

Thursday, 18 July 2024

(9.45 am)

(Proceedings delayed)

(10.00 am)

MR STEVENS: Good morning, sir. Can you see and hear us?

SIR WYN WILLIAMS: Yes, I can. Thank you very much.

MR STEVENS: We'll be hearing from Mr McFadden this morning.

THE RIGHT HONOURABLE PATRICK MCFADDEN MP (sworn)

Questioned by MR STEVENS

MR STEVENS: Please could you state your full name?

A. My name is Pat McFadden.

Q. Mr McFadden, thank you first for providing a written witness statement to the Inquiry and, secondly, thank you for attending today to give oral evidence. I want to turn first to the written statement of which you should have a copy in front of you?

A. I do.

Q. For the purpose of the record the Unique Reference Number for the statement is WITN10250100.

Before we go to your signature, could we please have on screen page 6, paragraph 23. If I could ask, Mr McFadden, that you turn to that page too. In paragraph 2 you say:

"The arm's length relationship between Government and Post Office was legislated for in the Postal Affairs

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Parliamentary privilege.

I want to start with your background, please. You were elected as the Member of Parliament for Wolverhampton South East in 2005?

A. That's correct.

Q. Between 5 May 2006 and 28 June 2007, you served as a Parliamentary Secretary in the Cabinet Office?

A. That's right.

Q. Please could you briefly summarise your role as Parliamentary Secretary in the Cabinet Office?

A. The Cabinet Office is a wide-ranging department and its job description in Government changes as the years go past. So I find myself back in the Cabinet Office today, after many years away from it and it's a very different department today to what it was then.

Back then, I was Parliamentary Under-Secretary I was sometimes referred to as a junior minister, and the Department had several special projects, as it were, at that time. One was working on what we called social exclusion, which was whether the Government of the day could have a set of policies geared towards a very small group of families who were -- often had multiple problems, involved with lots of different public agencies and whether there was a more rounded package we could do, particularly to help the children in those

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Act of 2000."

I understand you wish to change that to "Postal Services Act".

A. Yes, it should read "Postal Services Act".

Q. Thank you. That can come down from the screen but, Mr McFadden, if I can ask you to turn to page 26 of your statement.

A. Yes.

Q. Do you see your signature?

A. I do.

Q. It's dated 20 June 2024?

A. Correct.

Q. Are the facts stated in that statement true to the best of your knowledge and belief?

A. Yes, they are.

Q. Thank you, Mr McFadden. That will stand as your evidence in the Inquiry. Your witness statement will be published online shortly. I am going to ask you some questions about your statement, not about all matters in it but some of most relevance.

In your statement, I should say, there are parts where you refer to written answers to questions in Parliament and discuss the accuracy of those. I am not going to explore in your evidence any matters about the accuracy of matters to said to Parliament due to

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families, but also to increase or decrease, rather, the calls on various public services to be involved with them, over the years.

It did other routine business, as it were, Cabinet committees; it's the Department for the Civil Service; it's really the engine room of Government that helps to coordinate the work of other departments.

Q. In that role, did you have any role or responsibility or involvement with matters relating to Royal Mail or the Post Office?

A. Not at the Cabinet Office, no.

Q. You were appointed as the Minister of State in the Department for Business, Enterprise and Regulatory Reform on 2 July 2007?

A. Yes.

Q. That's a role you held until the change of government in 2010, albeit the department changed.

A. Yes, under slightly different names. The Department changed its name. It got slightly different responsibilities. The role evolved a bit, particularly after 2008, when Lord Mandelson was appointed the Secretary of State, because that gave us the unusual situation where the Secretary of State for the Department was not an MP but was a Member of the House of Lords. So, from that moment on, my role expanded to

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1 cover more of the different things that the Business
2 Department was doing.

3 **Q.** I'm going to look at those, both the change of
4 department and your role, in a bit more detail shortly.

5 Before we go there, at the end of my questions I'll
6 be asking for your thoughts on current matters. For
7 that reason, could you please just confirm what your
8 current role is in Government.

9 **A.** My current role is Minister for the Cabinet Office in
10 the Cabinet.

11 **Q.** Let's look then at the Department. As I said, you were
12 appointed as a Minister of State in July 2007. The
13 Department for Business, Enterprise and Regulatory
14 Reform was created a few days before your appointment;
15 do you remember that?

16 **A.** Yes.

17 **Q.** Before that, the Post Office had been the responsibility
18 within government of the Department of Trade and
19 Industry?

20 **A.** Yes, I mean, it's to all intents and purposes the same
21 Department but with certain added emphasis on some
22 things. So there was an emphasis on regulatory reform
23 but, throughout this, I think it's fairly logical to
24 just regard it as the same department under these
25 different names.

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1 Innovation and Skills?

2 **A.** Yes.

3 **Q.** You were appointed as a Minister of State within that
4 Department. Again, did the Department's portfolio
5 change with the name change?

6 **A.** They may have taken on here some additional
7 responsibilities for skills. This has always been
8 something that's a little bit unsure in government:
9 should some things like further and higher education be
10 the responsibility of a Department for Education or
11 should they sit more in a Department for Business, and
12 it has moved around a bit over the years. So what
13 you're saying here is really an emphasis more on skills,
14 but I think, in my experience of being in the Department
15 during these changes of name, perhaps the changes of
16 name implied more change in substance than is really the
17 case.

18 **Q.** Final question on this: was there any change to either
19 allocation of civil servants working on Post Office
20 matters or their line management as a result of the name
21 change of the Department.

22 **A.** No, no. Not as far as Post Office matters went.

23 **Q.** I want to then look at your role as Minister of State,
24 that's a government position below the Secretary of
25 State; is that right?

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1 **Q.** Well, that was going to be my question. Are you aware
2 of the reason for the change of name from DTI to the
3 Department for Business, Enterprise and Regulatory
4 Reform?

5 **A.** Well, there was an emphasis on regulation. We wanted,
6 at the time, to -- there was quite a lot of debate about
7 regulatory burdens on business, could we get, not
8 necessarily always less regulation but more sensible
9 regulation; a lot of emphasis on red tape, is there
10 a way to reduce red tape for business and other
11 organisations. So the name change was really about
12 emphasising that in 2007.

13 **Q.** Was there a change in the Department's portfolio
14 overall?

15 **A.** I'm not sure. They may have taken on additional
16 responsibilities for regulatory reform. Not as far as
17 postal affairs matters went. That carried on from the
18 previous DTI to the new Department, or the newly named
19 Department.

20 **Q.** Moving forward in the timeline, I'm just focusing on the
21 Department at the moment, rather than your role as such.
22 You say that the Department for Business, Enterprise and
23 Regulatory Reform was dissolved on 5 June 2009?

24 **A.** Correct.

25 **Q.** That was replaced by the Department of Business,

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1 **A.** Yes, there are basically three grades of minister:
2 Parliamentary Under-Secretary is the most junior
3 minister; Minister of State is the middle ranking, if
4 you will; and the Secretary of State is the most senior
5 minister, who's a Cabinet Minister.

6 **Q.** So you were sat in that middle rank, as you say?

7 **A.** Yes, correct.

8 **Q.** What was your relationship like with the Secretary of
9 State, in terms of the division of responsibility when
10 you joined as Minister of State at the start, leaving
11 the change to Lord Mandelson aside at this point?

12 **A.** Sure, so the first Secretary of State that I worked for
13 in the Department was John Hutton. The Secretary of
14 State is responsible overall for everything a department
15 does. The DTI that then became the Business and
16 Regulatory Reform Department, it does a whole range of
17 things. So the Secretary of State would have oversight,
18 for example, over relations with key industrial sectors
19 and the automotive sector, the airspace sector, and so
20 on.

21 There was a lot of European work in the Department
22 at that time. We were members of the European Union at
23 the time and there were what they called, in the EU,
24 these dossiers which would -- had to have a home
25 department in the UK system. So I and the Secretary of

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1 State spent a fair bit of our time in Brussels or in
 2 Luxembourg negotiating the UK position on these dossiers
 3 around things like Working Time Directive, Agency
 4 Workers Directive, other things that were relevant to
 5 the UK economy.

6 Really, anything across the business economic
 7 environment, other than Treasury matters and things like
 8 setting the budget, and so on. We didn't have anything
 9 to do with that.

10 So the Secretary of State, when you're a Minister of
 11 State, is your boss and what will happen is, beneath the
 12 Secretary of State, there will be two or three other
 13 ministers who will have a particular focus on different
 14 aspects of the Department.

15 **Q.** During your time as Minister of State, to what extent,
 16 if at all, did you discuss Post Office matters with the
 17 Secretary of State?

18 **A.** Well, in the early part of my tenure as the Minister,
 19 the big Post Office issue, the most dominant Post Office
 20 issue, was around a closure programme called the Network
 21 Change Programme, and it had been decided before
 22 I became a Minister in the Department but it was being
 23 implemented while I was a Minister. So that would have
 24 been the issue that I would have discussed with the
 25 Secretary of State, most of all regarding postal affairs

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1 as to whether that post office should or should not be
 2 closed?

3 **A.** They wouldn't, and I do cover this in the written
 4 statement. Where the Department was involved was in
 5 agreeing with the Post Office what the size of the
 6 network should be in the future, and the idea behind the
 7 closure programme was that the network needed to reduce
 8 in size from 14,000 down to about 11,500. So it was
 9 losing somewhere between one in six and one in seven
 10 branches across the country.

11 That's agreed as a policy, as a strategic objective,
 12 the reason being that the ministers previous to me, and
 13 the Post Office Management themselves, thought the
 14 network had to be smaller to ensure its future financial
 15 viability as a whole but, when it came to selecting
 16 which of the 14,000 branches should close, I played no
 17 part in that. That was decided through this programme
 18 of local area reviews that were carried out by the Post
 19 Office themselves.

20 That doesn't mean MPs aren't going to raise it in
 21 Parliament because, of course, it affects their local
 22 community but, in terms of the decision making, I didn't
 23 sit with a map saying "We're going to close this branch
 24 and keep that one open". That was all a decision for
 25 the Post Office.

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1 matter. It was very politically contentious. We were
 2 closing 2,500 post offices out of a total network of
 3 roughly 14,000.

4 It had been agreed with the Post Office but
 5 agreement in principle and in policy is quite different
 6 from implementation in practice. So I certainly
 7 discussed that programme with the Secretary of State in
 8 the first 15 months or so of my tenure as a minister,
 9 and it was that programme which consumed, if you like,
 10 a lot of the political attention and energy of the
 11 Department in regards to postal affairs.

12 To give you an example, if a post office in
 13 a particular area had been selected for closure, very
 14 often there would be -- there might be a petition
 15 against that; there might be a Parliamentary debate
 16 about the impact of that closure on the local community;
 17 there might be questions about it in Parliament. It was
 18 quite hot, politically, that programme and, in terms of
 19 the postal affairs part of my brief, it was very much
 20 the dominant issue for about the first 15 months or so
 21 that I was there.

22 **Q.** In the case you've just mentioned there, of where
 23 an individual post office was raised for closure as part
 24 of the closure programme, to what extent would the
 25 Department become involved with the underlying decision

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1 **Q.** So going back to -- because you said earlier about
 2 questions being raised in Parliament, if it was raised,
 3 would your response be "It's a matter for Post
 4 Office" --

5 **A.** Yes, it would. Certainly in terms of an individual
 6 branch. I did lots of debates on this and the position
 7 would be that the MP might be raising a particular
 8 branch in the area and I would always have to make clear
 9 in the debate, "I play no role in deciding which branch
 10 stays open or which branch stays closed, this is
 11 an operational matter for the Post Office", and there
 12 were some reasons for that, not just the legislative
 13 basis of the Postal Services Act but also the way that
 14 they decided do this closure programme wasn't just to
 15 ask for volunteers.

16 **Q.** If I can just stop you there, I'm exploring the decision
 17 on operation versus policy?

18 **A.** Okay.

19 **Q.** The underlying decision doesn't form part of the terms
 20 of reference, so I'm just going to pause you there and
 21 move on.

22 **A.** Okay.

23 **Q.** The last question on discussions with the Secretary of
 24 State, you mentioned focusing on the closure programme.
 25 To the best of your recollection, did you have

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1 a conversation with the Secretary of State at any point
2 regarding the allegations made by subpostmasters as to
3 the integrity of the Horizon IT system?

4 **A.** I don't believe so.

5 **Q.** Please --

6 **SIR WYN WILLIAMS:** Can I just ask you, Mr McFadden, really
7 out of general interest. I think you said Mr Hutton was
8 the first Secretary of State that you serve under. Did
9 Lord Mandelson follow him?

10 **A.** Yes, he did.

11 **SIR WYN WILLIAMS:** Was there anyone after Lord Mandelson
12 while you were Minister of State?

13 **A.** No.

14 **SIR WYN WILLIAMS:** So it was just those two?

15 **A.** They were the two Secretary of State's over the roughly
16 three-year period that I was in the Department.

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

18 Sorry, Mr Stevens.

19 **MR STEVENS:** Not at all, sir.

20 Please could we bring up page 3, paragraph 9 of the
21 witness statement. You're referring in paragraph 9 to
22 your appointment as Minister of State and, as you said
23 in your evidence earlier, Minister of States having
24 a particular portfolio, which was their area of
25 emphasis. You say:

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1 covered in the title, just because the Department
2 covered quite a lot of areas, so it's difficult to put
3 a percentage on it.

4 I'm going to do this very roughly just to give you
5 an idea but it won't be exact. I would say, maybe on
6 Post Office matters in this first 15-month period, maybe
7 a third to 40 per cent of the time; roughly similar for
8 employment relations; and maybe the remaining 20 per
9 cent of the time on other things not covered by that
10 title.

11 That changes in the second half of the period when
12 I'm acting as the lead spokesperson for the Department
13 across everything in the House of Commons and, probably
14 in the second half, postal affairs issues are a smaller
15 part of the overall work. But in the first part of it,
16 particularly because of that closure programme, it's
17 a very significant part of what I'm doing.

18 **Q.** At the time, looking at the first part, did you feel you
19 had sufficient time as a minister to deal with all those
20 areas of your portfolio?

21 **A.** I don't think any minister ever feels they have
22 sufficient time. I think the reality is ministers deal
23 with a large volume of paperwork, a large volume of
24 advice. They have a lot of meetings about things,
25 either internal meetings or external meetings. It

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1 "As Minister, my responsibilities included leading
2 on any legislation connected with employment relations
3 or postal affairs, meeting with external stakeholders,
4 and being made ministerial point of contact for the
5 civil servants covering these areas in the Department."

6 So in terms of subject areas, we have employment
7 rights and postal affairs; those were your two areas,
8 were they?

9 **A.** Yes, that's right.

10 **Q.** If we turn to page 4, paragraph 16 of your statement.

11 You say:

12 "Issues in the employment relations area of my
13 portfolio included legislation going through Parliament
14 to improve employment rights."

15 In terms of the balance between postal affairs and
16 employment rights in your portfolio, how much time did
17 each take up?

18 **A.** That's a good question. They were -- if we were looking
19 at particularly this first period, I almost see this as
20 two halves, the first period being dominated by the Post
21 Office closure programme. That took up a lot of time.
22 On the employment relations side, also quite a lot
23 because we did have legislation and we had a lot of
24 European work concerning that portfolio. There were
25 other things I would be doing, as well, that aren't

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1 always feels quite time pressured but that's what
2 ministers have to do. That's their job.

3 **Q.** The second time period, you have already referred to
4 when Lord Mandelson became Secretary of State, and you
5 say in your statement -- and you've said in your
6 evidence today -- that, because Lord Mandelson was
7 a peer, he could not appear in the House of Commons?

8 **A.** That's correct.

9 **Q.** So you, as Minister of State, had to deal with a wider
10 range of issues in the House of Commons?

11 **A.** That's correct.

12 **Q.** Was it limited to simply having to answer more questions
13 in the House of Commons when Lord Mandelson took over or
14 did your decision-making or policy-making role also
15 expand?

16 **A.** I was involved in a lot more things. On the postal and
17 Royal Mail side, in this second half of my period in the
18 Department, the focus was a lot more on Royal Mail.
19 There was -- we had commissioned the Hooper Review to
20 look into the future of Royal Mail, which we may come on
21 to, and that too proved controversial in a different way
22 from the Post Office closure programme but we were also
23 entering the period now where the country was being hit
24 by the great financial crash and there were a lot of
25 businesses seeking help from the Department.

