

EXTRACTS FROM THE JUDGMENT THAT DEMONSTRATE BIAS

Paragraph	Statement
10	When shortfalls occurred, the Post Office demanded (and I use that word advisedly) that each individual sub-postmaster pay the sums in question
13 & 14	Statements as to the approach Post Office took to the litigation when there is evidence (tbc) that both Post Office and the Claimants challenged the timetable. There are no adverse comments about the Claimants' approach to the litigation.
28	The Post Office may have made these submissions because, on an objective analysis, it fears objective scrutiny of its behaviour, or it may have made them for other reasons.
30	However, a party (here the Post Office) threatening dire consequences to national business should their case <i>not</i> be preferred is not helpful, and this seemed to me to be an attempt to put the court <i>in terrorem</i>
36	There seems to be a culture of secrecy and excessive confidentiality generally within the Post Office, but particularly focused on Horizon.
42	Other redactions are not quite so easily explained, and in my judgment demonstrate a culture of secrecy in the Post Office
92	lackadaisical approach to formation of contractual relations to which I have referred
129	Thirdly, in what I consider to be an outdated attitude in the 21 st century, the Post Office attempts to fix a married lady with imputed knowledge of detailed terms and conditions simply because of something attributed to her husband.
138	In my judgment these submissions by the Post Office are bold, pay no attention to the actual evidence, and seem to have their origin in a parallel world.
139	I am surprised that, if Mrs Stubbs was entitled to any Death in Service benefits, these were not explained to her,
166	The temporary SPM who replaced her in the immediate term told her that the Post Office had instructed him to destroy all paperwork that was in the Branch that related to her appointment. The reason for that instruction to destroy documents is wholly unclear, and in my judgment, I cannot conceive of any justifiable reason to destroy such documents.

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172	None of the Post Office personnel involved at the time with Mrs Stubbs, who attempted to obtain some input or explanation from Fujitsu were called as witnesses, so it is not possible to know what their full involvement was, the extent of their knowledge of the background matters, how many other SPMs they knew of may have had similar issues, nor the degree to which they considered Mrs Stubbs' good record of over two decades (including her involvement when her husband was alive) to be relevant. I make it quite clear that I do not speculate on any of that.
222	The only reason for doing so, in my judgment, must have been to lead the recipients to believe that they had absolutely no option but to pay the sums demanded. It is oppressive behaviour
231	In yet another example of the Post Office's shoddy document management at the time, The other two pages, 3 of 4 and 4 of 4, are missing. Again, there is no cogent explanation for this. I do not understand how half of a letter can go missing, particularly when it is dated from only 2006
279	the Post Office's procedures in terms of the SPMC went, in my judgment, from the sublime to the ridiculous
295	If that replacement took place after April 2016, and if it is because of the replacement that this recording is not available, then that means the Post Office has failed properly to deal with an important record directly relevant to the litigation during the proceedings themselves.
338	The suggestion that she had not is, in my judgment, an excuse used by the person who sent the e mail above.
371	Essentially those provisions can only have been drafted to give the Post Office the maximum control over information, and are, in my judgment, contrary to transparency.
374	Discussion of 'core principles' – a term used by PGQC in cross-examination (see extract from transcript in para 372). He also referred to what he called "the core principles". Mrs Van Den Bogerd, another highly intelligent and senior witness, said she was not aware of these. It is not possible to reconcile the evidence of Mr Beal and Mrs Van Den Bogerd on this point. If the Post Office does have such core principles written down somewhere, not all its senior personnel are aware of what they are, which is rather contrary to the concept of, and their description as, "core principles"

