with
12 a twist ..."

13 Then that's set out:
14 "scrap the Benefit Payment Card
15 "POCL to introduce a smartcard
16 "benefit payments to be paid into a 'benefit
17 account' via ACT ...
18 "'initially' the benefit account would only be
19 accessible at post offices.
20 "ACT into normal bank accounts would remain
21 an option throughout."
22 Now, this tends to suggest that there were back
23 channels of communication going on. To what extent did
24 you know about that?

25 **A.** I didn't. In fact, I don't know who any of these

20

1 characters are.

2 **Q.** Right. Would you expect such back channels of
3 communication to go on at official level and including
4 back to ICL?

5 **A.** I don't know back to ICL but the realpolitik of being in
6 Government in being, indeed in any large organisation,
7 is that there are always back channels, are there not?
8 So it doesn't particularly surprise me that officials
9 were talking privately to one another.

10 **Q.** Now, you know that subsequently, data produced by --
11 that can be taken down, thank you.

12 Data produced by the Horizon System was used as the
13 foundation for the prosecution of a number of
14 subpostmasters, subpostmistresses and Crown Office
15 staff. In the nine-month period of your office, as
16 Chief Secretary, was that something that you were aware
17 of: that the data produced by the system could be used
18 for that purpose?

19 **A.** No.

20 **Q.** Did you know that the Post Office was a prosecuting
21 authority, that it conducted its own investigations and
22 prosecutions, rather than that being done by the police
23 service and the Crown Prosecution Service?

24 **A.** At the time, no.

25 **Q.** Were you aware of any discussions at the time as to the

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1 different organisations and, therefore, what was
2 necessary in terms of the specification and outputs of
3 the Horizon System. This wasn't included as one of
4 them, so far as you're aware?

5 **A.** Not as far as I'm aware.

6 **Q.** So you didn't have any information drawn to your
7 attention that would satisfy you that the Horizon System
8 would be fit for the purpose of providing reliable
9 evidence for use in criminal and, indeed, in civil
10 cases?

11 **A.** No.

12 **Q.** This wasn't an issue that was on your radar in any sense
13 at all?

14 **A.** From recollection, absolutely not, and I'm pretty
15 certain that if it had been -- if I had been apprised of
16 that, I think I probably would have remembered it, in
17 the light of what has happened.

18 **Q.** I'm not going to take you through the various iterations
19 of the developments of proposals in the period between
20 January and May 1999, because we've got those on paper,
21 and you've said in your witness statement, you've
22 repeated today, that you have very little independent
23 recollection to add to those. But I do want to take you
24 to the end of the process if I may, in May 1999 --

25 **A.** Sure.

23

1 need to ensure the integrity and reliability of the data
2 processed by the Horizon System, because it might be put
3 to that use?

4 **A.** No.

5 **Q.** So were you viewing this through the lens, simply, of
6 an "ordinary", in inverted commas, computer system that
7 would be used for the processing of transactions and
8 accounting purposes?

9 **A.** Sure.

10 **Q.** Would it have made any difference if you had known the
11 things that I've just mentioned, ie a different use to
12 which the data might be put?

13 **A.** Um ... yes, I would have thought so. I mean, I'm
14 struggling to answer the question, because I'm trying to
15 think what I would have thought then, so to speak, you
16 know, 20-odd years ago. But when I -- I read the
17 transcript of the evidence that my colleague Stephen
18 Byers had given here and, when you raised exactly those
19 same questions about the Post Office as a prosecuting
20 authority and the use to which data had been put --
21 I was going to say I was surprised: I was shocked. And
22 so, I may well have had the same reaction 20-odd years
23 ago.

24 **Q.** There were a number of discussions between the DTI and
25 the Benefits Agency about the needs and duties of the

22

1 **Q.** -- and look at HMT00000024. If we go to the last page
2 of that which is page 9, we can see it is signed off by
3 you; there would have been your signature underneath
4 where it says, General Restriction Order "GRO" --

5 **A.** Mm.

6 **Q.** -- and it is dated 10 May 1999.

7 **A.** Yes.

8 **Q.** Would you have drafted this or would somebody have
9 drafted it for you?

10 **A.** Oh, it would have been drafted for me, and then I may
11 well have edited it and changed it, or whatever, but
12 there would have been an initial draft that would have
13 come up to my office.

14 **Q.** So, because you may have edited it, amended it, but then
15 signed it, you were content with the content going out
16 in your name?

17 **A.** Yes.

18 **Q.** If we go back to page 1, thank you. It says in the
19 introduction:

20 "This note sets out the current situation on the
21 Horizon ... Project. It summarises the extensive work
22 that has taken place over the last few weeks to reach
23 an agreement about how to best to proceed. In
24 summarising the position I have consulted extensively
25 with Stephen Byers, Alistair Darling, and Charlie

24

1 Falconer."
 2 Now, at this stage, what was your role, so
 3 10 May 1999?
 4 **A.** That's a very good question. So I guess I was trying to
 5 act as a broker and convener between the different
 6 interests and points of view amongst my ministerial
 7 colleagues. And, in that role, my co-pilot, I suppose,
 8 was Charlie Falconer because he was a minister for the
 9 Cabinet Office, so again sat at the centre of
 10 government, rather than representing one of the
 11 Departments. So we each had a finger in the pie.
 12 I think this letter is interesting because it
 13 represents my attempt, I suppose, to bring matters to
 14 a conclusion by facing the Prime Minister with a choice
 15 because, as is clear from the other content of this
 16 particular letter, although we might have been aligned
 17 on many things, we couldn't get to an alignment about
 18 the best way forward, whether it was B1, B3 or
 19 termination. And so, in the end, the ultimate arbiter
 20 in Government has to be the Prime Minister, which is why
 21 the letter was sent.
 22 **Q.** Thank you. You continue:
 23 "We have a commitment to give ICL a decision on the
 24 way forward with this project on Monday (but ICL have
 25 said they can now wait until Tuesday). They must file
 25

1 was a recognition that the current method of paying
 2 benefits at the time, through the so-called ration book
 3 method, was inefficient, was out of sync with where
 4 Benefits Agency customers themselves were going and was
 5 both expensive and vulnerable to fraud. So I think
 6 there was a cross-government recognition where the
 7 preferable route was to move to ACT, and not just the
 8 DSS one.
 9 **Q.** Then turning to the options -- sorry, before that it
 10 says -- can that just be blown up again. Thank you:
 11 "We should keep ICL/Fujitsu on boarding if
 12 possible."
 13 Then turning to the options, we'll come to these in
 14 more detail when we get to the papers -- substance
 15 itself:
 16 "Stephen Byers and Charlie Falconer both prefer
 17 Option B1."
 18 We'll come to that, in a moment but that's a new
 19 smartcard, essentially:
 20 "Alistair Darling and Alan Milburn favour Option
 21 B3 ..."
 22 We'll come to that, that's POCL buying system from
 23 ICL but without the Benefit Payment Card.
 24 **A.** Which is sort of what eventually happened.
 25 **Q.** Yes, that was the outcome.

27

1 end year accounts on Wednesday."
 2 Just stopping there, what was the relevance of ICL
 3 filing accounts?
 4 **A.** Because from -- not from memory but from a reading of
 5 the papers, depending on what was agreed, they would
 6 have to make a provision in their accounts and, indeed,
 7 I think Fujitsu would have had to make a provision in
 8 its accounts.
 9 **Q.** For losses?
 10 **A.** For losses.
 11 **Q.** And, depending on the choice that Government made, that
 12 may determine the extent of the loss shown.
 13 **A.** Correct.
 14 **Q.** You continue:
 15 "Our policy aim is to move to [ACT] as soon as
 16 reasonably practical and to preserve a national Post
 17 Office network."
 18 In your witness statement, I think, you describe
 19 certainly the latter of those as one of the top-level
 20 policy objectives: the preservation of a national Post
 21 Office Network.
 22 The former of those, "Our policy aim is to move to
 23 [ACT] as soon as practical", was that a reflection of
 24 the DSS's position?
 25 **A.** I think it was spearheaded by the DSS, but I think there
 26

1 **A.** Yes.
 2 **Q.** "... if POCL and ICL can reach a sensible deal. If they
 3 cannot they would favour Option C -- [termination] and
 4 allowing POCL to procure a new system that met their
 5 commercial requirements in the light of termination."
 6 The sentence "Alistair Darling and Alan Milburn
 7 favour Option 3", you presumably don't refer to yourself
 8 much in the third person?
 9 **A.** It's a slightly odd way of doing it, isn't it? Yes.
 10 **Q.** Is that a reflection that this is authored by somebody
 11 else, or would that be the normal way to write?
 12 **A.** No, it isn't a reflection of the fact that it was
 13 written by someone else. I think it's a reflection of
 14 the fact that I wanted to make clear to the Prime
 15 Minister where the principles stood.
 16 **MR BEER:** I'm so sorry, sir. Once again the transcript
 17 appears to have stopped. That's IT.
 18 **A.** I'm glad you said that and not me.
 19 **MR BEER:** Can you give me a moment to find out what's going
 20 on?
 21 I understand on this occasion the transcription link
 22 is working and so the transcriber will carry on
 23 transcribing, which is obviously the critical thing,
 24 that there is a record made --
 25 **SIR WYN WILLIAMS:** That's why I ask the question earlier.

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1 Because I think we can all survive not having
2 a simultaneous --

3 **MR BEER:** The LiveNote.

4 **SIR WYN WILLIAMS:** Exactly. Cue(?), as they say.

5 **MR BEER:** Yes, picking up where we were, then. I think you
6 were mid-answer.

7 **A.** Yes, I was saying that I think the reason that -- it's
8 slightly odd, a letter coming from me, referring to me
9 in the third person. I think I was trying to make it
10 explicitly clear to the Prime Minister, who I'm sure was
11 receiving a lot of submissions at this time, where the
12 individual principles stood.

13 **Q.** I understand. So if they can't then reach a deal, then
14 termination, because it --

15 **A.** So Alistair and I took the view, which wasn't the same
16 view as Steve or Charlie, we took the view that, if we
17 couldn't make what was eventually the option that was
18 implemented work, then we had to move to termination.

19 **Q.** "Background
20 "We gave an assurance to Fujitsu that the Government
21 will make a decision ..."
22 I'm dealing with this in some detail because we've
23 skipped over the various iterations that are the run up
24 to this moment.

25 **A.** Yes.

29

1 **A.** I don't know.

2 **Q.** Can you recall what this breakdown is focused on?

3 **A.** I think it's principally focused on -- I would have
4 thought it's focused on the breakdown between the
5 Benefits Agency and ICL.

6 **Q.** Were you aware of any breakdown in relations between
7 POCL and ICL?

8 **A.** I honestly can't recollect.

9 **Q.** Moving on, paragraph 3:
10 "We are left with three options. First, [B1] --
11 involving the creation of 15 million Post Office
12 benefits accounts (with limited facilities), accessible
13 via a Post Office smartcard. Benefits would be paid
14 into these accounts by ACT (from 2002). It's the best
15 option to preserve Post Office footfall in the short
16 term, and the policy value for this cannot be reflected
17 in the figures. It would place the [Post Office] in
18 a position to win electronic Government services by
19 having a base of 15 million smartcards. It provides
20 automation of counter services. In this respect it has
21 attractions, but it offers consider people worse value
22 for money in NPV [net present value] terms than the
23 alternative options. If Ministers were to decide to
24 pursue Option B1, ICL's current position is that the
25 public sector parties must sign an unconditional

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1 **Q.** Then over the page, please:
2 "... on the way forward for the project by Monday
3 [which, I think, is the day of the document itself],
4 although ICL have now said they can wait until Tuesday.
5 "Economic case
6 "The Horizon project was envisaged as a way of
7 reducing benefit fraud and modernising the benefit
8 system, while automating the Post Office network in
9 a way that would help preserve footfall and therefore
10 maintain a nationwide network of post offices. It is
11 now three years late. Our view is that continuation
12 with the project (Option A) is no longer viable, in view
13 of ICL's failure to deliver and the irretrievable
14 breakdown in relations between the parties. This view
15 was effectively confirmed earlier this week when ICL
16 withdrew their offer of 18 December. It is therefore
17 dead."
18 The sentence "continuation is no longer viable in
19 view of ... the irretrievable breakdown in relations
20 between the parties", did you consider, when making
21 recommendations, when writing this minute, whether the
22 irretrievable breakdown in relations between the parties
23 didn't just include an irretrievable breakdown involving
24 the Benefits Agency and DSS, that there was a -- there
25 had been a breakdown in relations between POCL and ICL.

30

1 agreement on Tuesday, and provide ICL with
2 £180 million."
3 You didn't favour this option?

4 **A.** No.

5 **Q.** And why?

6 **A.** Um, because I felt the conditions -- because I think the
7 reasons why they didn't favour this option, given it was
8 so long ago, were that the conditions were unattractive,
9 signing up unconditionally to something that was going
10 to be complex to deliver, didn't seem to me to be
11 a recipe for success, and the fact that ICL once again
12 were wanting more when they had a track record of
13 delivering less.
14 So that was one reason. I guess the second reason
15 was that, in cost terms, and not just in NPV terms but
16 public expenditure terms, as I've read from the papers,
17 this would be a considerably more expensive option than
18 either continuing with what was, which was clearly not
19 an option, because it had failed and for all the reasons
20 that we've been discussing, or the option that I did
21 favour, B3.

22 **Q.** Can we turn, then, to B3 over the page, please,
23 paragraph 4.
24 "The second option [B3] would involve POCL buying
25 the basic system from ICL but without the benefit

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1 payment application and without the creation of special
 2 POCL benefit accounts. It would provide automation of
 3 post office [counters] (from bill payment to postage
 4 rates). Benefits would be paid into conventional High
 5 Street bank accounts by ACT. The Post Office would
 6 offer simple cashback facilities (as a minimum) to
 7 access these accounts across the council. It would also
 8 provide a platform for network banking and Modern
 9 Government with a smartcard capability, though it would
 10 not provide the certainty of 15 [million] smartcards as
 11 under B1. It would allow BA to roll out the Order Book
 12 Control System (a way of reducing order book fraud). BA
 13 and POCL would work together to market ACT into bank
 14 accounts accessible at the post office from 2001, in
 15 preparation for a move to ACT as the usual method of
 16 payment in 2003. The NPV figures are sensitive to
 17 changes in these dates."

18 Then 5:

19 "Unlike B1, [B3] would not tie the Post Office to
 20 ICL as a long-term business partner. Such a tie may
 21 well prove inflexible if, and when, we take forward
 22 a Public Private Partnership and, therefore, force us to
 23 bring a private sector second on less attractive terms."

24 Down the page, please, to 6:

25 "POCL reject Option B3 at the moment and ICL have

33

1 could not be ready by then and claim they would lose
 2 substantial footfall) working with POCL to maximise
 3 retention of footfall.

4 "As well as the above considerations there are
 5 substantial economic and financial differences between
 6 these options. The key figures are ..."

7 Over the page, please and if we scroll down to look
 8 at the table. I'm not going to analyse the financial
 9 figures or ask you to do so.

10 A. That's a relief.

11 Q. You enter a footnote saying:

12 "All these figures should be seen as indicative
 13 rather than precise forecasts. They depend on
 14 assumptions ..."

15 Then if we go over the page to the summary:

16 "B3 and C offer a better economic return than B1;

17 "the cash hit under B3 and C are significantly less
 18 than under B1, both in the CSR2 period and over
 19 a 10-year timescale."

20 So that's the headline points that you draw from the
 21 table before --

22 A. Yes.

23 Q. -- which is why I'm not going to try and deconstruct it.

24 A. Yes.

25 Q. You then come on to the Post Office's position. They

35

1 indicated that it is likely to be expensive. POCL would
 2 prefer termination and to obtain a new system better
 3 suited to their needs."

4 Can you recall why POCL rejected option B3?

5 A. I can't, I'm afraid.

6 Q. "In order to maintain progress on B3 we would have to
 7 rule option B1 off the table and make plain that
 8 termination was the only alternative. However, when
 9 this was done over the weekend POCL still preferred
 10 termination. It is unlikely we could force POCL to do
 11 B3."

12 In fact, that's what happened, isn't it?

13 A. It is, yes. I think I was wrong in that regard.

14 Q. You were wrong in which regard?

15 A. In regard to the last sentence because, in the end, that
 16 is what happened.

17 Q. Over the page, please, to 7. The:

18 "The third option [C] would be to terminate the
 19 contracts with ICL. POCL would start afresh. A new
 20 automation system would be brought forward from a new
 21 supplier specifically designed to meet POCL's automation
 22 and network banking aspirations, including the ability
 23 to withdraw cash from bank accounts at post offices. BA
 24 would be given a date to move to ACT (they would like to
 25 start the transfer ... from 2001, although POCL say they

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1 prefer B1:

2 "... but are not prepared to contribute more than
 3 £37 million ... They have suggested that a further
 4 £190 million be taken from their customers by delaying
 5 the reduction in the postal monopoly from £1 to 50 pence
 6 by three years."

7 Could you explain what that means, please?

8 A. I honestly can't recall. I don't know.

9 Q. Okay:

10 "The Post Office have said they would plough the net
 11 contribution they expect to make from Government Direct
 12 business under ... A back into B1 and estimate that
 13 these will be about £660 million ... But this money is
 14 already taken into account in calculating the additional
 15 costs in the table above ... ICL are offering the
 16 possibility of finance to 'smooth' the spending profile,
 17 but this is simply borrowing from ICL and the interest
 18 payments will add to the project costs."

19 Then you analyse, under a series of headings, the
 20 "Political factors", "Positions", and then
 21 "Conclusions". I just want to go back to "Political
 22 factors", please, on page 10. That's paragraph 10 at
 23 the foot of the page:

24 "All of the options ... need to be presented very
 25 carefully, given the expectation amongst subpostmasters

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1 that Horizon ... would secure their future. [B1] would
 2 be the easiest of the other three options to handle.
 3 [B3] would be the harder but would still have ICL on
 4 board and the Post Office would still be getting
 5 automation. In the case of [B3 and C] the Government
 6 would need to argue that it would have been doing the
 7 post office and its customers no good by pressing on
 8 with a project that was already 3 years late and
 9 couldn't deliver -- and that they were fully committed
 10 to providing one that did. We would make plain that ICL
 11 had withdrawn of the existing project ... We have looked
 12 hard to salvage something but unfortunately there was
 13 nothing worthwhile."

14 Then continuing on, "Positions", this simply
 15 reflects what you'd said in the summary at the
 16 beginning.

17 **A.** Mm.