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1 There were big negotiations going on about the
2 future of the car industry in the UK and the breadth of
3 what we were dealing and the intensity increased in that
4 second half of the period in which I was in office,
5 which I would date from roughly October 2008 until
6 leaving the Department at the 2010 election.

7 So it got busier, it got more intense and things got
8 broader, partly because of the great financial crash,
9 which closed a lot of industrial problems which came to
10 the Department's door.

11 **Q.** As your portfolio or your area of work got busier, how
12 did you satisfy yourself that the Post Office was being
13 effectively managed?

14 **A.** Well, on Post Office matters, things seemed to calm down
15 towards the end of the closure programme because,
16 although it had been very difficult to implement that
17 programme, it had been quite understandably
18 controversial in the country. We had an Opposition Day
19 Debate at some point during the closure programme where,
20 even though the Government of the day had a majority of
21 60-odd seats, I believe we came within something like
22 ten votes of losing the vote, and this was in the days
23 when Opposition Day Debates were taken seriously and the
24 votes mattered. In recent years, Parliament has taken
25 a bit of a different view on that.

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1 civil servants?

2 **A.** Oh, enormously. The big strategic five-year programme
3 for the Post Office was really centred on this Network
4 Change Programme. The idea was to reduce it in size, to
5 make it more financially viable and, alongside that,
6 there was this constant discussion of, and search for,
7 streams of business for the Post Office because life was
8 changing, we were getting more into the Internet age,
9 there was, for example -- and I refer to this in my
10 statement -- a lot of controversy over something called
11 the Post Office Card Account, which was the mechanism
12 whereby people would pick up pensions or benefits from
13 the Post Office.

14 Now, if we fast forward to today, they're nearly all
15 paid directly into a bank account; back then, this was
16 controversial. The Post Office wanted to keep the
17 business for people to pick up their pension. So we'd
18 be involved in a question like that but, overall, we
19 were trying to get the network on an even keel
20 financially and get it fit for the future and constantly
21 searching for new streams of business that we could help
22 the Post Office with.

23 **Q.** I want to look at some of the structures in the Civil
24 Service that were available to you, starting with the
25 Permanent Secretary in the Department. So the Permanent

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1 I remember for the Secretary of State -- that was
2 John Hutton who was the Secretary of State at that
3 time -- and I that was quite a serious moment. This
4 programme was in real trouble. But, by the time we get
5 to towards the end of 2008, on the postal side things
6 seemed to have calmed down because the programme,
7 however controversial, has now been implemented. The
8 branches have been closed, the network has been reduced
9 in size. But things don't stay quiet for long because
10 we then enter the period where we are proposing
11 legislation based on the Hooper Review to try to get
12 a private sector investor into Royal Mail.

13 And, as I said a few moments ago, this is
14 controversial in a very different way because the idea
15 of a Labour Government, in particular, trying to invite
16 a private sector investor, even on a minority stake,
17 into a big nationalised industry like Royal Mail proved
18 very controversial, there was a lot of opposition to it
19 on our own side and, in the end, the legislation didn't
20 complete its passage through Parliament.

21 **Q.** You referred throughout your evidence to some what
22 I call big ticket items: the Network Closure Programme,
23 the potential sale of Royal Mail. In terms of
24 overseeing how the Post Office was running as
25 an arm's-length body, to what extent were you reliant on

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1 Secretary is the most senior civil servant within
2 a government department?

3 **A.** That's correct.

4 **Q.** They are responsible and accountable for the day-to-day
5 management of the Department?

6 **A.** They are.

7 **Q.** I think, whilst you were Minister of State, the
8 Permanent Secretaries to the Departments were Sir Brian
9 Bender and Sir Simon Fraser.

10 **A.** That's right.

11 **Q.** To what extent, if at all, were the Permanent
12 Secretaries involved in discussing matters relating to
13 the Post Office with you?

14 **A.** Not very much. Barely at all, I would say.

15 **Q.** When I say the Permanent Secretary, does that involve
16 the second Permanent Secretary as well?

17 **A.** Yes, the people -- the officials that I would discuss
18 Post Office matters with, in my time, were those based
19 in the Shareholder Executive.

20 **Q.** That's where I want to come now, the Shareholder
21 Executive. The Inquiry has heard evidence from various
22 officials from the Shareholder Executive. At the time,
23 what was your view or understanding of the Shareholder
24 Executive's role in respect of the Post Office?

25 **A.** Well, they were the people who were, if you like, the

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1 departmental experts. If I had a meeting with Post
2 Office Management, which I did from time to time, they
3 would be the people who would prepare the briefing and
4 say this is roughly what's going to be discussed, or
5 what we should expect, or this is what's going on.

6 **Q.** Can I just pause there. So they prepared the briefing?

7 **A.** Yes.

8 **Q.** Would that come directly to you?

9 **A.** It would go through my private office. To explain,
10 every minister has a private office of -- it could be
11 something like five or six civil servants, or
12 thereabouts, and their job is to process and funnel all
13 the paperwork coming in to a minister to sort it.
14 You'll have heard about ministers' red boxes, and so on.
15 They would sort the material you would read in your box,
16 which you get most evenings. So briefings,
17 correspondence, things like that, would all be funnelled
18 through the private office.

19 So for something like a meeting that you're talking
20 about, a briefing would be written by the Shareholder
21 Executive. It would go through the private office and
22 eventually make its way to me.

23 **Q.** So I'm going to look at the private office in more
24 detail shortly but, to the best of your understanding,
25 someone in the Shareholder Executive writes the

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1 job as well.

2 The career civil servants are, of course, not like
3 that. They are permanent and their career, their
4 position, their advancement, all of that, is not
5 dependent on the individual minister and that's a core
6 part of how our Civil Service works.

7 **Q.** So the briefing comes in from the Shareholder Executive
8 into the private office, it may or may not have input
9 from a private secretary?

10 **A.** Yes.

11 **Q.** It may or may not have input from a Special Adviser?

12 **A.** Yes.

13 **Q.** Are there any other policy officials or civil servants
14 who may have input into the briefing before it reaches
15 you as Minister of State?

16 **A.** No, not normally.

17 **Q.** I interrupted you because my question before we took all
18 that on was what your view was at the time of the role
19 of Shareholder Executive?

20 **A.** Right. So, the Shareholder Executive at the time was
21 the body that held or, in effect, stewarded Government
22 shares in a whole range of organisations. Now, from
23 memory, in my time in the Department, the Shareholder
24 Executive was looking after things like Channel 4, the
25 Nuclear Decommissioning Authority, The Met Office,

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1 briefing, and when you say it goes through the private
2 office, is that simply a case of -- if it had been
3 printed off -- receiving it, putting it in the right box
4 to get it to you or was there someone in the private
5 office who would analyse, amend or change anything in
6 the briefing?

7 **A.** They could. They could add additional advice. It's not
8 simply, you know, taking it with this hand and giving it
9 to you with the other hand. They might put a cover note
10 on, for example, and say, "This is what this is about",
11 and give you additional advice. That is what your
12 private office is there to do.

13 **Q.** Who in the private office would do that?

14 **A.** Well, I had a couple of private secretaries in my time
15 as a minister, Robert Porteous and Kate Hall were the
16 two main private secretaries I had.

17 **Q.** Would Special Advisers ever be involved in that work?

18 **A.** Yes, they might be, Special Advisers are temporary civil
19 servants who are allowed to operate in a more political
20 way than the career Civil Service and, unlike the career
21 Civil Service, they're very attached to a single
22 minister, so that if you lose your job as a result of
23 a general election or a reshuffle, where the Prime
24 Minister no longer requires your services, the Special
25 Adviser is effectively tied to you and would lose their

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1 a whole range of organisations. But one of those was
2 Royal Mail and Post Office beneath Royal Mail.

3 So they were the people who were charged with
4 day-to-day liaison with the company. They were the
5 people who would -- as I said, if I was having a meeting
6 with the Royal Mail Chief Executive or the Managing
7 Director of the Post Office, there would be somebody
8 from the Shareholder Executive who was there as the
9 Departmental person for that policy area.

10 **Q.** So you mentioned the role in overseeing the business.
11 What was your view of the Shareholder Executive's role
12 in terms of policy, Government policy?

13 **A.** I mean, I thought they -- I had no complaints about how
14 they were doing their job, how they were dealing with
15 me. I had a good working relationship with them.
16 I just viewed them as part of the fabric of how we
17 worked.

18 **Q.** Was your relationship -- or working relationship,
19 I should say, sorry -- with the officials in the
20 Shareholder Executive different to other policy
21 officials who were based just within the Department?

22 **A.** The Shareholder Executive was a little bit different in
23 that it probably had a more business focus because they
24 were dealing with these organisations that I've
25 mentioned, that were usually in some ways standalone

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1 organisations. And if you compare that to the other
2 side of my portfolio, the employment relations side, it
3 would have been more direct there because we had
4 legislation, for example, to improve employment rights
5 during the time I was a minister, we changed the way the
6 minimum wage worked a bit. That was a more traditional
7 government department policy function: you write a White
8 Paper, you consult on the White Paper, you then write
9 a bill, the Minister takes the Bill through all its
10 governmental -- all its Parliamentary stages and you
11 have an Act at the end of it.

12 With the Shareholder Executive, it's a bit different
13 because they are sort of managing the public shares in
14 these different organisations that are state-owned but
15 they're not state run on a day-to-day basis and, in the
16 case of both Royal Mail and the Post Office, we have the
17 Postal Services Act, which we referred to at the
18 beginning of our discussion, and that sets up in
19 legislation that these organisations are to be run by
20 their own management. They are state owned but they're
21 not state run on a day-to-day basis. They're run on
22 a day-to-day basis by the management appointed to do
23 that job.

24 **Q.** Were you more deferential towards advice given by
25 Shareholder Executive than you would have been to

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1 across the board. So I don't think, for example, I had
2 a special private secretary just dealing with postal
3 matters. They dealt with everything which came in.

4 **Q.** What was the level of seniority of civil servants who
5 took on the role of private secretary?

6 **A.** Oh, now, they have these grades and I'm not 100 per cent
7 sure if this is accurate but, from memory, I think they
8 were either Grade 7 civil servants or Grade 5, which is
9 Senior Civil Service but not absolute top level.

10 **Q.** As Minister, would you have been aware of the training
11 they were to receive on how to carry out the role of
12 Private Secretary?

13 **A.** No, no.

14 **Q.** At any point, in respect of Post Office matters, were
15 you unsatisfied with the Private Secretaries within your
16 office?

17 **A.** No. I had a good relationship with my private office.
18 A Minister is very, very reliant on their private office
19 because they are managing a very busy diary, they're
20 managing a very busy paper flow. They are the first
21 people you look to, to say what is this meeting about?
22 What's the agenda here? They are the people who -- they
23 are an absolutely indispensable part of how a minister
24 functions.

25 **Q.** To what extent did your Private Secretaries have any

27

1 a civil servant based solely within the Department?

2 **A.** No.

3 **Q.** Why not?

4 **A.** Well, I don't know why I would be more deferential.

5 **Q.** Well, for the reasons you said about being more business
6 oriented and involved in day-to-day management of
7 a company, slightly different from --

8 **A.** No, I don't think I was any more deferential as a result
9 of that. I'm just sort of pointing out there was a --
10 they had a slightly different focus in that unit, if you
11 like. It later became UK Government Investments,
12 I think, and changed its name and changed its home. But
13 in my day in the Department, it was based in the
14 Department of Business.

15 **Q.** I want to look, then, at the private office. You've
16 covered this already, slightly. There were private
17 secretaries, obviously, in your office. You've referred
18 to one who appears in the paper, Robert Porteous. Did
19 individual private secretaries have, I suppose,
20 portfolios themselves for the types of issues they would
21 deal with for you as Minister?

22 **A.** Perhaps in a Secretary of State's office, but in
23 a Minister of State's office or a Parliamentary
24 Under-Secretary's office, the private office will be
25 smaller and they'll have to cover lots more things

26

1 involvement with policy or decision making?

2 **A.** They didn't, really. They will give you a bit of advice
3 but they're not really policy advisers, you know. The
4 policy advice was coming from ShEx, not really the
5 private office.

6 **Q.** Please could we bring up your witness statement,
7 page 10, paragraph 36. I'm going to go through some of
8 these paragraphs in your statement. It may be, in the
9 course of my questions, then, you've covered some of
10 this, but we will take it stage by stage.

11 **A.** Okay.

12 **Q.** You say:

13 "My common practice at the time I served at the
14 Department, and which I expect was broadly typical for
15 ministers generally ..."

16 When you say you expect that was broadly typical of
17 ministers generally, where did that expectation come
18 from?

19 **A.** Just in my experience this is roughly how ministers
20 work. By that phrase, I mean, I think this was the
21 Whitehall practice of how Ministers worked. There might
22 be the odd one, that I don't know about, that has a very
23 different way of working but I think this is generally
24 true.

25 **Q.** That remains true to this day, as in you would expect

28

1 that still to be the case?

2 **A.** Well, I've only been back in office for less than two
3 weeks, so I'm not 100 per cent sure and a lot can change
4 in 14 years, so I don't quite know yet. But my early
5 experience of being back in office is still that the
6 private office is absolutely critical to how you
7 function as a minister.

8 **Q.** So your common practice:
9 "... was that correspondence and documentation sent
10 to the Department for my attention would be received by
11 my private office. My private secretaries would review
12 the documentation and apply their judgement as to how
13 that documentation should be directed. The document may
14 be referred elsewhere; for example, the correspondence
15 sent in November 2009 to Lord Mandelson's office ..."

16 I'm going to turn to that but, at this stage, you're
17 talking about where does it go: does this correspondence
18 sit with you or does it sit with another member of
19 Government, basically?

20 **A.** Yes, so if you take correspondence, a minister doesn't
21 see correspondence when it arrives at the Department.
22 The first port of call is not to say, "Here are these
23 letters from whoever it is for your attention". That's
24 not how it works. What will happen is someone else
25 could be the private office, could be some other

29

1 and complexity of the issue, it may be addressed
2 directly by my private secretaries, referred to
3 officials for analysis and advice ..."

4 Now, pausing there: on Post Office matters, would
5 that be Shareholder Executive?

6 **A.** Yes.

7 **Q.** "... or referred directly to me."

8 **A.** Yeah.

9 **Q.** So what type of correspondence would be addressed
10 directly by your private secretaries?

11 **A.** That would be very rare, it might be something personal,
12 where they think this is really -- you know, this
13 doesn't look very departmental. This is somebody who
14 I think you might know or, you know, it's not really
15 a Departmental thing. In anything to do with
16 Departmental responsibility, there's some process
17 involving the private office and the relevant officials
18 and, in the case of, very importantly, of matters
19 relating to the Post Office, the Post Office itself, to
20 frame the reply.

21 And again, this is important, if I may: that with
22 regard to Post Office matters, particularly because of
23 the way the Postal Services Act has been constructed,
24 because of this arms-length relationship where the Post
25 Office Management is responsible for running the

31

1 official whose advice is needed, will look at that
2 correspondence and will make a decision as to what needs
3 to be done in order to get a response to this from the
4 Minister, and the only time the Minister gets to see it
5 is when all of that work has been completed and they
6 will get the correspondence usually in their red box
7 with the original letter from the MP, or whoever has
8 written, underneath it, there might be an advice note,
9 very often there isn't. But there is a reply that has
10 been drafted for the Minister's signature attached to
11 it, and you might have quite a large number of those on
12 lots of different subjects in your box of a given
13 evening.

14 And it's important, this, because you have to be in
15 a position to trust the work that has been done in
16 framing that reply. It is not -- I don't want people to
17 have the impression that, when letters come in to
18 a Department, the first port of call is the Minister who
19 is sitting deciding how will this be handled. The
20 Minister is the end of the chain, not the beginning of
21 the chain, when the reply will eventually be sent.

22 **Q.** You give us a bit more information on the chain, as
23 you've described. You say, paragraph 37:
24 "If a document or piece of correspondence was to be
25 dealt with by my office then, depending on the nature

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1 business on a day-to-day level, the Department had no
2 role in running the business on a day-to-day level. So
3 if anything came in that was to do with an individual
4 subpostmaster or something concerning the day-to-day
5 running of the Post Office, the only way to get the
6 information was to go to the Post Office.

