

Wednesday, 10 April 2024

1  
 2 (10.00 am)  
 3 MR BEER: Good morning, sir, can you see and hear us?  
 4 SIR WYN WILLIAMS: I can see you but I can't hear you at the  
 5 moment, Mr Beer.  
 6 MR BEER: I'll try again. Can you now hear me?  
 7 SIR WYN WILLIAMS: Yes, now I can.  
 8 MR BEER: Thank you very much, I can now see and hear you.  
 9 Can I call Lord James Arbuthnot, please.  
 10 LORD JAMES NORWICH ARBUTHNOT OF EDROM (sworn)  
 11 Questioned by MR BEER  
 12 MR BEER: Lord Arbuthnot, I am Counsel to the Inquiry. My  
 13 name is Jason Beer, as you know. Can you give us your  
 14 full name, please?  
 15 A. James Norwich Arbuthnot of Edrom.  
 16 Q. Thank you for providing the Inquiry with a very detailed  
 17 witness statement and for giving evidence today to  
 18 assist us in our investigation. In relation to the  
 19 witness statement you've provided, can we look at it,  
 20 please. It's the only time I'll ask you to look at  
 21 a hard copy document. The URN is WITN00020100. The  
 22 witness statement is 180 pages in length, excluding its  
 23 exhibits, and dated 12 March 2024. Can you turn to  
 24 page 180, please.  
 25 A. Yes.

1

1 Q. -- and ask for your further recollection about them.  
 2 A. Yes.  
 3 Q. Can we start, please, with a little about your  
 4 background. Would you agree with this summary: you were  
 5 formerly a barrister practising in Chancery matters?  
 6 A. Yes.  
 7 Q. You were a Member of Parliament between 1987 and March  
 8 2015?  
 9 A. Yes.  
 10 Q. In that period, you were a backbench MP?  
 11 A. Yes.  
 12 Q. You held senior positions in government, including in  
 13 Trade and Industry, in Work and Pensions and in Defence?  
 14 A. Yes.  
 15 Q. You held senior positions as an opposition MP, including  
 16 as Assistant Chief Whip, Shadow Secretary for Trade and  
 17 Industry and Chair of the Defence Select Committee?  
 18 A. I was actually a full Chief Whip.  
 19 Q. I'm so sorry. In October 2015, you were made a Life  
 20 Peer?  
 21 A. Yes.  
 22 Q. You have been extensively involved in, and played  
 23 a significant role in, the investigation of the Horizon  
 24 system, the use of data from that system to prosecute  
 25 and bring civil proceedings against subpostmasters and

3

1 Q. Is that your signature?  
 2 A. It is.  
 3 Q. Are the contents of that witness statement true to the  
 4 best of your knowledge and belief?  
 5 A. They are.  
 6 Q. As I've said, your witness statement is exceptionally  
 7 detailed. You've kindly devoted what's obviously been  
 8 a substantial period of time to the making of it and you  
 9 set out relevant events in chronological order, adding  
 10 in your recollections, where you have remaining  
 11 recollections, and providing us with documents in your  
 12 possession.  
 13 A. Yes.  
 14 Q. That witness statement will be uploaded to the Inquiry  
 15 website today so it's available for public view. I'm  
 16 accordingly not going to ask you about every matter  
 17 within it.  
 18 A. Good.  
 19 Q. It stands as your evidence and is being made available,  
 20 as I say. Instead, I'm going to take you to some more  
 21 significant events that have occurred over the last  
 22 15 years or so, ie since your first involvement with the  
 23 Horizon system and the Post Office's running of it,  
 24 which was in April 2009, I believe --  
 25 A. Yes.

2

1 Crown Office employees, the conduct and behaviour of  
 2 Post Office employees, senior executive and board  
 3 members, the conduct of government, the operation of the  
 4 legal system and of the courts and the process of  
 5 seeking redress and accountability; is that a fair  
 6 summary?  
 7 A. Yes.  
 8 Q. That all began, I think, with a coffee morning in your  
 9 constituency on 3 April 2009; is that right?  
 10 A. Yes.  
 11 Q. Then, I think, you learned about the case of Jo  
 12 Hamilton?  
 13 A. I did.  
 14 Q. Your involvement continues, I think, to this day, not  
 15 least because you're a member of the Horizon  
 16 Compensation Advisory Board?  
 17 A. That's right.  
 18 Q. As I've said, your first involvement came about,  
 19 I think, by reason of being told about Jo Hamilton's  
 20 case.  
 21 A. Yes, it did.  
 22 Q. I think you also learned about an article that was being  
 23 written, it hadn't yet been published, but it was being  
 24 written by Rebecca Thomson of Computer Weekly; is that  
 25 right?

4

1 A. Yes.

2 Q. I think you tell us that you already held that  
3 publication in high regard because of some previous  
4 involvement in some work it had done?

5 A. Yes, the Chinook crash on the Mull of Kintyre.

6 Q. Then later in 2009 you learned about a second case, that  
7 of David Bristow, the former subpostmaster in Odiham; is  
8 that right?

9 A. That's right.

10 Q. His contract was terminated by the Post Office by reason  
11 of an alleged shortfall of £42,000, he suggested that  
12 the Horizon system was responsible for the shortfall; is  
13 that a fair summary?

14 A. Yes.

15 Q. Now, as well as lots of liaison with those who had drawn  
16 your attention to those two cases, Jo Hamilton's and  
17 Mr Bristow's, and liaison over permission to use the  
18 information that you had been given -- I've seen all of  
19 the correspondence where you sought such permission --  
20 would it be right that the first significant step that  
21 you took was to write to Lord Peter Mandelson, who was  
22 when the Secretary of State for Business, Innovation and  
23 Skills?

24 A. Yes, that's correct.

25 Q. Can we look at that first significant step, then. The

5

1 A. Yes, I was.

2 Q. -- writing to the then Secretary of State, drawing his  
3 attention directly to the suggestion that Horizon was  
4 responsible for shortfalls which were being laid at the  
5 door of subpostmasters by accusations against them of  
6 fraud?

7 A. Yes.

8 Q. Why were you writing, may I ask, to the Government  
9 rather than to the Post Office, who ran this Horizon  
10 system?

11 A. Because the Government owned the Post Office.

12 Q. I think you followed this up with a chaser, if we look  
13 at page 3 of the pack, here, same clip. If we can just  
14 expand that a little bit. So we're now on 10 December  
15 2009, you write to Lord Mandelson again, saying:  
16 "I write further to my letter of 3 November  
17 regarding correspondence received from [David Bristow].  
18 "I enclose a copy of my previous letter, and the two  
19 emails to which it refers. I also enclose two  
20 subsequent emails from Mr Bristow and an email from  
21 a local counsellor, John Kennett, describing the  
22 circumstances of the second Post Office in my  
23 constituency affected by the Horizon system, Jo Hamilton  
24 of the South Warnborough post office, Hampshire.  
25 "I have not yet received a reply and should be most

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1 document will come up on the screen, it's POL00114298.  
2 It's page 9. If we can just enlarge so we can see the  
3 text. Thank you. You write on 3 November 2009 to  
4 Lord Peter Mandelson, the Secretary of State for  
5 Business, Innovation and Skills, sometimes known as BIS.  
6 You say that you enclose two emails that you've received  
7 from a constituent, Mr David Bristow, and you give his  
8 address. I'm not going to show you those emails for the  
9 moment, it's not necessary. You note a PQ raised by  
10 Brooks Newmark MP on 12 October and the reply of  
11 13 October 2009 from Alan Cook, the MD of the Post  
12 Office.

13 Then you say this:

14 "Nonetheless there does appear to be a significant  
15 number of postmasters and postmistresses accused of  
16 fraud who claim that the Horizon system is responsible,  
17 including at least two in my constituency.

18 "Given the level of impact this has had on the  
19 personal lives of these postmasters and postmistresses  
20 and their families, often involving bankruptcy and  
21 certainly significant financial hardship, I should be  
22 most grateful if you would let me have your comments on  
23 what can be done to investigate the matter."

24 So this is, to put this in context, you as  
25 an opposition MP at this time --

6

1 grateful if you would let me have your comments on the  
2 matter. I also request reassurance that BIS [that's  
3 Business, Innovation and Skills, the department] will  
4 investigate this matter fully and take action as and  
5 where appropriate. Given the urgency of Mr Bristow's  
6 situation I would ask for your attention as soon as  
7 possible and a response by way of a letter or, if  
8 preferred, a meeting."

9 You were asking here that the Department for  
10 Business, Innovation and Skills should investigate the  
11 matter. Again, may I ask, why were you asking the  
12 Department to look into the matter rather than asking  
13 the Secretary of State to ask the Post Office to look  
14 into the Post Office?

15 A. I was not hugely interested in the intricacies of who  
16 was responsible for what. I just wanted it sorted out,  
17 and I thought I might as well write to the person who  
18 owned it, who was Peter Mandelson.

19 Q. Now, in the meantime, it seems that a letter had been  
20 drafted and perhaps even sent by way of reply to your  
21 first letter. If we can look at that, please.  
22 UKGI00011506. You'll see that this is dated 5 December  
23 2009 and, presumably, this hadn't been received by you,  
24 by the time you had sent your letter of 10 December?

25 A. Presumably, yeah.

8

1 **Q.** You will see, if we scroll to the bottom, please, it's  
 2 sent by the Minister, Pat McFadden, rather than the  
 3 Secretary of State, Lord Mandelson. If we go to the  
 4 body of the letter, please, he thanks you for the letter  
 5 of 3 November and says he's replying as the Minister of  
 6 State for Business, Innovation and Skills, and he says:  
 7 "Under the Government's postal sector reforms  
 8 introduced in 2001, Royal Mail (which includes Post  
 9 Office Limited) was given greater commercial freedom, as  
 10 the management and unions had requested, and Government  
 11 has assumed an arm's length role as a shareholder in  
 12 a public limited company. Subject to agreeing its  
 13 strategic plan with us, the Board can structure the  
 14 business as it decides best to meet the challenges of  
 15 market development and changing customer needs.  
 16 "The issues raised by your constituent are  
 17 operational and contractual matters for [the Post  
 18 Office] and not for Government. I understand from [the  
 19 Post Office] that errors at the branch have been fully  
 20 investigated and there is nothing to indicate that there  
 21 are any problems with the Horizon system. The company's  
 22 position as regards the integrity of the Horizon system  
 23 remains as set out in the reply from Alan Cook ... to  
 24 which your letter refers."  
 25 You'll see in the second paragraph there Mr McFadden

1 **A.** What this arm's length arrangement essentially means is  
 2 that the Government is refusing to take the  
 3 responsibilities that go with ownership and I don't  
 4 think it's right to do that for various reasons. One  
 5 reason is that, if you have an organisation that is as  
 6 important to the community as the Post Office is, then  
 7 the people have got to be able to have proper control  
 8 over it, if the people own it. And there's a sort of  
 9 democratic deficit that is popping up here if the  
 10 Government is refusing to take responsibility for it.  
 11 And, also, I know that Mr Henry has been talking  
 12 about the risks of owning a dangerous dog. You cannot  
 13 say that the dangerous dog has an arm's length  
 14 relationship with you if you -- if the dangerous dog  
 15 behaves badly.  
 16 So the whole process of arm's length control is  
 17 a worrying one, it seems to me.  
 18 **Q.** That can come down. Thank you. Much later on in the  
 19 chronology, and this is paragraph 106 of your witness  
 20 statement, you say that, after the publication of the  
 21 Second Sight Interim Report of July 2013, the then  
 22 minister, Jo Swinson, in the event decided to make  
 23 a statement in which she again emphasised the arm's  
 24 length nature of the relationship between the Post  
 25 Office and its owner, the Government.

1 took the point or took the line that the Government had  
 2 assumed an arm's length role as the shareholder with the  
 3 Post Office and, in the third paragraph, that the issues  
 4 raised by you, which included that a large number of  
 5 people may have been wrongly accused of crimes when, in  
 6 fact, Horizon was to blame, was not a matter for the  
 7 Government.  
 8 **A.** Yes.  
 9 **Q.** What was your reaction, if any, to those points?  
 10 **A.** I was frustrated and annoyed but it was clear that the  
 11 Government was saying that it was really nothing to do  
 12 with them, and I didn't see at that stage where I could  
 13 take it.  
 14 **Q.** Why were you frustrated?  
 15 **A.** Because I'd wanted what had seemed to me to be something  
 16 that was potentially an injustice to be sorted out and,  
 17 since the Government owned the Post Office, I assumed  
 18 that the Government would be in a position to sort it  
 19 out, but they were saying "No, not me, gov".  
 20 **Q.** You tell us in your witness statement that,  
 21 notwithstanding the frustration that you felt at the  
 22 time, it didn't then occur to you quite how troubling  
 23 the reply was?  
 24 **A.** Yes.  
 25 **Q.** Can you explain what you mean by that?

1 I think you say that in your view that was  
 2 essentially the same position being taken as we see in  
 3 this letter here, in 2009?  
 4 **A.** Yes. I don't know when this arm's length arrangement  
 5 started but it was one that moved from the Labour  
 6 Government to the coalition Government and carried on  
 7 into the subsequent Conservative Government, yes.  
 8 **Q.** Can we turn to 2011 and early 2012, please. I'm going  
 9 to skip over some other events, in particular your  
 10 meetings with Jo Hamilton and with David Bristow,  
 11 a meeting and correspondence with Ed Davey in 2011, the  
 12 BBC Inside Out piece, presented by Nick Wallis and your  
 13 conversation with Alice Perkins at a conference at  
 14 Ditchley Park, and, instead, may I pick up the  
 15 narrative, please, with letters that you wrote to Moya  
 16 Greene, the then Chief Executive of Royal Mail Group,  
 17 and again to Ed Davey, the then Parliamentary  
 18 Undersecretary of State for Business, Innovation and  
 19 Skills.  
 20 Can we start with the letter to Moya Greene and  
 21 a reply that you got from Paula Vennells, then managing  
 22 director of Post Office Limited.  
 23 So let's start with your letter. POL00105483. This  
 24 is you writing on 15 December 2011 to Moya Greene, the  
 25 Chief Executive of Royal Mail Group Plc, and you say:

1 "I have been contacted by a number of constituents  
2 living in Odiham in Hampshire who are most upset by the  
3 fact their local post office has been closed, and that  
4 a longstanding employee, Paul Kemp, has been dismissed  
5 due to 'irregularities'."

6 Just stopping there, you're referring there,  
7 I think, to a second subpostmaster, who had replaced  
8 Mr Bristow, who had himself in turn been dismissed from  
9 the Odiham branch.

10 **A.** Precisely. Mr Kemp did not himself approach me but my  
11 constituents in Odiham did because they were worried  
12 about losing the Post Office in Odiham.

13 **Q.** I think you tell us in your statement that this gave  
14 rise to a number of concerns that, in particular, you  
15 considered that it could not simply be a coincidence  
16 that two subpostmasters in quick succession at the same  
17 branch would be dismissed by the Post Office over  
18 alleged shortfalls?

19 **A.** As well as the subpostmistress in the next-door village  
20 of South Warnborough. Actually, there was something at  
21 the back of my mind which continued to trouble me, which  
22 was the number of these people who were being told "You  
23 are the only person this is happening to", and that  
24 struck me as being profoundly wrong because, at first,  
25 it was obviously disprovable, they were not the only

13

1 employees throughout the country who feel they have been  
2 wrongly accused of fraud due to faults in this  
3 particular system, and am meeting with them in the New  
4 Year to discuss what action they plan on taking. You  
5 may recall that this case was brought to my attention in  
6 2008 [I think that should actually be 2009], when the  
7 subpostmistress from South Warnborough [Jo Hamilton] in  
8 Hampshire faced the same situation. It has not been  
9 rectified, a situation which does not bring credit to  
10 the Royal Mail.

11 "I am also writing to the Minister to make him aware  
12 of this."

13 We will look at that in a moment. Then you deal  
14 with a separate point about the closure of the branch in  
15 Odiham.

16 Overall, in this letter, you were raising the  
17 Horizon issue, not just in the context of the Odiham  
18 Post Office but as a much broader point; would that be  
19 fair?

20 **A.** Yes.

21 **Q.** Can we look at the reply, please, POL00107698.

22 "Thank you for your letter of 15 December addressed  
23 to Moya Greene [that's the one we've just looked at].  
24 As Managing Director of Post Office Limited, Moya has  
25 asked me to reply to you direct."

15

1 people it was happening to; second, it was isolating  
2 those subpostmasters and postmistresses, so they could  
3 not get support from others in the same position; and,  
4 third, it had an element of intimidation about it; all  
5 of which set the Post Office and its way of operating  
6 with its subpostmasters in a bad light, and that was at  
7 the back of my mind, even though I didn't put that in  
8 this letter.

9 **Q.** I've skipped over your meetings with Mr Bristow and Jo  
10 Hamilton. You tell us in your witness statement that at  
11 a personal level, in the light of seeing them face to  
12 face, which is what you had done, you formed a view of  
13 them that they were transparently honest people with  
14 integrity --

15 **A.** Yes, absolutely.

16 **Q.** -- and that, in your judgement, it was vanishingly  
17 unlikely that they were the type of people who would  
18 have done what was alleged against them?

19 **A.** Yes, completely.

20 **Q.** Carrying on, you say:

21 "I am most concerned on a number of fronts. First,  
22 my constituents tell me that this case appears to be  
23 a continuation of the problem that Post Office employees  
24 have been having with the software system that  
25 reconciled takings. I am aware of 34 individual

14

1 If we look at the foot of the page -- sorry, over  
2 the page -- we can see it is a letter from Paula  
3 Vennells.

4 **A.** Yes.

5 **Q.** Then back to page 1. So 9 January, Paula Vennells is  
6 writing back to you.

7 The first page of this letter is about the last  
8 paragraph of your letter about the opening and closing  
9 of the branch in Odiham, so I'm going to skip over all  
10 of that because it's about whether and in what  
11 circumstances there should or should not be a Post  
12 Office at Odiham. Then, over the page, Ms Vennells  
13 addresses the wider issue that you raised:

14 "Turning to your more general comments about the  
15 Horizon system, we handle large sums of public money as  
16 well as the money entrusted to us by the 20 million  
17 people who visit our 11,500 branches each week. There  
18 are a small number of previous and existing  
19 subpostmasters, including Mrs Hamilton who used to run  
20 the South Warnborough post office, who allege that  
21 financial discrepancies at their branch are due to a  
22 fault with the system. We are also aware of the  
23 activities of a group called Justice for Subpostmasters  
24 Alliance, JFSA. There has been no evidence to support  
25 any of the allegations and we have no reason to doubt

16

1 the integrity of the system, which we remain confident  
 2 is robust and fit for purpose."  
 3 She hopes that that has clarified the position.  
 4 You describe this in your witness statement as being  
 5 given the brush-off?  
 6 **A.** Yes.  
 7 **Q.** You say in your witness statement that the  
 8 subpostmasters that you had met seemed to you to be  
 9 transparently honest --  
 10 **A.** Yes.  
 11 **Q.** -- that there was no suggestion that the introduction of  
 12 a new computerised accounting system had thereby  
 13 uncovered previously hidden fraudsters --  
 14 **A.** No.  
 15 **Q.** -- and, if anyone had made such a suggestion, you would  
 16 have given it short shrift because of the self-evident  
 17 honesty of the subpostmasters you had met because of the  
 18 sudden rash of similar allegations, shortly after the  
 19 installation of a new computer system --  
 20 **A.** Yes.  
 21 **Q.** -- and, therefore, you were not satisfied with being  
 22 given the brush-off by Paula Vennells?  
 23 **A.** No, I wasn't.  
 24 **Q.** Can we turn to the letter to Government that you wrote  
 25 to Ed Davey, UKGI00001395. You'll see he was the  
 17

1 the losses that are being laid at the door of the  
 2 subpostmasters?  
 3 **A.** Yes.  
 4 **Q.** You're making it clear, would you agree, that this is  
 5 a country-wide issue --  
 6 **A.** Yes.  
 7 **Q.** -- and you refer to your previous correspondence. Did  
 8 Mr Davey ever reply to you?  
 9 **A.** I don't think he did, but I referred in this letter not  
 10 only to my previous correspondence but also to  
 11 a face-to-face discussion, at the top of the second  
 12 paragraph, that I'd had sometime before when I must have  
 13 raised it with him. But I don't think he replied to me,  
 14 probably because he was told that Paula Vennells was  
 15 replying to me herself.  
 16 **Q.** I'm going to skip over the meeting, the early meeting  
 17 between subpostmasters, Shoosmiths solicitors and  
 18 Parliamentarians in Portcullis House on 27 February  
 19 2012.  
 20 **A.** Yeah.  
 21 **Q.** That's addressed in paragraphs 37 and 38 of your witness  
 22 statement and in detailed minutes of that meeting --  
 23 there's no need to display this -- on SMIS0000247 at  
 24 pages 4 to 7. But, in short, you chaired the meeting --  
 25 **A.** Yes.  
 19

1 Parliamentary Undersecretary of State in BIS at that  
 2 time and you say:  
 3 "I have been contacted by a number of constituents  
 4 living in Odiham in Hampshire who are most upset at the  
 5 fact that their local post office has been closed, and  
 6 a long-standing employee, Paul Kemp, has been dismissed  
 7 due to 'irregularities'. I would be most grateful if  
 8 you would look into these related matters as a matter of  
 9 urgency.  
 10 "We discussed this matter some months ago, and I am  
 11 most concerned that the 'irregularities' may be  
 12 a continuation of the problems that Post Office  
 13 employees have been having with the software system that  
 14 reconciled takings. I am aware of 34 individual  
 15 employees throughout the country who feel that they have  
 16 been wrongly accused of fraud due to faults in this  
 17 particular system."  
 18 You say that it's a situation that has not been  
 19 rectified, a situation which does not bring credit to  
 20 the Royal Mail, and you note that you're writing to Moya  
 21 Greene. Then you take up the point in the last  
 22 paragraph about the closure of the Post Office,  
 23 irrespective of the other issues that you raised.  
 24 So, in this letter, would you agree you're drawing  
 25 attention to the suggestion that Horizon is to blame for  
 18

1 **Q.** -- you told the subpostmasters that you did not believe  
 2 that they were anything other than honest --  
 3 **A.** Yes.  
 4 **Q.** -- and that the Post Office's line, as you described it,  
 5 that there was nothing wrong with Horizon, was wholly  
 6 implausible.  
 7 **A.** Yes.  
 8 **Q.** Is that a fair summary of the meeting?  
 9 **A.** It is.  
 10 **Q.** What was the idea of the meeting between subpostmasters,  
 11 Shoosmiths and Parliamentarians?  
 12 **A.** One MP alone can't achieve much but, if there is  
 13 a nationwide issue, then getting more than one MP  
 14 together makes for much greater effect, as we can see.  
 15 **Q.** This led, I think, to a meeting with Alice Perkins,  
 16 Alwen Lyons and you very shortly thereafter on 13 March  
 17 2012; is that right?  
 18 **A.** Yes.  
 19 **Q.** I want to explore briefly with you a meeting that you  
 20 had with Alice Perkins and Alwen Lyons. So the context,  
 21 I think, for the meeting was a written communication,  
 22 an email that you'd sent to Alice Perkins on  
 23 23 February, if we can just look at that, please.  
 24 POL00105470. If we look at the very bottom of page 1.,  
 25 you say on 23 February:  
 20

1 "Dear Alice,  
2 "You may remember that when we last met at, I think,  
3 Ditchley Park [that's the conference I mentioned  
4 earlier] I mentioned the issue of the Horizon computer  
5 system in use at sub post offices throughout the country  
6 and I said I had a real concern about the way some of  
7 the subpostmasters in and outside my constituency had  
8 been treated."

9 Over the page:

10 "May I please come and see you about it? I know it  
11 is the position of the Post Office (supported by the  
12 National Federation of SubPostmasters, though not by the  
13 Communications Workers Union) that there is nothing  
14 wrong with Horizon. I am deeply sceptical about this,  
15 and I hope I can persuade you to look afresh at the  
16 matter, rather than accepting there should be a closing  
17 of ranks around the computer."

18 So you end this by saying you're deeply sceptical  
19 about the Post Office's position there is nothing wrong  
20 with Horizon and the purpose of the meeting that you  
21 were seeking was to persuade her to look afresh at the  
22 matter; is that right?

23 A. Yes.

24 Q. You say, rather than her accepting that there should be  
25 a closing of ranks around the computer; is that what you

21

1 Q. -- in which you had met some of the affect  
2 subpostmasters and Shoosmiths, their legal  
3 representatives. If we just scan through paragraph 2,  
4 that's Alwen Lyons speaking; paragraph 3, Alice Perkins  
5 inviting you to visit the model office to see how  
6 Horizon works; you, in paragraph 4, making a counter  
7 proposal to come to Old Street, so offering to come to  
8 Old Street, but accompanied by a computer expert,  
9 possibly somebody from Computer Weekly, and you made the  
10 point that you put credence on their opinion because of  
11 their involvement in the Chinook helicopter crash  
12 inquiry and that you told them that Computer Weekly had  
13 also been sceptical about Horizon.

14 Then paragraph 5, something I just want to  
15 concentrate on. It records, and this is the Post  
16 Office's own note:

17 "[Alice Perkins] explained that the system had been  
18 independently reviewed by several people, including  
19 [Royal Mail] Internal Audit and Deloitte's (who had no  
20 relationship with the Business or Fujitsu)."

21 You are recorded as saying that you were not  
22 convinced that this had been done by IT experts.

23 I suspect you have got no recollection of the  
24 meeting itself --

25 A. You are correct.

23

1 had thought had happened already?

2 A. Yes, it was. That's what had happened. The system was  
3 "robust", we were told.

4 Q. You make a point in your witness statement about the use  
5 of that word "robust".

6 A. Yes, it was clearly the line to take. There were lots  
7 of people who were told to use this word, which implied  
8 a sort of series of groupthinking seminars, which led to  
9 the use of language, which is very important, and that's  
10 what they chose, "robust".

11 Q. You were concerned, presumably, that that is what would  
12 continue to happen, a closing of ranks around the  
13 computer, if things were allowed to continue unabated?

14 A. Yes.

15 Q. So can I turn, then, with that context in mind, to the  
16 meeting itself, POL00105481. It's the three of you, we  
17 can see from the top: you, Alice Perkins and Alwen  
18 Lyons. Paragraph 1, you started the meeting by  
19 explaining why you were concerned about the Horizon  
20 system and the support that subpostmasters received from  
21 the business when they're faced with a discrepancy in  
22 their accounts. The minute says you told them about  
23 a recent meeting with you and another eight MPs, that  
24 was the Portcullis House meeting that we mentioned --

25 A. Yes.

22

1 Q. -- but, from the minute, would you understand that you  
2 were being told that Royal Mail Group Internal Audit was  
3 independent of the Post Office?

4 A. Yes, I would have been sceptical about that  
5 independence.

6 Q. Then, secondly, that there was a separate audit of  
7 Horizon by Deloitte?

8 A. Yes, because there was something inherently implausible  
9 about a new computer system being completely fault free.

10 Q. Have you, to this date, ever seen such an independent  
11 audit of the Horizon system completed by Deloitte before  
12 13 March 2012 when this meeting took place?

13 A. No.

14 Q. We can see what paragraph 6 says:

15 "[Alice Perkins] offered to consider a further  
16 review of the system by an IT expert specifically  
17 looking at the integrity of the data and discrepancy  
18 errors thrown up in subpostmasters' balances."

19 You said that the training was not adequate --

20 A. Which is a different point.

21 Q. -- yes -- introduced the issue that the subpostmaster's  
22 contract was over 100 pages long, written in '94, when  
23 Horizon was not in place, and didn't explain the process  
24 for making good errors clearly enough. That's, again,  
25 a separate point. You suggested that the subpostmasters

24

1 didn't get a copy of their contract until they had taken  
2 up their appointment, by which time it was too late to  
3 understand the full commitment they were making, and  
4 that's a yet fourth point, I think.

5 Then we can see what's discussed in paragraphs 8 and  
6 9. Then, over the page, at 10, in closing, you informed  
7 Alice Perkins that there had been discussion about  
8 an adjournment debate on the topic.

9 What was the purpose of mentioning that kind of  
10 thing?

11 **A.** Well, just to say that it -- if there were eight MPs  
12 involved in the meeting with Shoosmiths and  
13 subpostmasters, then raising it in Parliament would be  
14 a good way of bringing publicity and ministerial  
15 attention to an issue that was clearly important.

16 **Q.** Is it a sort of an attempt to drive action by the Post  
17 Office?

18 **A.** Yes, it must have been, not that I'd ever done  
19 an adjournment debate by that stage but, nevertheless,  
20 I suppose that's what I was doing, yes.

21 **Q.** Is this needs to be taken seriously --

22 **A.** Yes.

23 **Q.** -- one of the consequences, if it's not, may be  
24 an adjournment debate?

25 **A.** Precisely.

25

1 that there is an issue with the accuracy of the Horizon  
2 system: there isn't. The Horizon system has been  
3 rigorously tested using independent assessors and robust  
4 procedures."

5 The independent assessors point, is that the kind of  
6 thing that was ever said to you?

7 **A.** Oh, probably. Although -- I mean, I can't remember the  
8 words being used but probably, if that was what they  
9 were saying to --

10 **Q.** Were they ever named? We saw in the meeting that it was  
11 said that there was an independent audit commissioned or  
12 carried out by the Royal Mail Group's audit function,  
13 and Deloitte's. These independent assessors, can you  
14 remember whether any other names were given?

15 **A.** Well, it's 12 years ago now. I can't remember whether  
16 names were used. It was the independence that I would  
17 have been interested in rather than the names.

18 **Q.** Yes. We see that there is a very firm line taken in the  
19 first part of that paragraph.

20 **A.** Yes. It seems odd.

21 **Q.** Then paragraph 3:

22 "Therefore when queries are raised, my team will  
23 work with the postmasters to help identify the problem.  
24 Very often the 'missing' funds are a keying or balancing  
25 error that can be put right, and training given to

27

1 **Q.** Can we look, please -- and I'm dealing with this part of  
2 the chronology in some detail because it may be  
3 important in due course -- at a letter of 4 April that,  
4 in fact, you weren't copied into but can we look,  
5 please, at POL00107710. If we just look at the second  
6 page, please, we can see it's from Paula Vennells.

7 **A.** Yes.

8 **Q.** Then back to the first page. It's a letter to Oliver  
9 Letwin of 4 April 2012, and I just want to see whether  
10 this, what is being said by Ms Vennells here, is  
11 reflective of the kind of thing that Ms Vennells and  
12 other senior executives at the Post Office were saying  
13 to you at this time in the spring of 2012.

14 Oliver Letwin, just for context, was one of the MPs  
15 who was amongst the group who was seeking to pursue this  
16 matter in the same way as you?

17 **A.** Yes.

18 **Q.** Ms Vennells says:

19 "Dear Oliver

20 "I understand you raised a query on the robustness  
21 of the Post Office Horizon system yesterday with Moya  
22 Greene. I am grateful to Moya for passing this query on  
23 to me."

24 Then Ms Vennells says this:

25 "The Post Office takes very seriously any perception

26

1 ensure it doesn't happen again. These checks and  
2 procedures resolve virtually all discrepancies  
3 satisfactorily."

4 So that's saying it's the subpostmaster's  
5 responsibilities or fault, essentially?

6 **A.** Yes.

7 **Q.** "However, in some cases, which fortunately are very few  
8 and far between, we have had to prosecute subpostmasters  
9 for theft or false accounting and provide evidence which  
10 substantiates our legal position. In every instance,  
11 the courts have found in our favour."

12 Now, that's a false statement there, that "In every  
13 instance, the courts have found in our favour", it's  
14 just not true. Would you have known at that time that  
15 that was a false statement?

16 **A.** No, I wouldn't.

17 **Q.** Would you, if the senior executive of the Post Office  
18 was writing to you on Post Office headed paper and  
19 formally as an MP and said "In every instance, the  
20 courts have found in our favour" accept at face value  
21 what they were saying?

22 **A.** Yes, I would. I would expect public officials, as Paula  
23 Vennells was, to tell the truth. However, I would have  
24 had, at the back of my mind, the knowledge that the Post  
25 Office had been, as a matter of almost routine, telling

28

1 lots, and lots, and lots of subpostmasters that they  
 2 were the only ones having these problems. That would  
 3 have been at the back of my mind, I think. So I might  
 4 have had some question about what they were saying.  
 5 **Q.** Thank you. That can come down. I'm going to skip over  
 6 the meeting that you and Oliver Letwin had with Alice  
 7 Perkins, the Chairman of the Post Office; Paula Vennells  
 8 the then CEO of the Post Office; Susan Crichton, the  
 9 Legal and Compliance Director; Lesley Sewell, the Chief  
 10 Information Officer; Rod Ismay, the then head of Product  
 11 and Branch Accounting; and Angela van den Bogerd, the  
 12 Head of Network on 17 May. It is addressed in detail in  
 13 paragraphs 43 to 46 of your witness statement and in  
 14 a comprehensive pack prepared for the meeting.  
 15 The outcome of the meeting, is this right, was that  
 16 the Post Office offered to give independent forensic  
 17 accountants access to the Horizon system and for the  
 18 Post Office to fund such an investigation?  
 19 **A.** Yes. It was the first time I had heard the phrase  
 20 "forensic accountants" and I didn't know what they were,  
 21 but it sounded good and it turned out to be good.  
 22 **Q.** This, I think, had been something that had been  
 23 suggested by Andrew Tyrie MP back in the Portcullis  
 24 House meeting of 27 February 2012 --  
 25 **A.** Yes.

29

1 please. We can see the key messages to be delivered by  
 2 Alice Perkins, under the "Who" column, in the  
 3 introductions to the meeting:  
 4 "Thank you for coming today.  
 5 "The people around the table are ...  
 6 "We understand you have raised some concerns ...  
 7 "... we take this issue very seriously. This  
 8 impacts the lives of individuals, public money is at  
 9 stake, and so is our reputation.  
 10 "We are open to feedback and we will provide you the  
 11 information we have available, our aim is to be open and  
 12 transparent.  
 13 "We are hoping that you will find that we are  
 14 handling these issues openly and fairly and would like  
 15 your advice on how we best approach those who are  
 16 sceptical ...  
 17 "We are constantly looking at ways of improving our  
 18 IT systems and the support we give ..."  
 19 Then this:  
 20 "Our IT systems are routinely audited and our  
 21 recruitment and the training provides are independently  
 22 reviewed so that we can make improvements."  
 23 We will be exploring in due course the accuracy of  
 24 that, IT systems being routinely audited. Then reading  
 25 on:

31

1 **Q.** -- and so I think you were pleased?  
 2 **A.** Yes, very pleased, partly because the offer came from  
 3 Paula Vennells, namely to have the forensic accountants.  
 4 It was something that we wanted but when Paula Vennells  
 5 offered it, we bit her hand off, as it were.  
 6 **Q.** I just want to ask you for some details about what the  
 7 Post Office said, through its senior representatives,  
 8 that it was proposing these forensic accountants should  
 9 investigate, so that we can see and we can compare what  
 10 was proposed with what we ended up with --  
 11 **A.** Yes.  
 12 **Q.** -- at the end of the Second Sight investigation. Can we  
 13 look, please, at POL00033825. This is something that  
 14 I don't think you would have seen. It's a Post Office  
 15 pack containing the documents set out in that index  
 16 there, an agenda for the meeting, key messages that the  
 17 Post Office wished to deliver.  
 18 **A.** I think I saw this when I was asked to draft my witness  
 19 statement.  
 20 **Q.** Yes.  
 21 **A.** Yes.  
 22 **Q.** You wouldn't have seen it at the time?  
 23 **A.** I certainly didn't see it at the time.  
 24 **Q.** No. So they're essentially, I think, speaking notes in  
 25 large part for the meeting. Can we turn to page 3,

30

1 "We are also considering an sudden audit of our  
 2 end-to-end processes, systems and data. I'll come back  
 3 to you at the end of the meeting to get your views."  
 4 Is that the offer -- we'll come back to the later  
 5 minute in a moment -- that you were pleased about,  
 6 an external audit of our end to the processes, systems  
 7 and data?  
 8 **A.** No. I think that came later in the meeting. This was  
 9 the introductory spiel and so I think the key messages  
 10 involving the appointment of an independent forensic  
 11 accountant came later.  
 12 **Q.** Just skipping through, we'll get to the end in a moment,  
 13 page 5, please. This is Lesley Sewell speaking, third  
 14 bullet point:  
 15 "Although we recognise that Horizon is not perfect,  
 16 no computer system is, it has been audited by internal  
 17 and external teams, it has also been tested in the  
 18 courts and no evidence of problems found (of the nature  
 19 suggested by JFSA).  
 20 "Horizon was designed with integrity in mind from  
 21 the very beginning."  
 22 Then if we go on, please, to page 7, I think this is  
 23 where Alice Perkins wraps up, where she comes back, as  
 24 she promised to do, as we saw on that first page.  
 25 Second bullet point in the bottom box:

32



1 "We are [also] considering commissioning  
 2 an independent audit as an assurance measure, but in  
 3 light" --  
 4 **A.** I think that was -- that was the one.  
 5 **Q.** Yeah:  
 6 "... but in light [of the fact] that there is no  
 7 evidence that there is a problem, we need to determine  
 8 if this is a good use of public money.  
 9 "What are your thoughts?"  
 10 Presumably, you bit the hand off?  
 11 **A.** Yes.  
 12 **Q.** What did you understand was being offered?  
 13 **A.** That there would be an independent, deep dive into what  
 14 had gone wrong with these subpostmasters who had been  
 15 prosecuted or made to pay money, and that was exactly  
 16 what Andrew Tyrie had suggested and what we needed, that  
 17 somebody other than the Post Office would be looking  
 18 into the workings of Horizon.  
 19 **Q.** So that would involve, would this be right, looking at  
 20 Horizon as an entire system, at the end-to-end process  
 21 involved --  
 22 **A.** Yes.  
 23 **Q.** -- as well as other Post Office accounting procedures?  
 24 **A.** Yes. One of the things that I had raised in one of the  
 25 documents you've earlier shown me was the issue of the

33

1 a number of years. Many MPs' constituents have been  
 2 prosecuted for false accounting, theft and fraud, many  
 3 protesting their innocence.  
 4 "A meeting was convened in February at the House of  
 5 Commons, attended by MPs and their constituents at which  
 6 this matter was discussed."  
 7 That's a cross-reference to the 27 February meeting  
 8 at Portcullis House?  
 9 **A.** Yes.  
 10 **Q.** "Following this meeting, [you] had several private  
 11 meetings with Ms Perkins and her colleagues to discuss  
 12 how the issue might best be approached and resolved."  
 13 That's a cross-reference to the meetings that we've  
 14 just looked at.  
 15 **A.** Yes.  
 16 **Q.** "Alice Perkins then gave background information and the  
 17 Post Office's perspective and introduced her colleagues.  
 18 "Post Office Limited is now a completely separate  
 19 entity from the Royal Mail. She arrived at the  
 20 organisation in August 2011 and became aware of the  
 21 issue soon after starting. She emphasised that the  
 22 matter was a very serious one for the Post Office, whose  
 23 business rests on its reputation as being trustworthy.  
 24 She said the Post Office also recognised full well that  
 25 the matter was also very serious for the subpostmasters

35

1 helpline, the issue of training, the issue of the  
 2 contract, and so, yes, to look into all of that.  
 3 **Q.** It seems that there was an agreement to have a further  
 4 meeting with a wider group of Parliamentarians and that  
 5 was set for 18 June 2012?  
 6 **A.** Yes.  
 7 **Q.** This may be quite an important meeting, so I want to  
 8 examine it in a little more detail, if we may. Can we  
 9 look, please, at JARB0000001. I think these minutes  
 10 were taken, is this right, by Janet Walker, your then  
 11 Chief of Staff?  
 12 **A.** Yes, that's correct.  
 13 **Q.** We'll see that there are six MPs present, including you  
 14 and Mr Letwin, plus representatives from three other  
 15 MPs?  
 16 **A.** Yes.  
 17 **Q.** So nine MPs in total were either present or represented?  
 18 **A.** Yes.  
 19 **Q.** Then four Post Office people present: Ms Perkins,  
 20 Vennells, van den Bogerd and Lyons?  
 21 **A.** Yes.  
 22 **Q.** Then scroll down, please. You introduced the meeting,  
 23 which was limited to MPs and Post Office personnel only:  
 24 "The issue of problems reported with the Horizon  
 25 system has given rise to controversy dating back

34

1 and mistresses involved as it was invariably life  
 2 changing."  
 3 So far, so good, I think?  
 4 **A.** Yes.  
 5 **Q.** Then, over the page, please:  
 6 "She said that now was a time of enormous change at  
 7 the Post Office and that it was important to give MPs  
 8 confidence in the business and its reputation."  
 9 Again, so far, so good:  
 10 "She stated that the matter involved treading  
 11 a tightrope regarding questions of money. The Post  
 12 Office and its staff are stewards of large quantities of  
 13 cash -- the cash does not belong to the Post Office; it  
 14 is in transit as it comes through the Post Office.  
 15 There is the issue of trying not to put temptation in  
 16 people's way, but in any retail business, this is not  
 17 possible."  
 18 What did you or do you understand to be the point  
 19 being made there about temptation being put in people's  
 20 way?  
 21 **A.** At the meeting of 17 May, with Oliver Letwin and me,  
 22 Alice Perkins and Paula Vennells had both raised the  
 23 problem of there being lots and lots of cash lying  
 24 around in unexpected places, and whether this meant that  
 25 they thought that that led subpostmasters into

36

1 temptation and being inherently dishonest wasn't  
2 entirely clear but that was the issue that they were  
3 raising, I think, and we never really got to the bottom  
4 of that, but that's what the issue she was talking  
5 about.

6 **Q.** We then see that Ms Vennells picks up the temptation  
7 baton and says:

8 "She said that temptation is an issue, but that  
9 trust in the Post Office as a brand is absolutely  
10 paramount. Post Office needs competent, trustworthy  
11 people on staff, and its processes and systems must be  
12 transparent and must work well."

13 So, again, at the moment, the focus, I think, is all  
14 on the honesty and trustworthiness of the postmasters?

15 **A.** Yes.

16 **Q.** "Of the 11,800 subpostmasters and mistresses currently  
17 employed, only a tiny number are presenting as cases  
18 where there is an alleged of fraud involving the Horizon  
19 system, the problem therefore is relatively very small."

20 Then I want to go through what's later said here, as  
21 a series of assertions made. She said, according to the  
22 minute, that:

23 "The Horizon system is very secure."

24 The first assertion, assertion 1. Did you at this  
25 stage know whether that was true or false?

37

1 **A.** I believed it was probably untrue, at that stage, mostly  
2 because of the experience that Jo Hamilton had had of  
3 seeing -- of telephoning the helpline, asking what to  
4 do, doing what they said and seeing the balance that she  
5 was alleged to be owing to have doubled in front of her  
6 eyes. So that assertion struck me as being untrue.

7 **Q.** Can we turn to the fourth assertion:

8 "It appears that some subpostmasters have been  
9 borrowing money from the Post Office Account/till in the  
10 same way that they might do in a retail business, but  
11 this is not how the Post Office works. Post Office cash  
12 is public money, and the Post Office must recover it if  
13 [it] goes missing."

14 Did you or would you take, from what is recorded as  
15 being said there, that the issue, according to  
16 Ms Vennells, was with postmasters putting their hands in  
17 the till rather than with Horizon?

18 **A.** Well, it's clearly possible that that might have  
19 happened in some cases but, if you don't have a robust,  
20 to use the word, Horizon accounting system, you can't be  
21 sure whether it has happened. So I thought it might  
22 have happened in some cases but to say that it happened  
23 in a lot of cases struck me as being -- needing to be  
24 examined and tested.

25 **Q.** Then the fifth assertion:

39

1 **A.** At this stage no, I didn't. We were going to have  
2 an independent investigation to see whether that was  
3 true or not.

4 **Q.** Did you accept what you were being told by the Chief  
5 Executive of the Post Office?

6 **A.** I did not accept that the Horizon system was very  
7 secure, no. That was a matter still to be investigated.

8 **Q.** Can I turn to the second assertion, assertion 2:

9 "Every keystroke used by anyone using the system is  
10 recorded and auditable."

11 Did you know whether that was true or false?

12 **A.** I didn't know whether that was true or false. That was  
13 a matter still to be investigated.

14 **Q.** Did you accept what you were being told by the Chief  
15 Executive of the Post Office?

16 **A.** No.

17 **Q.** She's recorded as continuing to say:

18 "When things go wrong in a sub post office, there is  
19 a helpline which staff can call 7 days a week during  
20 office hours, and back-up staff who will help further if  
21 things go wrong. It is here that issues are normally  
22 resolved."

23 Did you know whether that was correct, true or  
24 false, that, at the helpline stage, issues are normally  
25 resolved?

38

1 "Every case taken to prosecution that involves the  
2 Horizon system thus far has found in favour of the Post  
3 Office."

4 Assertion 5.

5 We will come in a moment to look at that statement  
6 which, as I've said, is not a true statement. But did  
7 you know whether it was true or false at this time?

8 **A.** Well, what I knew about Jo Hamilton was that her case  
9 had been found in favour of the Post Office and yet it  
10 was her case that I was particularly questioning. So it  
11 may have been true, so far as I was aware, but I didn't  
12 place much credence in what she had said there.

13 **Q.** Can we go to the foot of the page, please. You'll see  
14 just in between that the minute follows largely the  
15 structure of the speaking notes that we've looked at,  
16 with Angela van den Bogerd now speaking to the two case  
17 studies. It notes there that they are attached. Do you  
18 think you might have got something from that pack that  
19 we saw?

20 **A.** Well, they were attached. I think I did see some case  
21 notes, yes. They are somewhere around in a large bundle  
22 of papers.

23 **Q.** Thank you. If we go to the foot to of the page, Mike  
24 Wood MP asked the question, to which an answer is given  
25 later, so we should look at the question as a whole now:

40

1 "Mike Wood [MP] asked whether anyone at the Post  
2 Office had entertained the thought that there might be  
3 well be problems with the Horizon system, rather than  
4 believing that there was not. He asked whether the Post  
5 Office was saying that the system was 100% secure and  
6 100% foolproof, making the point that it would be the  
7 first software system implemented by government to be  
8 so, were this the case."

9 Then if we go over to the top of the next page:

10 "Andrew Bridgen [MP] asked whether there had been  
11 any case where the discrepancy was the fault of the  
12 system."

13 There is then a discussion where it seems there was  
14 a side tracking about the identity of the forensic  
15 accountant. Then if you see three boxes from the bottom  
16 there:

17 "Paula Vennells said that going back to Andrew  
18 Bridgen's question, there had not been a case  
19 investigated where the Horizon system had been found to  
20 be at fault."

21 So there is then what I'm calling assertion 6.

22 Did you know, again, it's expressed in a different  
23 way, whether that was true or false --

24 **A.** No.

25 **Q.** -- there had not been a case investigate where the

41

1 had found errors in the operation of the Horizon system?

2 **A.** No, they didn't.

3 **Q.** They didn't mention the acquittal of Maureen McKelvey by  
4 a jury in 2004, Mrs McKelvey having blamed Horizon for  
5 the causing of losses of money which she was accused of  
6 stealing?

7 **A.** No, they didn't.

8 **Q.** They did not mention the speedy acquittal of Suzanne  
9 Palmer by a jury in 2007, Mrs Palmer also having blamed  
10 Horizon at trial for the losses attributable or said to  
11 be attributable to her?

12 **A.** No, they didn't.

13 **Q.** A jury question directed at the Post Office to the  
14 effect of "What is Mrs Palmer supposed to do if she  
15 didn't agree the figure that Horizon had produced",  
16 which the Post Office had been unable or unwilling to  
17 answer, and an order that the Post Office pay £78,000 in  
18 costs?

19 **A.** No, they didn't.

20 **Q.** They didn't mention any of the following bugs, all of  
21 which had been discovered and notified to the Post  
22 Office by this time, the Callendar Square bug --  
23 sometimes known as the Falkirk bug -- operative, by the  
24 Post Office's admission, between 2000 and 2006 and, on  
25 the findings later of Mr Justice Fraser, until 2010?

43

1 Horizon System had been found to be at fault?

2 **A.** No, I didn't.

3 **Q.** So we've seen the assertions made and the assurances  
4 given to nine MPs or their representatives. Would you  
5 agree overall that this is a fair summary: the problem  
6 is that a small number of postmasters borrow money from  
7 the till; the problem is not Horizon; every prosecution  
8 involving Horizon has found in favour of the Post  
9 Office; and not a single case existed where, on  
10 investigation, the Horizon system was found to be at  
11 fault?

12 **A.** Yes.

13 **Q.** I think it follows that Alice Perkins, Paula Vennells,  
14 Angela van den Bogerd and Alwen Lyons did not disclose  
15 to you and the other eight MPs or their representatives  
16 the following: firstly, anything about the  
17 Julie Wolstenholme case --

18 **A.** No, they didn't.

19 **Q.** -- in which expert evidence had been served by a man  
20 called Jason Coyne concerning bugs in the Horizon system  
21 and which case was subsequently settled by the Post  
22 Office?

23 **A.** They didn't disclose that, no.

24 **Q.** They didn't mention the case of Lee Castleton and the  
25 obtaining of the a report from BDO Stoy Hayward, which

42

1 **A.** No, they didn't mention.

2 **Q.** They didn't mention the receipts and payments mismatch  
3 bug of 2010?

4 **A.** No.

5 **Q.** The suspense account bug that was operative between 2010  
6 and 2013?

7 **A.** No.

8 **Q.** They didn't mention the Dalmellington bug, operative  
9 from 2010 and the fact that it was still operative at  
10 the time of this meeting?

11 **A.** No.

12 **Q.** They didn't mention the remming in bug operative in 2010  
13 or the remming out bugs operative in 2005 and, again, in  
14 2007?

15 **A.** No.

16 **Q.** They didn't mention the local suspense account bug  
17 operative in 2010?

18 **A.** No.

19 **Q.** The reversals bug operative in 2003?

20 **A.** No.

21 **Q.** The Giro bank discrepancy bugs operative in 2000, 2001  
22 and 2002?

23 **A.** No.

24 **Q.** They didn't mention that consideration had been given to  
25 the commissioning of an independent expert review and

44

1 report on Horizon in December 2005, and again in March  
 2 2010, but that on each occasion the Post Office had  
 3 decided against it, on the latter occasion seemingly on  
 4 the grounds that it might be disclosable in criminal  
 5 proceedings?  
 6 **A.** They didn't mention that.  
 7 **Q.** They didn't mention problems with the show called ARQ  
 8 data and whether those issues should be revealed to  
 9 criminal courts who are hearing criminal charges against  
 10 subpostmasters based on ARQ data and of which the Post  
 11 Office had been notified?  
 12 **A.** No.  
 13 **Q.** Does it follow that your state of knowledge at this  
 14 time, based on what the Post Office board member and  
 15 executive members were telling you, was that you were  
 16 unfair of any bugs, errors or defects which had been  
 17 detected in Legacy Horizon or which were then evident  
 18 and emerging in Horizon Online?  
 19 **A.** Yes, I was unaware. I think we were all unaware, but  
 20 Mike Wood was raising the question: is this the only  
 21 absolutely perfect computer program in existence?  
 22 **Q.** You were unaware of the problems with the so-called ARQ  
 23 data --  
 24 **A.** I was.  
 25 **Q.** -- and its presentation to criminal courts?

45

1 wanted what your memory was about it. Thank you.  
 2 What time shall we start again, Mr Beer?  
 3 **MR BEER:** Can we say 11.30, please?  
 4 **SIR WYN WILLIAMS:** Yes, of course.  
 5 ( 11.14 am)  
 6 (A short break)  
 7 (11.31 am)  
 8 **MR BEER:** Sir, good morning, can you see and hear us?  
 9 **SIR WYN WILLIAMS:** Yes, thank you, yes.  
 10 **MR BEER:** Lord Arbuthnot, in my list of 16 or 17 things that  
 11 were not mentioned to you against being told that every  
 12 prosecution involving Horizon had found in favour of the  
 13 Post Office and that not a single case existed where on  
 14 investigation the Horizon system was found to be at  
 15 fault, I omitted to include one, that of Ms Nichola  
 16 Arch, who was acquitted in 2000, so very early on. Was  
 17 that something that was mentioned to you?  
 18 **A.** No, that was not something that was mentioned to me.  
 19 **Q.** I had mentioned the jury acquittal in 2004 of Maureen  
 20 McKelvey and the jury acquittal of Suzanne Palmer in  
 21 2007, that's a third jury acquittal not mentioned.  
 22 **A.** Right.  
 23 **Q.** In that list of 16, now 17, issues that were not  
 24 revealed to you at the meeting that we were talking  
 25 about in mid-June, does the same apply to all of the

47

1 **A.** Yes, completely unaware of that.  
 2 **MR BEER:** Sir, that's an appropriate moment, if it's  
 3 convenient to you, to break in this line of questioning.  
 4 **SIR WYN WILLIAMS:** Certainly, Mr Beer. I will just ask you,  
 5 Lord Arbuthnot, if I may: we have reached the summer of  
 6 2012 and it may be that Mr Beer will pursue this further  
 7 but just so that it's -- now that it's stuck in my mind,  
 8 can I ask you this: in any of these discussions, was the  
 9 role of Fujitsu mentioned at all?  
 10 **A.** It's hard to remember precisely when Fujitsu's role came  
 11 up. Certainly it was raised at some stage and I believe  
 12 it had been raised before now, yes.  
 13 **SIR WYN WILLIAMS:** Right.  
 14 **A.** But I can't remember exactly when it was first raised.  
 15 **SIR WYN WILLIAMS:** But were you given a kind of summary, for  
 16 want of a better description, of the role that Fujitsu  
 17 might be playing in providing information which  
 18 permitted the Post Office, either to prosecute or take  
 19 disciplinary action against subpostmasters?  
 20 **A.** No, I don't think I was, not at this stage.  
 21 **SIR WYN WILLIAMS:** Fine. Then I wouldn't ask you any more  
 22 and, if Mr Beer wants to take it up, then he may but  
 23 I was just conscious that, in the documents we looked  
 24 at, which may only, of course, be a small representative  
 25 sample, there was no reference to Fujitsu, so I just

46

1 meetings you had with senior Post Office managers, and  
 2 by that I mean the meeting with Alice Perkins and Alwen  
 3 Lyons on 13 March 2012?  
 4 **A.** Oh yes, the same applies. I was not told "Here is  
 5 a list of bugs that you ought to take into account", no.  
 6 They failed to do that.  
 7 **Q.** I might divide it into three. One is civil and criminal  
 8 cases, the second is bugs and the third is consideration  
 9 in the past of independent investigations?  
 10 **A.** Absolutely. They did not do that.  
 11 **Q.** Does the same apply to the meeting with Alice Perkins  
 12 and Paula Vennells on 17 May 2002?  
 13 **A.** Yes.  
 14 **Q.** In all of this time, did any of them ever mention the  
 15 facts and matters which I've listed, 16 or 17 of them?  
 16 **A.** No.  
 17 **Q.** Now, at or in preparation for this meeting of 18 June  
 18 2012, there was also a pack prepared, just like the last  
 19 meeting of 17 May 2012 of the Post Office, and I just  
 20 want to look at some of the things that the senior  
 21 representatives of the Post Office were intending to say  
 22 or were briefed to say, as opposed to what the minute  
 23 actually records them as actually having said. Can we  
 24 look at POL00096640. Can you see this is in similar  
 25 format, a pack for the 18 June meeting?

48

1 A. Yes.  
 2 Q. Can we go to page 4, please. This is the part that sets  
 3 out the Paula Vennells briefing note, speaking note or  
 4 lines to take. Can we look at the fifth bullet point,  
 5 please, where she is briefed to say or to include in the  
 6 meeting:  
 7 "I am confident about the integrity of Horizon; it  
 8 was built on robust principles of reliability and  
 9 integrity. It has undergone many external audits and no  
 10 problems of this nature have ever been raised."  
 11 Then, on a technical level, 1:  
 12 "An audit trail is created for each transaction  
 13 which means we can look at all transactions done at the  
 14 counter and see what happens to them subsequently.  
 15 "Each transaction is protected with a digital  
 16 signature to prevent change or tampering, which means  
 17 that if someone was able to penetrate the many layers of  
 18 security -- they wouldn't be able to unlock the seal  
 19 that protects the transaction -- this prevents any  
 20 malicious manipulation.  
 21 "Reconciliation processes automatically detect any  
 22 problems, which means if there is a problem, deliberate  
 23 or otherwise, it would be caught on the reconciliation  
 24 report."  
 25 Did you or would you take such a statement to mean

1 Alan Bates and Kay Linnell, a forensic accountant?  
 2 A. Yes.  
 3 Q. Then there was a series of exchanges of correspondence  
 4 between you and Alan Bates, which I'm not going to  
 5 address but is the long and the short of it that MPs,  
 6 through your offices, started to send individual cases  
 7 to Second Sight after their appointment?  
 8 A. Yes, and it -- although it may have been via me or my  
 9 office, probably was.  
 10 Q. So you were a hub --  
 11 A. I was.  
 12 Q. -- for the forwarding of such cases?  
 13 A. Yes.  
 14 Q. I think it's right that your office didn't vet or decide  
 15 which cases should go forwards or not?  
 16 A. No, we would have been in no position to do so.  
 17 Q. Can I turn to some early reporting back from Second  
 18 Sight. I think it's right that in March 2013 you  
 19 received some early feedback from Second Sight on the  
 20 investigations that had, by then, taken place and this  
 21 caused the meeting to be scheduled for 25 March 2013 at  
 22 Portcullis House. In advance you wrote a letter to  
 23 Alice Perkins on 7 March 2013 and I'd like to look at  
 24 that, please. POL00097588. 7 March 2013, you to Alice  
 25 Perkins. If we can blow up the text, please:

1 that remote access to alter the branch accounts was not  
 2 possible?  
 3 A. I would have taken that to mean that, yes.  
 4 Q. The conclusion of the meeting was that an independent  
 5 review or investigation should be undertaken?  
 6 A. Yes.  
 7 Q. You address in your witness statement and the documents  
 8 exhibited to it, the process by which Second Sight came  
 9 to be appointed and can I just summarise and see whether  
 10 this is correct, please. Firstly, Second Sight was  
 11 identified by Susan Crichton of the Post Office and that  
 12 was because she had a previous connection with Ron  
 13 Warmington at GE Capital?  
 14 A. Yes.  
 15 Q. It was identified that it was necessary for relevant MPs  
 16 and the subpostmaster community, including Alan Bates,  
 17 who was by now undertaking a leading role in  
 18 representing some of the subpostmasters, to be satisfied  
 19 as to the competence and independence of Second Sight?  
 20 A. Yes.  
 21 Q. Therefore, meetings took place, firstly on 4 July 2012,  
 22 between Second Sight and five MPs including you, which  
 23 was essentially a species of vetting interview?  
 24 A. Yes.  
 25 Q. Secondly, on 12 July 2012, between Second Sight, you,

1 "As you know, I am hosting a meeting on 25 March ...  
 2 at Portcullis House ... about the subpostmaster/mistress  
 3 issue."  
 4 That the meeting that we're going to turn to:  
 5 "The meeting is to take the form of an update from  
 6 Ron Warmington and Ian Henderson of Second Sight on how  
 7 their investigations are proceeding. I wonder if you  
 8 might be free to attend, along with any of those of your  
 9 colleagues you deem it is appropriate to invite? I have  
 10 invited all MPs who have constituents who have raised  
 11 this matter with them, Alan Bates, who heads the  
 12 Alliance for Justice for Subpostmasters, and Kay Linnell  
 13 who is working with him. I do not propose inviting  
 14 [the] media."  
 15 Then we can scan over the remaining paragraphs on  
 16 that page. Go over the page, please. If we look, you  
 17 say at the top of the page:  
 18 "I would like to raise two matters here, and these  
 19 are things that may need a conversation between you and  
 20 me ... before the meeting. In my discussions with Ron  
 21 and Ian, I gather that questions have been raised offer  
 22 the absolute integrity of Horizon, though without their  
 23 being so fundamental as to say that the system is not  
 24 fit for purpose. Since it is a system that remains in  
 25 current use, there is the risk that existing

1 subpostmasters and mistresses may find themselves in  
2 exactly the same position as those whose cases are being  
3 investigated. I know definitive results are not yet  
4 available, but I hope the Post Office would be ready to  
5 address this issue."

6 I think it follows from that that you had, by that  
7 stage, received information from Second Sight that  
8 questions over the absolute integrity of Horizon were  
9 being raised by them, Second Sight.  
10 **A.** Yes.

11 **Q.** In the last paragraph --

12 **A.** Not necessarily by them. Questions were being raised at  
13 least in the presence of Second Sight, possibly by  
14 Second Sight, or possibly both.

15 **Q.** I understand. You say in the last paragraph that  
16 you're:

17 "... impressed beyond ... expectations with not only  
18 how the investigations are proceeding, but of your  
19 continuing support. [You could not] recall a more  
20 important campaign, nor one where the end result has  
21 been so consistently supported by all parties involved.  
22 You have my gratitude and admiration for how the Post  
23 Office is handling this."

24 You tell us in your witness statement that at the  
25 early stages of the Second Sight investigation you

53

1 **Q.** I think it's right to say that the Post Office did not  
2 react well to this letter that you wrote them?

3 **A.** I think it is right to say that.

4 **Q.** Can we look at what you say about that in your witness  
5 statement, please, at page 42, paragraph 80, please, the  
6 foot of the page. You say:

7 "My letter caused strong pushback from the Post  
8 Office, and on 19 March there was a meeting between  
9 myself and Alice Perkins. It appears from a speaking  
10 note that Janet Walker [your Chief of Staff] wrote for  
11 me for a telephone call on 20 March 2013 between myself  
12 and Ian Henderson that at a meeting on 19 March Alice  
13 Perkins said amongst other things: that the Post Office  
14 didn't believe anything was wrong with Horizon; that  
15 they were very concerned that any opinion being formed  
16 by Second Sight at this stage was being communicated;  
17 that Second Sight should not be expressing an opinion,  
18 not least as [Post Office] hadn't had a right of reply;  
19 that there was a limit to the Post Office's willingness  
20 to continue funding investigations; that it seemed that  
21 there would be some sort of deadline for cases of the  
22 end of February ... and that the Post Office would not  
23 attend the meeting of 25 March but there would be  
24 an open letter from the Post Office available for  
25 distribution at that meeting; and that the Post Office

55

1 believed -- and this is my summary not yours -- that the  
2 Post Office was entering into the enterprise in good  
3 faith.

4 **A.** Yes.

5 **Q.** Did that remain your belief?

6 **A.** By this stage, yes. By the time I wrote this letter,  
7 I certainly did believe that.

8 **Q.** We'll come later to when seeds of doubt started to be  
9 sown.

10 **A.** Yes.

11 **Q.** But can you identify, in summary, what those seeds were  
12 and when they occurred?

13 **A.** The summary of the seeds of doubt arose through my  
14 initial fears about the Post Office's approach to the  
15 truth, in terms of telling people like Jo Hamilton that  
16 "You're the only person that was involved". But let's  
17 ride over that.

18 There was a degree of legal battlefield that arose.  
19 There was a degree of delay in providing Second Sight  
20 with information. There was a degree of delay in  
21 providing the documents that the Post Office had  
22 promised to give Second Sight, being absolutely open and  
23 transparent, and yet they weren't. There was  
24 a slowness, a secrecy, a general slowing everything down  
25 that worried me.

54

1 would expect to be ready to attend a meeting with MPs in  
2 perhaps June."

3 Lord Arbuthnot, I don't understand. Can you help  
4 me. I thought the Post Office had said they wanted  
5 their systems, processes and data independently  
6 assessed.

7 **A.** Yes, with absolute openness and transparency. I didn't  
8 understand it either. I was a bit surprised because  
9 I thought my letter to the Post Office of 7 March had  
10 been rather a nice one, so ...

11 **Q.** They'd said that they were invested in securing the  
12 truth and that they wished to be open and transparent  
13 with subpostmasters and with the public and yet here was  
14 the Chairman saying to you that the independent  
15 investigators should not communicate their opinions that  
16 their funding may be withdrawn and that they were  
17 pulling out of a meeting?

18 **A.** Yes, which didn't sit well with the way that Second  
19 Sight had been appointed, which was almost a joint  
20 exercise between the Post Office and the MPs and the  
21 JFSA, and yet it seems that the Post Office was saying  
22 that Second Sight were not to talk to us, which seemed  
23 to us to be odd and wrong.

24 **Q.** So the meeting went ahead with you, with other MPs, with  
25 the JFSA, and with Second Sight, but without the Post

56

1 Office?  
 2 **A.** Yes.  
 3 **Q.** We've got your speaking notes for that meeting, your  
 4 Chief of Staff's meetings of that meeting and Second  
 5 Sight's speaking notes. I just want to look at the last  
 6 of those, which is JARB0000047. These are the Second  
 7 Sight notes for the meeting of 25 March 2013.  
 8 There is a summary in the first, second, third and  
 9 fourth paragraphs. Then scroll down, please.  
 10 Then at the foot of the page, they, Second Sight,  
 11 recall that:  
 12 "The fast track review process had identified the  
 13 following 7 issues as being a significant feature in one  
 14 or more of the case submitted:  
 15 "1. Transaction anomalies following communications  
 16 or power failures;  
 17 "2. 'Rogue' transactions not ended by  
 18 [subpostmasters] or their staff;  
 19 "3. Missing or duplicated transactions associated  
 20 with postage labels, phone cards, Giro payments, ATMs or  
 21 cheques;  
 22 "4. Training and Support issues;  
 23 "5. Loss of transaction audit trail being available  
 24 to [subpostmasters];  
 25 "6. Accounting issues at the end of the trading  
 57

1 work.  
 2 **Q.** It seems that, in turn, what was said at the meeting  
 3 caused concern with JFSA, and can we look, please, at  
 4 Mr Bates' letter of 1 April 2013, JARB0000049. This is  
 5 a letter from you to Mr Bates. He says:  
 6 "Having had the opportunity to reflect on the  
 7 meeting at Portcullis House [the one we're talking  
 8 about], I thought it important to convey to you the  
 9 concerns that both Kay Linnell and I took from the  
 10 Second Sight report and the briefing document they  
 11 produced for the meeting."  
 12 That's the one we've just looked at.  
 13 **A.** Yes.  
 14 **Q.** "Whilst every individual's case is extremely important  
 15 to that individual, it is also doubly so in the weight  
 16 that it adds to the systemic failures with Post Office  
 17 and their Horizon system. These are issues which we at  
 18 JFSA have been raising for years, and having worked  
 19 closely with Second Sight over the last few months, can  
 20 see that they too have independently arrived at the same  
 21 conclusions through their analysis of the cases.  
 22 "We can neither understand why Second Sight was so  
 23 reluctant to bring the systemic failures to the fore at  
 24 the meeting, nor see why the focus of the investigation  
 25 has not been now centred on them. These systemic  
 59

1 period; and  
 2 "7. The contract between [the Post Office] and  
 3 [subpostmasters]."  
 4 If we go over the page, please. They said:  
 5 "The investigation is progressing well. A number of  
 6 difficult issues have been satisfactorily resolved and  
 7 an excellent working relationship has been established  
 8 with both JFSA and [Post Office]. Second Sight has  
 9 regular meetings with senior representatives of [the  
 10 Post Office] and is grateful for the support [the Post  
 11 Office] is providing. The investigation is complex and  
 12 involves looking at events that occurred over a long  
 13 period of time -- in some cases 7 or 8 years. We are  
 14 still at the evidence gathering stage, particularly for  
 15 cases submitted in the last few weeks, and it is too  
 16 early for us to reach even preliminary conclusions on  
 17 the matters under review. This is a fact based  
 18 investigation involving complex information technology  
 19 and it is important to allow all relevant parties to  
 20 submit evidence on the matters under review."  
 21 The seven features that we saw on page 1, did you  
 22 understand these to be established or findings by Second  
 23 Sight at that point or is that to be qualified by what's  
 24 said in this penultimate paragraph here?  
 25 **A.** I thought that they were things that required further  
 58

1 failures are proven facts, and are at the root of most  
 2 of the [subpostmaster] cases. Although from the Second  
 3 Sight briefing document, it seems that they are only  
 4 going to be treated as an adjunct to the issue of the  
 5 cases, to the point where only the first three they list  
 6 may be featured in their forth coming report.  
 7 "The items I am referring to from their document are  
 8 [then he lists the seven of them].  
 9 "We fully appreciate more work has to be undertaken  
 10 to draw together the descriptions of each of the  
 11 systemic failures recognised so far, and the others  
 12 known about, but for whatever reason not appearing on  
 13 the list. Yet the work involved would be minor in  
 14 comparison to labouring through the individual cases  
 15 first. These systemic failures are also ... for others  
 16 to comprehend without the requirement of an in-depth  
 17 knowledge of the finer points ...  
 18 "These systemic failures should now become the  
 19 yardstick that the individual cases are measured  
 20 against. This approach would [be] quicker and far more  
 21 [effective] method of addressing the whole issue and  
 22 would minimise the information required from POL, which  
 23 is the main cause of the slow progress Second Sight has  
 24 made with the individual cases.  
 25 "There does seem to be far too much sensitivity in  
 60

1 not requiring POL to address these systemic failures  
2 now, rather than waiting until a report is produced  
3 later in the year."