18 **Q.** We can skip 11, which sets out Mr Byers and
 19 Mr Falconer's position, and go to 12, which I think
 20 explains the answer in more detail to the question that
 21 I asked you earlier, why you favoured B1:

22 "[You] and Alistair Darling consider that the larger
 23 funding gap with B1, and the fact that it ties the Post
 24 Office into an expensive project over a period during
 25 which we might consider a change in the ownership,

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1 **A.** I don't, I'm afraid, have a direct recollection.
 2 I mean, reading the documentation now, some 20-odd years
 3 later, I think a recurring theme, from what I've read is
 4 that the BPC was identified as the core problem, and it
 5 is perfectly obvious that, from a Benefits Agency and
 6 DSS point of view, the longer the delays were in the
 7 BPC, which was always regarded as an interim solution,
 8 pending ACT and/or a full smartcard, the less the value
 9 was for the DSS and the Benefits Agency, in terms, for
 10 example, of fraud -- savings from fraud.

11 So understandably perhaps the DSS and the Benefits
 12 Agency were getting more and more frustrated as time
 13 went on.

14 **Q.** Then the sentence, or the part of the sentence "and is
 15 relatively simple", ie the Horizon System stripped of
 16 the BPC element of it was relatively simple, on what
 17 basis was that said?

18 **A.** I presume it was said on the basis that that is what
 19 I was being told: that it was a more straightforward
 20 part of Horizon than the BPC, but that's a presumption,
 21 rather than a recollection.

22 **Q.** Presumably, you wouldn't have said this unless you had
 23 been told it?

24 **A.** I wouldn't have made it up, no.

25 **Q.** You continue:

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1 present too much of a downside. They consider that the
 2 Post Office's lack of financial commitment raises doubts
 3 about their commitment to B1. They are concerned that
 4 ICL's failure to deliver the [BPC] on time does not bode
 5 well for delivery of a new and complex system ..."

6 Then this:

7 " ... (in contrast B3 would be buying that part of
 8 the system that is ready to roll out and is relatively
 9 simple)."

10 That phrase there, "ready to roll out", can you
 11 recall where that came from, bearing in mind this is
 12 10 May 1999?

13 **A.** I can't recall where it came from. I think it's
 14 a reference to the fact that B3 effectively involved the
 15 separation of the BPC, which had been the subject of
 16 many of the problems from, if you like, the underlying
 17 automation of Post Office Counters. So I think it's
 18 a relativity point, rather than an absolute one,
 19 I think, reading it again.

20 **Q.** Can I just test that a little bit: is that your
 21 recollection of what you had been told, whether orally
 22 or through submissions, that the problems with Horizon
 23 principally related to the BPC, rather than the Benefits
 24 Agency having an in-principle objection to the use of
 25 the BPC?

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1 "B3 could also provide a platform for Modern
 2 Government. The Option A savings, largely accruing to
 3 [the Benefits Agency] are also available under B3
 4 and C."

5 At 13:

6 "The Post Office favour B1. They have said that
 7 they are not interested in B3 and would prefer
 8 termination ... this may partly be a negotiating tactic
 9 (they were reluctant to consider other options while
 10 option A was on the table). If POCL and ICL cannot
 11 agree on a worthwhile deal on B3, there would be
 12 termination."

13 Did you consider that the Post Office were employing
 14 negotiating tactics with Government?

15 **A.** I guess that's what that infers. But I don't have
 16 a recollection of that.

17 **Q.** To what extent was it for government to make a decision
 18 here, given that the Post Office was a statutory
 19 corporation, and Post Office Counters Limited was
 20 a limited company with its own board? Why does the
 21 Government get to make the choice and foist upon
 22 an unwilling company, limited by guarantee?

23 **A.** Well, it's clearly an uncomfortable position, not least
 24 because the then Government's position was that, as
 25 I recall, we wanted to give greater freedom to the Post

40

1 Office, in order to encourage it to be more
2 entrepreneurial and more modern in order to sustain
3 itself and be successful for the future.

4 But the real answer is that, in the end, the buck
5 stops with the government and, indeed, the cheque book
6 is owned by the government, so one was going to have to
7 write the cheques on behalf of the taxpayer, and that is
8 HMG.

9 **Q.** In a -- sorry, we should finish with the conclusion.

10 "We have been unable to agree on an option ... B1 is
11 favoured by ICL and the Post Office ... but has
12 a substantial funding gap ... It provides most immediate
13 security of footfall but ties the Post Office into
14 a long-term relationship ... B3 provides an automated
15 platform for POCL to develop its business in the future,
16 is clearly more affordable than B1, but is currently
17 opposed by Post Office and possibly by ICL. [C] would
18 provide POCL with a made-to-measure automation system,
19 is more affordable than B1, but would mean the end of
20 ICL's involvement in the contracts and could have more
21 presentational difficulties."

22 You continue in 15:

23 "We have set in train a handling strategy to ensure
24 the best possible presentation from the Government's
25 point of view regardless of which option is eventually

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1 including the key contractual milestone for completion
2 of the operational trial for which ICL ... were placed
3 in breach in November 1997

4 "on current working plans, updated as recently as
5 September [1999], the first milestone thereafter --
6 Model Office Testing -- was delayed by 2 months

7 "every release has been subject to reductions in the
8 originally planned functionality

9 "and even when each release has gone live, there
10 have been faults and problems which have resulted in the
11 need for Pathway to reimburse DSS

12 "in the current trials the known problems have risen
13 from 46 in November 1998 to 139 at the end of March ...
14 and currently 146 have not been resolved

15 "nearly 16 million people should by now be paid by
16 the Benefit Payment Card. In fact only 30,000+ people
17 are currently being played by the Benefit Payment
18 Card -- for one benefit only

19 "rollout of the system to 19,000 post offices should
20 have been completed at the end of 1998. But only
21 limited functionality is available currently in 204 post
22 offices.

23 "delays to the programme have already cost the
24 Government over £200 [million] in savings they would
25 otherwise have expected to make."

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1 agreed."

2 Then essentially: "Over to you".

3 **A.** That is, essentially, what that last paragraph says.

4 **Q.** Now, attached on one version of this minute to the Prime
5 Minister are some handling lines, some lines to take.
6 Can we look, please, at CBO00000058, and go to page 7,
7 please, "Q&A ... If ICL/Fujitsu decide to withdraw". If
8 we go forwards within those Q&As, to page 11, please.
9 If we can blow this up a bit.

10 I'm sorry that this is presented in this way. It's
11 a photograph of a file within the National Archive.

12 This, I think, handling line says:

13 "Independent reviews of the Horizon project by
14 external IT experts have all concluded (most recently
15 this week) that ICL Pathway have failed and are failing
16 to meet good industry practice in taking this project
17 forward, both in their software development work and in
18 their management of the process."

19 What did you know about that, that IT experts
20 concluded, most recently that week, that ICL Pathway had
21 failed to meet good industry practice?

22 **A.** I don't think I did.

23 **Q.** Then there's a list of eight or so bullet points.

24 "To date, in the development stages of the project:

25 "all plant release dates have been missed --

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1 That list of ICL failures, as it was put, was it
2 ever put to you in that way?

3 **A.** Not that I can recall.

4 **Q.** Do you know whether that kind of information, that list
5 of ICL failures, was taken into account in the decision
6 making by you and then the Prime Minister, as opposed to
7 being listed as points to make in press handling lines,
8 in the event that ICL pulled out?

9 **A.** I think -- I think what we were made aware of was less
10 the inputs, this list, and more the outcome, which was
11 the substantial delays and, of course, the breach of
12 contract.

13 **Q.** Yes, they're the only questions that I ask you about the
14 final stage of the process there.

15 Before I hand over to any other Core Participants
16 that wish to ask you questions, have you any other
17 reflections that you wish to pass on to the Inquiry
18 about this episode, insofar as you were involved in it?

19 **A.** I think only that, from a Government point of view,
20 Government tends to work -- this is maybe a debatable
21 point -- Government tends to work reasonably well, when
22 it's departmentally focused. Where Government struggles
23 is when there are cross-departmental issues and this was
24 a cross-departmental issue, as is perfectly clear from
25 this -- even this last note that you referred to,

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1 Mr Beer.

2 I think my reflections, given the appalling
3 injustices that have happened, are really threefold, on
4 lessons. One is this clarity point. Secondly -- in
5 other words, that there should be clarity and
6 accountability rather than a fudge. Fudges don't work
7 and they tend to come undone.

8 The second is about risk and risk appraisal, because
9 this was always going to be a high-risk endeavour, just
10 given the complexity of it and, again, I don't know what
11 was agreed or how it was agreed, because we don't have
12 access -- we've never had access to any of those papers,
13 because they were agreed by the previous administration.
14 But risk appraisal, therefore, becomes absolutely
15 a critical thing.

16 And indeed, it should be an ongoing thing, in my
17 view. I think risk appraisal is often viewed as
18 something that happens at the beginning of a programme
19 or a project and then it's done and dusted. But risk
20 appraisal needs to take place throughout, and the
21 consequences or the results of risk appraisal need to be
22 openly and transparently shared.

23 And the third point is, which is the point you were
24 exploring with me earlier, you know, was there
25 sufficient independent technical expertise available to

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1 evidence. You gave evidence at the Infected Blood
2 Inquiry --

3 **A.** I did.

4 **Q.** -- on 14 July of this year, and this very topic was
5 spoken about then.

6 **A.** It was.

7 **Q.** I'm sure that some things that you dealt with as
8 a minister were not disasters, but in terms of --

9 **A.** That's very generous!

10 **Q.** -- the Infected Blood Inquiry and the Post Office
11 Inquiry, I'll just paraphrase, and I've got a note of
12 the transcript of your evidence at the Infected Blood
13 Inquiry, the way you put it there was that you would
14 say, as a rule of thumb, the vast majority of papers
15 that were copied to the Secretary of State's private
16 office were never seen by the Secretary of State.

17 You also then spoke about the civil servant side of
18 it, and you gave an example of Charles Lister, in fact
19 now Sir Charles, who would consider documents and take
20 a strategic view as to whether it should go to you or
21 not; is that correct?

22 **A.** Yes.

23 **Q.** The way you went on to describe it, rather usefully, is
24 this: you put that -- in relation to Sir Charles -- as
25 being that's the first bucket of who saw what, and that

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1 Government to allow ministers, in particular, to have
2 an informed view about technically, technologically, was
3 this thing actually working in practice or not? And
4 that, it seems to me, was a missing piece of the
5 architecture.

6 Now, as I say, I've no idea, frankly, whether any of
7 those three points nowadays are reflected in how HMG
8 goes about operationalising major procurements of this
9 sort. Maybe it does, I just don't know. But those seem
10 to me to be the pertinent points that, at least, I would
11 take away from a reading of all the documentation that's
12 been made available to me by the Inquiry.

13 **MR BEER:** Mr Milburn, thank you very much. I think there
14 may be some questions from one or maybe two of the other
15 Core Participants. Thank you.

16 Mr Stein.

17 Questioned by MR STEIN

18 **MR STEIN:** Mr Milburn, I represent a large group of
19 ex-subpostmasters, mistresses and managers. My name is
20 Sam Stein. I just want to target one particular area.

21 You've been asked a few questions at the beginning
22 of your evidence today regarding how documents are
23 sorted out before, if they get to you at all, they get
24 to you.

25 This is not a new matter for you, in terms of giving

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1 would be primarily a decision that would be taken by
2 an official. The second set of decision-makers would be
3 junior ministers, and they would have to decide how
4 comfortable they were about owning a set of issues.

5 So these different ways would be different filter
6 systems, either filter so that you don't see them or
7 indeed filtering through so you do; is that correct?

8 **A.** Yes.

9 **Q.** Well, I think I can leave it there. In a way I'm using
10 your evidence as a way of making a point that the
11 Infected Blood Inquiry and, to a lesser extent, the
12 Grenfell Inquiry, have all looked at these self-same
13 issues of all what is given to ministers, how they
14 receive it, how it is sorted out and who gets what.

15 **A.** Yes.

16 **Q.** And it may be an area that this Inquiry would like to
17 look into in terms of the evidence before other
18 inquiries.

19 **A.** Sure, I think the only -- and, you know, it's good of
20 you to cite the evidence that I gave just a few months
21 ago -- I mean, all my time, by the way, isn't spent at
22 public inquiries, it feels like that on occasions. But
23 somebody said to me that ministers have two careers:
24 they have a career making decisions and then, 25 years
25 later, they have a career defending them in front of

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1 public inquiries. But I think, you know, there's method
2 in the madness.

3 You know, it's difficult, I think, for people to
4 understand, who haven't been in government, just how
5 much stuff there is. You know, you're getting a lot of
6 stuff coming at you all the time and there's a lot of
7 correspondence, a lot of, nowadays, emails, and so on
8 and so forth. So there does have to be some filtering
9 mechanism, you know, because, otherwise, it just --
10 you're faced with an avalanche that it's just impossible
11 to deal with.

12 The problem is that that's not always transparent
13 and it must be very frustrating for individuals and
14 organisations who write to ministers never to get
15 a reply from them, for example, maybe never to get
16 a reply from anyone. I don't know. It isn't
17 transparent and, as you say, it isn't always obvious
18 what are the criteria by which decisions are eventually
19 put to ministers, rather than being dealt with by
20 officials. I think that's an interesting area to
21 explore.

22 **Q.** In fact, the way you put it in the Infected Blood
23 Inquiry was you described it as being more an art than
24 a science?

25 **A.** I think that is probably right and, in part, you know,

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1 **MR BEER:** No thank you, sir.

2 **Questioned by SIR WYN WILLIAMS**

3 **SIR WYN WILLIAMS:** On that last point, Mr Milburn -- and
4 I haven't yet got any idea to the extent I will
5 investigate the sifting mechanism you've been
6 describing -- but my immediate impression of your
7 evidence is or could be summarised in this way, and
8 I just want to make sure I've got it right: there's
9 an absolute need for a sifting mechanism but the fact of
10 it should be more transparent?

11 **A.** Yes, I think that would be fair. I mean --

12 **SIR WYN WILLIAMS:** Quite how you make it transparent is
13 quite another thing, I'd agree, but are those the two
14 points you were seeking to make?

15 **A.** Yes, I think that's a fair way of putting it.
16 I think -- look, I think there's always a risk that,
17 particularly in a situation like this, we have, all of
18 us in this room, have the great blessing of hindsight.
19 And, you know, even in my own answers, it's sometimes
20 difficult to disentangle what I'm thinking about it
21 today from what I may well have been thinking about it
22 then.

23 So I think there's always a bit of a risk that we
24 come up with answers that -- and structures, that are
25 two didactic, and that don't provide, to the point that

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1 in truth, I don't want to, in any way, give the
2 impression that ministers are victims in all of this
3 because, in the end, you're in government, you know,
4 you're responsible for what happens in your Department,
5 that's the rule of the game, so to speak, even though,
6 very often, to be perfectly honest, there are things
7 that are happening in your Department that you have
8 absolutely zero line of sight of, because it's almost
9 impossible to have any line of sight of it.

10 So, yeah, it's --

11 **Q.** Lawyers and judges often think that we're quite busy
12 people. Have you ever been busier than when you were as
13 Secretary of State?

14 **A.** No, it was crazy. I mean it's a crazy way of life.
15 I mean, you know, there's a reference to Alistair and
16 Steve and I on Christmas Eve having a conflag about
17 whatever it was in relation to Horizon, that wouldn't be
18 unusual. There's another reference somewhere to meeting
19 at 12.30 in the morning, trying to cobble together
20 a decision. I mean, these are not unusual things.

21 So it's a very intense thing to do, it's the most
22 purposeful thing I've ever done in my life and I don't
23 regret a moment of it. But it is -- it's pretty busy.

24 **MR STEIN:** Thank you.

25 **SIR WYN WILLIAMS:** Anyone else?

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1 was just made, sufficient flexibility because the truth
2 is it is art and not just science. So you've got to be
3 careful, I think, about over prescribing as well.

4 **SIR WYN WILLIAMS:** When I was a law student, I spent many
5 hours grappling with the concept of foreseeability. I'm
6 reminding myself of that virtually every hour of every
7 day.

8 **A.** I'm sure.

9 **SIR WYN WILLIAMS:** Thank you, Mr Beer.

10 **MR BEER:** Thank you very much, sir. Can we take the morning
11 break now until 11.45 --

12 **SIR WYN WILLIAMS:** Certainly.

13 **MR BEER:** -- and the next witness is Mr Peberdy.

14 **SIR WYN WILLIAMS:** Yes, fine.

15 (11.33 am)

(A short break)

19 (11.45 pm)

20 **SIR WYN WILLIAMS:** Whenever you're ready.

21 **MS KENNEDY:** Our next witness is Mr John Peberdy.

JOHN PEBERDY (sworn)

Questioned by MS KENNEDY

24 **MS KENNEDY:** Mr Peberdy, you should have a copy of your
25 witness statement in front of you. Do you?

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1 A. Yes, I do.

2 Q. If you turn to the last page, is that your signature
3 there?

4 A. It is.

5 Q. Have you read through this statement recently?

6 A. I have.

7 Q. Is it true to the best of your knowledge and belief?

8 A. It is.

9 Q. Can I start by thanking you for coming here to give
10 evidence to the Inquiry and for preparing that
11 statement. Everything I now ask you is supplementary to
12 that.

13 You were a subpostmaster until 2008 when you
14 retired; is that right?

15 A. That is correct.

16 Q. When did you start as a subpostmaster?

17 A. 1980.

18 Q. You say in your statement that you were, at one time,
19 Chairman of the NFSP Negotiating Committee, do you
20 remember when you held that position?

21 A. To be truthful, as it was over 26 years ago, I believe
22 it started in the late 19 -- mid-1990s.

23 Q. You were also President of the NFSP in 1998?

24 A. Correct.

25 Q. Was that just for the year of 1998?

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1 subpostmasters, who were held responsible for the cash
2 and stock under their control, if a shortage was
3 discovered by auditors on a visit to the Post Office,
4 there was a likelihood that, depending on the severity
5 of that, and decisions that the Post Office took, yes,
6 they could be prosecuted.

7 Q. They could also recover their losses as well, prior to
8 Horizon?

9 A. Yes.

10 Q. You say in your statement -- if we could pull that up,
11 it's WITN03800100, and if we look at paragraph 19, which
12 is on page 4, please. Thank you. At paragraph 19, you
13 say:

14 "During early 1999 there were major cost
15 implications facing the Horizon project. These were not
16 helped by the fact that the BA/DSS and to some part the
17 Treasury wanted to pull out of the Horizon scheme
18 because they wanted to pursue the payment of benefits by
19 Automated Credit Transfer ... into bank accounts, which
20 they saw as a much cheaper alternative."