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375	Mr Beal's way of giving evidence was very much the house Post Office style, certainly for the more senior of its management personnel who gave evidence. This was to glide away from pertinent questions, or questions to which the witness realised a frank answer would not be helpful to the Post Office's cause.....He sought to give me evidence highly favourable to the Post Office, which I consider was slanted more towards public relations consumption rather than factual accuracy. It did not match the contents of the documents to which I have referred, namely the GFA, and the change in wording of the terms dealing with liability for loss by a SPM under the NTC
376	Mr Beal's attempt to persuade me to the contrary on both points is regrettable; it is possible that he has persuaded himself. His evidence came across to me as a public relations exercise.
403	On either approach, I do not know why risks to the Post Office's reputation should be a relevant factor (which is what I find Mr Breeden's evidence to consist of) the Post Office's reputation might be significantly affected if it were found to have suspended a SPM on grounds that were wholly unjustified. Unjustified suspension ought to be a factor in favour of an appeal succeeding, on any sensible view. The Appeal Managers are senior Post Office managers who are said to have had training to hear appeals. The reputation of the Post Office would best be served by appeals that were justified succeeding, and those that were not failing. It should not have formed any part of the criteria.
408	<p>As with the other more senior members of the Post Office group of witnesses, Mr Breeden is articulate, intelligent and also acutely aware of how much the reputation of the Post Office hinges on these proceedings. His evidence was presented in terms obviously designed to put the best possible gloss for the Post Office on matters, and some of his statements simply did not stand scrutiny.</p> <p>one reason why the factual part of the Common Issues trial became so protracted is because of this approach by the Post Office generally. Agreement to even obvious points would be reached, <i>eventually</i>, but getting there took much longer, and a great deal more effort, than it ever ought to have done. His evidence was again given through a PR-prism.</p>
414	Indeed, some passages of the Response were, word for word, exactly the same as her witness statement. She did however attempt to distance herself from it where she could, by denying she was "the author" (it was never suggested she was) and denying that she had signed it (again, it was never suggested she had).

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415	<p>However, it is a surprise to me that she still held the view that each case was demonstrably different and influenced by its own particular facts, or that no themes connected the different cases.</p>
416	<p>Notwithstanding the making of the GLO, Mrs Van Den Bogerd appears entrenched in her refusal to what I consider to be the obvious common themes connecting all these claims, and I simply cannot understand this</p> <p>However, having such a senior witness with such an entrenched view as this means that a degree of obstinacy affected the whole of her evidence. She seemed to be entirely incapable of accepting any other view of the issues other than her own, which I consider amounts to an absolute refusal to accept that the cases of the many hundreds of Claimants were linked</p> <p>Given she has, for so many years, been involved in defending the Post Office's position, she has become, in my judgment, extraordinarily partisan. Whether this refusal to accept any link between the different cases is part of a concerted "divide and rule" approach by the Post Office is not clear.</p>
417	<p>There are two specific matters in which I find that she did not give me frank evidence, and sought to obfuscate matters, and mislead me.</p>
418	<p>When this was put to her (a little later, and after she had been given the opportunity of considering her Horizon Issues witness statement) she explained that her answer that she was coming to the matter cold was "a mistake". I reject that explanation. Her Horizon witness statement is very detailed, and was signed just a few days earlier than her cross-examination. Mrs Van Den Bogerd is a very clever person, in my judgment, and she had detailed knowledge of the Lottery TCS/Mr Abdulla situation. She sought to give me the impression that she was being caught unprepared, and had only come to the matter cold when being asked questions in the witness box. This was wholly misleading.</p>
425	<p>In a witness statement by her of 145 paragraphs, 44 of those are devoted to the Post Office as a business. None at all deal with the very great number of detailed points put to her by Mr Green, based on internal Post Office documents over the years, which demonstrate an internal view of unsatisfactory performance at odds with the Post Office position in the case. This therefore must mean that Mrs Van Den Bogerd is an extremely poor judge of relevance. Her judgment also seems to have been uniquely exercised to paint the Post Office in the most favourable light possible, regardless of the facts.</p>
441	<p>Mrs Van Den Bogerd would, on some occasions, give clear and cogent evidence, and one important example is in respect of the</p>

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	<p>way the Post Office treated sums that had been settled centrally. However, for the most part, she was extraordinarily conscious of the need to protect the Post Office's position in the case generally, which given her very close involvement in the Horizon problems with SPMs over the years, effectively meant protecting her own position too, which led to a disregard for factual accuracy. I find that it is necessary to scrutinise everything she said as a witness, both in her witness statement and in cross-examination, and treat it with the very greatest of caution in all respects.</p>
451	<p>Overall, I found Mr Dance's approach to giving his evidence unhelpful. His written evidence glossed over important points as I have explained above, and orally Ms Donnelly would often have to pursue a particular point in order to obtain a straight answer. I consider his evidence suffered from an overarching reluctance to provide accurate evidence, if that may assist the Claimants.</p>
458	<p>Mrs Dickinson is a fraud specialist and it is simply inconceivable that she was not familiar with the Enron case, at least in outline terms. I reject her evidence that she did not know about Enron, which I find incapable of belief. The only reason to claim ignorance, as she did, was simply to be unhelpful, which is what I find she was being.</p>
480	<p>Mrs Ridge seemed to me to have a greater awareness of the need to be fully accurate and helpful to the court than some of the other Post Office witnesses.</p>
488	<p>He struck me as a careful and diligent person.....This was not remotely an answer to the question, and is exactly the sort of argumentative and combative answer that is wholly unhelpful</p>
502	<p>This sort of evidence is, purely and simply, an attempt to put matters as favourably for the Post Office regardless of the accuracy of the evidence</p>
520-525	
534	<p>Mr Trotter was accused of being evasive in some of his answers. I do not accept that he was being evasive, but he certainly seemed extremely nervous about giving evidence before me that he thought might be unhelpful to the Post Office</p>
544	<p>I have no reason to think that any of the Post Office witnesses were doing anything other than stating their genuine belief as at 2018 (when the trial occurred) based on their recollection, with two exceptions. The first is some of Mr Beal's more extreme claims that the drafting of the NTC was designed to replicate a SPM's responsibility for losses under the SPMC, and that it was</p>