- 4 In your estimation at the time, were these fair  
5 points that Mr Bates was making?
- 6 **A.** It was probably beyond my technical understanding of the  
7 way Horizon worked but I thought that these were points  
8 which certainly needed to be answered, both by Second  
9 Sight and by the Post Office. There was, at some stage  
10 a dispute about the meaning of the word "systemic" and  
11 Second Sight used it eventually to mean a system-wide  
12 set of problems, whereas Alan Bates was using it to mean  
13 a problem with the system, wherever it struck, and the  
14 Post Office grabbed the most favourable to them meaning  
15 of the word "systemic", and Alan Bates pursued the least  
16 favourable to the Post Office use of the word  
17 "systemic".
- 18 **Q.** Did you gain any sense at this time of whether the Post  
19 Office's intervention by the letter from Alice Perkins  
20 and the refusal to attend the meeting, the strong push  
21 back that you mentioned earlier, had itself had  
22 an effect on the strength of view that Second Sight held  
23 or at least the way it was prepared to present such  
24 views?
- 25 **A.** I'm not sure exactly what you're asking there. I did

61

1 an email exchange between them and Alan Bates under  
2 paragraph 2:  
3 "You have mentioned 'numerous miscarriages of  
4 justice' and it's pretty clear that James has also  
5 focused on that ... as has POL's top management. You,  
6 Kay, Ian and I all know how much reliance has been  
7 placed by the courts (Criminal and Civil) on [the Post  
8 Office's] assurances (such as that 'there is no remote  
9 access to the system or to individual branch terminals  
10 which would allow accounting records to be manipulated  
11 in any way'). As you know, Alan, several of the spot  
12 reviews have presented what appears to be evidence that  
13 completely undermines and disproves statements like  
14 that. I am pretty certain that, in the event that even  
15 one of those spot reviews (for example SR005 the  
16 Bracknell Basement/Rudkin one) turns out to be  
17 irrefutable, then James will completely earned the  
18 implications, as I'm sure will POL's senior management."

- 19 Was that issue mentioned by you on the call to Paula  
20 Vennells?
- 21 **A.** Well, it's hard to be sure of what was said, well,  
22 10 years ago, in a call, but it was a very important  
23 issue and I would have thought it probably was, yes.  
24 Remote access would have completely undermined the Post  
25 Office's position.

63

1 think that this was the first time that the Post Office  
2 had really objected to what Second Sight was doing and  
3 that might well have a consequence on Second Sight.

- 4 **Q.** Thank you. I think that answers the question.  
5 You had a telephone conference call with Paula  
6 Vennells as a consequence of this, for which your Chief  
7 of Staff prepared a briefing or speaking note. Can we  
8 look at that, please. JARB0000052. The call is at the  
9 request of the Post Office, following the meeting on  
10 25 March:  
11 "The Post Office is nervous that the MPs are wanting  
12 individual cases resolved rather than following the  
13 existing approach taken by Second Sight.  
14 "An earlier meeting with Alice Perkins demonstrated  
15 the concern that the Post Office had been shown no  
16 evidence of problems with Horizon. Final para of this  
17 note (Second Sight to Alan Bates) indicates that they  
18 may have found something."  
19 I should have said that you tell us in your witness  
20 statement that you believe that the conversation with  
21 Paula Vennells went much along the lines of this  
22 briefing note.  
23 Can we go to the second page, please. The foot of  
24 the page, please. So you're here rehearsing --  
25 Mrs Walker is rehearsing for you -- the contents of

62

- 1 **Q.** Why so?  
2 **A.** Because, if Fujitsu or the Post Office can manipulate  
3 a subpostmaster's accounts without the subpostmaster  
4 knowing about it, then how can you prosecute that  
5 subpostmaster for something which could not be provably  
6 down to the subpostmaster? It might have been an action  
7 by the Post Office or by Fujitsu. It would, I think,  
8 completely undermine the question of the stand of proof  
9 required in a criminal trial.  
10 **Q.** So, for you, was it an important or an unimportant  
11 matter?  
12 **A.** It was central to the entire business.  
13 **Q.** So this isn't a record of the call, it's not a minute  
14 made of the call, it's a briefing for the call?  
15 **A.** Yes.  
16 **Q.** In this part of it, it's not a narrative of what to say;  
17 it's a recitation of an email of about ten days  
18 before --  
19 **A.** Yes.  
20 **Q.** -- between Second Sight and Mr Bates, but referring to  
21 the Bracknell basement/Rudkin Spot Review. Your  
22 evidence as I understand it, is you believe that this  
23 issue of remote access was addressed in the call with  
24 Paula Vennells?  
25 **A.** I think it would have been, yes.

64



1 Q. Can you not go any further than that, in saying the  
2 detail that, in fact, you mentioned?

3 A. I can't go any further than that, because it may well be  
4 that, at this stage, the Bracknell basement/Rudkin issue  
5 was something which Second Sight was still trying to get  
6 final proof about. I can't remember whether at this  
7 stage the Post Office was still denying that that  
8 meeting had ever taken place and that Second Sight were  
9 trying to get email evidence. I can't remember exactly  
10 when that was resolved.

11 Q. Can we turn to a new document, please, POL00098379,  
12 which is the Post Office's minute of the call.

13 SIR WYN WILLIAMS: When you say "new", Mr Beer, do you mean  
14 very recently disclosed?

15 MR BEER: I mean new to Lord Arbutnot.

16 SIR WYN WILLIAMS: Right. Fine. Just so that I am clear.  
17 Thank you.

18 MR BEER: I don't think you had this when you made your  
19 witness statement?

20 A. No, I didn't but I was shown it this morning before  
21 I came in, and it -- I think it may show that -- if we  
22 go down a bit, it may show that the Rudkin issue was  
23 raised.

24 Q. Yes, so this is -- just to be clear, we've looked at  
25 your briefing notes for the purposes of the call, we've

65

1 Q. Why was that?

2 A. Because of the standard of proof required in a criminal  
3 prosecution. You need to be sure that the criminal  
4 activity has been done by a subpostmaster accused, as  
5 opposed to having been done by somebody else.

6 Q. Then the sixth bullet point, which is linked to the  
7 fourth, you're recorded as saying:

8 "... we should not go ahead [ie I think the Post  
9 Office should not go ahead with prosecutions,  
10 presumably] until [the Post Office] can move that there  
11 is no remote access to the system or branch terminal  
12 which can change the [subpostmaster's] account. (He did  
13 not say so but I think [Second Sight] have suggested  
14 this)."

15 Does that help you to recollect with how the  
16 conversation went?

17 A. Well, if I -- I certainly wouldn't question that  
18 I raised that, if this is what their minute says. No,  
19 I must have raised it, as they say I did. I think  
20 I would not have told Paula Vennells that Second Sight  
21 had suggested it, but it was something that I think  
22 Andrew Bridgen had been raising consistently because his  
23 constituent was Michael Rudkin.

24 Q. But this, in any event, is a record of, I think,  
25 Ms Vennells noting that Second Sight had suggested that

67

1 seen the "Rudkin issue", I'll call it in summary,  
2 mentioned in it, we've heard what your recollection is.  
3 Can we look, please, at page 2 of the Post Office's note  
4 of the call, and look four bullet points in. I think  
5 that's a separate issue.

6 A. Yes, but if you look at six bullet points in, you'll get  
7 to what you want, I think.

8 Q. Yes, you're quite right. Yes, I meant to ask about four  
9 bullet points in because it's the run-up to the  
10 conversation in bullet point 6. We can just start at 4:  
11 "JFSA raised a concern with James that the Post  
12 Office is continuing with prosecutions despite the  
13 review taking place, predicated on the view that there  
14 is 'nothing wrong with Horizon'. [You] did not think  
15 that we should be prosecuting on the basis [ie that the  
16 Post Office should be prosecuting on that basis]."

17 Then Ms Vennells then says:  
18 "I think because [Second Sight] have made noises  
19 about finding something."  
20 She is recorded as promising to you to get back on  
21 that point.  
22 On that point, was it your view that the work on  
23 Second Sight affected the propriety of continuing to  
24 prosecute?

25 A. Yes.

66

1 there could be remote access to the system or a branch  
2 terminal which could change the subpostmaster's account?

3 A. She was saying that they might have done.

4 Q. Yes.

5 A. Yes.

6 Q. We've seen that one of the points that the Post Office  
7 was taking at this stage in the narrative was that  
8 Second Sight should not be saying anything to anyone,  
9 unless and until the Post Office had had the opportunity  
10 to respond to the points that Second Sight was putting  
11 to the Post Office?

12 A. Yes.

13 Q. I just want to look at what Second Sight was saying to  
14 you about that. JARB0000053. This is an email the next  
15 month, on 12 June, from Ron Warmington of Second Sight,  
16 and he says:  
17 "I'll send a proper response to your latest email  
18 later today ... I don't think we need your help in  
19 getting [the Post Office] to respond to the spot  
20 reviews. They are RESPONDING ... but not yet in a form  
21 that will really WORK in our interim report or in the  
22 8 July meeting. They are still -- understandably  
23 I suppose -- incredibly defensive and nobody -- at the  
24 levels producing the responses -- is ready to give  
25 an inch. They probably fear it will be career death to

68

1 concede any failings whatsoever. We have consistently  
2 and clearly asked for short, easy-to-understand, honest  
3 and complete answers to the assertions that we have put  
4 forward. What we are getting are highly technical,  
5 multi-page responses that will appear to many to have  
6 been crafted so as to avoid actually giving any answers  
7 to those assertions and allegations at all. Without  
8 wishing to burden you with the detail, the attached is  
9 a pretty good example ... and shows my exasperation in  
10 trying to get them to ANSWER THE BLASTED QUESTIONS."

11 Was this email that you received here and what  
12 Second Sight were then saying about the Post Office's  
13 approach, at this time, a recurrent theme?

14 **A.** I think it was, particularly the use of the word  
15 "defensive".

16 **Q.** You've addressed in your witness statement, it's  
17 paragraphs 100 to 105, alongside numerous  
18 contemporaneous documents exhibited to that part of the  
19 statement, the issues arising from the publication of  
20 the Second Sight Interim Report on 8 July 2013 and, save  
21 for one point, I'm not going to explore that. The  
22 exception is the role of Second Sight in relation to  
23 criminal cases. Can we just turn up paragraph 142 of  
24 your witness statement, please, which is on page 75.

25 We are jumping forwards significantly here, we are  
69

1 to the bottom of.

2 **Q.** The "they" in that sentence early on, "Any documents  
3 that they considered relevant", means any documents that  
4 Second Sight -- is that right?

5 **A.** Second Sight considered relevant.

6 **Q.** Can we look, can we go back in the chronology, then, to  
7 July 2013, and look at the notes of a meeting that you  
8 held in Parliament on 8 July 2013 after the publication  
9 of Second Sight Interim Report. It's POL00029664.  
10 I think this is a meeting after the publication that day  
11 of the interim report between Second Sight, Alan Bates,  
12 Kay Linnell, Shoosmiths and a number of MPs.

13 Can we look, please, at the bottom of page 3. Right  
14 at the bottom:

15 "Andrew Bridgen MP asked Second Sight if they  
16 believed the issues they had identified had an impact in  
17 relation to the historic convictions."

18 Then over the page, please:

19 "Second Sight said that was a legal question which  
20 they were not qualified to answer and they did not  
21 consider it was appropriate to express an opinion. They  
22 have to present facts and it is for others to consider  
23 the impact on any historic cases."

24 Firstly, would you agree with Second Sight's  
25 characterisation of the limitations of their

71

1 into January 2014 but it's the background to the  
2 questions that I'm going to ask you. This is  
3 a conversation that happened with Paula Vennells on  
4 28 January 2014. Then you say:

5 "... she then said that Second Sight would not be  
6 advising Post Office on criminal cases or prosecution  
7 policy as they were forensic accountants and not  
8 lawyers. I believe that at the time this struck me as  
9 wrong. It was at odds with what she had just said about  
10 not restricting Second Sight's ability to investigate  
11 the issues with Horizon. Accountants in their training  
12 and work have a great deal to do with criminal cases and  
13 prosecution."

14 And then there's some other material.

15 In relation to the first part of the Second Sight  
16 work, what was your understanding and expectation of the  
17 extent to which Second Sight could investigate cases  
18 that had resulted in criminal proceedings or a criminal  
19 conviction?

20 **A.** My understanding was that they could have the complete  
21 openness and transparency that Paula Vennells had  
22 promised me and access to any documents that they  
23 considered to be relevant, including documents that were  
24 confidential, in order to get to the bottom of the  
25 issues that the Post Office told us they wanted to get

70

1 professional expertise?

2 **A.** I'm not sure I would, really. The key issue with the  
3 appointment of Second Sight was that they were going to  
4 have to look at a number of different issues -- computer  
5 programming, accountancy, the legal implications arising  
6 out of those things -- and the key issue was that they  
7 should be independent of the Post Office. And so I had  
8 rather greater faith in Second Sight's legal expertise  
9 than it seems they did and particularly since they had  
10 discovered a potential prosecution of Jo Hamilton on the  
11 basis of theft, when there was no evidence. They had  
12 raised that.

13 And that was an ethical issue which seemed to have  
14 passed by the Post Office lawyers, who ought to have  
15 picked it up. So Second Sight's limitations in their  
16 own minds, on their own availability, was not something  
17 that I would have accepted.

18 **Q.** As a separate issue, accepting the limitations that they  
19 themselves accepted, would that, in your view, have  
20 amounted to a proper bar in investigating the facts of  
21 any cases that had ended up as prosecutions or  
22 convictions?

23 **A.** No. I don't think -- I mean, what we had been promised  
24 was total transparency and total openness. Second Sight  
25 were the independent investigators going into the Post

72

1 Office to achieve that total transparency and openness.  
 2 They were the people to look into these things, and so  
 3 I wasn't prepared to accept any bar on what they were  
 4 looking at.

5 **Q.** Can I just take you to their engagement letter with the  
 6 Post Office, please. POL00000213. This is moving on to  
 7 the second part of the enterprise, the ICRMS, but may  
 8 tell us something about the earlier part of the  
 9 enterprise too. Can we look at page 6, please.  
 10 Clause 5.1, if you scroll down.

11 "In providing the services, Second Sight shall:  
 12 "act with the skill and care expected of qualified  
 13 and experienced accountants; it is acknowledged that  
 14 matters relating to criminal law and procedure are  
 15 outside Second Sight's scope of expertise and  
 16 accordingly shall not be required to give an opinion in  
 17 relation to such matters ..."

18 Would you agree that, in the light of this letter of  
 19 appointment, they should not offer expert opinion on  
 20 matters of criminal law or procedure?

21 **A.** Well, this letter of appointment is made 1 July 2014 --  
 22 **Q.** Yes.  
 23 **A.** -- and that was close to the period at which this entire  
 24 process broke down. I actually believe that accountants  
 25 are pretty well able to deal with legal issues in the

73

1 **Q.** Thank you. That can come down.  
 2 The Post Office prepared a briefing for responding  
 3 to the Second Sight Interim Report of the 8 July 2013.  
 4 Can we look at that, please. FUJ00081852. Can we look,  
 5 please, on page 9 at the bottom. Under "Spot Review 5",  
 6 remember that was mentioned earlier the Rudkin basement  
 7 issue:

8 "This Spot Review principally focuses on  
 9 an assertion by Michael Rudkin that during a visit to  
 10 Fujitsu's site at Bracknell on Tuesday, 19 August 2008,  
 11 he observed an individual based in the basement of the  
 12 building who demonstrated the ability to access 'live'  
 13 branch data and directly adjust transactions on the ...  
 14 system.

15 "Given the amount of time that has passed, neither  
 16 [the Post Office] nor Fujitsu have any record of  
 17 Mr Rudkin attending the Bracknell site.

18 "Post Office and Fujitsu have attempted to establish  
 19 the Bracknell visitor logs for the day in question to  
 20 verify Mr Rudkin's attendance and his contact on the  
 21 day, however these records are not retained for as far  
 22 back as 2008.

23 "Fujitsu have additionally made the effort to go  
 24 through all email, documents and archived information to  
 25 hand but do not have any information for Tuesday,

75

1 same way as lawyers are pretty well able to deal with  
 2 accountancy issues. I suspect that this letter of  
 3 appointment -- I don't know whether Second Sight signed  
 4 it or not, I don't know -- I can't remember when I first  
 5 saw it. It may have been in relation to giving evidence  
 6 in this --

7 **Q.** It is.  
 8 **A.** Oh, right, okay. I don't know whether Second Sight  
 9 signed it.  
 10 **Q.** I think they did.  
 11 **A.** They did.  
 12 **Q.** You're right, Lord Arbuthnot, that perhaps oddly, at the  
 13 beginning of the mediation process, there was no letter  
 14 of appointment and the Post Office raised the issue of  
 15 a letter of appointment towards the end of the process,  
 16 and this was it.  
 17 **A.** Oh well, I bet this was draft -- oh okay, right.  
 18 **Q.** In any event, as to my earlier question, even accepting  
 19 this, would you agree that any accepted limitation by  
 20 Second Sight on their ability to offer an opinion on  
 21 issues relating to criminal law and procedure should be  
 22 a bar to them investigating cases that ended up in  
 23 criminal proceedings or a conviction?  
 24 **A.** Certainly not, that would be an illogical consequence of  
 25 events.

74

1 19 August 2008 that would suggest they had visitors to  
 2 the site.  
 3 "Further review into the Post Office work logs  
 4 indicates that there were just three [Post Office] test  
 5 managers present on site in Bracknell on 19 August 2008.  
 6 None of them have any calendar records relating to  
 7 a visit by Mr Rudkin.

8 "It has however been determined that in August 2008  
 9 the basement of Fujitsu's building contained a Horizon  
 10 test environment that would look very similar to a live  
 11 Horizon environment. This environment was not  
 12 physically or technologically connected to the live  
 13 Horizon environment. It was therefore impossible for  
 14 anyone in this room to have adjusted any live  
 15 transaction records, though Mr Rudkin may have witnessed  
 16 some form of adjustment to the test environment.

17 "This separation of test and live environments is  
 18 designed to guarantee the integrity of Horizon data."

19 Arising from the Second Sight Interim Report and the  
 20 Post Office's response to it, did you understand it  
 21 then, that's July 2013, that the Post Office was denying  
 22 that remote access to Horizon accounts was possible?

23 **A.** Yes.  
 24 **Q.** Prior to the publication of the interim report, did  
 25 Second Sight tell you anything about remote access to

76

1 Horizon accounts?

2 **A.** I can't remember exactly when I heard about this very  
 3 odd business of Michael Rudkin visiting Fujitsu. But  
 4 I do believe that Second Sight, whether it was Ron  
 5 Warrington or Ian Henderson, told me that they were  
 6 trying to get to the bottom of it, that they were trying  
 7 to find evidence and that, without that evidence of  
 8 emails or calendar entries or whatever, they would find  
 9 it difficult to be absolutely definitive in their  
 10 interim report about there being remote access to  
 11 Horizon.

12 **Q.** Did Second Sight ever tell you of a conversation that  
 13 they said they had with Simon Baker of Post Office's IT  
 14 department on 22 May 2013 where, so say Second Sight,  
 15 Simon Baker had said that Fujitsu had come clean about  
 16 its ability remotely to access live data and to make  
 17 changes to it?

18 **A.** It seems unlikely that they would have told me about  
 19 that because I'd have gone stomping all over the place  
 20 if they had, I think. But I can't be absolutely sure.

21 **Q.** I think it follows that they, Second Sight, didn't tell  
 22 you that Mr Baker had, so said Second Sight, informed  
 23 Alwen Lyons and Susan Crichton of this --

24 **A.** I don't think they did.

25 **Q.** -- or of a conversation on 22 May, of which a recording

1 passed on the evidence that Gareth Jenkins had given in  
 2 a string of cases that had resulted in the conviction  
 3 and in some cases imprisonment of subpostmasters?

4 **A.** Yes.

5 **Q.** Did you know that, shortly after the publication of the  
 6 Second Sight Interim Report, that the Post Office was  
 7 informed that that witness, Mr Jenkins, which it had  
 8 used to provide evidence in a series of prosecutions,  
 9 had failed to disclose to the court material which  
 10 undermined the opinions that he gave?

11 **A.** No.

12 **Q.** That the Post Office was advised that he hadn't complied  
 13 with his duties to the court?

14 **A.** No.

15 **Q.** That the Post Office was advised that his credibility as  
 16 an expert witness was fatally undermined?

17 **A.** No.

18 **Q.** And that the Post Office was advised that it, itself,  
 19 had been in breach of its duties as a prosecutor and  
 20 that there were, therefore, a number of convicted  
 21 subpostmasters to whom disclosure should have been given  
 22 but was not given?

23 **A.** No.

24 **Q.** In all of the conversations that you had with the Post  
 25 Office at this time, was there any mention of any of

1 exists, 2013, where this issue was further discussed?

2 **A.** I don't think they did.

3 **Q.** Aside from those conversations between Second Sight and  
 4 Post Office personnel, the Inquiry has heard a lot of  
 5 other evidence in relation to the remote access  
 6 capabilities of Fujitsu, including evidence from John  
 7 Simpkins, from Anne Chambers, from written policy  
 8 documents setting out the extent to which there existed  
 9 unrestricted and unaudited privileged access, in some  
 10 parts of Fujitsu, to Horizon data. What would your view  
 11 have been, had this material been disclosed to you in  
 12 mid-2013?

13 **A.** It would have been that there had been a large number of  
 14 miscarriages of justice, that the convictions that had  
 15 been secured by the Post Office were unsafe and that  
 16 most, if not all, of the Post Office's convictions of  
 17 subpostmasters should be re-examined in the forum  
 18 probably of the Criminal Cases Review Commission.

19 **Q.** You make the point in your witness statement that this,  
 20 8 July 2013, was the very time at which the Post Office  
 21 was probably commissioning advice from Simon Clarke,  
 22 an employed barrister at Cartwright King --

23 **A.** Yes.

24 **Q.** -- about the effect of the Second Sight Report and  
 25 indeed some other documents and information that he was

1 those facts and matters?

2 **A.** No.

3 **Q.** Was there any hint that the Post Office was in receipt  
 4 of any advice or direction which ought to cause them to  
 5 examine the safety of previous convictions, their duties  
 6 of disclosure, or the reference of any cases to the  
 7 CCRC?

8 **A.** Quite the reverse.

9 **Q.** What was the reverse that was being said?

10 **A.** We were being told that the Horizon system continued to  
 11 be robust, that the convictions were safe, and that  
 12 there was no remote access.

13 **Q.** Was anything ever hinted at about the matters that I've  
 14 mentioned in all of the meetings, conversations, letters  
 15 and email exchanges that you had with everyone at the  
 16 Post Office, from Alice Perkins and Paula Vennells  
 17 downwards?

18 **A.** Not once.

19 **Q.** Were there convicted subpostmasters within the JFSA?

20 **A.** There were, yes.

21 **Q.** Were there convicted subpostmasters whom you were  
 22 pressing the case for?

23 **A.** Yes. Jo Hamilton was one of them.

24 **Q.** When was the first time that you learned that the Post  
 25 Office had been informed of the facts and matters that

1 I've mentioned?

2 **A.** I think it was the 18 November 2020, when the Clarke  
3 advice came up in the Court of Appeal's hearing to  
4 overturn convictions of 39 subpostmasters.

5 **Q.** So seven and a bit years later?

6 **A.** Yes.

7 **Q.** Can we turn to the Mediation Scheme, which is the second  
8 part of the Second Sight story --

9 **A.** Yes.

10 **Q.** -- first dealing with the setting up of it. You tell us  
11 in paragraph 114 of your witness statement about  
12 a meeting concerning the setting up of what became the  
13 Mediation Scheme and refers to a minute from the Post  
14 Office of that meeting. Can we turn to that, please,  
15 POL00099354.

16 So I've rather blithely skipped over what we've just  
17 discussed, which was that the Post Office, internally,  
18 was being advised about breaches of duty, failures of  
19 candour, breaches of its own duty as a prosecutor having  
20 an impact or possible impact on the safety of  
21 convictions, and none of that was revealed to you?

22 **A.** I did raise this with the Minister, Lord Callanan, on  
23 20 November 2020. I was not blithe.

24 **Q.** No. Then, the worm had turned by November 2020?

25 **A.** Yes.

81

1 between the MPs and the Post Office took place on  
2 27 November 2014, they said, "Well, we don't see why  
3 someone like Jo Hamilton should even be included in the  
4 Mediation Scheme. She pleaded guilty, so she's  
5 stuffed".

6 **Q.** If we just take this document down whilst we discuss  
7 that, please.

8 What was your understanding, throughout the  
9 Mediation Scheme until that point, as to whether Jo  
10 Hamilton was somebody who should be able to benefit from  
11 it?

12 **A.** Well, it was perfectly obvious to me that the Post  
13 Office and I were agreeing that Jo Hamilton could be  
14 included in the Mediation Scheme.

15 **Q.** What would you have done if, at the beginning, which  
16 we're about to turn to, they'd said, "No, no, no, people  
17 like Jo Hamilton can't be included"?

18 **A.** Well, I wouldn't have agreed to it.

19 **Q.** Why not?

20 **A.** Because I believed from the beginning that Jo Hamilton  
21 had not committed the offences for which she had pleaded  
22 guilty and so, clearly, there needed to be a proper  
23 investigation, preferably with the help of Second Sight  
24 but, in any event, with an independent element, into  
25 what had gone wrong in her case, and there were lots of

83

1 **Q.** Would you expect to have been told something back in  
2 July 2013, not necessarily of the detail of the legal  
3 advice that the Post Office was being given but about  
4 the consequences of it?

5 **A.** Yes, but it's not just that I would expect to have been  
6 told something. It would have been essential for the  
7 subpostmasters who had been convicted to be told  
8 something, because their convictions were potentially  
9 unsafe.

10 **Q.** We're going to come in a moment to the setting up of the  
11 Mediation Scheme and the operation of the Mediation  
12 Scheme. In general terms, what did the Post Office do  
13 in relation to that group of people who stood convicted  
14 of a criminal offence in the Mediation Scheme?

15 **A.** In general terms they started by saying, yes, everybody  
16 can join the Mediation Scheme and we'll try and get to  
17 the bottom of their cases, which sounded to me to be  
18 very good, "You can apply to the Mediation Scheme, we  
19 may need to involve the CCRC or the Criminal Cases  
20 Review Commission, but certainly you can apply". That  
21 was what they began by saying but then, later on, what  
22 they said was "If you've pleaded guilty or if you've  
23 been convicted, then you must go to the back of the  
24 queue".

But in the final meeting at which the bust up

82

1 other MPs who were very active and who had constituents  
2 in the same position. We wouldn't have agreed to  
3 a Mediation Scheme which excluded those who'd pleaded  
4 guilty or been found guilty in court.

5 **Q.** Can we turn to the setting up, then, of the scheme and  
6 the document we were just looking at, POL00099354. If we  
7 can just scan through, this is essentially the meeting  
8 which led to the setting up of the Mediation Scheme.  
9 You'll see that the people present are Paula Vennells,  
10 you, Ron Warmington, Ian Henderson, Susan Crichton, Mark  
11 Davies and Alwen Lyons.

12 We'll see that Ms Vennells welcomed everyone to the  
13 meeting saying that they wanted to work collaboratively,  
14 respond to learnings and put a process in place to move  
15 the cases forward.

16 Then if you just scroll through that to yourself  
17 and, if we scroll down, please, then over the page,  
18 please. Quite a lot of practical and technical detail  
19 there. Then carry on, please, scrolling --

20 **A.** Could you stop there?

21 **Q.** Yes.

22 **A.** At the top of the page you see:

23 "It was thought that Gareth Jenkins produced high  
24 quality, and he may be able to help the process."

25 That's an interesting point. Sorry, carry on.

84

1 Q. Yes, so this is -- I think, you're pointing out that  
 2 this is eight days after the Post Office had received  
 3 an Advice saying that he was discredited as a witness,  
 4 couldn't be used ever in a future prosecution in  
 5 a breach of duties to the court.  
 6 A. That's what I'm pointing out.  
 7 Q. In this minute, is there any suggestion that any class  
 8 of people would be excluded from the scheme as  
 9 a whole --  
 10 A. No.  
 11 Q. -- or that they would have restricted rights within  
 12 it --  
 13 A. No.  
 14 Q. -- for example, that their case could not progress to  
 15 mediation? Is that reflective of the fact that there  
 16 was no such limitation?  
 17 A. There was no such limitation.  
 18 Q. At this stage, does it follow that you didn't understand  
 19 that the Post Office saw any restriction in them  
 20 entering or progressing through the scheme?  
 21 A. Absolutely.  
 22 Q. Can we look, please, at POL00146048. A letter to  
 23 Mr Bates of 27 August 2013 from Angela van den Bogerd,  
 24 we can see at the foot of the page. Then, if we scroll  
 25 up, this a letter to Mr Bates of the JFSA about the

85

1 think there's any suggestion in that pack that was sent  
 2 alongside this letter of any such inclusion. Was any  
 3 information fed to you from any other source at this  
 4 time, that a whole class of people would be cut out from  
 5 the benefits of the scheme?  
 6 A. No.  
 7 Q. You tell us in your witness statement -- no need to turn  
 8 it up, it's paragraph 120 -- that on the announcement of  
 9 the mediation, you did an interview outside Jo  
 10 Hamilton's shop --  
 11 A. Yes.  
 12 Q. -- in South Warnborough?  
 13 A. Yes.  
 14 Q. The thought that the Post Office might exclude Jo  
 15 Hamilton from the scheme didn't cross your mind for  
 16 a moment at that time?  
 17 A. No, it didn't.  
 18 Q. You tell us in your statement that, around this time,  
 19 you thought that the people you were dealing with in the  
 20 Post Office were dealing with the matter in good  
 21 faith --  
 22 A. Yes.  
 23 Q. -- and intended to work towards a resolution of all of  
 24 the outstanding cases?  
 25 A. Yes, that's what I thought.

87

1 setting up of the scheme. Fourth paragraph:  
 2 "In collaboration with [JFSA] and a group of MPs  
 3 [led by you], Post Office established an Inquiry into  
 4 Horizon. Second Sight was appointed to lead this  
 5 Inquiry ..."  
 6 The interim report is copied in or a link is given  
 7 to it:  
 8 "Post Office now wishes to offer a Scheme to  
 9 subpostmasters so that individual subpostmasters have  
 10 an opportunity to raise their concerns directly with  
 11 Post Office. In partnership with subpostmasters, the  
 12 JFSA and Second Sight and interested MPs, all sides can  
 13 then work towards resolving these concerns.  
 14 "[Enclosed is] a pack of documents describing how  
 15 the scheme will work."  
 16 I'm not going to go through all of those:  
 17 "A postmaster not obliged to submit his/her case to  
 18 the scheme ... their legal rights will remain ..."  
 19 Then a deadline of 18 November 2013.  
 20 Any suggestion in that of exclusion of a whole class  
 21 of people --  
 22 A. No.  
 23 Q. -- or that they would have restricted rights?  
 24 A. No.  
 25 Q. We can look through the pack that was sent but I don't

86

1 Q. Knowing what you know now, does that remain your view?  
 2 A. No.  
 3 Q. Why not?  
 4 A. What I know now is that they had commissioned the Clarke  
 5 advice.  
 6 Q. I'm so sorry, the document can come down from the  
 7 screen.  
 8 A. Right. They had commissioned the Clarke advice. They  
 9 knew that the evidence that had given rise to a number  
 10 of prosecutions had led to those prosecutions being  
 11 unsafe. They knew there were a large number of bugs in  
 12 the system which they had not told MPs about. They were  
 13 operating -- I never got to the bottom of Project  
 14 Sparrow, but they were operating some sort of behind the  
 15 scenes deception process which suggests to me now that  
 16 they were stringing MPs along in order to preserve the  
 17 robustness of Horizon, the existence of Horizon, and  
 18 possibly the existence of the Post Office. That's what  
 19 I know now. But I didn't know that at the time.  
 20 Q. If we can turn up page 66 of your witness statement,  
 21 please. You say:  
 22 "I understand that during September 2013 Susan  
 23 Crichton left the Post Office. I do not know why she  
 24 left, but it may be important, because it was (I now  
 25 see, looking back on it) around this time that the Post

88

1 Office's approach changed. Their change of attitude may  
2 have been because they had been expecting Second Sight  
3 (whom Susan Crichton had recommended) to give Horizon  
4 a clean bill of health, which Second Sight had not done.  
5 The Post Office clearly did not like that."

6 125:

7 "Alternatively or additionally it may have been  
8 partly because Susan Crichton's replacement, Chris  
9 Aujard, brought a different tone to the Post Office's  
10 dealings. I cannot exactly put my finger on it. I felt  
11 uncomfortable with him and thought him uncommitted to  
12 the process we were going through. I cannot at this  
13 remove in time give details of what he said or did or in  
14 which meetings to give rise to that feeling, but I do  
15 remember thinking that things were somehow different --  
16 less open, more combative -- because of him."

17 That can come down. Thank you.

18 You tell us in these paragraphs that the Post Office  
19 did not like it that Second Sight had not given them  
20 a clean bill of health. How did they make that known to  
21 you?

22 **A.** Well, they portrayed Second Sight's interim report as  
23 giving Horizon a clean bill of health when clearly it  
24 hadn't, and that led me to think that they didn't like  
25 what Second Sight had said about Horizon. But it's

89

1 or, at least, information needed to be disclosed to  
2 subpostmasters for them to question that issue?

3 **A.** Yes, I didn't know that.

4 **Q.** Are you able to point to any particular conversation or  
5 communication that led to the impression that the Post  
6 Office was becoming less open or more combative?

7 **A.** I can go through my witness statement to find some, but  
8 it was a gradual impression rather than a -- rather than  
9 this was the point, although September 2013 seemed to be  
10 roughly the break point between when the Post Office was  
11 trying to get to the bottom of any issues with Horizon,  
12 and believing that there weren't any, and the later  
13 period when they were trying to fail to answer Second  
14 Sight's questions, or fail to disclose documents to  
15 Second Sight, or fail to allow MPs any information about  
16 what was going on with their constituents. So this was  
17 roughly the break point.

18 **Q.** At the time did you draw any link between the extent to  
19 which that conduct may be because of knowledge that  
20 convictions may be unsafe?

21 **A.** No.

22 **Q.** In any event, the Mediation Scheme gets set up, and gets  
23 up and running.

24 **A.** Yes.

25 **Q.** Sir Anthony Hooper is appointed as chairman of the

91

1 really looking back on it that I think that they so  
2 objected to what Second Sight had said and they  
3 obviously later objected it to a great deal more in view  
4 of what Second Sight said later.

5 **Q.** You tell us that Mr Aujard brought a different tone to  
6 the Post Office's dealings. You can't put a finger on  
7 it but things were less open and more combative because  
8 of him? Was that immediately after he took over as  
9 General Counsel?

10 **A.** No, I think it was a gradual impression that arose  
11 because the Mediation Scheme gave rise to what I or  
12 somebody else described a legal battlefield with him as  
13 the sort of general commanding that process. So I think  
14 it was gradual, rather than immediate, because I take  
15 people as I find them, and I was prepared to give him  
16 the benefit of the doubt to start with.

17 **Q.** Of course, at this time, September 2013, that is only  
18 two months or so after the provision of the Simon Clarke  
19 advice --

20 **A.** Yes.

21 **Q.** -- you didn't know at the time that the Post Office had  
22 been told that some of its prosecution evidence was  
23 tainted?

24 **A.** No, I didn't.

25 **Q.** Therefore, some of its prosecutions may have been unsafe

90

1 Mediation Scheme and you deal with the process by which  
2 he came to be identified and his appointment in detail  
3 in your witness statement, again exhibiting many  
4 documents, contemporaneous documents, backing up what  
5 you say. Can I just pick out a couple of moments in the  
6 narrative, please.

7 **A.** Yeah.

8 **Q.** Firstly, you tell us about a meeting you held in your  
9 office with the Post Office on 28 January 2014, and  
10 there's a Post Office minute of that meeting. It's  
11 POL00026743. Can we see who is present: you; Alice  
12 Perkins; Paula Vennells; Janet Walker, your Chief of  
13 Staff; and David Oliver. Just to refresh your memory,  
14 David Oliver was the programme manager for Project  
15 Sparrow?

16 Did you know anything about Project Sparrow at the  
17 time?

18 **A.** No, I didn't. I still don't know much, if anything,  
19 about it because I haven't been into it, really.

20 **Q.** I just want to ask you about a specific point that's  
21 recorded in these notes of this meeting on 28 January  
22 2013. It's on page 3, please. Third paragraph,  
23 beginning "AP":

24 "AP said that Post Office should have had a letter  
25 of engagement in place with Second Sight from the start

92

1 and that this [I should have said that the previous  
2 discussion was about getting a letter of engagement out]  
3 was now putting that issue right. [You] agreed that  
4 there should have been a letter in place. [Paula  
5 Vennells] suggested that if Second Sight's nervousness  
6 was that Post Office was trying to restrict them from  
7 raising issues she could assure [you] that the  
8 engagement letter was not designed to restrict in any  
9 way Second Sight's ability to investigate issues with  
10 Horizon that were raised by applications to the scheme  
11 ..."

12 Then there's some more text about the drafting of  
13 the letter.

14 Did that kind of communication in the course of the  
15 meeting, that there would be no restriction in any way  
16 on Second Sight's ability to investigate issues with  
17 Horizon that were raised by applicants of the scheme,  
18 contribute to your belief that there was no restriction  
19 or no restriction was to be introduced on Second Sight's  
20 ability to investigate all and any issues with Horizon?

21 **A.** It did, except that she then went on to contradict  
22 herself. But yes because, from the start, Second  
23 Sight's had been promised access to any documents that  
24 they, Second Sight, believed they needed and we, the  
25 MPs, had been promised complete openness and

93

1 the issues to be mediated?

2 **A.** Yes.

3 **Q.** Was it right that that point, full access and liberty to  
4 examine and investigate all issues, were very important  
5 to you?

6 **A.** Yes.

7 **Q.** Can we look, just before lunch, please, at POL00100222.

8 This is an email from your Chief of Staff on the  
9 minute we've just looked at, ie asking for matters to be  
10 included or recorded within them. Having checked over  
11 the minute, Ms Walker responds on your behalf by saying:

12 "With regard to the minutes, James thinks they are  
13 absolutely fine except for a few differences, which he  
14 would like recorded."

15 Then point 2:

16 "[Paula Vennells] confirmed that if problems were  
17 found with Horizon, that Second Sight were at liberty to  
18 investigate -- in other words, there were no 'no go'  
19 areas in the investigations."

20 Firstly, was that said at the meeting?

21 **A.** I believe it probably was and, if I was saying that the  
22 minutes should be amended to include that, I think it  
23 almost certainly was.

24 **Q.** Secondly, was it a matter of importance to you --

25 **A.** Oh, yes.

95

1 transparency.

2 **Q.** This is a point that you make in your witness statement  
3 on page 74, if we can turn that up, please. Page 74 at  
4 the foot of the page, please.

5 The last three lines:

6 "It seems from the note [that's the note I've just  
7 taken you to] that Paula Vennells told me that Second  
8 Sight's engagement letter was not designed to restrict  
9 in any way Second Sight's ability to investigate issues  
10 with Horizon."

11 Then over the page.

12 "This was not the first time she had promised access  
13 for Second Sight to any document or file that was  
14 relevant their investigations."

15 Did you have, as a result of things that Paula  
16 Vennells had said to you, an expectation that there well  
17 up full openness and transparency?

18 **A.** Yes.

19 **Q.** From the start of the mediation, did you believe that  
20 Second Sight would be given access to investigation  
21 files?

22 **A.** Yes.

23 **Q.** Including if those investigation files were the very  
24 files which contained data, the analysis of data, and  
25 Post Office's views on such data that were relevant to

94

1 **Q.** -- to establish that there were no "no-go" areas?

2 **A.** It was certainly a matter of importance, yes.

3 **Q.** Why so?

4 **A.** Because if there had been any no go areas, then the Post  
5 Office would be able to hide potential issues of  
6 miscarriages of justice.

7 **MR BEER:** Thank you very much, Lord Arbutnot.

8 Sir, it is 1.00 pm.

9 **SIR WYN WILLIAMS:** Indeed it is. What time do you want to  
10 restart, Mr Beer?

11 **MR BEER:** Can we say 1.50, please, sir.

12 **SIR WYN WILLIAMS:** Yes, by all means, that's acceptable to  
13 everyone in the hearing room, I take it, including the  
14 person who has the arduous job of transcribing.

15 **MR BEER:** Yes, she has just nodded very slightly.

16 **SIR WYN WILLIAMS:** Yes, I'm very sorry but I take it we are  
17 under a little pressure of time today, Mr Beer?

18 **MR BEER:** We are, sir. I plan to ask Lord Arbutnot  
19 questions until approximately 2.30 and then to link in  
20 with Sir Anthony Hooper, who Mr Blakey is questioning.

21 **SIR WYN WILLIAMS:** Fine. All right. See you at 1.50.

22 **MR BEER:** Thank you very much, sir.

23 (1.00 pm)

24 (The Short Adjournment)

25 (1.50 pm)

96



1 **MR BEER:** Good afternoon, sir, can you see and hear us?

2 **SIR WYN WILLIAMS:** Yes, I can. Mr Beer, before we start,  
3 for no more than probably some seconds, Sir Anthony  
4 Hooper was visible to me. I don't know whether he's  
5 visible in the hearing room any more but, regardless of  
6 that, if he wants to listen to what's going on there's  
7 no problem about that, clearly. I just wanted to check  
8 whether you could see him?

9 **MR BEER:** No, we can't, sir, and sorry to give you a fright.

10 **SIR WYN WILLIAMS:** No problem. Thank you.

11 **MR BEER:** Lord Arbuthnot, good afternoon.

12 **A.** Hello.

13 **Q.** You deal in paragraph 143 onwards, which is on page 75  
14 of your witness statement, right up until page 89,  
15 paragraph 184, of the events of February to early August  
16 2014, in terms of the Mediation Scheme. Again, what do  
17 you say is all cross-referenced to the contemporaneous  
18 material that you've exhibited and I'm not going to ask  
19 you in detail about that period.

20 Overall, is it fair to say that the breakdown in the  
21 relationship between the JFSA and MPs on the one hand,  
22 and Post Office on the other, and the Post Office on the  
23 one hand and Second Sight on the other, began to emerge  
24 at that stage?

25 **A.** Yes, it is.

97

1 go through it all, it's over 20 pages in length and it  
2 speaks for itself. Can I just look at one part, please,  
3 page 22. Reading from the bottom, paragraph 22.1, the  
4 report deals with things under headings or themes, and  
5 there are headings of "Training", of "Contract Issues",  
6 and this is dealing here with "Post Office  
7 Investigations", and Second Sight say -- and to be  
8 clear, this is a report that goes to the Post Office,  
9 including to Paula Vennells and the then Chair of the  
10 Post Office, Alice Perkins:

11 "As a result of our investigations we have  
12 established that Post Office's Investigation Team has,  
13 in many cases, failed to identify the underlying root  
14 cause of shortfalls prior to initiating civil recovery  
15 or criminal proceedings. This includes cases where  
16 applicants brought to the Auditors' or Investigators'  
17 attention their own suspicions as to the underlying root  
18 causes."

19 Is that one of the paragraphs that you had in mind  
20 when you said that you would have drawn the conclusion,  
21 "Have the actions been taken against subpostmasters  
22 including litigious or prosecutorial, safe?"

23 **A.** Yes, certainly it is.

24 **Q.** "Many applicants [it continues] and almost all the  
25 Professional Advisers, assert that there was inadequate

99

1 **Q.** Can I turn to the time when Second Sight produced part 2  
2 of its Initial Complaint Review and Mediation Scheme  
3 briefing report, that is the 21 August 2014 and, if it  
4 helps, can we turn up, please, paragraph 166 of your  
5 witness statement, on page 90, on the screen, please.

6 **A.** Yes.

7 **Q.** Paragraph 166, about the report of 21 August 2014, you  
8 say:

9 "The report contains many points that were damning.  
10 Whether at the time I saw it I recognised quite how  
11 damning they were is less clear in my mind. There is no  
12 reference, for example, to the Post Office or Fujitsu  
13 being able to access Horizon remotely, something  
14 I remember being concerned about. But the question 'Is  
15 Horizon fit for purpose', is answered by Second Sight's  
16 conclusion -- no. Uppermost in my own mind was always  
17 the question, have the actions taken against these  
18 subpostmasters, whether disciplinary, litigious or  
19 prosecutory, been fair and are the results safe? The  
20 conclusion I would have drawn from the summary whenever  
21 I did see it was, 'Almost certainly not, and certainly  
22 not in every case'."

23 Can we look, please, at the report itself.

24 POL00030160. This is the report that you're talking  
25 about, the Part 2 Second Sight Report. I'm not going to

98

1 investigation prior to suspension (without pay);  
2 termination; or civil/criminal action.

3 "Based on the cases examined so far, Post Office's  
4 Investigators seem to have defaulted to seeking evidence  
5 that would support a charge of false accounting, rather  
6 than carrying out an investigation into the root cause  
7 of any suspected problems. Evidence to support a charge  
8 of false accounting is often easily obtained since, when  
9 confronted during interview with evidence of obviously  
10 over-stated cash figures, the accused person will often  
11 readily admit to falsifying the end of trading period  
12 accounts."

13 Over the page:

14 "With the exception of an interview conducted in  
15 accordance with [PACE] we note that the interviewee is  
16 not allowed to be legally represented, although they may  
17 be accompanied by a 'friend', albeit with very limited  
18 powers.

19 "Interviews will usually be recorded and, when an  
20 admission has been made, this will virtually always  
21 trigger a 'Guilty' plea by the defendant and often  
22 an associated repayment proposal. As a result, Post  
23 Office Investigators seem to have found that recording  
24 admissions of false accounting was the key to achieving  
25 relatively rapid, and (to Post Office) inexpensive,

100

1 asset recovery.  
2 "As a consequence of this, Post Office's  
3 Investigators seem to have de-emphasised the importance  
4 of unearthing the true root causes of the 'mysterious  
5 shortfalls' that applicants claimed to have covered.

6 Even when faced with requests from subpostmasters for  
7 investigative help, this has often been refused.  
8 Regrettably, this refusal to provide investigative  
9 support is in line with the standard contract.

10 "It is clear from comments made by applicants, that  
11 this is clearly contrary to their expectations and that  
12 they were unaware that, under [part of the contract],  
13 the Post Office Investigation Division does not have  
14 a mandate to provide general investigative support to  
15 subpostmasters.

16 "Post Office's instructions to (and training of) its  
17 Investigators seems to have disregarded the possibility  
18 that the Horizon system could be in any way relevant to  
19 their investigations. A consequence of this flawed  
20 approach to investigations is that many opportunities  
21 for process improvements have been missed."

22 Then last page -- sorry, I think that is the last  
23 page. Thank you very much.

24 Is that included in your description of the report  
25 containing many conclusions that were damning?

101

1 you referring to there?

2 **A.** Well, particularly Paula Vennells. I can't remember  
3 precisely which meetings I had with Chris Aujard and  
4 Angela van den Bogerd but those were the people with  
5 whom I dealt with most; Alice Perkins to a certain  
6 extent as well.

7 **Q.** Can we go to page 92 of your witness statement, please,  
8 paragraph 170. I'm not going to go to the letter  
9 because you summarise it here, that:

10 "On 5 September 2014 Angela van den Bogerd wrote to  
11 Second Sight asking Second Sight to reconsider their  
12 recommendation that a particular case was suitable for  
13 mediation. The reason she gave boiled down to the fact  
14 that the applicant had pleaded guilty in court to false  
15 accounting and theft, so that there was no basis left  
16 for mediation."

17 Then keeping on in the same paragraph, you say:

18 "... if the same logic were applied to all of the  
19 cases where there had been guilty pleas, then the basis  
20 of the mediation scheme would have been fundamentally  
21 changed."

22 Was this one of the aspects which led, ultimately,  
23 to the breakdown of the Mediation Scheme?

24 **A.** Yes.

25 **Q.** Paragraph 171. You tell us:

103

1 **A.** Yes. It was an asset recovery process rather than  
2 an application for justice.

3 **Q.** You tell us in your witness statement that by this time  
4 you'd come to trust Ron Warmington and Ian Henderson?

5 **A.** Yes.

6 **Q.** Your feeling about their approach was that they were  
7 straightforward, open, competent and experienced in the  
8 issues with which you were all dealing?

9 **A.** Yes.

10 **Q.** You had, by this stage, abandoned your initial suspicion  
11 of, at least, Ron Warmington's past friendship with  
12 Susan Crichton?

13 **A.** Precisely.

14 **Q.** You say in your witness statement:

15 "At the same time, the Post Office personnel with  
16 whom I was dealing had become defensive, legalistic, and  
17 determined to keep from MPs information about which they  
18 had previously promised to be open. Where there was  
19 a dispute between Second Sight and the Post Office,  
20 I felt more inclined to favour Second Sight's version."

21 **A.** Yes.

22 **Q.** Sorry, that can come down. Thank you.

23 Where you say that the Post Office personnel with  
24 whom you were dealing "had become defensive, legalistic,  
25 and determined to keep from MPs information", who were

102

1 "It had always been obvious that the Mediation  
2 Scheme would not have been able to alter convictions in  
3 court."

4 In the question you had asked in Parliament, if we  
5 go over the page, you said:

6 "We must look after them and try and provide them  
7 with redress, perhaps through the [CCRC]."

8 **A.** Yes.

9 **Q.** Is it right, therefore, that you saw the Mediation  
10 Scheme not as a means of overturning or even  
11 questioning, by the words used by Second Sight,  
12 convictions themselves but providing an investigatory  
13 platform and uncovering material that might itself lead  
14 to a reference to the CCRC?

15 **A.** Quite. It would give rise to further processes  
16 overturning miscarriages of justice.

17 **Q.** Thank you. You deal in your witness statement, again  
18 supported by the contemporaneous material with the Post  
19 Office's response to Second Sight's second report. Can  
20 I just pick out some key passages, if I may.

21 Paragraph 178 on page 95. The long and the short of it  
22 is summarised in paragraph 178: Post Office replied to  
23 the second report and said it was unable to endorse it?

24 **A.** Yes.

25 **Q.** What did you think, when the Post Office said that it

104

1 was unable to endorse the report?

2 **A.** By this stage, I wasn't surprised because of the Post  
3 Office's defensiveness, secrecy, legalism and the fact  
4 that it seemed to be blocking information to go to  
5 Second Sight, and the part 2 report was not kind to the  
6 Post Office and the Post Office was going to get even  
7 more defensive when it came out.

8 **Q.** You tell us in the second part of paragraph 179, which  
9 is on the screen there, that, when you saw the reply,  
10 you assumed from its tone that it had been drafted  
11 mainly by Chris Aujard, as it struck you as  
12 "unconvincing, defensive, offhand and designed to be  
13 obstructive"?

14 **A.** Yes.

15 **Q.** Why did you associate this reply with Mr Aujard?

16 **A.** Because I considered him to be unconvincing, defensive,  
17 offhand and obstructive.

18 **Q.** This all culminated in a meeting in your office at  
19 Portcullis House on 17 November 2014. We can see that  
20 from paragraph 198 on page 103. You referred earlier  
21 today and to a meeting in which I think you said the MPs  
22 "let rip", or some similar expression. Was this the  
23 meeting you were referring to?

24 **A.** It is.

25 **Q.** Were there strongly expressed views by MPs at that

105

1 acrimony."

2 Does that accurately reflect what happened?

3 **A.** It does, yes.

4 **Q.** Why did you think Angela van den Bogerd and Chris Aujard  
5 were seeking to resile on the promises, as you saw it,  
6 that had previously been given by Paula Vennells about  
7 which issues could be investigated and access to which  
8 documents would be given?

9 **A.** I thought at the time that they were worried that Second  
10 Sight was actually uncovering something really crucial  
11 about Horizon, that they were worried that Second Sight  
12 was getting too close to the truth and that, if they  
13 allowed Second Sight to go on uncovering these things,  
14 it posed an existential threat to the future of Horizon  
15 and that that, in turn, posed an existential threat to  
16 the future of the Post Office. That's what I think  
17 I thought they were doing and I still think that that's  
18 what they were doing.

19 **Q.** So it was the conclusions that had been reached in this  
20 second Second Sight Report that, in your view, were  
21 fundamental to a sea change or a step change in the Post  
22 Office's position?

23 **A.** Yes, although they'd begun before the second part of the  
24 Second Sight Report came out.

25 **Q.** In paragraph 201 of your statement, which is on

107

1 meeting?

2 **A.** Very strongly expressed views.

3 **Q.** To what effect?

4 **A.** To the effect that the MPs essentially broke off  
5 relations with the Post Office and said that the Post  
6 Office's behaviour had been such that we couldn't trust  
7 the Post Office any more and that we weren't prepared to  
8 take further part in the Mediation Scheme or  
9 negotiations with the Post Office.

10 **Q.** We can see from 199, if we go over the page, please,  
11 your memory of the meeting, and you say you felt:  
12 "... it was controlled, on the Post Office side, by  
13 Angela van den Bogerd and Chris Aujard. They said the  
14 Post Office should exclude altogether from the Mediation  
15 Scheme people who pleaded guilty -- a different  
16 proposition from [an earlier one that had been made of]  
17 being put to the back of the queue. [You] asked them  
18 how they thought [you] would have supported a scheme  
19 which excluded my constituent Jo Hamilton, to which they  
20 had no answer."

21 For you, that was the final straw. You say:  
22 "Paula Vennells seemed almost cowed by their  
23 stronger personalities and said little. I told her she  
24 was breaking her word. I sensed, rightly or wrongly,  
25 that she felt ashamed. The meeting broke up in

106

1 page 106, you say that shortly after that meeting Paula  
2 Vennells wrote to you rejecting a proposition that there  
3 should be a presumption in favour of Second Sight's  
4 recommendation as to who should go forward for  
5 mediation.

6 **A.** Yes.

7 **Q.** I think what you'd been suggesting is that, if Second  
8 Sight suggested that an individual case should go  
9 forward to mediation, then that case should  
10 presumptively go forward to mediation?

11 **A.** Yes, well, MPs, when we'd gone in for the Mediation  
12 Scheme in the first place, had expected that every case  
13 would go forward to mediation, except for one or two  
14 outliers, that might obviously have been a subpostmaster  
15 trying it on.

16 **Q.** Did you see anything controversial in a proposition  
17 that, if an independent investigator recommended that  
18 a case should go to mediation, then the case should go  
19 to mediation?

20 **A.** Nothing controversial, not least since the independent  
21 investigator had been appointed and recommended by the  
22 Post Office itself.

23 **Q.** Can we look at the Paula Vennells letter to you,  
24 POL00101699. This is her letter to you of 28 November  
25 2014. She says:

108

1 "Thank you for the meeting in your office on  
2 17 November. I am [setting out] the Post Office's  
3 position on the proposition put forward ... that there  
4 should be a 'general presumption' that Post Office will  
5 agree, save in a few (undefined) exceptional cases, to  
6 mediate all cases where this is the recommendation of  
7 Second Sight, regardless of their merits and specific  
8 circumstances.

9 "Having considered the proposition carefully and  
10 having discussed it as promised with my Board, I have  
11 concluded that I cannot agree to it."

12 You tell us in your witness statement that this gave  
13 you a sleepless night or sleepless nights; is that  
14 right?

15 **A.** Well, this is what it seems I told Alice Perkins, yes.  
16 But I think the sleepless night came from the breakdown  
17 of the whole process.

18 **Q.** So it wasn't specifically the rejection of this  
19 proposal; it was more that you could see that the  
20 writing was very clearly on the wall?

21 **A.** Yes.

22 **Q.** Can we look at your reply then, please, POL00101700.  
23 This is your reply to Paula Vennells of 8 December 2014.  
24 It's a long and detailed letter. I only want to look at  
25 the conclusions, if I may, on page 3.

109

1 to mediation on the ground that the [subpostmasters]  
2 pleaded guilty.

3 "You put forward these arguments in secret, and when  
4 MPs asked you in July how the mediation [scheme] was  
5 going, you pleaded, in the interests of 'the integrity  
6 of the Mediation Scheme', confidentiality.

7 Paragraph 18:

8 "Clearly the Post Office is aware of the Limitation  
9 Act point set out ... above -- it has enough lawyers.  
10 The Post Office could allay any suspicion that this was  
11 a factor in the way it has been behaving by agreeing  
12 that [it] will not take any time-barred limitation point  
13 in resisting legal claims ... will you agree to this?"

14 I think the answer came back no --

15 **A.** It did.

16 **Q.** -- from Paula Vennells. You make the point in  
17 paragraph 20 that you won't be standing at the next  
18 general election and so some of the MPs have agreed that  
19 Kevan Jones would take over your role in the group. You  
20 say at the end of paragraph 20:

21 "In any event I could not continue negotiating with  
22 you because I have lost faith in the Post Office Board's  
23 commitment to a fair resolution of this issue. I shall  
24 be pursuing the need for justice ... in other ways."

25 I think you made a press release on that day as

111

1 **A.** Yes, I'm sorry it's so long.

2 **Q.** If we scroll down please under "Conclusions" from  
3 paragraph 13 onwards, you begin a series of paragraphs  
4 in the same way, "Despite" something:

5 "Despite the fact that Second Sight have identified  
6 the issues of investigations and contracts giving rise  
7 to concern ... the Post Office response of 22 September  
8 stated, among other things, that contracts and Post  
9 Office investigations were outside Second Sight's remit.

10 "Despite your agreement that the Mediation Scheme  
11 was to be available to all [subpostmasters] whose cases  
12 had been identified by Second Sight as giving rise to  
13 concern ... in recent months Post Office has been  
14 objecting to around 90% of cases going forward to  
15 mediation ...

16 "Despite your agreement to fund the engagement of  
17 professional advisers to support [subpostmasters] 'in  
18 all relevant stages of the process' ... the Post Office  
19 is attempting, in the absence of representation by those  
20 professional advisers ... to have 90% of cases excluded  
21 from mediation."

22 Over the page:

23 "Despite your agreement that those who have pleaded  
24 guilty would be able to take advantage of the Mediation  
25 Scheme ... the Post Office has objected to cases going

110

1 well?

2 **A.** I think I did.

3 **Q.** POL00101690, under the heading "MPs lose faith in Post  
4 Office Mediation Scheme", you're reported in the second  
5 paragraph as saying:

6 "The scheme was set up to help our constituents seek  
7 redress and maintain the Post Office's good reputation.  
8 It is doing neither. It has ended up mired in legal  
9 wrangling, with the Post Office objecting to most of the  
10 cases even going into the mediation that the scheme was  
11 designed to provide. I can no longer give it my  
12 support. I shall now be pursuing justice for  
13 subpostmasters in other ways."

14 **A.** Yes.

15 **Q.** Did that letter, the conclusions of the letter that you  
16 wrote, and that part of the press release that I have  
17 read to you, mark the withdrawal on your side of the  
18 equation from MPs' engagement with the Post Office and  
19 its Mediation Scheme?

20 **A.** Yes.

21 **Q.** Can I turn to the termination of the scheme by the Post  
22 Office and look at page 137 of your witness statement.  
23 You say that:

24 "On 10 March 2015 [you] heard via a Post Office  
25 Press Release that the Post Office had sacked Second

112

1 Sight and disbanded Sir Anthony Hooper's independent  
2 Working Group. [You] thought there was a strong risk  
3 that the Post Office would try to suppress [the]  
4 Briefing Report [that we have just read], so [you] wrote  
5 a letter to Paula Vennells making a Freedom of  
6 Information [Act] request ..."

7 Is it right that they replied to the Freedom of  
8 Information Act request saying it was exempt from  
9 disclosure but they were voluntarily going to give you  
10 a copy anyway?

11 **A.** Yes.

12 **Q.** Why did you think that the Post Office would try to  
13 suppress the report?

14 **A.** I thought they'd tried to suppress so much else, that  
15 I couldn't trust them to release that.

16 **Q.** Thank you. That can come down.

17 Now, although there was some desultory  
18 correspondence after this, I think the next major event,  
19 and for you personally -- it was a significant one --  
20 was the dissolution of Parliament on 30 March 2015 and  
21 your cessation on that day as an MP?

22 **A.** Yes.

23 **Q.** After that time, is it fair to say that your role in the  
24 investigation of Horizon and the Post Office's conduct  
25 changed?

113

1 **Q.** You address, finally, your position on the Board of the  
2 Horizon Compensation Advisory Board --

3 **A.** Yes.

4 **Q.** -- and its efforts to secure redress?

5 **A.** Yes.

6 **Q.** I've galloped through those last topics, which cover  
7 a period of nearly eight years, at some pace.  
8 Lord Arbuthnot, is there anything else that you wish to  
9 say at this point concerning what has been described as  
10 a national scandal?

11 **A.** I think that with the help of this Inquiry, we are  
12 moving belatedly to the right place and so I'd like to  
13 say thank you.

14 **MR BEER:** Sir, from my perspective, they are the only  
15 questions that I have for Lord Arbuthnot. There are no  
16 questions from Core Participants.

17 **SIR WYN WILLIAMS:** Right.

18 Well, first of all, Lord Arbuthnot, I assume that  
19 there may be persons in the room who would like to give  
20 you the same sort of appreciation that I precluded them  
21 from doing yesterday in the case of Mr Bates, so I'm  
22 going to ask them to show similar restraint today but  
23 that does not mean that I cannot thank you profusely for  
24 the efforts you have put in and, in particular, your  
25 support for this Inquiry, because it should be known

115

1 **A.** Yes, it is. I was no longer an MP and I was just sort  
2 of getting involved where I could, but that wasn't in  
3 many areas, because of the Group Litigation.

4 **Q.** You were ennobled in October 2015?

5 **A.** Yes.

6 **Q.** I think maybe you're downplaying a little bit your  
7 involvement after that time. You address in the balance  
8 of your witness statement a range of issues that you did  
9 have involvement in, in the eight years since then.

10 **A.** Yes.

11 **Q.** They include -- I'm just going to list them -- the Swift  
12 Review, paragraphs 277 to 279 of your witness statement;  
13 your involvement in and commentary on the Group  
14 Litigation, paragraphs 280 to 308; the emergence of the  
15 Clarke Advice and what you did when the Clarke Advice  
16 did emerge in November 2020, and you told us earlier  
17 that, immediately, you wrote to Lord Callanan, you wrote  
18 to the Speaker and you wrote to the Lord Speaker; and  
19 you give commentary on the governance of Post Office  
20 Limited, governance by the Government, in terms of its  
21 management and oversight of the company that it owns,  
22 and the approach that ought to be taken by Government to  
23 a body which is said to enjoy an arm's length  
24 relationship with the Government?

25 **A.** Yes.

114

1 that you were one of the first people to engage with the  
2 non-statutory review, which was not welcomed by many  
3 people but you thought it appropriate to give it what  
4 assistance you could.

5 So throughout my involvement in this process, I have  
6 had nothing but help from you, for which I thank you  
7 very much.

8 **THE WITNESS:** Well, thank you, sir.

9 **MR BEER:** Sir, thank you. That's the end of  
10 Lord Arbuthnot's evidence. We're going to try something  
11 that we haven't done before, which is if I can ask for  
12 one of the ushers to escort Lord Arbuthnot from the room  
13 and switch remotely to Sir Anthony Hooper.

14 **SIR WYN WILLIAMS:** He's not far away, as I understand it.

15 **MR BEER:** I don't know whether that's true or not.

16 **SIR WYN WILLIAMS:** You don't know where he is, in other  
17 words?

18 **MR BEER:** No, partly, because it's all Mr Blake's area of  
19 responsibility.

20 **SIR WYN WILLIAMS:** Right.

21 **MR BEER:** If we can just keep everyone seated in the room  
22 for a moment, there's about a five-minute turnaround to  
23 get the screen installed, but we're doing it this way  
24 because there's no point in taking our extended break  
25 now, having only sat for 35 minutes.

116

1 **SIR WYN WILLIAMS:** Sure.  
 2 *(Pause in proceedings)*  
 3 **MR BLAKE:** Good afternoon, sir, can you see and hear me?  
 4 I should have said sir and sir. Thank you, sir.  
 5 This afternoon's witness is Sir Anthony Hooper. You  
 6 have granted, Sir Anthony permission to appear remotely  
 7 from outside of this country.  
 8 **SIR WYN WILLIAMS:** Yes, and I facetiously said to Mr Beer  
 9 that Sir Anthony was not too far away when, of course,  
 10 I meant the opposite, he is quite far away.  
 11 **MR BLAKE:** He is, indeed.  
 12 **SIR ANTHONY HOOPER (affirmed)**  
 13 **Questioned by MR BLAKE**  
 14 **MR BLAKE:** Thank you very much, Sir Anthony, you should have  
 15 in front of you, on a screen or beside you, a witness  
 16 statement --  
 17 **A.** I do.  
 18 **Q.** -- that has the unique reference number WITN00430100.  
 19 That is dated 8 March of this year; is that correct?  
 20 **A.** Yes, I have it before me.  
 21 **Q.** Thank you very much. Can I ask you to turn to the fifth  
 22 page, where there is a statement of truth.  
 23 **A.** Yes.  
 24 **Q.** Can you confirm that that is your signature?  
 25 **A.** Yes.