21 Did you understand that to be the sole reason for BA
22 or the DSS pulling out of the project?

23 A. From what I can remember, it was that the Benefits
24 Agency always perceived the Post Office Network as
25 expensive to them and, therefore, they were examining

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1 A. It was, I believe, longer than that.

2 Q. What did that role as President involve?

3 A. Well, I suppose, actually, of the Federation, the
4 President is actually sort of the figurehead, and in --
5 obviously conducted all meetings of the Executive
6 Council, chaired all meetings of the Executive Council,
7 and, actually, probably visited lots of branches of the
8 Federation throughout the country, sometimes as a guest,
9 to either meetings to address them, social functions,
10 dinner dances, et cetera.

11 Q. What about the role of the Chairman of the Negotiating
12 Committee: what did that involve?

13 A. Right. Quite a lot different situation, in that the
14 Negotiating Committee was the -- a small committee who,
15 by the name -- as the name implies, negotiated terms and
16 conditions of subpostmasters with the Post Office, and
17 of course, in the wider implications, as time moved on,
18 meetings with various Government Departments, DTI,
19 et cetera, and working fairly closely with the General
20 Secretary at the time, who was Colin Baker.

21 Q. At the time that Horizon was being developed, were you
22 aware that subpostmasters could be prosecuted by the
23 Post Office?

24 A. There was always a case, even in previous days, when
25 manual cash accounts, as they were, were done, that

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1 Automated Credit Transfer, and I should -- I believe
2 that one of the big drivers was that the Benefits Agency
3 weren't wanting to fund the project, and wanting to fund
4 the Post Office network to the degree that it was at
5 that time.

6 Q. Were you aware of issues with testing requirements that
7 the BA had raised at the time?

8 A. Whilst I wasn't directly aware, because we weren't being
9 consulted on those issues, obviously we knew that the
10 whole of the project had to have a test and was being
11 tested, yes.

12 Q. At this time, did you think that the future of the Post
13 Office was at risk by the withdrawal of the BA from this
14 project?

15 A. Very much so. Yes.

16 Q. What were the problems that you saw at that time with
17 that withdrawal?

18 A. Well, obviously subpostmasters, by their very nature,
19 had bought their businesses, some with associated retail
20 businesses attached, some to a bigger or lesser
21 degree -- I, of course, was a subpostmaster -- and,
22 therefore, was a considerable investment into the
23 network, and the network was very much loved by the
24 government. So the implications of losing a main income
25 stream to subpostmasters was one that didn't bear

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1 countenancing at the time.

2 **Q.** Did you feel it was important that the Horizon project
3 went ahead and was brought into post offices?

4 **A.** Yes, very much so. Obviously, the simple reason being
5 that the Post Office needed bringing to the modern era,
6 I will agree, and we, as the Federation of
7 SubPostmasters, were extremely keen that the network was
8 automated because, on the back of the payment of
9 benefits to the public, was the wider implication of
10 other automated transactions which could be undertaken,
11 and therefore hopefully protecting that network.

12 **Q.** You were part of the Horizon Working Group with Colin
13 Baker; is that right?

14 **A.** That's correct.

15 **Q.** If we could pull up NFSP0000064, please. This is
16 a letter sent to Colin Baker, inviting him to join that
17 group. Before we look at the text, what, in your mind,
18 was the purpose of this Working Group and your role in
19 it?

20 **A.** From what I can remember at the time, it was obviously
21 to try to make sure that the Horizon project went into
22 the network in a smooth fashion and, also, because of
23 the concerns that were being expressed at the time, that
24 others became involved to try to dig deeper into the
25 project.

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1 Group could provide a valuable forum for bringing
2 pressure to bear where needed and for seeking solutions
3 to any problems that may arise."

4 If we could turn on to the next page, please, and
5 the first paragraph:

6 "The third area concerns the commercial exploitation
7 of the very considerable potential which the Horizon
8 platform will offer once in place. The combined
9 experience of the Working Group should prove a valuable
10 source of ideas and contacts for business opportunities
11 and future revenue streams."

12 Do those three objectives reflect what you
13 understood at the time to be the purpose of this group?

14 **A.** Yes, because they were what had been obviously
15 communicated to us under the terms of reference, yes.

16 **Q.** How did you find working on the Working Group at the
17 time? What was your experience?

18 **A.** I do believe that we might have been described as
19 an uncomfortable bed partner, in so much as it felt
20 a bit like that the NFSP ought to be on board, because
21 there were those there who thought that, in many
22 instances, we could do more damage than good, and
23 therefore, partially, I felt as a bit of a placater.

24 **Q.** If we could turn up the next document, which is
25 NFSP00000479, please. This is a minute of the meeting

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1 **Q.** So did you see your role as assisting with it, getting
2 it over the line, rather than with identifying problems
3 that arose?

4 **A.** I believe that it was getting -- yes, I'll take your
5 expression -- "getting it over the line", far more than
6 actually looking at any problems that were involved at
7 that time.

8 **Q.** If we could look at the last two paragraphs of the
9 letter, please, if we could blow that up. This states
10 that there were three main areas:

11 "First, there are the negotiations between POCL and
12 ICL, and between POCL and BA, that need to take place
13 over the next few weeks to put in place the detailed
14 contractual arrangements that will give effect to the
15 outline agreement reached on 24 May. I see a role for
16 the Working Group in carefully monitoring these
17 negotiations and addressing and helping to resolve any
18 sticking points that may be encountered.

19 "The second area covers the remaining development
20 phases of Horizon, including large scale live trials,
21 system acceptance, and rollout of the system smoothly
22 and in a timely fashion to all offices within the
23 network followed by the migration from paper-based
24 methods of benefit payment to ACT-based payments
25 accessible at post offices. I believe that the Working

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1 of the Negotiating Committee on 10 June 1999. If we
2 could turn to page 9, please. We can see that this
3 where the discussion on counter automation begins. Was
4 this something that was regularly discussed or
5 a standing item at the negotiation committee at least at
6 this time?

7 **A.** Yes, it was a regular agenda item.

8 **Q.** What was the purpose of that, for you to provide
9 an update?

10 **A.** Yes, it was to provide an update to either the
11 Negotiating Committee, as in this instance, and was also
12 a regular item on the full Executive Council agenda, and
13 therefore updating either the Executive -- the
14 Negotiating Committee on work which the General
15 Secretary might have been involved directly, or that the
16 General Secretary and I had been involved in, so that
17 the full Negotiating Committee were appraised of where
18 we were going at that time.

19 **Q.** If we could turn to page 12, please. At the bottom of
20 that page it says:

21 "The General Secretary and John Peberdy advised the
22 committee that they had gone to the meeting [that's the
23 Working Group meeting] with the preconceived ideas that
24 attempts would be made to 'buy them off' and placate
25 them with platitudes. However, it appears that

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1 government are worried about the extent of the
2 Federation's influence and its our intention to keep
3 them worried. The Federation has a substantial role in
4 the Working Group and will be in a prime position to
5 have as much influence as possible. The Minister is
6 under no illusion that the Federation intends to bide
7 its time and see what is to be delivered before taking
8 any further action."

9 Is that what you felt at the time, that the
10 Federation had a great deal of influence in the Working
11 Group?

12 **A.** I felt that, probably, generally, if I can sort of
13 expand on it a little, as the role in the Federation,
14 the Federation were, as I said earlier, the conduit for
15 negotiating with Post Office Counters Limited. But we,
16 fortunately, probably through partially the General
17 Secretary and others, had a reasonable dialogue with
18 Government Departments and Government ministers and even
19 higher. And we had courted this, we had furthered it,
20 because, at that time, the Post Office Network, in my
21 opinion, was the Achilles heel of the Government.

22 Nobody wanted to shut a village post office. Nobody
23 wanted to shut a post office. So any method to keep
24 them open, and bearing in mind the Government had made
25 a pledge to keep a nationwide network of post offices

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1 had become a great problem was we always had to balance
2 our post offices on a Friday evening, and the Horizon
3 System had just lengthened that tremendously. And I had
4 being reported to me by the subpostmasters,
5 subpostmasters staying in their offices until late at
6 night, even 10.30, because it churned and churned and
7 churned before it produced anything that gave a clue as
8 to whether your office was balancing that week or not.

9 **Q.** Was that something that concerned you?

10 **A.** Very much so.

11 **Q.** Turning forward, then, to the meeting the next day. If
12 we could pull up NFSP0000539. Thank you. This is
13 a report of the Special Meeting of the National
14 Executive Committee. If we turn forward to page 7, this
15 is when David Miller and Stuart Sweetman joined the
16 meeting. Do you remember this meeting?

17 **A.** Being a long while ago, to say I remember it fully would
18 be not the correct statement but I do remember them
19 attending a meeting and -- yes.

20 **Q.** We can see there was a list of questions that were put
21 to Mr Sweetman man and Mr Miller. If we could turn over
22 to page 10, please, we can see that:

23 "Mr Butlin referred to the serious problems that the
24 South West was having with the software, especially with
25 the balance, and asked Mr Miller whether any changes

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1 open was there.

2 So I felt that because we had that, if I may call
3 it, an "in" to other avenues, other than the Post
4 Office, we were very much involved in things like the
5 Horizon Working Group, as I've actually said, and as
6 I said earlier, to placate the Federation, as much as
7 anything else.

8 **Q.** Thank you. Could we bring that page back up, please?
9 So that's NFSP00000479 and page 13, please. This is the
10 same page that we were on. If we look further down the
11 page, it says:

12 "Some subpostmasters have had enormous difficulties
13 balancing up and finishing their cash accounts, even to
14 the point of still struggling to finish on Friday
15 nights.

16 "Tomorrow's special Executive Council meeting, which
17 is being attended for a short time by Stuart Sweetman
18 and David Miller, is crucial to finding out what has
19 gone wrong with the Horizon programme. ICL Pathway/POCL
20 say it's not the system."

21 Do you remember what was happening at this time and
22 the issues that were being flagged by subpostmasters?

23 **A.** Yes, and probably, from my own experience as
24 a subpostmaster, although I was not very often in my own
25 office and it was run by a person that I employed, what

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1 were to be made in that respect. An assurance was
2 sought by the Committee that the balance would become
3 more user-friendly, more logical and easier for
4 subpostmasters to use. Would it be possible for
5 subpostmasters to have more input into the way the
6 balance was done. The North East was facing similar
7 problems, subpostmasters were incurring additional staff
8 costs, an example being around £350 in the four weeks
9 that his office had been up and running."

10 This specific problem of balancing on Horizon, at
11 this stage, how high up your priority list was it?

12 **A.** Um, I think if you took it onto a scale of 1 to 10, it
13 probably sat at 8, because probably the highest priority
14 was actually getting that Horizon System fully rolled
15 out. But anything that was flagged up to us as
16 a Federation, as a problem for subpostmasters, was
17 obviously something we had to take on board. And those
18 who were spending hours, paying extra staff costs, for
19 example, because they were waiting for this Horizon
20 System to churn out what was thought to be a balance,
21 was not acceptable.

22 And, obviously, Mr Butlin was drawing Dave Miller's
23 attention to it in the hope that we could get some
24 assurances. He did ask, as you've just read out,
25 I notice, that "Could we be involved or could we have

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1 some further input", and that of course was never really
2 ever taken up directly as a direct input.

3 **Q.** When you say it wasn't taken up directly, what do you
4 mean by that?

5 **A.** Well, we weren't, as a Federation, in a position to be
6 dealing directly with ICL Pathway or anybody on the
7 project directly, to make input of that nature. All the
8 Federation's input, on behalf of subpostmasters, was
9 obviously done through Post Office Counters Limited.

10 **Q.** If we could turn to page 14, please. We can see that at
11 this meeting, three paragraphs down, there was a vote
12 that was taken on whether the Federation should continue
13 to work with the Post Office or against it. Do you
14 remember that taking place?

15 **A.** Directly, I cannot remember it specifically but the
16 minute will record it faithfully, I'm sure.

17 **Q.** If we look at the bottom of the page, it says:

18 "Miss Lindon referred to the controversy concerning
19 the plans for Horizon and questioned whether the
20 Federation was getting the package they needed. She
21 suggested that this, being negotiation time, was
22 an opportunity for POCL to talk to ICL Pathway about
23 modifying and simplifying the package before it was too
24 late.

25 "The Chairman advised that Mr Miller had requested
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1 everything that was going on, and did so on numerous
2 occasions. And I know that, for a fact, our General
3 Secretary was probably regularly on the phone to various
4 people within Post Office Counters Limited. And, as
5 I've said, I think, in my witness statement, a lot of
6 meetings that we had when we raised points with Post
7 Office Counters Limited, they were unfortunately at
8 unminuted meetings or meetings that we haven't had, to
9 my knowledge, minutes of.

10 **Q.** If we could move forward to the National Executive
11 Council meeting on 21, 22 and 23 June. That's
12 NFSP00000471, and if we could move to page 22, please.
13 You'll see there, at the bottom, the topic of counter
14 automation comes up.

15 Do you remember this meeting?

16 **A.** Yeah, I remember it was a meeting that we were going to
17 report further on and, that minute -- when I read part
18 of the bundle -- refreshed my memory to some degree of
19 some of those meetings.

20 **Q.** If we could look over page on page 23, halfway down the
21 page, there:

22 "There was general discussion on the severe
23 difficulties being experienced by subpostmasters who
24 were already running an automated system. Seven sheets
25 of comments from the North East have been passed to Dave
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1 a list of all the problems with the software and that he
2 would address them and talk to subpostmasters to see
3 what they wanted on the programme. He was embarrassed
4 that this had not happened already.

5 "It was important that members be advised
6 immediately of the outcome of this meeting and this
7 needed to be done in a way that would make them aware of
8 the seriousness of the situation, without resorting to
9 scaremongering."

10 Was it ever seriously considered by the NFSP that
11 you should really be asking for a new system rather than
12 working with the Horizon System, given the feedback?

13 **A.** Whilst there had been various private systems for
14 balancing post offices out there, there was nothing on
15 the scale of the Horizon and the ICL Pathway project,
16 and I think the system was that we were so aware that
17 the Benefits Agency were wanting to move away, if they
18 could, from paying benefits over post office counters,
19 that we felt we had got to work to make this work, and
20 make it right, and I think that was our position at that
21 time.

22 **Q.** So what you're saying is there wasn't really an option
23 to say, "Let's scrap this and start again"?

24 **A.** I don't think (a) we had the power to take that route.
25 We could make Post Office Counters Limited aware of
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1 Miller. The difficulties and trauma being experienced
2 by some subpostmasters were giving rise to concerns over
3 their health and emotional wellbeing. It was felt by
4 some that a tragedy was not far away, if something was
5 not altered soon. The software was considered to be
6 poor quality and not intended to run such a huge
7 network. The system is based on ECCO, which was
8 originally written for a network of 700 -- not 15,500."

9 Given the mention of trauma and the concerns for
10 subpostmasters' health, did this move further up your
11 priority list?

12 **A.** Yes, I think what was actually happening now was that
13 our Executive Council members in the northeast were
14 flagging these issues up to Federation headquarters and,
15 I must say, the General Secretary and I never missed
16 an opportunity with representing these views to the Post
17 Office. But I must say, I always, at those meetings,
18 had a feeling that there was always cost in everything
19 and obviously making the network viable and everything
20 else, as far as Post Office Counters were concerned.

21 And I think they were in the same situation: that
22 they needed to maintain the income stream from the
23 Benefits Agency more than anything and, therefore,
24 I think there was many hopes or assurances being given
25 to them that ICL Pathway were putting these issues
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1 right.

2 **Q.** If we could turn to page 27 of that document, please.

3 Sorry, if we could actually turn back to page 26,

4 please. At the bottom of that page, it says:

5 "Discussion at length took place between members as

6 to whether a public campaign should be started [about

7 the project]. Many felt that action should begin at

8 once, while others felt that we may lose the goodwill of

9 Government and the Post Office if an offensive was

10 launched immediately. A militant attitude may also

11 jeopardise the Federation's acceptance as an equal

12 member of the Working Party. In general it was felt

13 that no plans could be made until after the issue of the

14 Government's White Paper in early July and the contract

15 was signed on 19th July. Government and POCL approaches

16 for the future would be clearer, thus giving the

17 Federation a better basis for protecting subpostmasters'

18 interests in every detail. It was generally agreed that

19 POCL/ICL must be made aware of the full extent of

20 subpostmasters' complaints and problems with the system,

21 and insistence pressed that the problems are all

22 addressed and resolved, even if alterations to the

23 system are required.

24 "The National President asked the meeting if

25 everyone was happy that the agreed way forward would be

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1 headquarters, wanted as much feedback to take to the

2 Post Office of anything that wasn't seen to be right

3 about the system.

4 **Q.** At the end of this page, the meeting pauses, and you go

5 to a meeting of the working party. Did you feel when

6 you went to that working party meeting that you had the

7 words of the subpostmasters ringing in your ears about

8 the difficulties they were having?

9 **A.** Yes, and if I remember rightly, I think that at one of

10 these, if it's not the next working party meeting, the

11 General Secretary, Colin Baker, raised some matters

12 concerning all of this.

13 **Q.** If we turn over the page to page 28 and look at the

14 paragraph in the middle that says:

15 "The subject of system faults was raised and the

16 NFSP were given assurances that there would be software

17 improvements to cure the present difficulties. The

18 Federation were asked for more precise numbers of

19 subpostmasters who were experiencing difficulties as

20 this information would assist them to provide us with

21 the help we require."

22 This is your report when you come back to the

23 Executive Council meeting.

24 **A.** Yes.

25 **Q.** Is that what you're referring to?

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1 decided on 11th July and that a public campaign would

2 not, for the moment, be pursued."

3 Do you remember this discussion taking place?

4 **A.** Yes, I do.

5 **Q.** What was the strength of feeling that a public campaign

6 should be started?

7 **A.** I think, bearing in mind the Executive Council was

8 considered of about 20 members, there were always those

9 who had differing opinions, but we have or had

10 successfully fought public campaigns in many instances,

11 and I think that minute probably reflects the overall

12 outcome of the discussion, in so much that, if we rocked

13 the boat too far, it was very easy for both the Post

14 Office Counters Limited and/or Government Departments,

15 not to bring the Federation to the table and, therefore,

16 our voice wouldn't be heard.

17 And so I think it was decided, as the minute says,

18 to see what came out of the White Paper, and keep our

19 powder dry, knowing that we would have the ability, if

20 we wished to, to start a public campaign at any time.

21 **Q.** At this stage, were you telling subpostmasters not to

22 criticise the system publicly?

23 **A.** No, not that I can recall. We would never have done

24 that. It was up to subpostmasters individually to say

25 what they felt and obviously we, in Federation

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1 **A.** Yes.