7 The Department would have held no information about
8 individual subpostmasters or anything of that nature and
9 so whether the reply is coming from the Post Office to
10 the relevant MP, as some of the ones that we will
11 discuss did, or whether it's signed by me, the source of
12 information is almost always going to be the Post Office
13 itself.

14 **Q.** So is it fair to summarise it like this, because we'll
15 look at the correspondence as we go, but of the letters
16 you've seen where Horizon issues are raised, your
17 expectation would be, if a letter like that came in, it
18 wouldn't be dealt with by a private secretary?

19 **A.** No. Not in any substantive -- well, the Private
20 Secretary might ask the Shareholder Executive. They
21 might say, "We've had this letter, can you help us with
22 the reply?"

23 The Shareholder Executive may be able to do that,
24 and may then go to the Post Office, if they didn't have
25 the information. So the Private Secretary is involved,

32

1 but they are probably not alone in the process. There's
 2 somebody else, either officials in the Department or the
 3 Post Office, who are helping them frame either a reply
 4 or advice to me.

5 **Q.** So the expectation is go to Shareholder Executive if
 6 information is needed, the Shareholder Executive needs
 7 to go to Post Office for information and then it comes
 8 to you with, I think you said, a draft response,
 9 possibly a written advice note, as well?

10 **A.** That's correct or, in the case of some of the
 11 correspondence that we are going to discuss, quite often
 12 a reply directly from the Post Office itself to the
 13 relevant MP because the Department has judged that this
 14 is an operational matter for the Post Office. They've
 15 got the information here, so they should write to the
 16 MP. That happened quite often.

17 **Q.** If you had a draft letter without an advice note, it was
 18 just "Here's the letter that's come into the Department,
 19 here's a draft", when you're there going through your
 20 red box, did you know who drafted the letter, where the
 21 input had come from or would you be reliant on what's
 22 recorded on the face of the letter?

23 **A.** You're very reliant on what's recorded on the face of
 24 the letter. You're trusting that the work has been done
 25 to make sure that the information in that letter is

33

1 Government Department; and then you've got a Minister
 2 sometimes at the end of that chain. And the Minister is
 3 very reliant on those other layers having told the truth
 4 about the information that's put in front of them to
 5 sign in a red box, whenever they're doing the red box.

6 And the feature of the Horizon correspondence -- and
 7 not just the Horizon correspondence but probably other
 8 things to do with an individual sub post office, say it
 9 was nothing to do with Horizon but some other
 10 contractual issue or dispute, the Department, and me as
 11 the Minister, we've got no independent information about
 12 that, other than in the Post Office and, most of the
 13 time, queries about those kind of things are answered
 14 directly by the Post Office themselves.

15 That's why you get this pattern: I've asked the
 16 Managing Director of the Post Office to reply directly
 17 to whoever the MP is who's raising it because they've
 18 got the information and they run the business, and that
 19 is set down in legislation, that separation.

20 **Q.** So my question was: the reliance you place on the Civil
 21 Service and the process you described, if you weren't to
 22 rely on the civil servants like that, what effect would
 23 that have on the business of Government?

24 **A.** Well, it would be very difficult. How can government
 25 operate, how can ministers operate, if they couldn't

35

1 accurate.

2 **Q.** I'll ask you this question now because I was going to
 3 come to it later but you've referred a few times to the
 4 importance of trusting what the civil servants say,
 5 et cetera. What position would Government be in if you
 6 didn't have that level of trust in the Civil Service?

7 **A.** Well, I think it's very difficult and, of course, it's
 8 relevant to this issue because at the heart of this
 9 issue is that, in the process that I've been describing
 10 involving a private office, Shareholder Executive, the
 11 Post Office itself, the information turns out to have
 12 been wrong with terrible human consequences for some of
 13 the people who are here and, obviously, what you're
 14 going to try to get to the heart of is how did it go
 15 wrong, who was responsible for that and why was it
 16 allowed to be perpetuated in that way for such a long
 17 period of time?

18 And in the discussion that we've had for the last
 19 ten minutes or so, what I'm trying to illustrate is
 20 there are different layers involved in this. To put
 21 together a reply to a letter, there will be people, not
 22 just the senior management of the Post Office but layers
 23 down from them, who really have the information; you've
 24 got the Post Office Management themselves; you've then
 25 got the Shareholder Executive; you've got the

34

1 trust what they were being told? You could perhaps
 2 envisage a world where everything is not trusted and
 3 pretty soon you can see it's very difficult to operate
 4 government on that basis.

5 So trust in what you're being told is at the heart
 6 of how this works, how this system works -- how it
 7 should work.

8 **Q.** I want to look at the Government's interest in the Post
 9 Office. Can we look at page 25, paragraph 101 of your
 10 statement, please. You're discussing recommendations
 11 and you say:

12 "The question is how an arm's-length body like [Post
 13 Office Limited] can be held accountable for its actions.
 14 The Government is the 100% shareholder. Ministers do
 15 not run the Post Office but Ministers answer questions
 16 about it in Parliament and are responsible for reporting
 17 to Parliament on matters concerned with the Post
 18 Office."

19 Where does ultimate accountability for the actions
 20 of an arm's-length body, such as the Post Office, that's
 21 owned by the Government, lie?

22 **A.** I have thought about this a lot because of this issue
 23 and this whole question of the arm's-length relationship
 24 and what happens when that goes wrong and what you can
 25 do about it and, at the end of the statement here, we're

36

1 dealing with almost thinking about the future: what
2 could you do to stop something like this happening
3 again? If it's state owned, ultimately the
4 accountability will lie with the Government because it's
5 state owned. But I do want to stress that the
6 legislation that had been passed in the Postal Services
7 Act had deliberately created this separation.

8 If you look at what the Secretary of State who
9 brought forward the legislation said at the time -- and
10 this was five or six years before I became the
11 Minister -- they were very clear that the purpose of the
12 legislation was, if you like, to get the Minister out of
13 the hair of running these organisations -- this
14 organisation on a day-to-day basis. It would have
15 commercial freedom, it would be able to make its own
16 decisions, it would have its own management and they
17 would be charged with the responsible of running the
18 business.

19 That was the case for many years. I imagine --
20 I don't know what current ministers have said to you
21 about their relationship today but I imagine, even
22 today, even after this, it is similar today. But when
23 something is publicly owned, of course, in the end,
24 people well look to the state, even if the state is
25 not -- the ministers who speak for the Government are

37

1 character from Royal Mail.

2 **Q.** So, with that, maintaining that social role and
3 maintaining branches in rural and remote locations, in
4 terms of delivering that policy objective,
5 subpostmasters, counter assistants and Post Office
6 employees played an important role?

7 **A.** Yes, absolutely.

8 **Q.** So would you agree that the treatment of those persons,
9 namely subpostmasters, counter assistants and Post
10 Office employees, the treatment of them was directly
11 relevant to a key Government policy objective?

12 **A.** Yes. They played a very important role and that is why,
13 in this closure programme, there were these access
14 criteria where -- I haven't got it all in front of me
15 but it's all about 90-odd per cent of the population
16 must live within a certain distance from a post office,
17 you know, there was particular care taken, if it's --
18 you know, the post office is the only one in a village
19 or a town, you don't want to leave a desert where
20 there's no access to postal services.

21 There was a thing called outreach services, where
22 subpostmasters were encouraged to -- if they were in
23 charge of a post office in one area, they were
24 encouraged and there was a contract where they would
25 maybe go to the neighbouring village or town for

39

1 not running the business on a day-to-day basis.

2 **Q.** I want to explore the operational decisions and the
3 strategic or policy one and that separation. You have
4 already referred to, I think, the example you gave of
5 the closure programme and I think you made the
6 distinction of, on the one hand, the Government saying
7 "Close X number of post offices", and you say that's
8 a policy or a strategic decision, but the actual getting
9 the map out, as you say, and pointing to which ones are
10 closing, that's the operational decision.

11 **A.** That's right. And any dispute around that, for example,
12 if you're closing post offices, there will be campaigns,
13 and there were a lot of campaigns, you know, "Save Post
14 Office X". If Post Office X -- one of the frustrating
15 things about the programme and the way it worked,
16 because they had this target of reducing by 2,500, if
17 Post Office X was saved, they decided to close Post
18 Office Y. But I played no part in that decision.

19 **Q.** Yes, I'm just using that to illustrate the example.
20 I suppose this comes to -- would you agree that
21 Government policy was that the Post Office had a social
22 role maintaining branches nationally, including in
23 remote and rural locations?

24 **A.** Yes. Yes, I would, and I refer to that in my statement,
25 and that social role made the Post Office different in

38

1 an afternoon or a day a week and provide a service in
2 a church hall or something like that.

3 So this social element was part of the character --
4 it is part of the character of the Post Office.

5 **Q.** The Government, through Shareholder Executive, had
6 a role in monitoring the performance of the Post Office
7 in delivering on those policy objectives?

8 **A.** Yes, they had a role in the five-year plan being
9 implemented, and that was this £1.7 billion investment
10 over five years with the reduction in the size of the
11 network and the kinds of innovations that I've been
12 talking about.

13 **Q.** So would you agree that the manner in which
14 an arm's-length body like Post Office, the manner in
15 which it operates, can cause concern for the Government
16 at a policy level?

17 **A.** Yes, it can. I think that's fair.

18 **Q.** Would you accept that the bright line distinction
19 between operations, on the one hand, and strategy, on
20 the other, can become quite blurred?

21 **A.** Well, I'm not sure and I can sort of -- I think I can
22 maybe see where you're sort of driving at with the line
23 of questioning. So what did the Department see its role
24 as? As I said, before I got there, there was this
25 agreement between the Department and the Post Office,

40

1 and the National Federation of SubPostmasters, who were,
2 I think, broadly in agreement with this, to reduce the
3 size of the network. There's a financial sum to help
4 with that. There was a subsidy level at policy level of
5 about £150 million a year to directly support that
6 social element that we are talking about because the
7 Post Office at this time was not a profit-making
8 organisation, it was losing money.

9 But, in fact, I believe, as I was told, if it was
10 run purely as a commercial organisation, instead of
11 14,000 branches, there would have been about 4,000 in
12 the country. So the Government didn't want to see
13 10,000 post office closures.

14 Those are the policy levels but when it comes to the
15 individual contract between a subpostmaster and the Post
16 Office, that isn't something the Government would have
17 got involved in.

18 **Q.** When we had witnesses from Shareholder Executive come
19 and discuss the arm's-length body, they made the point
20 that the length of the Government's arms can shorten at
21 some points in comparison to much influence it has over
22 operational decisions; would you broadly agree with
23 that?

24 **A.** I've not watched all the previous witnesses. You know,
25 I do think the Government had a role in making sure that

41

1 is: as a minister or as the Government, was there
2 a policy objective in seeing that a company it owned
3 prosecuted fairly and lawfully?

4 **A.** I don't remember that ever being discussed in that way.
5 If -- ministers are very reluctant, for understandable
6 constitutional reasons, to intervene in prosecutions
7 and, once court judgments are cited, all the ministerial
8 learning you have is not to interfere with the courts.
9 This separation of powers is well understood in the
10 British constitution. If ministers do start questioning
11 court verdicts, they are very quickly criticised for
12 intervening or trying to interfere in the court process.
13 So I think there would have been great reluctance to
14 consider prosecutions or the outcome as a policy
15 question.

16 **Q.** Imagine we put to one side past prosecutions where they
17 are past convictions and it's a Government asset that
18 has a plan to prosecute in future: did the Government
19 have any policy objective in terms of how its own assets
20 prosecuted its staff?

21 **A.** I was never involved in a discussion like that about the
22 basis for which anyone should be prosecuted.

23 **SIR WYN WILLIAMS:** I understand that that might be the case,
24 Mr McFadden, but I think what Mr Stevens is driving at
25 is this: the owner of the company might be thought --

43

1 social element of the Post Office Network was there, and
2 the way that they implemented that objective was by
3 subsidising the network to make sure it would be a lot
4 bigger than would have been the case, if it had just
5 been run like a bank.

6 **Q.** Let me put the question in another way. Do you think it
7 was a policy objective of the Government to see that
8 subpostmasters involved in the delivery of, as you say,
9 this social purpose, was it a policy objective of
10 Government for subpostmasters and Post Office staff to
11 be treated fairly by the Post Office?

12 **A.** Well, we wouldn't have been drawn into contractual
13 disputes between individual subpostmasters and the Post
14 Office. I think that would have been viewed as
15 an operational matter for the Post Office and certainly,
16 in my time as minister, whether it was on the Horizon
17 disputes or -- sometimes there were other disputes about
18 what a post office could sell and things like that.
19 These were dealt with by the Post Office themselves.

20 **Q.** What about a company owned by the Government who
21 prosecuted its employees or agents? Would you say it's
22 a policy objective of the Government to see that its
23 asset prosecuted fairly and lawfully?

24 **A.** We took no part in the decision to prosecute.

25 **Q.** It's a slightly different question. The question I have

42

1 let's choose my words as neutrally as possible -- to
2 have an interest in a very unusual situation. It's not
3 usual for a company to prosecute either agents or its
4 employees. That's normally done through the Crown
5 Prosecution Service.

6 So I think what Mr Stevens is trying to get to is
7 whether the owner of such a company, which is engaged in
8 private prosecutions, feels any responsibility, or
9 should feel any responsibility, to ensure that the
10 prosecution is conducted lawfully and in accordance with
11 proper practice?

12 **A.** Well, I mean, my view of that is that, if Ministers see
13 reference to prosecutions or convictions in
14 correspondence, they will assume that the court has
15 reached its verdict correctly because, as I said to
16 Mr Stevens a moment ago, Sir Wyn, you know, we are all
17 told not to intervene or interfere in court judgments.

18 In my period as a minister, I never remember
19 a discussion. It may be you, you know, you'd think this
20 isn't right but I never remember a discussion about the
21 prosecutions taking place at a Departmental level.

22 **SIR WYN WILLIAMS:** All right.

23 Back to you, Mr Stevens.

24 **MR STEVENS:** I might just explore that further, sir.