117

1 the whole of my career as a High Court judge and as  
 2 a Court of Appeal judge.  
 3 **Q.** Thank you. You were a High Court judge before you moved  
 4 to the Court of Appeal, hearing both criminal and civil  
 5 proceedings; is that correct?  
 6 **A.** Yes.  
 7 **Q.** Before that, you were a practising barrister?  
 8 **A.** Yes.  
 9 **Q.** You retired from the bench in 2012 after nearly 20 years  
 10 on the bench?  
 11 **A.** Yes.  
 12 **Q.** Now, amongst other things, you are the Deputy Chairman  
 13 of the Ethics Council of Ukraine?  
 14 **A.** I am.  
 15 **Q.** I am going to begin by looking at a document that  
 16 pre-dates your appointment. Can we look at POL00158062,  
 17 please. This is an email chain of 6 September 2013 and,  
 18 if we scroll down to the bottom of this page, we have  
 19 an email exchange between Paula Vennells and the Company  
 20 Secretary, Alwen Lyons. We see there in the third  
 21 paragraph it says:  
 22 "Kay Linnell suggested Anthony Hooper, he does know  
 23 and is interested in being considered, although we do  
 24 not know how much he would cost."  
 25 Do you recall being proposed for the role that you

119

1 **Q.** Can you also confirm that that statement is true to the  
 2 best of your knowledge and belief?  
 3 **A.** Yes. Subject to two small corrections.  
 4 **Q.** Thank you very much, shall we make those corrections  
 5 now. Where are the corrections in your statement?  
 6 **A.** Paragraph 7.  
 7 **Q.** Yes.  
 8 **A.** In the third line from the bottom, I wrote the figure  
 9 25. Since I wrote that statement, I have seen evidence  
 10 which suggests that the figure should be 15.  
 11 **Q.** Thank you very much.  
 12 **A.** In the last sentence I suggest -- I say that I thought  
 13 that none of the mediations had been successful. That  
 14 is true, that is what I thought, but I have again seen  
 15 recently documentary evidence which suggests that some  
 16 had been successful. If so, I knew nothing about it.  
 17 **Q.** Thank you very much. That statement will be published  
 18 on the Inquiry's website in due course and forms part of  
 19 the Inquiry's evidence. I am going to ask you some  
 20 supplementary questions this afternoon.  
 21 You'll be well known to the lawyers in this room as  
 22 a former Court of Appeal judge, and you also sat as part  
 23 of that role in the Court of Appeal Criminal Division;  
 24 is that correct?  
 25 **A.** Yes, for seven or eight years. Well, for many -- for

118

1 subsequently took up by Kay Linnell of the Justice for  
 2 Subpostmasters Alliance?  
 3 **A.** Yes.  
 4 **Q.** Do you recall how it is that you came to be proposed in  
 5 that way?  
 6 **A.** I think I remember that Kay Linnell and I were on  
 7 a professional body together and I think we discussed  
 8 it.  
 9 **Q.** Thank you very much. If we scroll up to the top, we  
 10 have the response from Paula Vennells. She says:  
 11 "Really helpful. From what I have heard about  
 12 Hooper -- he sounds a good prospect, [especially] in  
 13 view of who nominated him, provided we can be reassured  
 14 that he will be even-handed because of that nomination  
 15 provenance."  
 16 If we could look at the bottom email, please, if we  
 17 could scroll down from the bottom of the page to the  
 18 next page, we're here in 6 September 2013, over the  
 19 page, please. There's one other paragraph that I'd like  
 20 to draw to your attention and that's the penultimate  
 21 paragraph. Alwen Lyons says to Paula Vennells:  
 22 "I know Susan [I think that's Susan Crichton, the  
 23 General Counsel] thinks we have made a reasonable start  
 24 but that the wrong chair in the eyes of the JFSA or JA  
 25 [must be James Arbuthnot] would take us backwards, and

120

1 if we are going to transition [Second Sight] out of the  
 2 equation a chair who is strong and will take a decision  
 3 based on facts whether it will be in POL's favour or not  
 4 would be a great asset."

5 Just looking at that paragraph, were you aware, when  
 6 you started, when you were approached for the position,  
 7 about the thinking regarding Second Sight and the  
 8 possibility that they might be transitioned out of the  
 9 equation.

10 **A.** Not at all.

11 **Q.** Would that, in any way, have affected the approach that  
 12 you took to the role?

13 **A.** Well, it would have made the whole mediation process  
 14 undoable, if I can use that word.

15 **Q.** Why was that?

16 **A.** Well, they were a central part of the process.

17 **Q.** Thank you. I'm going to move on to the terms of  
 18 reference for the Working Group that you chaired. Can  
 19 we look at POL00022307, please. Thank you. These are  
 20 the terms of reference for the Working Group. Very  
 21 briefly, can you just introduced the Working Group to  
 22 the Inquiry and just tell us what its purpose was?

23 **A.** Well, the background, of course, was the Second Sight  
 24 Report and earlier investigations and, if you look not  
 25 at this document but the other document which emanated

1 then went to us, and to me, and to the members, but to  
 2 Second Sight, and Second Sight then prepared what was  
 3 ultimately to be called a CRR, a case final -- a case  
 4 report.

5 I can deal with the problems later but that was the  
 6 scheme and then there would be a decision as to whether  
 7 to mediate, the Second Sight would give its view as to  
 8 whether this was suitable for mediation, and then there  
 9 would be a vote on it. And there were only two members  
 10 of the scheme, namely the Post Office and the JFSA, in  
 11 the form of Mr Alan Bates, and so, if the two of them  
 12 couldn't agree, I had to reach a -- I had the deciding  
 13 vote, and we can look at that if you wish to do so, the  
 14 whole problem of the mediation.

15 **Q.** That's a very helpful introduction and, in light of  
 16 that, we can skip through the terms of reference quite  
 17 quickly. We have on our screens at the moment  
 18 paragraphs 1 and 2 which sets out the scope and the  
 19 members. If we scroll down the page, please, we have  
 20 the objectives of the overall scheme.

21 Then, over the page, we have the role of the Working  
 22 Group. At the bottom we have you named as the  
 23 independent chair, and then, over the page, please, as  
 24 you've just said, paragraph 7 sets out the  
 25 decision-making process where members shall attempt to

1 from the Post Office they were saying that they believed  
 2 the Horizon system to be robust, but they were prepared  
 3 to hear from, through this scheme, from subpostmasters,  
 4 who took the view that it was not robust. It had  
 5 serious failings.

6 So it was a scheme designed to see whether or not  
 7 the complaints from many SPMs about the workings of  
 8 Horizon were substantiated or not.

9 **Q.** How would that relate to, for example, mediation?

10 **A.** Well, I think that was the second part of it, is that  
 11 I think the Post Office said, at least, that they wished  
 12 to settle or might wish to settle some of the claims, so  
 13 having gone through the procedure of the scheme, then  
 14 there was an opportunity to mediate. I mean, if I can  
 15 deal with it very, very briefly, we had about 150  
 16 applications, the applicants completed what was called  
 17 a case questionnaire. That was looked at by Second  
 18 Sight to see whether or not it contained sufficient  
 19 information for an investigation, and that sometimes was  
 20 sent back. That was often prepared by legal advisors  
 21 who received some funding for that from the Post Office.

22 If the Second Sight were happy with the case  
 23 questionnaire, we admitted them into the scheme. That  
 24 was followed by the Post Office carrying out  
 25 an investigation and producing a report. That report

1 agree all decisions unanimously but if a decision can't  
 2 be reached then it goes to a vote and you had the  
 3 casting vote in the event of disagreement.

4 There's one paragraph I would like to ask you about  
 5 in respect of the terms of reference and that's  
 6 paragraph 2.4, which appears on the first page.

7 It says at 2.4:

8 "In conducting Working Group business, Post Office  
 9 may act in a manner that promotes its own interests.  
 10 Likewise, JFSA may act in a manner that promotes the  
 11 interests of applicants."

12 Are you able to assist us with how you understood  
 13 that provision?

14 **A.** I don't think I ever did understand it.

15 **Q.** Did you understand the process to be an adversarial  
 16 process, a cooperative process or something else, in  
 17 theory?

18 **A.** In theory a cooperative process.

19 **Q.** So paragraph 2.4 wasn't intended to set up some sort of  
 20 adversarial process with each side pursuing their own  
 21 interests?

22 **A.** No. It may have been explained to me at some stage why  
 23 it was there, but I have no recollection now why it was  
 24 there, and reading it, it doesn't make much sense to me.  
 25 It's pretty obvious that the Post Office are going to

1 look after its own interests and the JFSA would do  
 2 likewise.  
 3 **Q.** We looked -- we started today in September 2013, when  
 4 your name was first mentioned. These terms of  
 5 reference, we'll see, were finalised in March 2014. In  
 6 between your appointment and the finalisation of these  
 7 terms of reference, what was your initial work? What  
 8 did that involve?  
 9 **A.** I don't think my work ever changed. I didn't know that  
 10 I hadn't -- I had forgotten that these were much later,  
 11 but the way I ran the scheme as the Chairman was exactly  
 12 as I have described, and we started working as soon as  
 13 we got knowing in what, October 2013, November.  
 14 **Q.** Thank you very much. I'm going to take you to an email  
 15 exchange in January 2014, so relatively early on in the  
 16 scheme. Can we look at POL00301427, please. This is  
 17 a discussion between lawyers at Cartwright King and Bond  
 18 Dickinson can we please start by looking at page 4 -- 4  
 19 and over to 5.  
 20 It's 16 January 2014. This is a discussion between  
 21 Harry Bowyer at Cartwright King and Andrew Parsons at  
 22 Bond Dickinson and they're referring to various case  
 23 studies. If we scroll down the page we can see the  
 24 beginning of the chain actually starts with an email  
 25 between Andrew Parsons and Martin Smith. Thank you very  
 125

1 I think I said "Well, look, I'll do my best to see  
 2 what -- see if I can give any help in this area", but  
 3 I was really outside the terms of reference of the  
 4 scheme.  
 5 **Q.** Thank you. If we could scroll up, we see a response  
 6 from Harry Bowyer and, in respect of a number of cases,  
 7 he refers to the potential need for an expert to be  
 8 instructed so we see there the case of El Kasaby, and he  
 9 says:  
 10 "Were this is an English case and I was prosecuting  
 11 I would probably be happier with an expert instructed."  
 12 If we scroll down, the case of Kaur, he says:  
 13 "The only way out is an attack on Horizon for which  
 14 we will need to instruct an expert."  
 15 Then Darren King, he says:  
 16 "Again the obvious way out is an attack on Horizon  
 17 and an expert will be necessary."  
 18 Thank you. Can we go on to the email before in the  
 19 chain, that's on page 3, please. There's a response to  
 20 those summaries from Andrew Parsons of Bond Dickinson.  
 21 He says, as follows:  
 22 "Would it be possible to incorporate these comments  
 23 into the case summaries so that this information can be  
 24 passed to Tony Hooper? This will probably need a little  
 25 rewording/bit more contextual information given that  
 127

1 much.  
 2 It seems as though they're preparing case summaries  
 3 for you in January 2014. What was the purpose of those  
 4 case summaries?  
 5 **A.** I think these are quite outside the scheme, if I'm right  
 6 in remembering, and please may I remind you that this  
 7 happened a long time ago. As I remember, there were  
 8 about four cases in which -- which had gone past the  
 9 charge stage and were to go to trial, and I obviously  
 10 was concerned, not really in my position as a Chairman,  
 11 but simply as someone who wanted to make sure that there  
 12 were no wrongful convictions. So I think I asked to  
 13 look at the case summary and I think I suggested that it  
 14 would -- I would hope that these four cases would be  
 15 dropped. That's my memory.  
 16 **Q.** Thank you very much. Could we scroll up, please. That  
 17 is consistent with this email that's currently on  
 18 screen, where Andrew Parsons refers to, for example,  
 19 four cases where:  
 20 "... it would be useful to set out the next steps in  
 21 the investigation process and when we expect a summons  
 22 to be issued."  
 23 **A.** I should add -- I'm sorry to interrupt you -- I should  
 24 add that the JFSA was aware of these prosecutions, and  
 25 was anxious, wanted to know what was going on, and  
 126

1 Tony is not aware of the issue with the Horizon expert  
 2 as yet."  
 3 Now that appears to be a reference to the issues  
 4 that had been identified relating to Gareth Jenkins and  
 5 Mr Clarke's advice of the summer of 2013, which is well  
 6 known to this Inquiry, and that advice raised issues  
 7 with bugs, errors and defects that hadn't been disclosed  
 8 by Mr Jenkins when giving his evidence.  
 9 Were you aware at that stage, so January 2014, of  
 10 any issue that the Post Office that with their Horizon  
 11 expert?  
 12 **A.** To the best of my recollection, I was never aware of the  
 13 issue around Gareth and it wasn't until I read the  
 14 papers sent to me for the purpose of making this witness  
 15 statement that I learnt about him and Simon Clarke's  
 16 advice, for example.  
 17 **Q.** Would you have expected to have been told about that  
 18 issue in the role that you had for the Working Group?  
 19 **A.** Well, I think if there was going to be total  
 20 transparency, I ought to have been told or the Working  
 21 Party ought to have been told that they had abandoned  
 22 a witness who had given evidence or made statements in  
 23 a number of criminal cases and that they had abandoned  
 24 him because he stated something that there were no  
 25 problems with Horizon, which, as I understand it,  
 128



1 reading the papers, was simply not true. So yes,  
 2 I would have liked to have known it. I'm not sure how  
 3 much I could have done with it but would like to have  
 4 known it.

5 **Q.** If you had been told that on 21 January 2014, how would  
 6 it have affected the work that you were undertaking in  
 7 the scheme, for example in relation to convicted  
 8 individuals, subpostmasters, and the mediation of those  
 9 cases?

10 **A.** Yes, it -- I'm sure it would have done. I mean, we did  
 11 look at convicted SPMs and, obviously, I suppose it  
 12 would have helped me to know that. But it would depend  
 13 a bit more on the facts of the individual case.

14 **Q.** Thank you. I'm going to look at some meeting notes.  
 15 Can we start with POL00100335, please. This is a note  
 16 of a meeting of 24 February 2014 with Paula Vennells and  
 17 Chris Aujard of the Post Office. Can you assist us,  
 18 paragraph 1 refers to it being an off-the-record  
 19 meeting. Do you recall the background to this meeting,  
 20 who asked for it and who asked for it to be off the  
 21 record?

22 **A.** No.

23 **Q.** Were those kind of meetings with the Post Office  
 24 typical, expected, or something else, for meetings to be  
 25 one-on-one without, for example, the other members of  
 129

1 Office scandal, came from reading Private Eye, Computer  
 2 Weekly and, obviously, following what Lord Arbuthnot --  
 3 now Lord Arbuthnot -- and his fellow MPs were saying.  
 4 I had very knowledge other than that. So I wasn't in  
 5 a position at the outset to say it would be a small  
 6 amount or a large amount. But when you look at the  
 7 figures involved, the one I mention in my statement,  
 8 60,000, it wasn't likely to be a small payment.

9 **Q.** To what extent were costs matters that were raised by  
 10 the Post Office in conversations you had with them over  
 11 the years, the cost of the scheme?

12 **A.** Well, I -- I'm sure, from time to time, they complained  
 13 about the cost of the scheme, but that wasn't the cause  
 14 of our problems.

15 **Q.** We started today by looking at that reference to Second  
 16 Sight and the possibility of taking them out of the  
 17 equation. By the time of this meeting, the 24 February  
 18 2014, can you assist us with the relationship between  
 19 Second Sight and the Post Office, so far as you saw it?

20 **A.** I don't think it had really -- we're still in 2014. So  
 21 I don't think it had really broken down at this stage.  
 22 It broke down later. I told you how it worked. So the  
 23 Post Office would produce an investigation report, and  
 24 then Second Sight became disenchanted and very critical  
 25 of those investigating reports and criticised them, and  
 131

1 the --

2 **A.** Oh, no, I made it clear to the Working Group that I was,  
 3 from time to time, meeting Paula Vennells.

4 **Q.** Thank you. If we could look at paragraph 2, I'm going  
 5 to just read out some of the second half of that  
 6 paragraph, it says there:  
 7 "It was also explained that the cost of the scheme  
 8 was currently running at around £5 million, and that  
 9 [Second Sight] had estimated the compensation costs  
 10 could be up to £50 million. The scheme had therefore  
 11 moved a long way from its initial positioning as  
 12 something the outcome of which in many cases might be  
 13 an apology and/or a small gratuitous payment."  
 14 What do you recall in relation to the reference  
 15 there to the cost of the scheme being far greater than  
 16 it had been anticipated?

17 **A.** Well, I think, again, from memory, conversations about  
 18 a small gratuitous statement, I think I made it clear  
 19 that it wouldn't -- it would be much more than a small  
 20 gratuitous payment in some cases.

21 **Q.** Did you understand, when you took on the role, that it  
 22 would be something less significant or more significant  
 23 than had been anticipated?

24 **A.** Well, I mean, they were very early days when I took on  
 25 the role, what I knew about the -- we now -- is the Post  
 130

1 then we would send it back to the Post Office to try to  
 2 improve. The other side of the coin was that, when  
 3 Second Sight produced its case review report, the Post  
 4 Office were very critical of the contents of the report.

5 I also was concerned, in the case of both the Post  
 6 Office and the Second Sight Reports, that we weren't  
 7 really looking at the loss. I wanted to follow the  
 8 money. I wanted to know what was the loss and how could  
 9 that loss have occurred. So working, in a sense,  
 10 together, the reports gradually improved. But, as the  
 11 Post Office became opposed, many of the Second Sight  
 12 Reports they thought they were going too far out, they  
 13 criticised the Second Sight. I mean, the one that's  
 14 referred to in the papers is when Second Sight said  
 15 false accounting is a less serious offence than theft,  
 16 and that, I see in all the papers, led to all kinds of  
 17 lawyers being involved but that's exactly what I'd said  
 18 in a meeting.

19 So there were just -- conflicts gradually grew and  
 20 grew and grew and grew, until we were finally closed  
 21 down in March 2015. So I can't tell you at what stage  
 22 it disintegrated it was slow disintegration.

23 **Q.** I'll be taking you through some of the meeting notes to  
 24 see that disintegration. If we could start on this  
 25 document and look down at paragraph 4, please. The  
 132

1 discussion between yourself and Paula Vennells. You say  
2 there -- it says there that:

3 "TH [that's yourself] agreed that [Second Sight]  
4 were very resource challenged, and it would be difficult  
5 for them to meet the current timetable."

6 Can you assist us with the reference to resource  
7 challenges, please?

8 **A.** Well, you will know better than I am. Second Sight were  
9 two people and then they brought in I think one,  
10 possibly more, assistants. We had 150 cases coming  
11 through. Two people who would find it very difficult to  
12 turnaround the case review reports as well as doing  
13 their work on the case questionnaires, in the time that  
14 we wanted them to do it.

15 **Q.** Was that because there were more cases than anticipated?  
16 Or because Second Sight had been instructed with, for  
17 example, too few individuals assisting them?

18 **A.** I can't tell you about the second. I'm sure we had much  
19 more work than was anticipated.

20 **Q.** Then --

21 **A.** They were a very small company and I praised them for  
22 all the work that they did and obviously I worked  
23 closely with them, but there was no way they could keep  
24 up.

25 **Q.** Did the number of cases take you by surprise?

133

1 Office, after an examination of their characters, would  
2 be stealing these sums of money.

3 It didn't make sense, in particular because within  
4 a matter of days of any quote "alleged theft", they had  
5 to balance the books. It just never made sense. I made  
6 that point over and over again.

7 **Q.** Can you assist us with how you made that point? Was it  
8 in discussions, one-to-one discussions, in groups?

9 **A.** Yes, yes. But it was absolutely obvious.

10 **Q.** Who did you communicate that to?

11 **A.** Well, Paula Vennells and -- I've forgotten the  
12 Chairman's second name.

13 **Q.** Was it Alice Perkins?

14 **A.** Yes, that's right. Yeah. But it's why Lord Arbutnot  
15 and the MPs got involved, because it didn't make sense.

16 **Q.** Continuing, sticking with that paragraph:

17 "Some concern was expressed by [Paula Vennells] and  
18 [Chris Aujard] that [Second Sight] were had not in their  
19 correspondence come across as independent, and may be  
20 unduly influenced by the need to satisfy certain MPs."

21 Was that a view that was communicated to you?

22 **A.** Apparently I -- was I at the meeting?

23 **Q.** Yes, this was the meeting with you.

24 **A.** Well, they may have been said. I would have refuted it  
25 completely. They were being very independent, they were

135

1 **A.** Not really, in the sense that I just didn't know.

2 I didn't know how many would come forward.

3 **Q.** The paragraph continues:

4 "That said, [your] view was that Second Sight were  
5 trying to be objective and that they had a difficult  
6 path to tread, in that in order to their job properly  
7 (In [your] view) they would need to express an opinion  
8 on the merits of each claim. In [your] view, this was  
9 something that they found hard to do."

10 Just pausing there, can you assist us with that,  
11 please?

12 **A.** These were very complex and difficult cases that we were  
13 looking at, and that they were looking at and,  
14 throughout the whole of the time of the mediation  
15 scheme, the Post Office were maintaining, over and over  
16 again, that the Horizon system was robust. There was  
17 nothing wrong with it. So when you were producing  
18 a report, when you're looking at an applicant's case,  
19 it's understandable that you would want to say something  
20 about the merits.

21 As I say in my witness statement, I tried to make it  
22 clear to Paula Vennells and to the Chairman that the  
23 Post Office case didn't make sense, and I felt that  
24 throughout, and no doubt Second Sight did. It didn't  
25 make sense that reputable SPMs appointed by the Post

136

1 just coming to conclusions which the Post Office didn't  
2 like.

3 **Q.** Thank you. Paragraph 5, various options were discussed,  
4 and it seems as though the Post Office were suggesting  
5 number of different options: one was terminating the  
6 scheme; (ii) restructuring the scheme; (iii) augmenting  
7 Second Sight's resources, (iv) reworking the process in  
8 the scheme, and streamlining it.

9 Then we move on, it says:

10 "TH's strong contention was that [the Post Office]  
11 should take no precipitous action until such time as  
12 [Second Sight] had produced, say, five reports, and  
13 until we had seen their thematic report. He noted the  
14 adverse PR consequences of terminating the scheme and  
15 also offered to make himself available to talk to the  
16 Board to explain why he considered this approach  
17 appropriate, should that be necessary or desirable."

18 Do you recall saying that? Is that a fair  
19 reflection of the words that you spoke?

20 **A.** Very much so. Very much so I thought it was ridiculous  
21 to close down the scheme at this stage when we were  
22 still at the very early stages. You can see from that  
23 paragraph, Second Sight hadn't produced as many as five  
24 reports. We were waiting for that. So we're very early  
25 days and to close it down would have been ridiculous.

136

1 Q. You are perhaps today more animated than that paragraph  
2 suggests. Is that because the paragraph is downplaying  
3 the words that you spoke, or were you more measured in  
4 your discussions that are expressed?

5 A. I'm not -- I'm not always very -- I'm not always very  
6 measured.

7 Q. Do you think, in that meeting, you spoke as forcefully  
8 as you are speaking today?

9 A. I don't know. I'm prepared to take this strong  
10 contention. That's good enough. I was opposed to  
11 closing the scheme down at that early stage.

12 Q. We note there that you have offered to talk to the board  
13 to explain. Were you ever taken up on that offer? Was  
14 it ever suggested to you that you could speak to the  
15 board?

16 A. No, sadly I wasn't. I think, looking back at it all, it  
17 was a shame I didn't say I'd like to speak to the board.  
18 I'd like to give over to the board -- who I knew was  
19 giving Paula Vennells a hard time -- I'd like to get  
20 over to them the fundamental implausibility of the Post  
21 Office case.

22 Q. You say they were giving Paula Vennells a hard time.  
23 What was your understanding of that?

24 A. Well, I remember her saying, well, the board were  
25 looking for more, you know, were concerned about the

137

1 criminal cases only when [you] made those comments."  
2 What did you have in mind when you made those  
3 comments?

4 A. Both, both civil and criminal. If someone had been  
5 sued, what was the man who went to the High Court and  
6 was ordered to pay £300,000 of costs to the Post Office?  
7 I can't remember the exact case. But all those who had  
8 lost their livelihood, I didn't think it was the result  
9 was going to depend on some minute reading of  
10 a contract.

11 Q. Did you make that clear in that meeting or in other  
12 meetings?

13 A. I made it clear that there would probably have to be  
14 substantial payments. I mean, when one looks at the  
15 newspaper today, we're talking about over 500,000.

16 Q. Was the advice from Bond Dickinson ever shared with you?  
17 Were you ever told that the Post Office expected to pay  
18 far less?

19 A. Well, I've just obviously -- I don't remember.  
20 I probably was told that they had not expected to pay  
21 a lot. I was probably told that. I don't think I saw  
22 any Bond Dickinson advice, and I don't know how -- what  
23 they founded that advice on.

24 Q. I'm going to move to a number of meetings of the Working  
25 Group. Can we start with POL00026656, please. We're

139

1 cost, they didn't think it was going anywhere. Their  
2 view, Horizon was robust, there was nothing wrong with  
3 Horizon. These were all -- these cases had no merit.  
4 I'm putting it in very general terms. That was the  
5 feeling I got from her, whether rightly or wrongly.

6 Q. Were any names mentioned in that regard?

7 A. If they were, I certainly couldn't remember today.

8 Q. Moving on to paragraph 7, it says:  
9 "The quantum of compensation payments was  
10 discussed."  
11 I think this is the paragraph that you were  
12 referring to earlier. It says that you noted that the  
13 applicants' questionnaires often painted a very  
14 distressing picture where there had been a loss of  
15 livelihood and other losses. Your view was that should  
16 the evidence show that the Post Office had not acted  
17 properly, then the amount of compensation payable could  
18 be quite material.  
19 It says:  
20 "[Note that] this contradicts the legal advice  
21 obtained by [the Post Office] from [Bond Dickinson]  
22 which categorically states that the maximum loss [the  
23 Post Office] could expect to pay would be limited to 3  
24 months 'pay' under the [subpostmaster's] contract. It  
25 was not entirely clear whether [you] had in mind

138

1 now on March 2014.  
2 We see there, if we scroll down, that's when the  
3 terms of reference were agreed. Was it likely that  
4 there were several meetings before this meeting or was  
5 this the first official meeting?

6 A. I would have thought there must have been meetings  
7 before March. I'd be very surprised if that was the  
8 first meeting.

9 Q. Can we please turn to page 4, where there is reference  
10 to the Second Sight Report. So you've talked us through  
11 already the process that is involved, where there is  
12 a Post Office investigation report -- first  
13 a questionnaire then a Post Office investigation report,  
14 and then the final report is a Second Sight Report; is  
15 that correct?

16 A. Yes. Bearing in mind that, as we processed --  
17 progressed, the -- we sent the report back to the Post  
18 Office to deal with the complaints made by Second Sight  
19 and we sensed the Second Sight Reports back to Second  
20 Sight to meet the complaints made by the Post Office.  
21 So it wasn't an easy, smooth process.

22 Q. It says there:  
23 "The Working Group had agreed, as a temporary  
24 procedure for the first three or four Second Sight  
25 Reports, that it would review the reports alongside the

140

1 Post Office investigation reports, to satisfy itself  
 2 that the package of information would provide the  
 3 mediator with what was necessary for a successful  
 4 mediation."  
 5 **A.** Yes.  
 6 **Q.** Then it refers there to Second Sight Reports, and these  
 7 are things that we will see over the course of this  
 8 phase of the Inquiry, reference to M numbers. Those are  
 9 the reports that are produced by Second Sight, are they?  
 10 **A.** Yes.  
 11 **Q.** Or the case reference --  
 12 **A.** No, M was the number of the applicant.  
 13 **Q.** Thank you, and --  
 14 **A.** And I should add, I think it is clear somewhere in the  
 15 papers, that it was not our task to look at merits.  
 16 **Q.** It says there that:  
 17 "As a result of a discussion, the Working Group  
 18 greet that the Second Sight Reports need to be  
 19 revisited", and it sets that out there.  
 20 Can you give us your initial impressions of both the  
 21 Second Sight Reports and the Post Office investigation  
 22 reports as to their qualities?  
 23 **A.** I think that's a very hard question. I wanted the  
 24 Second Sight Reports, as it says there, in (a), to  
 25 really concentrate on the losses and the surplus so that  
 141

1 trying to hurry the process up but, being realistic, we  
 2 had to give extensions, both to Post Office and you'll  
 3 see also to Second Sight. I don't --  
 4 **Q.** Absolutely. If we scroll down we can see comments from  
 5 Alan Bates below -- it says "AB", I believe that's Alan  
 6 Bates:  
 7 "... noted the number of extensions being requested  
 8 by Post Office and queried whether that was at odds with  
 9 the approach being taken by professional advisers.  
 10 [Angela van den Bogerd] is looking into how this process  
 11 can be made more efficient, but some cases are taking  
 12 longer to investigate due to the complexity of the  
 13 issues raised."  
 14 What did you recall --  
 15 **A.** No, and the next -- sorry, if you could read the next  
 16 sentence.  
 17 **Q.** It says that you pointed out that the Working Group had  
 18 not declined any extension request made by professional  
 19 advisers, only required that such requests should be put  
 20 to the Working Group to consider before the expiry of  
 21 the deadline and, in that regard, the Post Office and  
 22 professional advisors are being dealt with in an even  
 23 manner. You say that:  
 24 "... the Working Group will expect to see progress  
 25 with Post Office investigations next week."  
 143

1 the mediation -- the mediator could understand what was  
 2 the amount of money involved. So I was stressing that.  
 3 In the case of the Post Office reports I'm sure I was  
 4 critical of those from time to time, as to not being  
 5 clear as to what they were saying. But the Post Office  
 6 reports, essentially, was "Nothing wrong with Horizon,  
 7 this is either theft or carelessness".  
 8 **Q.** Thank you.  
 9 **A.** That was all -- I haven't got one in front of me and  
 10 haven't looked at one for years but my memory of the  
 11 last -- the conclusion was always there's nothing wrong  
 12 with Horizon, Horizon robust, this must be either theft  
 13 or some form of carelessness. Or ...  
 14 **Q.** Can we turn to POL00026643, this is another meeting of  
 15 the Working Group. We're now on 13 March 2014. That's,  
 16 if you look over -- if we turn over the page it has the  
 17 date there. On that page the second page, if we scroll  
 18 down we can see the various cases and their status. It  
 19 seems as though extensions had been granted in a large  
 20 number of cases. And if we scroll, keep on controlling  
 21 down --  
 22 **A.** Let's just stop there for a moment. So that is M005,  
 23 Investigation Report by the Post Office, extension  
 24 granted, because they weren't ready to do it, that was  
 25 not the first extension. We spent a lot of our time  
 142

1 **A.** So that shows you that we were giving extensions to the  
 2 professional advisers who were not keeping to our time  
 3 limits, extensions to the Post Office and extensions to  
 4 Second Sight.  
 5 **Q.** In your view and to your recollection, were they fairly  
 6 equal in terms of it was all parties equally seeking  
 7 extensions? Did one seek more extensions than the  
 8 other? Were you unhappy with one more than the other,  
 9 or were they all equally in the same position?  
 10 **A.** Well, at this stage, you're dealing with the  
 11 investigation reports. As we move through the minutes,  
 12 you'll see that the investigation reports were complete  
 13 and then we were giving extensions to Second Sight.  
 14 I don't think there was any question of favouring one  
 15 rather than the other. We were just doing our best, all  
 16 of us, to try to get these things complete.  
 17 **Q.** Did the complexity take you or others by surprise, the  
 18 length of time that was required?  
 19 **A.** No, I don't think it did. Some of these cases went back  
 20 to 2005/2006. So there was an absence of paperwork  
 21 perhaps on both sides, where SPMs had lost paperwork,  
 22 obviously, had given up. There was difficulties with  
 23 the paperwork in the Post Office. Again, I mean the  
 24 criticism, as we all know, is that when the SPMs  
 25 originally made their complaints years ago about  
 144

1 their -- this sudden loss that appeared, that that  
2 wasn't properly investigated and that's almost certainly  
3 right.

4 But the consequence was that when we came to look at  
5 it there weren't the documents that one might have  
6 expected to be there if they had been properly looked  
7 at.

8 **Q.** So was one of the difficulties and one of the delays  
9 caused by a failing in the original investigation by the  
10 Post Office Investigators, rather than an investigation  
11 during this mediation process?

12 **A.** Well, I know that now, because I've read the judgment of  
13 Mr Justice Fraser, and I know that there were these  
14 PEAKs and KELs available which were not looked at at the  
15 time, error logs. I don't know if I knew that during  
16 this -- during the Mediation Scheme and, obviously, I've  
17 learnt a huge amount following my ending -- ending my  
18 chairmanship.

19 **Q.** If we can scroll over to the next page, page 4, there's  
20 one entry I'd like to ask you about it says there, the  
21 first bullet point:

22 "AH had prepared a note setting out a proposed  
23 structure for Second Sight's reports. The [Working  
24 Group] discussed the note and agreed it was helpful."

25 So it seems as though you produced a note in order  
145

1 general framework paper should cover, so clearly his  
2 faith in [Second Sight] is waning. Whilst we could  
3 capitalise on this Paula is a bit worried [about]  
4 forcing this point too much (ie we should let him draw  
5 his own conclusions, he might start to rebel if he feels  
6 he is being pushed in that direction)."

7 Is that a fair and accurate reflection of your  
8 position, do you think they'll --

9 **A.** Not at all. Not at all. I did not think they were  
10 substandard. I didn't think they were unsubstantiated.  
11 I didn't -- my faith in SS was not waning. I just  
12 thought the reports could be written more clearly.

13 **Q.** Do you recall a discussion with Paula Vennells on those  
14 issues at all?

15 **A.** There probably was.

16 **Q.** Can you assist us with why you consider it may be that  
17 there's a difference in opinion between the two of you  
18 regarding that discussion?

19 **A.** I can't help you. I know there's one meeting where  
20 I expressed -- I'm recorded as having expressed some  
21 concern as the Second Sight going outside the ambit.  
22 I don't remember why I said that. I don't remember what  
23 led me to say that. But I had faith in Second Sight  
24 right until the end. I just wanted them to make reports  
25 that were more easily readable for the mediator.  
147

1 to assist Second Sight with the structure of their  
2 reports?

3 **A.** Yes. It's to be helpful because if a -- I was looking  
4 at it from the point of view of a mediator. A mediator  
5 looking at a report wants to have it in a sort of  
6 structured way, so that he or she can understand what  
7 the issues are. Second Sight were extremely busy, they  
8 were overloaded, and I was doing my bit to try to help  
9 to get their reports in a way that would be easily  
10 understandable and readable by the mediator.

11 **Q.** Thank you. Can we please look at an email that's  
12 UKGI00002221. It's an email from Richard Callard of the  
13 Shareholder Executive, dated 25 March. I'm just going  
14 to read to you that first bit of that first paragraph,  
15 which follows -- it's a read out of a meeting with Paula  
16 Vennells, so between Paula Vennells and the Shareholder  
17 Executive. It says:

18 "Apparently chair Tony Hooper has sent the Second  
19 Sight Reports back to them to be rewritten -- he  
20 considered them to be substandard and unsubstantiated  
21 ..."

22 Then it says:

23 "... (not sure those were his precise words but the  
24 sentiment was certainly there). And Tony Hooper has  
25 also decided to give [Second Sight] his idea of what the  
146

1 **Q.** We saw --

2 **A.** And I wasn't concerned with the merits. Don't forget --  
3 I doubt I would have said "unsubstantiated" because  
4 I wasn't concerned with the merits; I was concerned with  
5 the form.

6 **Q.** We saw at the very beginning of your evidence today that  
7 mention to trying to transition Second Sight out of the  
8 equation. By this stage, so March 2014, were you aware  
9 of the Post Office's intentions towards the continuation  
10 of Second Sight?

11 **A.** No, not at all. No, I didn't know that they -- no.  
12 I mean, I knew that the Post Office were very unhappy  
13 because they didn't like the conclusions that were being  
14 drawn.

15 **Q.** Can we please look at UKGI00019286, please, and it's  
16 letter of 16 April 2014 from Alan Bates to Jo Swinson,  
17 the then Minister for Postal Affairs. He there  
18 expresses some concerns about the progress of the  
19 Initial Case Review and Mediation Scheme. If we perhaps  
20 look at just a few extracts from the third page, we see  
21 there it says:

22 "Yet to date, [the Post Office] has not finalised  
23 a single case report to the point where it is ready for  
24 the [Working Group] to consider its suitability for  
25 being sent to Mediation, and realistically that could  
148

1 still be a considerable time off."

2 To what extent at that stage did you agree with the  
3 words that were said there?

4 **A.** I'm assuming that Alan is right when he says they hadn't  
5 finalised a single case report at that point but they  
6 certainly did in 2014 and 2015, finalise many reports.

7 **Q.** Well, we'll see references in due course to matters  
8 speeding up or progress being made but, at this  
9 particular stage, so April 2014, so the spring of 2014,  
10 did you have concerns about the speed of the Post Office  
11 in producing their case reports?

12 **A.** Yes, of course I did. We all did. That's why we gave  
13 them time limits, we granted extensions, we listened to  
14 their (*unclear*), we put a considerable degree on -- of  
15 pressure on the Post Office to finalise their reports,  
16 as we were to do later, when we put considerable  
17 pressure on Second Sight to finish theirs and, indeed,  
18 as we did with the advisers, we put pressure on them to  
19 bring the material that we needed.

20 **Q.** If we scroll down, please, to the fourth paragraph, he  
21 says there:

22 "To me, and trying to be objective, the main hold up  
23 is with [the Post Office]. At the time of writing, not  
24 one case report by them has been complete and submitted  
25 to Second Sight in a way that Second Sight can complete

149

1 be thought that I agreed with Alan in the sense that  
2 they were deliberately dragging their feet. That was  
3 not the situation. There was too much work.

4 **Q.** Thank you. Can we look at POL00203701, please. This is  
5 an email exchange with Second Sight in April and into  
6 May of that year. If we start with the final page,  
7 please, page 4. You seem there to be mediating between  
8 Second Sight and others in the sense that you say  
9 halfway through your email there that, as you've said  
10 before, if they're dissatisfied with a Post Office  
11 report, then they should explain that in their report  
12 where they're dissatisfied and leave it to the mediator.  
13 Can you assist us there with your concerns?

14 **A.** I think trying to speed things up. The danger was that  
15 we'd just go back and forth. Second Sight would  
16 criticise the Post Office report, then the Post Office  
17 would look at it again and make a change, and then it  
18 would come back again, and I think probably what I was  
19 trying to do there was move things on by saying, look,  
20 if you're not happy with it, explain why you're not  
21 happy with it, and then leave it to the mediator.  
22 I think I was trying to speed things up. That's,  
23 I believe, what I was trying to do.

24 **Q.** If we scroll up we see a lengthy response from Ron  
25 Warmington of Second Sight, and he explains, for

151

1 its own Case Review Report. As [he] mentioned earlier,  
2 [Post Office] first became aware of the details ... from  
3 September 2013, but [they] are constantly seeking  
4 extension", et cetera.

5 Then, if we scroll down to the penultimate  
6 paragraph, he says:

7 "At a recent [Working Group] meeting chaired by  
8 [you], 2 case reports that [the Post Office] were  
9 preparing for submission to Second Sight, were analysed  
10 in order to examine whether the format of the report met  
11 the requirements ... During the in-depth discussion and  
12 analysis of the data and evidence, it was abundantly  
13 clear to me, and I think many others at the table, that  
14 if any investigation had taken part at the actual time  
15 of the incidents then the outcome would have been very  
16 different in certainly one, if not both cases."

17 Was that a view that you shared at that point?

18 **A.** I can't remember about those two cases but it's  
19 certainly a view I shared. But I'd like just to go back  
20 to what you quote before. I did not feel, do not feel,  
21 that the Post Office were dragging their feet in  
22 preparing the reports. They were very difficult to  
23 prepare. I often talked to Angela van den Bogerd and  
24 others about the complexities, I tried to help, to see  
25 how we could speed things up, but I would not like it to

150

1 example, he gives a couple of different case references  
2 on page 2. If we stop there, M054, if we look at the  
3 very bottom of this page, he says that in that case --  
4 if we scroll down, please, it's the very end of the page  
5 now, so if we could scroll down a little more:

6 "This regrettable delay is a direct consequence of  
7 [the Post Office] failing to conduct a proper  
8 investigation, either at the time, or when preparing its  
9 [investigation report]."

10 Then he refers to another one, M127, where the  
11 report contains a lot of brand new material and much of  
12 it poses new questions:

13 "... some of which, as it happens, we've already put  
14 to the applicant, but there may need to be other  
15 questions that will need to be answered."

16 Can you give us a sense of the various frustrations  
17 on all sides with regards to the scheme and the speed at  
18 which things were being actioned?

19 **A.** Yes, of course.

20 **Q.** If we look at the first page, you say to --

21 **A.** I mean, that page is just typical of the debates we were  
22 having, and of the complications of trying to sort  
23 things out.

24 **Q.** I think if we scroll to the first page you say that  
25 you'd like to draw that specific email to the attention

152

1 of the Working Group.

2 **A.** Yes, I -- yes, that's right. Didn't I put a copy of the  
3 email before the Working Group so that we could discuss  
4 it?

5 **Q.** Absolutely and, in fact, I'll take you to the minutes of  
6 that Working Group, and that will be the final document  
7 I take you to before we take our mid-afternoon break.  
8 Can we just look at POL00043627, please. There are  
9 a number of matters raised at this particular meeting in  
10 May 2014. It begins by discussing the draft part one  
11 report that had been tabled by Second Sight.

12 You can see there a number of generic points made by  
13 the Post Office, they say:

14 "The starting point for the report did not ring true  
15 as a draft was set up as a supporting document for the  
16 thematic report and that was not the purpose of the  
17 document.

18 "Opinions should be taken out of this document and  
19 moved into the Second Sight thematic report."

20 The penultimate one says:

21 "There are sections of analysis and conjecture in  
22 the document which need to be moved to the part 2  
23 report, where again they will need to be supported by  
24 evidence."

25 Can you give us a sense of the strength of the Post  
153

1 know it wasn't robust.

2 **Q.** We can very quickly look at the second item agenda over  
3 the page, which is a case M022. It says there that:

4 "The Chair opened the discussion by inviting the  
5 Working Group to comment on the report's style only and  
6 not on content."

7 Below that it sets out various concerns that the  
8 Post Office raised about that particular case study.  
9 They say:

10 "The report was not of satisfactory quality."  
11 If we scroll down they say:

12 "Neutral language needs to be used throughout the  
13 whole document.

14 "The document needs to clearly balance the evidence  
15 used without any counterpoint brought forward -- this is  
16 often absent at the moment."

17 If we scroll down over the page, they say:

18 "Scope of the report goes beyond Second Sight's area  
19 of expertise (for example commenting on whether a case  
20 was suitable for police investigation)."

21 Is this is an example, as you've just said, of  
22 a mindset that is -- assumes that there is no problem  
23 with the system and, therefore, finds fault in the  
24 underlying reports, or is there something else.

25 **A.** No, that's my view. If you take the view that there is  
155

1 Office's feeling towards that first draft report by  
2 Second Sight?

3 **A.** It's accurately reflected there. They were unhappy with  
4 it.

5 **Q.** What was your view?

6 **A.** I was an independent chairman, I was not in a position  
7 to make an assessment. I was trying to be independent.  
8 So I would want to listen to what Second Sight said  
9 about it.

10 **Q.** Can you give us an idea of the atmosphere within the  
11 meetings themselves by this stage and was there a sense  
12 of --

13 **A.** No, I think generally civilised, generally. You know,  
14 there was no shouting or arguing. People were making  
15 their points. But, you know, we look at all this stuff  
16 in great detail but the Post Office would not budge from  
17 their position that the Horizon system was robust. If  
18 you take that as your starting point, that there is  
19 nothing wrong with Horizon, then anything which tends to  
20 criticise the way that the Post Office handled  
21 a particular case or how -- the evidence supporting  
22 a particular applicant's case, it's going to be  
23 criticised because it's got to be wrong. Why has it got  
24 to be wrong? Because, in the view of the Post Office,  
25 there's nothing wrong. The system is robust. We now  
154

1 nothing wrong with Horizon, then any criticisms of the  
2 way that an applicant's case was handled are likely to  
3 be not met with favour by the Post Office. What was not  
4 happening, as I make clear in my report, as I understand  
5 it, there was never an in-depth investigation of  
6 Horizon. What we were doing here was looking at  
7 individual cases. But because of the age of the cases,  
8 sometimes, because of the many complications, you  
9 weren't going to find the smoking gun in any individual  
10 case. That was the problem throughout.

11 **Q.** Very briefly, just before per we break, if we scroll  
12 down, we can see there, as you've said, the  
13 correspondence between yourself and Second Sight is  
14 referred to there.

15 **A.** Right.

16 **Q.** So that email chain --

17 **A.** It's exactly the other side of the picture.

18 **Q.** Yes. If we scroll down, you also addressed at that  
19 meeting page 4, the bottom of page 4, the correspondence  
20 between Alan Bates and the Minister, which we've just  
21 been looking at as well.

22 The Post Office there seemed to raise a number of  
23 concerns about that letter, if we scroll down, they felt  
24 that he had broken the confidentiality, factual  
25 inaccuracies, et cetera, and then Mr Bates comments on  
156

1 that below.  
 2 Second Sight comment below that. It says:  
 3 "In closing the Chair commented that he felt that  
 4 Alan had not been fair to Post Office over their  
 5 investigation reports and he would write to that  
 6 effect."  
 7 Can you assist us with that? I mean --  
 8 **A.** I did. I felt that and I told Alan that I thought that  
 9 he'd been a little unfair, not about -- we're not  
 10 talking here about the merits, we're talking about  
 11 procedure. I thought it was not fair to say that the  
 12 Post Office were unduly delaying their investigation  
 13 reports. I felt the Post Office were seeking, insofar  
 14 as each individual report is concerned, were seeking to  
 15 deal with it in the time that they needed. So I didn't  
 16 think Alan had been fair to them and I said that.  
 17 **Q.** There are --  
 18 **A.** I was right because, later on, the Second Sight had  
 19 huge -- we had to grant them numerous extensions  
 20 because, again, the amount of work that was involved but  
 21 this is nothing to do with the merits. This is all to  
 22 do with procedure.  
 23 **Q.** With regards to procedure, were the various positions  
 24 quite entrenched by that stage, or were --  
 25 **A.** Well, I spent my time over the, what, 18 months I was  
 157

1 an entrenched view as to the robustness of Horizon and,  
 2 by the last day of the scheme, that view had simply  
 3 remained unchanged.  
 4 **A.** Absolutely.  
 5 **SIR WYN WILLIAMS:** Yeah, okay.  
 6 **MR BLAKE:** Thank you very much, sir.  
 7 Can we take our mid-afternoon break now and come  
 8 back at 3.45, please.  
 9 **SIR WYN WILLIAMS:** Yes, of course, thank you.  
 10 **MR BLAKE:** Thank you very much.  
 11 (3.34 pm)  
 12 (A short break)  
 13 (3.45 pm)  
 14 **MR BLAKE:** Sir, can you see and hear me?  
 15 **THE WITNESS:** I'd like to add something to my last answer in  
 16 reply to the Chairman's comment.  
 17 That approach affects everything. So, even if the  
 18 Post Office were to accept that the investigation could  
 19 have been done better back in 2006 or '10, when it was  
 20 done, it made no difference because Horizon was right.  
 21 So, even if they made the investigation, Horizon was  
 22 perfect, so it would have made no difference. And that  
 23 spills over into the criminal cases, which, as we know  
 24 from the decision of the Court of Appeal Criminal  
 25 Division, where prosecutors would make it a condition to  
 159

1 chair, trying to resolve these issues as well as  
 2 I possibly could.  
 3 **Q.** What did you see as the barriers to resolving those  
 4 problems or the principal barrier to resolving those  
 5 problems?  
 6 **A.** The barrier was that the Post Office would not accept  
 7 any problems with Horizon, therefore nothing could  
 8 really happen. I mean we could look at an individual  
 9 case and say, well, maybe there ought to be some  
 10 compensation or a mediator could say that but, if you  
 11 don't accept any problems at all with Horizon, then how  
 12 can you resolve these individual cases?  
 13 Now it's not for me to say when Post Office realised  
 14 that there were, I read lots about it, at what stage  
 15 they knew what and how much they knew. That's nothing  
 16 to do with me. All I'm saying is that this Mediation  
 17 Scheme couldn't ultimately succeed because the Post  
 18 Office were saying there was no problem with Horizon.  
 19 And now we know, as I quote in my statement, the  
 20 admissions, for example, before the Court of Appeal  
 21 Criminal Division where Mr Altman, now King's Counsel,  
 22 admitted gross failures in the Horizon system. None of  
 23 that came out during the Mediation Scheme.  
 24 **SIR WYN WILLIAMS:** The impression I get, Sir Anthony, is  
 25 that, on day 1, shall we say, the Post Office had  
 158

1 accepting a plea of false accounting, that there was no  
 2 criticism of the Post Office? Why? Because the Horizon  
 3 system was perfect. Thank you.  
 4 **Q.** Thank you very much. In light of the evidence you have  
 5 already given this afternoon I'm going to speed through  
 6 very quickly the rest of the chronology of the Working  
 7 Group, so we can move on to some small issues of  
 8 differences in legal opinions.  
 9 I'm going to start this afternoon by looking at  
 10 POL -- actually, let's start with UKGI00002385, please.  
 11 Very briefly look at an email from June 2014. This is  
 12 an email, internal email in the Shareholder Executive,  
 13 if we could scroll down. It discusses a board paper a  
 14 Post Office Board paper. I don't need to take you to  
 15 that board paper, for those that are keeping a note the  
 16 reference of the board paper itself is POL00205354.  
 17 Mr Batten says there:  
 18 "The paper references 'progress is picking up  
 19 pace'.  
 20 That's, I think, the evidence you've previously  
 21 given, that things sped up as time went on. He says:  
 22 "For POL [the Post Office] this is a catalyst for  
 23 change, but it presents a difficulty in terms of  
 24 handling (ie why is [the Post Office] changing now that  
 25 progress is finally being made, what are they hiding?)  
 160



1 It also presumably makes it harder to secure  
2 Anthony Hooper's support for change -- particularly, as  
3 he suggests, 18 months is not unreasonable."

4 Pausing there, were you aware, as at June 2014, of  
5 a plan to change the process or commitment by the Post  
6 Office or the Shareholder Executive to then change the  
7 process?

8 **A.** No, you've shown me a discussion I had with Paula  
9 Vennells in which mention of change was made but  
10 I didn't know that it went any further than  
11 a discussion. I certainly didn't know that any sort of  
12 tentative decisions were being made to make changes.

13 **Q.** Thank you. That continues to say:

14 "Separately, November 2015 is after the election,  
15 which is enticing to ministers who can point to  
16 an established process between now and the election."

17 Were you aware of any political dimensions to the  
18 continuation of the scheme?

19 **A.** Certainly not.

20 **Q.** Can we now, please, turn to POL00148863. We're now in  
21 August 2014. POL00148863. Thank you very much.  
22 I believe it should be 8863, POL00148863. Thank you  
23 very much.

24 This is an email from Rodric Williams to you --  
25 a Post Office lawyer to you, and it relates to the final  
161

1 report setting out the Post Office's position on the  
2 report."

3 It goes over the page to say:

4 "I therefore ask your consent to defer release of  
5 the report until next Thursday's Working Group call so  
6 that this resolution can be discussed and voted upon,  
7 which will provide Post Office with the opportunity to  
8 explain its position and, if appropriate, explore with  
9 the Working Group any potential alternatives."

10 Can you assist us with what you recall of this  
11 issue?

12 **A.** No. I think there's a minute which we can look at,  
13 where this was discussed. But ...

14 **Q.** Would you have seen it as within your remit as chair of  
15 that group to delay Second Sight's part 2 report?

16 **A.** Well, if I'm asked by the Post Office to delay it until  
17 a few days later, the Working Group, of course I would  
18 agree to that.

19 **Q.** I'll take you to a document that you may be referring  
20 to, it's POL00207914. It's an email that refers to what  
21 ultimately happened and it's the second substantive  
22 paragraph. If we can scroll down please, it says:

23 "Sir Anthony Hooper, despite our attempts to delay  
24 the issue of the report until the Working Group had  
25 an opportunity to discuss it (with a view to improving  
163

1 version of Second Sight's part two report, and he says  
2 there:

3 "Further to my email yesterday, we have now received  
4 the 'final' version of Second Sight's part 2 Report."

5 He says:

6 "The Report still includes matters that are beyond  
7 the scheme's scope", et cetera.

8 So Second Sight had produced a first version which  
9 had then be subject to feedback from the Post Office,  
10 and they have now produced what is said to be the final  
11 version. If we scroll down to the bottom of this page,  
12 please, he says as follows:

13 "I understand that the Working Group's Terms of  
14 Reference provide that where the Working Group cannot  
15 reach a unanimous decision, the Chair may define the  
16 point of disagreement and call a vote. As a unanimous  
17 decision over the report appears unlikely, Post Office  
18 respectfully requests that the Chair call for a vote on  
19 Thursday's call on the following resolution:

20 "1. That the report not be released as currently  
21 drafted;

22 "2. Alternatively, that if the report is to be  
23 released as currently drafted, that the Working Group  
24 notes Post Office will, as a party not a member of the  
25 Working Group, write to each applicant who receives the  
162

1 it), he decided that the report should be issued to  
2 those applicants and advisers whose cases, in the  
3 opinion of Second Sight are referenced to the content of  
4 the report. Consequently the report was sent to nine  
5 applicants", et cetera.

6 It says there that the Post Office wrote to the  
7 recipients of the report to advise them that the report  
8 was not endorsed by the Post Office.

9 **A.** But was the matter discussed at a Working Group?

10 **Q.** It doesn't seem to be, it's certainly not suggested in  
11 that email. Don't have --

12 **A.** I'm surprised it wasn't discussed at a Working Group  
13 before I took that decision but there it is. I may have  
14 done.

15 **Q.** Is there anything that you recall of that particular  
16 issue?

17 **A.** Well, I obviously recall the issue when I read about it.  
18 It was a very hot topic. But as you can see, I think,  
19 whether we had a vote or not, I simply can't remember.  
20 But I definitely made the decision that is outlined  
21 there.

22 **Q.** Do you recall why you made that decision?

23 **A.** Well, I wasn't to do with the merits. I was concerned  
24 with procedure. I was concerned that Second Sight, they  
25 produced their report, and that report goes out.  
164

1 Q. Did you have any concerns about the delay of the report  
2 or a delay to the report?

3 A. I probably did. But I'd like -- I would obviously like  
4 low look at a minute, if there is one, in which this was  
5 discussed, and I can't remember.

6 Q. Can we please turn to UKGI00000032. We're moving  
7 forward now to March 2015, and the end of --

8 A. The end, yes.

9 Q. -- the Working Group. This is a ministerial submission  
10 to Jo Swinson, the then Minister. I'm just going to  
11 read to you a few extracts from this submission. If we  
12 scroll down, please, to the summary at 2 and 3, it says:

13 "It is becoming increasingly apparent that the  
14 scheme is not working in the way it was intended ..."

15 A. Sorry, who is this from?

16 Q. From Laura Thompson, who is, I presume, an official  
17 within the department.

18 A. Getting her information from the Post Office?

19 Q. Well, that's --

20 A. I presume. Not for --

21 Q. That's something I will ask you about.

22 A. Yes, all right.

23 Q. If we look at paragraph 2, the summary there that's  
24 presented to the Minister, is:

25 "It is becoming increasingly apparent that the  
165

1 subpostmasters' contracts and [the Post Office's]  
2 prosecutions policy, rather than focusing their efforts  
3 on the individual cases they were appointed to  
4 investigate."

5 If we scroll over the page, there are two more  
6 paragraphs I will read, paragraph 4 and paragraph 5.  
7 Paragraph 4 says:

8 "From [the Post Office's] point of view, the  
9 investigation and Mediation Scheme has demonstrate that  
10 there is no evidence of systemic flaws in Horizon and no  
11 evidence that any of the convictions are unsafe. Where  
12 [the Post Office] may have fallen down in individual  
13 cases is on training and support, and they are  
14 addressing those issues which have not already been  
15 picked up."

16 Paragraph 5:

17 "[The Post Office's] board have agreed that,  
18 effective from next week, they will announce that [the  
19 Post Office] will adopt a presumption of mediating all  
20 non-criminal cases remaining in the scheme (except in  
21 some very exceptional circumstances). This will render  
22 redundant the role of the Working Group so it will be  
23 closed."

24 Looking at what I've just read, is that submission  
25 to the Minister accurate or does it accurately reflect  
167

1 scheme is not working in the way it was intended and is  
2 taking too long to progress to mediation for applicants.  
3 [The Post Office] report (confidentially) that JFSA are  
4 refusing to engage in the Working Group, certain MPs  
5 have publicly withdrawn their support ... and both JFSA  
6 and the MPs supporting them are increasingly critical of  
7 [the Post Office]."

8 A. Can we take that please line by line?

9 Q. Because, of the time, I'd like to read you a few  
10 paragraphs and then you can take it --

11 A. As long as you don't think I'm accepting that, what's  
12 said there.

13 Q. Absolutely not. In fact, the question I'm going to ask  
14 you at the end is the extent to which you accept that  
15 it's accurate or not.

16 So perhaps we'll look at a few paragraphs, and then  
17 we can revisit this particular page. Paragraph 3 says:

18 "Whilst the delays are due in some part to the  
19 complexity of the cases and the depth of the  
20 investigations by both [the Post Office] and Second  
21 Sight, they also arise from pressure from JFSA, MPs and  
22 Second Sight to widen the scope of the scheme given that  
23 there has been no 'smoking gun' found to date on  
24 Horizon. Second Sight are attempting to explore issues  
25 outside their remit (or indeed expertise), such as  
166

1 the position, so far as you saw it, at that time?

2 A. Could you go back to paragraph 2, please?

3 Q. Absolutely.

4 A. The scheme was working as it was intended. It was  
5 taking too long but we were dealing with the problem,  
6 putting pressure on both Second Sight and the Post  
7 Office to produce the reports that they had to produce.  
8 It is not true that JFSA were refusing to engage in the  
9 Working Group. What is true is that there was an issue  
10 over mediation. The scheme envisaged that Second Sight  
11 would produce their report, and then a decision would be  
12 made by the Working Group as to whether it was suitable  
13 for mediation.

14 I took the view, originally, that, because the Post  
15 Office and the JFSA couldn't agree as members, that  
16 I would opt for mediation if I thought that there was  
17 a reasonable chance that mediation would succeed.

18 Alan Bates and JFSA persuaded me that that was  
19 a wrong approach. I looked more carefully at the  
20 origins of the scheme and what MPs had been told, and  
21 I changed my test to a much wider test.

22 JFSA refused to take part in the discussions that  
23 the rules required us to have as to whether or not there  
24 should be mediation. So, effectively, they would absent  
25 themselves from the room, which put a lot of pressure on  
168

1 me because I had to try to work out on my own without  
2 any submissions from them as to whether it was  
3 appropriate to go to mediation. That, as I recollect,  
4 is the only time in which they refused to engage, so it  
5 was a pretty minor matter and it was being resolved by  
6 me exercising a casting vote, and I think towards the  
7 end we were more often than not, I was deciding that it  
8 should go to mediation and give my written reasons for  
9 doing.

10 It's true to say, I'm sure, that MPs had publicly  
11 withdrawn their support and it's true to say that they  
12 were increasingly critical of POL. I accept that.

13 Paragraph 3, I find that difficult because, if  
14 you're looking at an individual case, then it's  
15 inevitable that you're going to look slightly wider.  
16 But you see there, there has been no smoking gun. So  
17 there was nothing that was strong enough to show that,  
18 as we now know, that Horizon was not a robust system and  
19 had many bugs and errors and allowed Fujitsu even to  
20 change things, change the entries. So I have some  
21 sympathy for Second Sight for widening it but that was  
22 a matter that could be controlled by me if I felt that  
23 they were going too far.

24 Paragraph 4 -- there you are -- "demonstrated ... no  
25 evidence of systemic flaws in Horizon". Therefore

169

1 Horizon?

2 **A.** Yes. I mean, I think it was, because, if you look at  
3 the opening lines of the document, it was: the Post  
4 Office believe it's robust and there's nothing wrong  
5 with it; the postmasters don't agree; this scheme may  
6 help to find out which is right. But if you think of  
7 the amount of time it took before Mr Justice Fraser gave  
8 his last of his decisions, it's years later, 2019, after  
9 weeks of evidence.

10 **Q.** I'm going to move on now to some differences in opinion  
11 between yourself and the Post Office and their legal  
12 advisers. First, I want to deal with some initial  
13 observations on the scheme. Can we look at POL00116136.  
14 I'm afraid we're going to have to take these rather  
15 quickly.

16 **A.** Yes, too.

17 **Q.** If we look at -- over the page, number 4. Paragraph 4.  
18 This is prior to your appointment, so it's a meeting  
19 between yourself with Paula Vennells and there's  
20 discussion of your various attributes for the role. At  
21 (c) it says you suggested quite firmly that it might be  
22 more appropriate for cases that have been through the  
23 courts to be referred to the Criminal Cases Review  
24 Commission rather than go through the Mediation Scheme.  
25 Very briefly, what was your view as far as that was

171

1 nothing, all convictions are safe, all of which we know  
2 now is to be completely rubbish, and the rest is  
3 announcing the closure. I was -- yes, go on.

4 **Q.** You say that from what you know now. From what you knew  
5 then and the various reports that you had seen, do you  
6 think it was fair and accurate to say that the  
7 investigation and Mediation Scheme had demonstrated that  
8 there is no evidence of systemic flaws in Horizon and no  
9 evidence that any of the convictions are unsafe?

10 **A.** Well, that's a difficult question. Number 1, the Post  
11 Office was saying Horizon -- there is no systemic flaws  
12 in Horizon. Therefore, it follows that there is no  
13 evidence that any of the convictions are unsafe. That's  
14 the Post Office view. It is right to say that we did  
15 not find the smoking gun. It was found by Mr Justice  
16 Fraser.

17 It was Mr Justice Fraser that looked at this in huge  
18 detail with Alan Bates, of course, being the lead  
19 claimant in the case. But it's right to say nothing  
20 came out which showed that -- we were looking at  
21 individual cases, so it wouldn't have happened. What we  
22 now know is that it was only by going right back into  
23 original data, error logs, et cetera.

24 **Q.** Was it the purpose of your schemes to identify whether  
25 there was or wasn't evidence of systemic flaws in

170

1 concerned?

2 **A.** Well, I had not been involved in these cases at all.  
3 I've told you already what my state of knowledge was,  
4 and I thought at that time that probably convictions  
5 should go separate way. I changed my mind, we looked at  
6 many -- a number of conviction cases. So it's a sort of  
7 very first, if you like, view of something before  
8 I really got in to understand what was happening, and  
9 I didn't stick to that decision, and nor did the Post  
10 Office's.

11 **Q.** (e):

12 "In the context of a discussion on the outcomes from  
13 the mediation process, he observed that 'sorry was  
14 a good word!' -- we should be prepared to apologise to  
15 subpostmasters where appropriate."

16 Did you continue to hold that view?

17 **A.** I do. I've always held that view. I've held that view  
18 in so many different cases involving particularly  
19 governments who will not apologise at an early stage.  
20 Instead of saying, "I'm sorry, something went wrong",  
21 they continue to fight it out, often at huge cost to  
22 everybody.

23 **Q.** Can we look at POL00066817, please. It's an email from  
24 Martin Smith to Susan Crichton, to the General Counsel  
25 Post Office, and it refers to the note we've just looked

172

1 at. In the second paragraph it assesses --  
2 paragraph 4(c) that we've just been mentioning and he  
3 says there:

4 "I do not get the feeling that he [that's you] are  
5 suggesting that (all of) the criminal cases should be  
6 sent to the CCRC rather than going through the review  
7 process which we are presently conducting. I think his  
8 suggestion is very much in line with the concerns  
9 expressed by Brian Altman QC about the dangers of  
10 allowing convicted people into the Mediation Scheme.  
11 Brian's view was that convicted people should instead  
12 exhaust such rights of appeal that are open to them."

13 Was that the reason that you took that view: that  
14 convicted people should exhaust the Court of Appeal --

15 **A.** I didn't take the view. I changed my view.

16 **Q.** Was that your initial view though? Was it along the  
17 same lines as that expressed by Mr Altman or a different  
18 reason?

19 **A.** My initial view was expressed at a meeting when I hadn't  
20 been appointed and knew very little about it.

21 **Q.** If we look down, please, it then addresses the issue of  
22 the apology, and it says there:

23 "Brian expressed a concern that the slightest  
24 apology to a convicted person or the payment of  
25 compensation could indeed give rise to an appeal. He

173

1 that, if someone had been wrongly convicted, that could  
2 be dealt with.

3 **Q.** I'm going to --

4 **A.** I wasn't worried about all the sort of legalese as to  
5 how the Court of Appeal would treat an apology. I'm  
6 used to many cases where prosecutors have said, "We do  
7 not resist the appeal against conviction", I'm used to  
8 that. I've sat on many cases where prosecutors have  
9 said, "We don't resist the appeal", and I would give  
10 a short judgment explaining why I was -- the prosecutor  
11 was right to take that view.

12 **Q.** I'm going to move on to another difference of opinion.  
13 That relates to disclosure in ongoing prosecutions. Can  
14 we please look at POL00125071, please. It's the second  
15 page, please. It's an email from Andrew Parsons to  
16 Martin Smith, copied in to Jarnail Singh, and he says as  
17 follows:

18 "Are you generally reviewing these applications to  
19 see if they give rise to any disclosable material  
20 (I expect so -- but best to double check!)? This point  
21 was raised by Tony Hooper at our meeting last Friday.  
22 He also thought that it was 'obvious' that as part of  
23 its disclosure duties, Post Office should be disclosing  
24 anonymised details of each application in prosecutions  
25 where Horizon is being questioned. In response, I sat

175

1 was concerned that Misra [Seema Misra] would use the  
2 Mediation Scheme to obtain some sort of concession to  
3 allow her to appeal.

4 "I note from paragraph 4(e) Sir Anthony Hooper  
5 observed that "sorry was a good word". If he intends to  
6 use it in relation to any convicted person allowed into  
7 the Mediation Scheme, the possibility of a successful  
8 appeal may well be increased."

9 Can you assist us with your views as to what is  
10 written there?

11 **A.** My view, and by at least the middle of 2014, was there  
12 was likely to have been serious miscarriages of justice.  
13 My initial view that it was very unlikely that these  
14 people had stolen money remained. I wanted people who  
15 were probably already left prison, people who had  
16 suffered so badly, I wanted everyone to get on, identify  
17 the miscarriages of justice by one route or another, get  
18 their convictions quashed. That's what I wanted.

19 **Q.** And did you see any concern with giving an apology that  
20 it might give rides to an appeal?

21 **A.** You'd apologise because I thought it was all wrong and,  
22 therefore, there should be an appeal and the conviction  
23 should be quashed. I didn't want the delay. We're all  
24 aware of the terrible suffering of those who have been  
25 convicted. My desire was to try to get things going so

174

1 squarely on the fence and said that the applications  
2 would be reviewed and proper disclosures made as  
3 required."

4 Does that accurately reflect the advice you gave?

5 **A.** Yes. Let me explain what I was saying there. One of  
6 the arguments that the Post Office used in many of their  
7 investigating reports as I remember, is that there is  
8 nothing wrong with Horizon and, if there was, we'd have  
9 had lots of complaints. What I was saying is the very  
10 fact that such a significant number of SPMs had raised  
11 the issue of the robustness, the accuracy, et cetera, of  
12 Horizon, was in itself a -- something that ought to be  
13 disclosed. You couldn't keep on saying, "It's robust",  
14 whereas there were probably hundreds of people who had  
15 accounts of it not being robust. There's subpostmasters  
16 saying "I had £2,000 on the screen, it disappeared.  
17 I had 2,000, it doubled to 4,000". There were lots of  
18 those cases.