2 **Q.** If we can turn to the minutes of that meeting, which is

3 at NFSP00000203. The then if we could turn to page 3.

4 So this is -- sorry, if we could turn back a page.

5 This is the note of the meeting of the working party

6 that was officially circulated, and if we turn over to

7 page 5 -- sorry not page 5 -- page 2, paragraph 5. My

8 apologies. It says at paragraph 5:

9 "Mr Baker said that it was extremely important for

10 the rollout to be absolutely right; with so many planned

11 per week (300) there would be risk of collapse,

12 otherwise."

13 Is that reflecting the previous note that we looked

14 at, which said that issues were raised about software?

15 **A.** Yes, I think the -- amongst the many discussions was

16 things like the pace of rollout, the number that the

17 system was capable of handling. Because, of course,

18 with limited knowledge of a new IT system to

19 subpostmasters, way back all that time ago, I think

20 the -- there was a general conception, or even probably

21 misconception, whichever it may have been, that with

22 such a vast network, was this system capable of handling

23 the transactions in such large volumes and numbers that

24 were going over Post Office Counters?

25 And I won't go into it now, in case you were going

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1 to, but I refer in my statement to -- my witness
2 statement -- to instances of the system being so slow
3 and, therefore, this was all considered to be, in our
4 limited knowledge, the system being incapable of dealing
5 with all those transactions that were coming from all
6 parts of the United Kingdom into some central IT system
7 base.

8 **Q.** This minute doesn't reflect the issues in the previous
9 minute we looked at about software problems were raised
10 in this working party. Do you recall them being raised?

11 **A.** No, I don't, all that while ago, have any recollection.
12 I do recollect, as I've said earlier, that sometimes
13 I felt we were there to make up a number or the fact
14 that we had a presence and everybody could say we were
15 there on the attendees, had more relevance than some of
16 the other discussions that were wanted to be had in that
17 Working Group.

18 **Q.** Mr Baker had said in his evidence on Wednesday that he
19 didn't feel that the Working Group was the appropriate
20 place to be raising issues with what was happening on
21 the ground with some subpostmasters. Do you agree with
22 that?

23 **A.** Yes, I think because our direct conduit, where we
24 thought we'd got any action, was dealing with Post
25 Office Counters, at whatever level we could. Whether

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1 **A.** I felt that the relevance of that question, to try and
2 draw out of particularly Dave Miller and others, what
3 they considered something really high, because the
4 various things that have been reported into Post Office
5 Counters Limited, I don't know how high they considered
6 them on their agenda, but, as far as we considered them,
7 extremely high on our own agenda on behalf of
8 subpostmasters.

9 **Q.** Did you feel that, as part of this, you should have been
10 raising the issues that you knew subpostmasters were
11 encountering and using the system?

12 **A.** I'm not sure that, at that stage, and that relevant
13 minute, was at the stage it was. Dave Miller was well
14 aware, with meetings we'd had with him directly in Post
15 Office Counters headquarters, of our concerns. I was
16 trying to draw out of him what he considered to be
17 a major high situation risk and whether it was just
18 something that was jeopardising the whole programme.

19 **Q.** If we could look at paragraph 9 of that document, which
20 is over the page. Mr Baker is recorded as having made
21 a comment. It says, in the middle of that paragraph --
22 well, I'll read the whole paragraph:

23 "Moving on to a report on the Government's intention
24 to establish an interdepartmental Working Group on POCL
25 funding issues, Mr McCartney said the current

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1 that be at levels like, as has been mentioned, Dave
2 Miller, Stuart Sweetman, or even higher, and if we
3 needed to, and with the opportunities, when we met or
4 could meet anybody in the DTI, for example. And we had
5 so many meetings with so many managers of Post Office
6 Counters Limited, when these issues were raised on
7 numerous occasions and, of course, it was a reliance
8 that those managers were taking that even further. As
9 much as we pushed and pushed, we didn't always get
10 answers.

11 **Q.** If we could move forward slightly to 7 July 1999, and we
12 can pull up NFSP0000200. Page 2, please. So this is
13 a further meeting on 7 July of the Horizon Working
14 Group. If we look at paragraph 4, please, it says:

15 "On acceptance testing, Mr Miller said that the work
16 was going ahead with ICL to a pre-agreed programme.
17 Mr Peberdy asked what defined a 'high' category
18 incident. Mr Miller said this would be one which
19 threatened progress with the project within the agreed
20 timescale. He did not think there would be major
21 problems. Mr Hodgson emphasised the need for regular
22 progress reports."

23 At this time, were you raising things like
24 acceptance testing and did you feel like you were being
25 listened to by the Working Group?

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1 speculation in the press on the future of the network
2 was not a helpful background. Mr Baker said he thought
3 the group should have a role in disseminating good news
4 stories to counter the scaremongering."

5 Do you know what the scaremongering was at the time?

6 **A.** Yes, my recollection was, of course, that the
7 scaremongering was that the Benefits Agency were going
8 to move away from post offices that, therefore, there
9 would be a collapse of the Post Office Network, and
10 subpostmasters would lose the value of their
11 investments. And I presume what Mr Baker was also
12 saying, that amongst all that, the fact that we were
13 going to have an automated network, hopefully, was
14 something that was going to give another revenue stream
15 to subpostmasters by Post Office Counters Limited being
16 able to attract more business.

17 We wanted, for example, banking over post office
18 counters in those days, which didn't exist, and needed
19 to have it if the Benefits Agency were going to, in
20 2003, move towards Automated Credit Transfer. The Post
21 Office network was such a vast network, it was there to
22 do so much business and with so much business that could
23 be captured, and especially in an automated system and
24 that's what Mr Baker was referring to about "Let's get
25 some of those good news stories out there, so we can

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1 attract that business as opposed to trying to frighten
 2 those other revenue streams and new business away from
 3 the Post Office".
 4 **Q.** So it wasn't to do with the Horizon project itself?
 5 **A.** It was, to my knowledge, not at that stage what he was
 6 saying. The press were talking about what they had
 7 picked up that was seemingly going wrong and, obviously,
 8 individual subpostmasters in individual offices were
 9 probably being, or might have been giving stories to
 10 local newspapers, et cetera, and some of that,
 11 I believe, was being picked up and we, as I say, on
 12 numerous, numerous occasions, had banged that gong with
 13 the Post Office.
 14 **Q.** Did you agree with Mr Baker that there should be
 15 encouraging news circulating in a group set up to
 16 counter that narrative?
 17 **A.** Yes, I perceive that the Federation's role in this was
 18 one to make sure that all subpostmasters, as I said
 19 a moment ago, were able to attract new business, and the
 20 ability, once that network was automated -- there were
 21 many, many forms of business, including Government
 22 business -- over post office counters was something we
 23 didn't want to give the impression that we were a dying
 24 breed and everybody else needn't start to look to the
 25 Post Office to put their new business over all those

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1 **A.** Yes, it would be an annual -- sorry, you're reminding me
 2 now, all that time ago, to the earlier question. It was
 3 an annual appointment and an annual election.
 4 **SIR WYN WILLIAMS:** Thank you.
 5 **MS KENNEDY:** If we look further down that page, it says:
 6 "The meeting was then opened for subpostmasters to
 7 comment on the Horizon programme and for questions to be
 8 asked of POCL and requests made for future actions", and
 9 then they're listed.
 10 It lists the stress of the workforce, the strain on
 11 people's lives and marriages, lost holidays and then,
 12 lastly, on the 44 Horizon officers present and a vote,
 13 30 officers said they suffered stress and only four
 14 thought payment was sufficient.
 15 Were you aware of this feedback at this time in
 16 August 1999?
 17 **A.** I was aware of it when I next spoke to Colin Baker and
 18 we obviously had a discussion of what we were going to
 19 try and do with it. But, as you probably gather from
 20 part of that minute, pay was always a large
 21 consideration of subpostmasters who always thought they
 22 didn't have as much of the cake that Post Office
 23 Counters Limited got, as they did themselves. And
 24 obviously things that were starting -- because we
 25 employed our own staff, things were starting to delay

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1 post offices right throughout the country, no matter
 2 what the business was.
 3 **Q.** Moving forward to the 10 August 1999, if we could pull
 4 up NFSP00000237, please. These are minutes of a special
 5 Horizon meeting took place in Kingston Park Rugby Club
 6 in Newcastle. Mr Dave Miller is mentioned, the POCL
 7 Network Director, and Colin Baker, the General
 8 Secretary. Do you recall being at this meeting?
 9 **A.** Truthfully, I don't. I do, having read some of this in
 10 the bundle -- I mean, the title is slightly misleading.
 11 It was the National Federation of SubPostmasters meeting
 12 on the -- on -- a special meeting on the subject of
 13 Horizon that was called by the Executive Council members
 14 in Newcastle area, and hence, and they -- Dave Miller
 15 was invited to that meeting.
 16 **SIR WYN WILLIAMS:** It says at the top that the meeting was
 17 chaired by the National President, Jean Kendall. So can
 18 I take it that, by then, you'd ceased to be President?
 19 **A.** Yes, I had, Mr Chairman. I had ceased, and Jean Kendall
 20 was a subpostmistress, actually in the northeast and she
 21 was an Executive Council member, as well as President in
 22 that area.
 23 **SIR WYN WILLIAMS:** So you began -- Ms Kennedy asked you when
 24 you were President. Is this right, that it began in
 25 1998 and ended some time before 10 August 1999?

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1 them as it was said in one of the earlier questions,
 2 extra payments to staff.
 3 Staff were paid probably hourly rates, if they were
 4 going to stay later on Friday nights or other nights,
 5 that was going to give all those costs to Post Office
 6 Limited. Also obviously, quite a lot of subpostmasters
 7 ran their post offices with their wives or partners, and
 8 that's where, obviously, waiting late, especially if
 9 they were having to stay in the Post Office and weren't
 10 tending to their children, and all sorts of other
 11 various things were putting strain on family life -- and
 12 I think it was even put in that minute, strain on their
 13 marriage.
 14 So there was a lot of -- it was a whole new learning
 15 curve for subpostmasters, which came in with quite a lot
 16 of stress.
 17 **Q.** If we could turn to page 4, please. There were specific
 18 issues raised about balancing, and it says:
 19 "Every office complained of system failure, every
 20 balance day need to reboot. POCL have a system to know
 21 how many reboot without offices informing POCL -- but no
 22 action taken by POCL to improve situation. Waiting time
 23 at Helpline for rebooting instructions makes SPMs act on
 24 their own."
 25 I mean, this is a real problem, isn't it, people

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1 struggling with balancing?

2 **A.** Yes, it was. I would have said, at that stage, it was
3 the major problem of the Horizon System.

4 **Q.** At that time, did you think that it was an issue with
5 the system itself, or that subpostmasters needed to get
6 with the system and adapt?

7 **A.** It's very difficult, actually, to be precise, because of
8 the various transactions in various amounts of stock,
9 for example, that a subpostmaster is responsible for,
10 and the way that you handled transactions.

11 The system was such that you had to tell the system
12 what you'd got left in, for example, First Class stamps,
13 and if you had sold ten First Class stamps to somebody
14 and forgotten to take the money as part of
15 a transaction, you were going to get a misbalance.

16 So there were various factors that fed into it but
17 the major concern, definitely, was that this was all
18 system driven. Because the system went down and because
19 of the length of time and having to reboot it, obviously
20 we started to question things: were things missed, if
21 the system rebooted? We didn't know, nobody knew in
22 those days, what was going on in the back end of this
23 system, and, therefore, were misbalances occurring
24 because of the system or because of subpostmaster fault?

25 **Q.** Did you feel like you could have done more to question

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1 had accepted the system on 24 September on the basis
2 that effective remedial action had either been completed
3 or was in hand."

4 Did you understand what at the time what was meant
5 by "data integrity"?

6 **A.** Um, I'm not -- as it was all knew, I'm not sure I fully
7 understand what "data integrity" fully meant, but I was
8 well aware of those issues and, therefore, that -- one
9 of the things that always worried me and other
10 subpostmasters and things we represented to the Post
11 Office, the system froze so often, and in a naive way,
12 back in 1999, or whatever it was, one always wondered
13 what happened when that system came back.

14 This was a great new project, so suddenly you'd put
15 some transactions into the system, the system froze, and
16 you had to wait for the system to reboot, were those
17 transactions lost? And it was always a point that we
18 represented to the Post Office but we never got the true
19 answers because I'm never sure that the Post Office went
20 to ICL Pathway and dug deep enough into it. And I'm not
21 even sure that ICL Pathway wasn't protecting itself in
22 it as well.

23 **Q.** If we look further down that minute at paragraph 7, it
24 says:

25 "Mr Deegan asked about the issues of spare capacity

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1 what was going wrong with the system or whether there
2 were issues with the system?

3 **A.** No, I wouldn't accept that. I think that we tried our
4 hardest to query it. I think -- I often wondered
5 whether the Post Office went far enough in dealing with
6 it, in so much as trying to find out what was wrong,
7 more than try and make the pound, shillings and pence
8 balance -- if I can go back that far, before
9 decimalisation -- because, in truth, the Post Office had
10 got nothing to lose. The subpostmaster paid, so if my
11 Post Office was £500 short, I put the £500 in, out of my
12 pocket. It didn't cost Post Office Counters Limited
13 a penny.

14 **Q.** Moving forward to the 11 October, a were the Working
15 Group minute. If we could turn up NFSP00000066, and if
16 we could turn page 4, please. This where the meeting
17 minute begins. If we could do not page 5, sorry
18 paragraph 5, which is -- sorry, which is also on page 5.
19 Thank you. In paragraph 5, it says:

20 "Mr Miller explained that formal acceptance of the
21 reconfigured Horizon System planned for 18 August had
22 been postponed because of POCL's concern about training,
23 system stability, data integrity (there had been
24 an unacceptably high level of screen freezes) and the
25 effective operation of the help desk. The Post Office

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1 and triggers for payment. Mr Miller confirmed that the
2 Post Office were clear that they would be able to use
3 spare capacity on the system (this had previously been
4 an issue of dispute with ICL). The Post Office will pay
5 ICL £60 million on 24 October on initial acceptance of
6 the system and will pay ICL a further £80 million when
7 they receive rollout to 1,600 offices, which is planned
8 for around Christmas time. ICL would not receive
9 payment until the target had been reached, though the
10 Post Office was not expecting significant slippage.
11 Mr Baker expressed support for the Post Office's
12 position -- whilst there was a need for ICL to hit
13 deadlines it was also important for the system to be
14 delivered in full working order. The feedback which
15 Mr Baker had received from NFSP members was
16 intermittent, and not all positive but problems now
17 seemed to be being sorted out and training seemed to
18 have improved."

19 That statement by Mr Baker that "not all feedback
20 was positive", is that a fair reflection? From what
21 I've taken you to, it seems like it was fairly negative.

22 **A.** Yes.

23 **Q.** So would you say that it would have been a better to say
24 the feedback has been negative?

25 **A.** Um, well, I can't quite speak for Mr Baker and his

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1 words, but I'm not sure that negative would be the
 2 correct word, but it was -- we were receiving assurances
 3 in meetings with the Post Office that a lot had gone on
 4 behind the scenes to put it right, but I think that
 5 minute, and what Dave Miller said, reflected where they
 6 saw they were. And, obviously, the previous bit about
 7 capacity was of great importance to us, because that
 8 capacity to put other business onto the Horizon platform
 9 was extremely important to us.

10 **Q.** Moving forward to February 2000, and later issues. If
 11 we could pull up NFSP00000348. This is a letter from
 12 Don Grey to Mr Baker in February 2000. It's not to you,
 13 but I believe you also worked with Mr Grey?

14 **A.** Yes.

15 **Q.** What was your experience of working with him like?

16 **A.** Um, I think it was always -- Don Grey was always
 17 an amenable sort of person. He came from the northeast,
 18 I wouldn't say he was particularly dynamic, but he
 19 seemed to take on board those issues that we represented
 20 to him.

21 **Q.** When you say he seemed to take on board, what do you
 22 mean by that?

23 **A.** Well, it depends on which of the issues we were talking
 24 to him about. I found Don Grey, as you probably said,
 25 to be a person who was happy to say yes and hopefully

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1 following the review held by Post Office ...

2 "Hopefully a regulator dialogue will soon
 3 established at territorial level in order to assist
 4 members to overcome the difficulties they may well
 5 experience as their offices are automated.

6 If we turn to page 2, we've got a letter to Mr Baker
 7 from David Smith. If we could pull out the last
 8 paragraph, which is to do with the feedback points. So
 9 this is following a review by the Post Office, and
 10 a study, and it says:

11 "The feedback points in the direction of training,
 12 balancing and helpdesks as the major improvement areas
 13 with balancing very much the common theme. However, in
 14 each of these areas outlets are more or less evenly
 15 split between those who think we've got it right as
 16 opposed to wrong. The trick to be pulled off is to
 17 improve matters for those who believe we need to improve
 18 without 'turning off' those who think we've got it
 19 right."

20 At this stage, in your mind, was training the key
 21 issues of those things?

22 **A.** Yes.

23 **Q.** Not balancing, or did you think the two were related?

24 **A.** Well, yeah, the two were obviously hand in glove because
 25 the training, apart from relating to day-to-day

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1 get on with it, than get into any confrontational issues
 2 about things, and we were very reliant on him at those
 3 stages, taking back our views and dealing with them.

4 **Q.** If we could turn to page 2, please, and if we could look
 5 at B, it says:

6 "I will pursue the issues around John Peberdy's
 7 training when you let me have details."

8 Do you know what that relates to?

9 **A.** Yes, obviously, a large part of the rollout of Horizon
 10 was the training, and the training was far from where it
 11 should have been for all subpostmasters at various
 12 levels of knowledge of anything to do with IT. And
 13 I had issues that had been represented to me on training
 14 being poor, not enough training officers, not taking
 15 over at the right times, being too brief and, therefore,
 16 those subpostmasters just feeling that the training had
 17 been insufficient for them to fully operate the system,
 18 and it was a very big concern.

19 **Q.** Moving forward again to the 10 February 2000, if we
 20 could turn up NFSP00000261. This is a circulation to
 21 the National Executive Council from Mr Baker which says:

22 "Having [I think 'put'] pressure on the Automation
 23 Director for some information regarding the Horizon
 24 Rollout, I am sure you will be keen to see a letter
 25 which we have received which sets out the position

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1 transactions, the training obviously also covered the
 2 once-weekly balancing and, in fairness, without
 3 denigrating anybody, I suppose the varying degrees of
 4 intelligence or exceptions of IT by various
 5 subpostmasters -- because we'd have some who were
 6 elderly, and others who were younger, and embracing it
 7 differently -- led to that statement.