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	<p>also intended by the Post Office that the contract with the NFSP would be made public.</p> <p>I find that [Angela] was simply trying to mislead me. She also explained a wholesale absence in her witness statement of highly relevant matters as being due to a restriction on length of that document, or if not a restriction, a desire to keep her witness statement short. That answer was simply disingenuous.</p> <p>The non-inclusion of that evidence within her statement is explained, in my judgment, by the Post Office's approach to the litigation. The Post Office has appeared determined to make this litigation, and therefore resolution of this intractable dispute, as difficult and expensive as it can.</p>
545	<p>545The problem with the Post Office witnesses generally is they have become so entrenched over the years, that they appear absolutely convinced that there is simply nothing wrong with the Horizon system at all, and the explanation for all of the many problems experienced by the different Claimants is either the dishonesty or wholesale incompetence of the SPMs. This entrenchment is particularly telling in the Post Office witnesses who occupy the more senior posts.</p> <p>very considerable doubts arise about the approach adopted at the Post Office to its overall control of information</p>
546	<p>Mrs Van den Bogerd is, in my judgment, a particularly stark example of how a witness had to force their evidence of fact to fit with a pre-ordained thesis</p>
547	<p>But [the PO witnesses] remain steadfastly committed, in their collective psyche, to the Post Office party view</p> <p>They give me the impression that they simply cannot allow themselves to consider the possibility that the Post Office may be wrong, as the consequences of doing so are too significant to contemplate</p>
548	<p>Unless I state to the contrary, I would only accept the evidence of Mrs Van den Bogerd and Mr Beal in controversial areas of fact in issue in this Common Issue trial if these are clearly and uncontrovertibly corroborated by contemporaneous documents.</p>
561	<p>These are examples, in my judgment, of a culture of excessive secrecy at the Post Office about the whole subject matter of this litigation. They are directly contrary to how the Post Office should be conducting itself. I do not consider that they can be a sensible or rational explanation for any of them.</p>

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577	I find that this shows that the NFSP put its own members' interests well below its own, and I also find that the NFSP is not fully independent
589	I gave the Post Office multiple opportunities to produce a document from 2015 demonstrating this, and they either could not or would not do so. Also, the NFSP's own website was amended during the trial. At some point between this matter being raised in cross-examination with Mr Beal, and the question of documents evidencing dates being re-visited at the end of the evidence, someone at the NFSP had specifically altered the NFSP website. I deal with this at [594] below. What they did not know, when whoever it was did this, was that counsel for the Lead Claimants had printed the NFSP website page as at the beginning of the trial. It was therefore clear that the change had been made, and also clear that it was done during the trial. I was given no evidence by anyone from the Post Office about why this was done, and done in terms that suited the Post Office's case on this point. I find this behaviour highly suspicious. It also undermines, yet further, the claim by the Post Office that the NFSP is independent.
594	This was also stated on the same page to be the "November 2018 Edition". That second sentence must have been added to try and bolster the Post Office's position (adopted during these proceedings) regarding transparency
595	but either way, adding a sentence to the website of the NFSP to bolster the Post Office's position before me simply adds to my view (which I reached on the basis of Mr Beal's cross-examination and the documents) that the NFSP is not independent at all.
598	Finally, transparency is not something that seems to mean a great deal, if anything, to the Post Office, so far as its dealings with the NFSP is concerned
724	There is no doubt that the Post Office is in an extraordinarily powerful position compared to each and every one of its SPMs. It appears to wield that power with a degree of impunity.
1059	It would be, perhaps, too cynical for even the most hardened Post Office watcher to suggest that the problems with Horizon led to changes to, and extension of, the contractual liability of SPMs for losses that were adopted in the NTC. However, that option cannot be entirely discounted