19 Now, for the Post Office, that was easy. All they  
20 said was "Horizon is robust, those people are wrong".  
21 One of them is a trainer, I think, called Latiff(?), as  
22 I subsequently learnt. But what I wanted to say was  
23 that there were all these complaints. They can't all be  
24 absolutely without merit. There must be some problem  
25 with Horizon. If that be right, then applicants should

176

1 know. That's what I was trying to say.  
 2 And then I'm aware that there was lots of talk about  
 3 how I was not following the Attorney General's  
 4 Guidelines and this and that but, by all means, show  
 5 them to me but I was actually trying to get -- make sure  
 6 that -- the problem that I always thought was there,  
 7 although I retained my independence as a mediator, as  
 8 the Chairman, I always thought "Please, let's get on and  
 9 solve these cases", because I was very fearful.  
 10 We can talk about the whole issue of pleading guilty  
 11 to false accounting, if you want me ask me questions  
 12 about that and my views on that.

13 **Q.** I will very briefly. Let's deal with that second point  
 14 there that Second Sight believed they had lots of  
 15 information that might be relevant and there's  
 16 a discussion there of your advice about them not being  
 17 under the Post Office's control for Second Sight --  
 18 **A.** Yes, well, it turned out I was wrong there. Simon  
 19 Clarke tells me, I read his -- I didn't read it at the  
 20 time but I've read it since -- that POL had a duty to  
 21 make enquiries of third parties. All I was interested  
 22 in was getting the information out and, if the Second  
 23 Sight did it, they'd do it quickly.  
 24 **Q.** Can we please quickly look at POL00407733, and that's  
 25 the Simon Clarke comments that you've just been

177

1 disclosed.  
 2 **Q.** Was it your view that the way to do that or a way to do  
 3 that was by disclosing anonymised case studies that you  
 4 had seen that questioned the reliability of Horizon?  
 5 **A.** That's what I thought. Rightly or wrongly, that's what  
 6 I thought.  
 7 **Q.** Can we please look at POL00146859.  
 8 **A.** I'm not saying that Simon Clarke is wrong and all the  
 9 law stuff, but I was trying to get this thing going.  
 10 There was -- we now know that my intuition that there  
 11 were serious miscarriages of justice was right. We now  
 12 know that. At that time, we didn't know -- but I wanted  
 13 to do the best I could so that people would not die or  
 14 go bankrupt or whatever it might be, that their  
 15 convictions would be looked at. In fact, they weren't  
 16 looked at until when, 20 -- I can't remember the date --  
 17 '20?  
 18 **Q.** Can we scroll down on this page, please. Again, it is,  
 19 as you say, much the same. It's emails. This from  
 20 Jarnail Singh from the Post Office and we have another  
 21 one communicating what is said to be the advice of Brian  
 22 Altman QC, regarding the disclosure obligations. What  
 23 do you think caused the difference of approach between  
 24 yourself and the Post Office, in respect of disclosure  
 25 of information that had been brought to your attention?

179

1 referring to.  
 2 I mean, is the difference that we see here that  
 3 you're giving advice as to what should be done and what  
 4 is practical, as opposed to a strict legal position?  
 5 **A.** I just wanted --  
 6 **Q.** If we scroll down, sorry.  
 7 **A.** I feared miscarriages of justice and I wanted everything  
 8 to be done so that those people could have their  
 9 convictions quashed before they died.  
 10 **Q.** We see there in the second paragraph on the screen that  
 11 Mr Clarke disagreed with the generalised approach to  
 12 disclosure, and he says:  
 13 "The correct position remains that it is the duty of  
 14 the prosecutor to consider material in light of the test  
 15 for disclosure and to disclose material that meets that  
 16 test. The higher courts have long since deprecated the  
 17 practice of throwing open the warehouse doors and  
 18 closings everything in the prosecutor's possession."  
 19 Was your advice to throw out the warehouse doors?  
 20 **A.** No, it was not. That's an excuse used over and over  
 21 again.  
 22 **Q.** What is your view, then of the position taken with --  
 23 **A.** The position is quite clear that things that could  
 24 assist a convicted defendant to show that his conviction  
 25 was wrong, or the conviction was unsafe, must be

178

1 Why do you think the positions are so different?  
 2 **A.** All I can say -- I don't think I can answer that  
 3 question. Simon Clarke working for -- he was counsel.  
 4 Brian Altman advising the Post Office. I don't think  
 5 they saw things in the way that I did but that's their  
 6 right.  
 7 **Q.** What was the difference between you, then, in that  
 8 approach?  
 9 **A.** Well, I never saw these advices. I never saw Simon  
 10 Clarke's advice. I never saw Brian Altman's advice.  
 11 I've now read it and I doubt he would be saying what he  
 12 says in those advices in the light of his later  
 13 concessions before the Court of Appeal Criminal  
 14 Division. But then everything seemed all right. There  
 15 was nothing wrong with Horizon. There'd been no  
 16 prosecutorial misbehaviour.  
 17 Now we know that's all wrong. We know there was  
 18 serious, serious faults with Horizon, and we know there  
 19 was prosecutorial misbehaviour.  
 20 **Q.** Did you expect the Post Office to be taking advice from  
 21 external lawyers about points that you had made that  
 22 we've been looking at?  
 23 **A.** That's up to them.  
 24 **Q.** I'm going to move on to 2014 and 2015, and this is the  
 25 very final piece of advice, and different advice --

180

1 A. False accounting and theft.  
 2 Q. Absolutely. That's POL00006368, please. In fact  
 3 there's one before false accounting and theft, and  
 4 that's the approach to mediation, and that's what we're  
 5 looking at. So two final points. One is the approach  
 6 to mediation and the second is the difference between  
 7 false accounting and --  
 8 A. Let's do the second one first.  
 9 Q. Okay. In that case, can I take you to POL00125777.  
 10 A. I mean, I can do it very simply. Second Sight said in  
 11 the report there's a difference between false accounting  
 12 and theft. They no doubt said it because I'd discussed  
 13 it with them and said. And then there's a great  
 14 advice -- huge, lengthy advices, as to whether that is  
 15 right or wrong. But we know it's right. If somebody is  
 16 charged with theft of 10,000 and he pleads not guilty to  
 17 theft and pleads guilty to false accounting, it is  
 18 a completely different offence, much less serious,  
 19 because the cause of the loss was not due to the SPM  
 20 stealing it. It must be due to some other clerical  
 21 error or something. SPMs would say it was down to  
 22 Horizon, but some of them weren't allowed to say that as  
 23 a condition of their plea, as we now know.  
 24 So, in real terms, anyone who has practised criminal  
 25 law knows that, if I'm charged with theft of 10,000 and

181

1 to theft. If I plead guilty to theft and I'm in  
 2 an employee position, I'm in a breach of trust and the  
 3 sentencing guidelines almost certainly mean that I'm  
 4 going to have to go to prison.  
 5 If I plead to false accounting and say, "Really,  
 6 I covered it up because I thought it would all get right  
 7 later. I shouldn't have covered it up, I'm sorry I did  
 8 that", that's something which the judge is going to look  
 9 on as huge -- as mitigation.  
 10 So we can do all the advice and have pages on it  
 11 but, in real life, guilty to false accounting is  
 12 a sensible way for someone, whether he's innocent or  
 13 not, to get out of the situation.  
 14 Q. Can we look at page 3 of this advice, which quotes the  
 15 words that were set out in a letter to Second Sight on  
 16 this issue. The Post Office wrote to Second Sight and  
 17 said:  
 18 "The suggestion that the offence of false accounting  
 19 is a less serious offence to that of theft is incorrect.  
 20 Both offences are equal in law: both are offences of  
 21 dishonesty and both carry the same maximum sentence ..."  
 22 You have that letter. You have this advice. In  
 23 your view, what went wrong at the Post Office end to  
 24 have such a fundamentally different position to the one  
 25 that you've just explained to the Inquiry today?

183

1 offered a plea to false accounting, I'll accept it,  
 2 because I'm going to go to prison for theft, and I'm not  
 3 going to go to prison for false -- normally.  
 4 Of course, if he's charged with false accounting of  
 5 500,000, that's a different matter. But on the facts of  
 6 these kinds of cases, a loss of 20,000, "Plead guilty to  
 7 false accounting, we'll drop the theft".  
 8 Q. Can we please look at POL00006366, and I had planned to  
 9 take you through various passages of this advice but  
 10 you've read the full advice, I think you've read it  
 11 quite recently.  
 12 A. Yes.  
 13 Q. This is the advice from Mr Altman on precisely that  
 14 issue.  
 15 A. It's a --  
 16 Q. Can you assist us with why you consider that it isn't  
 17 put in those stark terms that you've just given to the  
 18 Inquiry, in this advice?  
 19 A. Of course it's right. It's the same -- the penalty is  
 20 the same, seven years. You can look at sentencing  
 21 guidelines. You can read your -- but I practised  
 22 criminal law for 20 years, in the Crown Courts, in the  
 23 Magistrates Courts, and I know that a plea of guilty to  
 24 false accounting is normally going to lead to  
 25 a completely different sentence than if I plead guilty

182

1 A. It's theoretical. It's not the real world and, if you  
 2 look at the real world, the real world is well described  
 3 in Jane McLeod's letter. You have a loss of money, you  
 4 have a false accounting, therefore you charge theft.  
 5 That's what she said in one of her letters. And people,  
 6 whether guilty or not, are likely to plead to false  
 7 accounting, they don't want to go to prison and, of  
 8 course, there was often a requirement to disgorge the  
 9 money, so it was a very simple and easy way of getting  
 10 your money back.  
 11 Q. The Chair --  
 12 A. We now know all those convictions are, by and large,  
 13 unsafe.  
 14 Q. The Chair has to make recommendations in due course and  
 15 there are those watching this Inquiry who are interested  
 16 in matters of legal ethics, et cetera. Why do you think  
 17 it is that a lawyer advising the Post Office doesn't say  
 18 exactly what you've said today, on the difference?  
 19 A. I don't think that's a fair -- I don't think I can  
 20 answer that question. I'll leave it to the Chairman.  
 21 SIR WYN WILLIAMS: Well, that's fine and I'm not going to  
 22 hide this. No doubt we'll hear from Mr Altman about his  
 23 real-life experience but I too have practised in Crown  
 24 Courts for many years and sat as a judge for many years,  
 25 and my real-life experience is exactly the same as

184

1 Sir Anthony Hooper's.

2 **MR BLAKE:** Thank you.

3 I'm going to ask the very final questions now.  
4 I don't think I need to ask the difference of opinion in  
5 relation to the mediation of cases; that's set out in  
6 the documents.

7 A question that's been raised by Core Participants,  
8 it relates to the retention of materials from your  
9 Working Group. Are you aware of any discussions with  
10 the Post Office about their retention of any  
11 documentation relating to the work that was being  
12 carried out?

13 **A.** It might have been discussed. I certainly wouldn't  
14 remember today.

15 **Q.** One thing that you --

16 **A.** I would hope that they retained all the documents.  
17 That's what I would hope.

18 **Q.** One of the matters that you've raised today is about  
19 following the money, and that was one of the core issues  
20 or approaches that you wanted to take. Were there  
21 issues with the production of accounts, for example,  
22 showing losses?

23 **A.** I mean, there's the one about suspense accounts.  
24 I couldn't understand where the money had gone. If  
25 a subpostmaster found a loss of 2,000 and paid it out of

185

1 Sir Anthony, it has been a whistlestop tour this  
2 afternoon. We have had, unfortunately, rather limited  
3 time but is there anything that you would like to add  
4 that we haven't addressed today?

5 **A.** I don't know. It's the greatest scandal that I have  
6 ever seen in the criminal justice process. We've had  
7 many miscarriages of justice but nowhere as many as  
8 these. We need to re-evaluate how we approach criminal  
9 cases of this kind. Something went very, very wrong,  
10 and I don't envy the chairman's task in trying to find  
11 out how it all started. Something went very, very  
12 wrong.

13 I think, in part, it's a much wider question and  
14 that is the obligation of a prosecutor. Because all  
15 that a prosecutor has to establish, in deciding whether  
16 to indict someone, apart from the public -- the good  
17 public -- test, is whether there is enough evidence to  
18 support a conviction. That is a very low threshold. It  
19 means that defence have to do a large amount of work to  
20 see whether there is some alternative to guilty.

21 And with the decline in legal aid, with senior  
22 Members of the Bar who, in my day, practised -- the  
23 Criminal Bar -- and did so on legal aid, that's all gone  
24 now, or largely gone. I am very worried about the way  
25 in which we approach our criminal justice trials.

187

1 his own pocket or her own pocket, which they did, or it  
2 was taken off future income, where had the money gone?  
3 And so I asked, started asking, towards the end of 2014,  
4 for suspense accounts because I thought that -- I knew  
5 that there were suspense accounts. I knew that  
6 profit -- Post Office, after three years, took out the  
7 profits of the suspense accounts and I wanted to know  
8 more about it.

9 I got absolutely nowhere and nor did Second Sight.  
10 They repeated it again in 2016. So just because I'm  
11 interested, I read Mr Justice Fraser's decision, insofar  
12 as it related to suspense accounts, and he said that  
13 when it got to the civil proceedings, the Post Office  
14 pleaded that they didn't understand what suspense  
15 accounts were about, an approach which Mr Justice  
16 Fraser, in my view rightly, said -- disapproved of. So  
17 there's just one example. Where had the money gone?

18 **Q.** Who is it that you had been asking, with regards to  
19 suspense accounts, as an example? You say --

20 **A.** The Working Group -- you'll see it in the minutes, you  
21 can find it in the minutes, two or three cases where  
22 I said "What's happened?", and I was told it would take  
23 too long or they hadn't got it, or anything. It's just  
24 one example.

25 **MR BLAKE:** Thank you very much.

186

1 That's a much bigger question than perhaps needs to be  
2 resolved here.

3 But, underlying all of this are the two -- the major  
4 defect of miscarriage of justice in the common law  
5 across the world, United States, Britain, is  
6 non-disclosure, over and over again. I don't know how  
7 many trials I did in the Court of Appeal Criminal  
8 Division relating to serious non-disclosure.

9 Secondly, this notion that all that has to be shown  
10 by the prosecutor is a sufficient evidence upon which  
11 a jury could convict. Very much.

12 **MR BLAKE:** Thank you very much.

13 Sir, do you have any questions before we finish for  
14 the day?

15 **SIR WYN WILLIAMS:** Thank you very much.

16 Are there any questions from Core Participants?

17 **MR BLAKE:** No, I don't believe so.

18 **SIR WYN WILLIAMS:** Well, then, thank you very much,  
19 Sir Anthony, for making the time to write a witness  
20 statement and to appear to give evidence. I'm very  
21 grateful to you.

22 **THE WITNESS:** Thank you, Mr Chairman.

23 **SIR WYN WILLIAMS:** We will reconvene at 10.00 tomorrow  
24 morning, yes, Mr Blake?

25 **MR BLAKE:** We will. Thank you very much, sir.

188

1 SIR WYN WILLIAMS: Thank you.  
2 (4.31 pm)  
3 (The hearing adjourned until 10.00 am the following day)  
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12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

189

190

**INDEX**

LORD JAMES NORWICH ARBUTHNOT OF EDROM . 1  
(sworn)

Questioned by MR BEER ..... 1

SIR ANTHONY HOOPER (affirmed) ..... 117

Questioned by MR BLAKE ..... 117



<p><b>MR BEER:</b> [23] 1/3 1/6 1/8 1/12 46/2 47/3 47/8 47/10 65/15 65/18 96/7 96/11 96/15 96/18 96/22 97/1 97/9 97/11 115/14 116/9 116/15 116/18 116/21</p> <p><b>MR BLAKE:</b> [11] 117/3 117/11 117/14 159/6 159/10 159/14 185/2 186/25 188/12 188/17 188/25</p> <p><b>SIR WYN WILLIAMS:</b> [30] 1/4 1/7 46/4 46/13 46/15 46/21 47/4 47/9 65/13 65/16 96/9 96/12 96/16 96/21 97/2 97/10 115/17 116/14 116/16 116/20 117/1 117/8 158/24 159/5 159/9 184/21 188/15 188/18 188/23 189/1</p> <p><b>THE WITNESS:</b> [3] 116/8 159/15 188/22</p>	<p>96/25 <b>10 [2]</b> 1/1 25/6 <b>10 December [2]</b> 7/14 8/24 <b>10 March 2015 [1]</b> 112/24 <b>10 years [1]</b> 63/22 <b>10,000 [2]</b> 181/16 181/25 <b>10.00 [3]</b> 1/2 188/23 189/3 <b>100 [3]</b> 41/5 41/6 69/17 <b>100 pages [1]</b> 24/22 <b>103 [1]</b> 105/20 <b>105 [1]</b> 69/17 <b>106 [2]</b> 11/19 108/1 <b>11,500 [1]</b> 16/17 <b>11,800 [1]</b> 37/16 <b>11.14 am [1]</b> 47/5 <b>11.30 [1]</b> 47/3 <b>11.31 [1]</b> 47/7 <b>114 [1]</b> 81/11 <b>12 July [1]</b> 50/25 <b>12 June [1]</b> 68/15 <b>12 March [1]</b> 1/23 <b>12 October [1]</b> 6/10 <b>12 years [1]</b> 27/15 <b>120 [1]</b> 87/8 <b>125 [1]</b> 89/6 <b>13 [1]</b> 110/3 <b>13 March [3]</b> 20/16 24/12 48/3 <b>13 March 2014 [1]</b> 142/15 <b>13 October [1]</b> 6/11 <b>137 [1]</b> 112/22 <b>142 [1]</b> 69/23 <b>143 [1]</b> 97/13 <b>15 [2]</b> 12/24 118/10 <b>15 December [1]</b> 15/22 <b>15 years [1]</b> 2/22 <b>150 [2]</b> 122/15 133/10 <b>16 [3]</b> 47/10 47/23 48/15 <b>16 April [1]</b> 148/16 <b>16 January [1]</b> 125/20 <b>166 [2]</b> 98/4 98/7 <b>17 [4]</b> 29/12 47/10 47/23 48/15 <b>17 May [3]</b> 36/21 48/12 48/19 <b>17 November [2]</b> 105/19 109/2 <b>170 [1]</b> 103/8 <b>171 [1]</b> 103/25 <b>178 [2]</b> 104/21 104/22 <b>179 [1]</b> 105/8 <b>18 [2]</b> 111/7 161/3 <b>18 June [3]</b> 34/5</p>	<p>48/17 48/25 <b>18 months [1]</b> 157/25 <b>18 November [2]</b> 81/2 86/19 <b>180 [1]</b> 1/24 <b>180 pages [1]</b> 1/22 <b>184 [1]</b> 97/15 <b>19 [1]</b> 55/8 <b>19 August [3]</b> 75/10 76/1 76/5 <b>19 March [1]</b> 55/12 <b>198 [1]</b> 105/20 <b>1987 [1]</b> 3/7 <b>199 [1]</b> 106/10</p> <hr/> <p><b>2</b></p> <p><b>2,000 [3]</b> 176/16 176/17 185/25 <b>2.30 [1]</b> 96/19 <b>2.4 [3]</b> 124/6 124/7 124/19 <b>20 [3]</b> 111/17 111/20 179/16 <b>20 March [1]</b> 55/11 <b>20 million [1]</b> 16/16 <b>20 November [1]</b> 81/23 <b>20 pages [1]</b> 99/1 <b>20 years [2]</b> 119/9 182/22 <b>20,000 [1]</b> 182/6 <b>2000 [3]</b> 43/24 44/21 47/16 <b>2001 [2]</b> 9/8 44/21 <b>2002 [2]</b> 44/22 48/12 <b>2003 [1]</b> 44/19 <b>2004 [2]</b> 43/4 47/19 <b>2005 [2]</b> 44/13 45/1 <b>2005/2006 [1]</b> 144/20 <b>2006 [3]</b> 43/24 144/20 159/19 <b>2007 [3]</b> 43/9 44/14 47/21 <b>2008 [6]</b> 15/6 75/10 75/22 76/1 76/5 76/8 <b>2009 [9]</b> 2/24 4/9 5/6 6/3 6/11 7/15 8/23 12/3 15/6 <b>201 [1]</b> 107/25 <b>2010 [7]</b> 43/25 44/3 44/5 44/9 44/12 44/17 45/2 <b>2011 [4]</b> 12/8 12/11 12/24 35/20 <b>2012 [15]</b> 12/8 19/19 20/17 24/12 26/9 26/13 29/24 34/5 46/6 48/3 48/18 48/19 50/21 50/25 119/9 <b>2013 [31]</b> 11/21 44/6 51/18 51/21 51/23 51/24 55/11 57/7 59/4 69/20 71/7 71/8 75/3</p>	<p>76/21 77/14 78/1 78/12 78/20 82/2 85/23 86/19 88/22 90/17 91/9 92/22 119/17 120/18 125/3 125/13 128/5 150/3 <b>2014 [35]</b> 70/1 70/4 73/21 83/2 92/9 97/16 98/3 98/7 103/10 105/19 108/25 109/23 125/5 125/15 125/20 126/3 128/9 129/5 129/16 131/18 131/20 140/1 142/15 148/8 148/16 149/6 149/9 149/9 153/10 160/11 161/4 161/21 174/11 180/24 186/3 <b>2015 [10]</b> 3/8 3/19 112/24 113/20 114/4 132/21 149/6 161/14 165/7 180/24 <b>2016 [1]</b> 186/10 <b>2019 [1]</b> 171/8 <b>2020 [4]</b> 81/2 81/23 81/24 114/16 <b>2024 [2]</b> 1/1 1/23 <b>21 August [1]</b> 98/3 <b>21 August 2014 [1]</b> 98/7 <b>21 January 2014 [1]</b> 129/5 <b>22 [1]</b> 99/3 <b>22 May [2]</b> 77/14 77/25 <b>22 September [1]</b> 110/7 <b>22.1 [1]</b> 99/3 <b>23 February [2]</b> 20/23 20/25 <b>24 February [2]</b> 129/16 131/17 <b>25 [1]</b> 118/9 <b>25 March [5]</b> 52/1 55/23 57/7 62/10 146/13 <b>25 March 2013 [1]</b> 51/21 <b>27 August [1]</b> 85/23 <b>27 February [3]</b> 19/18 29/24 35/7 <b>27 November [1]</b> 83/2 <b>277 [1]</b> 114/12 <b>279 [1]</b> 114/12 <b>28 January [3]</b> 70/4 92/9 92/21 <b>28 November [1]</b> 108/24 <b>280 [1]</b> 114/14</p> <hr/> <p><b>3</b></p> <p><b>3 April 2009 [1]</b> 4/9 <b>3 November [3]</b> 6/3</p>	<p>7/16 9/5 <b>3.34 [1]</b> 159/11 <b>3.45 [2]</b> 159/8 159/13 <b>30 March 2015 [1]</b> 113/20 <b>300,000 [1]</b> 139/6 <b>308 [1]</b> 114/14 <b>34 [2]</b> 14/25 18/14 <b>35 minutes [1]</b> 116/25 <b>37 [1]</b> 19/21 <b>38 [1]</b> 19/21 <b>39 [1]</b> 81/4</p> <hr/> <p><b>4</b></p> <p><b>4 April [2]</b> 26/3 26/9 <b>4 July [1]</b> 50/21 <b>4,000 [1]</b> 176/17 <b>4.31 [1]</b> 189/2 <b>42 [1]</b> 55/5 <b>42,000 [1]</b> 5/11 <b>43 [1]</b> 29/13 <b>46 [1]</b> 29/13</p> <hr/> <p><b>5</b></p> <p><b>5 December [1]</b> 8/22 <b>5 million [1]</b> 130/8 <b>5 September [1]</b> 103/10 <b>5.1 [1]</b> 73/10 <b>50 million [1]</b> 130/10 <b>500,000 [2]</b> 139/15 182/5</p> <hr/> <p><b>6</b></p> <p><b>6 September [1]</b> 119/17 <b>6 September 2013 [1]</b> 120/18 <b>60,000 [1]</b> 131/8 <b>66 [1]</b> 88/20</p> <hr/> <p><b>7</b></p> <p><b>7 March [3]</b> 51/23 51/24 56/9 <b>74 [2]</b> 94/3 94/3 <b>75 [2]</b> 69/24 97/13 <b>78,000 [1]</b> 43/17</p> <hr/> <p><b>8</b></p> <p><b>8 December [1]</b> 109/23 <b>8 July [5]</b> 68/22 69/20 71/8 75/3 78/20 <b>8 March [1]</b> 117/19 <b>8 years [1]</b> 58/13 <b>80 [1]</b> 55/5 <b>8863 [1]</b> 161/22 <b>89 [1]</b> 97/14</p> <hr/> <p><b>9</b></p> <p><b>9 January [1]</b> 16/5 <b>90 [3]</b> 98/5 110/14 110/20</p>
<p><b>10 [1]</b> 159/19 <b>20 [1]</b> 179/17 <b>94 [1]</b> 24/22 <b>'Almost [1]</b> 98/21 <b>'final' [1]</b> 162/4 <b>'friend' [1]</b> 100/17 <b>'general [1]</b> 109/4 <b>'Guilty' [1]</b> 100/21 <b>'in [1]</b> 110/17 <b>'irregularities' [3]</b> 13/5 18/7 18/11 <b>'Is [1]</b> 98/14 <b>'live' [1]</b> 75/12 <b>'missing' [1]</b> 27/24 <b>'mysterious [1]</b> 101/4 <b>'no [1]</b> 95/18 <b>'nothing [1]</b> 66/14 <b>'numerous [1]</b> 63/3 <b>'obvious' [1]</b> 175/22 <b>'pay' [1]</b> 138/24 <b>'progress [1]</b> 160/18 <b>'Rogue' [1]</b> 57/17 <b>'smoking [1]</b> 166/23 <b>'sorry [1]</b> 172/13 <b>'the [1]</b> 111/5 <b>'there [1]</b> 63/8</p>	<p><b>1</b></p> <p><b>1 April [1]</b> 59/4 <b>1 July 2014 [1]</b> 73/21 <b>1.00 [1]</b> 96/23 <b>1.00 pm [1]</b> 96/8 <b>1.50 [3]</b> 96/11 96/21</p>	<p><b>1</b></p> <p><b>1 April 2009 [1]</b> 4/9 <b>3 November [3]</b> 6/3</p>	<p><b>9</b></p> <p><b>9 January [1]</b> 16/5 <b>90 [3]</b> 98/5 110/14 110/20</p>	

<b>9</b>	53/8 56/7	186/7 186/12 186/15 186/19	<b>adjunct [1]</b> 60/4	153/7 159/7 160/5 160/9 187/2
<b>92 [1]</b> 103/7	<b>absolutely [18]</b> 14/15	<b>accuracy [3]</b> 27/1 31/23 176/11	<b>adjust [1]</b> 75/13	<b>afternoon's [1]</b> 117/5
<b>95 [1]</b> 104/21	37/9 45/21 48/10	<b>accurate [4]</b> 147/7	<b>adjusted [1]</b> 76/14	<b>again [30]</b> 1/6 7/15
<b>A</b>	54/22 77/9 77/20	<b>accurately [4]</b> 107/2	<b>adjustment [1]</b> 76/16	8/11 11/23 12/17
<b>AB [1]</b> 143/5	85/21 95/13 135/9	154/3 167/25 176/4	<b>admiration [1]</b> 53/22	24/24 28/1 36/9 37/13
<b>abandoned [3]</b>	143/4 153/5 159/4	<b>accusations [1]</b> 7/5	<b>admission [2]</b> 43/24	41/22 44/13 45/1 47/2
102/10 128/21 128/23	166/13 168/3 176/24	<b>accused [7]</b> 6/15	100/20	92/3 97/16 104/17
<b>ability [8]</b> 70/10	181/2 186/9	10/5 15/2 18/16 43/5	<b>admissions [2]</b>	118/14 127/16 130/17
74/20 75/12 77/16	<b>abundantly [1]</b>	67/4 100/10	100/24 158/20	134/16 135/6 144/23
93/9 93/16 93/20 94/9	150/12	<b>achieve [2]</b> 20/12	<b>admit [1]</b> 100/11	151/17 151/18 153/23
<b>able [13]</b> 11/7 49/17	<b>accept [11]</b> 28/20	73/1	158/22	157/20 178/21 179/18
49/18 73/25 74/1	38/4 38/6 38/14 73/3	<b>achieving [1]</b> 100/24	<b>adopt [1]</b> 167/19	186/10 188/6
83/10 84/24 91/4 96/5	158/6 158/11 159/18	<b>acknowledged [1]</b>	<b>advance [1]</b> 51/22	<b>against [11]</b> 3/25 7/5
98/13 104/2 110/24	166/14 169/12 182/1	73/13	<b>advantage [1]</b> 110/24	14/18 45/3 45/9 46/19
124/12	<b>acceptable [1]</b> 96/12	<b>acquittal [5]</b> 43/3	<b>adversarial [2]</b>	47/11 60/20 98/17
<b>about [133]</b> 2/16 3/1	<b>accepted [3]</b> 72/17	43/8 47/19 47/20	124/15 124/20	99/21 175/7
3/3 4/11 4/18 4/19	72/19 74/19	47/21	<b>adverse [1]</b> 136/14	<b>age [1]</b> 156/7
4/22 5/6 11/12 13/12	<b>accepting [6]</b> 21/16	<b>acquitted [1]</b> 47/16	<b>advice [36]</b> 31/15	<b>agenda [2]</b> 30/16
14/4 15/14 16/7 16/8	21/24 72/18 74/18	<b>acrimony [1]</b> 107/1	78/21 80/4 81/3 82/3	155/2
16/10 16/14 18/22	160/1 166/11	<b>across [2]</b> 135/19	85/3 88/5 88/8 90/19	<b>ago [5]</b> 18/10 27/15
21/6 21/10 21/14	<b>access [22]</b> 29/17	188/5	114/15 114/15 128/5	63/22 126/7 144/25
21/19 22/4 22/19	50/1 63/9 63/24 64/23	<b>act [6]</b> 73/12 111/9	128/6 128/16 138/20	<b>agree [17]</b> 3/4 18/24
22/22 23/13 24/4 24/9	67/11 68/1 70/22	113/6 113/8 124/9	139/16 139/22 139/23	19/4 42/5 43/15 71/24
25/7 29/4 30/6 32/5	75/12 76/22 76/25	124/10	176/4 177/16 178/3	73/18 74/19 109/5
36/19 37/5 40/8 41/14	77/10 77/16 78/5 78/9	<b>acted [1]</b> 138/16	178/19 179/21 180/10	109/11 111/13 123/12
42/16 47/1 47/25 49/7	80/12 93/23 94/12	<b>action [7]</b> 8/4 15/4	180/10 180/20 180/25	124/1 149/2 163/18
52/2 54/14 55/4 59/8	94/20 95/3 98/13	25/16 46/19 64/6	180/25 181/14 182/9	168/15 171/5
60/12 61/10 64/4	107/7	100/2 136/11	182/10 182/13 182/18	<b>agreed [10]</b> 83/18
64/17 65/6 66/8 66/19	<b>accompanied [2]</b>	<b>actioned [1]</b> 152/18	183/10 183/14 183/22	84/2 93/3 111/18
68/14 69/12 70/9 73/8	23/8 100/17	<b>actions [2]</b> 98/17	<b>advices [3]</b> 180/9	133/3 140/3 140/23
76/25 77/2 77/10	<b>accordance [1]</b>	99/21	180/12 181/14	145/24 151/1 167/17
77/15 77/18 78/24	100/15	<b>active [1]</b> 84/1	<b>advise [1]</b> 164/7	<b>agreeing [3]</b> 9/12
80/13 81/11 81/18	<b>according [2]</b> 37/21	<b>activities [1]</b> 16/23	<b>advised [4]</b> 79/12	83/13 111/11
82/3 83/16 85/25	39/15	<b>activity [1]</b> 67/4	79/15 79/18 81/18	<b>agreement [4]</b> 34/3
88/12 89/25 91/15	<b>accordingly [2]</b> 2/16	<b>actual [1]</b> 150/14	<b>advisers [9]</b> 99/25	110/10 110/16 110/23
92/8 92/16 92/19	73/16	<b>actually [11]</b> 3/18	110/17 110/20 143/9	<b>AH [1]</b> 145/22
92/20 93/2 93/12 97/7	<b>account [6]</b> 39/9 44/5	13/20 15/6 48/23	143/19 144/2 149/18	<b>ahead [3]</b> 56/24 67/8
97/19 98/7 98/14	44/16 48/5 67/12 68/2	48/23 69/6 73/24	164/2 171/12	67/9
98/25 102/6 102/17	<b>Account/till [1]</b> 39/9	107/10 125/24 160/10	<b>advising [3]</b> 70/6	<b>aid [2]</b> 187/21 187/23
107/6 107/11 116/22	<b>accountability [1]</b>	177/5	180/4 184/17	<b>aim [1]</b> 31/11
118/16 120/11 121/7	4/5	<b>add [5]</b> 126/23	<b>advisors [2]</b> 122/20	<b>Alan [24]</b> 6/11 9/23
122/7 122/15 124/4	<b>accountancy [2]</b> 72/5	126/24 141/14 159/15	143/22	50/16 51/1 51/4 52/11
126/8 128/15 128/17	74/2	187/3	<b>Advisory [2]</b> 4/16	61/12 61/15 62/17
130/17 130/25 131/13	<b>accountant [3]</b> 32/11	<b>adding [1]</b> 2/9	115/2	63/1 63/11 71/11
133/18 134/20 137/25	41/15 51/1	<b>additionally [2]</b> 75/23	<b>Affairs [1]</b> 148/17	123/11 143/5 143/5
139/15 144/25 145/20	<b>accountants [8]</b>	89/7	<b>affect [1]</b> 23/1	148/16 149/4 151/1
147/3 148/18 149/10	29/17 29/20 30/3 30/8	<b>address [7]</b> 6/8 50/7	<b>affected [4]</b> 7/23	156/20 157/4 157/8
150/18 150/24 154/9	70/7 70/11 73/13	51/5 53/5 61/1 114/7	66/23 121/11 129/6	157/16 168/18 170/18
155/8 156/23 157/9	73/24	115/1	<b>affects [1]</b> 159/17	<b>albeit [1]</b> 100/17
157/10 157/10 158/14	<b>accounting [29]</b>	<b>addressed [7]</b> 15/22	<b>affirmed [2]</b> 117/12	<b>Alice [30]</b> 12/13
164/17 165/1 165/21	17/12 28/9 29/11	19/21 29/12 64/23	190/7	20/15 20/20 20/22
173/9 173/20 175/4	33/23 35/2 39/20	69/16 156/18 187/4	<b>afraid [1]</b> 171/14	21/1 22/17 23/4 23/17
177/2 177/10 177/12	57/25 63/10 100/5	<b>addresses [2]</b> 16/13	<b>afresh [2]</b> 21/15	24/15 25/7 29/6 31/2
177/16 180/21 184/22	100/8 100/24 103/15	173/21	21/21	32/23 35/16 36/22
185/10 185/18 185/23	132/15 160/1 177/11	<b>addressing [2]</b> 60/21	<b>after [21]</b> 11/20 17/18	42/13 48/2 48/11
186/8 186/15 187/24	181/1 181/3 181/7	167/14	35/21 51/7 71/8 71/10	51/23 51/24 55/9
<b>above [1]</b> 111/9	181/11 181/17 182/1	<b>adds [1]</b> 59/16	79/5 85/2 90/8 90/18	55/12 61/19 62/14
<b>absence [2]</b> 110/19	182/4 182/7 182/24	<b>adequate [1]</b> 24/19	104/6 108/1 113/18	80/16 92/11 99/10
144/20	183/5 183/11 183/18	<b>adjourned [1]</b> 189/3	113/23 114/7 119/9	103/5 109/15 135/13
<b>absent [2]</b> 155/16	184/4 184/7	<b>adjournment [4]</b> 25/8	125/1 135/1 161/14	<b>Alice Perkins [17]</b>
168/24	<b>accounts [15]</b> 22/22	25/19 25/24 96/24	171/8 186/6	20/15 20/22 22/17
<b>absolute [3]</b> 52/22	50/1 64/3 76/22 77/1		<b>afternoon [9]</b> 97/1	23/4 23/17 24/15
	100/12 176/15 185/21		97/11 117/3 118/20	35/16 42/13 48/2 55/9
	185/23 186/4 186/5			

<p><b>A</b></p> <p><b>Alice Perkins... [7]</b> 61/19 62/14 80/16 99/10 103/5 109/15 135/13</p> <p><b>all [91]</b> 4/8 5/18 14/4 16/9 28/2 34/2 37/13 43/20 45/19 46/9 47/25 48/14 49/13 52/10 53/21 58/19 63/6 69/7 75/24 77/19 78/16 79/24 80/14 86/12 86/16 87/23 93/20 95/4 96/12 96/21 97/17 99/1 99/24 102/8 103/18 105/18 109/6 110/11 110/18 115/18 116/18 121/10 124/1 132/16 132/16 133/22 137/16 138/3 139/7 142/9 144/6 144/9 144/15 144/24 147/9 147/9 147/14 148/11 149/12 152/17 154/15 157/21 158/11 158/16 165/22 167/19 170/1 170/1 172/2 173/5 174/21 174/23 175/4 176/19 176/23 176/23 177/4 177/21 179/8 180/2 180/14 180/17 183/6 183/10 184/12 185/16 187/11 187/14 187/23 188/3 188/9</p> <p><b>alloy [1]</b> 111/10</p> <p><b>allegations [3]</b> 16/25 17/18 69/7</p> <p><b>allege [1]</b> 16/20</p> <p><b>alleged [6]</b> 5/11 13/18 14/18 37/18 39/5 135/4</p> <p><b>Alliance [3]</b> 16/24 52/12 120/2</p> <p><b>allow [4]</b> 58/19 63/10 91/15 174/3</p> <p><b>allowed [6]</b> 22/13 100/16 107/13 169/19 174/6 181/22</p> <p><b>allowing [1]</b> 173/10</p> <p><b>almost [7]</b> 28/25 56/19 95/23 99/24 106/22 145/2 183/3</p> <p><b>alone [1]</b> 20/12</p> <p><b>along [4]</b> 52/8 62/21 88/16 173/16</p> <p><b>alongside [3]</b> 69/17 87/2 140/25</p> <p><b>already [8]</b> 5/2 22/1 140/11 152/13 160/5 167/14 172/3 174/15</p> <p><b>also [29]</b> 4/22 7/19 8/2 11/11 15/11 16/22</p>	<p>19/10 23/13 32/1 32/17 33/1 35/24 35/25 43/9 48/18 59/15 60/15 63/4 118/1 118/22 130/7 132/5 136/15 143/3 146/25 156/18 161/1 166/21 175/22</p> <p><b>alter [2]</b> 50/1 104/2</p> <p><b>alternative [1]</b> 187/20</p> <p><b>Alternatively [2]</b> 89/7 162/22</p> <p><b>alternatives [1]</b> 163/9</p> <p><b>although [10]</b> 27/7 32/15 51/8 60/2 91/9 100/16 107/23 113/17 119/23 177/7</p> <p><b>Altman [7]</b> 158/21 173/9 173/17 179/22 180/4 182/13 184/22</p> <p><b>Altman's [1]</b> 180/10</p> <p><b>altogether [1]</b> 106/14</p> <p><b>always [9]</b> 98/16 100/20 104/1 137/5 137/5 142/11 172/17 177/6 177/8</p> <p><b>Alwen [10]</b> 20/16 20/20 22/17 23/4 42/14 48/2 77/23 84/11 119/20 120/21</p> <p><b>am [24]</b> 1/2 1/12 14/21 14/25 15/3 15/11 18/10 18/14 21/14 26/22 47/5 47/7 49/7 52/1 60/7 63/14 65/16 109/2 118/19 119/14 119/15 133/8 187/24 189/3</p> <p><b>ambit [1]</b> 147/21</p> <p><b>amended [1]</b> 95/22</p> <p><b>among [1]</b> 110/8</p> <p><b>amongst [3]</b> 26/15 55/13 119/12</p> <p><b>amount [9]</b> 75/15 131/6 131/6 138/17 142/2 145/17 157/20 171/7 187/19</p> <p><b>amounted [1]</b> 72/20</p> <p><b>analysed [1]</b> 150/9</p> <p><b>analysis [4]</b> 59/21 94/24 150/12 153/21</p> <p><b>Andrew [11]</b> 29/23 33/16 41/10 41/17 67/22 71/15 125/21 125/25 126/18 127/20 175/15</p> <p><b>Angela [10]</b> 29/11 40/16 42/14 85/23 103/4 103/10 106/13 107/4 143/10 150/23</p> <p><b>animated [1]</b> 137/1</p> <p><b>Anne [1]</b> 78/7</p>	<p><b>announce [1]</b> 167/18</p> <p><b>announcement [1]</b> 87/8</p> <p><b>announcing [1]</b> 170/3</p> <p><b>annoyed [1]</b> 10/10</p> <p><b>anomalies [1]</b> 57/15</p> <p><b>anonymised [2]</b> 175/24 179/3</p> <p><b>another [6]</b> 22/23 142/14 152/10 174/17 175/12 179/20</p> <p><b>answer [10]</b> 40/24 43/17 69/10 71/20 91/13 106/20 111/14 159/15 180/2 184/20</p> <p><b>answered [3]</b> 61/8 98/15 152/15</p> <p><b>answers [3]</b> 62/4 69/3 69/6</p> <p><b>Anthony [19]</b> 91/25 96/20 97/3 113/1 116/13 117/5 117/6 117/9 117/12 117/14 119/22 158/24 161/2 163/23 174/4 185/1 187/1 188/19 190/7</p> <p><b>Anthony Hooper's [1]</b> 161/2</p> <p><b>anticipated [4]</b> 130/16 130/23 133/15 133/19</p> <p><b>anxious [1]</b> 126/25</p> <p><b>any [99]</b> 9/21 10/9 16/25 26/25 27/14 36/16 41/11 43/20 45/16 46/8 46/21 48/14 49/19 49/21 52/8 55/15 61/18 63/11 65/1 65/3 67/24 69/1 69/6 70/22 71/2 71/3 71/23 72/21 73/3 74/18 74/19 75/16 75/25 76/6 76/14 79/25 79/25 80/3 80/4 80/6 83/24 85/7 85/7 85/19 86/20 87/1 87/2 87/2 87/3 91/4 91/11 91/12 91/15 91/18 91/22 93/8 93/15 93/20 93/23 94/9 94/13 96/4 97/5 100/7 101/18 106/7 111/10 111/12 111/21 121/11 127/2 128/10 135/4 138/6 139/22 143/18 144/14 150/14 155/15 156/1 156/9 158/7 158/11 161/10 161/11 161/17 163/9 165/1 167/11 169/2 170/9 170/13 174/6 174/19 175/19 185/9 185/10 188/13 188/16</p>	<p><b>anyone [6]</b> 17/15 38/9 41/1 68/8 76/14 181/24</p> <p><b>anything [14]</b> 20/2 42/16 55/14 68/8 76/25 80/13 92/16 92/18 108/16 115/8 154/19 164/15 186/23 187/3</p> <p><b>anyway [1]</b> 113/10</p> <p><b>anywhere [1]</b> 138/1</p> <p><b>AP [2]</b> 92/23 92/24</p> <p><b>apart [1]</b> 187/16</p> <p><b>apologise [3]</b> 172/14 172/19 174/21</p> <p><b>apology [5]</b> 130/13 173/22 173/24 174/19 175/5</p> <p><b>apparent [2]</b> 165/13 165/25</p> <p><b>Apparently [2]</b> 135/22 146/18</p> <p><b>appeal [18]</b> 118/22 118/23 119/2 119/4 158/20 159/24 173/12 173/14 173/25 174/3 174/8 174/20 174/22 175/5 175/7 175/9 180/13 188/7</p> <p><b>Appeal's [1]</b> 81/3</p> <p><b>appear [4]</b> 6/14 69/5 117/6 188/20</p> <p><b>appeared [1]</b> 145/1</p> <p><b>appearing [1]</b> 60/12</p> <p><b>appears [7]</b> 14/22 39/8 55/9 63/12 124/6 128/3 162/17</p> <p><b>applicant [4]</b> 103/14 141/12 152/14 162/25</p> <p><b>applicant's [3]</b> 134/18 154/22 156/2</p> <p><b>applicants [11]</b> 93/17 99/16 99/24 101/5 101/10 122/16 124/11 164/2 164/5 166/2 176/25</p> <p><b>applicants' [1]</b> 138/13</p> <p><b>application [2]</b> 102/2 175/24</p> <p><b>applications [4]</b> 93/10 122/16 175/18 176/1</p> <p><b>applied [1]</b> 103/18</p> <p><b>applies [1]</b> 48/4</p> <p><b>apply [4]</b> 47/25 48/11 82/18 82/20</p> <p><b>appointed [8]</b> 50/9 56/19 86/4 91/25 108/21 134/25 167/3 173/20</p> <p><b>appointment [13]</b> 25/2 32/10 51/7 72/3 73/19 73/21 74/3</p>	<p>74/14 74/15 92/2 119/16 125/6 171/18</p> <p><b>appreciate [1]</b> 60/9</p> <p><b>appreciation [1]</b> 115/20</p> <p><b>approach [23]</b> 13/10 31/15 54/14 60/20 62/13 69/13 89/1 101/20 102/6 114/22 121/11 136/16 143/9 159/17 168/19 178/11 179/23 180/8 181/4 181/5 186/15 187/8 187/25</p> <p><b>approached [2]</b> 35/12 121/6</p> <p><b>approaches [1]</b> 185/20</p> <p><b>appropriate [10]</b> 8/5 46/2 52/9 71/21 116/3 136/17 163/8 169/3 171/22 172/15</p> <p><b>approximately [1]</b> 96/19</p> <p><b>April [9]</b> 1/1 2/24 4/9 26/3 26/9 59/4 148/16 149/9 151/5</p> <p><b>April 2009 [1]</b> 2/24</p> <p><b>April 2014 [1]</b> 149/9</p> <p><b>April 2024 [1]</b> 1/1</p> <p><b>Arbuthnot [21]</b> 1/9 1/10 1/12 1/15 46/5 47/10 56/3 65/15 74/12 96/7 96/18 97/11 115/8 115/15 115/18 116/12 120/25 131/2 131/3 135/14 190/2</p> <p><b>Arbuthnot's [1]</b> 116/10</p> <p><b>Arch [1]</b> 47/16</p> <p><b>archived [1]</b> 75/24</p> <p><b>arduous [1]</b> 96/14</p> <p><b>are [122]</b> 2/3 2/5 9/16 9/21 13/2 13/23 16/18 16/21 16/22 18/4 19/1 23/21 23/25 27/22 27/24 28/7 31/5 31/10 31/13 31/13 31/15 31/17 31/20 31/21 32/1 33/1 33/9 34/13 36/12 37/17 38/21 38/24 40/17 40/21 45/9 52/7 52/19 53/2 53/3 53/18 57/6 58/13 59/17 60/1 60/1 60/3 60/7 60/15 60/19 62/11 68/20 68/22 69/4 69/4 69/25 69/25 73/14 73/25 74/1 75/21 84/9 91/4 95/12 96/16 96/18 98/19 99/5 115/11 115/14 115/15 118/5 119/12</p>
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<b>A</b>	104/4 106/17 111/4 126/12 129/20 129/20 163/16 186/3 <b>asking [9]</b> 8/9 8/11 8/12 39/3 61/25 95/9 103/11 186/3 186/18 <b>aspects [1]</b> 103/22 <b>assert [1]</b> 99/25 <b>assertion [10]</b> 37/24 37/24 38/8 38/8 39/6 39/7 39/25 40/4 41/21 75/9 <b>assertions [4]</b> 37/21 42/3 69/3 69/7 <b>assessed [1]</b> 56/6 <b>assesses [1]</b> 173/1 <b>assessment [1]</b> 154/7 <b>assessors [3]</b> 27/3 27/5 27/13 <b>asset [3]</b> 101/1 102/1 121/4 <b>assist [15]</b> 1/18 124/12 129/17 131/18 133/6 134/10 135/7 146/1 147/16 151/13 157/7 163/10 174/9 178/24 182/16 <b>assistance [1]</b> 116/4 <b>Assistant [1]</b> 3/16 <b>assistants [1]</b> 133/10 <b>assisting [1]</b> 133/17 <b>associate [1]</b> 105/15 <b>associated [2]</b> 57/19 100/22 <b>assume [1]</b> 115/18 <b>assumed [4]</b> 9/11 10/2 10/17 105/10 <b>assumes [1]</b> 155/22 <b>assuming [1]</b> 149/4 <b>assurance [1]</b> 33/2 <b>assurances [2]</b> 42/3 63/8 <b>assure [1]</b> 93/7 <b>at [324]</b> <b>at page 42 [1]</b> 55/5 <b>atmosphere [1]</b> 154/10 <b>ATMs [1]</b> 57/20 <b>attached [3]</b> 40/17 40/20 69/8 <b>attack [2]</b> 127/13 127/16 <b>attempt [2]</b> 25/16 123/25 <b>attempted [1]</b> 75/18 <b>attempting [2]</b> 110/19 166/24 <b>attempts [1]</b> 163/23 <b>attend [4]</b> 52/8 55/23 56/1 61/20 <b>attendance [1]</b> 75/20 <b>attended [1]</b> 35/5 <b>attending [1]</b> 75/17	<b>attention [10]</b> 5/16 7/3 8/6 15/5 18/25 25/15 99/17 120/20 152/25 179/25 <b>attitude [1]</b> 89/1 <b>Attorney [1]</b> 177/3 <b>attributable [2]</b> 43/10 43/11 <b>attributes [1]</b> 171/20 <b>audit [11]</b> 23/19 24/2 24/6 24/11 27/11 27/12 32/1 32/6 33/2 49/12 57/23 <b>auditable [1]</b> 38/10 <b>audited [3]</b> 31/20 31/24 32/16 <b>Auditors' [1]</b> 99/16 <b>audits [1]</b> 49/9 <b>augmenting [1]</b> 136/6 <b>August [10]</b> 35/20 75/10 76/1 76/5 76/8 85/23 97/15 98/3 98/7 161/21 <b>August 2008 [1]</b> 76/8 <b>Aujard [9]</b> 89/9 90/5 103/3 105/11 105/15 106/13 107/4 129/17 135/18 <b>automatically [1]</b> 49/21 <b>availability [1]</b> 72/16 <b>available [9]</b> 2/15 2/19 31/11 53/4 55/24 57/23 110/11 136/15 145/14 <b>avoid [1]</b> 69/6 <b>aware [19]</b> 14/25 15/11 16/22 18/14 35/20 40/11 111/8 121/5 126/24 128/1 128/9 128/12 148/8 150/2 161/4 161/17 174/24 177/2 185/9 <b>away [3]</b> 116/14 117/9 117/10	35/16 70/1 121/23 129/19 <b>backing [1]</b> 92/4 <b>backwards [1]</b> 120/25 <b>bad [1]</b> 14/6 <b>badly [2]</b> 11/15 174/16 <b>Baker [3]</b> 77/13 77/15 77/22 <b>balance [4]</b> 39/4 114/7 135/5 155/14 <b>balances [1]</b> 24/18 <b>balancing [1]</b> 27/24 <b>bank [1]</b> 44/21 <b>bankrupt [1]</b> 179/14 <b>bankruptcy [1]</b> 6/20 <b>bar [5]</b> 72/20 73/3 74/22 187/22 187/23 <b>barred [1]</b> 111/12 <b>barrier [2]</b> 158/4 158/6 <b>barriers [1]</b> 158/3 <b>barrister [3]</b> 3/5 78/22 119/7 <b>based [6]</b> 45/10 45/14 58/17 75/11 100/3 121/3 <b>basement [6]</b> 63/16 64/21 65/4 75/6 75/11 76/9 <b>basement/Rudkin [3]</b> 63/16 64/21 65/4 <b>basis [5]</b> 66/15 66/16 72/11 103/15 103/19 <b>Bates [23]</b> 50/16 51/1 51/4 52/11 59/5 61/5 61/12 61/15 62/17 63/1 64/20 71/11 85/23 85/25 115/21 123/11 143/5 143/6 148/16 156/20 156/25 168/18 170/18 <b>Bates' [1]</b> 59/4 <b>baton [1]</b> 37/7 <b>Batten [1]</b> 160/17 <b>battlefield [2]</b> 54/18 90/12 <b>BBC [1]</b> 12/12 <b>BDO [1]</b> 42/25 <b>be [261]</b> <b>Bearing [1]</b> 140/16 <b>became [5]</b> 35/20 81/12 131/24 132/11 150/2 <b>because [80]</b> 4/15 5/3 7/11 10/15 13/11 13/24 16/10 17/16 17/17 19/14 23/10 24/8 26/2 30/2 39/2 50/12 56/8 64/2 65/3 66/9 66/18 67/2 67/22 77/19 82/8 83/20 88/24 89/2 89/8 89/16	90/7 90/11 90/14 91/19 92/19 93/22 96/4 103/9 105/2 105/16 111/22 114/3 115/25 116/18 116/24 120/14 128/24 133/15 133/16 135/3 135/15 137/2 142/24 145/12 146/3 148/3 148/13 154/23 154/24 156/7 156/8 157/18 157/20 158/17 159/20 160/2 166/9 168/14 169/1 169/13 171/2 174/21 177/9 181/12 181/19 182/2 183/6 186/4 186/10 187/14 <b>become [3]</b> 60/18 102/16 102/24 <b>becoming [3]</b> 91/6 165/13 165/25 <b>been [168]</b> 2/7 3/22 4/23 5/18 8/19 8/23 9/19 10/5 11/11 13/1 13/3 13/4 13/8 14/24 15/1 15/8 16/24 18/3 18/5 18/6 18/13 18/16 18/18 21/8 23/13 23/17 23/22 24/4 25/7 25/18 27/2 27/17 28/25 29/3 29/22 29/22 32/16 32/17 33/14 35/1 39/8 40/9 40/11 41/10 41/18 41/19 41/25 42/1 42/19 43/16 43/21 44/24 45/11 45/16 46/12 49/10 51/8 51/16 52/21 53/21 56/10 56/19 58/6 58/7 59/18 59/25 62/15 63/6 64/6 64/25 67/4 67/5 67/22 69/6 72/23 74/5 76/8 78/11 78/11 78/13 78/13 78/15 79/19 79/21 80/25 82/1 82/5 82/6 82/7 82/23 84/4 89/2 89/2 89/7 90/22 90/25 92/19 93/4 93/23 93/25 96/4 98/19 99/21 100/20 101/7 101/21 103/19 103/20 104/1 104/2 105/10 106/6 106/16 107/6 107/19 108/7 108/14 108/21 110/12 110/13 111/11 115/9 118/13 118/16 124/22 128/4 128/7 128/17 128/20 128/21 129/5 130/16 130/23 133/16 135/24 136/25 138/14 139/4 140/6 142/19 145/6
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<b>B</b>	175/25 176/15 177/16 185/11	<b>blithe [1]</b> 81/23 <b>blithely [1]</b> 81/16 <b>blocking [1]</b> 105/4 <b>blow [1]</b> 51/25 <b>board [18]</b> 4/2 4/16 9/13 45/14 109/10 115/1 115/2 136/16 137/12 137/15 137/17 137/18 137/24 160/13 160/14 160/15 160/16 167/17	103/23 109/16 <b>breaking [1]</b> 106/24 <b>Brian [5]</b> 173/9 173/23 179/21 180/4 180/10 <b>Brian's [1]</b> 173/11 <b>Bridgen [3]</b> 41/10 67/22 71/15 <b>Bridgen's [1]</b> 41/18 <b>briefed [2]</b> 48/22 49/5 <b>briefing [10]</b> 49/3 59/10 60/3 62/7 62/22 64/14 65/25 75/2 98/3 113/4 <b>briefly [7]</b> 20/19 121/21 122/15 156/11 160/11 171/25 177/13 <b>bring [5]</b> 3/25 15/9 18/19 59/23 149/19 <b>bringing [1]</b> 25/14 <b>Bristow [7]</b> 5/7 6/7 7/17 7/20 12/10 13/8 14/9 <b>Bristow's [2]</b> 5/17 8/5 <b>Britain [1]</b> 188/5 <b>broader [1]</b> 15/18 <b>broke [4]</b> 73/24 106/4 106/25 131/22 <b>broken [2]</b> 131/21 156/24 <b>Brooks [1]</b> 6/10 <b>Brooks Newmark [1]</b> 6/10 <b>brought [7]</b> 15/5 89/9 90/5 99/16 133/9 155/15 179/25 <b>brush [2]</b> 17/5 17/22 <b>brush-off [2]</b> 17/5 17/22 <b>budge [1]</b> 154/16 <b>bug [8]</b> 43/22 43/23 44/3 44/5 44/8 44/12 44/16 44/19 <b>bugs [10]</b> 42/20 43/20 44/13 44/21 45/16 48/5 48/8 88/11 128/7 169/19 <b>building [2]</b> 75/12 76/9 <b>built [1]</b> 49/8 <b>bullet [9]</b> 32/14 32/25 49/4 66/4 66/6 66/9 66/10 67/6 145/21	<b>busy [1]</b> 146/7 <b>but [158]</b> 1/4 4/23 10/10 10/19 12/5 13/10 15/18 19/9 19/10 19/13 19/24 20/12 23/8 24/1 25/19 26/4 27/8 29/21 30/4 33/2 33/6 36/16 37/2 37/4 37/8 39/10 39/19 39/22 40/6 40/11 45/2 45/19 46/7 46/14 46/15 46/22 51/5 53/4 53/18 54/11 54/16 55/23 56/25 60/12 61/7 63/22 64/20 65/20 66/6 67/13 67/21 67/24 68/20 70/1 73/7 75/25 77/3 77/20 79/22 82/3 82/5 82/20 82/21 82/25 83/24 86/25 88/14 88/19 88/24 89/14 89/25 90/7 91/7 93/22 96/16 97/5 98/14 103/4 104/12 109/16 113/9 114/2 115/22 116/3 116/6 116/23 118/14 120/24 121/25 122/2 123/1 123/5 124/1 124/23 125/11 126/11 127/2 129/3 129/12 131/6 131/13 132/10 132/17 133/23 135/9 135/14 139/7 142/5 142/10 143/1 143/11 145/4 146/23 147/23 149/5 149/8 150/3 150/18 150/19 150/25 152/14 154/15 154/16 156/7 157/20 158/10 160/23 161/9 163/13 164/9 164/13 164/18 164/20 165/3 168/5 169/16 169/21 170/19 171/6 175/20 176/22 177/4 177/5 177/20 179/9 179/12 180/5 180/14 181/15 181/22 182/5 182/9 182/21 183/11 184/23 187/3 187/7 188/3
<b>been... [27]</b> 149/24 150/15 153/11 156/21 157/4 157/9 157/16 159/19 166/23 167/14 168/20 169/16 171/22 172/2 173/2 173/20 174/12 174/24 175/1 177/25 179/25 180/15 180/22 185/7 185/13 186/18 187/1 <b>Beer [13]</b> 1/5 1/11 1/13 46/4 46/6 46/22 47/2 65/13 96/10 96/17 97/2 117/8 190/5 <b>before [30]</b> 19/12 24/11 46/12 52/20 64/18 65/20 95/7 97/2 107/23 116/11 117/20 119/3 119/7 127/18 140/4 140/7 143/20 150/20 151/10 153/3 153/7 156/11 158/20 164/13 171/7 172/7 178/9 180/13 181/3 188/13 <b>began [3]</b> 4/8 82/21 97/23 <b>begin [2]</b> 110/3 119/15 <b>beginning [7]</b> 32/21 74/13 83/15 83/20 92/23 125/24 148/6 <b>begins [1]</b> 153/10 <b>begun [1]</b> 107/23 <b>behalf [1]</b> 95/11 <b>behaves [1]</b> 11/15 <b>behaving [1]</b> 111/11 <b>behaviour [2]</b> 4/1 106/6 <b>behind [1]</b> 88/14 <b>being [70]</b> 2/19 4/19 4/22 4/23 7/4 12/2 13/22 13/24 17/4 17/21 19/1 24/2 24/9 26/10 27/8 31/24 33/12 35/23 36/19 36/19 36/23 37/1 38/4 38/14 39/6 39/15 39/23 47/11 52/23 53/2 53/9 53/12 54/22 55/15 55/16 57/13 57/23 77/10 80/9 80/10 81/18 82/3 88/10 98/13 98/14 106/17 119/23 119/25 129/18 130/15 132/17 135/25 142/4 143/1 143/7 143/9 143/22 147/6 148/13 148/25 149/8 152/18 160/25 161/12 169/5 170/18	<b>belatedly [1]</b> 115/12 <b>belief [4]</b> 2/4 54/5 93/18 118/2 <b>believe [17]</b> 2/24 20/1 46/11 54/7 55/14 62/20 64/22 70/8 73/24 77/4 94/19 95/21 143/5 151/23 161/22 171/4 188/17 <b>believed [7]</b> 39/1 54/1 71/16 83/20 93/24 122/1 177/14 <b>believing [2]</b> 41/4 91/12 <b>belong [1]</b> 36/13 <b>below [4]</b> 143/5 155/7 157/1 157/2 <b>bench [2]</b> 119/9 119/10 <b>benefit [2]</b> 83/10 90/16 <b>benefits [1]</b> 87/5 <b>beside [1]</b> 117/15 <b>best [10]</b> 2/4 9/14 31/15 35/12 118/2 127/1 128/12 144/15 175/20 179/13 <b>bet [1]</b> 74/17 <b>better [3]</b> 46/16 133/8 159/19 <b>between [44]</b> 3/7 11/24 19/17 20/10 28/8 40/14 43/24 44/5 50/22 50/25 51/4 52/19 55/8 55/11 56/20 58/2 63/1 64/20 71/11 78/3 83/1 91/10 91/18 97/21 102/19 119/19 125/6 125/17 125/20 125/25 131/18 133/1 146/16 147/17 151/7 156/13 156/20 161/16 171/11 171/19 179/23 180/7 181/6 181/11 <b>beyond [4]</b> 53/17 61/6 155/18 162/6 <b>bigger [1]</b> 188/1 <b>bill [3]</b> 89/4 89/20 89/23 <b>BIS [3]</b> 6/5 8/2 18/1 <b>bit [12]</b> 7/14 30/5 33/10 56/8 65/22 81/5 114/6 127/25 129/13 146/8 146/14 147/3 <b>BLAKE [3]</b> 117/13 188/24 190/9 <b>Blake's [1]</b> 116/18 <b>Blakey [1]</b> 96/20 <b>blame [2]</b> 10/6 18/25 <b>blamed [2]</b> 43/4 43/9 <b>BLASTED [1]</b> 69/10	<b>blithe [1]</b> 81/23 <b>blithely [1]</b> 81/16 <b>blocking [1]</b> 105/4 <b>blow [1]</b> 51/25 <b>board [18]</b> 4/2 4/16 9/13 45/14 109/10 115/1 115/2 136/16 137/12 137/15 137/17 137/18 137/24 160/13 160/14 160/15 160/16 167/17 <b>Board's [1]</b> 111/22 <b>body [3]</b> 9/4 114/23 120/7 <b>Bogerd [11]</b> 29/11 34/20 40/16 42/14 85/23 103/4 103/10 106/13 107/4 143/10 150/23 <b>boiled [1]</b> 103/13 <b>Bond [6]</b> 125/17 125/22 127/20 138/21 139/16 139/22 <b>books [1]</b> 135/5 <b>borrow [1]</b> 42/6 <b>borrowing [1]</b> 39/9 <b>both [19]</b> 36/22 53/14 58/8 59/9 61/8 119/4 132/5 139/4 139/4 141/20 143/2 144/21 150/16 166/5 166/20 168/6 183/20 183/20 183/21 <b>bottom [23]</b> 9/1 20/24 32/25 37/3 41/15 70/24 71/1 71/13 71/14 75/5 77/6 82/17 88/13 91/11 99/3 118/8 119/18 120/16 120/17 123/22 152/3 156/19 162/11 <b>Bowyer [2]</b> 125/21 127/6 <b>box [1]</b> 32/25 <b>boxes [1]</b> 41/15 <b>Bracknell [7]</b> 63/16 64/21 65/4 75/10 75/17 75/19 76/5 <b>branch [12]</b> 9/19 13/9 13/17 15/14 16/9 16/21 29/11 50/1 63/9 67/11 68/1 75/13 <b>branches [1]</b> 16/17 <b>brand [2]</b> 37/9 152/11 <b>breach [3]</b> 79/19 85/5 183/2 <b>breaches [2]</b> 81/18 81/19 <b>break [9]</b> 46/3 47/6 91/10 91/17 116/24 153/7 156/11 159/7 159/12 <b>breakdown [3]</b> 97/20	<b>bullet [9]</b> 32/14 32/25 49/4 66/4 66/6 66/9 66/10 67/6 145/21 <b>bundle [1]</b> 40/21 <b>burden [1]</b> 69/8 <b>business [16]</b> 5/22 6/5 8/3 8/10 9/6 9/14 12/18 22/21 23/20 35/23 36/8 36/16 39/10 64/12 77/3 124/8 <b>bust [1]</b> 82/25	
		<b>C</b>		
		<b>calendar [2]</b> 76/6 77/8 <b>call [19]</b> 1/9 38/19 55/11 62/5 62/8 63/19 63/22 64/13 64/14 64/14 64/23 65/12 65/25 66/1 66/4 162/16 162/18 162/19 163/5 <b>Callanan [2]</b> 81/22 114/17		