8 But there were very many training issues out there:
 9 insufficient trainers, trainers' knowledge and, of
 10 course, at one time the rollout was going at such
 11 a tremendous rate that I left many subpostmasters
 12 needing further training, needing further help, help --
 13 very much insistence that they had a very good helpdesk.
 14 But then, when that came, there were queues to get to
 15 the helpdesk, but that's probably something you want to
 16 cover later on.

17 **Q.** If we could move forward to 4 May 2000, a National
 18 Executive Council circular. It's NFSP00000020. This
 19 circular to the Executive Officers deals with balancing
 20 problems to do with Horizon. The first paragraph says:

21 "You may no doubt be aware that there were
 22 significant difficulties with Horizon balancing at some
 23 post offices yesterday. We are waiting for a definitive
 24 answer from POCL on the problems encountered. However
 25 what we know so far is that a problem arose last

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1 Thursday morning in the uprating of stamps and,
 2 resulting from poor advice, some subpostmasters did not
 3 correctly complete the upgrading of stock reconciliation
 4 that day. That manifested when they tried to balance
 5 yesterday."

6 If we could turn over the page, it says:

7 "The difficulties with Horizon yesterday, we were
 8 advised, was primarily not a systems fault. It was
 9 primarily difficulties encountered by subpostmasters
 10 last Thursday in understanding the instructions for
 11 uprating their postage stock which led to balancing
 12 difficulties yesterday 3rd May.

13 "They have accepted there is a clear learning point
 14 to make sure instructions are more understandable and
 15 they have also accepted a need to review and communicate
 16 the difficulties of what they've learned, both to those
 17 within the business and to subpostmasters. They are,
 18 however, trying to deal the problems today and clearly
 19 this is the most critical aim for them to focus on."

20 Did the Post Office tend to chalk issues with
 21 balancing up to training, as opposed to a systems fault?

22 A. Could you repeat that, sorry? Did the Post Office ...?

23 Q. Did the Post Office tend to chalk issues with balancing
 24 up to training, as opposed to a systems fault?

25 A. No. I think what was totally wrong reasoning here

1 continual discussion with PONU, firstly to identify the
 2 exact problem, which offices were affected and how it
 3 can be rectified.

4 "I am advised that it only affects CSR+ offices and
 5 only where a shared stock unit is used. The problem
 6 will be fixed by means of a software drop in December.
 7 In the meantime, a message broadcast should have been
 8 made to all CSR+ offices today. Attached is a copy of
 9 the draft message for your information. The text in
 10 italic at the beginning of the message will not be
 11 included in the broadcast."

12 If we could turn over to the next page, and if we
 13 could look at the main paragraph, I think, four
 14 paragraphs down, which starts with:

15 "There have been occasions where Girobank
 16 transactions entered on to CSR+ Horizon terminals may
 17 not be visible on the office copy and the Horizon Daily
 18 Records. The transaction will however be included in
 19 the grand total value and the volume reported to the
 20 cash account. In addition, the individual totals on one
 21 or more Horizon Daily Records may be wrong. This fault
 22 is due to be fixed in December."

23 Do you remember this particular issue?

24 A. Not clearly but, by reading that earlier, it did refresh
 25 my mind of what was actually happening, yes.

1 was -- my recollection of this, this happened and it was
 2 horrendous across the network because the postage stamps
 3 had gone up, and therefore, if you had got, in your
 4 stock, to be very simplistic, a First Class postage
 5 stamp that was 20 pence and it had gone up, back in
 6 those days, to 22 pence, there was a system or
 7 an instruction that told us -- all the subpostmasters,
 8 how to upgrade those stamps for that extra 2p because,
 9 of course, once you've -- you're otherwise -- if you put
 10 them in at 22 pence, you were going to make a profit or
 11 you would have an overage, as opposed to anything else.

12 And so there was an unclear instruction, or it
 13 was -- wasn't clear enough for all subpostmasters to
 14 deal with, or some might not have dealt with it. Hence
 15 that problem that was a major, major problem on,
 16 I believe it was 3 May, as you've already said.

17 Q. Did you feel it was difficult to ascertain whether
 18 something was a systems problem or an instruction
 19 problem?

20 A. Correct. I wouldn't know.

21 Q. If we could turn to NFSP00000153. This is from
 22 November 2000 and it's a circular from a Kevin Davis.
 23 This relates to "Giro Daily Reports". It says:

24 "I've recently received a number of reports about
 25 ghost entries on Giro Daily Reports. I have been in

1 Q. At this time, when this issue arose, did you think all
 2 these subpostmasters have been saying they're having
 3 issues with the balancing, maybe there's something wrong
 4 with the system, given the system isn't infallible.

5 A. If I can relate that back to my own office, what
 6 actually happen was in those transactions we're going
 7 through, they'd -- in a normal office you'd get
 8 a printout and you were going to send those documents
 9 off in the evening, and you would check that those
 10 documents were there against what had been printed out.
 11 Therefore, there were those missing, which was obviously
 12 going to lead to you either wondering if you'd put it
 13 through, and there would be instances where those
 14 transactions had therefore been put in again, and all
 15 sorts of things.

16 So it was, as we said, a concern which was rapidly
 17 flagged up but, again, nobody knew what was going on in
 18 the back office system. One had to go with the
 19 assurances that were being given to us on behalf of
 20 subpostmasters.

21 Q. Moving next to January 2001, a report of a meeting of
 22 the National Executive Council. If we could turn up
 23 NFSP00000557. If we could turn to page 9, please. We
 24 can see that you are again addressing the council on the
 25 issue of counter automation, and you say that you

1 thought that Don Grey did his best to sort out the
2 problems with Horizon. Do you see that there?
3 **A.** Yes.
4 **Q.** Is that your view?
5 **A.** Yes, it was, because Don Grey was the person we
6 represented problems to, and it seemed that he, from
7 what he fed back to us, was doing his best to make sure
8 that what we had gone to him with, he was doing his best
9 to resolve.

10 **Q.** If we could turn to page 10, please. In the bottom half
11 of the page, it refers to Horizon polling problems. It
12 says:

13 "Mr Peberdy reported that it was essential that
14 subpostmasters knew of these types of problems. They
15 needed to know a bit more. They were awaiting responses
16 to what had gone wrong and why they had been kept in the
17 dark."

18 Do you remember this and what "Horizon polling
19 problems" refers to?

20 **A.** Truthfully, not fully, but it was -- I perceived at the
21 time it was a system glitch, and that we were, as it
22 said when I was reporting it, that we weren't fully
23 appraised of what it was and we felt that we were, as
24 that says, being kept in the dark.

25 **Q.** Do you feel like you took adequate steps to rectify this

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1 **A.** Very much so, it was such a major part of what Colin
2 Baker had to spend his time on, and I did, and, as
3 I said earlier, it's always in the back of my mind
4 worried me that, if it was something that was going
5 wrong, the Post Office weren't having to foot the bill
6 because if this result in error, it was a subpostmaster
7 who was left putting his hand in his pocket.

8 **Q.** Yes, and looking at the next paragraph it says:

9 "Amongst it one was to set up the two-day meeting,
10 a separate meeting on Losses and Gains Policy,
11 a separate group to bring in the Horizon problems.
12 There had been stories about the problems that had been
13 created by Horizon shortages, Horizon was not doing
14 things, the problem with losses having to be made good
15 immediately, and all the things about Suspense Accounts.
16 He reported that he wanted the group to examine this.
17 He had been led to understand there was £10 million in
18 suspense accounts now, as opposed to £2 million
19 18 months ago. Another feature of the system was that
20 it highlighted everything."

21 Were you concerned about the amount in the suspense
22 accounts?

23 **A.** Yes.

24 **Q.** Why?

25 **A.** Well, obviously, as that actually says, there was such

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1 problem?

2 **A.** Yeah, I think we always, as I keep saying, we always
3 represented them to Post Office Limited. We had to take
4 their answers that they were dealing with them, and you
5 would be further pushing Post Office Limited to find out
6 the individual answers, and they were obviously working
7 with ICL Pathway, or whomever they were dealing with, to
8 try to resolve each of these issues.

9 **Q.** Lastly, could we go to March 2001, the document is
10 NFSP00000513. Thank you.

11 You can see there that it's a report of the National
12 Executive Council meeting, and if we could turn to
13 page 15. Again, picking up the Horizon polling
14 problems, which, I think you mentioned a moment ago, you
15 thought were you systems glitch:

16 "Mr Peberdy reported that these problems are still
17 being highlighted and just recently had been circulated
18 and reported on the problems in organising meetings with
19 the business but now monthly meetings had been scheduled
20 and there was a meeting on 26th February 2001 which
21 could be seen from the action points. There were 28
22 items that required action, some of them the business
23 still had to come back to them on."

24 Did you find it frustrating dealing with POCL with
25 these kinds of issues?

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1 a massive increase, at that time, if the subpostmaster
2 had a shortage, or a gain, he could ask for it to be put
3 into a suspense account. And the system had -- the
4 Horizon System had an ability to do that. Obviously,
5 these amounts had therefore escalated to the level that
6 we were talking about there.

7 Hence, we wanted the -- that being the Federation --
8 a meeting with the Post Office to establish a new losses
9 and gains policy because, of course, they were now
10 rapidly trying to get subpostmasters to make these good,
11 stop them being in the suspense account for so long and,
12 obviously, they wanted to reduce the amount of money
13 that they saw as owed to them, and we were concerned
14 that those subpostmasters didn't sufficiently know
15 enough about how those shortages came about to just ask
16 them to immediately pay it.

17 And, as I've said more than once, you know, this was
18 Post Office Counters having their money back and
19 subpostmasters having to pay. I had many reports from
20 subpostmasters to me that (a) they either couldn't
21 afford to repay these amounts, didn't know how they
22 become short, and were obviously very worried about it.
23 There were offices that had a very good balancing
24 recorded while they were doing manual transactions, and
25 now were having losses, which they had not previously

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1 experienced until they had an automated system. So it
2 couldn't all have been down to somebody failing to put
3 a transaction through, somebody failing to keep
4 a document that they needed for their balancing. So
5 there must have been more behind it.

6 **MS KENNEDY:** Chair, I don't have any further questions.

7 **SIR WYN WILLIAMS:** Just so that I'm not getting things
8 wrong, that -- if that document could be put up again,
9 please, on the page you were last at. You see the
10 reference, Mr Peberdy, to £10 million at that point,
11 March 2001 and £2 million 18 months previously, yeah?

12 Well, we will see it when it comes back.

13 Anyway, I think this is right, but please correct me
14 if I'm wrong. Effectively, over the period of the
15 rollout -- because it started late '99, yes --

16 **A.** Yes.

17 **Q.** -- this figure had jumped from 2 million to 10 million;
18 is that it?

19 **A.** Correct.

20 **SIR WYN WILLIAMS:** Yes. Do I take it that, even in the
21 paper days, there was some money in the suspense
22 accounts?

23 **A.** Yes.

24 **SIR WYN WILLIAMS:** From your just general recollection, in
25 the paper days, had it ever reached anything like

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1 a recommendation that the subpostmaster was responsible
2 for the entire loss. That was then sent off to the RNM,
3 because the final decision as to whether to ask for that
4 entire amount. In most cases the RNM took the report as
5 verbatim which was causing a lot of problems."

6 So let's just explain couple of those terms. First
7 of all, HORN, H-O-R-N?

8 **A.** Head of Retail Network, from my recollection.

9 **Q.** Thank you. Now "security went in at some point". Who
10 are you referring to there -- sorry, who is Mr Jones
11 referring to there?

12 **A.** I presume, in that, that he is probably talking about
13 the audit team.

14 **Q.** Thank you, and then lastly "RNM"?

15 **A.** Retail Network Manager.

16 **Q.** Okay. Thank you for the assistance in explaining the
17 terms. Does this particular paragraph and the point
18 being raised by Mr Jones tell us that what was going on
19 was that, all too often, the assumption was made that
20 the subpostmaster was responsible for the entire loss?

21 **A.** Correct.

22 **Q.** And that the RNM, with your explanation, took the
23 report -- the report, presumably, report of losses -- as
24 verbatim, which was causing a lot of problems?

25 **A.** Yes. I think if you wanted a little more explanation,

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1 £10 million?

2 **A.** From what I can remember, no, and until -- they were
3 smaller amounts and this was a massive escalation, hence
4 I felt it necessary to report it at that stage to the
5 Executive Council.

6 **SIR WYN WILLIAMS:** Sure. Thank you. I just wanted to be
7 sure I'd got it correct.

8 Anybody else any questions?

9 **MR STEIN:** Sir, yes, briefly.

10 Questioned by MR STEIN

11 **MR STEIN:** Mr Peberdy, can we stay with the document you've
12 just been asked questions about, which is NFSP00000513.

13 Can we have that on screen and, this time, please, go to
14 page 16 -- that's Relatively number 16, internal
15 pagination of the document pages 14 and 15.

16 I am going to take you to a particular part which is
17 reference to Mr Cyril Jones, which is the third
18 paragraph on that page. Thank you very much.

19 Now, I'll ask you about the terms used in a minute,
20 but this sets out:

21 "Mr Cyril Jones said that there had been a meeting
22 with a HORN and this problem had been brought up. He
23 had been very concerned about this problem causing
24 problems in the appeals area and forcing unnecessary
25 appeals. Security went in at some point and made

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1 these were the cases that -- I mean, I presume you know
2 how these things come about when an audit team turns up
3 in an office and the office becomes short. A lot of
4 subpostmasters were very fearful of this and fearful
5 that if the office were short, they might lose their
6 office or, as subsequently happened, and we all know now
7 with hindsight, many were prosecuted.

8 **Q.** Yes, and I think then, if we can go to a part of this
9 that has your reference, I believe it's over the next
10 page. Yes, the fourth paragraph down, starting with
11 Mr Peberdy, if we can highlight that, please, and put
12 it -- enlarge it on the screen then highlight, please.
13 Yes.

14 "Mr Peberdy said that they had just sent a very
15 strong signal to Mike Granville that because of the
16 financial plight of the business they were playing a lot
17 harder ball over losses and sticking everything they
18 could onto the subpostmaster. There was pressure on the
19 business, end of the financial year."

20 Now again, let's unwrap that. Mike Granville?

21 **A.** One of the senior Post Office managers at the time.

22 **Q.** Thank you. The reference here to the "financial plight
23 of the business", which business are you referring to?

24 **A.** Post Office Counters Limited.

25 **Q.** Okay. So:

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1 "Mr Peberdy said that sent a very strong signal to
2 Mike Granville because of the financial plight of the
3 business [which is the Post Office] that they were
4 playing a lot harder ball over losses ..."

5 What did you mean by therefore, "sticking everything
6 they could on to the subpostmaster"?

7 **A.** Right, in that particular reference, we're still
8 probably rounding up talking about losses, and this
9 amount that was sitting in the suspense accounts, that
10 Post Office Counters Limited obviously perceived was due
11 to them from the subpostmaster, and their financial year
12 end and the state of Post Office accounts, with a large
13 amount sticking in suspense accounts, wasn't, in my
14 view, looking good for them and, therefore, they wanted
15 to get this money in, and were taking a lot harder line.

16 We did have situations where the Post Office, on
17 representations probably from Federation
18 representatives, would agree to some of these losses,
19 which subpostmasters in many cases just had to accept,
20 and they didn't know whether they were right or wrong,
21 could be spread over a period of time, and we did have
22 an agreement of them that -- I can't remember the length
23 of period -- that the losses could be kept in the
24 suspense account for a period of time.

25 The reason behind that was for them -- the business
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1 "sticking everything they could onto the subpostmaster".

2 Mr Peberdy, we do have some further questions, but
3 they are for a later stage in the Inquiry. We have been
4 assured that you and, indeed, Mr Baker will be returning
5 to the witness stand or table at a later point in the
6 Inquiry.

7 **A.** I'm very happy to do so.

8 **SIR WYN WILLIAMS:** Yes, please.

9 **Questioned by MR MOLONEY**

10 **MR MOLONEY:** Mr Peberdy, I'd just like to ask you about two
11 more documents, if I may, please.

12 **A.** Certainly.

13 **Q.** The first is reference NFSP00000540. We can see on the
14 page here that this is the minutes of the National
15 Executive Council meeting held on 4 and 5 June 2001, and
16 if we went to the next page, we'd be able to see that
17 you were present at this meeting. Thank you. Could we
18 please go to page 14 of this document, because as you
19 said, as it's coming up, the continuing question of the
20 reliability -- so it's 14 of the document -- that's my
21 fault.

22 The continuing question of the reliability of
23 Horizon and counter automation was effectively
24 a standing item, so far as Executive Council meetings
25 were concerned around this time.

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1 hopefully to examine and see if documentation came
2 forward or anything else came forward that proved that
3 loss. I'll give you a very simplistic example that
4 might have been the subpostmaster's fault, that
5 a subpostmaster, amongst a multiple transaction, hadn't
6 charged a customer for something like, I don't know,
7 a book of stamps. That customer might have come back
8 the next week and said, "By the way you didn't charge me
9 for these last week". Simplistically, it was a small
10 amount, but hence the suspense account was there for
11 those reasons.

12 But at that time and at this stage that this minute
13 is recording, is that Post Office were definitely taking
14 a stronger view as to getting that money back into their
15 coffers and the subpostmasters having to pay.

16 **Q.** You alluded that to the fact that the business, which is
17 the Post Office, was having financial difficulties?

18 **A.** Well, I'm not quite sure I was quite saying -- I was
19 saying there was pressure on their business. Nobody
20 likes a business that is losing masses of money,
21 especially as it's partially owned by the Government,
22 and so, therefore, they would be keen, as a lot of
23 businesses probably would, not to have a big suspense
24 accountant sitting in their balance sheet.

25 **MR STEIN:** Such was your view, that you put it this way,
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1 Could I ask that paragraph 6 there is -- thank you.

2 "Mrs Reeves reported that at the beginning of the
3 automation of Horizon, an office was allowed to work
4 manually and input later ..."

5 That talks about the system going down, and the
6 chairman saying that he didn't know the answer:

7 "Mrs Jenkins stated that the problems experienced
8 with Horizon were raised at Conference", and it may be
9 that we've seen the minutes of that conference already:

10 "It was promised on the platform that there would be
11 a national forum to look at the problem. Were we anyway
12 nearer to getting this set up and how was it going to
13 work?"

14 Then, if we could go over the page, please.

15 "The Chairman said that they should have a user
16 group, a national forum, to deal with Horizon errors and
17 problems with the system. It was an action point from
18 26 February."

19 May I ask you, Mr Peberdy, was there ever
20 a meeting -- or, firstly, was there ever a meeting of
21 a national forum in that way?