25 The Chair asked or referred to imagine a private

44

1 company and the owner of a private company, if the
 2 private company bought a prosecution, do you think the
 3 owner of the company has any interest in how that
 4 prosecution is conducted?
 5 **A.** The standard of evidence in a private prosecution is
 6 supposed to be -- supposed to be -- the same, and the
 7 standard of proof is supposed the same, as in, if you
 8 like, a prosecution pursued by the CPS. That's my
 9 understanding of it. So I'm not sure if they would.
 10 **Q.** So when you say the standard, are you saying,
 11 effectively, that it's for the criminal court; I think
 12 that's what you're saying?
 13 **A.** Yeah, it's for the court to judge and ministers will
 14 always be very reluctant to intervene in decisions about
 15 prosecutions because they'll see that as being a matter
 16 for the judicial system and not a policy matter.
 17 **MR STEVENS:** Sir, unless you have any questions, I think
 18 that's an appropriate time to take our morning break.
 19 **SIR WYN WILLIAMS:** That's fine. What time shall we resume?
 20 **MR STEVENS:** If we could say 11.25 past, I think, sir. That
 21 would be helpful.
 22 **SIR WYN WILLIAMS:** That's fine.
 23 (11.13 am)
 24 (A short break)
 25 (11.25 am)

45

1 challenged by technology and people weren't sending
 2 letters, and it was changing its nature. There was
 3 a lot of industrial disputes, and so on, but, even then,
 4 we didn't get involved in the day-to-day running of
 5 Royal Mail.
 6 **Q.** Let's look at the letters then, please.
 7 **A.** Okay.
 8 **Q.** It's WITN10250102, please. This a letter from Jacqui
 9 Smith MP, who I believe then was Home Secretary; is that
 10 right?
 11 **A.** She might have been Home Secretary or Chief Whip, I'm
 12 not sure but she might have been.
 13 **Q.** It's addressed to you, 9 January 2009. It refers to
 14 Mr Julian Wilson, sets out the issues that he was
 15 reporting in respect of discrepancies, and the third
 16 paragraph says:
 17 "He has heard of three other postmasters in exactly
 18 the same position as him within a six-mile radius of
 19 Redditch. He states that there are others that he knows
 20 of in the West Midlands area. I feel that there could
 21 be a system problem here.
 22 "I would be grateful if you could investigate this
 23 issue and provide a response for my constituent on this
 24 issue."
 25 Now, I'm going to ask you some questions about that

47

1 **MR STEVENS:** Sir, can you continue to see and hear us?
 2 **SIR WYN WILLIAMS:** Yes, I can, thank you.
 3 **MR STEVENS:** Thank you, I'll continue.
 4 Mr McFadden, I said I was going to turn to the
 5 letters now, there was one more question I was going to
 6 ask and that is, at the time you were Minister, and
 7 we've talked about operational decisions and how that
 8 was to be left to Post Office in your view, if you
 9 wanted to become involved in an operational decision,
 10 for whatever reason, what, if any, power, did you think
 11 you had as a Minister to influence or change such
 12 decisions made by Post Office?
 13 **A.** I believe at the time I would have considered it
 14 improper to become involved in an operational decision
 15 to that degree, about, say, an individual contract or
 16 Post Office branch, or something like that. We might
 17 have had correspondence about them and, you know, passed
 18 that to a Post Office in the normal way but it was quite
 19 well established, this division between operational and,
 20 if you like, overall strategic policy responsibility.
 21 I don't want to detain you because I know you want
 22 to go into the correspondence but, if I can use the
 23 example of Royal Mail, which was more prominent in the
 24 second half of my tenure, we had a lot of policy
 25 responsibility on Royal Mail because it was being very

46

1 letter but, given the process that you've described,
 2 a letter comes in and then there's a process, it goes
 3 out, I'm going to have on screen as well your response
 4 of 9 February, which is WITN10250103.
 5 Thank you. So we see that's the letter from you,
 6 your signature has been redacted, but it's to Jacqui
 7 Smith. Now, do you have any recollection of what you
 8 thought when you read this letter and the fact that
 9 Jacqui Smith was raising what she said could be a system
 10 problem here?
 11 **A.** No specific recollection of the letter. When I look at
 12 the letter and the reply, the way I believe this will
 13 have been dealt with is information has been obtained
 14 about it from Post Office Limited. For example, if you
 15 look at the reply from me in the third paragraph, it
 16 says:
 17 "I understand that Glenn Chester of [Post Office
 18 Limited] has written to you regarding the investigations
 19 at the Astwood Bank branch."
 20 And then goes on, in the fourth paragraph, to say:
 21 "I am informed that Mr Wilson resigned from his
 22 position in September 2008 and was, therefore, not
 23 invited to be interviewed by [Post Office Limited]."
 24 There is no way for me, independently, to know
 25 either of those two things, other than that information

48

1 coming from Post Office Limited. So I don't know the
2 full wiring behind the reply but it looks to me, from
3 this, as though either the private office or the
4 Shareholder Executive have asked the Post Office what is
5 happening here and have been given this information,
6 especially the information in paragraphs 3 and 4, to put
7 this reply together.

8 **Q.** With a letter like this, roughly how much time would you
9 have spent on it, in reviewing the response?

10 **A.** It's difficult to say. I mean, you'll be dealing --
11 I don't know how many you would be dealing with in
12 a particular evening, on a range of subjects, but
13 normally I would read the reply, read the original
14 letter, sign the reply, and go through them like that.

15 **Q.** Let's look at what's said. In the second paragraph, it
16 says:

17 "Operational decisions, which include decisions
18 relating to the running of individual post office
19 branches are a matter for Post Office Limited."

20 Why was that relevant when what Ms Smith was raising
21 was feeling that there could be a system problem here?

22 **A.** That paragraph, and the things said in it, is quite
23 standard when I look back at this correspondence.

24 You'll see a paragraph like that quoted quite a lot,
25 maybe not exactly word for word, but something along

49

1 content of her email is worrying and I would be very
2 grateful if you could address the point she is making
3 and let me know the exact situation regarding this
4 matter."

5 If we then turn to the email, please, it's page 3.
6 So it's an email from Rebecca Thomson, the reporter at
7 Computer Weekly who subsequently wrote the May 2009
8 article on the Horizon system. It says there:

9 "I have spoken to several current and former
10 subpostmasters, who say that random flaws in the IT are
11 causing deficits in their weekly accounts, sometimes of
12 thousands of pounds at a time. Their complaint is that,
13 instead of listening to their problems and investigating
14 the software or equipment, the Post Office is making
15 them pay back this money without any investigation into
16 what is going wrong. Neither they, nor I, have any way
17 of proving that it is the IT that is causing the
18 deficits. Their problem is that the Post Office refuses
19 even to entertain the possibility that their system
20 could be going wrong."

21 Pausing there, do you have a positive recollection
22 of reading this email?

23 **A.** I don't.

24 **Q.** I think you say in your statement it's likely you would
25 have --

51

1 those lines, that these issues around individual
2 subpostmasters were regarded as, as it says here,
3 operational decisions and that's why they've gone to the
4 Post Office to get the information.

5 **Q.** If there was an issue in the Horizon system, which we
6 later found out there was, and the Horizon system is
7 used to prepare the Post Office's accounts and it's used
8 to create data to prosecute subpostmasters, in your
9 view, is a system problem in the system something with
10 which the Government should have been concerned?

11 **A.** Look, we would certainly, at that stage, have had no way
12 of knowing about the detailed running of the Horizon
13 system. What this whole story is, is that over time,
14 there are more and more cases, and more and more
15 questions about it. But, certainly, in the early stages
16 of this, this would have been regarded as a matter for
17 the Post Office and that's reflected in this reply, and
18 in the others that we're going to discuss.

19 **Q.** Let's go through the timeline, then, slightly. Can we
20 go to the next letter, please. It's POL00027890.

21 If we could go to page 2, please. So we see this is
22 from Brian Binley MP on 24 February 2009 to you. He
23 says:

24 "I write to you having received an email, which
25 I have enclosed [we'll go to it in a moment]. The

50

1 **A.** Yeah, if I'd dealt with this in the way that
2 correspondence was dealt with, I would have seen the --
3 at some point in the story, I would have seen the letter
4 from Brian Binley and the attachment to it, which this
5 is.

6 **Q.** So this opening paragraph is saying a few things, isn't
7 it: firstly, the subpostmasters referring to flaws in
8 the IT causing deficits; secondly, that the Post Office
9 isn't listening to the problems or investigating it;
10 and, thirdly, that the Post Office refuses to entertain
11 the possibility that the system could be going wrong?

12 **A.** That's right. That's what she says.

13 **Q.** What do you think you would have thought of that when
14 you read that?

15 **A.** Well, I would have wanted to know what the position was,
16 and this letter and its attachment end up with -- they
17 were referred to Alan Cook, who was the Managing
18 Director of the Post Office at the time. He's asked by
19 the Department to look into this, to the allegations
20 made in this letter and email, and to respond directly
21 to Mr Binley.

22 **Q.** We'll come to that shortly. So let's read on. It says:

23 "The consequences for some of the postmasters have
24 been extremely serious. Of the group I am in contact
25 with, two have been forced to file for bankruptcy.

52

1 Others have lost their life savings. If postmasters
2 cannot pay the deficits back because their savings have
3 been depleted, the Post Office takes it out of their
4 wages. In desperation, a couple of the postmasters I've
5 spoken to turned to false accounting. They were not
6 getting help when they asked for it from the company,
7 and they did not have the money to pay the deficits
8 back. So they signed the weekly accounts, affirming the
9 money was there when it was not. The Post Office has
10 then prosecuted these people, although no one that
11 I have heard of has ever been prosecuted for theft."

12 Of course, we know people were prosecuted for theft.

13 You say, I think in your statement, that this was
14 the first time you were aware of the Post Office's
15 prosecutorial role; is that right?

16 **A.** That's correct.

17 **Q.** Do you remember what your thoughts were when you learnt
18 that?

19 **A.** Well, this -- remember how this works in the process
20 that I described in the first half of our evidence.
21 I don't see this when it first comes in. I will only
22 see this in conjunction with a reply from the Post
23 Office. So I would have looked at the two of them
24 together and the thing that strikes me about the reply
25 from the Post Office to what is said in Rebecca

53

1 can go down to paragraph 56, please. Just to be clear,
2 you say:

3 "Brian Binley's letter would have been shown to me
4 by the private office with Rebecca Thomson's email
5 clipped to it. I would have read both the letter and
6 the email. I do not remember having any oral
7 discussions with Ms Thomson, Brian Binley, Alan Cook or
8 other representatives of [the Post Office] of officials
9 in the Department or ShEx, regarding the issues raised
10 by Ms Thomson."

11 So is your evidence that the reading of it would
12 have occurred later, after Alan Cook's response?

13 **A.** Yes, they would have showed me this with the reply.

14 **Q.** Why was that? Why would that be the way --

15 **A.** Because that's the -- it's the discussion we had
16 earlier. When correspondence comes in, certainly my
17 memory is there isn't a process where people go through
18 the original correspondence with a Minister before
19 a reply is put together. The way that the Minister sees
20 it is, yes, they will see a letter from an MP with, in
21 this case, an email attached to it. They will see that
22 when the work has been done to put together a reply to
23 it, and a response. And, if you look at paragraph 57,
24 just beneath the one that we are discussing, it says:

25 "My private office sent Brian Binley MP's ... letter

55

1 Thomson's email is how emphatic they were in defending
2 the robustness of the system.

3 This was the beginning --

4 **Q.** Sorry, let's pause there. Because if we go -- I'm
5 asking you about your recollection when you read this
6 letter and what you thought.

7 **A.** Well, I'll have read it together with the reply. That's
8 the point I'm making.

9 **Q.** If we look at page 1, please. We see this was sent to
10 Alan Cook on 30 April 2009 for his response, as you've
11 said. At the bottom it says:

12 "Pat McFadden has asked that you look into this
13 matter and reply directly to Brian Binley MP."

14 So you would have read this letter before you had
15 the response from Alan Cook, would you?

16 **A.** Not necessarily. That is a private office way of
17 saying, "Can you look into this?" They would use that
18 terminology without me necessarily having read the
19 correspondence.

20 **Q.** So who made the decision to send this to Alan Cook, as
21 the Managing Director?

22 **A.** It looks, from here, as though it was the private office
23 because they thought that was the right way to deal with
24 it.

25 **Q.** Can we bring up, please, your statement, page 14. If we

54

1 to Alan Cook ... The decision to handle the
2 correspondence ... would have been a decision taken by
3 the officials in my private office. The source of the
4 information in the response would have been [Post Office
5 Limited], whether or not it came directly from Mr Cook
6 or [if the reply had been put together in a way that
7 I am replying directly to him as the Minister]."

8 **Q.** If we bring back up POL00027890. We see at the bottom
9 that the direction is:

10 "Pat McFadden has asked that you look into this
11 matter and reply directly to Brian Binley MP."

12 So is this -- just to be clear, the private office
13 here directs that Brian Binley MP's letter should be
14 addressed by Alan Cook directly without your
15 involvement?

16 **A.** I think that's right, and this form of words is used
17 quite a lot, including in my constituency office, if
18 somebody writes in and a reply comes from one of the
19 case workers, they will often say, "Mr McFadden has
20 asked me to reply". It doesn't mean on each individual
21 piece of correspondence that I've read it and asked them
22 to reply.

23 **Q.** That document can come down, thank you.

24 So why would it come back to you with Alan Cook's
25 reply?

56

1 A. Well, I would see what he'd said. It's important to
 2 know what they're saying and what I was really struck
 3 by, looking at this correspondence, is just how emphatic
 4 the Post Office reply is. It's detailed in this
 5 statement --

6 Q. We can bring it up for you, if it assists.

7 A. They are saying two things which coloured the replies
 8 and I think affected this situation for a long, long
 9 time, in this reply to Mr Binley.

10 Q. Let's bring it up, it's POL00130687.

11 This is the letter that you were referring to --

12 A. Yes.

13 Q. -- and I think your evidence earlier was that this
 14 informed decision making, or at least your decision
 15 making, for some time, was it, or I think you said
 16 coloured the decision making for some time?

17 A. Yes, and I think for some years after, given how all
 18 this played out. And there's two really important
 19 points in this, which get to the heart of this story in
 20 many ways. One is their -- the Post Office's emphatic
 21 defence of the Horizon IT system. They use phrases like
 22 "we have scrutinised many Horizon transaction records";
 23 they talk about any subpostmaster who is unhappy to
 24 accept the loss has the opportunity to provide evidence;
 25 "we take the concerns of subpostmasters extremely

57

1 like Mr Binley.

2 Q. That can come down. Thank you.

3 Just so we're clear, do you have a positive
 4 recollection of reading this letter and your mindset at
 5 the time?

6 A. Look, it's difficult, after these -- so many years, to
 7 remember individual bits of correspondence. My
 8 recollection is that this was around a bit, it was being
 9 raised over this period of time but the Post Office kept
 10 insisting that the system was robust and fit for
 11 purpose. They kept expressing their faith in it and
 12 they're using court judgments as a proof point.

13 Now, of course, the terrible thing here is that
 14 these court judgments were found to be unsafe and
 15 unsound but I didn't know that at the time and, you
 16 know, it took a long time for those court judgments to
 17 be overturned: many years after they took place, in some
 18 cases.

19 Q. I'm asking, with the benefit of hindsight here, and
 20 hindsight -- you know, it's not what you had at the time
 21 but, with the benefit of hindsight, reading that letter
 22 now, do you think there's anything more you could have
 23 or should have done to challenge what the Post Office
 24 was saying?

25 A. With this particular letter, it was so emphatic, you

59

1 seriously"; "no evidence has been found that shows the
 2 Horizon system has caused the errors to occur".
 3 Phrases like that, "No evidence has been found",
 4 were used for a long time in Post Office replies.
 5 The other thing which comes up in this reply is the
 6 reference to court proceedings as a proof point.
 7 Paragraph 62 of my statement --

8 Q. Well, just for ease, if we turn the page on the actual
 9 letter to that shown, it can be --

10 A. Sorry. Mr Cook says:
 11 "In ... the cases referred to ... Post Office
 12 defended the claim vigorously and assistance was
 13 obtained from Fujitsu [...] All of these reports proved
 14 that there was no problem with the Horizon system that
 15 would explain the discrepancies ..."
 16 And he says he is:
 17 "... satisfied there is no evidence to doubt the
 18 integrity of the Horizon system and that it is robust
 19 and fit for purpose."
 20 Now, look, I understand that reading this 14 years
 21 on, after all the miscarriage of justice, is a very
 22 difficult thing for the people who were victims of this
 23 to read. But the reason I point it out here and in the
 24 statement is to illustrate what we were being told by
 25 the Post Office in response to concerns raised by MPs

58

1 know, I'm not sure but, if you ask me over the whole
 2 story here, of course I wish I had done more to question
 3 these responses. But I believe, if I had -- and I've
 4 thought about this quite a lot -- I believe if I had,
 5 I've have got the same response from the Post Office in
 6 terms of these two points about their faith in the
 7 system -- it's robust, there's no evidence it's wrong,
 8 and so on, and the reference to court judgments -- that
 9 they were saying in the letter. And the reason
 10 I believe that is because they were saying these things
 11 for quite a long time after I left office, as well.

12 Q. Let's move on again in the timeline, please, to
 13 3 November 2009. It's UKGI00011504. This is a letter
 14 from James Arbuthnot, now Lord Arbuthnot, to Lord
 15 Mandelson, to his then Secretary of State, on 3 November
 16 2009, (*unclear*) evidence that this was passed to you.
 17 Now, is this a case where, again, you would have
 18 received it with a proposed response?

19 A. Yes, and this one is more unusual because the response
 20 is signed by me. It's not referred to the Post Office,
 21 to reply directly to Mr Arbuthnot. That might be
 22 because -- well, Mr Arbuthnot, as he then was, Lord
 23 Arbuthnot now, has written to the Secretary of State,
 24 rather than to me, it might be something like that but,
 25 in both this case and the others, even if the reply is

60

1 signed by me -- and I've signed one to Jacqui Smith as
2 well -- the information in it is still all coming from
3 Post Office because the Department has no independent
4 source of information about matters concerning
5 individual subpostmasters. The only people who have the
6 information are the Post Office themselves.

7 **Q.** What we see here is that he refers to his constituents.

8 He says, second paragraph:

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

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

19 Then, if we could please turn to page 3, which was
20 an email enclosed, which you see is from David Bristow
21 to Mr James Arbuthnot, then MP, it refers to his
22 situation, and says:

23 "My predicament is very similar to many
24 postmasters/mistresses around the country. You may be
25 aware of the similar case of Mrs Hamilton at the South

61

1 **Q.** Was that a "yes", sorry?