<b>C</b>	133/13 134/18 134/23 137/21 139/7 141/11 142/3 148/19 148/23 149/5 149/11 149/24 150/1 150/8 152/1 152/3 154/21 154/22 155/3 155/8 155/19 156/2 156/10 158/9 169/14 170/19 179/3 181/9	<b>CEO [1]</b> 29/8 <b>certain [4]</b> 63/14 103/5 135/20 166/4 <b>certainly [25]</b> 6/21 30/23 46/4 46/11 54/7 61/8 67/17 74/24 82/20 95/23 96/2 98/21 98/21 99/23 138/7 145/2 146/24 149/6 150/16 150/19 161/11 161/19 164/10 183/3 185/13 <b>cessation [1]</b> 113/21 <b>cetera [7]</b> 150/4 156/25 162/7 164/5 170/23 176/11 184/16 <b>chain [4]</b> 119/17 125/24 127/19 156/16 <b>chair [14]</b> 3/17 99/9 120/24 121/2 123/23 146/18 155/4 157/3 158/1 162/15 162/18 163/14 184/11 184/14 <b>chaired [3]</b> 19/24 121/18 150/7 <b>chairman [11]</b> 29/7 56/14 91/25 119/12 125/11 126/10 134/22 154/6 177/8 184/20 188/22 <b>chairman's [3]</b> 135/12 159/16 187/10 <b>chairmanship [1]</b> 145/18 <b>challenged [1]</b> 133/4 <b>challenges [2]</b> 9/14 133/7 <b>Chambers [1]</b> 78/7 <b>chance [1]</b> 168/17 <b>Chancery [1]</b> 3/5 <b>change [15]</b> 36/6 49/16 67/12 68/2 89/1 107/21 107/21 151/17 160/23 161/2 161/5 161/6 161/9 169/20 169/20 <b>changed [7]</b> 89/1 103/21 113/25 125/9 168/21 172/5 173/15 <b>changes [2]</b> 77/17 161/12 <b>changing [3]</b> 9/15 36/2 160/24 <b>characterisation [1]</b> 71/25 <b>characters [1]</b> 135/1 <b>charge [4]</b> 100/5 100/7 126/9 184/4 <b>charged [3]</b> 181/16 181/25 182/4 <b>charges [1]</b> 45/9 <b>chaser [1]</b> 7/12 <b>check [2]</b> 97/7 175/20	<b>checked [1]</b> 95/10 <b>checks [1]</b> 28/1 <b>cheques [1]</b> 57/21 <b>Chief [13]</b> 3/16 3/18 12/16 12/25 29/9 34/11 38/4 38/14 55/10 57/4 62/6 92/12 95/8 <b>Chief Whip [2]</b> 3/16 3/18 <b>Chinook [2]</b> 5/5 23/11 <b>chose [1]</b> 22/10 <b>Chris [7]</b> 89/8 103/3 105/11 106/13 107/4 129/17 135/18 <b>chronological [1]</b> 2/9 <b>chronology [4]</b> 11/19 26/2 71/6 160/6 <b>circumstances [4]</b> 7/22 16/11 109/8 167/21 <b>civil [8]</b> 3/25 48/7 63/7 99/14 100/2 119/4 139/4 186/13 <b>civil/criminal [1]</b> 100/2 <b>civilised [1]</b> 154/13 <b>claim [2]</b> 6/16 134/8 <b>claimant [1]</b> 170/19 <b>claimed [1]</b> 101/5 <b>claims [2]</b> 111/13 122/12 <b>clarified [1]</b> 17/3 <b>Clarke [12]</b> 78/21 81/2 88/4 88/8 90/18 114/15 114/15 177/19 177/25 178/11 179/8 180/3 <b>Clarke's [3]</b> 128/5 128/15 180/10 <b>class [3]</b> 85/7 86/20 87/4 <b>Clause [1]</b> 73/10 <b>Clause 5.1 [1]</b> 73/10 <b>clean [4]</b> 77/15 89/4 89/20 89/23 <b>clear [20]</b> 10/10 19/4 37/2 63/4 65/16 65/24 98/11 99/8 101/10 130/2 130/18 134/22 138/25 139/11 139/13 141/14 142/5 150/13 156/4 178/23 <b>clearly [15]</b> 22/6 24/24 25/15 39/18 69/2 83/22 89/5 89/23 97/7 101/11 109/20 111/8 147/1 147/12 155/14 <b>clerical [1]</b> 181/20 <b>clip [1]</b> 7/13 <b>close [4]</b> 73/23 107/12 136/21 136/25	<b>closed [4]</b> 13/3 18/5 132/20 167/23 <b>closely [2]</b> 59/19 133/23 <b>closing [7]</b> 16/8 21/16 21/25 22/12 25/6 137/11 157/3 <b>closings [1]</b> 178/18 <b>closure [3]</b> 15/14 18/22 170/3 <b>coalition [1]</b> 12/6 <b>coffee [1]</b> 4/8 <b>coin [1]</b> 132/2 <b>coincidence [1]</b> 13/15 <b>collaboration [1]</b> 86/2 <b>collaboratively [1]</b> 84/13 <b>colleagues [3]</b> 35/11 35/17 52/9 <b>column [1]</b> 31/2 <b>combative [3]</b> 89/16 90/7 91/6 <b>come [22]</b> 6/1 11/18 21/10 23/7 23/7 29/5 32/2 32/4 40/5 54/8 75/1 77/15 82/10 88/6 89/17 102/4 102/22 113/16 134/2 135/19 151/18 159/7 <b>comes [2]</b> 32/23 36/14 <b>coming [4]</b> 31/4 60/6 133/10 136/1 <b>commanding [1]</b> 90/13 <b>comment [3]</b> 155/5 157/2 159/16 <b>commentary [2]</b> 114/13 114/19 <b>commented [1]</b> 157/3 <b>commenting [1]</b> 155/19 <b>comments [10]</b> 6/22 8/1 16/14 101/10 127/22 139/1 139/3 143/4 156/25 177/25 <b>commercial [1]</b> 9/9 <b>Commission [3]</b> 78/18 82/20 171/24 <b>commissioned [3]</b> 27/11 88/4 88/8 <b>commissioning [3]</b> 33/1 44/25 78/21 <b>commitment [3]</b> 25/3 111/23 161/5 <b>committed [1]</b> 83/21 <b>Committee [1]</b> 3/17 <b>common [1]</b> 188/4 <b>Commons [1]</b> 35/5 <b>communicate [2]</b> 56/15 135/10
----------	---	--	--	---



<b>C</b>	105/18	<b>death [1]</b> 68/25	27/13	38/14 38/23 39/14
<b>court...</b> [14] 104/3	<b>current [2]</b> 52/25	<b>debate [3]</b> 25/8 25/19	<b>democratic [1]</b> 11/9	40/6 40/20 41/22
118/22 118/23 119/1	133/5	25/24	<b>demonstrate [1]</b>	42/14 43/8 48/10
119/2 119/3 119/4	<b>currently [5]</b> 37/16	<b>debates [1]</b> 152/21	167/9	48/14 49/25 54/5 54/7
139/5 158/20 159/24	126/17 130/8 162/20	<b>December [7]</b> 7/14	<b>demonstrated [4]</b>	55/1 58/21 61/18
173/14 175/5 180/13	162/23	8/22 8/24 12/24 15/22	62/14 75/12 169/24	61/25 66/14 67/12
188/7	<b>customer [1]</b> 9/15	45/1 109/23	170/7	67/19 71/20 72/9
<b>courts [13]</b> 4/4 28/11	<b>cut [1]</b> 87/4	<b>deception [1]</b> 88/15	<b>den [11]</b> 29/11 34/20	74/10 74/11 76/20
28/13 28/20 32/18	<b>D</b>	<b>decide [1]</b> 51/14	40/16 42/14 85/23	76/24 77/12 77/24
45/9 45/25 63/7	<b>Dalmellington [1]</b>	<b>decided [4]</b> 11/22	103/4 103/10 106/13	78/2 79/5 81/22 82/12
171/23 178/16 182/22	44/8	45/3 146/25 164/1	107/4 143/10 150/23	87/9 89/5 89/13 89/19
182/23 184/24	<b>damning [3]</b> 98/9	<b>decides [1]</b> 9/14	<b>denying [2]</b> 65/7	89/20 91/18 92/16
<b>cover [2]</b> 115/6 147/1	98/11 101/25	<b>deciding [3]</b> 123/12	76/21	93/14 93/21 94/15
<b>covered [3]</b> 101/5	98/11 101/25	169/7 187/15	<b>department [5]</b> 8/3	94/19 98/21 104/25
183/6 183/7	<b>danger [1]</b> 151/14	<b>decision [13]</b> 121/2	8/9 8/12 77/14 165/17	105/15 107/4 108/16
<b>cowed [1]</b> 106/22	<b>dangerous [3]</b> 11/12	123/6 123/25 124/1	<b>depend [2]</b> 129/12	111/15 112/2 112/15
<b>Coyne [1]</b> 42/20	11/13 11/14	159/24 162/15 162/17	139/9	113/12 114/8 114/15
<b>crafted [1]</b> 69/6	<b>dangers [1]</b> 173/9	164/13 164/20 164/22	<b>deprecated [1]</b>	114/16 124/14 124/15
<b>crash [2]</b> 5/5 23/11	<b>Darren [1]</b> 127/15	168/11 172/9 186/11	178/16	125/8 129/10 130/21
<b>created [1]</b> 49/12	<b>data [17]</b> 3/24 24/17	<b>decision-making [1]</b>	<b>depth [4]</b> 60/16	133/22 133/25 134/24
<b>credence [2]</b> 23/10	32/2 32/7 45/8 45/10	123/25	150/11 156/5 166/19	135/10 139/2 139/11
40/12	45/23 56/5 75/13	<b>decisions [3]</b> 124/1	<b>Deputy [1]</b> 119/12	143/14 144/7 144/17
<b>credibility [1]</b> 79/15	76/18 77/16 78/10	161/12 171/8	<b>describe [1]</b> 17/4	144/19 147/9 149/2
<b>credit [2]</b> 15/9 18/19	94/24 94/24 94/25	<b>decline [1]</b> 187/21	<b>described [5]</b> 20/4	149/6 149/10 149/12
<b>Crichton [9]</b> 29/8	150/12 170/23	<b>declined [1]</b> 143/18	90/12 115/9 125/12	149/12 149/18 150/20
50/11 77/23 84/10	<b>date [5]</b> 24/10 142/17	<b>deem [1]</b> 52/9	184/2	153/14 157/8 158/3
88/23 89/3 102/12	148/22 166/23 179/16	<b>deep [1]</b> 33/13	<b>describing [2]</b> 7/21	165/1 165/3 170/14
120/22 172/24	<b>dated [4]</b> 1/23 8/22	<b>deeply [2]</b> 21/14	86/14	172/9 172/16 174/19
<b>Crichton's [1]</b> 89/8	117/19 146/13	21/18	<b>description [2]</b> 46/16	177/23 180/5 180/20
<b>crimes [1]</b> 10/5	<b>dates [1]</b> 119/16	<b>defaulted [1]</b> 100/4	101/24	183/7 186/1 186/9
<b>criminal [42]</b> 45/4	<b>dating [1]</b> 34/25	<b>defect [1]</b> 188/4	<b>descriptions [1]</b>	187/23 188/7
45/9 45/9 45/25 48/7	<b>Davey [4]</b> 12/11	<b>defects [2]</b> 45/16	60/10	<b>didn't [69]</b> 10/12
63/7 64/9 67/2 67/3	12/17 17/25 19/8	128/7	<b>designed [7]</b> 32/20	10/22 14/7 24/23 25/1
69/23 70/6 70/12	<b>David [6]</b> 5/7 6/7 7/17	<b>defence [3]</b> 3/13 3/17	76/18 93/8 94/8	29/20 30/23 38/1
70/18 70/18 73/14	12/10 92/13 92/14	187/19	105/12 112/11 122/6	38/12 40/11 42/2
73/20 74/21 74/23	<b>Davies [1]</b> 84/11	<b>defendant [2]</b> 100/21	<b>desirable [1]</b> 136/17	42/18 42/23 42/24
78/18 82/14 82/19	<b>day [11]</b> 4/14 71/10	178/24	<b>desire [1]</b> 174/25	43/2 43/3 43/7 43/12
99/15 100/2 118/23	75/19 75/21 111/25	<b>defensive [7]</b> 68/23	<b>despite [7]</b> 66/12	43/15 43/19 43/20
119/4 128/23 139/1	113/21 158/25 159/2	69/15 102/16 102/24	110/4 110/5 110/10	44/1 44/2 44/8 44/12
139/4 158/21 159/23	187/22 188/14 189/3	105/7 105/12 105/16	110/16 110/23 163/23	44/16 44/24 45/6 45/7
159/24 167/20 171/23	<b>day 1 [1]</b> 158/25	<b>defensiveness [1]</b>	<b>desultory [1]</b> 113/17	51/14 55/14 56/7
173/5 180/13 181/24	<b>days [7]</b> 38/19 64/17	105/3	<b>detail [11]</b> 26/2 29/12	56/18 65/20 77/21
182/22 187/6 187/8	85/2 130/24 135/4	<b>defer [1]</b> 163/4	34/8 65/2 69/8 82/2	85/18 87/15 87/17
187/23 187/25 188/7	136/25 163/17	<b>deficit [1]</b> 11/9	84/18 92/2 97/19	88/19 89/24 90/21
<b>critical [5]</b> 131/24	<b>de [1]</b> 101/3	<b>define [1]</b> 162/15	154/16 170/18	90/24 91/3 92/18
132/4 142/4 166/6	<b>de-emphasised [1]</b>	<b>definitely [1]</b> 164/20	<b>detailed [4]</b> 1/16 2/7	125/9 134/1 134/2
169/12	101/3	<b>definitive [2]</b> 53/3	19/22 109/24	134/23 134/24 135/3
<b>criticise [2]</b> 151/16	<b>deadline [3]</b> 55/21	77/9	<b>details [4]</b> 30/6 89/13	135/15 136/1 137/17
154/20	86/19 143/21	<b>degree [4]</b> 54/18	150/2 175/24	138/1 139/8 147/10
<b>criticised [3]</b> 131/25	<b>deal [14]</b> 15/13 70/12	54/19 54/20 149/14	<b>detect [1]</b> 49/21	147/11 148/11 148/13
132/13 154/23	73/25 74/1 90/3 92/1	<b>delay [9]</b> 54/19 54/20	<b>detected [1]</b> 45/17	153/2 157/15 161/10
<b>criticism [2]</b> 144/24	97/13 104/17 122/15	152/6 163/15 163/16	<b>determine [1]</b> 33/7	161/11 172/9 173/15
160/2	123/5 140/18 157/15	163/23 165/1 165/2	<b>determined [3]</b> 76/8	174/23 177/19 179/12
<b>criticisms [1]</b> 156/1	171/12 177/13	174/23	102/17 102/25	186/14
<b>cross [4]</b> 35/7 35/13	<b>dealing [10]</b> 26/1	<b>delaying [1]</b> 157/12	<b>development [1]</b>	<b>die [1]</b> 179/13
87/15 97/17	81/10 87/19 87/20	<b>delays [2]</b> 145/8	9/15	<b>died [1]</b> 178/9
<b>cross-referenced [1]</b>	99/6 102/8 102/16	166/18	<b>devoted [1]</b> 2/7	<b>difference [11]</b>
97/17	102/24 144/10 168/5	<b>deliberate [1]</b> 49/22	<b>Dickinson [6]</b> 125/18	147/17 159/20 159/22
<b>Crown [3]</b> 4/1 182/22	<b>dealings [2]</b> 89/10	<b>deliberately [1]</b> 151/2	125/22 127/20 138/21	175/12 178/2 179/23
184/23	90/6	<b>deliver [1]</b> 30/17	139/16 139/22	180/7 181/6 181/11
<b>CRR [1]</b> 123/3	<b>deals [1]</b> 99/4	<b>delivered [1]</b> 31/1	<b>did [108]</b> 4/13 4/21	184/18 185/4
<b>crucial [1]</b> 107/10	<b>dealt [3]</b> 103/5	<b>Deloitte [2]</b> 24/7	13/10 13/11 19/7 19/9	<b>differences [3]</b> 95/13
<b>culminated [1]</b>	143/22 175/2	24/11	20/1 33/12 36/18	160/8 171/10
	<b>Dear [2]</b> 21/1 26/19	<b>Deloitte's [2]</b> 23/19	37/24 38/4 38/6 38/11	<b>different [18]</b> 24/20



<b>D</b>	<b>discussed [17]</b> 18/10 25/5 35/6 78/1 81/17 109/10 120/7 136/3 138/10 145/24 163/6 163/13 164/9 164/12 165/5 181/12 185/13 <b>discusses [1]</b> 160/13 <b>discussing [1]</b> 153/10 <b>discussion [17]</b> 19/11 25/7 41/13 93/2 125/17 125/20 133/1 141/17 147/13 147/18 150/11 155/4 161/8 161/11 171/20 172/12 177/16 <b>discussions [7]</b> 46/8 52/20 135/8 135/8 137/4 168/22 185/9 <b>disenchanted [1]</b> 131/24 <b>disgorge [1]</b> 184/8 <b>dishonest [1]</b> 37/1 <b>dishonesty [1]</b> 183/21 <b>disintegrated [1]</b> 132/22 <b>disintegration [2]</b> 132/22 132/24 <b>dismissed [4]</b> 13/4 13/8 13/17 18/6 <b>display [1]</b> 19/23 <b>disprovable [1]</b> 13/25 <b>disproves [1]</b> 63/13 <b>dispute [2]</b> 61/10 102/19 <b>disregarded [1]</b> 101/17 <b>dissatisfied [2]</b> 151/10 151/12 <b>dissolution [1]</b> 113/20 <b>distressing [1]</b> 138/14 <b>distribution [1]</b> 55/25 <b>Ditchley [2]</b> 12/14 21/3 <b>dive [1]</b> 33/13 <b>divide [1]</b> 48/7 <b>Division [6]</b> 101/13 118/23 158/21 159/25 180/14 188/8 <b>do [62]</b> 10/11 11/4 32/24 36/18 39/4 39/10 40/17 43/14 48/6 48/10 51/16 52/13 65/13 70/12 75/25 77/4 82/12 88/23 89/14 96/9 97/16 117/17 119/23 119/25 120/4 123/13 125/1 127/1 129/19 130/14 133/14 134/9	136/18 137/7 142/24 147/8 147/13 149/16 150/20 151/19 151/23 157/21 157/22 158/16 164/22 164/23 170/5 172/17 173/4 175/6 177/23 179/2 179/2 179/13 179/23 180/1 181/8 181/10 183/10 184/16 187/19 188/13 <b>document [23]</b> 1/21 6/1 59/10 60/3 60/7 65/11 83/6 84/6 88/6 94/13 119/15 121/25 121/25 132/25 153/6 153/15 153/17 153/18 153/22 155/13 155/14 163/19 171/3 <b>documentary [1]</b> 118/15 <b>documentation [1]</b> 185/11 <b>documents [23]</b> 2/11 30/15 33/25 46/23 50/7 54/21 69/18 70/22 70/23 71/2 71/3 75/24 78/8 78/25 86/14 91/14 92/4 92/4 93/23 107/8 145/5 185/6 185/16 <b>does [18]</b> 6/14 15/9 18/19 36/13 45/13 47/25 48/11 60/25 67/15 85/18 88/1 101/13 107/2 107/3 115/23 119/22 167/25 176/4 <b>doesn't [4]</b> 28/1 124/24 164/10 184/17 <b>dog [3]</b> 11/12 11/13 11/14 <b>doing [13]</b> 25/20 39/4 62/2 107/17 107/18 112/8 115/21 116/23 133/12 144/15 146/8 156/6 169/9 <b>don't [53]</b> 11/3 12/4 19/9 19/13 30/14 39/19 46/20 56/3 65/18 68/18 72/23 74/3 74/4 74/8 77/24 78/2 83/2 86/25 92/18 97/4 116/15 116/16 124/14 125/9 131/20 131/21 137/9 139/19 139/21 139/22 143/3 144/14 144/19 145/15 147/22 147/22 148/2 158/11 160/14 164/11 166/11 171/5 175/9 180/2 180/4 184/7 184/19 184/19 185/4 187/5 187/10 188/6 188/17	<b>done [20]</b> 5/4 6/23 14/12 14/18 23/22 25/18 49/13 67/4 67/5 68/3 83/15 89/4 116/11 129/3 129/10 159/19 159/20 164/14 178/3 178/8 <b>door [3]</b> 7/5 13/19 19/1 <b>doors [2]</b> 178/17 178/19 <b>double [1]</b> 175/20 <b>doubled [2]</b> 39/5 176/17 <b>doubly [1]</b> 59/15 <b>doubt [9]</b> 16/25 54/8 54/13 90/16 134/24 148/3 180/11 181/12 184/22 <b>down [52]</b> 11/18 29/5 34/22 54/24 57/9 64/6 65/22 73/10 73/24 75/1 83/6 84/17 88/6 89/17 102/22 103/13 110/2 113/16 119/18 120/17 123/19 125/23 127/12 131/21 131/22 132/21 132/25 136/21 136/25 137/11 140/2 142/18 142/21 143/4 149/20 150/5 152/4 152/5 155/11 155/17 156/12 156/18 156/23 160/13 162/11 163/22 165/12 167/12 173/21 178/6 179/18 181/21 <b>downplaying [2]</b> 114/6 137/2 <b>downwards [1]</b> 80/17 <b>draft [5]</b> 30/18 74/17 153/10 153/15 154/1 <b>drafted [4]</b> 8/20 105/10 162/21 162/23 <b>drafting [1]</b> 93/12 <b>dragging [2]</b> 150/21 151/2 <b>draw [5]</b> 60/10 91/18 120/20 147/4 152/25 <b>drawing [2]</b> 7/2 18/24 <b>drawn [4]</b> 5/15 98/20 99/20 148/14 <b>drive [1]</b> 25/16 <b>drop [1]</b> 182/7 <b>dropped [1]</b> 126/15 <b>due [14]</b> 13/5 15/2 16/21 18/7 18/16 26/3 31/23 118/18 143/12 149/7 166/18 181/19 181/20 184/14 <b>duplicated [1]</b> 57/19 <b>during [9]</b> 38/19 75/9 88/22 100/9 145/11 145/15 145/16 150/11	158/23 <b>duties [5]</b> 79/13 79/19 80/5 85/5 175/23 <b>duty [4]</b> 81/18 81/19 177/20 178/13
			<b>E</b>	
			<b>each [10]</b> 16/17 45/2 49/12 49/15 60/10 124/20 134/8 157/14 162/25 175/24 <b>earlier [13]</b> 21/4 33/25 61/21 62/14 73/8 74/18 75/6 105/20 106/16 114/16 121/24 138/12 150/1 <b>early [15]</b> 12/8 19/16 47/16 51/17 51/19 53/25 58/16 71/2 97/15 125/15 130/24 136/22 136/24 137/11 172/19 <b>earned [1]</b> 63/17 <b>easily [3]</b> 100/8 146/9 147/25 <b>easy [4]</b> 69/2 140/21 176/19 184/9 <b>Ed [3]</b> 12/11 12/17 17/25 <b>Ed Davey [2]</b> 12/11 12/17 <b>EDROM [3]</b> 1/10 1/15 190/2 <b>effect [7]</b> 20/14 43/14 61/22 78/24 106/3 106/4 157/6 <b>effective [2]</b> 60/21 167/18 <b>effectively [1]</b> 168/24 <b>efficient [1]</b> 143/11 <b>effort [1]</b> 75/23 <b>efforts [3]</b> 115/4 115/24 167/2 <b>eight [7]</b> 22/23 25/11 42/15 85/2 114/9 115/7 118/25 <b>eight years [2]</b> 114/9 118/25 <b>either [6]</b> 34/17 46/18 56/8 142/7 142/12 152/8 <b>EI [1]</b> 127/8 <b>EI Kasaby [1]</b> 127/8 <b>election [3]</b> 111/18 161/14 161/16 <b>element [2]</b> 14/4 83/24 <b>else [7]</b> 67/5 90/12 113/14 115/8 124/16 129/24 155/24 <b>email [34]</b> 7/20 20/22 63/1 64/17 65/9 68/14 68/17 69/11 75/24	

<b>E</b>	<p><b>enterprise [3]</b> 54/2 73/7 73/9</p> <p><b>entertained [1]</b> 41/2</p> <p><b>enticing [1]</b> 161/15</p> <p><b>entire [3]</b> 33/20 64/12 73/23</p> <p><b>entirely [2]</b> 37/2 138/25</p> <p><b>entity [1]</b> 35/19</p> <p><b>entrenched [2]</b> 157/24 159/1</p> <p><b>entries [2]</b> 77/8 169/20</p> <p><b>entrusted [1]</b> 16/16</p> <p><b>entry [1]</b> 145/20</p> <p><b>environment [5]</b> 76/10 76/11 76/11 76/13 76/16</p> <p><b>environments [1]</b> 76/17</p> <p><b>envisaged [1]</b> 168/10</p> <p><b>envy [1]</b> 187/10</p> <p><b>equal [2]</b> 144/6 183/20</p> <p><b>equally [2]</b> 144/6 144/9</p> <p><b>equation [5]</b> 112/18 121/2 121/9 131/17 148/8</p> <p><b>error [4]</b> 27/25 145/15 170/23 181/21</p> <p><b>errors [7]</b> 9/19 24/18 24/24 43/1 45/16 128/7 169/19</p> <p><b>escort [1]</b> 116/12</p> <p><b>especially [1]</b> 120/12</p> <p><b>essential [1]</b> 82/6</p> <p><b>essentially [8]</b> 11/1 12/2 28/5 30/24 50/23 84/7 106/4 142/6</p> <p><b>establish [3]</b> 75/18 96/1 187/15</p> <p><b>established [5]</b> 58/7 58/22 86/3 99/12 161/16</p> <p><b>estimated [1]</b> 130/9</p> <p><b>estimation [1]</b> 61/4</p> <p><b>et [7]</b> 150/4 156/25 162/7 164/5 170/23 176/11 184/16</p> <p><b>et cetera [7]</b> 150/4 156/25 162/7 164/5 170/23 176/11 184/16</p> <p><b>ethical [1]</b> 72/13</p> <p><b>ethics [2]</b> 119/13 184/16</p> <p><b>evaluate [1]</b> 187/8</p> <p><b>even [15]</b> 8/20 14/7 58/16 63/14 74/18 83/3 101/6 104/10 105/6 112/10 120/14 143/22 159/17 159/21 169/19</p> <p><b>even-handed [1]</b> 120/14</p>	<p>120/14</p> <p><b>event [9]</b> 11/22 63/14 67/24 74/18 83/24 91/22 111/21 113/18 124/3</p> <p><b>events [6]</b> 2/9 2/21 12/9 58/12 74/25 97/15</p> <p><b>eventually [1]</b> 61/11</p> <p><b>ever [18]</b> 19/8 24/10 25/18 27/6 27/10 48/14 49/10 65/8 77/12 80/13 85/4 124/14 125/9 137/13 137/14 139/16 139/17 187/6</p> <p><b>every [11]</b> 2/16 28/10 28/12 28/19 38/9 40/1 42/7 47/11 59/14 98/22 108/12</p> <p><b>everybody [2]</b> 82/15 172/22</p> <p><b>everyone [5]</b> 80/15 84/12 96/13 116/21 174/16</p> <p><b>everything [5]</b> 54/24 159/17 178/7 178/18 180/14</p> <p><b>evidence [51]</b> 1/17 2/19 16/24 28/9 32/18 33/7 42/19 58/14 58/20 62/16 63/12 64/22 65/9 72/11 74/5 77/7 77/7 78/5 78/6 79/1 79/8 88/9 90/22 100/4 100/7 100/9 116/10 118/9 118/15 118/19 128/8 128/22 138/16 148/6 150/12 153/24 154/21 155/14 160/4 160/20 167/10 167/11 169/25 170/8 170/9 170/13 170/25 171/9 187/17 188/10 188/20</p> <p><b>evident [2]</b> 17/16 45/17</p> <p><b>exact [1]</b> 139/7</p> <p><b>exactly [12]</b> 33/15 46/14 53/2 61/25 65/9 77/2 89/10 125/11 132/17 156/17 184/18 184/25</p> <p><b>examination [1]</b> 135/1</p> <p><b>examine [4]</b> 34/8 80/5 95/4 150/10</p> <p><b>examined [3]</b> 39/24 78/17 100/3</p> <p><b>example [18]</b> 63/15 69/9 85/14 98/12 122/9 126/18 128/16 129/7 129/25 133/17 152/1 155/19 155/21</p>	<p>158/20 185/21 186/17 186/19 186/24</p> <p><b>exasperation [1]</b> 69/9</p> <p><b>excellent [1]</b> 58/7</p> <p><b>except [4]</b> 93/21 95/13 108/13 167/20</p> <p><b>exception [2]</b> 69/22 100/14</p> <p><b>exceptional [2]</b> 109/5 167/21</p> <p><b>exceptionally [1]</b> 2/6</p> <p><b>exchange [4]</b> 63/1 119/19 125/15 151/5</p> <p><b>exchanges [2]</b> 51/3 80/15</p> <p><b>exclude [2]</b> 87/14 106/14</p> <p><b>excluded [4]</b> 84/3 85/8 106/19 110/20</p> <p><b>excluding [1]</b> 1/22</p> <p><b>exclusion [1]</b> 86/20</p> <p><b>excuse [1]</b> 178/20</p> <p><b>executive [11]</b> 4/2 12/16 12/25 28/17 38/5 38/15 45/15 146/13 146/17 160/12 161/6</p> <p><b>executives [1]</b> 26/12</p> <p><b>exempt [1]</b> 113/8</p> <p><b>exercise [1]</b> 56/20</p> <p><b>exercising [1]</b> 169/6</p> <p><b>exhaust [2]</b> 173/12 173/14</p> <p><b>exhibited [3]</b> 50/8 69/18 97/18</p> <p><b>exhibiting [1]</b> 92/3</p> <p><b>exhibits [1]</b> 1/23</p> <p><b>existed [3]</b> 42/9 47/13 78/8</p> <p><b>existence [3]</b> 45/21 88/17 88/18</p> <p><b>existential [2]</b> 107/14 107/15</p> <p><b>existing [3]</b> 16/18 52/25 62/13</p> <p><b>exists [1]</b> 78/1</p> <p><b>expand [1]</b> 7/14</p> <p><b>expect [9]</b> 28/22 56/1 82/1 82/5 126/21 138/23 143/24 175/20 180/20</p> <p><b>expectation [2]</b> 70/16 94/16</p> <p><b>expectations [2]</b> 53/17 101/11</p> <p><b>expected [7]</b> 73/12 108/12 128/17 129/24 139/17 139/20 145/6</p> <p><b>expecting [1]</b> 89/2</p> <p><b>experience [3]</b> 39/2 184/23 184/25</p> <p><b>experienced [2]</b> 73/13 102/7</p>	<p><b>expert [12]</b> 23/8 24/16 42/19 44/25 73/19 79/16 127/7 127/11 127/14 127/17 128/1 128/11</p> <p><b>expertise [5]</b> 72/1 72/8 73/15 155/19 166/25</p> <p><b>experts [1]</b> 23/22</p> <p><b>expiry [1]</b> 143/20</p> <p><b>explain [8]</b> 10/25 24/23 136/16 137/13 151/11 151/20 163/8 176/5</p> <p><b>explained [4]</b> 23/17 124/22 130/7 183/25</p> <p><b>explaining [2]</b> 22/19 175/10</p> <p><b>explains [1]</b> 151/25</p> <p><b>explore [4]</b> 20/19 69/21 163/8 166/24</p> <p><b>exploring [1]</b> 31/23</p> <p><b>express [2]</b> 71/21 134/7</p> <p><b>expressed [11]</b> 41/22 105/25 106/2 135/17 137/4 147/20 147/20 173/9 173/17 173/19 173/23</p> <p><b>expresses [1]</b> 148/18</p> <p><b>expressing [1]</b> 55/17</p> <p><b>expression [1]</b> 105/22</p> <p><b>extended [1]</b> 116/24</p> <p><b>extension [4]</b> 142/23 142/25 143/18 150/4</p> <p><b>extensions [11]</b> 142/19 143/2 143/7 144/1 144/3 144/3 144/7 144/7 144/13 149/13 157/19</p> <p><b>extensively [1]</b> 3/22</p> <p><b>extent [7]</b> 70/17 78/8 91/18 103/6 131/9 149/2 166/14</p> <p><b>external [4]</b> 32/6 32/17 49/9 180/21</p> <p><b>extracts [2]</b> 148/20 165/11</p> <p><b>extremely [2]</b> 59/14 146/7</p> <p><b>Eye [1]</b> 131/1</p> <p><b>eyes [2]</b> 39/6 120/24</p>
			<b>F</b>	
			<p><b>face [5]</b> 14/11 14/12 19/11 19/11 28/20</p> <p><b>faced [3]</b> 15/8 22/21 101/6</p> <p><b>facetiously [1]</b> 117/8</p> <p><b>fact [17]</b> 10/6 13/3 18/5 26/4 33/6 44/9 58/17 65/2 85/15 103/13 105/3 110/5</p>	

<b>F</b>	42/8 47/12 102/20 108/3 121/3 156/3	170/15 171/6 186/21 187/10	29/20 30/3 30/8 32/10 41/14 51/1 70/7	<b>Fujitsu [15]</b> 23/20 46/9 46/16 46/25 64/2 64/7 75/16 75/18 75/23 77/3 77/15 78/6 78/10 98/12 169/19
<b>fact... [5]</b> 153/5 166/13 176/10 179/15 181/2	<b>favourable [2]</b> 61/14 61/16	<b>finding [1]</b> 66/19	<b>forget [1]</b> 148/2	<b>Fujitsu's [3]</b> 46/10 75/10 76/9
<b>factor [1]</b> 111/11	<b>favouring [1]</b> 144/14	<b>findings [2]</b> 43/25 58/22	<b>forgotten [2]</b> 125/10 135/11	<b>full [7]</b> 1/14 3/18 25/3 35/24 94/17 95/3 182/10
<b>facts [9]</b> 48/15 60/1 71/22 72/20 80/1 80/25 121/3 129/13 182/5	<b>fear [1]</b> 68/25	<b>finds [1]</b> 155/23	<b>form [6]</b> 52/5 68/20 76/16 123/11 142/13 148/5	<b>fully [3]</b> 8/4 9/19 60/9
<b>factual [1]</b> 156/24	<b>feared [1]</b> 178/7	<b>fine [5]</b> 46/21 65/16 95/13 96/21 184/21	<b>format [2]</b> 48/25 150/10	<b>function [1]</b> 27/12
<b>fail [3]</b> 91/13 91/14 91/15	<b>fearful [1]</b> 177/9	<b>finer [1]</b> 60/17	<b>formed [2]</b> 14/12 55/15	<b>fund [2]</b> 29/18 110/16
<b>failed [3]</b> 48/6 79/9 99/13	<b>fears [1]</b> 54/14	<b>finger [2]</b> 89/10 90/6	<b>former [2]</b> 5/7 118/22	<b>fundamental [3]</b> 52/23 107/21 137/20
<b>failing [2]</b> 145/9 152/7	<b>feature [1]</b> 57/13	<b>finish [2]</b> 149/17 188/13	<b>formerly [1]</b> 3/5	<b>fundamentally [2]</b> 103/20 183/24
<b>failings [2]</b> 69/1 122/5	<b>featured [1]</b> 60/6	<b>firm [1]</b> 27/18	<b>forms [1]</b> 118/18	<b>funding [3]</b> 55/20 56/16 122/21
<b>failures [10]</b> 57/16 59/16 59/23 60/1 60/11 60/15 60/18 61/1 81/18 158/22	<b>February [10]</b> 19/18 20/23 20/25 29/24 35/4 35/7 55/22 97/15 129/16 131/17	<b>firmly [1]</b> 171/21	<b>forth [2]</b> 60/6 151/15	<b>funds [1]</b> 27/24
<b>fair [17]</b> 4/5 5/13 15/19 20/8 42/5 61/4 97/20 98/19 111/23 113/23 136/18 147/7 157/4 157/11 157/16 170/6 184/19	<b>fed [1]</b> 87/3	<b>first [45]</b> 2/22 4/18 5/20 5/25 8/21 13/24 14/21 16/7 26/8 27/19 29/19 32/24 37/24 41/7 46/14 57/8 60/5 60/15 62/1 70/15 74/4 80/24 81/10 94/12 108/12 115/18 116/1 124/6 125/4 140/5 140/8 140/12 140/24 142/25 145/21 146/14 146/14 150/2 152/20 152/24 154/1 162/8 171/12 172/7 181/8	<b>fortunately [1]</b> 28/7	<b>further [15]</b> 3/1 7/16 24/15 34/3 38/20 46/6 58/25 65/1 65/3 76/3 78/1 104/15 106/8 161/10 162/3
<b>fairly [2]</b> 31/14 144/5	<b>Federation [1]</b> 21/12	<b>firstly [6]</b> 42/16 50/10 50/21 71/24 92/8 95/20	<b>forum [1]</b> 78/17	<b>future [4]</b> 85/4 107/14 107/16 186/2
<b>faith [8]</b> 54/3 72/8 87/21 111/22 112/3 147/2 147/11 147/23	<b>feedback [3]</b> 31/10 51/19 162/9	<b>fit [3]</b> 17/2 52/24 98/15	<b>forward [12]</b> 69/4 84/15 108/4 108/9 108/10 108/13 109/3 110/14 111/3 134/2 155/15 165/7	<b>found [21]</b> 28/11 28/13 28/20 32/18 40/2 40/9 41/19 42/1 42/8 42/10 43/1 47/12 47/14 62/18 84/4 95/17 100/23 134/9 166/23 170/15 185/25
<b>Falkirk [1]</b> 43/23	<b>feel [4]</b> 15/1 18/15 150/20 150/20	<b>five [4]</b> 50/22 116/22 136/12 136/23	<b>forwarding [1]</b> 51/12	<b>founder [1]</b> 139/23
<b>fallen [1]</b> 167/12	<b>feeling [5]</b> 89/14 102/6 138/5 154/1 173/4	<b>flawed [1]</b> 101/19	<b>forwards [2]</b> 51/15 69/25	<b>four [7]</b> 34/19 66/4 66/8 126/8 126/14 126/19 140/24
<b>false [32]</b> 28/9 28/12 28/15 35/2 37/25 38/11 38/12 38/24 40/7 41/23 100/5 100/8 100/24 103/14 132/15 160/1 177/11 181/1 181/3 181/7 181/11 181/17 182/1 182/3 182/4 182/7 182/24 183/5 183/11 183/18 184/4 184/6	<b>feels [1]</b> 147/5	<b>flaws [5]</b> 167/10 169/25 170/8 170/11 170/25	<b>foundry [1]</b> 147/1	<b>fourth [6]</b> 25/4 39/7 57/9 67/7 86/1 149/20
<b>falsifying [1]</b> 100/11	<b>feet [2]</b> 150/21 151/2	<b>focus [2]</b> 37/13 59/24	<b>framework [1]</b> 147/1	<b>Fraser [6]</b> 43/25 145/13 170/16 170/17 171/7 186/16
<b>families [1]</b> 6/20	<b>fellow [1]</b> 131/3	<b>focused [1]</b> 63/5	<b>Fraser's [1]</b> 186/11	<b>fraud [6]</b> 6/16 7/6 15/2 18/16 35/2 37/18
<b>far [20]</b> 28/8 36/3 36/9 40/2 40/11 60/11 60/20 60/25 75/21 100/3 116/14 117/9 117/10 130/15 131/19 132/12 139/18 168/1 169/23 171/25	<b>felt [11]</b> 10/21 89/10 102/20 106/11 106/25 134/23 156/23 157/3 157/8 157/13 169/22	<b>focuses [1]</b> 75/8	<b>fraudsters [1]</b> 17/13	<b>free [2]</b> 24/9 52/8
<b>fast [1]</b> 57/12	<b>fence [1]</b> 176/1	<b>focusing [1]</b> 167/2	<b>freedom [3]</b> 9/9 113/5 113/7	<b>freedom [3]</b> 9/9 113/5 113/7
<b>fatally [1]</b> 79/16	<b>few [11]</b> 28/7 58/15 59/19 95/13 109/5 133/17 148/20 163/17 165/11 166/9 166/16	<b>follow [3]</b> 45/13 85/18 132/7	<b>Friday [1]</b> 175/21	<b>friendship [1]</b> 102/11
<b>fault [9]</b> 16/22 24/9 28/5 41/11 41/20 42/1 42/11 47/15 155/23	<b>fifth [3]</b> 39/25 49/4 117/21	<b>followed [2]</b> 7/12 122/24	<b>friendship [1]</b> 102/11	<b>fright [1]</b> 97/9
<b>faults [3]</b> 15/2 18/16 180/18	<b>fight [1]</b> 172/21	<b>following [13]</b> 35/10 42/16 43/20 57/13 57/15 62/9 62/12 131/2 145/17 162/19 177/3 185/19 189/3	<b>front [3]</b> 39/5 117/15 142/9	<b>frustrated [2]</b> 10/10 10/14
<b>favour [11]</b> 28/11 28/13 28/20 40/2 40/9	<b>figure [3]</b> 43/15 118/8 118/10	<b>follows [9]</b> 40/14 42/13 53/6 77/21 127/21 146/15 162/12 170/12 175/17	<b>frustration [1]</b> 10/21	<b>frustrations [1]</b> 152/16
	<b>figures [2]</b> 100/10 131/7	<b>foolproof [1]</b> 41/6	<b>FUJ00081852 [1]</b> 75/4	<b>gets [2]</b> 91/22 91/22
	<b>file [1]</b> 94/13	<b>foot [8]</b> 16/1 40/13 40/23 55/6 57/10 62/23 85/24 94/4		
	<b>files [3]</b> 94/21 94/23 94/24	<b>forcing [1]</b> 147/4		
	<b>final [13]</b> 62/16 65/6 82/25 106/21 123/3 140/14 151/6 153/6 161/25 162/10 180/25 181/5 185/3	<b>fore [1]</b> 59/23		
	<b>finalisation [1]</b> 125/6	<b>forensic [8]</b> 29/16		
	<b>finalise [2]</b> 149/6 149/15			
	<b>finalised [3]</b> 125/5 148/22 149/5			
	<b>finally [3]</b> 115/1 132/20 160/25			
	<b>financial [2]</b> 6/21 16/21			
	<b>find [13]</b> 31/13 53/1 77/7 77/8 90/15 91/7 133/11 156/9 169/13			

## G

**gain [1]** 61/18

**galloped [1]** 115/6

**Gareth [4]** 79/1 84/23  
128/4 128/13

**Gareth Jenkins [3]**  
79/1 84/23 128/4

**gather [1]** 52/21

**gathering [1]** 58/14

**gave [9]** 13/13 35/16  
79/10 90/11 103/13  
109/12 149/12 171/7  
176/4

**GE [1]** 50/13

**general [12]** 16/14  
54/24 82/12 82/15  
90/9 90/13 101/14  
111/18 120/23 138/4  
147/1 172/24

**General's [1]** 177/3

**generalised [1]**  
178/11

**generally [3]** 154/13  
154/13 175/18

**generic [1]** 153/12

**get [29]** 14/3 25/1  
32/3 32/12 65/5 65/9  
66/6 66/20 69/10  
70/24 70/25 77/6  
82/16 91/11 105/6  
116/23 137/19 144/16  
146/9 158/24 173/4  
174/16 174/17 174/25  
177/5 177/8 179/9  
183/6 183/13

**gets [2]** 91/22 91/22

<b>G</b>	110/25 111/5 112/10 113/9 114/11 115/22 116/10 118/19 119/15 121/1 121/17 124/25 125/14 126/25 128/19 129/14 130/4 132/12 138/1 139/9 139/24 146/13 147/21 154/22 156/9 160/5 160/9 165/10 166/13 169/15 169/23 170/22 171/10 171/14 173/6 174/25 175/3 175/12 179/9 180/24 182/2 182/3 182/24 183/4 183/8 184/21 185/3 <b>gone [11]</b> 33/14 77/19 83/25 108/11 122/13 126/8 185/24 186/2 186/17 187/23 187/24 <b>good [23]</b> 1/3 2/18 24/24 25/14 29/21 29/21 33/8 36/3 36/9 47/8 54/2 69/9 82/18 87/20 97/1 97/11 112/7 117/3 120/12 137/10 172/14 174/5 187/16 <b>got [17]</b> 11/7 12/21 23/23 37/3 40/18 57/3 88/13 125/13 135/15 138/5 142/9 154/23 154/23 172/8 186/9 186/13 186/23 <b>governance [2]</b> 114/19 114/20 <b>government [22]</b> 3/12 4/3 7/8 7/11 9/10 9/18 10/1 10/7 10/11 10/17 10/18 11/2 11/10 11/25 12/6 12/6 12/7 17/24 41/7 114/20 114/22 114/24 <b>Government's [1]</b> 9/7 <b>governments [1]</b> 172/19 <b>grabbed [1]</b> 61/14 <b>gradual [3]</b> 90/10 90/14 91/8 <b>gradually [2]</b> 132/10 132/19 <b>grant [1]</b> 157/19 <b>granted [4]</b> 117/6 142/19 142/24 149/13 <b>grateful [6]</b> 6/22 8/1 18/7 26/22 58/10 188/21 <b>gratitude [1]</b> 53/22 <b>gratuitous [3]</b> 130/13 130/18 130/20 <b>great [5]</b> 70/12 90/3 121/4 154/16 181/13	<b>greater [4]</b> 9/9 20/14 72/8 130/15 <b>greatest [1]</b> 187/5 <b>Greene [6]</b> 12/16 12/20 12/24 15/23 18/21 26/22 <b>greet [1]</b> 141/18 <b>grew [4]</b> 132/19 132/20 132/20 132/20 <b>gross [1]</b> 158/22 <b>ground [1]</b> 111/1 <b>grounds [1]</b> 45/4 <b>group [51]</b> 12/16 12/25 16/23 24/2 26/15 34/4 82/13 86/2 111/19 113/2 114/3 114/13 121/18 121/20 121/21 123/22 124/8 128/18 130/2 139/25 140/23 141/17 142/15 143/17 143/20 143/24 145/24 148/24 150/7 153/1 153/3 153/6 155/5 160/7 162/14 162/23 162/25 163/5 163/9 163/15 163/17 163/24 164/9 164/12 165/9 166/4 167/22 168/9 168/12 185/9 186/20 <b>Group's [2]</b> 27/12 162/13 <b>groups [1]</b> 135/8 <b>grouphinking [1]</b> 22/8 <b>guarantee [1]</b> 76/18 <b>guidelines [3]</b> 177/4 182/21 183/3 <b>guilty [20]</b> 82/22 83/4 83/22 84/4 84/4 103/14 103/19 106/15 110/24 111/2 177/10 181/16 181/17 182/6 182/23 182/25 183/1 183/11 184/6 187/20 <b>gun [3]</b> 156/9 169/16 170/15 <b>gun' [1]</b> 166/23 <b>guv [1]</b> 10/19	<b>Hamilton's [3]</b> 4/19 5/16 87/10 <b>Hampshire [4]</b> 7/24 13/2 15/8 18/4 <b>hand [5]</b> 30/5 33/10 75/25 97/21 97/23 <b>handed [1]</b> 120/14 <b>handle [1]</b> 16/15 <b>handled [2]</b> 154/20 156/2 <b>handling [3]</b> 31/14 53/23 160/24 <b>hands [1]</b> 39/16 <b>happen [3]</b> 22/12 28/1 158/8 <b>happened [12]</b> 22/1 22/2 39/19 39/21 39/22 39/22 70/3 107/2 126/7 163/21 170/21 186/22 <b>happening [4]</b> 13/23 14/1 156/4 172/8 <b>happens [2]</b> 49/14 152/13 <b>happier [1]</b> 127/11 <b>happy [3]</b> 122/22 151/20 151/21 <b>hard [7]</b> 1/21 46/10 63/21 134/9 137/19 137/22 141/23 <b>harder [1]</b> 161/1 <b>hardship [1]</b> 6/21 <b>Harry [2]</b> 125/21 127/6 <b>has [60]</b> 6/18 9/11 11/11 11/13 13/3 13/4 15/8 15/24 16/24 17/3 18/5 18/6 18/18 27/2 32/16 32/17 34/25 39/21 40/2 42/8 49/9 53/20 58/7 58/8 59/25 60/9 60/23 63/4 63/5 63/6 67/4 75/15 76/8 78/4 96/14 96/15 99/12 100/20 101/7 110/13 110/25 111/9 111/11 112/8 115/9 117/18 142/16 146/18 146/24 148/22 149/24 154/23 166/23 167/9 169/16 181/24 184/14 187/1 187/15 188/9 <b>have [228]</b> <b>haven't [5]</b> 92/19 116/11 142/9 142/10 187/4 <b>having [17]</b> 14/24 18/13 29/2 43/4 43/9 48/23 59/6 59/18 67/5 81/19 95/10 109/9 109/10 116/25 122/13 147/20 152/22 <b>Hayward [1]</b> 42/25 <b>he [75]</b> 5/11 9/4 9/6	17/25 19/9 19/13 19/14 41/4 46/22 59/5 60/8 67/12 68/16 75/11 78/25 79/10 79/12 84/24 85/3 89/13 90/8 92/2 95/13 97/6 116/16 117/10 117/11 119/22 119/24 120/12 120/14 127/7 127/8 127/12 127/15 127/21 128/24 136/13 136/16 146/6 146/19 147/5 147/5 147/6 148/17 149/4 149/20 150/1 150/6 151/25 152/1 152/3 152/10 156/24 157/3 157/5 160/21 161/3 162/1 162/5 162/12 164/1 172/13 173/2 173/4 173/25 174/5 175/16 175/22 178/12 180/3 180/11 180/11 181/16 186/12 <b>he'd [1]</b> 157/9 <b>he's [5]</b> 9/5 97/4 116/14 182/4 183/12 <b>head [2]</b> 29/10 29/12 <b>headed [1]</b> 28/18 <b>heading [1]</b> 112/3 <b>headings [2]</b> 99/4 99/5 <b>heads [1]</b> 52/11 <b>health [3]</b> 89/4 89/20 89/23 <b>hear [10]</b> 1/3 1/4 1/6 1/8 47/8 97/1 117/3 122/3 159/14 184/22 <b>heard [6]</b> 29/19 66/2 77/2 78/4 112/24 120/11 <b>hearing [6]</b> 45/9 81/3 96/13 97/5 119/4 189/3 <b>held [8]</b> 3/12 3/15 5/2 61/22 71/8 92/8 172/17 172/17 <b>helicopter [1]</b> 23/11 <b>Hello [1]</b> 97/12 <b>help [16]</b> 27/23 38/20 56/3 67/15 68/18 83/23 84/24 101/7 112/6 115/11 116/6 127/2 146/8 147/19 150/24 171/6 <b>helped [1]</b> 129/12 <b>helpful [4]</b> 120/11 123/15 145/24 146/3 <b>helpline [4]</b> 34/1 38/19 38/24 39/3 <b>helps [1]</b> 98/4 <b>Henderson [5]</b> 52/6 55/12 77/5 84/10 102/4
----------	---	--	--	---

<b>H</b>	<b>hoping [1]</b> 31/13	<b>however [4]</b> 28/7 28/23 75/21 76/8	<b>I covered [1]</b> 183/6	120/11 124/23 125/12
<b>Henry [1]</b> 11/11	<b>Horizon [133]</b> 2/23	<b>hub [1]</b> 51/10	<b>I dealt [1]</b> 103/5	169/20 187/5
<b>her [20]</b> 21/21 21/24 30/5 35/11 35/17 39/5 40/8 40/10 43/11 83/25 86/17 106/23 106/24 108/24 137/24 138/5 165/18 174/3 184/5 186/1	3/23 4/15 5/12 6/16 7/3 7/9 7/23 9/21 9/22 10/6 15/17 16/15 18/25 20/5 21/4 21/14 21/20 22/19 23/6 23/13 24/7 24/11 24/23 26/21 27/1 27/2 29/17 32/15 32/20 33/18 33/20 34/24 37/18 37/23 38/6 39/17 39/20 40/2 41/3 41/19 42/1 42/7 42/8 42/10 42/20 43/1 43/4 43/10 43/15 45/1 45/17 45/18 47/12 47/14 49/7 52/22 53/8 55/14 59/17 61/7 62/16 70/11 76/9 76/11 76/13 76/18 76/22 77/1 77/11 78/10 80/10 86/4 88/17 88/17 89/3 89/23 89/25 91/11 93/10 93/17 93/20 94/10 95/17 98/13 98/15 101/18 107/11 107/14 113/24 115/2 122/2 122/8 127/13 127/16 128/1 128/10 128/25 134/16 138/2 138/3 142/6 142/12 142/12 154/17 154/19 156/1 156/6 158/7 158/11 158/18 158/22 159/1 159/20 159/21 160/2 166/24 167/10 169/18 169/25 170/8 170/11 170/12 171/1 175/25 176/8 176/12 176/20 176/25 179/4 180/15 180/18 181/22	<b>huge [6]</b> 145/17 157/19 170/17 172/21 181/14 183/9 <b>hugely [1]</b> 8/15 <b>hundreds [1]</b> 176/14 <b>hurry [1]</b> 143/1	<b>I definitely [1]</b> 164/20 <b>I did [15]</b> 4/13 38/6 40/20 61/25 67/19 81/22 98/21 112/2 147/9 149/12 150/20 157/8 180/5 183/7 188/7 <b>I didn't [26]</b> 10/12 14/7 29/20 38/1 38/12 40/11 42/2 56/7 65/20 88/19 90/24 91/3 92/18 125/9 134/2 137/17 139/8 147/10 147/11 148/11 157/15 161/10 172/9 173/15 174/23 177/19 <b>I do [7]</b> 52/13 77/4 88/23 89/14 117/17 172/17 173/4 <b>I don't [35]</b> 12/4 19/13 30/14 56/3 65/18 68/18 72/23 74/8 77/24 78/2 86/25 97/4 116/15 125/9 131/20 131/21 137/9 139/19 139/21 139/22 143/3 144/14 144/19 145/15 147/22 147/22 160/14 180/2 180/4 184/19 185/4 187/5 187/10 188/6 188/17 <b>I doubt [2]</b> 148/3 180/11 <b>I enclose [1]</b> 7/18 <b>I ever [1]</b> 124/14 <b>I expect [1]</b> 175/20 <b>I expressed [1]</b> 147/20 <b>I facetiously [1]</b> 117/8 <b>I feared [1]</b> 178/7 <b>I felt [6]</b> 89/10 102/20 134/23 157/8 157/13 169/22 <b>I find [2]</b> 90/15 169/13 <b>I first [1]</b> 74/4 <b>I gather [1]</b> 52/21 <b>I get [1]</b> 158/24 <b>I got [2]</b> 138/5 186/9 <b>I had [17]</b> 21/6 29/19 33/24 47/19 72/7 103/3 123/12 123/12 125/10 131/4 147/23 161/8 169/1 172/2 176/16 176/17 182/8 <b>I hadn't [2]</b> 125/10 173/19 <b>I have [16]</b> 7/25 13/1 18/3 52/9 109/10 111/22 112/16 115/15 116/5 117/20 118/14	<b>I haven't [2]</b> 92/19 142/9 <b>I heard [1]</b> 77/2 <b>I hope [2]</b> 21/15 53/4 <b>I just [16]</b> 8/16 23/14 26/9 30/6 46/25 48/19 50/9 68/13 92/20 97/7 99/2 104/20 134/1 147/11 147/24 178/5 <b>I knew [8]</b> 40/8 118/16 130/25 137/18 145/15 148/12 186/4 186/5 <b>I know [10]</b> 11/11 21/10 53/3 88/4 88/19 120/22 145/12 145/13 147/19 182/23 <b>I looked [1]</b> 168/19 <b>I made [4]</b> 130/2 130/18 135/5 139/13 <b>I make [1]</b> 156/4 <b>I may [4]</b> 46/5 104/20 109/25 164/13 <b>I mean [18]</b> 27/7 48/2 65/15 72/23 122/14 129/10 130/24 132/13 139/14 144/23 148/12 152/21 157/7 158/8 171/2 178/2 181/10 185/23 <b>I meant [2]</b> 66/8 117/10 <b>I mention [1]</b> 131/7 <b>I mentioned [2]</b> 21/3 21/4 <b>I might [3]</b> 8/17 29/3 48/7 <b>I must [2]</b> 19/12 67/19 <b>I need [1]</b> 185/4 <b>I never [3]</b> 88/13 180/9 180/9 <b>I note [1]</b> 174/4 <b>I now [1]</b> 88/24 <b>I obviously [2]</b> 126/9 164/17 <b>I often [1]</b> 150/23 <b>I omitted [1]</b> 47/15 <b>I only [1]</b> 109/24 <b>I or [1]</b> 90/11 <b>I ought [1]</b> 128/20 <b>I pick [1]</b> 12/14 <b>I plan [1]</b> 96/18 <b>I plead [3]</b> 182/25 183/1 183/5 <b>I please [1]</b> 21/10 <b>I possibly [1]</b> 158/2 <b>I practised [1]</b> 182/21 <b>I praised [1]</b> 133/21 <b>I precluded [1]</b> 115/20
<b>here [21]</b> 7/13 8/9 11/9 12/3 26/10 37/20 38/21 48/4 52/18 56/13 58/24 62/24 69/11 69/25 99/6 103/9 120/18 156/6 157/10 178/2 188/2	<b>Horizon' [1]</b> 66/14	<b>I</b>	<b>I accept [1]</b> 169/12 <b>I actually [1]</b> 73/24 <b>I agreed [1]</b> 151/1 <b>I all [1]</b> 63/6 <b>I also [3]</b> 7/19 8/2 132/5 <b>I always [2]</b> 177/6 177/8 <b>I am [16]</b> 1/12 14/21 14/25 15/11 18/10 18/14 21/14 26/22 49/7 63/14 65/16 118/19 119/14 119/15 133/8 187/24 <b>I ask [3]</b> 7/8 8/11 117/21 <b>I asked [2]</b> 126/12 186/3 <b>I assume [1]</b> 115/18 <b>I assumed [1]</b> 10/17 <b>I at [1]</b> 135/22 <b>I believe [7]</b> 2/24 46/11 70/8 95/21 143/5 151/23 161/22 <b>I believed [2]</b> 39/1 83/20 <b>I bet [1]</b> 74/17 <b>I call [1]</b> 1/9 <b>I came [1]</b> 65/21 <b>I can [15]</b> 1/4 1/7 1/8 21/15 91/7 112/11 116/11 121/14 122/14 123/5 127/2 180/2 180/2 181/10 184/19 <b>I can't [16]</b> 1/4 27/7 27/15 46/14 65/3 65/6 74/4 77/2 77/20 103/2 132/21 133/18 139/7 147/19 150/18 179/16 <b>I cannot [4]</b> 89/10 89/12 109/11 115/23 <b>I certainly [6]</b> 30/23 54/7 67/17 138/7 161/11 185/13 <b>I changed [3]</b> 168/21 172/5 173/15 <b>I considered [1]</b> 105/16 <b>I could [5]</b> 10/12 111/21 114/2 129/3 179/13 <b>I couldn't [2]</b> 113/15 185/24	<b>I did [15]</b> 4/13 38/6 40/20 61/25 67/19 81/22 98/21 112/2 147/9 149/12 150/20 157/8 180/5 183/7 188/7 <b>I didn't [26]</b> 10/12 14/7 29/20 38/1 38/12 40/11 42/2 56/7 65/20 88/19 90/24 91/3 92/18 125/9 134/2 137/17 139/8 147/10 147/11 148/11 157/15 161/10 172/9 173/15 174/23 177/19 <b>I do [7]</b> 52/13 77/4 88/23 89/14 117/17 172/17 173/4 <b>I don't [35]</b> 12/4 19/13 30/14 56/3 65/18 68/18 72/23 74/8 77/24 78/2 86/25 97/4 116/15 125/9 131/20 131/21 137/9 139/19 139/21 139/22 143/3 144/14 144/19 145/15 147/22 147/22 160/14 180/2 180/4 184/19 185/4 187/5 187/10 188/6 188/17 <b>I doubt [2]</b> 148/3 180/11 <b>I enclose [1]</b> 7/18 <b>I ever [1]</b> 124/14 <b>I expect [1]</b> 175/20 <b>I expressed [1]</b> 147/20 <b>I facetiously [1]</b> 117/8 <b>I feared [1]</b> 178/7 <b>I felt [6]</b> 89/10 102/20 134/23 157/8 157/13 169/22 <b>I find [2]</b> 90/15 169/13 <b>I first [1]</b> 74/4 <b>I gather [1]</b> 52/21 <b>I get [1]</b> 158/24 <b>I got [2]</b> 138/5 186/9 <b>I had [17]</b> 21/6 29/19 33/24 47/19 72/7 103/3 123/12 123/12 125/10 131/4 147/23 161/8 169/1 172/2 176/16 176/17 182/8 <b>I hadn't [2]</b> 125/10 173/19 <b>I have [16]</b> 7/25 13/1 18/3 52/9 109/10 111/22 112/16 115/15 116/5 117/20 118/14
<b>herself [2]</b> 19/15 93/22 <b>hidden [1]</b> 17/13 <b>hide [2]</b> 96/5 184/22 <b>hiding [1]</b> 160/25 <b>high [5]</b> 5/3 84/23 119/1 119/3 139/5 <b>higher [1]</b> 178/16 <b>highly [1]</b> 69/4 <b>him [15]</b> 15/11 19/13 52/13 89/11 89/11 89/16 90/8 90/12 90/15 97/8 105/16 120/13 128/15 128/24 147/4 <b>himself [3]</b> 13/8 13/10 136/15 <b>hint [1]</b> 80/3 <b>hinted [1]</b> 80/13 <b>his [23]</b> 5/10 6/7 7/2 67/22 75/20 79/13 79/15 86/17 92/2 128/8 131/3 146/23 146/25 147/1 147/5 171/8 171/8 173/7 177/19 178/24 180/12 184/22 186/1 <b>his/her [1]</b> 86/17 <b>historic [2]</b> 71/17 71/23 <b>hold [2]</b> 149/22 172/16 <b>honest [4]</b> 14/13 17/9 20/2 69/2 <b>honesty [2]</b> 17/17 37/14 <b>Hooper [15]</b> 91/25 96/20 97/4 116/13 117/5 117/12 119/22 120/12 127/24 146/18 146/24 163/23 174/4 175/21 190/7 <b>Hooper's [3]</b> 113/1 161/2 185/1 <b>hope [5]</b> 21/15 53/4 126/14 185/16 185/17 <b>hopes [1]</b> 17/3	<b>hosting [1]</b> 52/1 <b>hot [1]</b> 164/18 <b>hours [1]</b> 38/20 <b>House [9]</b> 19/18 22/24 29/24 35/4 35/8 51/22 52/2 59/7 105/19 <b>how [37]</b> 10/22 23/5 31/15 35/12 39/11 52/6 53/18 53/22 63/6 64/4 67/15 86/14 89/20 98/10 106/18 111/4 119/24 120/4 122/9 124/12 129/2 129/5 131/22 132/8 134/2 135/7 139/22 143/10 150/25 154/21 158/11 158/15 175/5 177/3 187/8 187/11 188/6	<b>I accept [1]</b> 169/12 <b>I actually [1]</b> 73/24 <b>I agreed [1]</b> 151/1 <b>I all [1]</b> 63/6 <b>I also [3]</b> 7/19 8/2 132/5 <b>I always [2]</b> 177/6 177/8 <b>I am [16]</b> 1/12 14/21 14/25 15/11 18/10 18/14 21/14 26/22 49/7 63/14 65/16 118/19 119/14 119/15 133/8 187/24 <b>I ask [3]</b> 7/8 8/11 117/21 <b>I asked [2]</b> 126/12 186/3 <b>I assume [1]</b> 115/18 <b>I assumed [1]</b> 10/17 <b>I at [1]</b> 135/22 <b>I believe [7]</b> 2/24 46/11 70/8 95/21 143/5 151/23 161/22 <b>I believed [2]</b> 39/1 83/20 <b>I bet [1]</b> 74/17 <b>I call [1]</b> 1/9 <b>I came [1]</b> 65/21 <b>I can [15]</b> 1/4 1/7 1/8 21/15 91/7 112/11 116/11 121/14 122/14 123/5 127/2 180/2 180/2 181/10 184/19 <b>I can't [16]</b> 1/4 27/7 27/15 46/14 65/3 65/6 74/4 77/2 77/20 103/2 132/21 133/18 139/7 147/19 150/18 179/16 <b>I cannot [4]</b> 89/10 89/12 109/11 115/23 <b>I certainly [6]</b> 30/23 54/7 67/17 138/7 161/11 185/13 <b>I changed [3]</b> 168/21 172/5 173/15 <b>I considered [1]</b> 105/16 <b>I could [5]</b> 10/12 111/21 114/2 129/3 179/13 <b>I couldn't [2]</b> 113/15 185/24	<b>I covered [1]</b> 183/6 <b>I dealt [1]</b> 103/5 <b>I definitely [1]</b> 164/20 <b>I did [15]</b> 4/13 38/6 40/20 61/25 67/19 81/22 98/21 112/2 147/9 149/12 150/20 157/8 180/5 183/7 188/7 <b>I didn't [26]</b> 10/12 14/7 29/20 38/1 38/12 40/11 42/2 56/7 65/20 88/19 90/24 91/3 92/18 125/9 134/2 137/17 139/8 147/10 147/11 148/11 157/15 161/10 172/9 173/15 174/23 177/19 <b>I do [7]</b> 52/13 77/4 88/23 89/14 117/17 172/17 173/4 <b>I don't [35]</b> 12/4 19/13 30/14 56/3 65/18 68/18 72/23 74/8 77/24 78/2 86/25 97/4 116/15 125/9 131/20 131/21 137/9 139/19 139/21 139/22 143/3 144/14 144/19 145/15 147/22 147/22 160/14 180/2 180/4 184/19 185/4 187/5 187/10 188/6 188/17 <b>I doubt [2]</b> 148/3 180/11 <b>I enclose [1]</b> 7/18 <b>I ever [1]</b> 124/14 <b>I expect [1]</b> 175/20 <b>I expressed [1]</b> 147/20 <b>I facetiously [1]</b> 117/8 <b>I feared [1]</b> 178/7 <b>I felt [6]</b> 89/10 102/20 134/23 157/8 157/13 169/22 <b>I find [2]</b> 90/15 169/13 <b>I first [1]</b> 74/4 <b>I gather [1]</b> 52/21 <b>I get [1]</b> 158/24 <b>I got [2]</b> 138/5 186/9 <b>I had [17]</b> 21/6 29/19 33/24 47/19 72/7 103/3 123/12 123/12 125/10 131/4 147/23 161/8 169/1 172/2 176/16 176/17 182/8 <b>I hadn't [2]</b> 125/10 173/19 <b>I have [16]</b> 7/25 13/1 18/3 52/9 109/10 111/22 112/16 115/15 116/5 117/20 118/14	