22 **A.** Not that I can recall, unless we were actually -- I'm
23 not sure whether this was prior to the Horizon Working
24 Group or after the Horizon Working Group.

25 **Q.** This is June 2001.

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1 A. And the Horizon Working Group would have been in place
 2 by then.
 3 Q. Yes.
 4 A. Yes.
 5 Q. So, just in terms of what that national forum might have
 6 looked like, would it have been an invitation to all
 7 subpostmasters to come along and express their
 8 experiences, relate their experiences to the problems
 9 that they might be experiencing with Horizon?
 10 A. I'm not quite sure what the chairman directly was
 11 meaning about it, by a user group. The sort of thing
 12 that we would have, as a Federation, tried to do in
 13 those sort of instances was either have had a special
 14 conference, when we would have called delegates, because
 15 we couldn't invite everybody there -- if I can just sort
 16 take you back, we were -- the Federation was structured
 17 in such a way that we that Executive Officers in the
 18 regions of the country, branch secretaries beneath those
 19 Executive Officers in the individual branches and,
 20 obviously, subpostmasters went to meetings.
 21 I do have to also flag up, of course, unfortunately
 22 not all subpostmasters were members of the Federation,
 23 and there were some who didn't want to upset the Post
 24 Office, so we didn't always get the full feedback from
 25 them. But that would have alluded to we wanted to find
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1 the eye test issue, which was in the action points under
 2 the overview of meetings."
 3 Do you remember whether or not there were meetings
 4 of that Horizon subcommittee?
 5 A. Yeah, I think that, drawing my attention back to it,
 6 I believe that Dearne Valley was the Horizon Helpdesk,
 7 and yes, we did have meetings there because we were
 8 anxious to see what was coming into the Helpdesk what
 9 sort of questions were coming in, and how they were
 10 dealing with them and how they were helping
 11 subpostmasters to resolve those issues.
 12 Q. If we could go on to the next paragraph please to this
 13 document, to see what Mrs Bethell says:
 14 "Mrs Bethell said that she had three items to raise
 15 under this section. The first was a request for
 16 a progress report on barcoded hand pouches as a number
 17 of pouches were still going missing. Mr Davis replied
 18 that he had not been advised when barcoding of pouches
 19 was to start but he would endeavour to find out.
 20 "The second was about the Benefits Agency linked to
 21 Horizon. Mrs Bethell was receiving a number of
 22 complaints from subpostmasters who were having letters
 23 from the Benefits Agency accusing them of paying out on
 24 books which had been impounded.
 25 "Subpostmasters had acted on the instructions on the
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1 some means, and I've got a feeling that subsequently to
 2 that, at the next Executive Council meeting, part of it
 3 we asked these Executive Officers to bring any instances
 4 that they'd got or to sent them into Shoreham so that we
 5 could represent them directly to the Post Office.
 6 Q. Right.
 7 A. Sorry I can't be more explicit than that.
 8 Q. No, but it may assist your memory to, as you suggest,
 9 move to the minutes of the next meeting, which are at
 10 NFSP00000501, and this is the minutes of the National
 11 Executive for July 2001.
 12 A. Yes.
 13 Q. If we could please go to, it's internal page 18 of this
 14 document. Thank you. If we could highlight the section
 15 at the bottom under "Horizon". We see that the Chairman
 16 reported that the Negotiating Committee had visited
 17 Dearne Valley:
 18 "It had been agreed that a subcommittee will be
 19 formed to solve some of the major Horizon issues. Don
 20 Grey had suggested meeting once every four months in
 21 either Dearne Valley or London. Attendees from Post
 22 Office Network were to be Don Grey, Mark Haynes, Julian
 23 White and Liz Tuddenham and from the NFSP Colin Baker,
 24 John Peberdy and Jean Kendall. The initial meeting is
 25 scheduled for October. They were continuing to progress
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1 system and the Benefits Agency did not believe them. It
 2 was going on subpostmasters files that they were paying
 3 on impounded books, although it had been agreed back in
 4 the week 5 of 2000 that there was a problem with the
 5 system. This information would remain on
 6 subpostmasters' files despite requests that it be
 7 removed. It had been suggested that there should be
 8 a printout when a book was impounded. It could then be
 9 proved that the subpostmaster had done as the system
 10 instructed."
 11 Did you ever become aware of subpostmasters being
 12 prosecuted for what might be described as are you
 13 introduction fraud of introducing giros, benefit slips,
 14 into the system when a book had been impounded?
 15 A. I wasn't aware of them being prosecuted for it. The
 16 system did ask subpostmasters to impound the book when
 17 the barcode was read. If that book had been withdrawn
 18 for some reasons.
 19 I was not aware -- I can see what Mrs Bethell said,
 20 who was in Liverpool and a representative of the
 21 northwest, and that she represented an area of very --
 22 as she told us at the Executive Council meetings, very
 23 high numbers of giros being encashed at pub post
 24 offices, hence her desire for the barcoded pouches, by
 25 the way, and that there obviously were instances in the
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1 northwest where the books had been stopped by the
 2 Benefits Agency and probably a giro paid because if
 3 people couldn't manage or all sorts of various reasons.
 4 But I wasn't aware that then subpostmasters were
 5 fraudulently paying those benefits.

6 **MR MOLONEY:** Thank you very much, Mr Peberdy. That's all
 7 I ask.

8 **SIR WYN WILLIAMS:** Thank you. Is that it?

9 **MS KENNEDY:** Chair, I think that's it.

10 **SIR WYN WILLIAMS:** Thank you very much for your witness
 11 statement and for coming to give oral evidence.

12 **A.** Thank you, Mr Chairman. It's been my pleasure. I hope
 13 I can help the Inquiry in the future.

14 **SIR WYN WILLIAMS:** Thank you.
 15 So I think that completes what I will call the
 16 scheduled witnesses to date on Phase 2.
 17 I say to date, because you never know, do you? So
 18 that leaves two oral submissions this afternoon; is that
 19 correct?

20 **MR STEIN:** Sir, yes.

21 **SIR WYN WILLIAMS:** I laid down the guidelines, and I take it
 22 you're both happy to be within those guidelines?

23 **MR STEIN:** Yes.

24 **SIR WYN WILLIAMS:** Thank you. See you at 2.15, it's now
 25 nearly quarter past.

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1 going first?

2 **MR STEIN:** Sir, I think it is me.

3 **SIR WYN WILLIAMS:** Right.

4 **Submissions by MR STEIN**

5 **MR STEIN:** Sir, first of all, we are, of course, grateful
 6 for this opportunity to make oral submissions at the
 7 close of Phase 2 of this Inquiry. To frame these
 8 submissions, these are not our final position on the
 9 evidence, but it's our attempt to assist the Inquiry
 10 with its examination of evidence within the future
 11 phases as we go forward.
 12 The Inquiry will have to decide whether what we've
 13 heard in Phase 2 is as a result of cock-up or cook-up.
 14 If cock-up, an archery term, sir, then it is the result
 15 of a serious failure to care about the fitness for
 16 purpose of the Horizon System and speaks of contempt for
 17 our subpostmasters.
 18 Worse than that, if that could be possible, is
 19 cook-up, meaning that once the imperfections of the
 20 Horizon System were known within the Post Office and
 21 Fujitsu, both contracting parties were left with a less
 22 than satisfactory Horizon system but, nevertheless,
 23 decided to carry on in the pretence that the system was
 24 adequate for branch use and also capable of providing
 25 evidence, reliable evidence, sufficient to blame

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1 **MR STEIN:** Sir, yes. From my part, and I've spoken to my
 2 learned friend about this, I think I'll be about half
 3 an hour, so well within the guidelines. Is there
 4 a stopping time today, though? We were told you may
 5 wish to stop at 3.00.

6 **SIR WYN WILLIAMS:** Well, there's no official stopping time,
 7 in the sense we that have to finish at 3.00. The
 8 difficulty is that I want to have a meeting with my
 9 team, who are considering how to handle next Thursday,
 10 in the lunch break, rather than after we finish this
 11 afternoon. But I'm quite happy to try to do that by
 12 2.00, and then if you are half an hour and if Mr Moloney
 13 is much the same, we won't be far off 3.00.

14 **MR MOLONEY:** Sir, if you find that it's too much of a rush
 15 to finish by 2.00 then I think I can abridge my
 16 submissions without doing any injustice to you.

17 **SIR WYN WILLIAMS:** No, don't worry. Let's say 2.00 and
 18 I will, I'm sure, be briefed sufficiently about Thursday
 19 by then, and we will hear you between 2.00 and 3.00, he
 20 says, optimistically.

21 **MR STEIN:** Thank you.

22 (1.13 pm)

(The Short Adjournment)

24 (2.05 pm)

25 **SIR WYN WILLIAMS:** Apologies for the slight delay. Who is

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1 subpostmasters for shortfalls, to support
 2 investigations, to deal with civil actions and
 3 prosecutions.
 4 The problems within the Horizon system are not
 5 limited to the bugs within the software examined by
 6 Mr Justice Fraser, but also hardware installation,
 7 environmental interference in Horizon internal
 8 communication, disconnection and reconnection, bad
 9 training, bad scripts and bad advice from the unhelpful
 10 desk.
 11 The evidence within Phase 2 has highlighted
 12 particular themes, and we say these are significant.
 13 First of all, the inappropriateness of the Private
 14 Finance Initiative in the procurement of Horizon.
 15 What guidance, protocols and systems were in place
 16 to support the use of the Horizon System for making
 17 claims against subpostmasters with shortfalls or taking
 18 action against them in the civil courts, or for
 19 investigations and prosecutions.
 20 What was the extent of knowledge within Pathway of
 21 the inadequacies in the Horizon System? Who knew what
 22 and when? And so far, sir, fairly obviously, we've
 23 heard evidence from managers and more senior individuals
 24 and we anticipate later on that we'll be hearing
 25 evidence from people working within the organisation.

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1 How far did that filter through?

2 The same question: the extent of knowledge within
3 POCL, of the inadequacies in the Horizon System. How
4 far was that knowledge of the difficulties with the
5 system, it's problems, fed through to those people
6 working day-to-day within POCL?

7 Finally, we asked the Inquiry to consider and
8 consider what the effect of this is, the decision taken
9 by POCL to design out the ability of subpostmasters to
10 interrogate the system.

11 The reason why we asked the Inquiry to keep these
12 themes in mind as we go forward within this Inquiry is
13 because we suggest that we are going to need to consider
14 what evidence there is, which may demonstrate that
15 a cover-up did not start after Simon Clarke blew the
16 gaff on Mr Jenkins within the Post Office, but much
17 earlier.

18 The evidence in Phase 2 confirms that Horizon was
19 never capable of supporting criminal or civil actions
20 against subpostmasters and, sir, as you're aware, we've
21 been pursuing this particular track in the questions
22 that we've been putting to witnesses. There's been
23 considerable mention of section 69 of the Police and
24 Criminal Evidence Act, which dealt with the
25 admissibility of computer-based evidence, which, for the

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1 Act is somewhat onerous from a prosecution viewpoint.
2 I consider that computer evidence is, in principle, no
3 different from any other sort of evidence and it should,
4 in general terms, be admissible so that any argument in
5 court would relate to its weight rather than its
6 admissibility. I therefore consider that there should
7 be a presumption that the machine is in working order,
8 etc, and if the defence wish to argue otherwise then
9 clearly they should be able to do so."

10 She finished:

11 "At present, I therefore consider the evidential
12 requirements to be far too strict and can hamper
13 prosecutions."

14 Now, that was a written submission in made in
15 July 1995. We need to therefore bring things a little
16 bit further up to date within the time period of matters
17 that we've been dealing with.

18 I'm going to take you to a document that should be
19 able to go on the screen, which is FUJ00058182. Now,
20 this is the monthly progress report, and I'm going to
21 take you to the part that deals with -- under security
22 system, and it is the sixth bullet point. If that,
23 Paul, can be put on the screen, and if you could bring
24 out the "Discussions took place", the sixth bullet
25 point, starting with "Discussions took place", and

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1 time when it was in force, meant that such evidence was
2 subject to requirement for a party wishing to rely on
3 such evidence to demonstrate that the computer had been
4 operated properly and that it worked properly, and that
5 this has been referred to as a certificate.

6 Going back a little bit further in time, in 1995 the
7 Law Commission held a consultation on proposals to get
8 rid of the section 69 safeguard and introduce
9 a presumption that a computer system has operated
10 correctly unless there is explicit evidence to the
11 contrary.

12 POCL actively supported the proposal to get rid of
13 that particular safeguard and argued in written
14 representations, dated 31 July 1995, that the safeguard
15 in section 69 was too strict and had the effect often
16 hampering prosecutions.

17 These submissions were made by the head of Post
18 Office Limited Criminal Law Division, Ms Churchard, and
19 they were made to the Law Commission on 31 July 1995.
20 Sir, this is material that we provided to the Inquiry.
21 As yet, as far as I know, we don't yet have a Relativity
22 reference for it.

23 The submissions, though, made by Ms Churchard were
24 briefly as follows:

25 "In practice the operation of section 69 of the 1984

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1 highlight that. Thank you.

2 So this is dated, on the face of the first page of
3 the document, it's May 1999, the internal pagination is
4 also headed 14 June 1999. So it's issued roughly in the
5 middle of 1999:

6 "Discussions took place with POCL investigations and
7 legal staff to progress the provision of section 69 PACE
8 certificates. POCL are clearly anticipating
9 a comprehensive fraud and prosecution support service
10 from ICL Pathway. We have made it clear that this is
11 not in the core contract. It represents an opportunity
12 for a non-core service."

13 Now, quite putting aside for a moment that ICL,
14 operating as a private company, is wishing to make more
15 money out of providing an extra service, the point that
16 we are referring to here is that, at this stage, in the
17 middle of 1999, it is clear that there were discussions
18 between POCL and ICL in order to provide a system that
19 would support.

20 We know that by July 1999, the document that we've
21 seen now a number of times, which is the codified
22 contractual agreement reached between POCL and
23 ICL Pathway, the clause that -- we don't need to put it
24 on screen, sir, you're very familiar with it,
25 clause 4.1.8, which is the clause within the codified

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1 contract that sets out that:

2 "The contractor shall ensure that all relevant
3 information produced by the POCL service infrastructure
4 at the request of POCL shall be evidentially permissible
5 and capable of certification."

6 Sir, we know as we go through these dates in 1999,
7 by May 1999 the monthly progress report is stressing
8 that there needs to be a system, there's discussion
9 about that and how that system will operate. By
10 July 1999, the section 69 contractual requirement was
11 embedded within the codified agreement. So we know that
12 POCL and Pathway were tracking the investigation and
13 prosecution issue.

14 Now, as a matter of fact, section 69 was repealed on
15 14 April 2000. A subsequent version of the contract
16 dated 2002, whose reference is FUJ00000074, was amended
17 to remove the section 69 references and so, at
18 an earlier stage in questions that we asked, we showed
19 that particular document.

20 Sir, at the moment, as far as we're aware, we have
21 the codified agreement and then the contract dated 2002.
22 Now that's subject to later disclosure.

23 We can see, therefore, that this question of
24 evidential admissibility in relation to prosecutions was
25 a matter that was under discussion between the parties

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1 began to see inexplicable shortfalls in January 2000,
2 investigated in mid-2000 and prosecuted in 2001. There
3 was no pause, there was no break, there was no "Let's
4 see how this shakes down".

5 The reality was that POCL were in a Catch-22
6 position of their own making. Having automated the
7 accounting system in branches, they could no longer
8 bring a prosecution or civil action or, indeed, question
9 a shortfall without relying on Horizon the whole source
10 of evidence. But equally, there is evidence that they
11 knew that Horizon was not up to the task and could never
12 attain what Andrew Simpkins told the Inquiry on
13 3 November amounted to the very high bar if it was to
14 perform that function.

15 Sir, you'll recall Mr Simpkins in the witness box,
16 when he was asked that question -- I think it was by
17 myself -- that he described that physically as well and
18 he put his hand up in the air to say that the bar was up
19 here. If you wanted the system to work to that level of
20 functionality, then it would be a very different thing
21 indeed. That's transcript 3 November, page 116.

22 There is evidence, we suggest, which at the very
23 least is suggestive of suppression of these issues
24 within POCL. John Roberts, a former managing director
25 of POL, when giving evidence on 20 October, told the

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1 over a considerable period of time.

2 Now, it was the view of Pathway that POCL ought
3 reasonably to have known about the problems in the
4 system. Mr Oppenheim told the Inquiry in his evidence
5 that he had always assumed that any request made by Post
6 Office for data to support a prosecution would be a rare
7 thing. He said that there was a general understanding
8 between all the technical and commercial people that
9 there would be occasional errors.

10 He said that everyone knew that there would be
11 mismatches and that he presumption was that the Post
12 Office would, certainly at the outset, give
13 subpostmasters the benefit of the doubt. You'll recall
14 his evidence, which was given on 26 October, page 48 of
15 the transcript.

16 Sir, we have heard also from Mr Johnson, who said in
17 his evidence very recently that he expected or made
18 an assumption, as he put it -- he made an assumption --
19 that there would be a break, a period of time whereby
20 the system wouldn't be used to support prosecutions.
21 Perhaps a shakedown period or something similar to that.

22 Yet there is, in fact, no evidence of subpostmasters
23 being given the benefit of the doubt. We know that
24 because of Ms Lock, a 25-year subpostmaster veteran, by
25 the time of the installation of the Horizon System, who

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1 Inquiry that the issue of prosecutions was never raised
2 in discussion at senior management or at board level.

3 We also heard that the matter of prosecutions were
4 dealt with by the internal solicitors department at the
5 Post Office, who reported, I think it was, to Mr Roberts
6 himself.

7 We urge the Inquiry to ensure that members of the
8 legal team within the Post Office are called to give
9 evidence in the appropriate phases in this Inquiry in
10 the future, and that will include references that we
11 have had to Mr Christou and Ms Churchard.

12 Now the extent of knowledge within Pathway of the
13 inadequacies in the Horizon System needs some short
14 examination. Pathway certainly knew that the Horizon
15 System was not capable, we suggest, of supporting
16 a civil or criminal claim against subpostmasters, let
17 alone justifying countless suspensions, dismissals,
18 menacing demands for repayments in respect of so-called
19 monies that the Post Office said was missing.

20 Jeremy Folkes, a former infrastructure assurance
21 team leader at POCL, gave evidence on 2 November and
22 confirmed Pathway's attitude. He said, as regard
23 acceptance issues, that Pathway were more interested in
24 talking down severity of acceptance issues rather than
25 actually trying to engage to resolve issues. He

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1 referred to a war of attrition and stated that Pathway
2 had a massive incentive to avoid any acceptance issue
3 being classified as a category 1 issue, which he
4 described as a "showstopper".