2 **A.** Yes.

3 **Q.** If we look at your response, please, it's UKGI00011506.

4 The second paragraph is similar to the one you said
5 before.

6 **A.** Yes.

7 **Q.** You mentioned it arose before. It says:

8 "The issues raised by your constituent are
9 operational and contractual matters for [Post Office
10 Limited] and not for Government. I understand from
11 [Post Office Limited] that errors at the branch have
12 been fully investigated and there is nothing to indicate
13 that there are any problems with the Horizon system.
14 The company's position as regards the integrity of the
15 Horizon system remains as set out in the reply dated
16 13 October from Alan Cook, Managing Director, to Brooks
17 Newmark MP, to which your letter refers."

18 So, at that point, rejecting any further external
19 investigation?

20 **A.** Well, this letter would have been treated in the same
21 way as the others, where it was referred to the Post
22 Office, who had the information to respond to the
23 allegations within it and, in every case, they are
24 insisting, in response to our requests, that the system
25 is robust, that it's been proven in court and there's no

63

1 Warnborough post office."

2 Now, pausing there, were you aware of Mrs Hamilton's
3 case at that time?

4 **A.** I wasn't, no.

5 **Q.** "This morning your colleague Mr David Jones MP phoned me
6 about this matter. One of his constituents has been
7 subjected to the same problem. He intends to request
8 a public inquiry in the House of Commons, concerning the
9 Post Office and the Horizon system."

10 So taking that and Lord Arbuthnot's letter together,
11 is the request here, effectively, for the Government to
12 shorten the arms and investigate Post Office itself, or
13 at least investigate the Horizon system itself?

14 **A.** Yes, he's saying David Jones MP intends to request
15 an inquiry in the House of Commons.

16 **Q.** Yes, sorry. So that's the inquiry in the House of
17 Commons.

18 **A.** Yes.

19 **Q.** If we go to page 1, my apologies, at the bottom:

20 "... I should be most grateful if you would let me
21 have your comments on what can be done to investigate
22 the matter."

23 In other words, they're requesting that some
24 external investigation be carried out?

25 **A.** Yes.

62

1 evidence to suggest there's anything wrong with it.

2 That's what they say in response to Jacqui Smith, to
3 Brian Binley and, in effect, to Lord Arbuthnot.

4 **Q.** With an increased number of allegations being raised,
5 more MPs becoming involved and calls for independent
6 investigation, why did you continue to rely on what the
7 Post Office was telling you?

8 **A.** I think the emphatic nature of their response and their
9 faith in the system, their use of court judgments to
10 back that up. They were a trusted brand in the country
11 and they were the ones running the system. And over and
12 over again, they said the system is robust, it's fit for
13 purpose and it's been proven in court, and that's
14 throughout my time what they said in response to each of
15 these queries and letters that we're going through.

16 **Q.** In paragraph 39 of your statement -- we don't need to
17 bring it up -- you say that you believe you met senior
18 management at Royal Mail and Post Office every few
19 months.

20 **A.** Yes.

21 **Q.** You say that you periodically met the Managing Director
22 of Post Office, Alan Cook?

23 **A.** That's correct.

24 **Q.** Did you discuss any of these allegations or Post
25 Office's response to them at the time?

64

1 **A.** If I did, there'd have to be a record of that in the
 2 Department. I've not seen a record of that but we did
 3 meet from time to time, so I cannot say for certain that
 4 I raised these things with -- it would have been Alan
 5 Cook, probably not Adam Crozier, that would have been
 6 different issues. But, if I did, there should be
 7 a record of that in the Department at the time.
 8 **Q.** I'll ask one more series of questions on that issue.
 9 Could we please bring up POL00158368, and page 21. If
 10 you could go to the bottom of that page, please. Thank
 11 you.

12 This is an email from Alan Cook on 15 October 2009,
 13 the Inquiry has seen it before. It's to internal people
 14 within Post Office. No suggestion that you would have
 15 seen this at the time. It says, second paragraph down:

16 "For some strange reason there is a steadily
 17 building nervousness about the accuracy of the Horizon
 18 system and the press are on it as well now.

19 "It is the more strange in that the system has been
 20 stable and reliable for many years now and there is
 21 absolutely no logical reason why these fears should now
 22 develop.

23 "My instincts tell that, in a recession, subbies
 24 with their hand in the till choose to blame the
 25 technology when they are found to be short of cash."

1 He went on to say that the Government was refusing
 2 to take the responsibilities that go with ownership. Do
 3 you accept or reject that criticism?

4 **A.** Look, I understand why he's angry, given what happened
 5 and, you know, he's right to be, but the legislation of
 6 the Postal Services Act made a clear difference between
 7 operational running and overall ownership. This is
 8 a separation that was legislated for by design. It
 9 wasn't a policy decision of mine or of any other later
 10 Minister. It was legislated for by design and what that
 11 set up was the structure that, when enquiries came in or
 12 queries raised or questions asked from individual MPs
 13 about subpostmasters or the operation of the Horizon
 14 system, that it would be referred to the Post Office for
 15 response, either directly or to get the information for
 16 a Departmental response, because they were the ones who
 17 had the information.

18 We didn't have a separate source or a store of
 19 information in the Department about that. My reflection
 20 on this, after all these years, is, clearly, those
 21 responses were wrong. The evidence being used in the
 22 court to prosecute the subpostmasters has turned out to
 23 be wrong and was proven to be wrong in the cases that
 24 overturned these judgments many years later.

25 What I'm not clear of about is at what point in this

1 Do you have any recollection of Mr Cook expressing
 2 those views to you?

3 **A.** No, I never -- I saw this -- I think it was published by
 4 this Inquiry some weeks ago. I saw it in detail for the
 5 first time on Monday. I think it's shocking and, you
 6 know, revealing about the instincts inside the Post
 7 Office at the time. But I never heard senior Post
 8 Office people say that at the time and, when I looked at
 9 the replies to Brian Binley or to the other MPs, you
 10 know, I've taken at face value their faith in the
 11 robustness of the system. But I think -- perhaps
 12 I shouldn't opine on things I haven't seen or had no
 13 involvement with, but I think it's a revealing email.

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

15 We've looked already at your response to James
 16 Arbuthnot -- Lord Arbuthnot, sorry. Lord Arbuthnot gave
 17 evidence to this Inquiry on 10 April of this year and,
 18 in respect of that response, he said that he was
 19 frustrated and annoyed and, in setting out his reasons
 20 for being annoyed, he said:

21 "Because I'd wanted what had seemed to me to be
 22 something that was potentially an injustice to be sorted
 23 out and, since the Government owned the Post Office,
 24 I assumed that the Government would be in a position to
 25 sort it out, but they were saying 'No, not me guv'."

1 story does blind faith from the Post Office in their IT
 2 system turn to something more sinister where people are
 3 just not telling the truth? Now, I don't know at what
 4 point that happens but I'm sure it's something the
 5 Inquiry will want to get to the bottom of.

6 **Q.** Do you think, during your time as Minister, the
 7 Government should have done more to satisfy itself that
 8 Post Office was conducting its prosecutions properly and
 9 fairly? I'm not talking about convictions; I'm talking
 10 about prosecutions.

11 **A.** Look, when I look back on this and I, you know, think of
 12 the terrible human consequences for the subpostmasters
 13 who were prosecuted -- even the ones who weren't
 14 prosecuted but lost large sums of money or suffered
 15 damage in other ways -- of course I wish I had asked
 16 more about this. But do believe, given the emphatic
 17 nature of the replies and Post Office's use of court
 18 judgments as a proof point for the robustness of the
 19 system, at this stage in the process, I'm not sure it
 20 would have got any further. I believe they would have
 21 said exactly the same things in person as they were
 22 saying in these letters.

23 **Q.** Just in fairness, I'm going to just clarify my question.
 24 I think the answer there really is about the information
 25 you were receiving regarding the Horizon IT system?

1 A. Yes.
2 Q. Now, my question is slightly different in that Post
3 Office were prosecuting people, it was
4 a government-owned company, and my question is: do you
5 think the Government should have done more, effectively,
6 to oversee Post Office prosecutions and see that they
7 were done fairly and lawfully?

8 A. Well, I'm not sure about that because we discussed this
9 in the session before the break. Ministers are always
10 very reluctant to interfere in a judicial process.
11 So -- and that reluctance is there for good reasons.
12 You know, we are always taught not to do that in the UK
13 constitutional system. In fact, it is 14 years after
14 the period we're talking about now where Parliament has
15 taken the constitutionally -- I don't know if it's
16 unprecedented because, you know, I can't say that for
17 sure, but, certainly in my time in politics, the
18 unprecedented step of legislating to overturn court
19 judgments.

20 Now, I support that legislation, I think it was the
21 right thing to do because of the enormous level of harm
22 done to the subpostmasters but it's a very unusual thing
23 to do, as well and it has taken many years after the
24 period that we're talking about for Parliament to reach
25 the conclusion that so much of this was tied up in the

69

1 act as Shadow Chief Executives of them, which begs the
2 question: well, what do you do when one goes rogue? If
3 it's not the ministers sitting on the Chief Executive's
4 shoulder, what is it? And I wonder if it's worth
5 considering some sort of body that is established to do
6 precisely this, that can be called in to launch
7 an inquiry or take action when the level of allegations
8 reaches such a point that it looks like that is the
9 right thing to do.

10 I think this is a live and real policy question
11 which has been exposed by this scandal, and I'm glad
12 you're considering it going forward, but I'm not sure if
13 making Ministers the Shadow Chief Executives is going to
14 be the practical way to do this.

15 Q. So you propose there's some form of independent body
16 that would conduct a --

17 A. Well, "propose" is a bit of a -- is maybe a bit --

18 Q. Sorry.

19 A. I've been trying to think about this and I think we're
20 going to have to have something that can be called upon
21 to do this kind of thing in the future. The exact
22 design and job description, that will need work, but,
23 you know, I have been trying to think: what could you
24 really do here?

25 This system of separation, which I appreciate is

71

1 courts that the only course left to it was to legislate
2 to overturn court judgments, and the ministers
3 introducing the legislation acknowledged how unusual it
4 was to do that.

5 Q. I want to ask you some questions about the model going
6 forward, I'll be very brief.

7 The Inquiry is going to hear evidence on things like
8 corporate governance, Government oversight and whether
9 it will consider whether any recommendation should be
10 made for changes. The Inquiry shall hear evidence that
11 recommends that ministers should have an express power
12 to involve themselves in decision making of arm's-length
13 bodies; what would you say to that?

14 A. I think it's right that the Inquiry looks at this.

15 I have thought about that is. I think there's going to
16 be a temptation on your part, because of what went wrong
17 here, to have Ministers as sort of Shadow Chief
18 Executives of these bodies and I think, in the short
19 term, there will be a cheer for that, because people
20 will say this arm's-length body, this publicly-owned
21 company engaged in unsound prosecutions of its own
22 staff, effectively, it's own contracted staff, and of
23 course the consequences for them were awful.

24 But I'm not sure, in practice, given the number of
25 arm's-length bodies there are, that ministers really can

70

1 frustrating to many people, was legislated for by
2 design, and there was no independent source of
3 information that could have allowed the Department to
4 start second-guessing on the operation of Horizon. But,
5 still, injustices took place, so what is it that we need
6 in the future, and I wonder if some sort of inspectorate
7 or body to be called in is the right way to go. I think
8 it might be.

9 Q. Given you said you did not like my use of the word
10 "propose", I'm not going to ask you further questions on
11 the details of that but it is something that the Inquiry
12 will obviously consider going forward.

13 SIR WYN WILLIAMS: I think I'd say, Mr Stevens, that
14 Mr McFadden is floating an idea before me for my
15 consideration.

16 MR STEVENS: Yes, sir.

17 A. That's a very fair way to put it, Sir Wyn, and it is for
18 the Inquiry to make its recommendations. But I, for
19 one, would be grateful if the Inquiry could consider
20 that idea floated.

21 MR STEVENS: Thank you, Mr McFadden.

22 Sir, that is all the questions I have. There are
23 questions from the NFSP, I believe.

24 Yes, anyone -- Mr Stein?

25 I'm just getting it a time estimate, sir.

72

1 Mr Stein has asked for five minutes and the NFSP
2 have asked for five minutes as well.
3 **SIR WYN WILLIAMS:** Well, then, I'm very happy for them to
4 agree the order in which they take advantage of their
5 five minutes.

6 **Questioned by MR STEIN**

7 **MR STEIN:** Sir, the agreed order is that I go first.
8 Mr McFadden, I represent a large group of
9 subpostmasters. I want to go back to your statement, if
10 I can, please, when you refer to the information that
11 was given, as you're talking about, to your private
12 office from the journalist, Ms Thomson.

13 **A.** Yes.

14 **Q.** So if we go, please, to paragraphs 52 to 54, I'd be
15 grateful.

16 **A.** Yes, I've got that here.

17 **Q.** If we look at 52 -- if we can get that up on the screen,
18 I'd be grateful -- we see there what's happening, just
19 to orient ourselves to the point. Your office is
20 getting information from a publication called Computer
21 Weekly. This is being passed on by an MP called
22 Mr Binley and this is about articles written by
23 Ms Thomson, and I'll just summarise what is being
24 written here.

25 She's talking about the fact that she has spoken to

73

1 said, "What's going on?", and you get a reply from the
2 Chief Executive of the Post Office, saying "Well, no
3 problem here, this is not happening".

4 How do we in the future, when you're thinking about
5 changes to the way that these matters should be looked
6 at, how do we actually get the Government to actually
7 think about what people are saying, not just
8 organisations? Because what could have happened here
9 was that someone could have spoken to the subpostmasters
10 rather than just going back to the Post Office; why did
11 nobody do that?

12 **A.** Well, look, for us in taking this allegation at the
13 time, the right thing to do was to ask the people
14 running the business -- and we've talked a lot about
15 this, this morning -- and that structure had been set up
16 some years before I was the Minister. They were the
17 people who ran the Horizon system. They were the people
18 who had the information about it, and when I look at the
19 correspondence in the round, what I'm really struck by
20 is how emphatic their defence of the system was and
21 continued to be for a long time after this exchange of
22 correspondence.

23 Not only an emphatic defence, but also the use of
24 court judgments as a proof point. When you have the use
25 of court judgments as a proof point, ministers at that

75

1 several current and former subpostmasters, talking about
2 random flaws in the system. She's talking about
3 deficits in weekly accounts, sometimes to thousands of
4 pounds at a time, that the Post Office -- this is my
5 summary -- is making people -- subpostmasters -- pay
6 back this money without any investigation to what's
7 going wrong.

8 Then, as you go through, you're quoting within your
9 own statement the fact that the articles are continuing
10 and referring to what I would call devastating
11 consequences that people are turning to false accounting
12 or being forced to file for bankruptcy.

13 Now, that's my summary of particular parts of what's
14 being sent through to Government, okay?

15 Now, these are unusual allegations, these are
16 particularly strong allegations, with subpostmasters in
17 branches being made to pay back or being prosecuted or
18 to turning to criminal acts. These are wholly unusual,
19 do you agree?

20 **A.** It is unusual, yes.

21 **Q.** The large number of people that I represent, I suppose,
22 want to find out then what happened next and, again, in
23 my summary, what happened next was your office went back
24 to the Post Office -- who the subpostmasters regarded as
25 the abuser of them -- went back to the Post Office and

74

1 point, as we said -- I said in my exchanges with
2 Mr Stevens -- ministers at that point will usually
3 think, "I can't intervene in court judgments", and they
4 think that for a very good reason.

5 **Q.** Well, you've already been asked questions by the Chair
6 of this Inquiry about that part of it and I will leave
7 that alone. But my point, and the question I am asking
8 you, is this: you're saying that the right thing to do
9 is to ask Mr Cook -- this what your private office
10 did -- at the Post Office, you're saying that's the
11 right thing to do. Why isn't the right thing to do to
12 ask the people that are saying they are being abused by
13 the Post Office; why miss out on them?

14 **A.** Well, the National Federation of SubPostmasters, as is
15 seen in evidence given by the then General Secretary to
16 a Select Committee some years later, he says that, at
17 the time, he didn't think there was a fundamental
18 problem with the system either.