<b>I</b>	51/18 53/6 55/1 55/3 62/4 64/7 64/25 65/21 66/4 66/7 66/18 67/13 67/19 67/21 67/24 69/14 71/10 74/10 77/20 77/21 81/2 85/1 90/1 90/10 90/13 95/22 101/22 105/21 107/16 108/7 109/16 111/14 111/25 112/2 113/18 114/6 115/11 120/6 120/7 120/22 122/10 122/11 126/5 126/12 126/13 127/1 128/19 130/17 130/18 133/9 137/16 138/11 141/14 141/23 150/13 151/14 151/18 151/22 152/24 154/13 160/20 163/12 164/18 169/6 171/2 173/7 176/21 182/10 187/13	176/9 177/1 177/3 177/5 177/9 177/18 177/21 179/9 186/22 <b>I wasn't [9]</b> 17/23 73/3 105/2 131/4 137/16 148/2 148/4 164/23 175/4 <b>I were [2]</b> 83/13 120/6 <b>I will [4]</b> 46/4 165/21 167/6 177/13 <b>I worked [1]</b> 133/22 <b>I would [28]</b> 8/6 27/16 28/22 28/22 28/23 50/3 52/18 63/23 67/20 72/2 72/17 82/5 98/20 124/4 126/14 127/11 129/2 135/24 140/6 148/3 150/25 154/8 163/17 165/3 168/16 175/9 185/16 185/17 <b>I wouldn't [3]</b> 28/16 46/21 83/18 <b>I write [1]</b> 7/16 <b>I wrote [3]</b> 54/6 118/8 118/9 <b>I'd [18]</b> 10/15 19/12 25/18 51/23 77/19 115/12 120/19 132/17 137/17 137/18 137/19 140/7 145/20 150/19 159/15 165/3 166/9 181/12 <b>I'll [11]</b> 1/6 1/20 32/2 66/1 68/17 127/1 132/23 153/5 163/19 182/1 184/20 <b>I'm [76]</b> 2/15 2/20 3/19 6/8 12/8 16/9 19/16 26/1 29/5 41/21 51/4 61/25 63/18 69/21 70/2 72/2 85/6 86/16 88/6 96/16 97/18 98/25 103/8 110/1 114/11 115/21 121/17 125/14 126/5 126/23 129/2 129/10 129/14 130/4 131/12 133/18 137/5 137/5 137/5 137/9 138/4 139/24 142/3 146/13 147/20 149/4 158/16 160/5 160/9 163/16 164/12 165/10 166/11 166/13 169/10 171/10 171/14 172/20 175/3 175/5 175/7 175/12 177/2 179/8 180/24 181/25 182/2 182/2 183/1 183/2 183/3 183/7 184/21 185/3 186/10 188/20 <b>I've [22]</b> 2/6 4/18 5/18	14/9 40/6 48/15 80/13 81/1 81/16 94/6 115/6 135/11 139/19 145/12 145/16 167/24 172/3 172/17 172/17 175/8 177/20 180/11 <b>Ian [7]</b> 52/6 52/21 55/12 63/6 77/5 84/10 102/4 <b>Ian Henderson [3]</b> 52/6 55/12 102/4 <b>ICRMS [1]</b> 73/7 <b>idea [3]</b> 20/10 146/25 154/10 <b>identified [8]</b> 50/11 50/15 57/12 71/16 92/2 110/5 110/12 128/4 <b>identify [5]</b> 27/23 54/11 99/13 170/24 174/16 <b>identity [1]</b> 41/14 <b>ie [7]</b> 2/22 25/21 66/15 67/8 95/9 147/4 160/24 <b>ie I think [1]</b> 67/8 <b>ie since [1]</b> 2/22 <b>ie that [1]</b> 66/15 <b>ie we [1]</b> 147/4 <b>if [182]</b> 6/2 6/22 7/12 7/13 8/1 8/7 8/21 9/1 9/3 10/9 11/5 11/8 11/9 11/14 11/14 16/1 17/15 18/7 20/12 20/23 20/24 22/13 23/3 25/11 25/23 26/5 27/8 28/17 32/22 33/8 34/8 38/20 39/12 39/19 40/23 41/9 41/15 43/14 46/2 46/5 46/22 49/17 49/22 51/25 52/7 52/16 58/4 64/2 65/21 66/6 67/17 67/18 71/15 73/10 77/20 78/16 82/22 82/22 83/6 83/15 84/6 84/16 84/17 85/24 88/20 92/18 93/5 94/3 94/23 95/16 95/21 96/4 97/6 98/3 103/18 104/4 104/20 106/10 107/12 108/7 108/17 109/25 110/2 116/11 116/21 118/16 119/18 120/9 120/16 120/16 121/1 121/14 121/24 122/14 122/22 123/11 123/13 123/19 124/1 125/23 126/5 127/2 127/5 127/12 128/19 129/5 130/4 132/24 138/7 139/4 140/2 140/7 142/16 142/16 142/17 142/20 143/4	143/15 145/6 145/15 145/19 146/3 147/5 148/19 149/20 150/5 150/14 150/16 151/6 151/10 151/20 151/24 152/2 152/2 152/4 152/5 152/20 152/24 154/17 155/11 155/17 155/25 156/11 156/18 156/23 158/10 159/17 159/21 160/13 162/11 162/22 163/8 163/16 163/22 165/4 165/11 165/23 167/5 168/16 169/13 169/22 171/2 171/6 171/17 172/7 173/21 174/5 175/1 175/19 176/8 176/25 177/11 177/22 178/6 181/15 181/25 182/4 182/25 183/1 183/5 184/1 185/24 <b>ii [1]</b> 136/6 <b>iii [1]</b> 136/6 <b>illogical [1]</b> 74/24 <b>immediate [1]</b> 90/14 <b>immediately [2]</b> 90/8 114/17 <b>impact [5]</b> 6/18 71/16 71/23 81/20 81/20 <b>impacts [1]</b> 31/8 <b>implausibility [1]</b> 137/20 <b>implausible [2]</b> 20/6 24/8 <b>implemented [1]</b> 41/7 <b>implications [2]</b> 63/18 72/5 <b>implied [1]</b> 22/7 <b>importance [3]</b> 95/24 96/2 101/3 <b>important [14]</b> 11/6 22/9 25/15 26/3 34/7 36/7 53/20 58/19 59/8 59/14 63/22 64/10 88/24 95/4 <b>impossible [1]</b> 76/13 <b>impressed [1]</b> 53/17 <b>impression [4]</b> 90/10 91/5 91/8 158/24 <b>impressions [1]</b> 141/20 <b>imprisonment [1]</b> 79/3 <b>improve [1]</b> 132/2 <b>improved [1]</b> 132/10 <b>improvements [2]</b> 31/22 101/21 <b>improving [2]</b> 31/17 163/25 <b>inaccuracies [1]</b> 156/25 <b>inadequate [1]</b> 99/25
----------	--	---	---	---

<b>I</b>	<b>inexpensive [1]</b> 100/25	125/1	159/18 159/21 167/9 170/7	176/11 177/10 182/14 183/16
<b>inch [1]</b> 68/25	<b>influenced [1]</b> 135/20	<b>interim [12]</b> 11/21	<b>investigations [16]</b> 48/9 51/20 52/7 53/18	<b>issued [2]</b> 126/22 164/1
<b>incidents [1]</b> 150/15	<b>information [28]</b> 5/18	68/21 69/20 71/9	55/20 94/14 95/19	<b>issues [46]</b> 9/16 10/3
<b>inclined [1]</b> 102/20	29/10 31/11 35/16	71/11 75/3 76/19	99/7 99/11 101/19	18/23 31/14 38/21
<b>include [4]</b> 47/15	46/17 53/7 54/20	76/24 77/10 79/6 86/6	101/20 110/6 110/9	38/24 45/8 47/23
49/5 95/22 114/11	58/18 60/22 75/24	89/22	121/24 143/25 166/20	57/13 57/22 57/25
<b>included [6]</b> 10/4	75/25 78/25 87/3 91/1	<b>internal [4]</b> 23/19	<b>investigative [3]</b> 101/7 101/8 101/14	58/6 59/17 69/19
83/3 83/14 83/17	91/15 102/17 102/25	24/2 32/16 160/12	<b>investigator [2]</b> 108/17 108/21	70/11 70/25 71/16
95/10 101/24	105/4 113/6 113/8	<b>internally [1]</b> 81/17	<b>investigators [7]</b> 56/15 72/25 100/4	72/4 73/25 74/2 74/21
<b>includes [3]</b> 9/8	122/19 127/23 127/25	<b>interrupt [1]</b> 126/23	100/23 101/3 101/17	91/11 93/7 93/9 93/16
99/15 162/6	141/2 165/18 177/15	<b>intervention [1]</b> 61/19	145/10	93/20 94/9 95/1 95/4
<b>including [14]</b> 3/12	177/22 179/25	<b>interview [4]</b> 50/23	<b>Investigators' [1]</b> 99/16	96/5 99/5 102/8 107/7
3/15 6/17 16/19 23/18	<b>informed [4]</b> 25/6	87/9 100/9 100/14	<b>investigatory [1]</b> 104/12	110/6 114/8 128/3
34/13 50/16 50/22	77/22 79/7 80/25	<b>interviewee [1]</b> 100/15	<b>involve [3]</b> 33/19	128/6 143/13 146/7
70/23 78/6 94/23	<b>inherently [2]</b> 24/8	<b>Interviews [1]</b> 100/19	82/19 125/8	147/14 158/1 160/7
96/13 99/9 99/22	37/1	<b>intimidation [1]</b> 14/4	<b>involved [16]</b> 3/22	166/24 167/14 185/19
<b>inclusion [1]</b> 87/2	<b>initial [11]</b> 54/14 98/2	12/7 18/8 26/4 33/13	25/12 33/21 36/1	185/21
<b>income [1]</b> 186/2	102/10 125/7 130/11	33/18 34/2 36/25 48/5	36/10 53/21 54/16	<b>it [526]</b>
<b>incorporate [1]</b> 127/22	141/20 148/19 171/12	48/7 54/2 70/1 72/25	60/13 114/2 131/7	<b>it's [87]</b> 1/20 2/15 6/1
<b>incorrect [1]</b> 183/19	173/16 173/19 174/13	73/2 76/3 83/24 86/3	132/17 135/15 140/11	6/2 6/9 9/1 11/4 16/10
<b>increased [1]</b> 174/8	<b>initiating [1]</b> 99/14	92/19 100/6 112/10	142/2 157/20 172/2	18/18 22/16 25/23
<b>increasingly [4]</b> 165/13 165/25 166/6	<b>injustice [1]</b> 10/16	122/23 127/23 143/10	<b>involvement [9]</b> 2/22	26/6 26/8 27/15 28/4
169/12	<b>innocence [1]</b> 35/3	151/5 153/19 159/23	4/14 4/18 5/4 23/11	28/13 30/14 39/18
<b>incredibly [1]</b> 68/23	<b>innocent [1]</b> 183/12	170/22 173/10 174/6	114/7 114/9 114/13	41/22 46/2 46/7 46/7
<b>indeed [6]</b> 78/25 96/9	<b>Innovation [6]</b> 5/22	<b>intricacies [1]</b> 8/15	116/5	46/10 51/14 51/18
117/11 149/17 166/25	6/5 8/3 8/10 9/6 12/18	<b>introduced [6]</b> 9/8	<b>involves [2]</b> 40/1	55/1 63/4 63/21 64/13
173/25	<b>inquiry [15]</b> 1/12 1/16	24/21 34/22 35/17	58/12	64/14 64/16 64/17
<b>independence [4]</b> 24/5 27/16 50/19	2/14 23/12 78/4 86/3	93/19 121/21	<b>involved [16]</b> 3/22	66/9 69/16 70/1 71/9
177/7	86/5 115/11 115/25	<b>introduction [2]</b> 17/11 123/15	32/10 37/18 42/8	82/5 87/8 89/25 92/10
<b>independent [26]</b> 24/3 24/10 27/3 27/5	121/22 128/6 141/8	<b>introductions [1]</b> 31/3	47/12 58/18 172/18	92/22 99/1 109/24
27/11 27/13 29/16	182/18 183/25 184/15	<b>introductory [1]</b> 32/9	<b>irrefutable [1]</b> 63/17	110/1 116/18 124/25
32/10 33/2 33/13 38/2	<b>Inquiry's [2]</b> 118/18	<b>intuition [1]</b> 179/10	<b>irrespective [1]</b> 18/23	125/20 134/19 135/14
44/25 48/9 50/4 56/14	118/19	<b>invariably [1]</b> 36/1	<b>is [372]</b>	146/3 146/12 146/15
72/7 72/25 83/24	<b>Inside [1]</b> 12/12	<b>invested [1]</b> 56/11	<b>ismay [1]</b> 29/10	148/15 150/18 152/4
108/17 108/20 113/1	<b>insofar [2]</b> 157/13	<b>investigate [15]</b> 6/23	<b>isn't [3]</b> 27/2 64/13	154/3 154/22 154/23
123/23 135/19 135/25	186/11	8/4 8/10 30/9 41/25	182/16	156/17 158/13 163/20
154/6 154/7	<b>installation [1]</b> 17/19	70/10 70/17 93/9	<b>isolating [1]</b> 14/1	163/20 163/21 164/10
<b>independently [4]</b> 23/18 31/21 56/5	<b>installed [1]</b> 116/23	93/16 93/20 94/9 95/4	<b>issue [55]</b> 15/17	166/15 169/10 169/11
59/20	<b>instance [3]</b> 28/10	95/18 143/12 167/4	16/13 19/5 20/13 21/4	169/14 170/19 171/4
<b>index [1]</b> 30/15	28/13 28/19	<b>investigated [7]</b> 9/20	24/21 25/15 27/1 31/7	171/8 171/18 172/6
<b>indicate [1]</b> 9/20	<b>instead [4]</b> 2/20	38/7 38/13 41/19 53/3	33/25 34/1 34/1 34/24	172/23 175/14 175/15
<b>indicates [2]</b> 62/17	12/14 172/20 173/11	107/7 145/2	35/12 35/21 36/15	176/13 179/19 181/15
76/4	<b>instruct [1]</b> 127/14	<b>investigating [4]</b> 72/20 74/22 131/25	37/2 37/4 37/8 39/15	182/15 182/19 182/19
<b>indict [1]</b> 187/16	<b>instructed [3]</b> 127/8	176/7	52/3 53/5 60/4 60/21	184/1 184/1 186/23
<b>individual [22]</b> 14/25	127/11 133/16	<b>investigation [45]</b> 1/18 3/23 29/18 30/12	63/19 63/23 64/23	187/5 187/13
18/14 51/6 59/15	<b>instructions [1]</b> 101/16	38/2 42/10 47/14 50/5	65/4 65/22 66/1 66/5	<b>item [1]</b> 155/2
60/14 60/19 60/24	<b>integrity [11]</b> 9/22	53/25 58/5 58/11	72/2 72/6 72/13 72/18	<b>items [1]</b> 60/7
62/12 63/9 75/11 86/9	14/14 17/1 24/17	58/18 59/24 83/23	74/14 75/7 78/1 91/2	<b>its [33]</b> 1/22 9/12
108/8 129/13 156/7	32/20 49/7 49/9 52/22	94/20 94/23 99/12	93/3 111/23 128/1	11/25 14/5 14/6 30/7
156/9 157/14 158/8	53/8 76/18 111/5	100/1 100/6 101/13	128/10 128/13 128/18	35/23 36/8 36/12
158/12 167/3 167/12	<b>intended [5]</b> 87/23	113/24 122/19 122/25	163/11 163/24 164/16	37/11 45/25 77/16
169/14 170/21	124/19 165/14 166/1	126/21 131/23 140/12	164/17 168/9 173/21	79/19 81/19 90/22
<b>individual's [1]</b> 59/14	168/4	140/13 141/1 141/21		90/25 98/2 101/16
<b>individuals [3]</b> 31/8	<b>intending [1]</b> 48/21	142/23 144/11 144/12		105/10 112/19 114/20
129/8 133/17	<b>intends [1]</b> 174/5	145/9 145/10 150/14		115/4 121/22 123/7
<b>Industry [2]</b> 3/13	<b>intentions [1]</b> 148/9	152/8 152/9 155/20		124/9 125/1 130/11
3/17	<b>interested [7]</b> 8/15	156/5 157/5 157/12		132/3 148/24 150/1
<b>inevitable [1]</b> 169/15	27/17 86/12 119/23			152/8 163/8 175/23
	177/21 184/15 186/11			<b>itself [11]</b> 22/16
	<b>interesting [1]</b> 84/25			23/24 61/21 79/18
	<b>interests [5]</b> 111/5			98/23 99/2 104/13
	124/9 124/11 124/21			108/22 141/1 160/16

<b>I</b>	<b>John Kennett [1]</b> 7/21	186/15 187/6 187/7 187/25 188/4	188/6	<b>least [11]</b> 4/15 6/17 53/13 55/18 61/15 61/23 91/1 102/11 108/20 122/11 174/11
<b>itself... [1]</b> 176/12	<b>join [1]</b> 82/16	<b>justice' [1]</b> 63/4	<b>knowing [3]</b> 64/4 88/1 125/13	<b>leave [3]</b> 151/12 151/21 184/20
<b>iv [1]</b> 136/7	<b>joint [1]</b> 56/19	<b>K</b>	<b>knowledge [8]</b> 2/4 28/24 45/13 60/17 91/19 118/2 131/4 172/3	<b>led [11]</b> 20/15 22/8 36/25 84/8 86/3 88/10 89/24 91/5 103/22 132/16 147/23
<b>J</b>	<b>Jones [1]</b> 111/19	<b>Kasaby [1]</b> 127/8	<b>known [10]</b> 6/5 28/14 43/23 60/12 89/20 115/25 118/21 128/6 129/2 129/4	<b>Lee [1]</b> 42/24
<b>JA [1]</b> 120/24	<b>judge [6]</b> 118/22 119/1 119/2 119/3 183/8 184/24	<b>Kaur [1]</b> 127/12	<b>knows [1]</b> 181/25	<b>left [4]</b> 88/23 88/24 103/15 174/15
<b>James [9]</b> 1/9 1/10 1/15 63/4 63/17 66/11 95/12 120/25 190/2	<b>judgement [1]</b> 14/16	<b>Kay [8]</b> 51/1 52/12 59/9 63/6 71/12 119/22 120/1 120/6	<b>L</b>	<b>Legacy [1]</b> 45/17
<b>James Arbuthnot [2]</b> 1/9 120/25	<b>judgment [2]</b> 145/12 175/10	<b>keep [6]</b> 102/17 102/25 116/21 133/23 142/20 176/13	<b>labels [1]</b> 57/20	<b>legal [22]</b> 4/4 23/2 28/10 29/9 54/18 71/19 72/5 72/8 73/25 82/2 86/18 90/12 111/13 112/8 122/20 138/20 160/8 171/11 178/4 184/16 187/21 187/23
<b>Jane [1]</b> 184/3	<b>Julie [1]</b> 42/17	<b>keeping [3]</b> 103/17 144/2 160/15	<b>Labour [1]</b> 12/5	<b>legalese [1]</b> 175/4
<b>Janet [3]</b> 34/10 55/10 92/12	<b>Julie Wolstenholme [1]</b> 42/17	<b>KELs [1]</b> 145/14	<b>labouring [1]</b> 60/14	<b>legalism [1]</b> 105/3
<b>Janet Walker [2]</b> 34/10 92/12	<b>July [13]</b> 11/21 50/21 50/25 68/22 69/20 71/7 71/8 73/21 75/3 76/21 78/20 82/2 111/4	<b>Kemp [3]</b> 13/4 13/10 18/6	<b>laid [2]</b> 7/4 19/1	<b>legalistic [2]</b> 102/16 102/24
<b>January [10]</b> 16/5 70/1 70/4 92/9 92/21 125/15 125/20 126/3 128/9 129/5	<b>July 2013 [1]</b> 76/21	<b>Kennett [1]</b> 7/21	<b>language [2]</b> 22/9 155/12	<b>legally [1]</b> 100/16
<b>January 2014 [3]</b> 70/1 125/15 128/9	<b>jumping [1]</b> 69/25	<b>Kevan [1]</b> 111/19	<b>large [11]</b> 10/4 16/15 30/25 36/12 40/21 78/13 88/11 131/6 142/19 184/12 187/19	<b>length [11]</b> 1/22 9/11 10/2 11/1 11/13 11/16 11/24 12/4 99/1 114/23 144/18
<b>JARB0000001 [1]</b> 34/9	<b>June [8]</b> 34/5 47/25 48/17 48/25 56/2 68/15 160/11 161/4	<b>key [7]</b> 30/16 31/1 32/9 72/2 72/6 100/24 104/20	<b>largely [2]</b> 40/14 187/24	<b>lengthy [2]</b> 151/24 181/14
<b>JARB0000047 [1]</b> 57/6	<b>June 2014 [2]</b> 160/11 161/4	<b>keying [1]</b> 27/24	<b>last [20]</b> 2/21 16/7 18/21 21/2 48/18 53/11 53/15 57/5 58/15 59/19 94/5 101/22 101/22 115/6 118/12 142/11 159/2 159/15 171/8 175/21	<b>Lesley [2]</b> 29/9 32/13
<b>JARB0000049 [1]</b> 59/4	<b>jury [7]</b> 43/4 43/9 43/13 47/19 47/20 47/21 188/11	<b>keystone [1]</b> 38/9	<b>late [1]</b> 25/2	<b>less [9]</b> 89/16 90/7 91/6 98/11 130/22 132/15 139/18 181/18 183/19
<b>JARB0000052 [1]</b> 62/8	<b>just [90]</b> 6/2 7/13 8/16 13/6 15/17 15/23 20/23 23/3 23/14 25/11 26/5 26/9 26/14 28/14 30/6 32/12 35/14 40/14 46/4 46/7 46/23 46/25 48/18 48/19 50/9 57/5 59/12 65/16 65/24 66/10 68/13 69/23 70/9 73/5 76/4 81/16 82/5 83/6 84/6 84/7 84/16 92/5 92/13 92/20 94/6 95/7 95/9 96/15 97/7 99/2 104/20 113/4 114/1 114/11 116/21 121/5 121/21 121/22 123/24 130/5 132/19 134/1 134/10 135/5 136/1 139/19 142/22 144/15 146/13 147/11 147/24 148/20 150/19 151/15 152/21 153/8 155/21 156/11 156/20 165/10 167/24 172/25 173/2 177/25 178/5 182/17 183/25 186/10 186/17 186/23	<b>kind [8]</b> 25/9 26/11 27/5 46/15 93/14 105/5 129/23 187/9	<b>later [25]</b> 5/6 11/18 32/4 32/8 32/11 37/20 40/25 43/25 54/8 61/3 68/18 81/5 82/21 90/3 90/4 91/12 123/5 125/10 131/22 149/16 157/18 163/17 171/8 180/12 183/7	<b>let [5]</b> 6/22 8/1 105/22 147/4 176/5
<b>JARB0000053 [1]</b> 68/14	<b>King [4]</b> 78/22 125/17 125/21 127/15	<b>kindly [1]</b> 2/7	<b>latest [1]</b> 68/17	<b>let's [7]</b> 12/23 54/16 142/22 160/10 177/8 177/13 181/8
<b>Jarnail [2]</b> 175/16 179/20	<b>King's [1]</b> 158/21	<b>kinds [2]</b> 132/16 182/6	<b>Latiff [1]</b> 176/21	<b>letter [59]</b> 7/16 7/18 8/7 8/19 8/21 8/24 9/4 9/4 9/24 12/3 12/20 12/23 14/8 15/16 15/22 16/2 16/7 16/8 17/24 18/24 19/9 26/3 26/8 51/22 54/6 55/2 55/7 55/24 56/9 59/4 59/5 61/19 73/5 73/18 73/21 74/2 74/13 74/15 85/22 85/25 87/2 92/24 93/2 93/4 93/8 93/13 94/8 103/8 108/23 108/24 109/24 112/15 112/15 113/5 148/16 156/23 183/15 183/22 184/3
<b>Jason [2]</b> 1/13 42/20	<b>Kintyre [1]</b> 5/5	<b>King [4]</b> 78/22 125/17 125/21 127/15	<b>latter [1]</b> 45/3	<b>letters [3]</b> 12/15 80/14 184/5
<b>Jenkins [5]</b> 79/1 79/7 84/23 128/4 128/8	<b>knew [14]</b> 40/8 88/9 88/11 118/16 130/25 137/18 145/15 148/12 158/15 158/15 170/4 173/20 186/4 186/5	<b>King's [1]</b> 158/21	<b>Laura [1]</b> 165/16	<b>Letwin [5]</b> 26/9 26/14 29/6 34/14 36/21
<b>JFSA [25]</b> 16/24 32/19 56/21 56/25 58/8 59/3 59/18 66/11 80/19 85/25 86/2 86/12 97/21 120/24 123/10 124/10 125/1 126/24 166/3 166/5 166/21 168/8 168/15 168/18 168/22	<b>know [75]</b> 1/13 11/11 12/4 21/10 29/20 37/25 38/11 38/12 38/23 40/7 41/22 52/1 53/3 63/6 63/11 74/3 74/4 74/8 79/5 88/1 88/4 88/19 88/19 88/23 90/21 91/3 92/16 92/18 97/4 116/15 116/16 119/22 119/24 120/22 125/9 126/25 129/12 132/8 133/8 134/1 134/2 137/9 137/25 139/22 144/24 145/12 145/13 145/15 147/19 148/11 154/13 154/15 155/1 158/19 159/23 161/10 161/11 169/18 170/1 170/4 170/22 177/1 179/10 179/12 179/12 180/17 180/17 180/18 181/15 181/23 182/23 184/12 186/7 187/5	<b>King's [1]</b> 158/21	<b>law [8]</b> 73/14 73/20 74/21 179/9 181/25 182/22 183/20 188/4	
<b>Jo [23]</b> 4/11 4/19 5/16 7/23 11/22 12/10 14/9 15/7 39/2 40/8 54/15 72/10 80/23 83/3 83/9 83/13 83/17 83/20 87/9 87/14 106/19 148/16 165/10	<b>Jo Hamilton [10]</b> 7/23 15/7 39/2 40/8 54/15 72/10 80/23 83/3 83/13 83/20	<b>know [75]</b> 1/13 11/11 12/4 21/10 29/20 37/25 38/11 38/12 38/23 40/7 41/22 52/1 53/3 63/6 63/11 74/3 74/4 74/8 79/5 88/1 88/4 88/19 88/19 88/23 90/21 91/3 92/16 92/18 97/4 116/15 116/16 119/22 119/24 120/22 125/9 126/25 129/12 132/8 133/8 134/1 134/2 137/9 137/25 139/22 144/24 145/12 145/13 145/15 147/19 148/11 154/13 154/15 155/1 158/19 159/23 161/10 161/11 169/18 170/1 170/4 170/22 177/1 179/10 179/12 179/12 180/17 180/17 180/18 181/15 181/23 182/23 184/12 186/7 187/5	<b>lawyer [2]</b> 161/25 184/17	
<b>Jo Hamilton's [1]</b> 5/16	<b>Jo Swinson [3]</b> 11/22 148/16 165/10	<b>know [75]</b> 1/13 11/11 12/4 21/10 29/20 37/25 38/11 38/12 38/23 40/7 41/22 52/1 53/3 63/6 63/11 74/3 74/4 74/8 79/5 88/1 88/4 88/19 88/19 88/23 90/21 91/3 92/16 92/18 97/4 116/15 116/16 119/22 119/24 120/22 125/9 126/25 129/12 132/8 133/8 134/1 134/2 137/9 137/25 139/22 144/24 145/12 145/13 145/15 147/19 148/11 154/13 154/15 155/1 158/19 159/23 161/10 161/11 169/18 170/1 170/4 170/22 177/1 179/10 179/12 179/12 180/17 180/17 180/18 181/15 181/23 182/23 184/12 186/7 187/5	<b>lawyers [8]</b> 70/8 72/14 74/1 111/9 118/21 125/17 132/17 180/21	
<b>job [2]</b> 96/14 134/6	<b>John [2]</b> 7/21 78/6	<b>know [75]</b> 1/13 11/11 12/4 21/10 29/20 37/25 38/11 38/12 38/23 40/7 41/22 52/1 53/3 63/6 63/11 74/3 74/4 74/8 79/5 88/1 88/4 88/19 88/19 88/23 90/21 91/3 92/16 92/18 97/4 116/15 116/16 119/22 119/24 120/22 125/9 126/25 129/12 132/8 133/8 134/1 134/2 137/9 137/25 139/22 144/24 145/12 145/13 145/15 147/19 148/11 154/13 154/15 155/1 158/19 159/23 161/10 161/11 169/18 170/1 170/4 170/22 177/1 179/10 179/12 179/12 180/17 180/17 180/18 181/15 181/23 182/23 184/12 186/7 187/5	<b>layers [1]</b> 49/17	
		<b>know [75]</b> 1/13 11/11 12/4 21/10 29/20 37/25 38/11 38/12 38/23 40/7 41/22 52/1 53/3 63/6 63/11 74/3 74/4 74/8 79/5 88/1 88/4 88/19 88/19 88/23 90/21 91/3 92/16 92/18 97/4 116/15 116/16 119/22 119/24 120/22 125/9 126/25 129/12 132/8 133/8 134/1 134/2 137/9 137/25 139/22 144/24 145/12 145/13 145/15 147/19 148/11 154/13 154/15 155/1 158/19 159/23 161/10 161/11 169/18 170/1 170/4 170/22 177/1 179/10 179/12 179/12 180/17 180/17 180/18 181/15 181/23 182/23 184/12 186/7 187/5	<b>lead [4]</b> 86/4 104/13 170/18 182/24	
		<b>know [75]</b> 1/13 11/11 12/4 21/10 29/20 37/25 38/11 38/12 38/23 40/7 41/22 52/1 53/3 63/6 63/11 74/3 74/4 74/8 79/5 88/1 88/4 88/19 88/19 88/23 90/21 91/3 92/16 92/18 97/4 116/15 116/16 119/22 119/24 120/22 125/9 126/25 129/12 132/8 133/8 134/1 134/2 137/9 137/25 139/22 144/24 145/12 145/13 145/15 147/19 148/11 154/13 154/15 155/1 158/19 159/23 161/10 161/11 169/18 170/1 170/4 170/22 177/1 179/10 179/12 179/12 180/17 180/17 180/18 181/15 181/23 182/23 184/12 186/7 187/5	<b>leading [1]</b> 50/17	
		<b>know [75]</b> 1/13 11/11 12/4 21/10 29/20 37/25 38/11 38/12 38/23 40/7 41/22 52/1 53/3 63/6 63/11 74/3 74/4 74/8 79/5 88/1 88/4 88/19 88/19 88/23 90/21 91/3 92/16 92/18 97/4 116/15 116/16 119/22 119/24 120/22 125/9 126/25 129/12 132/8 133/8 134/1 134/2 137/9 137/25 139/22 144/24 145/12 145/13 145/15 147/19 148/11 154/13 154/15 155/1 158/19 159/23 161/10 161/11 169/18 170/1 170/4 170/22 177/1 179/10 179/12 179/12 180/17 180/17 180/18 181/15 181/23 182/23 184/12 186/7 187/5	<b>learned [4]</b> 4/11 4/22 5/6 80/24	
		<b>know [75]</b> 1/13 11/11 12/4 21/10 29/20 37/25 38/11 38/12 38/23 40/7 41/22 52/1 53/3 63/6 63/11 74/3 74/4 74/8 79/5 88/1 88/4 88/19 88/19 88/23 90/21 91/3 92/16 92/18 97/4 116/15 116/16 119/22 119/24 120/22 125/9 126/25 129/12 132/8 133/8 134/1 134/2 137/9 137/25 139/22 144/24 145/12 145/13 145/15 147/19 148/11 154/13 154/15 155/1 158/19 159/23 161/10 161/11 169/18 170/1 170/4 170/22 177/1 179/10 179/12 179/12 180/17 180/17 180/18 181/15 181/23 182/23 184/12 186/7 187/5	<b>learnings [1]</b> 84/14	
		<b>know [75]</b> 1/13 11/11 12/4 21/10 29/20 37/25 38/11 38/12 38/23 40/7 41/22 52/1 53/3 63/6 63/11 74/3 74/4 74/8 79/5 88/1 88/4 88/19 88/19 88/23 90/21 91/3 92/16 92/18 97/4 116/15 116/16 119/22 119/24 120/22 125/9 126/25 129/12 132/8 133/8 134/1 134/2 137/9 137/25 139/22 144/24 145/12 145/13 145/15 147/19 148/11 154/13 154/15 155/1 158/19 159/23 161/10 161/11 169/18 170/1 170/4 170/22 177/1 179/10 179/12 179/12 180/17 180/17 180/18 181/15 181/23 182/23 184/12 186/7 187/5	<b>learnt [3]</b> 128/15 145/17 176/22	



<b>L</b>	<b>little [10]</b> 3/3 7/14 34/8 96/17 106/23 114/6 127/24 152/5 157/9 173/20 <b>live [5]</b> 76/10 76/12 76/14 76/17 77/16 <b>livelihood [2]</b> 138/15 139/8 <b>lives [2]</b> 6/19 31/8 <b>living [2]</b> 13/2 18/4 <b>local [4]</b> 7/21 13/3 18/5 44/16 <b>logic [1]</b> 103/18 <b>logs [4]</b> 75/19 76/3 145/15 170/23 <b>long [14]</b> 18/6 24/22 51/5 58/12 104/21 109/24 110/1 126/7 130/11 166/2 166/11 168/5 178/16 186/23 <b>longer [3]</b> 112/11 114/1 143/12 <b>longstanding [1]</b> 13/4 <b>look [104]</b> 1/19 1/20 5/25 7/12 8/12 8/13 8/21 15/13 15/21 16/1 18/8 20/23 20/24 21/15 21/21 26/1 26/4 26/5 30/13 34/2 34/9 40/5 40/25 48/20 48/24 49/4 49/13 51/23 52/16 55/4 57/5 59/3 62/8 66/3 66/4 66/6 68/13 71/6 71/7 71/13 72/4 73/2 73/9 75/4 75/4 76/10 85/22 86/25 95/7 98/23 99/2 104/6 108/23 109/22 109/24 112/22 119/16 120/16 121/19 121/24 123/13 125/1 125/16 126/13 127/1 129/11 129/14 130/4 131/6 132/25 141/15 142/16 145/4 146/11 148/15 148/20 151/4 151/17 151/19 152/2 152/20 153/8 154/15 155/2 158/8 160/11 163/12 165/4 165/23 166/16 169/15 171/2 171/13 171/17 172/23 173/21 175/14 177/24 179/7 182/8 182/20 183/8 183/14 184/2 <b>looked [18]</b> 15/23 35/14 40/15 46/23 59/12 65/24 95/9 122/17 125/3 142/10 145/6 145/14 168/19 170/17 172/5 172/25 179/15 179/16 <b>looking [30]</b> 24/17	31/17 33/17 33/19 58/12 73/4 84/6 88/25 90/1 119/15 121/5 125/18 131/15 132/7 134/13 134/13 134/18 137/16 137/25 143/10 146/3 146/5 156/6 156/21 160/9 167/24 169/14 170/20 180/22 181/5 <b>looks [1]</b> 139/14 <b>Lord [27]</b> 1/9 1/10 1/12 5/21 6/4 7/15 9/3 46/5 47/10 56/3 65/15 74/12 81/22 96/7 96/18 97/11 114/17 114/18 115/8 115/15 115/18 116/10 116/12 131/2 131/3 135/14 190/2 <b>Lord Arbuthnot [15]</b> 1/12 47/10 56/3 65/15 74/12 96/7 96/18 97/11 115/8 115/15 115/18 116/12 131/2 131/3 135/14 <b>Lord Arbuthnot's [1]</b> 116/10 <b>Lord Callanan [2]</b> 81/22 114/17 <b>Lord Mandelson [2]</b> 7/15 9/3 <b>Lord Peter [2]</b> 5/21 6/4 <b>lose [1]</b> 112/3 <b>losing [1]</b> 13/12 <b>loss [11]</b> 57/23 132/7 132/8 132/9 138/14 138/22 145/1 181/19 182/6 184/3 185/25 <b>losses [6]</b> 19/1 43/5 43/10 138/15 141/25 185/22 <b>lost [3]</b> 111/22 139/8 144/21 <b>lot [7]</b> 39/23 78/4 84/18 139/21 142/25 152/11 168/25 <b>lots [13]</b> 5/15 22/6 29/1 29/1 29/1 36/23 36/23 83/25 158/14 176/9 176/17 177/2 177/14 <b>low [2]</b> 165/4 187/18 <b>lunch [1]</b> 95/7 <b>lying [1]</b> 36/23 <b>Lyons [11]</b> 20/16 20/20 22/18 23/4 34/20 42/14 48/3 77/23 84/11 119/20 120/21	<b>M022 [1]</b> 155/3 <b>M054 [1]</b> 152/2 <b>M127 [1]</b> 152/10 <b>made [47]</b> 2/19 3/19 17/15 23/9 33/15 36/19 37/21 42/3 60/24 64/14 65/18 66/18 73/21 75/23 100/20 101/10 106/16 111/25 120/23 121/13 128/22 130/2 130/18 135/5 135/5 135/7 139/1 139/2 139/13 140/18 140/20 143/11 143/18 144/25 149/8 153/12 159/20 159/21 159/22 160/25 161/9 161/12 164/20 164/22 168/12 176/2 180/21 <b>Magistrates [1]</b> 182/23 <b>Mail [9]</b> 9/8 12/16 12/25 15/10 18/20 23/19 24/2 27/12 35/19 <b>main [2]</b> 60/23 149/22 <b>mainly [1]</b> 105/11 <b>maintain [1]</b> 112/7 <b>maintaining [1]</b> 134/15 <b>major [2]</b> 113/18 188/3 <b>make [28]</b> 11/22 15/11 22/4 31/22 77/16 78/19 89/20 94/2 111/16 118/4 124/24 126/11 134/21 134/23 134/25 135/3 135/15 136/15 139/11 147/24 151/17 154/7 156/4 159/25 161/12 177/5 177/21 184/14 <b>makes [2]</b> 20/14 161/1 <b>making [12]</b> 2/8 19/4 23/6 24/24 25/3 41/6 61/5 113/5 123/25 128/14 154/14 188/19 <b>malicious [1]</b> 49/20 <b>man [2]</b> 42/19 139/5 <b>management [4]</b> 9/10 63/5 63/18 114/21 <b>manager [1]</b> 92/14 <b>managers [2]</b> 48/1 76/5 <b>managing [2]</b> 12/21 15/24 <b>mandate [1]</b> 101/14 <b>Mandelson [5]</b> 5/21 6/4 7/15 8/18 9/3 <b>manipulate [1]</b> 64/2 <b>manipulated [1]</b>	63/10 <b>manipulation [1]</b> 49/20 <b>manner [3]</b> 124/9 124/10 143/23 <b>many [33]</b> 35/1 35/2 49/9 49/17 69/5 92/3 98/9 99/13 99/24 101/20 101/25 114/3 116/2 118/25 122/7 130/12 132/11 134/2 136/23 149/6 150/13 156/8 169/19 172/6 172/18 175/6 175/8 176/6 184/24 184/24 187/7 187/7 188/7 <b>March [29]</b> 1/23 3/7 20/16 24/12 45/1 48/3 51/18 51/21 51/23 51/24 52/1 55/8 55/11 55/12 55/23 56/9 57/7 62/10 112/24 113/20 117/19 125/5 132/21 140/1 140/7 142/15 146/13 148/8 165/7 <b>March 2013 [1]</b> 51/18 <b>March 2014 [2]</b> 140/1 148/8 <b>March 2015 [1]</b> 165/7 <b>mark [2]</b> 84/10 112/17 <b>market [1]</b> 9/15 <b>Martin [3]</b> 125/25 172/24 175/16 <b>material [12]</b> 70/14 78/11 79/9 97/18 104/13 104/18 138/18 149/19 152/11 175/19 178/14 178/15 <b>materials [1]</b> 185/8 <b>matter [29]</b> 2/16 6/23 8/2 8/4 8/11 8/12 10/6 18/8 18/10 21/16 21/22 26/16 28/25 35/6 35/22 35/25 36/10 38/7 38/13 52/11 64/11 87/20 95/24 96/2 135/4 164/9 169/5 169/22 182/5 <b>matters [20]</b> 3/5 9/17 18/8 48/15 52/18 58/17 58/20 73/14 73/17 73/20 80/1 80/13 80/25 95/9 131/9 149/7 153/9 162/6 184/16 185/18 <b>Maureen [2]</b> 43/3 47/19 <b>maximum [2]</b> 138/22 183/21 <b>may [63]</b> 7/8 8/11 10/5 12/14 15/5 18/11 21/2 21/10 25/23 26/2
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<b>M</b>	<b>measure [1]</b> 33/2	68/22 71/7 71/10	<b>mid-2013 [1]</b> 78/12	<b>mitigation [1]</b> 183/9
<b>may... [53]</b> 29/12	<b>measured [3]</b> 60/19	81/12 81/14 82/25	<b>mid-afternoon [2]</b>	<b>model [1]</b> 23/5
34/7 34/8 36/21 40/11	137/3 137/6	84/7 84/13 92/8 92/10	153/7 159/7	<b>moment [14]</b> 1/5 6/9
46/5 46/6 46/22 46/24	<b>media [1]</b> 52/14	92/21 93/15 95/20	<b>mid-June [1]</b> 47/25	15/13 32/5 32/12
48/12 48/19 51/8	<b>mediate [3]</b> 109/6	105/18 105/21 105/23	<b>middle [1]</b> 174/11	37/13 40/5 46/2 82/10
52/19 53/1 56/16 60/6	122/14 123/7	106/1 106/11 106/25	<b>might [28]</b> 8/17 29/3	87/16 116/22 123/17
62/18 65/3 65/21	<b>mediated [1]</b> 95/1	108/1 109/1 129/14	35/12 39/10 39/18	142/22 155/16
65/22 73/7 74/5 76/15	<b>mediating [2]</b> 151/7	129/16 129/19 129/19	39/21 40/18 41/2 45/4	<b>moments [1]</b> 92/5
77/14 77/25 82/19	167/19	130/3 131/17 132/18	46/17 48/7 52/8 62/3	<b>money [21]</b> 16/15
84/24 88/24 89/1 89/7	<b>mediation [78]</b> 74/13	132/23 135/22 135/23	64/6 68/3 87/14	16/16 31/8 33/8 33/15
90/25 91/19 91/20	81/7 81/13 82/11	137/7 139/11 140/4	104/13 108/14 121/8	36/11 39/9 39/12 42/6
100/16 104/20 109/25	82/11 82/14 82/16	140/5 140/8 142/14	122/12 130/12 145/5	43/5 132/8 135/2
115/19 124/9 124/10	82/18 83/4 83/9 83/14	146/15 147/19 150/7	147/5 171/21 174/20	142/2 174/14 184/3
124/22 126/6 135/19	84/3 84/8 85/15 87/9	153/9 156/19 171/18	177/15 179/14 185/13	184/9 184/10 185/19
135/24 147/16 151/6	90/11 91/22 92/1	173/19 175/21	<b>Mike [3]</b> 40/23 41/1	185/24 186/2 186/17
152/14 153/10 162/15	94/19 97/16 98/2	<b>meetings [18]</b> 12/10	45/20	<b>month [1]</b> 68/15
163/19 164/13 167/12	103/13 103/16 103/20	14/9 35/11 35/13 48/1	<b>million [3]</b> 16/16	<b>months [7]</b> 18/10
171/5 174/8	103/23 104/1 104/9	50/21 57/4 58/9 80/14	130/8 130/10	59/19 90/18 110/13
<b>maybe [2]</b> 114/6	106/8 106/14 108/5	89/14 103/3 129/23	<b>mind [15]</b> 13/21 14/7	138/24 157/25 161/3
158/9	108/9 108/10 108/11	129/24 139/12 139/24	22/15 28/24 29/3	<b>more [41]</b> 2/20 16/14
<b>McFadden [2]</b> 9/2	108/13 108/18 108/19	140/4 140/6 154/11	32/20 46/7 87/15	20/13 34/8 46/21
9/25	110/10 110/15 110/21	<b>meets [1]</b> 178/15	98/11 98/16 99/19	53/19 57/14 60/9
<b>McKelvey [3]</b> 43/3	110/24 111/1 111/4	<b>member [4]</b> 3/7 4/15	138/25 139/2 140/16	60/20 89/16 90/3 90/7
43/4 47/20	111/6 112/4 112/10	45/14 162/24	172/5	91/6 93/12 97/3 97/5
<b>McLeod's [1]</b> 184/3	112/19 121/13 122/9	<b>members [9]</b> 4/3	<b>minds [1]</b> 72/16	102/20 105/7 106/7
<b>MD [1]</b> 6/11	123/8 123/14 129/8	45/15 123/1 123/9	<b>mindset [1]</b> 155/22	109/19 127/25 129/13
<b>me [58]</b> 1/6 6/22 8/1	134/14 141/4 142/1	123/19 123/25 129/25	<b>minimise [1]</b> 60/22	130/19 130/22 133/10
10/15 10/19 11/17	145/11 145/16 148/19	168/15 187/22	<b>minister [10]</b> 9/2 9/5	133/15 133/19 137/1
13/10 13/21 13/24	148/25 158/16 158/23	<b>memory [6]</b> 47/1	11/22 15/11 81/22	137/3 137/25 143/11
14/22 15/25 19/13	166/2 167/9 168/10	92/13 106/11 126/15	148/17 156/20 165/10	144/7 144/8 147/12
19/15 26/23 33/25	168/13 168/16 168/17	130/17 142/10	165/24 167/25	147/25 152/5 167/5
36/21 39/6 39/23	168/24 169/3 169/8	<b>mention [17]</b> 42/24	<b>ministerial [2]</b> 25/14	168/19 169/7 171/22
47/18 51/8 52/20	170/7 171/24 172/13	43/3 43/8 43/20 44/1	165/9	186/8
54/25 55/11 56/4 70/8	173/10 174/2 174/7	44/2 44/8 44/12 44/16	<b>ministers [1]</b> 161/15	<b>morning [5]</b> 1/3 4/8
70/22 77/5 77/18	181/4 181/6 185/5	44/24 45/6 45/7 48/14	<b>minor [2]</b> 60/13	47/8 65/20 188/24
82/17 83/12 88/15	<b>mediations [1]</b>	79/25 131/7 148/7	169/5	<b>most [12]</b> 6/22 7/25
89/24 94/7 97/4 117/3	118/13	161/9	<b>minute [18]</b> 22/22	13/2 14/21 18/4 18/7
117/20 123/1 124/22	<b>mediator [10]</b> 141/3	<b>mentioned [20]</b> 21/3	24/1 32/5 37/22 40/14	18/11 60/1 61/14
124/24 128/14 129/12	142/1 146/4 146/4	21/4 22/24 46/9 47/11	48/22 64/13 65/12	78/16 103/5 112/9
142/9 147/23 149/22	146/10 147/25 151/12	47/17 47/18 47/19	67/18 81/13 85/7	<b>mostly [1]</b> 39/1
150/13 158/13 158/16	151/21 158/10 177/7	47/21 61/21 63/3	92/10 95/9 95/11	<b>move [11]</b> 67/10
159/14 161/8 168/18	<b>meet [3]</b> 9/14 133/5	63/19 65/2 66/2 75/6	116/22 139/9 163/12	84/14 121/17 136/9
169/1 169/6 169/22	140/20	80/14 81/1 125/4	165/4	139/24 144/11 151/19
176/5 177/5 177/11	<b>meeting [114]</b> 8/8	138/6 150/1	<b>minutes [9]</b> 19/22	160/7 171/10 175/12
177/11 177/19	12/11 15/3 19/16	<b>mentioning [2]</b> 25/9	34/9 95/12 95/22	180/24
<b>mean [26]</b> 10/25 27/7	19/16 19/22 19/24	173/2	116/25 144/11 153/5	<b>moved [5]</b> 12/5 119/3
48/2 49/25 50/3 61/11	20/8 20/10 20/15	<b>merit [2]</b> 138/3	186/20 186/21	130/11 153/19 153/22
61/12 65/13 65/15	20/19 20/21 21/20	176/24	<b>mired [1]</b> 112/8	<b>moving [4]</b> 73/6
72/23 115/23 122/14	22/16 22/18 22/23	<b>merits [9]</b> 109/7	<b>misbehaviour [2]</b>	115/12 138/8 165/6
129/10 130/24 132/13	22/24 23/24 24/12	134/8 134/20 141/15	180/16 180/19	<b>Moya [8]</b> 12/15 12/20
139/14 144/23 148/12	25/12 27/10 29/6	148/2 148/4 157/10	<b>miscarriage [1]</b>	12/24 15/23 15/24
152/21 157/7 158/8	29/14 29/15 29/24	157/21 164/23	188/4	18/20 26/21 26/22
171/2 178/2 181/10	30/16 30/25 31/3 32/3	<b>messages [3]</b> 30/16	<b>miscarriages [9]</b>	<b>MP [14]</b> 3/10 3/15
183/3 185/23	32/8 34/4 34/7 34/22	31/1 32/9	63/3 78/14 96/6	6/10 6/25 20/12 20/13
<b>meaning [2]</b> 61/10	35/4 35/7 35/10 36/21	<b>met [6]</b> 17/8 17/17	104/16 174/12 174/17	28/19 29/23 40/24
61/14	44/10 47/24 48/2	21/2 23/1 150/10	178/7 179/11 187/7	41/1 41/10 71/15
<b>means [9]</b> 11/1 49/13	48/11 48/17 48/19	156/3	<b>mismatch [1]</b> 44/2	113/21 114/1
49/16 49/22 71/3	48/25 49/6 50/4 51/21	<b>method [1]</b> 60/21	<b>Misra [2]</b> 174/1 174/1	<b>MPs [46]</b> 22/23 25/11
96/12 104/10 177/4	52/1 52/4 52/5 52/20	<b>Michael [3]</b> 67/23	<b>missed [1]</b> 101/21	26/14 34/13 34/15
187/19	55/8 55/12 55/23	75/9 77/3	<b>missing [2]</b> 39/13	34/17 34/23 35/5 36/7
<b>meant [3]</b> 36/24 66/8	55/25 56/1 56/17	<b>Michael Rudkin [3]</b>	57/19	42/4 42/15 50/15
117/10	56/24 57/3 57/4 57/7	67/23 75/9 77/3	<b>mistress [1]</b> 52/2	50/22 51/5 52/10 56/1
<b>meantime [1]</b> 8/19	59/2 59/7 59/11 59/24	<b>mid [4]</b> 47/25 78/12	<b>mistresses [3]</b> 36/1	56/20 56/24 62/11
	61/20 62/9 62/14 65/8	153/7 159/7	37/16 53/1	71/12 83/1 84/1 86/2

<b>M</b>	170/15 171/7 186/15	7/16 7/18 7/22 13/10	<b>negotiations [1]</b>	114/1 115/15 116/18
<b>MPs... [23]</b> 86/12	<b>Mr Justice Fraser [2]</b>	13/21 14/7 14/22 15/5	106/9	116/24 124/22 124/23
88/12 88/16 91/15	43/25 170/17	19/10 21/7 27/22	<b>neither [3]</b> 59/22	126/12 128/24 129/22
93/25 97/21 102/17	<b>Mr Justice Fraser's [1]</b> 186/11	28/24 29/3 30/18 46/7	75/15 112/8	130/2 133/23 134/24
102/25 105/21 105/25	<b>Mr Kemp [1]</b> 13/10	47/10 51/8 52/20	<b>nervous [1]</b> 62/11	136/11 137/16 138/3
106/4 108/11 111/4	<b>Mr Letwin [1]</b> 34/14	53/22 54/1 54/13 55/7	<b>nervousness [1]</b>	141/12 143/15 144/19
111/18 112/3 131/3	<b>Mr McFadden [1]</b>	56/9 61/6 69/9 70/20	93/5	148/11 148/11 148/11
135/15 135/20 166/4	9/25	74/18 89/10 91/7	<b>Network [1]</b> 29/12	154/13 154/14 155/22
166/6 166/21 168/20	<b>Mr Rudkin [3]</b> 75/17	98/11 98/16 106/19	<b>Neutral [1]</b> 155/12	155/25 158/18 159/20
169/10	76/7 76/15	109/10 112/11 115/14	<b>never [8]</b> 37/3 88/13	159/22 160/1 161/8
<b>MPs' [2]</b> 35/1 112/18	<b>Mr Rudkin's [1]</b>	116/5 119/1 125/9	128/12 135/5 156/5	163/12 166/23 167/10
<b>Mr [61]</b> 1/5 1/11 5/17	75/20	126/10 126/15 127/1	180/9 180/9 180/10	167/10 169/16 169/24
6/7 7/20 8/5 9/25	<b>Mrs [5]</b> 16/19 43/4	128/12 131/7 134/21	<b>nevertheless [1]</b>	170/8 170/8 170/11
11/11 13/8 13/10 14/9	43/9 43/14 62/25	142/10 145/17 145/17	25/19	170/12 178/20 180/15
19/8 34/14 43/25 46/4	<b>Mrs Hamilton [1]</b>	146/8 147/11 155/25	<b>new [9]</b> 15/3 17/12	181/12 184/22 188/17
46/6 46/22 47/2 59/4	16/19	156/4 157/25 158/19	17/19 24/9 65/11	<b>no-go [1]</b> 96/1
59/5 61/5 64/20 65/13	<b>Mrs McKelvey [1]</b>	159/15 162/3 168/21	65/13 65/15 152/11	<b>nobody [1]</b> 68/23
75/17 75/20 76/7	43/4	169/1 169/8 172/3	152/12	<b>nodded [1]</b> 96/15
76/15 77/22 79/7	<b>Mrs Palmer [2]</b> 43/9	172/5 173/15 173/19	<b>Newmark [1]</b> 6/10	<b>noises [1]</b> 66/18
85/23 85/25 90/5	43/14	174/11 174/13 174/25	<b>newspaper [1]</b>	<b>nominated [1]</b>
96/10 96/17 96/20	<b>Mrs Walker [1]</b> 62/25	177/7 177/12 179/10	139/15	120/13
97/2 105/15 115/21	<b>Ms [14]</b> 16/12 26/10	184/25 186/16 187/22	<b>next [13]</b> 13/19 41/9	<b>nomination [1]</b>
116/18 117/8 117/13	26/11 26/18 26/24	<b>myself [2]</b> 55/9 55/11	68/14 111/17 113/18	120/14
123/11 128/5 128/8	34/19 35/11 37/6	<b>N</b>	120/18 126/20 143/15	<b>non [4]</b> 116/2 167/20
145/13 156/25 158/21	39/16 47/15 66/17	<b>name [4]</b> 1/13 1/14	143/15 143/25 145/19	188/6 188/8
160/17 170/15 170/17	67/25 84/12 95/11	125/4 135/12	163/5 167/18	<b>non-criminal [1]</b>
171/7 173/17 178/11	<b>Ms Nichola [1]</b> 47/15	<b>named [2]</b> 27/10	<b>next-door [1]</b> 13/19	167/20
182/13 184/22 186/11	<b>Ms Perkins [2]</b> 34/19	123/22	<b>nice [1]</b> 56/10	<b>non-disclosure [2]</b>
186/15 188/22 188/24	35/11	<b>namely [2]</b> 30/3	<b>Nichola [1]</b> 47/15	188/6 188/8
190/5 190/9	<b>Ms Vennells [10]</b>	123/10	<b>Nick [1]</b> 12/12	<b>non-statutory [1]</b>
<b>Mr Alan [1]</b> 123/11	16/12 26/10 26/11	<b>names [4]</b> 27/14	<b>night [2]</b> 109/13	116/2
<b>Mr Altman [4]</b> 158/21	26/18 26/24 37/6	27/16 27/17 138/6	109/16	<b>none [4]</b> 76/6 81/21
173/17 182/13 184/22	39/16 66/17 67/25	<b>narrative [4]</b> 12/15	<b>nights [1]</b> 109/13	118/13 158/22
<b>Mr Aujard [2]</b> 90/5	84/12	64/16 68/7 92/6	<b>nine [3]</b> 34/17 42/4	<b>Nonetheless [1]</b> 6/14
105/15	<b>Ms Walker [1]</b> 95/11	<b>national [2]</b> 21/12	164/4	<b>nor [5]</b> 53/20 59/24
<b>Mr Baker [1]</b> 77/22	<b>much [53]</b> 1/8 11/18	115/10	<b>no [138]</b> 10/19 16/24	75/16 172/9 186/9
<b>Mr Bates [7]</b> 59/5	15/18 20/12 20/14	<b>nationwide [1]</b> 20/13	16/25 17/11 17/14	<b>normally [4]</b> 38/21
61/5 64/20 85/23	40/12 60/25 62/21	<b>nature [3]</b> 11/24	17/23 19/23 23/19	38/24 182/3 182/24
85/25 115/21 156/25	63/6 92/18 96/7 96/22	32/18 49/10	23/23 24/13 28/16	<b>NORWICH [3]</b> 1/10
<b>Mr Bates' [1]</b> 59/4	101/23 113/14 116/7	<b>nearly [2]</b> 115/7	30/24 32/8 32/16	1/15 190/2
<b>Mr Batten [1]</b> 160/17	117/14 117/21 118/4	119/9	32/18 33/6 38/1 38/7	<b>not [228]</b>
<b>Mr Beer [12]</b> 1/5 1/11	118/11 118/17 119/24	<b>necessarily [2]</b> 53/12	38/16 41/24 42/2	<b>note [22]</b> 6/9 18/20
46/4 46/6 46/22 47/2	120/9 124/24 125/10	82/2	42/18 42/23 43/2 43/7	23/16 49/3 49/3 55/10
65/13 96/10 96/17	125/14 126/1 126/16	<b>necessary [5]</b> 6/9	43/12 43/19 44/1 44/4	62/7 62/17 62/22 66/3
97/2 117/8 190/5	129/3 130/19 133/18	50/15 127/17 136/17	44/7 44/11 44/15	94/6 94/6 100/15
<b>MR BLAKE [3]</b>	136/20 136/20 147/4	141/3	44/18 44/20 44/23	129/15 137/12 138/20
117/13 188/24 190/9	151/3 152/11 158/15	<b>need [21]</b> 19/23 33/7	45/12 46/20 46/25	145/22 145/24 145/25
<b>Mr Blake's [1]</b> 116/18	159/6 159/10 160/4	52/19 67/3 68/18	47/18 48/5 48/16 49/9	160/15 172/25 174/4
<b>Mr Blakey [1]</b> 96/20	161/21 161/23 168/21	82/19 87/7 111/24	51/16 51/16 62/15	<b>noted [3]</b> 136/13
<b>Mr Bristow [3]</b> 7/20	173/8 179/19 181/18	127/7 127/14 127/24	63/8 65/20 67/11	138/12 143/7
13/8 14/9	186/25 187/13 188/1	134/7 135/20 141/18	67/18 72/11 72/23	<b>notes [13]</b> 30/24
<b>Mr Bristow's [2]</b> 5/17	188/11 188/12 188/15	152/14 152/15 153/22	74/13 79/11 79/14	40/15 40/17 40/21
8/5	188/18 188/25	153/23 160/14 185/4	79/17 79/23 80/2	57/3 57/5 57/7 65/25
<b>Mr Chairman [1]</b>	<b>Mull [1]</b> 5/5	187/8	80/12 81/24 83/16	71/7 92/21 129/14
188/22	<b>multi [1]</b> 69/5	<b>needed [7]</b> 33/16	83/16 83/16 85/10	132/23 162/24
<b>Mr Clarke [1]</b> 178/11	<b>multi-page [1]</b> 69/5	61/8 83/22 91/1 93/24	85/13 85/16 85/17	<b>nothing [24]</b> 9/20
<b>Mr Clarke's [1]</b> 128/5	<b>must [14]</b> 19/12	149/19 157/15	86/22 86/24 87/6 87/7	10/11 20/5 21/13
<b>Mr Davey [1]</b> 19/8	25/18 37/11 37/12	<b>needing [1]</b> 39/23	87/17 88/2 90/10	21/19 108/20 116/6
<b>Mr David [1]</b> 6/7	39/12 67/19 82/23	<b>needs [6]</b> 9/15 25/21	90/24 91/21 92/18	118/16 134/17 138/2
<b>Mr Henry [1]</b> 11/11	104/6 120/25 140/6	37/10 155/12 155/14	93/15 93/18 93/19	142/6 142/11 154/19
<b>Mr Jenkins [2]</b> 79/7	142/12 176/24 178/25	188/1	95/18 96/1 96/1 96/4	154/25 156/1 157/21
128/8	181/20	<b>negotiating [1]</b>	97/3 97/7 97/9 97/10	158/7 158/15 169/17
<b>Mr Justice [4]</b> 145/13	<b>my [73]</b> 1/12 6/17	111/21	98/11 98/16 103/15	170/1 170/19 171/4
			106/20 111/14 112/11	176/8 180/15



<p><b>O</b></p> <p><b>other... [19]</b> 97/23 110/8 111/24 112/13 116/16 119/12 120/19 121/25 129/25 131/4 132/2 138/15 139/11 144/8 144/8 144/15 152/14 156/17 181/20</p> <p><b>others [8]</b> 14/3 60/11 60/15 71/22 144/17 150/13 150/24 151/8</p> <p><b>otherwise [1]</b> 49/23</p> <p><b>ought [8]</b> 48/5 72/14 80/4 114/22 128/20 128/21 158/9 176/12</p> <p><b>our [28]</b> 1/18 16/17 28/10 28/11 28/13 28/20 31/9 31/11 31/17 31/20 31/20 32/1 32/6 68/21 99/11 112/6 116/24 123/17 131/14 141/15 142/25 144/2 144/15 153/7 159/7 163/23 175/21 187/25</p> <p><b>out [62]</b> 2/9 8/16 9/23 10/16 10/19 12/12 27/12 29/21 30/15 44/13 49/3 56/17 63/16 72/6 78/8 85/1 85/6 87/4 92/5 93/2 100/6 104/20 105/7 107/24 109/2 111/9 121/1 121/8 122/24 123/18 123/24 126/20 127/13 127/16 130/5 131/16 132/12 141/19 143/17 145/22 146/15 148/7 152/23 153/18 155/7 158/23 163/1 164/25 169/1 170/20 171/6 172/21 177/18 177/22 178/19 183/13 183/15 185/5 185/12 185/25 186/6 187/11</p> <p><b>outcome [3]</b> 29/15 130/12 150/15</p> <p><b>outcomes [1]</b> 172/12</p> <p><b>outliers [1]</b> 108/14</p> <p><b>outlined [1]</b> 164/20</p> <p><b>outset [1]</b> 131/5</p> <p><b>outside [9]</b> 21/7 73/15 87/9 110/9 117/7 126/5 127/3 147/21 166/25</p> <p><b>outstanding [1]</b> 87/24</p> <p><b>over [67]</b> 2/21 5/17 11/8 12/9 13/17 14/9 16/1 16/9 16/12 19/16 21/9 24/22 25/6 29/5 36/5 41/9 52/15 52/16 53/8 54/17 58/4 58/12</p>	<p>59/19 71/18 77/19 81/16 84/17 90/8 94/11 95/10 99/1 100/10 100/13 104/5 106/10 110/22 111/19 120/18 123/21 123/23 125/19 131/10 134/15 134/15 135/6 135/6 137/18 137/20 139/15 141/7 142/16 142/16 145/19 155/2 155/17 157/4 157/25 159/23 162/17 163/3 167/5 168/10 171/17 178/20 178/20 188/6 188/6</p> <p><b>over-stated [1]</b> 100/10</p> <p><b>overall [4]</b> 15/16 42/5 97/20 123/20</p> <p><b>overloaded [1]</b> 146/8</p> <p><b>oversight [1]</b> 114/21</p> <p><b>overturn [1]</b> 81/4</p> <p><b>overturning [2]</b> 104/10 104/16</p> <p><b>owing [1]</b> 39/5</p> <p><b>own [15]</b> 11/8 23/16 72/16 72/16 81/19 98/16 99/17 124/9 124/20 125/1 147/5 150/1 169/1 186/1 186/1</p> <p><b>owned [3]</b> 7/11 8/18 10/17</p> <p><b>owner [1]</b> 11/25</p> <p><b>ownership [1]</b> 11/3</p> <p><b>owning [1]</b> 11/12</p> <p><b>owns [1]</b> 114/21</p> <hr/> <p><b>P</b></p> <p><b>pace [2]</b> 100/15 115/7</p> <p><b>pace' [1]</b> 160/19</p> <p><b>pack [9]</b> 7/13 29/14 30/15 40/18 48/18 48/25 86/14 86/25 87/1</p> <p><b>package [1]</b> 141/2</p> <p><b>page [103]</b> 1/24 6/2 7/13 16/1 16/2 16/5 16/7 16/12 20/24 21/9 25/6 26/6 26/8 30/25 32/13 32/22 32/24 36/5 40/13 40/23 41/9 49/2 52/16 52/16 52/17 55/5 55/6 57/10 58/4 58/21 62/23 62/24 66/3 69/5 69/24 71/13 71/18 73/9 75/5 84/17 84/22 85/24 88/20 92/22 94/3 94/3 94/4 94/11 97/13 97/14 98/5 99/3 100/13 101/22 101/23 103/7 104/5 104/21</p>	<p>105/20 106/10 108/1 109/25 110/22 112/22 117/22 119/18 120/17 120/18 120/19 123/19 123/21 123/23 124/6 125/18 125/23 127/19 140/9 142/16 142/17 142/17 145/19 145/19 148/20 151/6 151/7 152/2 152/3 152/4 152/20 152/21 152/24 155/3 155/17 156/19 156/19 162/11 163/3 166/17 167/5 171/17 175/15 179/18 183/14</p> <p><b>page 1 [3]</b> 16/5 20/24 58/21</p> <p><b>page 103 [1]</b> 105/20</p> <p><b>page 106 [1]</b> 108/1</p> <p><b>page 137 [1]</b> 112/22</p> <p><b>page 180 [1]</b> 1/24</p> <p><b>page 2 [2]</b> 66/3 152/2</p> <p><b>page 22 [1]</b> 99/3</p> <p><b>page 3 [7]</b> 7/13 30/25 71/13 92/22 109/25 127/19 183/14</p> <p><b>page 4 [7]</b> 49/2 125/18 140/9 145/19 151/7 156/19 156/19</p> <p><b>page 5 [1]</b> 32/13</p> <p><b>page 6 [1]</b> 73/9</p> <p><b>page 66 [1]</b> 88/20</p> <p><b>page 7 [1]</b> 32/22</p> <p><b>page 74 [2]</b> 94/3 94/3</p> <p><b>page 75 [2]</b> 69/24 97/13</p> <p><b>page 89 [1]</b> 97/14</p> <p><b>page 9 [2]</b> 6/2 75/5</p> <p><b>page 90 [1]</b> 98/5</p> <p><b>page 92 [1]</b> 103/7</p> <p><b>page 95 [1]</b> 104/21</p> <p><b>pages [5]</b> 1/22 19/24 24/22 99/1 183/10</p> <p><b>pages 4 [1]</b> 19/24</p> <p><b>paid [1]</b> 185/25</p> <p><b>painted [1]</b> 138/13</p> <p><b>Palmer [4]</b> 43/9 43/9 43/14 47/20</p> <p><b>paper [7]</b> 28/18 147/1 160/13 160/14 160/15 160/16 160/18</p> <p><b>papers [6]</b> 40/22 128/14 129/1 132/14 132/16 141/15</p> <p><b>paperwork [3]</b> 144/20 144/21 144/23</p> <p><b>para [1]</b> 62/16</p> <p><b>paragraph [81]</b> 9/25 10/3 11/19 16/8 18/22 19/12 22/18 23/3 23/4 23/6 23/14 24/14 27/19 27/21 53/11 53/15 55/5 58/24 63/2 69/23 81/11 86/1 87/8</p>	<p>92/22 97/13 97/15 98/4 98/7 99/3 103/8 103/17 103/25 104/21 104/22 105/8 105/20 107/25 110/3 111/7 111/17 111/20 112/5 118/6 119/21 120/19 120/21 121/5 123/24 124/4 124/6 124/19 129/18 130/4 130/6 132/25 134/3 135/16 136/3 136/23 137/1 137/2 138/8 138/11 146/14 149/20 150/6 163/22 165/23 166/17 167/6 167/6 167/7 167/16 168/2 169/13 169/24 171/17 173/1 173/2 174/4 178/10</p> <p><b>paragraph 1 [2]</b> 22/18 129/18</p> <p><b>paragraph 106 [1]</b> 11/19</p> <p><b>paragraph 114 [1]</b> 81/11</p> <p><b>paragraph 120 [1]</b> 87/8</p> <p><b>paragraph 13 [1]</b> 110/3</p> <p><b>paragraph 142 [1]</b> 69/23</p> <p><b>paragraph 166 [2]</b> 98/4 98/7</p> <p><b>paragraph 170 [1]</b> 103/8</p> <p><b>Paragraph 171 [1]</b> 103/25</p> <p><b>paragraph 178 [2]</b> 104/21 104/22</p> <p><b>paragraph 179 [1]</b> 105/8</p> <p><b>Paragraph 18 [1]</b> 111/7</p> <p><b>paragraph 184 [1]</b> 97/15</p> <p><b>paragraph 198 [1]</b> 105/20</p> <p><b>paragraph 2 [4]</b> 23/3 63/2 130/4 168/2</p> <p><b>paragraph 2.4 [2]</b> 124/6 124/19</p> <p><b>paragraph 20 [2]</b> 111/17 111/20</p> <p><b>paragraph 201 [1]</b> 107/25</p> <p><b>paragraph 22.1 [1]</b> 99/3</p> <p><b>paragraph 3 [4]</b> 23/4 27/21 166/17 169/13</p> <p><b>paragraph 4 [8]</b> 23/6 132/25 167/6 167/7 169/24 171/17 173/2 174/4</p> <p><b>paragraph 5 [4]</b></p>	<p>23/14 136/3 167/6 167/16</p> <p><b>paragraph 6 [1]</b> 24/14</p> <p><b>paragraph 7 [3]</b> 118/6 123/24 138/8</p> <p><b>paragraph 80 [1]</b> 55/5</p> <p><b>paragraphs [15]</b> 19/21 25/5 29/13 52/15 57/9 69/17 89/18 99/19 110/3 114/12 114/14 123/18 166/10 166/16 167/6</p> <p><b>paragraphs 1 [1]</b> 123/18</p> <p><b>paragraphs 100 [1]</b> 69/17</p> <p><b>paragraphs 277 [1]</b> 114/12</p> <p><b>paragraphs 280 [1]</b> 114/14</p> <p><b>paragraphs 37 [1]</b> 19/21</p> <p><b>paragraphs 43 [1]</b> 29/13</p> <p><b>paragraphs 8 [1]</b> 25/5</p> <p><b>paramount [1]</b> 37/10</p> <p><b>Park [2]</b> 12/14 21/3</p> <p><b>Parliament [5]</b> 3/7 25/13 71/8 104/4 113/20</p> <p><b>Parliamentarians [3]</b> 19/18 20/11 34/4</p> <p><b>Parliamentary [2]</b> 12/17 18/1</p> <p><b>Parsons [5]</b> 125/21 125/25 126/18 127/20 175/15</p> <p><b>part [33]</b> 26/1 27/19 30/25 49/2 64/16 69/18 70/15 73/7 73/8 81/8 98/1 98/25 99/2 101/12 105/5 105/8 106/8 107/23 112/16 118/18 118/22 121/16 122/10 150/14 153/10 153/22 162/1 162/4 163/15 166/18 168/22 175/22 187/13</p> <p><b>Participants [3]</b> 115/16 185/7 188/16</p> <p><b>particular [15]</b> 12/9 13/14 15/3 18/17 91/4 103/12 115/24 135/3 149/9 153/9 154/21 154/22 155/8 164/15 166/17</p> <p><b>particularly [7]</b> 40/10 58/14 69/14 72/9 103/2 161/2 172/18</p> <p><b>parties [4]</b> 53/21 58/19 144/6 177/21</p>
---	---	---	---	---