5 The scale of the problem and Pathway's knowledge of
6 it was explained in the evidence of Mr David McDonnell,
7 a former development manager at ICL, who gave evidence
8 on 16 November. His evidence is important, not the
9 least because his evidence was untroubled and
10 uncontested by any oral questions from Fujitsu or the
11 Post Office.

12 We imagine that Mr Justice Fraser in the civil
13 claims and the hearings that he dealt with, and the
14 Court of Appeal in the criminal appeals, will have been
15 very interested in what he had to say. Is the reason
16 that Mr McDonnell's report and his evidence was not
17 disclosed within the High Court litigation, that Fujitsu
18 was not a party to the proceedings, and is this
19 a consequence of the PFI nature of the contract and its
20 consequential "black box"?

21 Mr McDonnell confirmed, joining ICL just after,
22 I think, I recall, Easter 1998, that it became obvious
23 to him that, of the team of eight developers at Pathway,
24 four were not capable of producing professional code,
25 that there were no development standards or methodology,

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1 product was developed using Rapid Application
2 Development, RAD, directly from the prototype, a process
3 which was fatal in a large project with several
4 integrations. Mr Beer, King's Counsel, described this
5 as building on balsa wood. Transcript, 16 November,
6 page 59.

7 Despite Mr McDonnell and Mr Holmes' conclusions,
8 their report was not accepted by Mr Austin, the
9 programme director, and was disregarded by Mr Jenkins,
10 the senior Fujitsu architect, who was much later the
11 subject of the Simon Clarke Advices, criticism by
12 Mr Justice Fraser and, we understand, an ongoing
13 Metropolitan Police Service investigation.

14 Shortly after the publication and distribution of
15 the taskforce report, Mr McDonnell was offered
16 a promotion. He said he would only accept that
17 promotion if the Horizon cash account code was
18 rewritten. ICL would not do that and Mr McDonnell was
19 moved sideways, perhaps conveniently.

20 Mr Cipione commented on the taskforce report in his
21 second appearance before you on 17 November. Mr Cipione
22 described how disturbing it was to read that there was
23 no design for the EPOS system, or the Horizon System,
24 and considering where a lot of PinICLs and PEAK errors
25 were, the lack of design specifically led to the

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1 some of the design specification documents were reverse
2 engineered, written to reflect code -- pre-existing
3 code. Incredibly there was no overall design
4 specification, and many documents served no function
5 other than to satisfy an audit for the purpose of
6 meeting acceptance criteria.

7 Furthermore, he said that basic steps such as coding
8 standards document and peer reviews were absent, neither
9 were there any unit testing standards, so it was not
10 possible to test the code. Mr McDonnell said that the
11 constant high level of PinICLs being raised daily and
12 the fact that a number of these were not diminishing and
13 were becoming more complex led him to conclude that the
14 quality of the code was not right. Transcript,
15 16 November, page 19.

16 Now, these concerns led to the taskforce initiative
17 between August and September 1998 and the joint report
18 produced by Mr McDonnell and Mr Holmes.

19 Significantly, Mr McDonald said that the code was so
20 bad that he'd never seen anything like it in the 25 to
21 30 years since his involvement in the Horizon project.
22 The effect of this was that the need for constant
23 rewriting of bad or unreachable code would cause code
24 decay, leading to the whole product becoming unstable.

25 Furthermore, Mr McDonnell confirmed that the EPOSS

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1 in-balance issues. Put simply, he said, "If you're not
2 going to design something properly, it's not going to.
3 If you don't have a good design it's not going to work
4 properly".

5 In his report, Mr Cipione had not been aware that
6 the EPOS system had been developed using rapid
7 application development, as that had come out during the
8 evidence of Mr McDonnell. When this matter was put to
9 him on 17 November, Mr Cipione articulated further
10 concerns as to the integrity of the Horizon product. He
11 said:

12 "RAD almost means no plan, other than 'I think
13 I know what the goal is, and I'm going to get to that
14 goal as fast as I possibly can'. And there's good
15 situations where that's needed but this is not the right
16 situation for that. You need to do everything in a very
17 methodical almost militaristic way, to make sure
18 everything works properly together. Because I think
19 I mentioned before, there are so many moving pieces,
20 this has to be highly coordinated. RAD is the other end
21 of the spectrum. It is not highly coordinated or it
22 doesn't support co-ordination amongst big teams because
23 that's not the purpose of RAD. RAD is get it done
24 quick. Get it done, get a little bit done quick."

25 17 November, page 153.

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1 Mr Cipione commented on some of the examples that
 2 had been given by Mr McDonnell, stating this is
 3 "Terrible code, this has to be a joke". In relation to
 4 another, he said, "It's just not the right structure.
 5 It indicates to me that they don't understand what those
 6 particular structures are and, just take my word for it,
 7 they don't understand what the structures are".

8 Pathway had been alerted to the growing shortcomings
 9 but we suggest suppressed this information and pushed
 10 for acceptance. Through the evidence in the forthcoming
 11 phases, we need to understand who knew within POCL of
 12 the Horizon System's shortcomings and how that knowledge
 13 was employed when hounding subpostmasters for
 14 shortfalls, investigating them, or prosecuting them.

15 Our clients have urged me to submit that any
 16 protestations by the Post Office to the effect that they
 17 were misled by Pathway should be rejected. The Post
 18 Office are just as culpable as ICL Pathway and Fujitsu,
 19 if not more, because they have a direct duty of care
 20 and, morally, the hundreds of years of service provided
 21 by subpostmasters, since the foundation of the Royal
 22 Mail should have underlined the need for them to make
 23 sure that the system worked and was functional.

24 So far, what we have seen is a lack of governance,
 25 lack of oversight and lack of regulation by the post

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1 the rather checkered history of the system from 1996 to
 2 2000 and, in particular, the experiences of 1999."

3 It can't have escaped the Inquiry's notice that,
 4 even a short mental chronology of the history of this
 5 man's that there was a hurtling towards "Get this thing
 6 going, get it going, get it out there".

7 For these reasons, sir, we say the Inquiry must dig
 8 deep into the investigation and prosecution processes.
 9 The evidence in Phase 2 of the Inquiry has laid a very
 10 solid foundation for this exercise to be undertaken.

11 Mr Jeram, the head of digital systems platform unit
 12 at Fujitsu gave evidence on 10 November and confirmed
 13 that Post Office took a decision which he says was not
 14 taken quickly, that there was to be no paper cash
 15 account. Mr Jeram agreed that the effect of this
 16 decision was that subpostmasters were prevented from
 17 interrogating the system and checking their records
 18 against allegations of shortfalls.

19 He also agreed that the ability of subpostmasters to
 20 check their records was deliberately designed out of the
 21 Horizon System. Transcript, 10 November, pages 141-142.

22 On behalf of our clients, we suggest that this shows
 23 a degree of premeditation by POCL as POCL wanted to
 24 ensure, through the design of the system, that
 25 subpostmasters would be less able to examine the system,

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1 office and we suggest that is indefensible.

2 So the question that my clients would particularly
 3 like me to pursue is in one, in fact, you raised on
 4 3 November when referring to Mr Folkes's evidence, and
 5 it relates to paragraph 207 of Mr Folkes's witness
 6 statement. He said there -- and I think it's actually
 7 between paragraphs 206 and 207. Mr Folkes said:

8 "Given the problems in 1999 from acceptance and
 9 throughout the project, I believe clearly that the
 10 system and Pathway had some significant way to go to
 11 gain confidence. To a degree in 1999 this was a classic
 12 'Don't start from here' situation. It is very difficult
 13 to retrofit quality to an IT system, and it would appear
 14 from our experience that Pathway had applied a fix on
 15 fail approach to some areas, eg EPOSS, with many fixes
 16 being applied in 1999 to get it through acceptance.

17 "This was not an ideal basis from which to move
 18 forward [he went on to say at paragraph 207] and it
 19 would have been appropriate to apply some healthy
 20 scepticism to the operation of the system over the first
 21 few years."

22 He said this:

23 "I think a key question for the Inquiry to ask is
 24 what gave POCL such confidence in Horizon to start using
 25 it for prosecutions of subpostmasters, especially after

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1 it would undermine their ability to defend themselves
 2 against demands for money when the system, as it did,
 3 inevitably failed.

4 Mr Jeram says at paragraph 16 of his statement that
 5 Post Office took the decision to dispense with the
 6 paper-based system, and you know, sir, that this was
 7 a very big issue for the subpostmasters, because
 8 previously to the introduction of Horizon, they could go
 9 back through their own records. After the introduction
 10 of Horizon, they were not able to go through the same
 11 exercise.

12 The inability of subpostmasters to interrogate the
 13 Horizon system when faced with demands for sometimes
 14 large amounts of money based on shortfalls caused our
 15 clients to suffer from sustained high level anxiety and
 16 a sense of utter and complete powerlessness. We ask how
 17 that happened, how those decisions were made is fully
 18 explored in the future phases of this Inquiry.

19 The PFI initiative. The evidence in Phase 2 has
 20 largely -- well, not largely concerned, but has
 21 concerned the procurement that went horribly wrong.
 22 Mr Milburn in his evidence today, I think, at
 23 something -- I chalked it up at 10.35, described PFI as
 24 being a transfer of risk, and we need to understand how
 25 this particular Private Finance Initiative worked in

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1 this particular procurement process close what was
2 happening here was that a PFI agreement was setting up
3 by the system to be used by other businesses outside of
4 those contracting parties, and those were the small
5 businesses, the Post Office branches and they were the
6 people who, in fact, were subject to, as Mr Milburn put
7 it, the transfer of risk.

8 And they had no voice. They had no control and no
9 ability to object.

10 It was a consequence of this being initially
11 a Private Finance Initiative run and finance programme
12 and then it being a legacy of a Private Finance
13 Initiative was that the Post Office was not allowed to
14 see the high or low-level design of the Horizon system
15 and was required, instead, to trust Pathway to produce
16 acceptable outcomes.

17 We ask why no decision was made to reconsider, with
18 Fujitsu, the nature of the contract and the requirements
19 in relation to access. We agree with the position taken
20 by Mr Folkes in his evidence that PFI was not
21 a particularly appropriate way of getting a highly
22 complex, bespoke service.

23 The Horizon project demonstrates a failing of the
24 Horizon System generally. ICL were commercially
25 motivated and that then led them to put a positive spin

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1 the circumstances whereby the party that was going to be
2 dealing with the matter and actually handling the system
3 was not, indeed, part of that three-way contractual
4 relationship.

5 After the Benefits Agency withdrew, the objective of
6 the Government, we suggest, was to avoid public scrutiny
7 and damage to international trade. We've no doubt, as
8 we've been through documents, that there was also the
9 drive to make sure the Post Office continued and that
10 there would be changes.

11 We suggest that there is little understanding about
12 the impact in those documents and the briefing documents
13 to the ministers of actually what this system would mean
14 to subpostmasters. The objective of POCL was to manage
15 its way out of the existential crisis caused by the loss
16 of Benefits Agency revenue and footfall, and the
17 objective of Pathway was to survive the huge financial
18 losses which it had suffered as a consequence of the
19 delays.

20 It was seemingly no one's objective to ensure that
21 the interests of subpostmasters, who were required to
22 operate the system on the ground, would be presented
23 with a product that was fit for purpose and with
24 adequate training and assistance. Instead, as described
25 by a witness to come in Phase 3, that's Bruce Mcniven,

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1 on the appalling failings of the system that they were
2 tasked with providing. They did not act -- and we
3 suggest it is possible to look at this -- that they did
4 not have to act in accordance with the any duty of
5 candour that one would expect of a public body or
6 a party to civil or criminal litigation.

7 They did not have a duty of care to the end users:
8 the separate businesses of the subpostmasters all around
9 the UK.

10 The Benefits Agency was a reluctant party from the
11 outset and we suggest that they could have acted better.
12 The Benefits Agency was opposed to the BPC system around
13 which Horizon was designed yet committed to a contract
14 nevertheless and engaged in a three-way antagonistic
15 relationship with the other parties.

16 You will recall that in his witness statement,
17 Mr Sibbick spoke in terms of a long-running sore between
18 BA and POCL.

19 The Horizon scheme was, in effect, a one-off, never
20 before tried, multimillion pound project of substantial
21 scale and complexity. It should never have been born as
22 a product of a marriage between three parties whose
23 objectives did not align, and in circumstances where one
24 party was contractually entitled to withhold information
25 from the others. And it should never have been born in

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1 who puts it this way:

2 "It was a leviathan, additionally encumbered by
3 contractual conditions and Government scrutiny."

4 Sir, I return very briefly to the five themes that
5 we've set out. The inappropriateness of the PFI
6 agreement for the procurement of Horizon. We must
7 pursue with vigour the question of what guidance,
8 protocols and systems were in place to support the use
9 of the Horizon system for civil claims, investigations
10 and prosecutions, as we've heard nothing from the senior
11 management as to any assistance being discussed with
12 them or set out for the use of the Horizon product
13 within such claims.

14 What was the depth of knowledge? How far did it go?
15 Were there problems within the system, within Pathway,
16 and then within POCL?

17 And how far there is an impact on those issues, with
18 the knowledge of system faults, was decision making
19 about such issues as the decision taken by POCL to
20 design out the ability of subpostmasters to interrogate
21 the system.

22 Collectively, the Phase 2 evidence may suggest that
23 Post Office was acting dishonestly to cover up the
24 issues and problems within the Horizon System, and that
25 may have occurred from a very early stage.

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1 So for this reason and not the least so that we get
 2 to the bottom of this particular matter, we ask that the
 3 Inquiry continues to seek disclosure, scrutinise the
 4 documents with us and understand whether what happened
 5 to our clients was the result of a dreadful but
 6 avoidable cock-up, or was this a more sinister cook-up,
 7 to cover up the fact that the performance had bought
 8 a system which was not fit for purpose and certainly not
 9 fit to support the subpostmasters who were then being
 10 asked to pay for Horizon system faults in terms of
 11 alleged shortfalls and then take the consequences of
 12 Horizon System faults in civil actions, or being taken
 13 before the criminal courts, and some imprisoned.

14 Sir, we hope that by making focused closing
 15 submissions, if allowed, at the end of phases, we will
 16 enable the Inquiry to move forward with at least the
 17 victim's viewpoints at the forefront of its future
 18 examination of witnesses.

19 Sir I'm very grateful for having this time to
 20 address you.

21 **SIR WYN WILLIAMS:** Thank you, Mr Stein.

22 **MS PAGE:** Sir, I wonder if we could very briefly put it on
 23 record that we will be doing written submissions in
 24 response to your permission?

25 **SIR WYN WILLIAMS:** Thank you.

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1 hear it. The trauma of their experiences means that
 2 learning how and why the Horizon scandal happened, and
 3 how it might have been prevented, and why it was not
 4 prevented, has become deeply significant to them, and
 5 they are genuinely grateful to the Chair and his Inquiry
 6 Team for the care and sensitivity with which the issues
 7 in Phase 2 have been pursued with witnesses.

8 Moving to our submissions, sir -- and I will make
 9 them headline submissions, and quite brief. Firstly,
 10 section 1: themes identified in our opening as
 11 priorities, and the extent to which the evidence we've
 12 heard has reflected this is priorities. Firstly, so far
 13 as IT is concerned, we won't address the evidence in any
 14 detail.

15 Mr Cipione confirmed that the detailed evidence from
 16 witnesses and in contemporary records as to known
 17 concerns about the stability of the system and the
 18 operation of core applications solidified the
 19 conclusions he reached in his report. And we consider,
 20 sir, that there can be no question that there were known
 21 weaknesses, bugs, errors and defects in Horizon System
 22 from the outset, of which both POL and Fujitsu ought to
 23 have been aware when later decisions were being taken by
 24 prosecutions.

25 In opening, we also invited the Inquiry to consider

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1 **MR MOLONEY:** Thank you, sir.

2 Submissions by MR MOLONEY

3 **MR MOLONEY:** We too are very grateful for the opportunity to
 4 make brief submissions at the close of Phase 2 hearings.
 5 After so many hours of invaluable evidence, this
 6 submissions will necessarily only lightly touch on
 7 a very few areas of significance.

8 Full submissions on the evidence will only be
 9 possible when all of the evidence has been heard, but so
 10 far as these submissions are concerned, we divide them
 11 into two sections. Firstly, section 1. We briefly
 12 address the themes identified in our openings as
 13 priorities for Phase 2, and to what extent we've heard
 14 the evidence has reflected those priorities. And
 15 secondly, we consider the questions we pose for Phase 3
 16 in opening, and perhaps new questions for Phase 3
 17 arising in light of the evidence heard from witnesses in
 18 Phase 2.

19 We repeat if we may, sir, how significant this
 20 Inquiry is for both those we represent, and for the
 21 public interest. Many of our clients are following the
 22 evidence closely as it's given, and others are catching
 23 up with the daily recordings and transcripts. And
 24 whilst they've often found what they've heard difficult
 25 to bear, they also express how vital it is for them to

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1 additional themes in Phase 2 beyond IT, and they
 2 included the adequacy of human systems dealing with the
 3 available IT, whether Horizon ought to have continued at
 4 all after the Benefit Payment Card was abandoned, and
 5 what was known when, and by whom.

6 And just briefly taking each in turn, firstly the
 7 adequacy of human systems beyond the available IT. We
 8 asked the Inquiry to look beyond IT to those human
 9 systems, and we say there's been important evidence
 10 about that. For example, whether the process of relying
 11 on Escher in the investigation of Legacy Horizon issues
 12 led to difficulties in the exploration of the root
 13 causes of bugs, errors and defects, and we refer the
 14 Inquiry to the evidence of Mr Simpkins and Mr D'Alvarez.

15 The Inquiry has also heard problems in the
 16 development of Horizon IT could be laid at the door of
 17 people, and not software. So for example, in relation
 18 to performance and skills deficits, the EPOSS Taskforce
 19 report. Its subsequent consideration by ICL Pathway
 20 provides, we say, devastating evidence of the
 21 understanding of the flaws in Horizon held in Fujitsu
 22 and seemingly not shared by anybody at the Post Office
 23 or in Government.

24 The Inquiry may conclude that the human and
 25 commercial response to this information and the lack of

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1 transparency around it in 1998, 1999 and 2000, generates
2 concern.

3 Also, failures in communication and information
4 sharing, both between POL and Fujitsu, but also beyond
5 the failure of sharing between POL and Fujitsu. For
6 example, the Inquiry has heard from former ministers,
7 including Lord Darling, Sir Ian McCartney, and indeed
8 Mr Milburn today, that they were prevented from
9 considering earlier evaluations of the ICL Pathway bid
10 by the convention that we've heard about, sir.