19 So, at the time, the representatives -- or what
20 I thought was the representative of the
21 subpostmasters -- they weren't raising it as an issue
22 either. Now, what I have subsequently discovered, which
23 I did not realise at the time, was that the relationship
24 between the National Federation of SubPostmasters and
25 many individual subpostmasters, I think particularly

76

1 perhaps those involved in this scandal, was a bad
2 relationship but that wasn't something that was clear to
3 me at the time.

4 So you have both the management of the business and,
5 in effect, the trade union, saying very similar things.

6 **Q.** Mr McFadden, I know you've been a politician for a very
7 long time. That wasn't my question. My question was,
8 in relation to this correspondence, the trenchant and
9 deeply disturbing allegations being made by Computer
10 Weekly were not investigated by your Department. They
11 were simply circulated back to Mr Cook. As an example,
12 if your answer was right, nobody within your Department
13 said, "Well, let's have a word with the NFSP". What
14 happened at the time is just to go back to Mr Cook
15 rather than the people making these awful complaints.

16 Have you got a better answer than, "Well, I'm not
17 sure why it didn't happen but we could have, if later
18 on, thought about it, we might have had a natter with
19 the NFSP", which didn't happen?

20 **A.** I think it was the right thing to do try to get the --
21 to raise these concerns with the Post Office, who were
22 running the system.

23 The fact that the Post Office's assurances proved to
24 be wrong about the robustness of the system and the fact
25 that the court judgments that they were using as proof

77

1 question I wanted to ask you about that was: was this
2 difference in legal protections between those who were
3 Post Office employees and the very large number of
4 self-employed subpostmasters, whose businesses supported
5 a significant part of the Post Office network, were
6 those differences between those two ever considered by
7 you or your office?

8 **A.** No, and I think this is an important aspect of this,
9 which we haven't discussed before this morning, which
10 was the nature of the contract here between the
11 subpostmasters and the Post Office, which meant that the
12 subpostmasters were considered liable for losses and,
13 again, I'm not sure how far the Inquiry has looked into
14 this but I would be interested in knowing about how
15 flaws in the system were dealt with in the Crown post
16 offices where there's a more direct employment
17 relationship.

18 So I think you've raised an important point and
19 I think this is about the nature of that contract, part
20 of this overall story.

21 **Q.** Thank you.

22 You referred just there, in your answer to Mr Stein,
23 to the evidence of Mr Thomson, the General Secretary of
24 the NFSP at the time, and the NFSP of today has said how
25 shocked it was by that. But at paragraph 27 of your

79

1 points proved to be unsafe and unsound and were later
2 overturned, was not known at the time.

3 **MR STEIN:** Sir, I've asked that question, I think, three
4 times. I'll stop now.

5 **SIR WYN WILLIAMS:** Thank you, Mr Stein.
6 Is Ms Watt there?

7 **MS WATT:** Yes, sir. Thank you.

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

9 **Questioned by MS WATT**

10 **MS WATT:** Good afternoon, Mr McFadden. I ask questions on
11 behalf of the National Federation of SubPostmasters and
12 I've got couple of questions to ask you about your
13 evidence this morning.

14 Looking at the employment relations side of things,
15 at paragraph 9 of your witness statement -- and you also
16 talked about this in your evidence -- you say that as
17 Minister of State at BERR:

18 "My responsibilities including on any legislation
19 connected with employment relations or postal affairs."

20 At paragraph 16 of your statement you say:

21 "This included legislation going through Parliament
22 to improve employment rights."

23 Now, subpostmasters were self-employed and not
24 employees of the Post Office, so they didn't have the
25 protections that came with being an employee. So the

78

1 witness statement, looking at a different organisation,
2 you say that:

3 "The CWU was totally opposed to any level of private
4 investment and ownership of RMG."

5 I just wanted to ask you a little bit that, how
6 regularly you in your role met with the CWU to talk
7 about issues affecting their members?

8 **A.** Quite a lot but not to do with post offices because
9 their principal interest was Royal Mail and, in the
10 second half of my tenure at the Department, we'd had the
11 Hooper report, which had recommended private investment
12 in Royal Mail. As I said in my earlier evidence, that
13 was a very controversial thing for a Labour Government
14 to propose. The Bill to do that -- we had a Bill to do
15 that, which guaranteed that Royal Mail would remain in
16 the public sector and that any stake would be a minority
17 stake. But still, there was huge opposition to that,
18 not just from the CWU but from a lot of Labour MPs at
19 the time as well.

20 And a combination of that opposition and the
21 inability to find a private-sector investor that the
22 Government thought would give value for money meant that
23 the proposal was eventually shelved before the 2010
24 election.

25 **Q.** So is it fair to say that, in your meetings, the CWU

80

1 didn't raise concerns about Horizon with you?

2 **A.** Yes, I don't remember the CWU raising concerns about
3 Horizon with me.

4 **Q.** Just one final aspect, there's also been quite a lot of
5 discussion this morning in your evidence about the
6 arm's-length relationship and the day-to-day operations,
7 as opposed to strategic, in terms of the Post Office.
8 Would you accept that the reliance of Government on this
9 arm's-length relationship and day-to-day operations, and
10 the Post Office assurances, despite all of that incoming
11 correspondence from MPs, meant that the Government
12 ultimately failed to investigate or insist on
13 an investigation into Horizon issues and the truth of
14 what the Post Office was saying?

15 **A.** Well, I think the way that this had been set up by the
16 Postal Services Act meant that the way to raise queries
17 like this was by asking the Post Office, and what we did
18 not know at the time was that what the Post Office was
19 saying about the system was wrong, and the question that
20 I'm not clear about is to what extent was this blind
21 faith in the IT from the top of the Post Office or
22 something more sinister, and at what point in this
23 story?

24 I think probably, perhaps, you know, I'm seeing too
25 benign motives in people. I think perhaps at the start

81

1 proposal to do something differently? It is quite
2 difficult to bring all these things entirely in-house,
3 and have ministers, in effect, run them on a day-to-day
4 basis. I think that's going to be a tempting conclusion
5 from this, because of the degree to which things went
6 wrong and the awful human consequences of it, but, you
7 know, what would be looking for in a policy way here is
8 something that would work, rather than something that
9 might in practice not work, and that's why I'm wondering
10 if there's some body that can be established that can
11 inquire into these organisations, rather than the
12 conclusion to your question being: Ministers should act
13 as Shadow Chief Executives of all the departmental
14 bodies within any Department in which they're
15 a Minister.

16 **MS WATT:** Thank you, Mr McFadden.

17 **SIR WYN WILLIAMS:** Is that it, Mr Stevens?

18 **MR STEVENS:** Yes, that's it, sir. We are finished with the
19 questioning for Mr McFadden.

20 **SIR WYN WILLIAMS:** Well, thank you very much, Mr McFadden
21 for producing your written statement and for coming to
22 the Inquiry to give oral evidence. I am very grateful
23 to you.

24 **THE WITNESS:** Thank you very much.

25 **MR STEVENS:** Thank you, sir. I understand from Mr Beer that

83

1 to their story it was blind faith in the IT. But
2 I think at some point in this story, as has been proven
3 by the subsequent court judgments, we moved from blind
4 faith to dishonesty, in terms of some of the things that
5 are being said. I don't know quite when that happens
6 but, from a Government point of view at the time, we
7 took what the Post Office said about the robustness of
8 the system and the court cases as proof points, at face
9 value.

10 And, in particular, this point about using the court
11 cases as proof points is important because the Ministers
12 are told "Do not interfere when there is a court
13 judgment, you cannot interfere with judges, a court
14 judgment is final".

15 **Q.** Just finally looking back, you've talked about the
16 Postal Services Act there, which sets up the Post Office
17 as this arm's-length body, but you've also mentioned
18 many more arm's-length bodies. Would you accept that
19 reliance on that type of relationship, arm's length,
20 apparently allows Government to absolve itself from
21 ultimate responsibility when things go wrong, as it did
22 here?

23 **A.** Well, I think it's an important question and it's
24 a difficult one because, as Mr Stevens asked me at the
25 end of my evidence to him, you know, what is the

82

1 the proposal will be to take a ten-minute break now,
2 until 12.40, and then start Sir Ed Davey's evidence.

3 **SIR WYN WILLIAMS:** All right. That's fine.

4 **MR STEVENS:** Thank you, sir.

5 (12.30 pm)

(A short break)

6 (12.44 pm)

7 **MR BEER:** Good afternoon, sir. Can you see and hear us?

8 **SIR WYN WILLIAMS:** Yes, I can. Thank you.

9 **MR BEER:** Thank you, sir. May I call Sir Ed Davey.

10 **THE RIGHT HONOURABLE SIR EDWARD JONATHAN DAVEY MP (sworn)**
11 **Questioned by MR BEER**

12 **MR BEER:** Sir, thank you very much for coming to give
13 evidence today. As you know my name, is Jason Beer and
14 I ask questions on behalf of the Inquiry. Can you give
15 us your full name, please?

16 **A.** My full name is Edward Jonathan Davey.

17 **Q.** You kindly provided us with a witness statement, the URN
18 for which is WITN10610100. You will have a hard copy in
19 front of you. There are two corrections, I think, that
20 you wish to make to it. The first is on page 2, at
21 paragraph 6, if you can turn that up.

22 In the second line, does it end with "explain the
23 way in which I worked as Secretary of State", should
24 that read "explain the way in which I worked as
25

84

1 Minister"?

2 **A.** Yes.

3 **Q.** So cross out the word "Secretary of State", insert word

4 "Minister".

5 The second correction, page 14, please, at

6 paragraph 61. The first sentence reads, "I commissioned

7 a comprehensive report", and then a reference appears in

8 parentheses afterwards. Do you wish to delete all of

9 the text in the parentheses after the word "report"?

10 **A.** Yes, I do.

11 **Q.** Because that's not the correct reference. Thank you

12 very much.

13 Can you turn, please, to page 62.

14 **A.** Mr Beer, do you mean page 47?

15 **Q.** 47 of 62, thank you. Is that your signature?

16 **A.** Yes, it is.

17 **Q.** Are the contents of the witness statement true to the

18 best of your knowledge and belief, with those two

19 corrections brought into account?

20 **A.** Yes, they are.

21 **Q.** Thank you very much. You can put that to one side and

22 the witness statement can come down.

23 Can I start, please, with your background, and I'm

24 going to deal with this in summary terms, if I may. Can

25 you confirm the following: you are presently the Member

85

1 **Q.** Is it right that your Secretary of State through that

2 20-month period when you were Parliamentary

3 Under-Secretary, the Secretary of State for Business,

4 Innovation and Skills, was Sir Vince Cable?

5 **A.** Yes, it is.

6 **Q.** There was no change in leadership of the Department, the

7 BIS Department, in terms of Secretary of State?

8 **A.** No.

9 **Q.** Thank you very much.

10 Can I start the questions of substance, please, with

11 exploring the Government's arm's-length relationship

12 with the Post Office?

13 **A.** Yes.

14 **Q.** Do you agree that, as the Minister with responsibility

15 for postal affairs and in the light of its status as

16 a publicly-owned company, that you, as Minister, were

17 ultimately accountable for the Post Office?

18 **A.** Yes, I do.

19 **Q.** How do you satisfy yourself that the Post Office was

20 being properly and effectively managed by its management

21 and its Board during your tenure?

22 **A.** I was primarily reliant on the advice of my officials

23 from the Department. They would brief me ahead of

24 meetings with management from Post Office Limited and,

25 indeed, Royal Mail Group because, at the time, Royal

87

1 of Parliament for Kingston and Surbiton and you

2 previously held that position between May 1997 and March

3 2015 and then again from June 2017 to date?

4 **A.** Correct.

5 **Q.** You're the Leader of the Liberal Democrats and, more

6 relevantly to the Inquiry, you were the Parliamentary

7 Under-Secretary of State for Employment Relations,

8 Consumer and Postal Affairs in the Coalition Government

9 between the 20 May 2010 and 3 February 2012?

10 **A.** That's correct.

11 **Q.** Is it right that that was your first ever ministerial

12 post?

13 **A.** Yes, it is.

14 **Q.** I think it therefore lasted about 20 months, if my maths

15 is correct. Was that until your promotion to the role

16 of Secretary of State for Energy and Climate Change?

17 **A.** Yes, that's correct.

18 **Q.** Was your predecessor as Parliamentary Under-Secretary of

19 State, PUS, Lord Anthony Young, a Labour Minister?

20 **A.** I believe that to be the case, yes.

21 **Q.** Was your successor as Parliamentary Under-Secretary of

22 State, Norman Lamb --

23 **A.** Yes.

24 **Q.** -- a member of the Lib Dems?

25 **A.** Yes.

86

1 Mail Group was ultimately in charge of Post Office

2 Limited. So the main reassurance about what was

3 happening came from the Department, from the officials,

4 but I would have meetings with both Royal Mail and Post

5 Office Limited, and indeed stakeholders, and discuss the

6 situation in those meetings.

7 **Q.** Was there any formal or established method of oversight

8 in place when you took up the position as Minister?

9 **A.** Was I -- as I understood it, the oversight came from the

10 Department, talking to Royal Mail Group, talking to Post

11 Office Limited, with ShEx, who were the Shareholder

12 Executive, the group within the Department, most of all,

13 overseeing that. Of course --

14 **Q.** Was ShEx then the principal body or organisation or

15 group of people that, from Government's perspective, was

16 responsible for oversight of the Post Office?

17 **A.** Yes, I think that's the case. Obviously, my private

18 office would often relay briefings on behalf of ShEx.

19 At the time, when I was starting as a Minister, I really

20 didn't see much difference between officials who weren't

21 in Shareholder Executive from Shareholder Executive.

22 I gradually learned there was a bit of a difference,

23 mainly the people in Shareholder Executive seemed to

24 have more a commercial background.

25 **Q.** Did you receive any handover from your predecessor, Lord

88

1 Young?

2 **A.** No.

3 **Q.** Is that commonplace in changes of Government, not to
4 receive handovers from your predecessor in office?

5 **A.** I'm afraid I don't really know. This is the only time
6 it happened to me. I'm not sure if I gave a handover in
7 2015 when I left office, so I -- and I was not asked to,
8 so I presume it's not that common. I think ministers
9 rely on the civil servants to be the continuity part and
10 to brief and, of course, you're not supposed to see
11 papers from the previous Government.

12 **Q.** You tell us in your witness statement -- let's turn it
13 up, it will come up on the screen, please, page 22 of
14 the witness statement, at paragraph 94, which is at the
15 foot of the page. You say:

16 "I cannot recall having an initial briefing on Royal
17 Mail and the Post Office, though I expect I did, during
18 my first weeks in office. However, I am very confident
19 that I did not receive any specific briefing on the
20 Horizon system, nor was it something that it would have
21 occurred to me to ask for specific briefing on. My
22 concern with [Post Office] was primarily at the level of
23 strategic policy, which was [the] consequence of the
24 fact that [Post Office] was an arm's-length body. I did
25 not expect to be involved with operational matters such

89

1 me. I was not qualified to, and would not have had time
2 to, get involved in the day-to-day running of [the Post
3 Office]."

4 So looking at all of that evidence together, in
5 order to fulfil your role as Minister and ensure that
6 the Government's strategy for Post Office was
7 implemented, did you not need to have an understanding
8 of the operational issues that were affecting the Post
9 Office?

10 **A.** Not in terms of staff, buildings and IT systems, no.
11 The key issue in our manifesto, and then in the
12 Coalition Agreement, was to avoid further closures of
13 post offices and to maintain the network, and our focus
14 on doing that, as I think I describe in my statement,
15 was both asking Post Office Limited and Royal Mail Group
16 to come up with a strategy to put to Government so we
17 could ask Treasury for subsidy for the rest of the
18 Parliament to implement that commercial strategy. Plus,
19 we were looking at, at a strategic level, how the Post
20 Office's role might need to change, given the changes in
21 the way Government put business through the Post Office,
22 the declining footfall in post offices and the changing
23 nature of the high street.

24 So I came to this position wanting to implement our
25 policy which was, at a very strategic level, and it

91

1 as staff, buildings or IT systems. I was not aware of
2 the Horizon system in particular, though of course
3 I would have realised that [Post Office] would have
4 a computer system used in Post Office branches."

5 Then, at paragraph 95, you note that you were not
6 aware that:

7 "... the Post Office and Royal Mail Group themselves
8 investigated, prosecuted and obtained convictions
9 against subpostmasters."