<b>P</b>	173/11 173/14 174/14 174/14 174/15 176/14 176/20 178/8 179/13 184/5	<b>piece [2]</b> 12/12 180/25	32/5	51/24
<b>partly [3]</b> 30/2 89/8 116/18	<b>people's [2]</b> 36/16 36/19	<b>place [14]</b> 24/12 24/23 40/12 50/21 51/20 65/8 66/13 77/19 83/1 84/14 92/25 93/4 108/12 115/12	<b>plus [1]</b> 34/14	<b>POL00098379 [1]</b> 65/11
<b>partnership [1]</b> 86/11	<b>per [1]</b> 156/11	<b>placed [1]</b> 63/7	<b>pm [6]</b> 96/8 96/23 96/25 159/11 159/13 189/2	<b>POL00099354 [1]</b> 81/15
<b>parts [1]</b> 78/10	<b>perception [1]</b> 26/25	<b>places [1]</b> 36/24	<b>pocket [2]</b> 186/1 186/1	<b>POL00100222 [1]</b> 95/7
<b>party [2]</b> 128/21 162/24	<b>perfect [4]</b> 32/15 45/21 159/22 160/3	<b>plan [4]</b> 9/13 15/4 96/18 161/5	<b>point [53]</b> 10/1 15/14 15/18 18/21 22/4 23/10 24/20 24/25 25/4 27/5 32/14 32/25 36/18 41/6 49/4 58/23 60/5 66/10 66/21 66/22 67/6 69/21 78/19 83/9 84/25 91/4 91/9 91/10 91/17 92/20 94/2 95/3 95/15 111/9 111/12 111/16 115/9 116/24 135/6 135/7 145/21 146/4 147/4 148/23 149/5 150/17 153/14 154/18 161/15 162/16 167/8 175/20 177/13	<b>POL00100335 [1]</b> 129/15
<b>passages [2]</b> 104/20 182/9	<b>perfectly [1]</b> 83/12	<b>played [1]</b> 3/22	<b>pointed [1]</b> 143/17	<b>POL00101690 [1]</b> 112/3
<b>passed [4]</b> 72/14 75/15 79/1 127/24	<b>perhaps [9]</b> 8/20 56/2 74/12 104/7 137/1 144/21 148/19 166/16 188/1	<b>planned [1]</b> 182/8	<b>pointing [2]</b> 85/1 85/6	<b>POL00101699 [1]</b> 108/24
<b>passing [1]</b> 26/22	<b>period [9]</b> 2/8 3/10 58/1 58/13 73/23 91/13 97/19 100/11 115/7	<b>platform [1]</b> 104/13	<b>points [14]</b> 10/9 60/17 61/5 61/7 66/4 66/6 66/9 68/6 68/10 98/9 153/12 154/15 180/21 181/5	<b>POL00101700 [1]</b> 109/22
<b>past [3]</b> 48/9 102/11 126/8	<b>Perkins [31]</b> 12/13 20/15 20/20 20/22 22/17 23/4 23/17 24/15 25/7 29/7 31/2 32/23 34/19 35/11 35/16 36/22 42/13 48/2 48/11 51/23 51/25 55/9 55/13 61/19 62/14 80/16 92/12 99/10 103/5 109/15 135/13	<b>played [1]</b> 3/22	<b>POL [6]</b> 60/22 61/1 160/10 160/22 169/12 177/20	<b>POL00105470 [1]</b> 20/24
<b>Pat [1]</b> 9/2	<b>permission [3]</b> 5/17 5/19 117/6	<b>playing [1]</b> 46/17	<b>POL's [3]</b> 63/5 63/18 121/3	<b>POL00105481 [1]</b> 22/16
<b>path [1]</b> 134/6	<b>permitted [1]</b> 46/18	<b>plea [5]</b> 100/21 160/1 181/23 182/1 182/23	<b>POL00000213 [1]</b> 73/6	<b>POL00105483 [1]</b> 12/23
<b>Paul [2]</b> 13/4 18/6	<b>person [7]</b> 8/17 13/23 54/16 96/14 100/10 173/24 174/6	<b>plead [5]</b> 182/6 182/25 183/1 183/5 184/6	<b>POL00006366 [1]</b> 182/8	<b>POL00107698 [1]</b> 15/21
<b>Paula [55]</b> 12/21 16/2 16/5 17/22 19/14 26/6 28/22 29/7 30/3 30/4 36/22 41/17 42/13 48/12 49/3 62/5 62/21 63/19 64/24 67/20 70/3 70/21 80/16 84/9 92/12 93/4 94/7 94/15 95/16 99/9 103/2 106/22 107/6 108/1 108/23 109/23 111/16 113/5 119/19 120/10 120/21 129/16 130/3 133/1 134/22 135/11 135/17 137/19 137/22 146/15 146/16 147/3 147/13 161/8 171/19	<b>personal [2]</b> 6/19 14/11	<b>pleaded [10]</b> 82/22 83/4 83/21 84/3 103/14 106/15 110/23 111/2 111/5 186/14	<b>POL0006368 [1]</b> 181/2	<b>POL00107710 [1]</b> 26/5
<b>Pause [1]</b> 117/2	<b>personalities [1]</b> 106/23	<b>pledging [1]</b> 177/10	<b>POL0006368 [1]</b> 181/2	<b>POL00114298 [1]</b> 6/1
<b>pausing [2]</b> 134/10 161/4	<b>personally [1]</b> 113/19	<b>pleads [2]</b> 181/16 181/17	<b>POL0006368 [1]</b> 181/2	<b>POL00116136 [1]</b> 171/13
<b>pay [7]</b> 33/15 43/17 100/1 138/23 139/6 139/17 139/20	<b>personnel [4]</b> 34/23 78/4 102/15 102/23	<b>pleas [1]</b> 103/19	<b>POL00022307 [1]</b> 121/19	<b>POL00125071 [1]</b> 175/14
<b>payable [1]</b> 138/17	<b>persons [1]</b> 115/19	<b>please [114]</b> 1/9 1/14 1/20 1/24 3/3 8/21 9/1 9/4 12/8 12/15 15/21 20/23 21/10 26/1 26/5 26/6 30/13 31/1 32/13 32/22 34/9 34/22 36/5 40/13 47/3 49/2 49/5 50/10 51/24 51/25 52/16 55/5 55/5 57/9 58/4 59/3 62/8 62/23 62/24 65/11 66/3 69/24 71/13 71/18 73/6 73/9 75/4 75/5 81/14 83/7 84/17 84/18 84/19 85/22 88/21 92/6 92/22 94/3 94/4 95/7 96/11 98/4 98/5 98/23 99/2 103/7 106/10 109/22 110/2 119/17 120/16 120/19 121/19 123/19 123/23 125/16 125/18 126/6 126/16 127/19 129/15 132/25 133/7 134/11 139/25 140/9 146/11 148/15 148/15 149/20 151/4 151/7 152/4 153/8 159/8 160/10 161/20 162/12 163/22 165/6 165/12 166/8 168/2 172/23 173/21 175/14 175/14 175/15 177/8 177/24 179/7 179/18 181/2 182/8	<b>POL0006368 [1]</b> 181/2	<b>POL00125777 [1]</b> 181/9
<b>payment [4]</b> 130/13 130/20 131/8 173/24	<b>perspective [2]</b> 35/17 115/14	<b>pleas [1]</b> 103/19	<b>POL00026643 [1]</b> 142/14	<b>POL00146048 [1]</b> 85/22
<b>payments [4]</b> 44/2 57/20 138/9 139/14	<b>persuade [2]</b> 21/15 21/21	<b>pleas [1]</b> 103/19	<b>POL00026656 [1]</b> 139/25	<b>POL00146859 [1]</b> 179/7
<b>PEAKs [1]</b> 145/14	<b>persuaded [1]</b> 168/18	<b>please [114]</b> 1/9 1/14 1/20 1/24 3/3 8/21 9/1 9/4 12/8 12/15 15/21 20/23 21/10 26/1 26/5 26/6 30/13 31/1 32/13 32/22 34/9 34/22 36/5 40/13 47/3 49/2 49/5 50/10 51/24 51/25 52/16 55/5 55/5 57/9 58/4 59/3 62/8 62/23 62/24 65/11 66/3 69/24 71/13 71/18 73/6 73/9 75/4 75/5 81/14 83/7 84/17 84/18 84/19 85/22 88/21 92/6 92/22 94/3 94/4 95/7 96/11 98/4 98/5 98/23 99/2 103/7 106/10 109/22 110/2 119/17 120/16 120/19 121/19 123/19 123/23 125/16 125/18 126/6 126/16 127/19 129/15 132/25 133/7 134/11 139/25 140/9 146/11 148/15 148/15 149/20 151/4 151/7 152/4 153/8 159/8 160/10 161/20 162/12 163/22 165/6 165/12 166/8 168/2 172/23 173/21 175/14 175/14 175/15 177/8 177/24 179/7 179/18 181/2 182/8	<b>POL00026743 [1]</b> 92/11	<b>POL00148863 [3]</b> 161/20 161/21 161/22
<b>Peer [1]</b> 3/20	<b>Peter [3]</b> 5/21 6/4 8/18	<b>pleads [2]</b> 181/16 181/17	<b>POL00029664 [1]</b> 71/9	<b>POL00158062 [1]</b> 119/16
<b>penalty [1]</b> 182/19	<b>phase [1]</b> 141/8	<b>pledging [1]</b> 177/10	<b>POL00030160 [1]</b> 98/24	<b>POL00203701 [1]</b> 151/4
<b>penetrate [1]</b> 49/17	<b>phone [1]</b> 57/20	<b>pleas [1]</b> 103/19	<b>POL00033825 [1]</b> 30/13	<b>POL00205354 [1]</b> 160/16
<b>Pensions [1]</b> 3/13	<b>phrase [1]</b> 29/19	<b>pleas [1]</b> 103/19	<b>POL00033825 [1]</b> 30/13	<b>POL00207914 [1]</b> 163/20
<b>penultimate [4]</b> 58/24 120/20 150/5 153/20	<b>physically [1]</b> 76/12	<b>pleas [1]</b> 103/19	<b>POL00043627 [1]</b> 153/8	<b>POL00301427 [1]</b> 125/16
<b>people [41]</b> 10/5 11/7 11/8 13/22 14/1 14/13 14/17 16/17 22/7 23/18 31/5 34/19 37/11 54/15 73/2 82/13 83/16 84/9 85/8 86/21 87/4 87/19 90/15 103/4 106/15 116/1 116/3 133/9 133/11 154/14 173/10	<b>pick [3]</b> 12/14 92/5 104/20	<b>pleas [1]</b> 103/19	<b>POL00043627 [1]</b> 153/8	<b>POL00407733 [1]</b> 177/24
<b>passed [4]</b> 72/14 75/15 79/1 127/24	<b>picked [2]</b> 72/15 167/15	<b>pleas [1]</b> 103/19	<b>POL00066817 [1]</b> 172/23	<b>POL0099354 [1]</b> 84/6
<b>passing [1]</b> 26/22	<b>picking [1]</b> 160/18	<b>pleas [1]</b> 103/19	<b>POL00096640 [1]</b> 48/24	<b>police [1]</b> 155/20
<b>past [3]</b> 48/9 102/11 126/8	<b>picks [1]</b> 37/6	<b>pleas [1]</b> 103/19	<b>POL00097588 [1]</b>	<b>policy [3]</b> 70/7 78/7 167/2
<b>Pat [1]</b> 9/2	<b>picture [2]</b> 138/14 156/17	<b>pleas [1]</b> 103/19		<b>political [1]</b> 161/17
<b>path [1]</b> 134/6		<b>pleas [1]</b> 103/19		<b>popping [1]</b> 11/9
<b>Paul [2]</b> 13/4 18/6		<b>pleas [1]</b> 103/19		<b>Portcullis [8]</b> 19/18 22/24 29/23 35/8 51/22 52/2 59/7 105/19
<b>Paula [55]</b> 12/21 16/2 16/5 17/22 19/14 26/6 28/22 29/7 30/3 30/4 36/22 41/17 42/13 48/12 49/3 62/5 62/21 63/19 64/24 67/20 70/3 70/21 80/16 84/9 92/12 93/4 94/7 94/15 95/16 99/9 103/2 106/22 107/6 108/1 108/23 109/23 111/16 113/5 119/19 120/10 120/21 129/16 130/3 133/1 134/22 135/11 135/17 137/19 137/22 146/15 146/16 147/3 147/13 161/8 171/19		<b>pleas [1]</b> 103/19		<b>Portcullis House [2]</b> 19/18 22/24
<b>Pause [1]</b> 117/2		<b>pleas [1]</b> 103/19		<b>portrayed [1]</b> 89/22
<b>pausing [2]</b> 134/10 161/4		<b>pleas [1]</b> 103/19		<b>posed [2]</b> 107/14
<b>pay [7]</b> 33/15 43/17 100/1 138/23 139/6 139/17 139/20		<b>pleas [1]</b> 103/19		
<b>payable [1]</b> 138/17		<b>pleas [1]</b> 103/19		
<b>payment [4]</b> 130/13 130/20 131/8 173/24		<b>pleas [1]</b> 103/19		
<b>payments [4]</b> 44/2 57/20 138/9 139/14		<b>pleas [1]</b> 103/19		
<b>PEAKs [1]</b> 145/14		<b>pleas [1]</b> 103/19		
<b>Peer [1]</b> 3/20		<b>pleas [1]</b> 103/19		
<b>penalty [1]</b> 182/19		<b>pleas [1]</b> 103/19		
<b>penetrate [1]</b> 49/17		<b>pleas [1]</b> 103/19		
<b>Pensions [1]</b> 3/13		<b>pleas [1]</b> 103/19		
<b>penultimate [4]</b> 58/24 120/20 150/5 153/20		<b>pleas [1]</b> 103/19		
<b>people [41]</b> 10/5 11/7 11/8 13/22 14/1 14/13 14/17 16/17 22/7 23/18 31/5 34/19 37/11 54/15 73/2 82/13 83/16 84/9 85/8 86/21 87/4 87/19 90/15 103/4 106/15 116/1 116/3 133/9 133/11 154/14 173/10		<b>pleas [1]</b> 103/19		

<b>P</b>	<b>preferably [1]</b> 83/23	27/7 27/8 39/1 51/9	<b>production [1]</b>	81/19 175/10 178/14
<b>posed... [1]</b> 107/15	<b>preferred [1]</b> 8/8	61/6 63/23 68/25	185/21	187/14 187/15 188/10
<b>poses [1]</b> 152/12	<b>preliminary [1]</b> 58/16	78/18 78/21 95/21	<b>professional [9]</b> 72/1	<b>prosecutor's [1]</b>
<b>position [31]</b> 9/22	<b>preparation [1]</b> 48/17	97/3 127/11 127/24	99/25 110/17 110/20	178/18
10/18 12/2 14/3 17/3	<b>prepare [1]</b> 150/23	139/13 139/20 139/21	120/7 143/9 143/18	<b>prosecutorial [3]</b>
21/11 21/19 28/10	<b>prepared [14]</b> 29/14	147/15 151/18 165/3	143/22 144/2	99/22 180/16 180/19
51/16 53/2 63/25 84/2	48/18 61/23 62/7 73/3	172/4 174/15 176/14	<b>profit [1]</b> 186/6	<b>prosecutors [3]</b>
107/22 109/3 115/1	75/2 90/15 106/7	<b>problem [18]</b> 14/23	<b>profits [1]</b> 186/7	159/25 175/6 175/8
121/6 126/10 131/5	122/2 122/20 123/2	27/23 33/7 36/23	<b>profoundly [1]</b> 13/24	<b>prosecutory [1]</b>
144/9 147/8 154/6	137/9 145/22 172/14	37/19 42/5 42/7 49/22	<b>profusely [1]</b> 115/23	98/19
154/17 163/1 163/8	<b>preparing [4]</b> 126/2	61/13 97/7 97/10	<b>program [1]</b> 45/21	<b>prospect [1]</b> 120/12
168/1 178/4 178/13	150/9 150/22 152/8	123/14 155/22 156/10	<b>programme [1]</b> 92/14	<b>protected [1]</b> 49/15
178/22 178/23 183/2	<b>presence [1]</b> 53/13	158/18 168/5 176/24	<b>programming [1]</b>	<b>protects [1]</b> 49/19
183/24	<b>present [8]</b> 34/13	177/6	72/5	<b>protesting [1]</b> 35/3
<b>positioning [1]</b>	34/17 34/19 61/23	<b>problems [21]</b> 9/21	<b>progress [7]</b> 60/23	<b>provably [1]</b> 64/5
130/11	71/22 76/5 84/9 92/11	18/12 29/2 32/18	85/14 143/24 148/18	<b>proven [1]</b> 60/1
<b>positions [4]</b> 3/12	<b>presentation [1]</b>	34/24 41/3 45/7 45/22	149/8 160/25 166/2	<b>provenance [1]</b>
3/15 157/23 180/1	45/25	49/10 49/22 61/12	<b>progressed [1]</b>	120/15
<b>possession [2]</b> 2/12	<b>presented [3]</b> 12/12	62/16 95/16 100/7	140/17	<b>provide [10]</b> 28/9
178/18	63/12 165/24	123/5 128/25 131/14	<b>progressing [2]</b> 58/5	31/10 79/8 101/8
<b>possibility [4]</b> 101/17	<b>presenting [1]</b> 37/17	158/4 158/5 158/7	85/20	101/14 104/6 112/11
121/8 131/16 174/7	<b>presently [1]</b> 173/7	158/11	<b>Project [3]</b> 88/13	141/2 162/14 163/7
<b>possible [7]</b> 8/7	<b>presents [1]</b> 160/23	<b>procedure [9]</b> 73/14	92/14 92/16	<b>provided [2]</b> 1/19
36/17 39/18 50/2	<b>preserve [1]</b> 88/16	73/20 74/21 122/13	<b>promised [9]</b> 32/24	120/13
76/22 81/20 127/22	<b>press [3]</b> 111/25	140/24 157/11 157/22	54/22 70/22 72/23	<b>provides [1]</b> 31/21
<b>possibly [6]</b> 23/9	112/16 112/25	157/23 164/24	93/23 93/25 94/12	<b>providing [8]</b> 1/16
53/13 53/14 88/18	<b>pressing [1]</b> 80/22	<b>procedures [3]</b> 27/4	102/18 109/10	2/11 46/17 54/19
133/10 158/2	<b>pressure [7]</b> 96/17	28/2 33/23	<b>promises [1]</b> 107/5	54/21 58/11 73/11
<b>post [366]</b>	149/15 149/17 149/18	<b>proceeding [2]</b> 52/7	<b>promising [1]</b> 66/20	104/12
<b>postage [1]</b> 57/20	166/21 168/6 168/25	53/18	<b>promotes [2]</b> 124/9	<b>provision [2]</b> 90/18
<b>postal [2]</b> 9/7 148/17	<b>presumably [6]</b> 8/23	<b>proceedings [8]</b> 3/25	124/10	124/13
<b>postmaster [1]</b> 86/17	8/25 22/11 33/10	45/5 70/18 74/23	<b>proof [3]</b> 64/8 65/6	<b>public [10]</b> 2/15 9/12
<b>postmasters [7]</b> 6/15	67/10 161/1	99/15 117/2 119/5	67/2	16/15 28/22 31/8 33/8
6/19 27/23 37/14	<b>presume [2]</b> 165/16	186/13	<b>proper [6]</b> 11/7 68/17	39/12 56/13 187/16
39/16 42/6 171/5	165/20	<b>process [40]</b> 4/4	72/20 83/22 152/7	187/17
<b>postmistresses [3]</b>	<b>presumption [2]</b>	11/16 24/23 33/20	176/2	<b>publication [7]</b> 5/3
6/15 6/19 14/2	108/3 167/19	50/8 57/12 73/24	<b>properly [4]</b> 134/6	11/20 69/19 71/8
<b>potential [4]</b> 72/10	<b>presumption' [1]</b>	74/13 74/15 84/14	138/17 145/2 145/6	71/10 76/24 79/5
96/5 127/7 163/9	109/4	84/24 88/15 89/12	<b>proposal [3]</b> 23/7	<b>publicity [1]</b> 25/14
<b>potentially [2]</b> 10/16	<b>presumptively [1]</b>	90/13 92/1 101/21	100/22 109/19	<b>publicly [2]</b> 166/5
82/8	108/10	102/1 109/17 116/5	<b>propose [1]</b> 52/13	169/10
<b>power [1]</b> 57/16	<b>pretty [7]</b> 63/4 63/14	121/13 121/16 123/25	<b>proposed [4]</b> 30/10	<b>published [2]</b> 4/23
<b>powers [1]</b> 100/18	69/9 73/25 74/1	124/15 124/16 124/16	119/25 120/4 145/22	118/17
<b>PQ [1]</b> 6/9	124/25 169/5	124/18 124/20 126/21	<b>proposing [1]</b> 30/8	<b>pulling [1]</b> 56/17
<b>PR [1]</b> 136/14	<b>prevent [1]</b> 49/16	136/7 140/11 140/21	<b>proposition [5]</b>	<b>purpose [9]</b> 17/2
<b>practical [2]</b> 84/18	<b>prevents [1]</b> 49/19	143/1 143/10 145/11	106/16 108/2 108/16	21/20 25/9 52/24
178/4	<b>previous [8]</b> 5/3 7/18	161/5 161/7 161/16	109/3 109/9	121/22 126/3 128/14
<b>practice [1]</b> 178/17	16/18 19/7 19/10	172/13 173/7 187/6	<b>propriety [1]</b> 66/23	153/16 170/24
<b>practised [4]</b> 181/24	50/12 80/5 93/1	<b>process' [1]</b> 110/18	<b>prosecute [5]</b> 3/24	<b>purpose' [1]</b> 98/15
182/21 184/23 187/22	<b>previously [4]</b> 17/13	<b>processed [1]</b>	28/8 46/18 64/4 66/24	<b>purposes [1]</b> 65/25
<b>practising [2]</b> 3/5	102/18 107/6 160/20	140/16	<b>prosecuted [2]</b> 33/15	<b>pursue [2]</b> 26/15
119/7	<b>principal [1]</b> 158/4	<b>processes [6]</b> 32/2	35/2	46/6
<b>praised [1]</b> 133/21	<b>principally [1]</b> 75/8	32/6 37/11 49/21 56/5	<b>prosecuting [3]</b>	<b>pursued [1]</b> 61/15
<b>pre [1]</b> 119/16	<b>principles [1]</b> 49/8	104/15	66/15 66/16 127/10	<b>pursuing [3]</b> 111/24
<b>pre-dates [1]</b> 119/16	<b>prior [4]</b> 76/24 99/14	<b>produce [4]</b> 131/23	<b>prosecution [9]</b> 40/1	112/12 124/20
<b>precipitous [1]</b>	100/1 171/18	168/7 168/7 168/11	42/7 47/12 67/3 70/6	<b>push [1]</b> 61/20
136/11	<b>prison [5]</b> 174/15	<b>produced [13]</b> 43/15	70/13 72/10 85/4	<b>pushback [1]</b> 55/7
<b>precise [1]</b> 146/23	182/2 182/3 183/4	59/11 61/2 84/23 98/1	90/22	<b>pushed [1]</b> 147/6
<b>precisely [6]</b> 13/10	184/7	132/3 136/12 136/23	<b>prosecutions [11]</b>	<b>put [22]</b> 6/24 14/7
25/25 46/10 102/13	<b>private [2]</b> 35/10	141/9 145/25 162/8	66/12 67/9 72/21 79/8	23/10 27/25 36/15
103/3 182/13	131/1	162/10 164/25	88/10 88/10 90/25	36/19 69/3 84/14
<b>precluded [1]</b> 115/20	<b>Private Eye [1]</b> 131/1	<b>producing [4]</b> 68/24	126/24 167/2 175/13	89/10 90/6 106/17
<b>predicated [1]</b> 66/13	<b>privileged [1]</b> 78/9	122/25 134/17 149/11	175/24	109/3 111/3 115/24
	<b>probably [23]</b> 19/14	<b>Product [1]</b> 29/10	<b>prosecutor [7]</b> 79/19	143/19 149/14 149/16

<p><b>P</b></p> <p><b>put... [5]</b> 149/18 152/13 153/2 168/25 182/17</p> <p><b>putting [5]</b> 39/16 68/10 93/3 138/4 168/6</p>	<p><b>R</b></p> <p><b>raise [4]</b> 52/18 81/22 86/10 156/22</p> <p><b>raised [36]</b> 6/9 9/16 10/4 16/13 18/23 19/13 26/20 27/22 31/6 33/24 36/22 46/11 46/12 46/14 49/10 52/10 52/21 53/9 53/12 65/23 66/11 67/18 67/19 72/12 74/14 93/10 93/17 128/6 131/9 143/13 153/9 155/8 175/21 176/10 185/7 185/18</p> <p><b>raising [7]</b> 15/16 25/13 37/3 45/20 59/18 67/22 93/7</p> <p><b>ran [2]</b> 7/9 125/11</p> <p><b>range [1]</b> 114/8</p> <p><b>ranks [3]</b> 21/17 21/25 22/12</p> <p><b>rapid [1]</b> 100/25</p> <p><b>rash [1]</b> 17/18</p> <p><b>rather [25]</b> 7/9 8/12 9/2 21/16 21/24 27/17 39/17 41/3 56/10 61/2 62/12 72/8 81/16 90/14 91/8 91/8 100/5 102/1 144/15 145/10 167/2 171/14 171/24 173/6 187/2</p> <p><b>re [2]</b> 78/17 187/8</p> <p><b>re-evaluate [1]</b> 187/8</p> <p><b>re-examined [1]</b> 78/17</p> <p><b>reach [3]</b> 58/16 123/12 162/15</p> <p><b>reached [3]</b> 46/5 107/19 124/2</p> <p><b>react [1]</b> 55/2</p> <p><b>reaction [1]</b> 10/9</p> <p><b>read [22]</b> 112/17 113/4 128/13 130/5 143/15 145/12 146/14 146/15 158/14 164/17 165/11 166/9 167/6 167/24 177/19 177/19 177/20 180/11 182/10 182/10 182/21 186/11</p> <p><b>readable [2]</b> 146/10 147/25</p> <p><b>readily [1]</b> 100/11</p> <p><b>reading [6]</b> 31/24 99/3 124/24 129/1 131/1 139/9</p> <p><b>ready [5]</b> 53/4 56/1 68/24 142/24 148/23</p> <p><b>real [8]</b> 21/6 181/24 183/11 184/1 184/2 184/2 184/23 184/25</p> <p><b>real-life [2]</b> 184/23</p>	<p>184/25</p> <p><b>realised [1]</b> 158/13</p> <p><b>realistic [1]</b> 143/1</p> <p><b>realistically [1]</b> 148/25</p> <p><b>really [19]</b> 10/11 37/3 62/2 68/21 72/2 90/1 92/19 107/10 120/11 126/10 127/3 131/20 131/21 132/7 134/1 141/25 158/8 172/8 183/5</p> <p><b>reason [8]</b> 4/19 5/10 11/5 16/25 60/12 103/13 173/13 173/18 183/5</p> <p><b>reasonable [2]</b> 120/23 168/17</p> <p><b>reasons [2]</b> 11/4 169/8</p> <p><b>reassurance [1]</b> 8/2</p> <p><b>reassured [1]</b> 120/13</p> <p><b>Rebecca [1]</b> 4/24</p> <p><b>rebel [1]</b> 147/5</p> <p><b>recall [14]</b> 15/5 53/19 57/11 119/25 120/4 129/19 130/14 136/18 143/14 147/13 163/10 164/15 164/17 164/22</p> <p><b>receipt [1]</b> 80/3</p> <p><b>receipts [1]</b> 44/2</p> <p><b>received [11]</b> 6/6 7/17 7/25 8/23 22/20 51/19 53/7 69/11 85/2 122/21 162/3</p> <p><b>receives [1]</b> 162/25</p> <p><b>recent [3]</b> 22/23 110/13 150/7</p> <p><b>recently [3]</b> 65/14 118/15 182/11</p> <p><b>recipients [1]</b> 164/7</p> <p><b>recitation [1]</b> 64/17</p> <p><b>recognise [1]</b> 32/15</p> <p><b>recognised [3]</b> 35/24 60/11 98/10</p> <p><b>recollect [2]</b> 67/15 169/3</p> <p><b>recollection [6]</b> 3/1 23/23 66/2 124/23 128/12 144/5</p> <p><b>recollections [2]</b> 2/10 2/11</p> <p><b>recommendation [3]</b> 103/12 108/4 109/6</p> <p><b>recommendations [1]</b> 184/14</p> <p><b>recommended [3]</b> 89/3 108/17 108/21</p> <p><b>reconciled [2]</b> 14/25 18/14</p> <p><b>reconciliation [2]</b> 49/21 49/23</p> <p><b>reconsider [1]</b> 103/11</p> <p><b>reconvene [1]</b></p>	<p>188/23</p> <p><b>record [5]</b> 64/13 67/24 75/16 129/18 129/21</p> <p><b>recorded [11]</b> 23/21 38/10 38/17 39/14 66/20 67/7 92/21 95/10 95/14 100/19 147/20</p> <p><b>recording [2]</b> 77/25 100/23</p> <p><b>records [6]</b> 23/15 48/23 63/10 75/21 76/6 76/15</p> <p><b>recover [1]</b> 39/12</p> <p><b>recovery [3]</b> 99/14 101/1 102/1</p> <p><b>recruitment [1]</b> 31/21</p> <p><b>rectified [2]</b> 15/9 18/19</p> <p><b>recurrent [1]</b> 69/13</p> <p><b>redress [4]</b> 4/5 104/7 112/7 115/4</p> <p><b>redundant [1]</b> 167/22</p> <p><b>refer [1]</b> 19/7</p> <p><b>reference [24]</b> 35/7 35/13 46/25 80/6 98/12 104/14 117/18 121/18 121/20 123/16 124/5 125/5 125/7 127/3 128/3 130/14 131/15 133/6 140/3 140/9 141/8 141/11 160/16 162/14</p> <p><b>referenced [2]</b> 97/17 164/3</p> <p><b>references [3]</b> 149/7 152/1 160/18</p> <p><b>referred [5]</b> 19/9 105/20 132/14 156/14 171/23</p> <p><b>referring [9]</b> 13/6 60/7 64/20 103/1 105/23 125/22 138/12 163/19 178/1</p> <p><b>refers [10]</b> 7/19 9/24 81/13 126/18 127/7 129/18 141/6 152/10 163/20 172/25</p> <p><b>reflect [4]</b> 59/6 107/2 167/25 176/4</p> <p><b>reflected [1]</b> 154/3</p> <p><b>reflection [2]</b> 136/19 147/7</p> <p><b>reflective [2]</b> 26/11 85/15</p> <p><b>reforms [1]</b> 9/7</p> <p><b>refresh [1]</b> 92/13</p> <p><b>refusal [2]</b> 61/20 101/8</p> <p><b>refused [3]</b> 101/7 168/22 169/4</p> <p><b>refusing [4]</b> 11/2 11/10 166/4 168/8</p>	<p><b>refuted [1]</b> 135/24</p> <p><b>regard [4]</b> 5/3 95/12 138/6 143/21</p> <p><b>regarding [5]</b> 7/17 36/11 121/7 147/18 179/22</p> <p><b>regardless [2]</b> 97/5 109/7</p> <p><b>regards [4]</b> 9/22 152/17 157/23 186/18</p> <p><b>regrettable [1]</b> 152/6</p> <p><b>Regrettably [1]</b> 101/8</p> <p><b>regular [1]</b> 58/9</p> <p><b>rehearsing [2]</b> 62/24 62/25</p> <p><b>rejecting [1]</b> 108/2</p> <p><b>rejection [1]</b> 109/18</p> <p><b>relate [1]</b> 122/9</p> <p><b>related [2]</b> 18/8 186/12</p> <p><b>relates [3]</b> 161/25 175/13 185/8</p> <p><b>relating [6]</b> 73/14 74/21 76/6 128/4 185/11 188/8</p> <p><b>relation [12]</b> 1/18 69/22 70/15 71/17 73/17 74/5 78/5 82/13 129/7 130/14 174/6 185/5</p> <p><b>relations [1]</b> 106/5</p> <p><b>relationship [7]</b> 11/14 11/24 23/20 58/7 97/21 114/24 131/18</p> <p><b>relatively [3]</b> 37/19 100/25 125/15</p> <p><b>release [5]</b> 111/25 112/16 112/25 113/15 163/4</p> <p><b>released [2]</b> 162/20 162/23</p> <p><b>relevant [11]</b> 2/9 50/15 58/19 70/23 71/3 71/5 94/14 94/25 101/18 110/18 177/15</p> <p><b>reliability [2]</b> 49/8 179/4</p> <p><b>reliance [1]</b> 63/6</p> <p><b>reluctant [1]</b> 59/23</p> <p><b>remain [4]</b> 17/1 54/5 86/18 88/1</p> <p><b>remained [2]</b> 159/3 174/14</p> <p><b>remaining [3]</b> 2/10 52/15 167/20</p> <p><b>remains [3]</b> 9/23 52/24 178/13</p> <p><b>remember [28]</b> 21/2 27/7 27/14 27/15 46/10 46/14 65/6 65/9 74/4 75/6 77/2 89/15 98/14 103/2 120/6 126/7 137/24 138/7</p>
---	--	---	--	--



<b>R</b>	164/7 164/7 164/25 164/25 165/1 165/2 166/3 168/11 181/11 <b>report's [1]</b> 155/5 <b>reported [2]</b> 34/24 112/4 <b>reporting [1]</b> 51/17 <b>reports [38]</b> 131/25 132/6 132/10 132/12 133/12 136/12 136/24 140/19 140/25 140/25 141/1 141/6 141/9 141/18 141/21 141/22 141/24 142/3 142/6 144/11 144/12 145/23 146/2 146/9 146/19 147/12 147/24 149/6 149/11 149/15 150/8 150/22 155/24 157/5 157/13 168/7 170/5 176/7 <b>representation [1]</b> 110/19 <b>representative [1]</b> 46/24 <b>representatives [7]</b> 23/3 30/7 34/14 42/4 42/15 48/21 58/9 <b>represented [2]</b> 34/17 100/16 <b>representing [1]</b> 50/18 <b>reputable [1]</b> 134/25 <b>reputation [4]</b> 31/9 35/23 36/8 112/7 <b>request [5]</b> 8/2 62/9 113/6 113/8 143/18 <b>requested [2]</b> 9/10 143/7 <b>requests [3]</b> 101/6 143/19 162/18 <b>required [9]</b> 58/25 60/22 64/9 67/2 73/16 143/19 144/18 168/23 176/3 <b>requirement [2]</b> 60/16 184/8 <b>requirements [1]</b> 150/11 <b>requiring [1]</b> 61/1 <b>resile [1]</b> 107/5 <b>resist [2]</b> 175/7 175/9 <b>resisting [1]</b> 111/13 <b>resolution [4]</b> 87/23 111/23 162/19 163/6 <b>resolve [3]</b> 28/2 158/1 158/12 <b>resolved [8]</b> 35/12 38/22 38/25 58/6 62/12 65/10 169/5 188/2 <b>resolving [3]</b> 86/13 158/3 158/4 <b>resource [2]</b> 133/4	133/6 <b>resources [1]</b> 136/7 <b>respect [3]</b> 124/5 127/6 179/24 <b>respect of [1]</b> 127/6 <b>respectfully [1]</b> 162/18 <b>respond [3]</b> 68/10 68/19 84/14 <b>responding [2]</b> 68/20 75/2 <b>responds [1]</b> 95/11 <b>response [10]</b> 8/7 68/17 76/20 104/19 110/7 120/10 127/5 127/19 151/24 175/25 <b>responses [2]</b> 68/24 69/5 <b>responsibilities [2]</b> 11/3 28/5 <b>responsibility [2]</b> 11/10 116/19 <b>responsible [4]</b> 5/12 6/16 7/4 8/16 <b>rest [2]</b> 160/6 170/2 <b>restart [1]</b> 96/10 <b>restraint [1]</b> 115/22 <b>restrict [3]</b> 93/6 93/8 94/8 <b>restricted [2]</b> 85/11 86/23 <b>restricting [1]</b> 70/10 <b>restriction [4]</b> 85/19 93/15 93/18 93/19 <b>restructuring [1]</b> 136/6 <b>rests [1]</b> 35/23 <b>result [6]</b> 53/20 94/15 99/11 100/22 139/8 141/17 <b>resulted [2]</b> 70/18 79/2 <b>results [2]</b> 53/3 98/19 <b>retail [2]</b> 36/16 39/10 <b>retained [3]</b> 75/21 177/7 185/16 <b>retention [2]</b> 185/8 185/10 <b>retired [1]</b> 119/9 <b>revealed [3]</b> 45/8 47/24 81/21 <b>reversals [1]</b> 44/19 <b>reverse [2]</b> 80/8 80/9 <b>review [23]</b> 24/16 44/25 50/5 57/12 58/17 58/20 64/21 66/13 75/5 75/8 76/3 78/18 82/20 98/2 114/12 116/2 132/3 133/12 140/25 148/19 150/1 171/23 173/6 <b>reviewed [3]</b> 23/18 31/22 176/2 <b>reviewing [1]</b> 175/18	<b>reviews [3]</b> 63/12 63/15 68/20 <b>revisit [1]</b> 166/17 <b>revisited [1]</b> 141/19 <b>rewording [1]</b> 127/25 <b>rewording/bit [1]</b> 127/25 <b>reworking [1]</b> 136/7 <b>rewritten [1]</b> 146/19 <b>Richard [1]</b> 146/12 <b>ride [1]</b> 54/17 <b>rides [1]</b> 174/20 <b>ridiculous [2]</b> 136/20 136/25 <b>right [61]</b> 4/9 4/17 4/25 5/8 5/9 5/20 11/4 20/17 21/22 27/25 29/15 33/19 34/10 46/13 47/22 51/14 51/18 55/1 55/3 55/18 65/16 66/8 71/4 71/13 74/8 74/12 74/17 88/8 93/3 95/3 96/21 97/14 104/9 109/14 113/7 115/12 115/17 116/20 126/5 135/14 145/3 147/24 149/4 153/2 156/15 157/18 159/20 165/22 170/14 170/19 170/22 171/6 175/11 176/25 179/11 180/6 180/14 181/15 181/15 182/19 183/6 <b>rightly [4]</b> 106/24 138/5 179/5 186/16 <b>rights [4]</b> 85/11 86/18 86/23 173/12 <b>rigorously [1]</b> 27/3 <b>ring [1]</b> 153/14 <b>rip [1]</b> 105/22 <b>rise [10]</b> 13/14 34/25 88/9 89/14 90/11 104/15 110/6 110/12 173/25 175/19 <b>risk [2]</b> 52/25 113/2 <b>risks [1]</b> 11/12 <b>robust [21]</b> 17/2 22/3 22/5 22/10 27/3 39/19 49/8 80/11 122/2 122/4 134/16 138/2 142/12 154/17 154/25 155/1 169/18 171/4 176/13 176/15 176/20 <b>robustness [4]</b> 26/20 88/17 159/1 176/11 <b>Rod [1]</b> 29/10 <b>Rodric [1]</b> 161/24 <b>role [19]</b> 3/23 9/11 10/2 46/9 46/10 46/16 50/17 69/22 111/19 113/23 118/23 119/25 121/12 123/21 128/18 130/21 130/25 167/22 171/20	<b>Ron [9]</b> 50/12 52/6 52/20 68/15 77/4 84/10 102/4 102/11 151/24 <b>Ron Warmington [2]</b> 68/15 102/4 <b>room [8]</b> 76/14 96/13 97/5 115/19 116/12 116/21 118/21 168/25 <b>root [5]</b> 60/1 99/13 99/17 100/6 101/4 <b>roughly [2]</b> 91/10 91/17 <b>route [1]</b> 174/17 <b>routine [1]</b> 28/25 <b>routinely [2]</b> 31/20 31/24 <b>Royal [9]</b> 9/8 12/16 12/25 15/10 18/20 23/19 24/2 27/12 35/19 <b>rubbish [1]</b> 170/2 <b>Rudkin [12]</b> 63/16 64/21 65/4 65/22 66/1 67/23 75/6 75/9 75/17 76/7 76/15 77/3 <b>Rudkin's [1]</b> 75/20 <b>rules [1]</b> 168/23 <b>run [2]</b> 16/19 66/9 <b>run-up [1]</b> 66/9 <b>running [3]</b> 2/23 91/23 130/8
			<b>S</b>	
			<b>sacked [1]</b> 112/25 <b>sadly [1]</b> 137/16 <b>safe [4]</b> 80/11 98/19 99/22 170/1 <b>safety [2]</b> 80/5 81/20 <b>said [89]</b> 2/6 4/18 21/6 24/19 26/10 27/6 27/11 28/19 30/7 35/24 36/6 37/8 37/20 37/21 39/4 39/15 40/6 40/12 41/17 43/10 48/23 55/13 56/4 56/11 58/4 58/24 59/2 62/19 63/21 70/5 70/9 71/19 77/13 77/15 77/22 80/9 82/22 83/2 83/16 89/13 89/25 90/2 90/4 92/24 93/1 94/16 95/20 99/20 104/5 104/23 104/25 105/21 106/5 106/13 106/23 114/23 117/4 117/8 122/11 123/24 127/1 132/14 132/17 134/4 135/24 147/22 148/3 149/3 151/9 154/8 155/21 156/12 157/16 162/10 166/12 175/6 175/9 176/1 176/20 179/21 181/10	

<b>S</b>	10/11 10/19 21/18 23/21 26/12 27/9 28/4 28/21 29/4 41/5 56/14 56/21 65/1 67/7 68/3 68/8 68/13 69/12 82/15 82/21 84/13 85/3 95/11 95/21 112/5 113/8 122/1 131/3 136/18 137/24 142/5 151/19 158/16 158/18 170/11 172/20 176/5 176/9 176/13 176/16 179/8 180/11 <b>says [58]</b> 9/5 9/6 22/22 24/14 26/18 26/24 37/7 59/5 66/17 67/18 68/16 108/25 119/21 120/10 120/21 124/7 127/9 127/12 127/15 127/21 130/6 133/2 136/9 138/8 138/12 138/19 140/22 141/16 141/24 143/5 143/17 145/20 146/17 146/22 148/21 149/4 149/21 150/6 152/3 153/20 155/3 157/2 160/17 160/21 162/1 162/5 162/12 163/22 164/6 165/12 166/17 167/7 171/21 173/3 173/22 175/16 178/12 180/12 <b>scan [3]</b> 23/3 52/15 84/7 <b>scandal [3]</b> 115/10 131/1 187/5 <b>scenes [1]</b> 88/15 <b>sceptical [5]</b> 21/14 21/18 23/13 24/4 31/16 <b>scheduled [1]</b> 51/21 <b>scheme [90]</b> 81/7 81/13 82/11 82/12 82/14 82/16 82/18 83/4 83/9 83/14 84/3 84/5 84/8 85/8 85/20 86/1 86/8 86/15 86/18 87/5 87/15 90/11 91/22 92/1 93/10 93/17 97/16 98/2 103/20 103/23 104/2 104/10 106/8 106/15 106/18 108/12 110/10 110/25 111/4 112/4 112/6 112/10 112/19 112/21 122/3 122/6 122/13 122/23 123/6 123/10 123/20 125/11 125/16 126/5 127/4 129/7 130/7 130/10 130/15 131/11 131/13 134/15 136/6 136/6 136/8 136/14 136/21	137/11 145/16 148/19 152/17 158/17 158/23 159/2 161/18 165/14 166/1 166/22 167/9 167/20 168/4 168/10 168/20 170/7 171/5 171/13 171/24 173/10 174/2 174/7 <b>Scheme' [1]</b> 111/6 <b>scheme's [1]</b> 162/7 <b>schemes [1]</b> 170/24 <b>scope [5]</b> 73/15 123/18 155/18 162/7 166/22 <b>screen [9]</b> 6/1 88/7 98/5 105/9 116/23 117/15 126/18 176/16 178/10 <b>screens [1]</b> 123/17 <b>scroll [39]</b> 9/1 34/22 57/9 73/10 84/16 84/17 85/24 110/2 119/18 120/9 120/17 123/19 125/23 126/16 127/5 127/12 140/2 142/17 142/20 143/4 145/19 149/20 150/5 151/24 152/4 152/5 152/24 155/11 155/17 156/11 156/18 156/23 160/13 162/11 163/22 165/12 167/5 178/6 179/18 <b>scrolling [1]</b> 84/19 <b>sea [1]</b> 107/21 <b>seal [1]</b> 49/18 <b>seated [1]</b> 116/21 <b>second [253]</b> <b>Second Sight [2]</b> 11/21 71/9 <b>secondly [4]</b> 24/6 50/25 95/24 188/9 <b>seconds [1]</b> 97/3 <b>secrecy [2]</b> 54/24 105/3 <b>secret [1]</b> 111/3 <b>Secretary [7]</b> 3/16 5/22 6/4 7/2 8/13 9/3 119/20 <b>sections [1]</b> 153/21 <b>sector [1]</b> 9/7 <b>secure [5]</b> 37/23 38/7 41/5 115/4 161/1 <b>secured [1]</b> 78/15 <b>securing [1]</b> 56/11 <b>security [1]</b> 49/18 <b>see [86]</b> 1/3 1/4 1/8 6/2 8/22 9/1 9/25 10/12 12/2 16/2 17/25 20/14 21/10 22/17 23/5 24/14 25/5 26/6 26/9 27/18 30/9 30/23 31/1 34/13 37/6 38/2 40/13 40/20 41/15	47/8 48/24 49/14 50/9 59/20 59/24 83/2 84/9 84/12 84/22 85/24 88/25 92/11 96/21 97/1 97/8 98/21 105/19 106/10 108/16 109/19 117/3 119/20 122/6 122/18 125/5 125/23 127/1 127/2 127/5 127/8 132/16 132/24 136/22 140/2 141/7 142/18 143/3 143/4 143/24 144/12 148/20 149/7 150/24 151/24 153/12 156/12 158/3 159/14 164/18 169/16 174/19 175/19 178/2 178/10 186/20 187/20 <b>seeds [3]</b> 54/8 54/11 54/13 <b>seeing [3]</b> 14/11 39/3 39/4 <b>seek [2]</b> 112/6 144/7 <b>seeking [9]</b> 4/5 21/21 26/15 100/4 107/5 144/6 150/3 157/13 157/14 <b>seem [6]</b> 60/25 100/4 100/23 101/3 151/7 164/10 <b>Seema [1]</b> 174/1 <b>seemed [10]</b> 10/15 17/8 55/20 56/22 72/13 91/9 105/4 106/22 156/22 180/14 <b>seemingly [1]</b> 45/3 <b>seems [17]</b> 8/19 11/17 27/20 34/3 41/13 56/21 59/2 60/3 72/9 77/18 94/6 101/17 109/15 126/2 136/4 142/19 145/25 <b>seen [14]</b> 5/18 24/10 30/14 30/22 42/3 66/1 68/6 118/9 118/14 136/13 163/14 170/5 179/4 187/6 <b>Select [1]</b> 3/17 <b>self [1]</b> 17/16 <b>self-evident [1]</b> 17/16 <b>seminars [1]</b> 22/8 <b>send [3]</b> 51/6 68/17 132/1 <b>senior [11]</b> 3/12 3/15 4/2 26/12 28/17 30/7 48/1 48/20 58/9 63/18 187/21 <b>sense [14]</b> 61/18 124/24 132/9 134/1 134/23 134/25 135/3 135/5 135/15 151/1 151/8 152/16 153/25 154/11	<b>sensed [2]</b> 106/24 140/19 <b>sensible [1]</b> 183/12 <b>sensitivity [1]</b> 60/25 <b>sent [13]</b> 8/20 8/24 9/2 20/22 86/25 87/1 122/20 128/14 140/17 146/18 148/25 164/4 173/6 <b>sentence [5]</b> 71/2 118/12 143/16 182/25 183/21 <b>sentencing [2]</b> 182/20 183/3 <b>sentiment [1]</b> 146/24 <b>separate [7]</b> 15/14 24/6 24/25 35/18 66/5 72/18 172/5 <b>Separately [1]</b> 161/14 <b>separation [1]</b> 76/17 <b>September [9]</b> 88/22 90/17 91/9 103/10 110/7 119/17 120/18 125/3 150/3 <b>September 2013 [1]</b> 150/3 <b>series [5]</b> 22/8 37/21 51/3 79/8 110/3 <b>serious [11]</b> 35/22 35/25 122/5 132/15 174/12 179/11 180/18 180/18 181/18 183/19 188/8 <b>seriously [3]</b> 25/21 26/25 31/7 <b>served [1]</b> 42/19 <b>services [1]</b> 73/11 <b>set [14]</b> 2/9 9/23 14/5 30/15 34/5 61/12 91/22 111/9 112/6 124/19 126/20 153/15 183/15 185/5 <b>sets [5]</b> 49/2 123/18 123/24 141/19 155/7 <b>setting [10]</b> 78/8 81/10 81/12 82/10 84/5 84/8 86/1 109/2 145/22 163/1 <b>settle [2]</b> 122/12 122/12 <b>settled [1]</b> 42/21 <b>seven [5]</b> 58/21 60/8 81/5 118/25 182/20 <b>seven years [1]</b> 182/20 <b>several [4]</b> 23/18 35/10 63/11 140/4 <b>Sewell [2]</b> 29/9 32/13 <b>Shadow [1]</b> 3/16 <b>shall [8]</b> 47/2 73/11 73/16 111/23 112/12 118/4 123/25 158/25 <b>shame [1]</b> 137/17
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<b>S</b>	<b>shown [5]</b> 33/25 62/15 65/20 161/8 188/9	117/5 117/9 117/12 117/14 185/1 187/1 188/19 190/7	77/14 77/22 81/5 81/16 83/4 83/22 85/1 86/9 88/6 90/1 90/13 90/18 91/16 96/3 100/3 103/15 107/19 109/18 110/1 111/18 113/4 113/14 115/12 115/21 116/5 118/16 122/6 122/12 123/11 123/13 124/19 125/15 126/12 127/8 127/23 128/9 129/1 131/4 131/19 131/20 131/22 132/9 132/19 132/21 134/17 136/20 136/20 136/24 140/10 140/21 141/25 142/2 142/22 144/1 144/20 145/8 145/25 146/6 146/16 147/1 148/8 149/9 149/9 152/5 153/3 154/8 156/16 157/15 159/17 159/21 159/22 160/7 162/8 163/5 166/16 167/22 168/1 168/24 169/4 169/16 169/20 170/21 171/18 172/6 172/18 174/16 174/25 175/20 178/8 179/13 180/1 181/5 181/24 183/10 184/9 186/3 186/10 186/16 187/23 188/17	<b>shared [3]</b> 139/16 150/17 150/19	<b>shows [2]</b> 69/9 144/1	<b>Sir Anthony Hooper [5]</b> 91/25 96/20 116/13 163/23 174/4	77/14 77/22 81/5 81/16 83/4 83/22 85/1 86/9 88/6 90/1 90/13 90/18 91/16 96/3 100/3 103/15 107/19 109/18 110/1 111/18 113/4 113/14 115/12 115/21 116/5 118/16 122/6 122/12 123/11 123/13 124/19 125/15 126/12 127/8 127/23 128/9 129/1 131/4 131/19 131/20 131/22 132/9 132/19 132/21 134/17 136/20 136/20 136/24 140/10 140/21 141/25 142/2 142/22 144/1 144/20 145/8 145/25 146/6 146/16 147/1 148/8 149/9 149/9 152/5 153/3 154/8 156/16 157/15 159/17 159/21 159/22 160/7 162/8 163/5 166/16 167/22 168/1 168/24 169/4 169/16 169/20 170/21 171/18 172/6 172/18 174/16 174/25 175/20 178/8 179/13 180/1 181/5 181/24 183/10 184/9 186/3 186/10 186/16 187/23 188/17	<b>shareholder [6]</b> 9/11 10/2 146/13 146/16 160/12 161/6	<b>shriff [1]</b> 17/16	<b>Sir Anthony Hooper's [1]</b> 113/1	<b>somehow [1]</b> 89/15	<b>she [36]</b> 11/23 17/3 32/23 32/24 35/19 35/21 35/24 36/6 36/10 37/4 37/8 37/21 39/4 40/12 43/5 43/14 49/5 50/12 66/20 68/3 70/5 70/9 83/4 83/21 88/23 93/7 93/21 94/12 96/15 103/13 106/23 106/25 108/25 120/10 146/6 184/5	<b>side [6]</b> 41/14 106/12 112/17 124/20 132/2 156/17	<b>sit [1]</b> 56/18	<b>someone [7]</b> 49/17 83/3 126/11 139/4 175/1 183/12 187/16	<b>she's [2]</b> 38/17 83/4	<b>Sight [194]</b>	<b>site [4]</b> 75/10 75/17 76/2 76/5	<b>something [41]</b> 10/15 13/20 23/14 24/8 29/22 30/4 30/13 40/18 47/17 47/18 62/18 64/5 65/5 66/19 67/21 72/16 73/8 82/1 82/6 82/8 98/13 107/10 110/4 116/10 124/16 128/24 129/24 130/12 130/22 134/9 134/19 155/24 159/15 165/21 172/7 172/20 176/12 181/21 183/8 187/9 187/11	<b>Shoosmiths [5]</b> 19/17 20/11 23/2 25/12 71/12	<b>Sight's [26]</b> 57/5 70/10 71/24 72/8 72/15 73/15 89/22 91/14 93/5 93/9 93/16 93/19 93/23 94/8 94/9 98/15 102/20 104/19 108/3 110/9 136/7 145/23 155/18 162/1 162/4 163/15	<b>skip [5]</b> 12/9 16/9 19/16 29/5 123/16	<b>sometime [1]</b> 19/12	<b>shop [1]</b> 87/10	<b>signature [3]</b> 2/1 49/16 117/24	<b>skipped [2]</b> 14/9 81/16	<b>sometimes [4]</b> 6/5 43/23 122/19 156/8	<b>short [9]</b> 17/16 19/24 47/6 51/5 69/2 96/24 104/21 159/12 175/10	<b>signed [2]</b> 74/3 74/9	<b>skipping [1]</b> 32/12	<b>somewhere [2]</b> 40/21 141/14	<b>shortfall [2]</b> 5/11 5/12	<b>signed [2]</b> 74/3 74/9	<b>skipped [2]</b> 14/9 81/16	<b>soon [3]</b> 8/6 35/21 125/12	<b>shortfalls [3]</b> 7/4 13/18 99/14	<b>significantly [1]</b> 69/25	<b>skipping [1]</b> 32/12	<b>sorry [16]</b> 3/19 16/1 84/25 88/6 96/16 97/9 101/22 102/22 110/1 126/23 143/15 165/15 172/20 174/5 178/6 183/7	<b>shortfalls' [1]</b> 101/5	<b>similar [5]</b> 17/18 48/24 76/10 105/22 115/22	<b>sleepless [3]</b> 109/13 109/13 109/16	<b>sort [16]</b> 10/18 11/8 22/8 25/16 55/21 88/14 90/13 114/1 115/20 124/19 146/5 152/22 161/11 172/6 174/2 175/4	<b>shortly [4]</b> 17/18 20/16 79/5 108/1	<b>Simon [10]</b> 77/13 77/15 78/21 90/18 128/15 177/18 177/25 179/8 180/3 180/9	<b>slightest [1]</b> 173/23	<b>sorted [2]</b> 8/16 10/16	<b>should [70]</b> 6/21 7/25 8/10 15/6 16/11 16/11 21/16 21/24 30/8 40/25 45/8 50/5 51/15 55/17 56/15 60/18 62/19 66/15 66/16 67/8 67/9 68/8 72/7 73/19 74/21 78/17 79/21 83/3 83/10 92/24 93/1 93/4 95/22 106/14 108/3 108/4 108/8 108/9 108/18 108/18 109/4 115/25 117/4 117/14 118/10 126/23 126/23 136/11 136/17 138/15 141/14 143/19 147/1 147/4 151/11 153/18 161/22 164/1 168/24 169/8 172/5 172/14 173/5 173/11 173/14 174/22 174/23 175/23 176/25 178/3	<b>Simon Clarke [2]</b> 78/21 180/3	<b>slightly [2]</b> 96/15 169/15	<b>sounded [2]</b> 29/21 82/17	<b>shouldn't [1]</b> 183/7	<b>Simple [1]</b> 184/9	<b>slow [2]</b> 60/23 132/22	<b>sounds [1]</b> 120/12	<b>showing [1]</b> 185/22	<b>simply [6]</b> 13/15 126/11 129/1 159/2 164/19 181/10	<b>slowing [1]</b> 54/24	<b>source [1]</b> 87/3	<b>show [9]</b> 6/8 45/7 65/21 65/22 115/22 138/16 169/17 177/4 178/24	<b>since [10]</b> 2/22 10/17 52/24 72/9 100/8 108/20 114/9 118/9 177/20 178/16	<b>slowness [1]</b> 54/24	<b>South [5]</b> 7/24 13/20 15/7 16/20 87/12	<b>showed [1]</b> 170/20	<b>Singh [2]</b> 175/16 179/20	<b>small [12]</b> 16/18 37/19 42/6 46/24 118/3 130/13 130/18 130/19 131/5 131/8 133/21 160/7	<b>South Warnborough [2]</b> 7/24 13/20	<b>showing [1]</b> 185/22	<b>Sir Anthony [9]</b> 97/3	<b>SMIS0000247 [1]</b> 19/23	<b>smooth [1]</b> 140/21	<b>sounded [2]</b> 29/21 82/17	<b>showing [1]</b> 185/22	<b>Smith [3]</b> 125/25 172/24 175/16	<b>so [165]</b> 2/15 2/22 3/19 6/2 6/24 7/14 11/16 12/23 14/2 16/5 16/9 18/24 20/20 21/18 22/15 23/7 28/4 29/3 30/1 30/9 30/24 31/9 31/22 32/9 33/19 34/2 34/7 34/17 36/3 36/3 36/9 36/9 37/13 39/6 39/21 40/10 40/11 40/25 41/8 41/21 42/3 45/22 46/7 46/25 47/16 51/10 51/16 52/23 53/21 56/10 56/24 59/15 59/22 60/11 62/24 64/1 64/10 64/13 65/16 65/24 67/13 69/6 72/7 72/15 73/2	<b>South Warnborough [2]</b> 7/24 13/20	<b>showing [1]</b> 185/22	<b>SMIS0000247 [1]</b> 19/23	<b>so [165]</b> 2/15 2/22 3/19 6/2 6/24 7/14 11/16 12/23 14/2 16/5 16/9 18/24 20/20 21/18 22/15 23/7 28/4 29/3 30/1 30/9 30/24 31/9 31/22 32/9 33/19 34/2 34/7 34/17 36/3 36/3 36/9 36/9 37/13 39/6 39/21 40/10 40/11 40/25 41/8 41/21 42/3 45/22 46/7 46/25 47/16 51/10 51/16 52/23 53/21 56/10 56/24 59/15 59/22 60/11 62/24 64/1 64/10 64/13 65/16 65/24 67/13 69/6 72/7 72/15 73/2	<b>sounded [2]</b> 29/21 82/17	<b>showing [1]</b> 185/22	<b>SMIS0000247 [1]</b> 19/23	<b>so [165]</b> 2/15 2/22 3/19 6/2 6/24 7/14 11/16 12/23 14/2 16/5 16/9 18/24 20/20 21/18 22/15 23/7 28/4 29/3 30/1 30/9 30/24 31/9 31/22 32/9 33/19 34/2 34/7 34/17 36/3 36/3 36/9 36/9 37/13 39/6 39/21 40/10 40/11 40/25 41/8 41/21 42/3 45/22 46/7 46/25 47/16 51/10 51/16 52/23 53/21 56/10 56/24 59/15 59/22 60/11 62/24 64/1 64/10 64/13 65/16 65/24 67/13 69/6 72/7 72/15 73/2	<b>sorted [2]</b> 8/16 10/16	<b>showing [1]</b> 185/22	<b>SMIS0000247 [1]</b> 19/23	<b>so [165]</b> 2/15 2/22 3/19 6/2 6/24 7/14 11/16 12/23 14/2 16/5 16/9 18/24 20/20 21/18 22/15 23/7 28/4 29/3 30/1 30/9 30/24 31/9 31/22 32/9 33/19 34/2 34/7 34/17 36/3 36/3 36/9 36/9 37/13 39/6 39/21 40/10 40/11 40/25 41/8 41/21 42/3 45/22 46/7 46/25 47/16 51/10 51/16 52/23 53/21 56/10 56/24 59/15 59/22 60/11 62/24 64/1 64/10 64/13 65/16 65/24 67/13 69/6 72/7 72/15 73/2	<b>sounded [2]</b> 29/21 82/17	<b>showing [1]</b> 185/22	<b>SMIS0000247 [1]</b> 19/23	<b>so [165]</b> 2/15 2/22 3/19 6/2 6/24 7/14 11/16 12/23 14/2 16/5 16/9 18/24 20/20 21/18 22/15 23/7 28/4 29/3 30/1 30/9 30/24 31/9 31/22 32/9 33/19 34/2 34/7 34/17 36/3 36/3 36/9 36/9 37/13 39/6 39/21 40/10 40/11 40/25 41/8 41/21 42/3 45/22 46/7 46/25 47/16 51/10 51/16 52/23 53/21 56/10 56/24 59/15 59/22 60/11 62/24 64/1 64/10 64/13 65/16 65/24 67/13 69/6 72/7 72/15 73/2	<b>sounded [2]</b> 29/21 82/17	<b>showing [1]</b> 185/22	<b>SMIS0000247 [1]</b> 19/23	<b>so [165]</b> 2/15 2/22 3/19 6/2 6/24 7/14 11/16 12/23 14/2 16/5 16/9 18/24 20/20 21/18 22/15 23/7 28/4 29/3 30/1 30/9 30/24 31/9 31/22 32/9 33/19 34/2 34/7 34/17 36/3 36/3 36/9 36/9 37/13 39/6 39/21 40/10 40/11 40/25 41/8 41/21 42/3 45/22 46/7 46/25 47/16 51/10 51/16 52/23 53/21 56/10 56/24 59/15 59/22 60/11 62/24 64/1 64/10 64/13 65/16 65/24 67/13 69/6 72/7 72/15 73/2	<b>sounded [2]</b> 29/21 82/17	<b>showing [1]</b> 185/22	<b>SMIS0000247 [1]</b> 19/23	<b>so [165]</b> 2/15 2/22 3/19 6/2 6/24 7/14 11/16 12/23 14/2 16/5 16/9 18/24 20/20 21/18 22/15 23/7 28/4 29/3 30/1 30/9 30/24 31/9 31/22 32/9 33/19 34/2 34/7 34/17 36/3 36/3 36/9 36/9 37/13 39/6 39/21 40/10 40/11 40/25 41/8 41/21 42/3 45/22 46/7 46/25 47/16 51/10 51/16 52/23 53/21 56/10 56/24 59/15 59/22 60/11 62/24 64/1 64/10 64/13 65/16 65/24 67/13 69/6 72/7 72/15 73/2	<b>sounded [2]</b> 29/21 82/17	<b>showing [1]</b> 185/22	<b>SMIS0000247 [1]</b> 19/23	<b>so [165]</b> 2/15 2/22 3/19 6/2 6/24 7/14 11/16 12/23 14/2 16/5 16/9 18/24 20/20 21/18 22/15 23/7 28/4 29/3 30/1 30/9 30/24 31/9 31/22 32/9 33/19 34/2 34/7 34/17 36/3 36/3 36/9 36/9 37/13 39/6 39/21 40/10 40/11 40/25 41/8 41/21 42/3 45/22 46/7 46/25 47/16 51/10 51/16 52/23 53/21 56/10 56/24 59/15 59/22 60/11 62/24 64/1 64/10 64/13 65/16 65/24 67/13 69/6 72/7 72/15 73/2	<b>sounded [2]</b> 29/21 82/17	<b>showing [1]</b> 185/22	<b>SMIS0000247 [1]</b> 19/23	<b>so [165]</b> 2/15 2/22 3/19 6/2 6/24 7/14 11/16 12/23 14/2 16/5 16/9 18/24 20/20 21/18 22/15 23/7 28/4 29/3 30/1 30/9 30/24 31/9 31/22 32/9 33/19 34/2 34/7 34/17 36/3 36/3 36/9 36/9 37/13 39/6 39/21 40/10 40/11 40/25 41/8 41/21 42/3 45/22 46/7 46/25 47/16 51/10 51/16 52/23 53/21 56/10 56/24 59/15 59/22 60/11 62/24 64/1 64/10 64/13 65/16 65/24 67/13 69/6 72/7 72/15 73/2	<b>sounded [2]</b> 29/21 82/17	<b>showing [1]</b> 185/22	<b>SMIS0000247 [1]</b> 19/23	<b>so [165]</b> 2/15 2/22 3/19 6/2 6/24 7/14 11/16 12/23 14/2 16/5 16/9 18/24 20/20 21/18 22/15 23/7 28/4 29/3 30/1 30/9 30/24 31/9 31/22 32/9 33/19 34/2 34/7 34/17 36/3 36/3 36/9 36/9 37/13 39/6 39/21 40/10 40/11 40/25 41/8 41/21 42/3 45/22 46/7 46/25 47/16 51/10 51/16 52/23 53/21 56/10 56/24 59/15 59/22 60/11 62/24 64/1 64/10 64/13 65/16 65/24 67/13 69/6 72/7 72/15 73/2	<b>sounded [2]</b> 29/21 82/17	<b>showing [1]</b> 185/22	<b>SMIS0000247 [1]</b> 19/23	<b>so [165]</b> 2/15 2/22 3/19 6/2 6/24 7/14 11/16 12/23 14/2 16/5 16/9 18/24 20/20 21/18 22/15 23/7 28/4 29/3 30/1 30/9 30/24 31/9 31/22 32/9 33/19 34/2 34/7 34/17 36/3 36/3 36/9 36/9 37/13 39/6 39/21 40/10 40/11 40/25 41/8 41/21 42/3 45/22 46/7 46/25 47/16 51/10 51/16 52/23 53/21 56/10 56/24 59/15 59/22 60/11 62/24 64/1 64/10 64/13 65/16 65/24 67/13 69/6 72/7 72/15 73/2	<b>sounded [2]</b> 29/21 82/17	<b>showing [1]</b> 185/22	<b>SMIS0000247 [1]</b> 19/23	<b>so [165]</b> 2/15 2/22 3/19 6/2 6/24 7/14 11/16 12/23 14/2 16/5 16/9 18/24 20/20 21/18 22/15 23/7 28/4 29/3 30/1 30/9 30/24 31/9 31/22 32/9 33/19 34/2 34/7 34/17 36/3 36/3 36/9 36/9 37/13 39/6 39/21 40/10 40/11 40/25 41/8 41/21 42/3 45/22 46/7 46/25 47/16 51/10 51/16 52/23 53/21 56/10 56/24 59/15 59/22 60/11 62/24 64/1 64/10 64/13 65/16 65/24 67/13 69/6 72/7 72/15 73/2	<b>sounded [2]</b> 29/21 82/17	<b>showing [1]</b> 185/22	<b>SMIS0000247 [1]</b> 19/23	<b>so [165]</b> 2/15 2/22 3/19 6/2 6/24 7/14 11/16 12/23 14/2 16/5 16/9 18/24 20/20 21/18 22/15 23/7 28/4 29/3 30/1 30/9 30/24 31/9 31/22 32/9 33/19 34/2 34/7 34/17 36/3 36/3 36/9 36/9 37/13 39/6 39/21 40/10 40/11 40/25 41/8 41/21 42/3 45/22 46/7 46/25 47/16 51/10 51/16 52/23 53/21 56/10 56/24 59/15 59/22 60/11 62/24 64/1 64/10 64/13 65/16 65/24 67/13 69/6 72/7 72/15 73/2	<b>sounded [2]</b> 29/21 82/17	<b>showing [1]</b> 185/22	<b>SMIS0000247 [1]</b> 19/23	<b>so [165]</b> 2/15 2/22 3/19 6/2 6/24 7/14 11/16 12/23 14/2 16/5 16/9 18/24 20/20 21/18 22/15 23/7 28/4 29/3 30/1 30/9 30/24 31/9 31/22 32/9 33/19 34/2 34/7 34/17 36/3 36/3 36/9 36/9 37/13 39/6 39/21 40/10 40/11 40/25 41/8 41/21 42/3 45/22 46/7 46/25 47/16 51/10 51/16 52/23 53/21 56/10 56/24 59/15 59/22 60/11 62/24 64/1 64/10 64/13 65/16 65/24 67/13 69/6 72/7 72/15 73/2	<b>sounded [2]</b> 29/21 82/17	<b>showing [1]</b> 185/22	<b>SMIS0000247 [1]</b> 19/23	<b>so [165]</b> 2/15 2/22 3/19 6/2 6/24 7/14 11/16 12/23 14/2 16/5 16/9 18/24 20/20 21/18 22/15 23/7 28/4 29/3 30/1 30/9 30/24 31/9 31/22 32/9 33/19 34/2 34/7 34/17 36/3 36/3 36/9 36/9 37/13 39/6 39/21 40/10 40/11 40/25 41/8 41/21 42/3 45/22 46/7 46/25 47/16 51/10 51/16 52/23 53/21 56/10 56/24 59/15 59/22 60/11 62/24 64/1 64/10 64/13 65/16 65/24 67/13 69/6 72/7 72/15 73/2	<b>sounded [2]</b> 29/21 82/17	<b>showing [1]</b> 185/22	<b>SMIS0000247 [1]</b> 19/23	<b>so [165]</b> 2/15 2/22 3/19 6/2 6/24 7/14 11/16 12/23 14/2 16/5 16/9 18/24 20/20 21/18 22/15 23/7 28/4 29/3 30/1 30/9 30/24 31/9 31/22 32/9 33/19 34/2 34/7 34/17 36/3 36/3 36/9 36/9 37/13 39/6 39/21 40/10 40/11 40/25 41/8 41/21 42/3 45/22 46/7 46/25 47/
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<b>S</b>	<b>starting [3]</b> 35/21 153/14 154/18	<b>strict [1]</b> 178/4	13/19 15/7	54/1 54/11 54/13 57/8
<b>sped [1]</b> 160/21	<b>starts [1]</b> 125/24	<b>string [1]</b> 79/2	<b>subsequent [2]</b> 7/20 12/7	66/1 98/20 126/13
<b>speed [6]</b> 149/10 150/25 151/14 151/22 152/17 160/5	<b>state [10]</b> 5/22 6/4 7/2 8/13 9/3 9/6 12/18 18/1 45/13 172/3	<b>stringing [1]</b> 88/16	<b>subsequently [4]</b> 42/21 49/14 120/1 176/22	165/12 165/23
<b>speeding [1]</b> 149/8	<b>stated [4]</b> 36/10 100/10 110/8 128/24	<b>strong [7]</b> 55/7 61/20 113/2 121/2 136/10 137/9 169/17	<b>substandard [2]</b> 146/20 147/10	<b>summer [2]</b> 46/5 128/5
<b>speedy [1]</b> 43/8	<b>statement [61]</b> 1/17 1/19 1/22 2/3 2/6 2/14 10/20 11/20 11/23 13/13 14/10 17/4 17/7 19/22 22/4 28/12 28/15 29/13 30/19 40/5 40/6 49/25 50/7 53/24 55/5 62/20 65/19 69/16 69/19 69/24 78/19 81/11 87/7 87/18 88/20 91/7 92/3 94/2 97/14 98/5 102/3 102/14 103/7 104/17 107/25 109/12 112/22 114/8 114/12 117/16 117/22 118/1 118/5 118/9 118/17 128/15 130/18 131/7 134/21 158/19 188/20	<b>strongly [2]</b> 105/25 106/2	<b>substantial [2]</b> 2/8 139/14	<b>summons [1]</b> 126/21
<b>spent [2]</b> 142/25 157/25	<b>statements [2]</b> 63/13 128/22	<b>struck [6]</b> 13/24 39/6 39/23 61/13 70/8 105/11	<b>substantiated [1]</b> 122/8	<b>sums [2]</b> 16/15 135/2
<b>spiel [1]</b> 32/9	<b>states [2]</b> 138/22 188/5	<b>structure [4]</b> 9/13 40/15 145/23 146/1	<b>substantiates [1]</b> 28/10	<b>supplementary [1]</b> 118/20
<b>spills [1]</b> 159/23	<b>status [1]</b> 142/18	<b>structured [1]</b> 146/6	<b>substantive [1]</b> 163/21	<b>support [19]</b> 14/3 16/24 22/20 31/18 53/19 57/22 58/10 100/5 100/7 101/9 101/14 110/17 112/12 115/25 161/2 166/5 167/13 169/11 187/18
<b>SPM [1]</b> 181/19	<b>statutory [1]</b> 116/2	<b>stuck [1]</b> 46/7	<b>succeed [2]</b> 158/17 168/17	<b>supported [5]</b> 21/11 53/21 104/18 106/18 153/23
<b>SPMs [7]</b> 122/7 129/11 134/25 144/21 144/24 176/10 181/21	<b>stealing [3]</b> 43/6 135/2 181/20	<b>studies [3]</b> 40/17 125/23 179/3	<b>successful [4]</b> 118/13 118/16 141/3 174/7	<b>supporting [3]</b> 153/15 154/21 166/6
<b>spoke [3]</b> 136/19 137/3 137/7	<b>step [3]</b> 5/20 5/25 107/21	<b>study [1]</b> 155/8	<b>succession [1]</b> 13/16	<b>suppose [3]</b> 25/20 68/23 129/11
<b>spot [6]</b> 63/11 63/15 64/21 68/19 75/5 75/8	<b>steps [1]</b> 126/20	<b>stuff [2]</b> 154/15 179/9	<b>such [20]</b> 5/19 17/15 24/10 29/18 49/25 51/12 61/23 63/8 73/17 85/16 85/17 87/2 94/25 106/6 136/11 143/19 166/25 173/12 176/10 183/24	<b>supported [5]</b> 21/11 53/21 104/18 106/18 153/23
<b>spring [2]</b> 26/13 149/9	<b>stick [1]</b> 172/9	<b>stuffed [1]</b> 83/5	<b>sudden [3]</b> 17/18 32/1 145/1	<b>supporting [3]</b> 153/15 154/21 166/6
<b>Square [1]</b> 43/22	<b>sticking [1]</b> 135/16	<b>style [1]</b> 155/5	<b>sued [1]</b> 139/5	<b>supposed [1]</b> 43/14
<b>squarely [1]</b> 176/1	<b>still [13]</b> 38/7 38/13 44/9 58/14 65/5 65/7 68/22 92/18 107/17 131/20 136/22 149/1 162/6	<b>sub [2]</b> 21/5 38/18	<b>suffered [1]</b> 174/16	<b>suppress [3]</b> 113/3 113/13 113/14
<b>SR005 [1]</b> 63/15	<b>stolen [1]</b> 174/14	<b>subject [3]</b> 9/12 118/3 162/9	<b>suffering [1]</b> 174/24	<b>sure [17]</b> 39/21 61/25 63/18 63/21 67/3 72/2 77/20 117/1 126/11 129/2 129/10 131/12 133/18 142/3 146/23 169/10 177/5
<b>SS [1]</b> 147/11	<b>stomping [1]</b> 77/19	<b>submission [4]</b> 150/9 165/9 165/11 167/24	<b>sufficient [2]</b> 122/18 188/10	<b>surplus [1]</b> 141/25
<b>staff [10]</b> 34/11 36/12 37/11 38/19 38/20 55/10 57/18 62/7 92/13 95/8	<b>stood [1]</b> 82/13	<b>submissions [1]</b> 169/2	<b>suggest [2]</b> 76/1 118/12	<b>surprise [2]</b> 133/25 144/17
<b>Staff's [1]</b> 57/4	<b>stop [3]</b> 84/20 142/22 152/2	<b>submit [2]</b> 58/20 86/17	<b>suggested [15]</b> 5/11 24/25 29/23 32/19 33/16 67/13 67/21 67/25 93/5 108/8 119/22 126/13 137/14 164/10 171/21	<b>surprised [4]</b> 56/8 105/2 140/7 164/12
<b>stage [35]</b> 10/12 25/19 37/25 38/1 38/24 39/1 46/11 46/20 53/7 54/6 55/16 58/14 61/9 65/4 65/7 68/7 85/18 97/24 102/10 105/2 124/22 126/9 128/9 131/21 132/21 136/21 137/11 144/10 148/8 149/2 149/9 154/11 157/24 158/14 172/19	<b>stopping [1]</b> 13/6	<b>submitted [3]</b> 57/14 58/15 149/24	<b>suggested [15]</b> 5/11 24/25 29/23 32/19 33/16 67/13 67/21 67/25 93/5 108/8 119/22 126/13 137/14 164/10 171/21	<b>Susan [11]</b> 29/8 50/11 77/23 84/10 88/22 89/3 89/8 102/12 120/22 120/22 172/24
<b>stages [3]</b> 53/25 110/18 136/22	<b>stow [1]</b> 172/9	<b>subpostmaster [11]</b> 5/7 13/7 50/16 52/2 60/2 64/3 64/5 64/6 67/4 108/14 185/25	<b>sued [1]</b> 139/5	<b>Susan Crichton [2]</b> 29/8 77/23
<b>stake [1]</b> 31/9	<b>stuck [1]</b> 46/7	<b>subpostmaster's [6]</b> 24/21 28/4 64/3 67/12 68/2 138/24	<b>suffered [1]</b> 174/16	<b>suspect [2]</b> 23/23 74/2
<b>stand [1]</b> 64/8	<b>sticking [1]</b> 135/16	<b>subpostmaster/mistr ess [1]</b> 52/2	<b>suffering [1]</b> 174/24	<b>suspected [1]</b> 100/7
<b>standard [2]</b> 67/2 101/9	<b>still [13]</b> 38/7 38/13 44/9 58/14 65/5 65/7 68/22 92/18 107/17 131/20 136/22 149/1 162/6	<b>subpostmasters [59]</b> 3/25 7/5 13/16 14/2 14/6 16/19 16/23 17/8 17/17 19/2 19/17 20/1 20/10 21/7 21/12 22/20 23/2 24/25 25/13 28/8 29/1 33/14 35/25 36/25 37/16 39/8 45/10 46/19 50/18 52/12 53/1 56/13 57/18 57/24 58/3 78/17 79/3 79/21 80/19 80/21 81/4 82/7 86/9 86/9 86/11 91/2 98/18 99/21 101/6 101/15 110/11 110/17 111/1 112/13 120/2 122/3 129/8 172/15 176/15	<b>sufficient [2]</b> 122/18 188/10	<b>suspense [9]</b> 44/5 44/16 185/23 186/4 186/5 186/7 186/12 186/14 186/19
<b>standing [2]</b> 18/6 111/17	<b>stolen [1]</b> 174/14	<b>subpostmasters' [2]</b> 24/18 167/1	<b>suggest [2]</b> 76/1 118/12	<b>suspension [1]</b> 100/1
<b>stands [1]</b> 2/19	<b>stomping [1]</b> 77/19	<b>subpostmistress [2]</b>	<b>suggested [15]</b> 5/11 24/25 29/23 32/19 33/16 67/13 67/21 67/25 93/5 108/8 119/22 126/13 137/14 164/10 171/21	<b>suspicion [2]</b> 102/10 111/10
<b>stark [1]</b> 182/17	<b>stood [1]</b> 82/13		<b>suggested [15]</b> 5/11 24/25 29/23 32/19 33/16 67/13 67/21 67/25 93/5 108/8 119/22 126/13 137/14 164/10 171/21	<b>suspicious [1]</b> 99/17
<b>start [19]</b> 3/3 12/20 12/23 47/2 66/10 90/16 92/25 93/22 94/19 97/2 120/23 125/18 129/15 132/24 139/25 147/5 151/6 160/9 160/10	<b>stop [3]</b> 84/20 142/22 152/2		<b>suggested [15]</b> 5/11 24/25 29/23 32/19 33/16 67/13 67/21 67/25 93/5 108/8 119/22 126/13 137/14 164/10 171/21	<b>Suzanne [2]</b> 43/8 47/20
<b>started [11]</b> 12/5 22/18 51/6 54/8 82/15 121/6 125/3 125/12 131/15 186/3 187/11	<b>stopping [1]</b> 13/6		<b>suggested [15]</b> 5/11 24/25 29/23 32/19 33/16 67/13 67/21 67/25 93/5 108/8 119/22 126/13 137/14 164/10 171/21	<b>Swift [1]</b> 114/11