11 If ministers were prevented from considering earlier
12 concerns on this basis, it would appear to reflect an
13 expansive and perhaps unhelpful view of the bar on
14 sharing new information with new ministers.

15 The Inquiry also heard evidence on the limited
16 technical experience held by those making management
17 decisions about Horizon in POCL and ICL.

18 The Inquiry may wish to consider whether adequate
19 attention was paid by those in management to people with
20 technical expertise, and we ask you to consider the
21 evidence of Terry Austin and Mike Coombs and David
22 McDonnell and Jan Holmes in that regard, sir.

23 The Inquiry may also wish to consider whether
24 decisions in Government were adequately informed by
25 technical expertise, and we refer you to the evidence of

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1 failing to deliver. There were continued problems in
2 testing, and the technology simply wasn't working. The
3 evidence suggests, we say, sir, that the same conclusion
4 could and/or should have been reached in respect of Post
5 Office automation.

6 The management of Horizon at this stage raises
7 number of questions for the Inquiry to consider, we
8 suggest. Already touched upon by Mr Stein were the
9 contractual arrangements, the original contractual
10 arrangements, inadequate to allow the Post Office
11 effective oversight of the development of Horizon. Were
12 those arrangements misrepresented or misunderstood in
13 a way which undermined any effective oversight?

14 A number of witnesses gave evidence as to the lack
15 of transparency as to the Horizon solution, and blamed
16 the nature of the PFI contract. Mr Miller, Mr Meagher,
17 Mr Austin, Mr Folkes -- who described it as a "black
18 box" -- and Sir Adrian Montague suggested that the PFI
19 sponsor ought to have sufficient information to enable
20 them to have oversight of the project.

21 The Inquiry may wish to consider why the parties
22 took the approach they did to the project, and whether
23 POCL were unable to adequately scrutinise or to
24 understand the operation, what impact this had, both in
25 its development and the decisions which were later

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1 Sir Ian McCartney, and indeed Mr Milburn today, on that
2 point.

3 Overlapping to the lack of sharing of information,
4 but separately, there were failures to act. The Inquiry
5 may crucially wish to ask whether accumulated evidence
6 about weaknesses in Horizon were addressed internally,
7 either by POCL or Fujitsu. When confronted with the
8 evidence of the problems, were the steps taken by POCL
9 and Fujitsu adequate in addressing those concerns?

10 For example, it would appear that ICL Pathway took
11 a decision that the cost of maintenance of the system
12 would be more proportionate than rewriting or
13 redesigning the EPOSS application. And it's far from
14 clear what this meant in practice, or the active
15 management of the system, or for the work to be done in
16 due course. And that bug-fixing culture remained in
17 place, it seems, and seemingly with same risk of code
18 regression identified by the EPOSS Taskforce report.

19 Secondly, in terms of our themes, whether Horizon
20 ought to have continued at all after the Benefits
21 Payment Card was abandoned.

22 The evidence of Lord Alistair Darling on the
23 motivation of the Department of Social Security in
24 walking away, we say, was clear and compelling.

25 By 1998 it appears clear that ICL Pathway was

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1 taken, as to the robustness of the system and the
2 reliability of the data it produced.

3 It might be also be asked whether an opportunity was
4 missed, in May 1999, for the Government and POCL to
5 revisit those contractual arrangements to require
6 greater transparency on the part of ICL Pathway. And it
7 may be asked whether the political decision reached in
8 May 1999, and the contractual arrangements confirmed in
9 July 1999, locked POCL into making Horizon work, despite
10 acknowledgement of its weaknesses, bugs, errors and
11 defects.

12 Sir Ian McCartney was clear that he only wanted
13 a properly functioning Horizon, not just any Horizon.
14 But others at POCL and elsewhere may have perceived
15 pressure that Sir Ian did not intend them to feel.

16 We refer you to the evidence of Stuart Sweetman as
17 to the messaging being sent by Sir Ian, and the evidence
18 yesterday of Mr Colin Baker to the effect that, "having
19 got it, it's the best we've got, so we needed to make it
20 a success."

21 We saw yesterday that whilst some, such as Mr Baker,
22 felt they had nothing else, there were strong views
23 being expressed as to the problems with Horizon by those
24 at the sharp end of it at the NFSP conference in
25 May 2000 after rollout had been resumed. And we hope,

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1 sir, that we'll see how those concerns were dealt with
2 in Phase 3, because they were important concerns from
3 people at the sharp end of it.

4 The question that must be asked is whether the
5 political and commercial prospects of failure were
6 simply too great for the weaknesses, bugs, errors and
7 defects in Horizon to become (unclear) by POCL, by
8 Fujitsu, and by Government.

9 Then finally in this section, sir, what was known,
10 when, and by whom. Plainly, given how this scandal
11 appears to have originated and played out, the answer to
12 this question will likely inform more phases of the
13 Inquiry's work. The Inquiry has heard evidence on the
14 significance of the then Prime Minister's involvement in
15 decision making on whether or not to proceed, and as we
16 saw this morning, the Prime Minister was told on
17 10 May 1999 by ministers that the Post Office automation
18 parts of Horizon were "ready to roll out and relatively
19 simple".

20 But that message was far from the reality that
21 there'd been limited live testing, and that testing had
22 already thrown up problems, including in respect of
23 balancing and data integrity. It plainly didn't take
24 account of the significant number of Acceptance
25 Incidents, including those which directly affected data

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1 to PACE-compliant evidence, there appears to have been
2 very little activity or understanding of the
3 significance of those provisions. And the Inquiry is
4 invited to consider whether this was a critical
5 oversight in the decision making during the course of
6 moving forward with Horizon.

7 By contrast, there was evidence that senior
8 management at the Post Office were aware of the
9 prosecutorial functions of the organisation, for example
10 Mr Evans, company secretary. And Mr Johnson was well
11 aware of the prosecutorial function of the Post Office
12 but did not think that the operation of Horizon would be
13 relevant in that context.

14 Moreover, a lot was at stake in May 1999 for all of
15 the parties involved. Witnesses from ICL and from POCL
16 accepted that that was the case, and indeed from
17 Government, accepted that was the case. They confirmed
18 that the loss of revenue from the Benefits Agency would
19 create an existential crisis for POCL. A lot remained
20 at stake in early 2000 when the decision was taken to
21 roll out Horizon on a national scale.

22 The Inquiry may ask whether, by the end of 1999 and
23 into 2000, when crucial decisions were being taken, the
24 focus adopted was too inflexibly Horizon-centric, and
25 that others approaches were being ignored, and that

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1 integrity, and were identified in the summer and autumn
2 of 1999. And it's far from clear that this messaging
3 was ever revisited with the Government by either POL or
4 Fujitsu.

5 The Inquiry has heard that the Post Office Board was
6 told that there were technical issues with Horizon.
7 Mr Miller, however, is recorded as having said that the
8 system was "robust" in July 1999, and issues were later
9 raised with the Board in September 1999, and again in
10 January 2000. The Inquiry may wish to consider the
11 significance of the information provided to the Board or
12 not provided, and whether the actions taken by the Board
13 were, at this stage, appropriate.

14 The terms of the Third Supplemental Agreement make
15 clear that it's accepted that the Horizon System would
16 never be perfect.

17 The Inquiry has heard evidence that there were
18 accepted tolerances for failure which the Inquiry may
19 wish to consider, given the use to which the data
20 generated by Horizon was subsequently put.

21 There's consistent evidence that little or no
22 consideration was given to the role which Horizon would
23 ultimately play in prosecution during that system's
24 development, nor indeed civil actions. Where there was
25 consideration of the contractual provisions in relation

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1 critical analysis of Horizon produced for ICL and POCL
2 and the Benefits Agency was ignored or explained away,
3 despite significant concerns being raised.

4 There was evidence from a number of witnesses that
5 by early 2000 the commercial opportunities for the
6 development of Horizon were paramount, and there
7 appeared to be a combination of imperatives acting to
8 ensure that Horizon rolled out, including the need for
9 inward investment to continue and grow, the need for ICL
10 to survive, and the need for POCL to become automated,
11 both for POCL and the SPMs who had £1 billion of their
12 own money invested in it.

13 In those circumstances it may be that Horizon could
14 not fail; that it must be made to work.

15 Secondly, sir, just for a few minutes, Phase 3 and
16 beyond. Our second section where we identify some of
17 the more central questions we pose for Phase 3 in
18 opening, and new questions arising in the light of the
19 evidence heard from witnesses in Phase 2. Just a couple
20 of the matters we raised in opening for Phase 3, which
21 the Inquiry may wish to consider in the evidence to
22 come.

23 We identified, as a key aspect of the evidence
24 potentially, is the reliance on professional reports,
25 advice and reviews. And we identified in opening two

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1 examples for consideration, which resulted in troubling
2 evidence emerging.

3 Firstly, the Montague Review. We simply say about
4 that, sir, at this stage, that the Montague Report was
5 not adequate basis for any conclusion that Horizon was
6 robust.

7 And secondly, the Project Mentor's report, sir. The
8 Inquiry has heard evidence on the limited dissemination
9 of the work of Project Mentors and the action taken on
10 it. The Inquiry may yet consider that the Project
11 Mentor's conclusions were highly relevant in the context
12 both of the work done by the Montague Panel, the
13 information available and problems emerging in testing,
14 and the early evaluation of the ICL Pathway bid.

15 It might be asked whether the approach to this
16 reporting was illustrative of the treatment given to any
17 substantive criticism of the reliability of Horizon
18 during its development and beyond.

19 Secondly, in opening, we asked whether the Inquiry
20 might consider whether opportunities for justice at an
21 earlier stage were missed, whether just this was
22 delayed.

23 Regrettably, the evidence of Phase 2 already
24 suggests that there were many opportunities to walk away
25 from Horizon -- or rather, perhaps, to identify that its

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1 defects, informed individual and collective decision
2 making about Horizon and its operation, and in
3 particular, about the Post Office's approach to
4 prosecution policy and its approach to individual
5 audits, investigations and prosecutions.

6 That, we say, it's likely to be a very important
7 question for Phase 3, sir. At least some of those
8 providing evidence in Phase 3 are persons who appear to
9 have been involved in the development phase of Horizon,
10 and who may not be able to explain what was done with
11 the knowledge of Horizon's witnesses as matters move
12 forward. And the Inquiry, in Phase 3, may wish to
13 explore in particular what impact this learning had both
14 in the customer learning support provided by Fujitsu,
15 and we anticipate Mr Muchow, who was named by a number
16 of Fujitsu witnesses in Phase 2, including Terry Austin
17 and Alan D'Alvarez, will be able to address that, and in
18 the involvement of POL in the operation and modification
19 of Horizon, which we anticipate may be addressed by
20 Mr David Smith, amongst others.

21 It may be that some witnesses from Phase 2 have to
22 be re-called, but those we represent have a particular
23 interest in understanding what knowledge about the
24 development of Horizon was available to those within
25 Fujitsu, taking decisions on provision of evidence for

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1 data never could and never should have been relied upon
2 for the purposes of prosecution nor civil actions. That
3 would include in 1997, when Pathway were in breach of
4 contract; in May 1999, when the Benefits Agency withdrew
5 from the contract; and September 1999, when POCL chose
6 to accept Horizon despite a failure to meet the criteria
7 for acceptance; or in January 2000, when the decision
8 was taken to roll out Horizon on a national basis on the
9 basis of the Third Supplementary Agreement.

10 The evidence in Phase 2 begs the question as to what
11 information was provided to others who had previously
12 been asked to consider Horizon. For example, were
13 Second Sight or any other reviewers ever permitted to
14 see the original evaluation of the ICL Pathway bid?
15 Were Second Sight ever provided with copies of the
16 Project Mentors reporting? Ever told about the EPOSS
17 Taskforce report? And what access to Fujitsu were other
18 reviewers allowed?

19 As we identified in opening, sir, plainly an
20 important question which arises on the evidence we have
21 heard in Phase 2 is what measures were in place within
22 POCL and, of course, as we come into Phase 3,
23 Post Office Limited, and within Fujitsu, to ensure that
24 the knowledge gained during the development of Horizon
25 about its potential weaknesses, bugs, errors and

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1 the purposes of prosecution.

2 For the avoidance of doubt, this issue isn't limited
3 to individuals in their role in preparing audit data and
4 giving evidence in court. The Inquiry has been invited
5 to consider, in Phases 3 to 5, what systems were in
6 place which could or ought to have provided real
7 information, reliable information, for taking decisions
8 as to prosecution and civil actions. As part of that,
9 institutional memory, we say, will be an issue which our
10 clients will find important.

11 We note, for example, an important part of the
12 evidence was that, at the end of the development of
13 Horizon, a number of key personnel were moved, both
14 within ICL Pathway and at POCL. David Miller changed
15 jobs mid-rollout. Of course, that may have affected the
16 way in which the faults relating to Horizon remained
17 known to those making crucial decisions.

18 The Inquiry may not wish to limit its consideration
19 of institutional memory to POCL and ICL, but may also
20 wish to consider whether the National Federation of
21 SubPostmasters should have had a better recollection of
22 what was happening during the development phase of
23 Horizon when subpostmasters began to be prosecuted. And
24 to that end, the Inquiry may wish to hear further from
25 the NFSP in Phase 3.

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1 Beyond this issue, there have been many matters
 2 arising from the evidence in Phase 2 which may encourage
 3 further questions for exploration by the Inquiry, and we
 4 briefly highlight only four issues. Firstly, training
 5 and the helpdesk. The Inquiry has heard repeated
 6 evidence that subpostmasters were told that they were
 7 the only person to have experienced what they were going
 8 through. The Inquiry may consider that this simply
 9 could not stand up, even on the evidence heard about
 10 PinICLs and PEAks generated during the developments of
 11 Horizon and beyond. And the Inquiry may wish to
 12 consider the training for people on helpdesks, as well
 13 as the training of subpostmasters.

14 Secondly, contracting evidence and the Police and
 15 Criminal Evidence Act. Repeated evidence to suggest
 16 little or no attention was paid to this aspect of the
 17 operation.

18 Thirdly, the management of audit data in evidence.
 19 The Inquiry has heard a little so far about the
 20 availability and accessibility of audit data from the
 21 Horizon System, but it may be that this becomes
 22 important within Phase 3 as things move on.

23 And finally, PinICLs and PEAks beyond December 2000.

24 The report of Mr Cipione was limited to the end of 2000.

25 The question of what was known about the bugs and
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1 Participants. I'm going to list them in a moment, but
 2 by this announcement, I should indicate that they are to
 3 be taken as read, as read into the Inquiry's record,
 4 even though I'm not going to read the contents of them
 5 out now. They will be uploaded to the Inquiry's website
 6 if that is not already happened, because the witness
 7 statement has been referred to in the course of the
 8 evidence of a live witness.

9 Sir, there are nine of them. They are the
 10 statements of George McCorkell, the URN of which is
 11 WITN04170100; the witness statement of Mena Rego,
 12 WITN04130100; the witness statement of Robert People,
 13 WITN04020100; the witness statement of Ruth Reed,
 14 WITN05210100; the witness statement of Simon Fawkes,
 15 F-A-W-K-E-S, WITN04830100; the witness statement of
 16 Peter Jobson, WITN0482; the witness statement of
 17 Sir Anthony Blair, WITN06080100; the witness statement
 18 of Peter Crahan, C-R-A-H-A-N, WITN04160100, and the
 19 witness statement of William Patterson, WITN06650100.

20 Sir, thank you very much.

21 **Housekeeping by SIR WYN WILLIAMS**

22 **SIR WYN WILLIAMS:** And the only thing that I'd like to say,
 23 before formally closing this session, is that those who
 24 have been following closely will have heard me say on
 25 a number of occasions that I am paying close attention
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1 when, as things went forward, is something that the
 2 Inquiry may wish to consider.

3 So, sir, our clients are grateful to the Chair and
 4 the Inquiry Team for their considered work on Phase 2.
 5 The evidence gathered in Phase 2 forms a crucial
 6 backdrop to the decisions taken within POL which
 7 impacted upon each of our client's lives with
 8 devastating effect.

9 The detailed consideration of disclosure by the
 10 Inquiry Team and by other Core Participants has been
 11 crucial to the effectiveness of this phase, and this is
 12 work each of the subpostmasters we represent anticipates
 13 that the Inquiry will continue with the same commitment,
 14 rigour and care that has been evidenced in Phase 2. And
 15 as with Phase 2, we'll seek to assist in any and every
 16 way we can.

17 **SIR WYN WILLIAMS:** Thank you.

18 Are there any sweeping up points, so to speak?

19 **Submissions by MR BEER**

20 **MR BEER:** Yes, just one from me. There are a number of
 21 witnesses, sir, whose evidence is relevant to Phase 2 of
 22 the Inquiry and who may be taken into account by you in
 23 due course, even though they've not given evidence in
 24 this room orally in Phase 2.

25 These statements have all been disclosed to the Core
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1 to disclosure issues. Currently, there has been
 2 disclosed to Core Participants two disclosure statements
 3 from Post Office. They have provided a third disclosure
 4 statement to the Inquiry, and that will be published
 5 early next week.

6 I have also received a disclosure statement on
 7 behalf of Fujitsu Services, which I believe has been
 8 disclosed to Core Participants. All those statements
 9 are now under review, and if I feel the need to take any
 10 further action in respect of them, I will do so, and let
 11 everybody know as quickly as I reasonably can.

12 It therefore remains for me to say provisionally
 13 that Phase 2 is now at an end, and I look forward to
 14 meeting you all on Thursday for a slightly different
 15 topic, and I look forward to seeing you all in the
 16 New Year.

17 Can I just clarify, before finally closing, that
 18 Ms Page has said that on behalf of her clients there is
 19 to be a written submission about Phase 2, and I am aware
 20 that BEIS are doing the same; is that correct?

21 **MR BEER:** Yes, indeed.

22 **SIR WYN WILLIAMS:** But I take it that that is the extent of
 23 written submissions?

24 **MS GALLAFENT:** No, sir. We are also doing some written
 25 submissions. We did inform the Inquiry Secretariat
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1 in --
 2 **SIR WYN WILLIAMS:** Well then, it's my mistake, not yours.
 3 **MS GALLAFENT:** I'm afraid you're not spared from ours.
 4 **MR WHITTAM:** And the same for Fujitsu, sir. In the same way
 5 we have informed the secretariat.
 6 **SIR WYN WILLIAMS:** So I was looking forward to some time off
 7 before Christmas, but that seems a forlorn hope.
 8 So on that happy note, we will now close for the
 9 afternoon. Thank you.
 10 **(3.07 pm)**
 11 **(The hearing adjourned until Thursday, 8 December 2022)**

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