10 Then, lastly, over the page to page 24, at
11 paragraph 99, this is something we're going to coming
12 back to in more detail after lunch but I just want to
13 read this paragraph for now:

14 "The draft response [and this is a draft response to
15 a request for a meeting from Sir Alan Bates] declined
16 the suggested meeting. The reason given for this
17 refusal in the letter was that the Horizon system was
18 an operational matter for [Post Office], which was
19 an arm's-length body. That accorded with my
20 understanding of the relationship between the Government
21 and [Post Office] at the time: it was not my role as
22 a minister to intervene in [Post Office's] day-to-day
23 operations. I understood this to be the case for
24 practical reasons: ministers did not get involved in the
25 day-to-day running of the business. That made sense to

90

1 frankly didn't occur to me that I needed to go down into
2 IT systems.

3 **Q.** How did you distinguish between what was an operational
4 matter, which was for the Post Office, and matters of
5 strategic policy that were for you?

6 **A.** I guess it was a combination of advice from officials,
7 which -- they were experienced in this, they had
8 understood and worked with the Post Office and Royal
9 Mail Group for -- I presume for some time, and therefore
10 understood that, that line. But there was also the
11 common sense line, both as I understood -- understand
12 now in law and in terms of practical considerations,
13 a minister who has got huge responsibilities over many
14 areas, really can't get involved in day-to-day
15 operational matters, and I felt our focus was on the
16 strategic level, where Government could make
17 a difference, both in terms of deciding subsidy levels
18 and deciding the ultimate strategic role that the Post
19 Office would play in our society.

20 **Q.** What would it take for a matter to reach the level of
21 "strategic policy"?

22 **A.** Well, if it was going to fundamentally change the nature
23 of the Post Office and how it supported the public, it
24 clearly has a very big social purpose in many of our
25 villages, towns and cities and, having in opposition and

92

1 as an MP over a number of years, had to fight closures
2 of post offices in my constituency, as have colleagues,
3 and having seen how the public value their post offices
4 and value their subpostmasters, it seemed to me that we
5 wanted to make sure those closures didn't happen again,
6 and we were, therefore, focused on the strategy to make
7 sure that didn't happen again, which as I've referred
8 to, meant things like subsidy levels, the role of the
9 Post Office in the future, not day-to-day operations.

10 **Q.** Who made it clear to you that it was not for you to
11 become involved in operational matters?

12 **A.** Well, I guess it was the briefing of officials, and you
13 will see in a number of letters that have been put to
14 the Inquiry that that is what I was advised and that is
15 what I understood. It seemed --

16 **Q.** Is that principally from ShEx?

17 **A.** Yes, I suppose so. I mean, whoever wrote the letters,
18 I assume it's from ShEx, yeah.

19 **Q.** Was that made clear to you early in your tenure as
20 Minister, that you were not to become involved in
21 operational matters?

22 **A.** Whether it was explicitly in a verbal briefing, I don't
23 think so, but it was in the paperwork that there was
24 this difference. Indeed, I think there's a reference to
25 an Act of Parliament in 2001, which said that ministers

93

1 they'd been given.

2 **Q.** That's something you suggest in your witness
3 statement -- no need to turn it up -- at paragraph 26 on
4 page 7. You say:

5 "Under the law, Royal Mail Group and Post Office
6 operated at arm's length to ministers."

7 Which law was it?

8 **A.** I think, and I'm sorry I'm not -- I don't know the exact
9 reference -- I think it was the Postal Services Act
10 2001.

11 **Q.** You understood the Postal Services Act 2001 to require
12 the Government to operate at arm's length to the Post
13 Office and Royal Mail Group?

14 **A.** Yeah, I think that was a reference that we put in
15 a number of letters that were drafted for me to sign,
16 and that was the basis as I understood it.

17 **Q.** Did you ever receive a briefing on what the Postal
18 Services Act in fact said on this issue?

19 **A.** No.

20 **Q.** Did you ever look at the Postal Services Act to see what
21 the legal relationship between Government and Royal Mail
22 Group and Post Office was?

23 **A.** No, and there was a -- probably a good reason for that,
24 Mr Beer. We were charged through the Coalition
25 Agreement -- I was charged, with putting a new Postal

95

1 weren't to get involved in day-to-day operations of
2 either Royal Mail Group or its subsidiaries, Post Office
3 Limited, and that these were arm's-length bodies not to
4 be interfered with on a day-to-day basis.

5 That seemed to make sense to me, in common sense
6 terms, that we just wouldn't have had the time or the
7 knowledge to do that. There were so many other things
8 that we were responsible for and, indeed, within Post
9 Office, so many other things that we were trying to
10 achieve at the strategic level.

11 **Q.** Did the same division or prohibition apply to
12 individuals within ShEx, ie they were not to get
13 involved in the operational matters concerning the Post
14 Office?

15 **A.** I assume it did. But we didn't have a conversation to
16 that but I always assume that was the case.

17 **Q.** Did the same prohibition, to your understanding, apply
18 to civil servants outside of ShEx, that they were not to
19 become involved in the day-to-day operational running of
20 the Post Office?

21 **A.** Yes, it follows that they did. I mean, given that that
22 law, I think, was a 2001 Act, it seems to suggest that
23 Government, be they ministers or officials, were to
24 leave Post Office Limited and Royal Mail Group to get on
25 with that day-to-day operational responsibility that

94

1 Services Act into place, rapidly. The Government
2 business managers wanted that Bill to be ready for
3 a second reading in the autumn following the May
4 election and my task, which took a considerable amount
5 of my time in those first few weeks and months, was to
6 prepare the Postal Services Bill, which was going to
7 fundamentally change the relationship. So all my time
8 was focused on that, not looking back to an Act of 2001.

9 **Q.** You said in your witness statement that you were not
10 aware that the Post Office or Royal Mail Group
11 themselves investigated, prosecuted and obtained
12 convictions against subpostmasters. When did you first
13 become aware of that operation or conduct by RMG or POL?

14 **A.** I'm trying to think if it was during this Inquiry
15 procedure. I think it probably was; I certainly didn't
16 realise it when I was a Minister.

17 **Q.** Does it follow that you were unaware of any steps that
18 Government took to superintend or oversee the conduct of
19 prosecutions by the Post Office?

20 **A.** I was unaware of those, if there were any at all.

21 **Q.** You're aware, I think, that the Attorney General
22 oversees the conduct and operation of the Crown
23 Prosecution Service and answers for the Crown
24 Prosecution Service's performance and conduct in
25 Parliament?

96

1 A. Yes, I am.
 2 Q. Does it follow that you were unaware at the time, the
 3 duration of your period as minister for 20 months,
 4 whether or not there was any equivalent position
 5 occupied by a member of Government in relation to Post
 6 Office's prosecutions and Royal Mail Group's
 7 prosecutions, because you didn't know that they were
 8 being undertaken by those companies?
 9 A. That's the case, yes.
 10 Q. You tell us in your witness statement and you've told us
 11 today that you relied significantly on briefings and the
 12 provision of drafts of letters and of submissions from
 13 civil servants. Were they principally from within the
 14 Shareholder Executive?
 15 A. I think they were, certainly in relation to this issue,
 16 the only submission that I've seen was from Mike
 17 Whitehead from ShEx.
 18 Q. The 5 October one?
 19 A. Yes, but I would have received many, many more
 20 submissions on Royal Mail and Post Office Limited over
 21 my time because there were many, many other issues
 22 occurring. And I can't be sure because I haven't gone
 23 back to those papers but they almost certainly came from
 24 ShEx.
 25 Q. To what extent did you monitor ShEx's oversight of the

1 Mail Group and in Post Office Limited. As is clear from
 2 my statement, I would meet, myself, those senior
 3 managers and obviously discuss our strategy with them.
 4 So I relied mostly on ShEx to do that but, as
 5 a minister, I wanted to meet the managers too and put my
 6 questions to them. But, again, for those meetings,
 7 I was heavily reliant on ShEx.
 8 Q. If we turn up page 22 of your witness statement, please,
 9 at paragraph 91. You say:
 10 "It is worth emphasising at the outset that, whilst
 11 now clear that there were disastrous problems with
 12 Horizon -- and with the Post Office's conduct towards
 13 subpostmasters -- which are now rightly the focus of
 14 this public inquiry, that was not at all clear at the
 15 time. I was responsible for a large number of important
 16 issues across a very broad portfolio, and with respect
 17 to all the issues I dealt with in postal affairs, the
 18 Horizon issue was one amongst many -- and indeed, I was
 19 continually advised it was a matter for the Post Office,
 20 because it was a day-to-day operational issue."
 21 Who continually advised you that Horizon integrity
 22 issues were operational matters for the Post Office?
 23 A. Well, that was both in the submission of Mr Whitehead
 24 but in the drafting of the letters in response to
 25 letters from MPs and, indeed, Parliamentary Questions.

1 Post Office?
 2 A. I'm not sure if monitoring -- I mean, we were trying to
 3 implement our policy, that was the main focus, the
 4 strategic changes we were trying to make, and my
 5 interactions with ShEx about that were, again, at that
 6 quite high level. I guess for the Postal Services Bill,
 7 there would have been people outside ShEx within the
 8 Department because there would have been the policy
 9 committee, the Bill committee. Because it was quite
 10 a big piece of legislation which we were putting
 11 together quite rapidly, there would have been a lot of
 12 people working on that.
 13 So it wouldn't have been exclusively ShEx and,
 14 I guess, monitoring of ShEx was through the work we were
 15 doing with them, not from their oversight of Royal Mail
 16 Group or POL.
 17 Q. Does it follow that you would treat ShEx as
 18 a self-sustaining and self-governing body that would be
 19 left to its own devices to monitor and oversee the Post
 20 Office in its capacity as shareholder, and that you
 21 wouldn't yourself exercise any oversight or control of
 22 ShEx itself?
 23 A. Well, certainly, I relied on the advice and experience
 24 of ShEx officials, who were having a regular dialogue,
 25 it seemed to me, with the senior management in Royal

1 So for example, there were three Parliamentary
 2 Questions, written questions -- there were no oral
 3 questions, there were three Parliamentary Questions or
 4 three MPs who asked Parliamentary Questions, as probably
 5 some of them asked more than one, and the answers to
 6 those questions drafted by officials for me to agree to
 7 was that those issues were matters for the Post Office,
 8 and so we referred, answering those questions, to the
 9 Post Office, with their answers being put in the House
 10 of Commons library.
 11 So that was an example of how that happened.
 12 Q. So you've pointed to two things constituting the advice,
 13 namely the drafts of letters that you were supplied with
 14 and the drafts of answers to Parliamentary Questions?
 15 A. And, indeed, the submission of Mr Whitehead, but this
 16 wasn't -- the Horizon issue wasn't an issue that we
 17 discussed very much but the advice came through in those
 18 matters, yes.
 19 Q. Did you question that advice at all, at the time that
 20 you received it?
 21 A. No, because it seemed to be reasonable and it was
 22 a reference to an Act of Parliament, and I thought they
 23 were telling me the truth, which, to my knowledge, they
 24 were referring to an Act of Parliament, so I assumed
 25 that was the truth.

1 Q. Are you saying that in the submission, the letters or
2 the answers to the PQs, they referred to an Act of
3 Parliament?
4 A. In what -- some of the letters, I don't know how many
5 they did, not in the -- I don't think in the
6 Parliamentary answers. They may have done. I'll have
7 to check that, Mr Beer.
8 Q. We're going to come to in fact there were four PQs, not
9 three, and we'll come to those after the --
10 A. There were three MPs and four PQs?
11 Q. Yes, exactly. I think Priti Patel asked either two or
12 three questions?
13 A. Yes.
14 Q. Do you accept that the Post Office's role as an active
15 private prosecutor should not have been treated as
16 an operational matter?
17 A. If I'd known about it and we'd had a discussion about
18 it, I'd have been surprised.
19 Q. Why would you have been surprised that the Post Office
20 was prosecuting?
21 A. It seems like quite an old-fashioned thing. I mean,
22 certainly now, with the benefit of the knowledge of what
23 we know, it was wrong and, as I say in my statement, it
24 seems as though that power should be taken away from
25 them but, nevertheless, I wasn't aware of it, and it

101

1 14 years ago --
2 Q. Yes.
3 A. -- and it's quite difficult to do that. I really don't
4 know, to be honest. It was not put to me and
5 speculating what I might have done 14 years ago, it's
6 quite tricky.
7 Q. Can we look at paragraph 92, please, of this witness
8 statement. In the third line, you say:
9 "As I have stated publicly, I believe I was
10 seriously misled by the Post Office. I do not know if
11 one or more civil servants misled me during my time as
12 a minister, or if they were themselves misled by [Post
13 Office]."
14 Can you see that?
15 A. Yes, I do.
16 Q. More broadly in your witness statement -- the references
17 are paragraphs 4, 5, 116, 131, 138 and 153, you refer to
18 being lied to by the Post Office.
19 A. Yes, I now know I was being lied to. I follow this
20 Inquiry and it's pretty clear what they told my
21 officials was not true.
22 Q. You refer in paragraph 138 of your witness statement to
23 the individuals within Post Office who lied to you as
24 being "senior executives". Are you able to help us as
25 to the identity of the senior executives who lied to

103

1 seems odd that they were.
2 Q. Why would it seem odd that they prosecuted?
3 A. Because I think you should have a more thorough process,
4 where there's a more independent aspect that goes to the
5 court. That happens in other prosecutions.
6 Q. Are you referring there to criminal offences that are
7 alleged being investigated by independent police forces
8 and then prosecutions, in some circumstances, being
9 commenced and pursued by the Crown Prosecution Service?
10 A. Yes, yes.
11 Q. So if you had been aware of the conduct of prosecutions
12 by the Post Office, you would have raised a question as
13 to why they were doing it and whether it should
14 continue?
15 A. Yeah, I think it's the sort of thing that I would have
16 questioned. Maybe I would have accepted the answers,
17 but it came as a surprise to me when I learnt about it
18 through this Inquiry.
19 Q. You say you may have accepted the answers, ie that it
20 was appropriate for the Post Office to continue to
21 prosecute its subpostmasters. If that had been your
22 position, would you have said anything about Government
23 or ministerial oversight of such prosecutions?
24 A. Well, I mean you're asking me, Mr Beer, to speculate on
25 what I might have done if something had been put to me

102

1 you?
2 A. Well, the senior executives I dealt with -- and this is
3 not the -- directly answering your question, Mr Beer,
4 but the senior executives I dealt with David Smith and
5 then Paula Vennells. There may have been one or two
6 others, they're the names that I recall, and they were
7 the ones giving the information to my officials, came in
8 their names, and to me. So they were the people passing
9 information which was untrue.
10 Q. To accuse somebody of lying is to accuse them of saying
11 something that they knew or believed not to be true,
12 with the intention to deceive; do you agree?
13 A. What I'm trying -- I am trying to answer the question
14 because I cannot know what was in their minds and how
15 the information came to them but someone, I assume
16 senior in Post Office Limited, must have known the
17 truth, must have at some stage understood that, and this
18 is what I hope the Inquiry will uncover.
19 It is difficult for me to uncover. I didn't know it
20 at the time, of course. What emerged from your
21 questioning and from this Inquiry and the reports of
22 this Inquiry is that there was knowledge of the Horizon
23 system having serious flaws in it, within Post Office
24 Limited, and that was not put forward to ministers,
25 either myself or others.

104

1 **Q.** It's just the cumulative effect of what you suggest in
 2 the paragraphs that I've listed tends to suggest that
 3 you believe that senior executives lied to you, and
 4 I just wanted to distinguish whether you firstly
 5 understood, in common with me, what an accusation of
 6 lying constitutes, namely accusing a person of saying
 7 something that they believe or knew not to be true with
 8 the intention to deceive and then, secondly, whether you
 9 were in fact alleging that against any particular
 10 executive.

11 **A.** I guess what I feel is that Post Office Limited, as
 12 a body, were misleading ShEx and ministers. Who was
 13 responsible within Post Office Limited is quite
 14 difficult for me to know.

15 **Q.** Yes.

16 **A.** One assumes that it was the senior executives because
 17 they had a responsible role and I assume were asking the
 18 questions but I think, ultimately, it's for this
 19 Inquiry, and I hope it -- I wish it well in this task --
 20 of identifying who was really culpable for misleading
 21 ministers, the courts and, above all, the
 22 subpostmasters.