<b>S</b>	166/2 168/5 180/20 <b>takings [2]</b> 14/25 18/14 <b>talk [5]</b> 56/22 136/15 137/12 177/2 177/10 <b>talked [2]</b> 140/10 150/23 <b>talking [8]</b> 11/11 37/4 47/24 59/7 98/24 139/15 157/10 157/10 <b>tampering [1]</b> 49/16 <b>task [2]</b> 141/15 187/10 <b>team [2]</b> 27/22 99/12 <b>teams [1]</b> 32/17 <b>technical [4]</b> 49/11 61/6 69/4 84/18 <b>technologically [1]</b> 76/12 <b>technology [1]</b> 58/18 <b>telephone [2]</b> 55/11 62/5 <b>telephoning [1]</b> 39/3 <b>tell [25]</b> 5/2 10/20 13/13 14/10 14/22 28/23 53/24 62/19 73/8 76/25 77/12 77/21 81/10 87/7 87/18 89/18 90/5 92/8 102/3 103/25 105/8 109/12 121/22 132/21 133/18 <b>telling [3]</b> 28/25 45/15 54/15 <b>tells [1]</b> 177/19 <b>temporary [1]</b> 140/23 <b>temptation [5]</b> 36/15 36/19 37/1 37/6 37/8 <b>ten [1]</b> 64/17 <b>tends [1]</b> 154/19 <b>tentative [1]</b> 161/12 <b>terminal [2]</b> 67/11 68/2 <b>terminals [1]</b> 63/9 <b>terminated [1]</b> 5/10 <b>terminating [2]</b> 136/5 136/14 <b>termination [2]</b> 100/2 112/21 <b>terms [19]</b> 54/15 82/12 82/15 97/16 114/20 121/17 121/20 123/16 124/5 125/4 125/7 127/3 138/4 140/3 144/6 160/23 162/13 181/24 182/17 <b>terrible [1]</b> 174/24 <b>test [9]</b> 76/4 76/10 76/16 76/17 168/21 168/21 178/14 178/16 187/17 <b>tested [3]</b> 27/3 32/17 39/24 <b>text [3]</b> 6/3 51/25	93/12 <b>TH [1]</b> 133/3 <b>TH's [1]</b> 136/10 <b>than [42]</b> 7/9 8/12 9/2 20/2 20/13 21/16 21/24 27/17 33/17 39/17 41/3 61/2 62/12 65/1 65/3 72/9 90/14 91/8 91/8 97/3 100/6 102/1 130/15 130/19 130/23 131/4 132/15 133/8 133/15 133/19 137/1 144/7 144/8 144/15 145/10 161/10 167/2 169/7 171/24 173/6 182/25 188/1 <b>thank [65]</b> 1/8 1/16 6/3 11/18 15/22 29/5 31/4 40/23 47/1 47/9 62/4 65/17 75/1 89/17 96/7 96/22 97/10 101/23 102/22 104/17 109/1 113/16 115/13 115/23 116/6 116/8 116/9 117/4 117/14 117/21 118/4 118/11 118/17 119/3 120/9 121/17 121/19 125/14 125/25 126/16 127/5 127/18 129/14 130/4 136/3 141/13 142/8 146/11 151/4 159/6 159/9 159/10 160/3 160/4 161/13 161/21 161/22 185/2 186/25 188/12 188/15 188/18 188/22 188/25 189/1 <b>thanks [1]</b> 9/4 <b>that [1223]</b> <b>that I [1]</b> 128/15 <b>that's [87]</b> 4/17 5/9 5/24 8/2 15/23 19/21 21/3 22/2 22/9 23/4 24/24 25/4 25/20 28/4 28/12 34/12 35/7 35/13 37/4 46/2 47/21 59/12 66/5 76/21 84/25 85/6 87/25 88/18 92/20 94/6 96/12 107/16 107/17 116/9 116/15 120/20 120/22 123/15 124/5 126/15 126/17 127/19 132/13 132/17 133/3 135/14 137/10 140/2 141/23 142/15 143/5 145/2 146/11 149/12 151/22 153/2 155/25 158/15 160/20 165/19 165/21 165/23 170/10 170/13 173/4 174/18 177/1 177/24 178/20 179/5 179/5 180/5 180/17 180/23 181/2	181/4 181/4 182/5 183/8 184/5 184/19 184/21 185/5 185/7 185/17 187/23 188/1 <b>theft [20]</b> 28/9 35/2 72/11 103/15 132/15 135/4 142/7 142/12 181/1 181/3 181/12 181/16 181/17 181/25 182/2 182/7 183/1 183/1 183/19 184/4 <b>their [89]</b> 6/20 13/3 16/21 18/5 22/22 23/2 23/10 23/11 25/1 25/2 35/3 35/5 39/16 42/4 42/15 51/7 52/7 52/22 56/5 56/15 56/16 57/18 59/17 59/21 60/6 60/7 67/18 70/11 71/25 72/15 72/16 73/5 74/20 77/9 80/5 82/8 82/17 85/14 86/10 86/18 89/1 91/16 94/14 99/17 101/11 101/19 102/6 103/11 106/22 109/7 124/20 128/10 133/13 134/6 135/1 135/18 136/13 138/1 139/8 141/22 142/18 144/25 145/1 146/1 146/9 149/11 149/14 149/15 150/21 151/2 151/11 154/15 154/17 157/4 157/12 164/25 166/5 166/25 167/2 168/11 169/11 171/11 174/18 176/6 178/8 179/14 180/5 181/23 185/10 <b>theirs [1]</b> 149/17 <b>them [68]</b> 3/1 7/5 10/12 14/11 14/13 14/18 15/3 22/22 23/12 48/14 48/15 48/23 49/14 52/11 53/9 53/12 55/2 59/25 60/8 61/14 63/1 69/10 74/22 76/6 80/4 80/23 85/19 89/19 90/15 91/2 93/6 95/10 104/6 104/6 106/17 113/15 114/11 115/20 115/22 122/23 123/11 131/10 131/16 131/25 133/5 133/14 133/17 133/21 133/23 137/20 146/19 146/20 147/24 149/13 149/18 149/24 157/16 157/19 164/7 166/6 169/2 173/12 176/21 177/5 177/16 180/23 181/13 181/22 <b>thematic [3]</b> 136/13 153/16 153/19	<b>theme [1]</b> 69/13 <b>themes [1]</b> 99/4 <b>themselves [5]</b> 53/1 72/19 104/12 154/11 168/25 <b>then [136]</b> 4/11 5/6 5/25 6/13 7/2 10/22 11/6 11/21 12/16 12/17 12/21 15/13 16/5 16/12 18/21 20/13 22/15 23/14 24/6 25/5 25/6 25/13 26/8 26/24 27/21 29/8 29/10 31/19 31/24 32/22 34/10 34/19 34/22 35/16 36/5 37/6 37/20 39/25 41/9 41/13 41/15 41/21 45/17 46/21 46/22 49/11 51/3 51/20 52/15 57/9 57/10 60/8 63/17 64/4 66/17 66/17 67/6 69/12 70/4 70/5 70/14 71/6 71/18 76/21 81/24 82/21 82/23 84/5 84/16 84/17 84/19 85/24 86/13 86/19 93/12 93/21 94/11 95/15 96/4 96/19 99/9 101/22 103/17 103/19 108/9 108/18 109/22 114/9 122/13 123/1 123/2 123/6 123/8 123/21 123/23 124/2 127/15 131/24 132/1 133/9 133/20 136/9 138/17 140/13 140/14 141/6 144/13 146/22 148/17 150/5 150/15 151/11 151/16 151/17 151/21 152/10 154/19 156/1 156/25 158/11 161/6 162/9 165/10 166/10 166/16 168/11 169/14 170/5 173/21 176/25 177/2 178/22 180/7 180/14 181/13 188/18 <b>theoretical [1]</b> 184/1 <b>theory [2]</b> 124/17 124/18 <b>there [248]</b> <b>There'd [1]</b> 180/15 <b>there's [27]</b> 11/8 19/23 70/14 87/1 92/10 93/12 97/6 116/22 116/24 120/19 124/4 127/19 142/11 145/19 147/17 147/19 154/25 163/12 171/4 171/19 176/15 177/15 181/3 181/11 181/13 185/23 186/17
----------	--	--	---	---

<b>T</b>	67/19 67/21 67/24 68/18 69/14 71/10 72/23 74/10 77/20 77/21 77/24 78/2 81/2 85/1 87/1 89/24 90/1 90/10 90/13 95/22 101/22 104/25 105/21 107/4 107/16 107/17 108/7 109/16 111/14 111/25 112/2 113/12 113/18 114/6 115/11 120/6 120/7 120/22 122/10 122/11 124/14 125/9 126/5 126/12 126/13 127/1 128/19 130/17 130/18 131/20 131/21 133/9 137/7 137/16 138/1 138/11 139/8 139/21 141/14 141/23 144/14 144/19 147/8 147/9 147/10 150/13 151/14 151/18 151/22 152/24 154/13 157/16 160/20 163/12 164/18 166/11 169/6 170/6 171/2 171/6 173/7 176/21 179/23 180/1 180/2 180/4 182/10 184/16 184/19 184/19 185/4 187/13 <b>thinking [2]</b> 89/15 121/7 <b>thinks [2]</b> 95/12 120/23 <b>third [11]</b> 10/3 14/4 32/13 47/21 48/8 57/8 92/22 118/8 119/20 148/20 177/21 <b>this [292]</b> <b>Thompson [1]</b> 165/16 <b>Thomson [1]</b> 4/24 <b>those [51]</b> 5/15 5/16 6/8 10/9 14/2 31/15 45/8 52/8 53/2 54/11 57/6 63/15 69/7 72/6 78/3 80/1 84/3 86/16 88/10 94/23 103/4 110/19 110/23 115/6 118/4 126/3 127/20 129/8 129/23 131/25 139/1 139/2 139/7 141/8 142/4 146/23 147/13 150/18 158/3 158/4 160/15 164/2 167/14 174/24 176/18 176/20 178/8 180/12 182/17 184/12 184/15 <b>though [9]</b> 14/7 21/12 52/22 76/15 126/2 136/4 142/19 145/25 173/16 <b>thought [41]</b> 8/17 22/1 36/25 39/21 41/2	56/4 56/9 58/25 59/8 61/7 63/23 84/23 87/14 87/19 87/25 89/11 106/18 107/9 107/17 113/2 113/14 116/3 118/12 118/14 132/12 136/20 140/6 147/12 151/1 157/8 157/11 168/16 172/4 174/21 175/22 177/6 177/8 179/5 179/6 183/6 186/4 <b>thoughts [1]</b> 33/9 <b>threat [2]</b> 107/14 107/15 <b>three [10]</b> 22/16 34/14 41/15 48/7 60/5 76/4 94/5 140/24 186/6 186/21 <b>three years [1]</b> 186/6 <b>threshold [1]</b> 187/18 <b>through [33]</b> 23/3 30/7 32/12 36/14 37/20 51/6 54/13 59/21 60/14 75/24 84/7 84/16 85/20 86/16 86/25 89/12 91/7 99/1 104/7 115/6 122/3 122/13 123/16 132/23 133/11 140/10 144/11 151/9 160/5 171/22 171/24 173/6 182/9 <b>throughout [9]</b> 15/1 18/15 21/5 83/8 116/5 134/14 134/24 155/12 156/10 <b>throw [1]</b> 178/19 <b>throwing [1]</b> 178/17 <b>thrown [1]</b> 24/18 <b>Thursday's [2]</b> 162/19 163/5 <b>thus [1]</b> 40/2 <b>tightrope [1]</b> 36/11 <b>till [3]</b> 39/9 39/17 42/7 <b>time [85]</b> 1/20 2/8 6/25 8/24 10/22 18/2 25/2 26/13 28/14 29/19 30/22 30/23 36/6 40/7 43/22 44/10 45/14 47/2 48/14 54/6 58/13 61/4 61/18 62/1 69/13 70/8 75/15 78/20 79/25 80/24 87/4 87/16 87/18 88/19 88/25 89/13 90/17 90/21 91/18 92/17 94/12 96/9 96/17 98/1 98/10 102/3 102/15 107/9 111/12 113/23 114/7 126/7 130/3 130/3 131/12 131/12 131/17	133/13 134/14 136/11 137/19 137/22 142/4 142/4 142/25 144/2 144/18 145/15 149/1 149/13 149/23 150/14 152/8 157/15 157/25 160/21 166/9 168/1 169/4 171/7 172/4 177/20 179/12 187/3 188/19 <b>time-barred [1]</b> 111/12 <b>timetable [1]</b> 133/5 <b>tiny [1]</b> 37/17 <b>today [19]</b> 1/17 2/15 31/4 68/18 96/17 105/21 115/22 125/3 131/15 137/1 137/8 138/7 139/15 148/6 183/25 184/18 185/14 185/18 187/4 <b>together [4]</b> 20/14 60/10 120/7 132/10 <b>told [39]</b> 4/19 13/22 19/14 20/1 22/3 22/7 22/22 23/12 24/2 38/4 38/14 47/11 48/4 67/20 70/25 77/5 77/18 80/10 82/1 82/6 82/7 88/12 90/22 94/7 106/23 109/15 114/16 128/17 128/20 128/21 129/5 131/22 139/17 139/20 139/21 157/8 168/20 172/3 186/22 <b>tomorrow [1]</b> 188/23 <b>tone [3]</b> 89/9 90/5 105/10 <b>Tony [5]</b> 127/24 128/1 146/18 146/24 175/21 <b>too [17]</b> 25/2 58/15 59/20 60/25 73/9 107/12 117/9 132/12 133/17 147/4 151/3 166/2 168/5 169/23 171/16 184/23 186/23 <b>took [18]</b> 5/21 10/1 10/1 24/12 50/21 59/9 83/1 90/8 120/1 121/12 122/4 130/21 130/24 164/13 168/14 171/7 173/13 186/6 <b>top [7]</b> 19/11 22/17 41/9 52/17 63/5 84/22 120/9 <b>topic [2]</b> 25/8 164/18 <b>topics [1]</b> 115/6 <b>total [5]</b> 34/17 72/24 72/24 73/1 128/19 <b>tour [1]</b> 187/1 <b>towards [7]</b> 74/15 86/13 87/23 148/9 154/1 169/6 186/3	<b>track [1]</b> 57/12 <b>tracking [1]</b> 41/14 <b>Trade [2]</b> 3/13 3/16 <b>trading [2]</b> 57/25 100/11 <b>trail [2]</b> 49/12 57/23 <b>trainer [1]</b> 176/21 <b>training [9]</b> 24/19 27/25 31/21 34/1 57/22 70/11 99/5 101/16 167/13 <b>transaction [6]</b> 49/12 49/15 49/19 57/15 57/23 76/15 <b>transactions [4]</b> 49/13 57/17 57/19 75/13 <b>transcribing [1]</b> 96/14 <b>transit [1]</b> 36/14 <b>transition [2]</b> 121/1 148/7 <b>transitioned [1]</b> 121/8 <b>transparency [7]</b> 56/7 70/21 72/24 73/1 94/1 94/17 128/20 <b>transparent [4]</b> 31/12 37/12 54/23 56/12 <b>transparently [2]</b> 14/13 17/9 <b>tread [1]</b> 134/6 <b>treading [1]</b> 36/10 <b>treat [1]</b> 175/5 <b>treated [2]</b> 21/8 60/4 <b>trial [3]</b> 43/10 64/9 126/9 <b>trials [2]</b> 187/25 188/7 <b>tried [3]</b> 113/14 134/21 150/24 <b>trigger [1]</b> 100/21 <b>trouble [1]</b> 13/21 <b>troubling [1]</b> 10/22 <b>true [21]</b> 2/3 28/14 37/25 38/3 38/11 38/12 38/23 40/6 40/7 40/11 41/23 101/4 116/15 118/1 118/14 129/1 153/14 168/8 168/9 169/10 169/11 <b>trust [5]</b> 37/9 102/4 106/6 113/15 183/2 <b>trustworthiness [1]</b> 37/14 <b>trustworthy [2]</b> 35/23 37/10 <b>truth [5]</b> 28/23 54/15 56/12 107/12 117/22 <b>try [11]</b> 1/6 82/16 104/6 113/3 113/12 116/10 132/1 144/16 146/8 169/1 174/25 <b>trying [25]</b> 36/15 65/5
----------	---	---	---	---

<b>T</b>	<b>unaware [5]</b> 45/19 45/19 45/22 46/1 101/12	148/12 154/3	105/8 109/12 114/16 120/25 121/22 123/1 124/12 129/17 131/18 133/6 134/10 135/7 140/10 141/20 144/16 147/16 151/13 152/16 153/25 154/10 157/7 163/10 168/23 174/9 182/16	28/7 30/2 31/7 32/21 35/22 35/25 37/19 37/23 38/6 47/16 55/15 63/22 65/14 76/10 77/2 78/20 82/18 84/1 94/23 95/4 96/7 96/15 96/16 96/22 100/17 101/23 106/2 109/20 116/7 117/14 117/21 118/4 118/11 118/17 120/9 121/20 122/15 122/15 123/15 125/14 125/25 126/16 130/24 131/4 131/24 132/4 133/4 133/11 133/21 134/12 135/25 136/20 136/20 136/22 136/24 137/5 137/5 138/4 138/13 140/7 141/23 148/6 148/12 150/15 150/22 152/3 152/4 155/2 156/11 159/6 159/10 160/4 160/6 160/11 161/21 161/23 164/18 167/21 171/25 172/7 173/8 173/20 174/13 176/9 177/9 177/13 180/25 181/10 184/9 185/3 186/25 187/9 187/9 187/11 187/11 187/18 187/24 188/11 188/12 188/15 188/18 188/20 188/25
<b>trying... [23]</b> 65/9 69/10 77/6 77/6 91/11 91/13 93/6 108/15 134/5 143/1 148/7 149/22 151/14 151/19 151/22 151/23 152/22 154/7 158/1 177/1 177/5 179/9 187/10	<b>unchanged [1]</b> 159/3 <b>unclear [1]</b> 149/14 <b>uncomfortable [1]</b> 89/11 <b>uncommitted [1]</b> 89/11 <b>unconvincing [2]</b> 105/12 105/16 <b>uncovered [1]</b> 17/13 <b>uncovering [3]</b> 104/13 107/10 107/13 <b>undefined [1]</b> 109/5 <b>under [13]</b> 9/7 31/2 58/17 58/20 63/1 75/5 96/17 99/4 101/12 110/2 112/3 138/24 177/17 <b>undergone [1]</b> 49/9 <b>underlying [4]</b> 99/13 99/17 155/24 188/3 <b>undermine [1]</b> 64/8 <b>undermined [3]</b> 63/24 79/10 79/16 <b>undermines [1]</b> 63/13 <b>Undersecretary [2]</b> 12/18 18/1 <b>understand [29]</b> 9/18 24/1 25/3 26/20 31/6 33/12 36/18 53/15 56/3 56/8 58/22 59/22 64/22 69/2 76/20 85/18 88/22 116/14 124/14 124/15 128/25 130/21 142/1 146/6 156/4 162/13 172/8 185/24 186/14 <b>understandable [2]</b> 134/19 146/10 <b>understandably [1]</b> 68/22 <b>understanding [5]</b> 61/6 70/16 70/20 83/8 137/23 <b>understood [1]</b> 124/12 <b>undertaken [2]</b> 50/5 60/9 <b>undertaking [2]</b> 50/17 129/6 <b>undoable [1]</b> 121/14 <b>unduly [2]</b> 135/20 157/12 <b>unearthing [1]</b> 101/4 <b>unexpected [1]</b> 36/24 <b>unfair [2]</b> 45/16 157/9 <b>unfortunately [1]</b> 187/2 <b>unhappy [3]</b> 144/8	<b>unimportant [1]</b> 64/10 <b>Union [1]</b> 21/13 <b>unions [1]</b> 9/10 <b>unique [1]</b> 117/18 <b>United [1]</b> 188/5 <b>unless [1]</b> 68/9 <b>unlikely [4]</b> 14/17 77/18 162/17 174/13 <b>unlock [1]</b> 49/18 <b>unreasonable [1]</b> 161/3 <b>unrestricted [1]</b> 78/9 <b>unsafe [10]</b> 78/15 82/9 88/11 90/25 91/20 167/11 170/9 170/13 178/25 184/13 <b>unsubstantiated [3]</b> 146/20 147/10 148/3 <b>until [18]</b> 25/1 43/25 61/2 67/10 68/9 83/9 96/19 97/14 128/13 132/20 136/11 136/13 147/24 163/5 163/16 163/24 179/16 189/3 <b>untrue [2]</b> 39/1 39/6 <b>unwilling [1]</b> 43/16 <b>up [63]</b> 6/1 7/12 11/9 12/14 18/21 24/18 25/2 30/10 32/23 37/6 38/20 46/11 46/22 51/25 66/9 69/23 72/15 72/21 74/22 81/3 81/10 81/12 82/10 82/25 84/5 84/8 85/25 86/1 87/8 88/20 91/22 91/23 92/4 94/3 94/17 97/14 98/4 106/25 112/6 112/8 120/1 120/9 124/19 126/16 127/5 130/10 133/24 137/13 143/1 144/22 149/8 149/22 150/25 151/14 151/22 151/24 153/15 160/18 160/21 167/15 180/23 183/6 183/7 <b>update [1]</b> 52/5 <b>uploaded [1]</b> 2/14 <b>upon [2]</b> 163/6 188/10 <b>Uppermost [1]</b> 98/16 <b>upset [2]</b> 13/2 18/4 <b>urgency [2]</b> 8/5 18/9 <b>URN [1]</b> 1/21 <b>us [52]</b> 1/3 1/13 1/18 2/11 5/2 9/13 10/20 13/13 14/10 16/16 47/8 53/24 56/22 56/23 58/16 62/19 70/25 73/8 81/10 87/7 87/18 89/18 90/5 92/8 97/1 102/3 103/25	<b>use [14]</b> 3/24 5/17 21/5 22/4 22/7 22/9 33/8 39/20 52/25 61/16 69/14 121/14 174/1 174/6 <b>used [14]</b> 16/19 27/8 27/16 38/9 61/11 79/8 85/4 104/11 155/12 155/15 175/6 175/7 176/6 178/20 <b>useful [1]</b> 126/20 <b>ushers [1]</b> 116/12 <b>using [3]</b> 27/3 38/9 61/12 <b>usually [1]</b> 100/19	<b>V</b>
<b>turn [30]</b> 1/23 12/8 13/8 17/24 22/15 30/25 38/8 39/7 51/17 52/4 59/2 65/11 69/23 81/7 81/14 83/16 84/5 87/7 88/20 94/3 98/1 98/4 107/15 112/21 117/21 140/9 142/14 142/16 161/20 165/6	<b>turnaround [2]</b> 116/22 133/12 <b>turned [3]</b> 29/21 81/24 177/18 <b>Turning [1]</b> 16/14 <b>turns [1]</b> 63/16 <b>two [22]</b> 5/16 6/6 6/17 7/18 7/19 13/16 40/16 52/18 90/18 108/13 118/3 123/9 123/11 133/9 133/11 147/17 150/18 162/1 167/5 181/5 186/21 188/3	<b>untrue [2]</b> 39/1 39/6 <b>unwilling [1]</b> 43/16 <b>up [63]</b> 6/1 7/12 11/9 12/14 18/21 24/18 25/2 30/10 32/23 37/6 38/20 46/11 46/22 51/25 66/9 69/23 72/15 72/21 74/22 81/3 81/10 81/12 82/10 82/25 84/5 84/8 85/25 86/1 87/8 88/20 91/22 91/23 92/4 94/3 94/17 97/14 98/4 106/25 112/6 112/8 120/1 120/9 124/19 126/16 127/5 130/10 133/24 137/13 143/1 144/22 149/8 149/22 150/25 151/14 151/22 151/24 153/15 160/18 160/21 167/15 180/23 183/6 183/7 <b>update [1]</b> 52/5 <b>uploaded [1]</b> 2/14 <b>upon [2]</b> 163/6 188/10 <b>Uppermost [1]</b> 98/16 <b>upset [2]</b> 13/2 18/4 <b>urgency [2]</b> 8/5 18/9 <b>URN [1]</b> 1/21 <b>us [52]</b> 1/3 1/13 1/18 2/11 5/2 9/13 10/20 13/13 14/10 16/16 47/8 53/24 56/22 56/23 58/16 62/19 70/25 73/8 81/10 87/7 87/18 89/18 90/5 92/8 97/1 102/3 103/25	<b>value [1]</b> 28/20 <b>van [11]</b> 29/11 34/20 40/16 42/14 85/23 103/4 103/10 106/13 107/4 143/10 150/23 <b>vanishingly [1]</b> 14/16 <b>various [10]</b> 11/4 125/22 136/3 142/18 152/16 155/7 157/23 170/5 171/20 182/9 <b>Vennells [65]</b> 12/21 16/3 16/5 16/12 17/22 19/14 26/6 26/10 26/11 26/18 26/24 28/23 29/7 30/3 30/4 34/20 36/22 37/6 39/16 41/17 42/13 48/12 49/3 62/6 62/21 63/20 64/24 66/17 67/20 67/25 70/3 70/21 80/16 84/9 84/12 92/12 93/5 94/7 94/16 95/16 99/9 103/2 106/22 107/6 108/2 108/23 109/23 111/16 113/5 119/19 120/10 120/21 129/16 130/3 133/1 134/22 135/11 135/17 137/19 137/22 146/16 146/16 147/13 161/9 171/19 <b>verify [1]</b> 75/20 <b>version [5]</b> 102/20 162/1 162/4 162/8 162/11 <b>very [111]</b> 1/8 1/16 20/16 20/24 22/9 26/25 27/18 27/24	<b>vet [1]</b> 51/14 <b>vetting [1]</b> 50/23 <b>via [2]</b> 51/8 112/24 <b>view [51]</b> 2/15 12/1 14/12 61/22 66/13 66/22 72/19 78/10 88/1 90/3 107/20 120/13 122/4 123/7 134/4 134/7 134/8 135/21 138/2 138/15 144/5 146/4 150/17 150/19 154/5 154/24 155/25 155/25 159/1 159/2 163/25 167/8 168/14 170/14 171/25 172/7 172/16 172/17 172/17 173/11 173/13 173/15 173/15 173/16 173/19 174/11 174/13 175/11 178/22 179/2 183/23 186/16 <b>views [7]</b> 32/3 61/24 94/25 105/25 106/2 174/9 177/12 <b>village [1]</b> 13/19 <b>virtually [2]</b> 28/2 100/20 <b>visible [2]</b> 97/4 97/5 <b>visit [4]</b> 16/17 23/5 75/9 76/7
<b>turnaround [2]</b> 116/22 133/12 <b>turned [3]</b> 29/21 81/24 177/18 <b>Turning [1]</b> 16/14 <b>turns [1]</b> 63/16 <b>two [22]</b> 5/16 6/6 6/17 7/18 7/19 13/16 40/16 52/18 90/18 108/13 118/3 123/9 123/11 133/9 133/11 147/17 150/18 162/1 167/5 181/5 186/21 188/3 <b>type [1]</b> 14/17 <b>typical [2]</b> 129/24 152/21 <b>Tyrie [2]</b> 29/23 33/16	<b>U</b>			
<b>UKGI00000032 [1]</b> 165/6 <b>UKGI00001395 [1]</b> 17/25 <b>UKGI00002221 [1]</b> 146/12 <b>UKGI00002385 [1]</b> 160/10 <b>UKGI00011506 [1]</b> 8/22 <b>UKGI00019286 [1]</b> 148/15 <b>Ukraine [1]</b> 119/13 <b>ultimately [4]</b> 103/22 123/3 158/17 163/21 <b>unabated [1]</b> 22/13 <b>unable [3]</b> 43/16 104/23 105/1 <b>unanimous [2]</b> 162/15 162/16 <b>unanimously [1]</b> 124/1 <b>unaudited [1]</b> 78/9	<b>understandable [2]</b> 134/19 146/10 <b>understandably [1]</b> 68/22 <b>understanding [5]</b> 61/6 70/16 70/20 83/8 137/23 <b>understood [1]</b> 124/12 <b>undertaken [2]</b> 50/5 60/9 <b>undertaking [2]</b> 50/17 129/6 <b>undoable [1]</b> 121/14 <b>unduly [2]</b> 135/20 157/12 <b>unearthing [1]</b> 101/4 <b>unexpected [1]</b> 36/24 <b>unfair [2]</b> 45/16 157/9 <b>unfortunately [1]</b> 187/2 <b>unhappy [3]</b> 144/8			

<b>V</b>	61/23 74/1 93/9 93/15 94/9 101/18 110/4 111/11 116/23 120/5 121/11 125/11 127/13 127/16 130/11 133/23 146/6 146/9 149/25 154/20 156/2 165/14 166/1 172/5 179/2 179/2 180/5 183/12 184/9 187/24	156/21 157/25 158/1 158/9 163/16 164/17 164/23 165/19 170/10 172/2 174/8 177/18 180/9 184/2 184/21 188/18	176/5 176/9 176/22 177/1 178/3 178/3 178/22 179/5 179/5 179/21 179/22 180/7 180/11 181/4 183/23 184/5 184/18 185/17 186/14	77/4 83/9 97/4 97/8 98/10 98/18 116/15 121/3 122/6 122/18 123/6 123/8 138/5 138/25 143/8 150/10 155/19 164/19 168/12 168/23 169/2 170/24 181/14 183/12 184/6 187/15 187/17 187/20
<b>visiting [1]</b> 77/3 <b>visitor [1]</b> 75/19 <b>visitors [1]</b> 76/1 <b>voluntarily [1]</b> 113/9 <b>vote [8]</b> 123/9 123/13 124/2 124/3 162/16 162/18 164/19 169/6 <b>voted [1]</b> 163/6	<b>way' [1]</b> 63/11 <b>ways [3]</b> 31/17 111/24 112/13 <b>we [362]</b> <b>we'd [3]</b> 108/11 151/15 176/8 <b>we'll [11]</b> 32/4 32/12 34/13 54/8 82/16 84/12 125/5 149/7 166/16 182/7 184/22 <b>we're [20]</b> 7/14 52/4 59/7 82/10 83/16 116/10 116/23 120/18 131/20 136/24 139/15 139/25 142/15 157/9 157/10 161/20 165/6 171/14 174/23 181/4 <b>we've [18]</b> 15/23 35/13 40/15 42/3 57/3 59/12 65/24 65/25 66/2 68/6 81/16 95/9 152/13 156/20 172/25 173/2 180/22 187/6 <b>website [2]</b> 2/15 118/18 <b>Wednesday [1]</b> 1/1 <b>week [4]</b> 16/17 38/19 143/25 167/18 <b>Weekly [4]</b> 4/24 23/9 23/12 131/2 <b>weeks [2]</b> 58/15 171/9 <b>weight [1]</b> 59/15 <b>welcomed [2]</b> 84/12 116/2 <b>well [75]</b> 5/15 8/17 13/19 16/16 25/11 27/15 33/23 35/24 37/12 39/18 40/8 40/20 41/3 55/2 56/18 58/5 62/3 63/21 63/21 65/3 67/17 73/21 73/25 74/1 74/17 83/2 83/12 83/18 89/22 94/16 103/2 103/6 108/11 109/15 112/1 115/18 116/8 118/21 118/25 121/13 121/16 121/23 122/10 127/1 128/5 128/19 130/17 130/24 131/12 133/8 133/12 135/11 135/24 137/24 137/24 139/19 144/10 145/12 149/7	<b>went [13]</b> 56/24 62/21 67/16 93/21 123/1 139/5 144/19 160/21 161/10 172/20 183/23 187/9 187/11 <b>were [254]</b> <b>weren't [10]</b> 26/4 54/23 91/12 106/7 132/6 142/24 145/5 156/9 179/15 181/22 <b>what [174]</b> 6/23 8/16 10/9 10/15 10/25 11/1 14/12 14/18 15/4 16/10 20/10 21/25 22/2 22/10 22/11 24/14 25/9 25/20 26/10 27/8 28/21 29/4 29/20 30/6 30/9 30/10 33/9 33/12 33/13 33/16 33/16 36/18 37/4 38/4 38/14 39/3 39/4 39/14 40/8 40/12 41/21 43/14 45/14 47/1 47/2 48/22 49/14 54/11 55/4 59/2 61/25 62/2 63/12 63/21 64/16 66/2 66/7 67/18 68/13 69/4 69/11 70/9 70/16 72/23 73/3 78/10 80/9 81/12 81/16 82/12 82/21 82/21 83/8 83/15 83/25 85/6 87/25 88/1 88/4 88/18 89/13 89/25 90/2 90/4 90/11 91/16 92/4 96/9 97/16 104/25 106/3 107/2 107/16 107/18 108/7 109/15 114/15 115/9 116/3 118/14 120/11 121/22 122/16 123/2 125/7 125/7 125/13 126/3 126/25 127/2 130/14 130/25 131/2 131/9 132/8 132/17 132/21 137/23 139/2 139/5 139/22 141/3 142/1 142/5 143/14 146/6 146/25 147/22 149/2 150/20 151/18 151/23 154/5 154/8 156/3 156/6 157/25 158/3 158/14 158/15 160/25 162/10 163/10 163/20 167/24 168/9 168/20 170/4 170/4 170/21 171/25 172/3 172/8 174/9 174/18	<b>what's [7]</b> 2/7 25/5 37/20 58/23 97/6 166/11 186/22 <b>whatever [3]</b> 60/12 77/8 179/14 <b>whatsoever [1]</b> 69/1 <b>when [68]</b> 5/22 10/5 12/4 15/6 19/12 21/2 22/21 24/12 24/22 27/22 30/4 30/18 38/18 46/10 46/14 54/8 54/12 65/10 65/13 65/18 72/11 74/4 77/2 80/24 81/2 89/23 91/10 91/13 98/1 99/20 100/8 100/19 101/6 104/25 105/7 105/9 108/11 111/3 114/15 117/9 121/5 121/6 125/3 126/21 128/8 130/21 130/24 131/6 132/2 132/14 134/17 134/18 136/21 139/1 139/2 139/14 140/2 144/24 145/4 149/4 149/16 152/8 158/13 159/19 164/17 173/19 179/16 186/13 <b>whenever [1]</b> 98/20 <b>where [52]</b> 2/10 5/19 8/5 10/12 32/23 32/23 37/18 41/11 41/13 41/19 41/25 42/9 47/13 49/5 53/20 60/5 77/14 78/1 99/15 102/18 102/23 103/19 109/6 114/2 116/16 117/22 118/5 123/25 126/18 126/19 138/14 140/9 140/11 144/21 147/19 148/23 151/12 152/10 153/23 158/21 159/25 162/14 163/13 167/11 172/15 175/6 175/8 175/25 185/24 186/2 186/17 186/21 <b>whereas [2]</b> 61/12 176/14 <b>wherever [1]</b> 61/13 <b>whether [50]</b> 16/10 26/9 27/14 27/15 36/24 37/25 38/2 38/11 38/12 38/23 39/21 40/7 41/1 41/4 41/10 41/23 45/8 50/9 61/18 65/6 74/3 74/8	<b>which [147]</b> 2/24 7/4 7/19 9/8 9/24 10/4 11/23 13/21 13/21 14/5 14/12 15/9 17/1 18/19 22/7 22/8 22/9 23/1 24/20 25/2 28/7 28/9 34/23 35/5 38/19 40/6 40/24 42/19 42/21 42/25 43/5 43/16 43/21 45/10 45/16 45/17 46/17 46/24 48/15 49/13 49/16 49/22 50/8 50/22 51/4 51/15 56/18 56/19 56/22 57/6 59/17 60/22 61/8 62/6 63/10 64/5 65/5 65/12 67/6 67/12 68/2 69/24 70/17 71/19 72/13 73/23 77/25 78/8 78/20 79/7 79/9 80/4 81/7 81/17 82/17 82/25 83/15 83/21 84/3 84/8 88/12 88/15 89/4 89/14 91/19 92/1 94/24 95/13 97/13 102/8 102/17 103/3 103/22 105/8 105/21 106/19 106/19 107/7 107/7 107/25 114/23 115/6 116/2 116/6 116/11 118/10 118/15 121/25 123/18 124/6 126/8 126/8 127/13 128/5 128/25 130/12 136/1 138/22 145/14 146/15 152/13 152/18 153/22 154/19 155/3 156/20 159/23 161/9 161/15 162/8 163/7 163/12 165/4 166/14 167/14 168/25 169/4 170/1 170/20 171/6 173/7 183/8 183/14 186/1 186/15 187/25 188/10 <b>whilst [4]</b> 59/14 83/6 147/2 166/18 <b>Whip [2]</b> 3/16 3/18 <b>whistlestop [1]</b> 187/1 <b>who [75]</b> 5/15 5/21 6/16 7/9 8/15 8/17 8/18 13/2 13/7 13/8 13/22 14/17 15/1 16/17 16/19 16/20
<b>W</b>	<b>waiting [2]</b> 61/2 136/24 <b>Walker [5]</b> 34/10 55/10 62/25 92/12 95/11 <b>wall [1]</b> 109/20 <b>Wallis [1]</b> 12/12 <b>waning [2]</b> 147/2 147/11 <b>want [20]</b> 20/19 23/14 26/9 30/6 34/7 37/20 46/16 48/20 57/5 66/7 68/13 92/20 96/9 109/24 134/19 154/8 171/12 174/23 177/11 184/7 <b>wanted [24]</b> 8/16 10/15 30/4 47/1 56/4 70/25 84/13 97/7 126/11 126/25 132/7 132/8 133/14 141/23 147/24 174/14 174/16 174/18 176/22 178/5 178/7 179/12 185/20 186/7 <b>wanting [1]</b> 62/11 <b>wants [3]</b> 46/22 97/6 146/5 <b>warehouse [2]</b> 178/17 178/19 <b>Warmington [7]</b> 50/13 52/6 68/15 77/5 84/10 102/4 151/25 <b>Warmington's [1]</b> 102/11 <b>Warnborough [5]</b> 7/24 13/20 15/7 16/20 87/12 <b>was [560]</b> <b>wasn't [21]</b> 17/23 37/1 73/3 105/2 109/18 114/2 124/19 128/13 131/4 131/8 131/13 137/16 140/21 145/2 148/2 148/4 155/1 164/12 164/23 170/25 175/4 <b>watching [1]</b> 184/15 <b>way [42]</b> 8/7 8/20 14/5 21/6 25/14 26/16 36/16 36/20 39/10 41/23 56/18 61/7			



<b>W</b>	167/19 167/21 167/22 172/19 177/13 188/23 188/25	169/1 185/11 187/19 <b>worked [4]</b> 59/18 61/7 131/22 133/22	126/14 126/20 127/11 127/22 128/17 129/2 129/3 129/5 129/10 129/12 129/12 130/19 130/22 131/5 131/23 132/1 133/4 133/11 134/2 134/7 134/19 135/1 135/24 136/25 138/23 139/13 140/6 140/25 141/2 146/9 148/3 150/15 150/25 151/15 151/17 151/18 154/8 154/16 157/5 158/6 159/22 159/25 163/14 163/17 165/3 168/11 168/11 168/16 168/17 168/24 174/1 175/5 175/9 176/2 179/13 179/15 180/11 181/21 183/6 185/16 185/17 186/22 187/3 <b>wouldn't [10]</b> 28/16 30/22 46/21 49/18 67/17 83/18 84/2 130/19 170/21 185/13	33/5 92/7 135/14 159/5 <b>year [4]</b> 15/4 61/3 117/19 151/6 <b>years [20]</b> 2/22 27/15 35/1 58/13 59/18 63/22 81/5 114/9 115/7 118/25 119/9 131/11 142/10 144/25 171/8 182/20 182/22 184/24 184/24 186/6 <b>yes [206]</b> <b>yesterday [3]</b> 26/21 115/21 162/3 <b>yet [12]</b> 4/23 7/25 25/4 40/9 53/3 54/23 56/13 56/21 60/13 68/20 128/2 148/22 <b>you [681]</b> <b>you'd [5]</b> 20/22 102/4 108/7 152/25 174/21 <b>you'll [10]</b> 8/22 9/25 17/25 40/13 66/6 84/9 118/21 143/2 144/12 186/20 <b>you're [24]</b> 4/15 13/6 18/20 18/24 19/4 21/18 53/16 54/16 61/25 62/24 66/8 67/7 74/12 85/1 98/24 112/4 114/6 134/18 144/10 151/20 151/20 169/14 169/15 178/3 <b>you've [22]</b> 1/19 2/7 6/6 33/25 69/16 82/22 82/22 97/18 123/24 140/10 151/9 155/21 156/12 160/20 161/8 177/25 182/10 182/10 182/17 183/25 184/18 185/18 <b>your [160]</b> 1/13 2/1 2/4 2/6 2/10 2/11 2/19 2/22 3/1 3/3 4/8 4/14 4/18 5/16 6/22 8/1 8/6 8/20 8/24 9/16 9/24 10/9 10/20 11/19 12/1 12/9 12/12 12/23 13/13 14/9 14/10 14/16 15/22 16/8 16/14 17/4 17/7 19/7 19/21 22/4 29/13 31/15 32/3 33/9 34/10 45/13 47/1 50/7 51/6 51/14 52/8 53/18 53/24 54/5 55/4 55/10 57/3 57/3 61/4 62/6 62/19 64/21 65/18 65/25 66/2 66/22 68/17 68/18 69/16 69/24 70/16 72/19 78/10 78/19 81/11 83/8 87/7 87/15 87/18 88/1 88/20 92/3 92/8
<b>who... [59]</b> 18/4 18/15 22/7 23/19 26/15 26/15 31/2 31/15 33/14 38/20 45/9 47/16 50/17 52/10 52/10 52/11 52/13 72/14 75/12 82/7 82/13 83/10 84/1 84/1 92/11 96/14 96/20 102/25 106/15 108/4 110/23 115/19 120/13 121/2 122/4 122/21 126/11 128/22 129/20 129/20 133/11 135/10 137/18 139/5 139/7 144/2 161/15 162/25 165/15 165/16 172/19 174/14 174/15 174/24 176/14 181/24 184/15 186/18 187/22	<b>Williams [1]</b> 161/24 <b>willingness [1]</b> 55/19 <b>wish [3]</b> 115/8 122/12 123/13 <b>wished [3]</b> 30/17 56/12 122/11 <b>wishes [1]</b> 86/8 <b>wishing [1]</b> 69/8 <b>withdrawal [1]</b> 112/17 <b>withdrawn [3]</b> 56/16 166/5 169/11 <b>within [8]</b> 2/17 80/19 85/11 95/10 135/3 154/10 163/14 165/17 <b>without [11]</b> 52/22 56/25 60/16 64/3 69/7 77/7 100/1 129/25 155/15 169/1 176/24 <b>WITN00020100 [1]</b> 1/21 <b>WITN00430100 [1]</b> 117/18 <b>witness [48]</b> 1/17 1/19 1/22 2/3 2/6 2/14 10/20 11/19 14/10 17/4 17/7 19/21 22/4 29/13 30/18 50/7 53/24 55/4 62/19 65/19 69/16 69/24 78/19 79/7 79/16 81/11 85/3 87/7 88/20 91/7 92/3 94/2 97/14 98/5 102/3 102/14 103/7 104/17 109/12 112/22 114/8 114/12 117/5 117/15 128/14 128/22 134/21 188/19 <b>witnessed [1]</b> 76/15 <b>Wolstenholme [1]</b> 42/17 <b>won't [1]</b> 111/17 <b>wonder [1]</b> 52/7 <b>Wood [3]</b> 40/24 41/1 45/20 <b>word [11]</b> 22/5 22/7 39/20 61/10 61/15 61/16 69/14 106/24 121/14 172/14 174/5 <b>words [9]</b> 27/8 95/18 104/11 116/17 136/19 137/3 146/23 149/3 183/15 <b>work [27]</b> 3/13 5/4 27/23 37/12 59/1 60/9 60/13 66/22 68/21 70/12 70/16 76/3 84/13 86/13 86/15 87/23 125/7 125/9 129/6 133/13 133/19 133/22 151/3 157/20	<b>Workers [1]</b> 21/13 <b>working [49]</b> 52/13 58/7 113/2 121/18 121/20 121/21 123/21 124/8 125/12 128/18 128/20 130/2 132/9 139/24 140/23 141/17 142/15 143/17 143/20 143/24 145/23 148/24 150/7 153/1 153/3 153/6 155/5 160/6 162/13 162/14 162/23 162/25 163/5 163/9 163/17 163/24 164/9 164/12 165/9 165/14 166/1 166/4 167/22 168/4 168/9 168/12 180/3 185/9 186/20 <b>workings [2]</b> 33/18 122/7 <b>works [2]</b> 23/6 39/11 <b>world [4]</b> 184/1 184/2 184/2 188/5 <b>worm [1]</b> 81/24 <b>worried [7]</b> 13/11 54/25 107/9 107/11 147/3 175/4 187/24 <b>worrying [1]</b> 11/17 <b>would [169]</b> 3/4 5/20 6/22 8/1 8/6 10/18 13/17 14/17 15/18 17/15 18/7 18/8 18/24 19/4 22/11 24/1 24/4 25/13 27/16 28/14 28/17 28/22 28/22 28/23 29/2 30/14 31/14 33/13 33/17 33/19 33/19 39/14 41/6 42/4 49/23 49/25 50/3 51/16 52/18 53/4 55/21 55/22 55/23 56/1 60/13 60/20 60/22 63/10 63/23 63/24 64/7 64/25 67/20 70/5 71/24 72/2 72/17 72/19 73/18 74/19 74/24 76/1 76/10 77/8 77/18 78/10 78/13 82/1 82/5 82/6 83/15 85/8 85/11 86/23 87/4 93/15 94/20 95/14 96/5 98/20 99/20 100/5 103/20 104/2 104/15 106/18 107/8 108/13 110/24 111/19 113/3 113/12 115/19 119/24 120/25 121/4 121/11 121/13 122/9 123/6 123/7 123/9 124/4 125/1 126/14 126/14	126/14 126/20 127/11 127/22 128/17 129/2 129/3 129/5 129/10 129/12 129/12 130/19 130/22 131/5 131/23 132/1 133/4 133/11 134/2 134/7 134/19 135/1 135/24 136/25 138/23 139/13 140/6 140/25 141/2 146/9 148/3 150/15 150/25 151/15 151/17 151/18 154/8 154/16 157/5 158/6 159/22 159/25 163/14 163/17 165/3 168/11 168/11 168/16 168/17 168/24 174/1 175/5 175/9 176/2 179/13 179/15 180/11 181/21 183/6 185/16 185/17 186/22 187/3 <b>wouldn't [10]</b> 28/16 30/22 46/21 49/18 67/17 83/18 84/2 130/19 170/21 185/13 <b>wrangling [1]</b> 112/9 <b>wraps [1]</b> 32/23 <b>write [8]</b> 5/21 6/3 7/15 7/16 8/17 157/5 162/25 188/19 <b>writing [9]</b> 7/2 7/8 12/24 15/11 16/6 18/20 28/18 109/20 149/23 <b>written [8]</b> 4/23 4/24 20/21 24/22 78/7 147/12 169/8 174/10 <b>wrong [37]</b> 13/24 20/5 21/14 21/19 33/14 38/18 38/21 55/14 56/23 66/14 70/9 83/25 120/24 134/17 138/2 142/6 142/11 154/19 154/23 154/24 154/25 156/1 168/19 171/4 172/20 174/21 176/8 176/20 177/18 178/25 179/8 180/15 180/17 181/15 183/23 187/9 187/12 <b>wrongful [1]</b> 126/12 <b>wrongly [7]</b> 10/5 15/2 18/16 106/24 138/5 175/1 179/5 <b>wrote [17]</b> 12/15 17/24 51/22 54/6 55/2 55/10 103/10 108/2 112/16 113/4 114/17 114/17 114/18 118/8 118/9 164/6 183/16	
<b>who... [59]</b> 18/4 18/15 22/7 23/19 26/15 26/15 31/2 31/15 33/14 38/20 45/9 47/16 50/17 52/10 52/10 52/11 52/13 72/14 75/12 82/7 82/13 83/10 84/1 84/1 92/11 96/14 96/20 102/25 106/15 108/4 110/23 115/19 120/13 121/2 122/4 122/21 126/11 128/22 129/20 129/20 133/11 135/10 137/18 139/5 139/7 144/2 161/15 162/25 165/15 165/16 172/19 174/14 174/15 174/24 176/14 181/24 184/15 186/18 187/22	<b>who'd [1]</b> 84/3 <b>whole [13]</b> 11/16 40/25 60/21 85/9 86/20 87/4 109/17 119/1 121/13 123/14 134/14 155/13 177/10 <b>wholly [1]</b> 20/5 <b>whom [6]</b> 79/21 80/21 89/3 102/16 102/24 103/5 <b>whose [4]</b> 35/22 53/2 110/11 164/2 <b>why [33]</b> 7/8 8/11 10/14 22/19 59/22 59/24 64/1 67/1 83/2 83/19 88/3 88/23 96/3 105/15 107/4 113/12 121/15 124/22 124/23 135/14 136/16 147/16 147/22 149/12 151/20 154/23 160/2 160/24 164/22 175/10 180/1 182/16 184/16 <b>wide [2]</b> 19/5 61/11 <b>widen [1]</b> 166/22 <b>widening [1]</b> 169/21 <b>wider [5]</b> 16/13 34/4 168/21 169/15 187/13 <b>will [51]</b> 2/14 6/1 8/3 9/1 15/13 27/22 31/10 31/13 31/23 38/20 40/5 46/4 46/6 63/17 63/18 68/21 68/25 69/5 86/15 86/18 100/10 100/19 100/20 109/4 111/12 111/13 118/17 120/14 121/2 121/3 127/14 127/17 127/24 133/8 141/7 143/24 152/15 153/6 153/23 162/24 163/7 165/21 167/6 167/18	<b>workings [2]</b> 33/18 122/7 <b>works [2]</b> 23/6 39/11 <b>world [4]</b> 184/1 184/2 184/2 188/5 <b>worm [1]</b> 81/24 <b>worried [7]</b> 13/11 54/25 107/9 107/11 147/3 175/4 187/24 <b>worrying [1]</b> 11/17 <b>would [169]</b> 3/4 5/20 6/22 8/1 8/6 10/18 13/17 14/17 15/18 17/15 18/7 18/8 18/24 19/4 22/11 24/1 24/4 25/13 27/16 28/14 28/17 28/22 28/22 28/23 29/2 30/14 31/14 33/13 33/17 33/19 33/19 39/14 41/6 42/4 49/23 49/25 50/3 51/16 52/18 53/4 55/21 55/22 55/23 56/1 60/13 60/20 60/22 63/10 63/23 63/24 64/7 64/25 67/20 70/5 71/24 72/2 72/17 72/19 73/18 74/19 74/24 76/1 76/10 77/8 77/18 78/10 78/13 82/1 82/5 82/6 83/15 85/8 85/11 86/23 87/4 93/15 94/20 95/14 96/5 98/20 99/20 100/5 103/20 104/2 104/15 106/18 107/8 108/13 110/24 111/19 113/3 113/12 115/19 119/24 120/25 121/4 121/11 121/13 122/9 123/6 123/7 123/9 124/4 125/1 126/14 126/14	<b>Y</b> <b>yardstick [1]</b> 60/19 <b>yeah [6]</b> 8/25 19/20	

**Y**

**your... [77]** 92/12  
92/13 93/18 94/2 95/8  
95/11 97/14 98/4  
101/24 102/3 102/6  
102/10 102/14 103/7  
104/17 105/18 106/11  
107/20 107/25 109/1  
109/12 109/22 109/23  
110/10 110/16 110/23  
111/19 112/17 112/22  
113/21 113/23 114/6  
114/8 114/12 114/13  
115/1 115/24 117/24  
118/2 118/5 119/16  
120/20 125/4 125/6  
125/7 134/4 134/7  
134/8 137/4 137/23  
138/15 141/20 144/5  
144/5 147/7 148/6  
151/9 151/13 154/5  
154/18 163/4 163/14  
170/24 171/18 171/20  
171/25 173/16 174/9  
177/16 178/19 178/22  
179/2 179/25 182/21  
183/23 184/10 185/8  
**yours [1]** 54/1  
**yourself [7]** 84/16  
133/1 133/3 156/13  
171/11 171/19 179/24