23 **Q.** Thank you. So the allegation of lying applies or is
 24 intended to apply to Post Office as a corporate body,
 25 and you don't distinguish between senior executives and
 105

1 subpostmasters as to the integrity of the Horizon system
 2 before you took office, and nor were you briefed on that
 3 issue upon taking up your ministerial role.

4 **A.** That's correct.

5 **Q.** When did you first become aware of complaints made by
 6 subpostmasters about the integrity of the Horizon
 7 system?

8 **A.** I think it must have been through Sir Alan's letters.
 9 As you know, he wrote to me on the day I took office.

10 **Q.** 20 May 2010?

11 **A.** That's right.

12 **Q.** So your very first day in office?

13 **A.** Yeah, and I wrote back to him, following a draft
 14 produced by civil servants, that --

15 **Q.** We're going to come to that, if it helps, in a moment.

16 **A.** I think that must have been it, yeah.

17 **Q.** When did you first become aware that a large cohort of
 18 subpostmasters alleged that their convictions were not
 19 safe?

20 **A.** I think that might have been the High Court in 2019.
 21 I mean, obviously, when Sir Alan Bates came to see me
 22 I was aware that he was representing a number of
 23 subpostmasters who felt that they had been wrongly
 24 prosecuted, and that was the case but, in terms of the
 25 large number, the group action, I'm afraid I wasn't
 107

1 those who are not senior executives as the
 2 responsibility for the lie, because you don't personally
 3 know?

4 **A.** I don't know. My only information comes from the papers
 5 that have been given to me by the Inquiry and the
 6 reports of this Inquiry, but I don't personally know.

7 **MR BEER:** Thank you very much.

8 Sir, it's just coming up to 1.20 now. Although it's
 9 been a short session, can we break now until 2.10 for
 10 lunch?

11 **SIR WYN WILLIAMS:** Certainly.

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

13 (1.18 pm)

14 (The Short Adjournment)

15 (2.10 pm)

16 **MR BEER:** Good afternoon, sir. Can you see and hear us?

17 **SIR WYN WILLIAMS:** Yes, thank you.

18 **MR BEER:** Thank you.

19 Good afternoon, Sir Ed. We saw before lunch, in
 20 paragraphs 94 and 95 of your witness statement, that you
 21 said that you did not receive any specific briefing on
 22 the Horizon system, nor was it something that it would
 23 have occurred to you to ask for a specific briefing
 24 about and that, as far as you were aware, as you recall,
 25 you were unaware of any complaints made by
 106

1 aware of that until much later.

2 **Q.** He said in his correspondence -- we'll look at it in
 3 a moment -- that he was representing 100 or so?

4 **A.** Yeah.

5 **Q.** Are you distinguishing between the 555 that brought the
 6 group action as being a large number but the 100 not?

7 **A.** Yes, and also that my officials, as you see in
 8 Mr Whitehead's note, were disputing whether it was 100,
 9 but I accept it was mainly the point you were making
 10 about the large number, the 550.

11 **Q.** You tell us in your witness statement -- no need to turn
 12 it up -- between paragraphs 96 and 119, the
 13 correspondence received from Sir Alan, the draft
 14 responses prepared by Government officials and the
 15 sources of information used upon which to base those
 16 responses, and you tell us in those paragraphs about
 17 a note, a written briefing, that you received on
 18 5 October 2010 from Mike Whitehead, a civil servant in
 19 ShEx, and we will look at that later.

20 You tell us in paragraph 108 on page 30, which we
 21 should turn up -- page 30, paragraph 108 -- you say:
 22 "This [that's the Mike Whitehead written briefing of
 23 5 October 2010] is the only substantive written briefing
 24 I received on Horizon. It indicated that Horizon had
 25 'proved robust', that there were no '[systemic]
 108

1 integrity issues', that the unions had 'expressed
2 confidence in Horizon', that there was training, that
3 there were proper audit processes and no 'backdoors',
4 there had been regular reviews, there was an appeals
5 process and legal representation, and no court had ever
6 found problems with Horizon."

7 You tell us in 109 that you would have taken from
8 that that officials were confident in Horizon and that
9 the Post Office had had it independently assured.

10 In addition to that single written briefing on
11 Horizon, would you have also received oral briefings?

12 **A.** Almost certainly, though it's a long time ago.

13 I suspect I would have had one when I replied to
14 Sir Alan Bates after the meeting.

15 **Q.** How often would you have received oral briefings from
16 ShEx?

17 **A.** More broadly as opposed to -- well, relatively often
18 because people like Stephen Lovegrove and others --
19 Susannah Storey comes to mind -- would have been
20 briefing me on the litigation and particularly the
21 relationship with Royal Mail, more than POL, because the
22 work we were doing there was substantial. Everything --
23 we were dealing with the pension deficit of the Royal
24 Mail and trying to get State Aid clearance for writing
25 that off.

109

1 **A.** Well, I would assume they would go to Post Office first.
2 Whether they would add to that, I hadn't really
3 considered. I sort of assumed they would have
4 a collective view but I hadn't really considered that
5 point.

6 **Q.** Put another way, would you have thought that they were
7 just relying on what Post Office had told them, ie they
8 were a mere conduit of information from Post Office?

9 **A.** I'd have thought they'd have added some value but --

10 **Q.** In what way?

11 **A.** Well, because they'd been -- the Civil Service has been
12 managing that relationship for some time, so they would
13 have learnt a little more about it. But, to be honest,
14 Mr Beer, I haven't really thought that through. I just
15 assumed that what was put in front of me was their best
16 advice.

17 **Q.** Would you expect ShEx and other civil servants to probe
18 information provided to them by Post Office on
19 contentious matters, before relaying it to you in
20 a written briefing?

21 **A.** I expect they would do, yes --

22 **Q.** Really what I'm asking, Sir Ed, is you said that you'd
23 take the document as read as being truthful and accurate
24 when it gets to you, whether you had ever thought about
25 what had gone on to create the document that you were

111

1 **Q.** So weekly?

2 **A.** Probably not because postal affairs, both for Royal Mail
3 Group and POL, were only a part of my responsibilities.
4 I am likely to have had more briefings from them in
5 2010, I suspect, and in the first half of 2011 than
6 later on because that was the legislation and early
7 implementation.

8 **Q.** So you're piloting a bill at that time?

9 **A.** Yeah.

10 **Q.** When you receive a briefing like the one from Mike
11 Whitehead of 5 October 2010, would you ask questions
12 about the sources of information in it or would you take
13 the document as read and not query the accuracy or the
14 sources of things said in it?

15 **A.** Normally we'd take it as read unless something jumped,
16 completely jumped out at you. But I'd had submissions
17 in all my ministerial posts and very rarely do
18 I remember questioning them in the way you've described.

19 **Q.** So the information presented to you by civil servants,
20 you take to be reliable and truthful?

21 **A.** Yes.

22 **Q.** Would you expect ShEx civil servants and civil servants
23 outside of ShEx who were briefing you to base their
24 briefings, and the letters that they drafted for you, on
25 any evidence independent from Post Office?

110

1 treating as truthful and accurate?

2 **A.** Yeah, well, my understanding, not just on this issue but
3 other issues, was that by the time a submission got to
4 a minister there had been number of checkpoints within
5 the Department. The nature of what checking they were
6 doing wasn't visible to me but, whether you're a junior
7 minister or a Secretary of State, my understanding is
8 that the Civil Service has processes to make sure what
9 goes in front of the Minister is the best advice that
10 they can provide.

11 **Q.** So there had been some sort of quality assurance, and
12 that may have included probing or testing the
13 information provided in this instance by Post Office?

14 **A.** Well, Mr Beer, I assume that was the case but I didn't
15 ask about what that process was. One sort of assumed it
16 because you knew that there was a machinery trying to
17 serve ministers as well as they could.

18 **Q.** Can we turn, then, to your initial refusal to meet
19 Sir Alan Bates in May 2010. That can come down from the
20 screen. Thank you.

21 Can we look, please, at his letter, Sir Alan's
22 letter, to you of 20 May 2010. UKGI00016119. Thank
23 you.

24 If we just look at the top part, please. I take it
25 the handwriting at the top is not yours?

112

1 A. No.
2 Q. You'll see that it's on Justice for Subpostmasters
3 Alliance paper, addressed to you directly. It's dated
4 20 May, which is the very day you took up office, as we
5 said already; is that right?

6 A. Yes.

7 Q. If we just read it, he says:

8 "I am writing to you with regard to your position as
9 Minister for Postal Affairs on behalf of the [JFSA].

10 "We are an independent group of ex and serving
11 subpostmasters who suffered at the hands of the Post
12 Office and their Horizon system ever since it was first
13 installed. Our website ... outlines how we came about
14 and our aims, as well as offering sample cases that were
15 provided by some of the group. Currently the group
16 number is close to 100, though we continue to be joined
17 by others who have learned of JFSA and have found that
18 there is nowhere else to turn to for help.

19 "In every instance the Post Office acts as judge,
20 jury and executioner and the individual is deserted by
21 their reputedly representative organisation, the
22 National Federation of SubPostmasters. Invariably these
23 cases all stem from the flaws of the Horizon system the
24 Post Office introduced and which they refuse to admit
25 has ever suffered from a single problem.

113

1 experts to examine the system which is holding back this
2 major scandal from breaking. But with the growing
3 numbers in JFSA and the support we are now finding from
4 the IT community and the media it is just a matter of
5 time until the real truth about the Post Office and
6 Horizon is exposed.

7 "Over the years I have personally submitted written
8 details of all of this to the Select Committee of the
9 DTI, and then on two other occasions to that of BERR,
10 and put simply, the information has either been buried
11 or disappeared. Others of JFSA have followed the route
12 of contacting their MPs who would take the matter up
13 with the Post Office on their behalf. Subsequently they
14 are stonewalled or 'handled' by the Post Office often
15 with off the shelf answers where they only change the
16 name and address.

17 "I am writing to you on behalf of the group, I am
18 asking for a meeting where we can present our case to
19 you. Much has appeared in the press over the last few
20 days that Government is going to change, I only hope
21 that is true. If it is, the abuse of subpostmasters
22 that has been going on under the protection of the
23 previous Government may well come to an end."

24 Would you agree that, to summarise the letter,
25 Sir Alan outlines the issue, he signposts you to further

115

1 "The evidence is there to be found by anyone in
2 a position of being able to unlock doors instead of
3 placing barriers in the way of those pursuing
4 information. Our organisation has access to a number of
5 specialists who could provide the questions and analyse
6 the resulting data if required. Though an independent
7 external investigation instigated at Ministerial level
8 would be the most appropriate, and would without any
9 doubt easily find evidence of the error ridden system.

10 "I am sure that you appreciate that there is not
11 a single computer system that does not from time to time
12 suffer from errors, especially when at the size and
13 level of complexity of the programs associated with the
14 Horizon system. The Post Office blindly state that
15 there are not, nor have there ever been any system
16 errors, so subsequently anything wrong is entirely the
17 responsibility of the subpostmaster as that is what they
18 have agreed to when signing their contract. This is
19 a contract that was produced in 1994 and does not
20 address nor identify new technology, but they are still
21 using it to intimidate and prosecute subpostmasters."

22 Over the page:

23 "The weight of evidence we have been collating over
24 the years continues to grow and gain in standing, it is
25 only the flat refusal of the Post Office to allow

114

1 information and asks for a meeting?

2 A. That's what the letter says.

3 Q. He was asking for an opportunity to present his case to
4 you?

5 A. He was indeed.

6 Q. He just wanted an audience?

7 A. Yes.

8 Q. Would you agree that these are not unreasonable
9 requests, put politely but with force?

10 A. They're not unreasonable.

11 Q. Can we look at your reply, please. ABAT00000001.
12 31 May, "Dear Alan Bates", if we just scroll down --
13 thank you -- we'll see it's signed by you. Underneath
14 there is your signature:

15 "Thank you for your letter of 20 May, requesting
16 a meeting to discuss the Post Office Horizon system.

17 "Since 2001, when the Royal Mail (which includes
18 Post Office) was set up as a public limited company with
19 the Government as its only shareholder, Government has
20 adopted an arm's-length relationship with the company so
21 that it has the commercial freedom to run its business
22 operations without interference from the shareholder.

23 "The integrity of the Post Office Horizon system is
24 an operational and contractual matter for [Post Office]
25 and not Government, whilst I do appreciate your concerns

116

1 and those of the Alliance members, I do not believe
2 a meeting would serve any useful purpose."

3 Would you agree that this is a rather terse reply,
4 in particular the line "I do not believe that a meeting
5 would serve any useful purpose"?

6 **A.** Yes, it is a terse reply. If I may then, Mr Beer, refer
7 you to my written statement because I can't remember
8 actually reading his original letter. I remember, as
9 we'll come to, no doubt, reading his second letter and
10 taking view that I should meet him but I think, if I had
11 read that first letter, I would have remembered it
12 because it was forceful and made a case.

13 But I'm afraid that is my memory and all I can do is
14 go from my memory. I have apologised and repeat that
15 apology for not meeting Mr Bates on the basis of his
16 first letter.

17 **Q.** You tell us in your witness statement that the letter,
18 the one we're looking at, was drafted by officials for
19 you; is that right?

20 **A.** Yes.

21 **Q.** It was nonetheless approved by you and signed by you?

22 **A.** Yes.

23 **Q.** Can you help us: you spent a lot of time in your witness
24 statement explaining the administration of ministerial
25 correspondence. If this was one of those occasions

117

1 and the response -- there may have been but I don't
2 recall it -- and I think I would have done, given the
3 nature of what Sir Alan was writing.

4 **Q.** So it may be that you didn't even see the letter in; it
5 may be that the only thing you saw was this letter and
6 you signed it?

7 **A.** That may have been the case. I'm sorry, I can't be more
8 definite but we're talking about a long time ago. I had
9 just started my post and I was signing a huge number of
10 letters, and I was reliant on the advice of officials.
11 I just apologise that, if that was not the case and
12 I had read it and I wrote this as reply, because it is
13 terse.

14 **Q.** If you only had the letter out, ie the thing that we're
15 looking at at the moment, how could you judge whether it
16 was an appropriate reply or not?

17 **A.** I was being -- based on the advice of officials.

18 **Q.** But it didn't come with any advice. All it came with
19 was a letter in draft, as we see here, without the
20 handwriting at the beginning and the end?

21 **A.** Yes, but when you are going through your file of
22 letters, you assume they'd been written, and I was told
23 they were written, on the basis of advice from both
24 policy officials and those responsible for that area of
25 policy.

119

1 where you got the letter in, ie Sir Alan's letter in,
2 and the draft reply out, ie the document we're looking
3 at, at the moment, how would you judge whether the right
4 approach was being taken, if you'd just got those two
5 bits of paper?

6 **A.** Well, the way it worked is you would have your red box,
7 which you would look at with all the other different
8 policy papers, as I explain in my written statement.
9 You would be dealing with a lot of different issues in
10 any red box --

11 **Q.** Can I just try and cut through things a bit because
12 we've got your witness statement about -- and
13 I completely accept the breadth and the volume of work.
14 I am just asking, if this was one of those occasions
15 where you got the letter in and the letter out, they're
16 the only two bits of paper that you've got, how would
17 you judge whether the letter that you're being asked to
18 sign is the appropriate one?

19 **A.** If I'd had both letters in my letter file in my red box,
20 I would have read both of them and I'd have had to make
21 a judgement when I was signing all the different letters
22 in that letter file about whether this was
23 an appropriate response to that letter. What I don't
24 recall -- and I apologise for this -- is whether or not
25 in my letter file there were both the original letter

118

1 **Q.** In some cases, there's a ministerial sub, isn't there,
2 ie there's a cover paper, which says, "This is the
3 issue, this is the recommendation, these are the facts,
4 these are the options, sometimes, and here is a proposed
5 draft reply", ie so you're given a briefing and some
6 context before being asked to sign the letter off?

7 **A.** That's very rare. The vast majority of cases in the
8 letter file within the red box -- and I say in my
9 statement on average there'd be 20/25 letters in any one
10 red box -- the vast majority were, by themselves,
11 without any submission. A submission would be very
12 rare.

13 **Q.** So you -- the likelihood is, on your evidence, that you
14 neither received a briefing in order to judge the
15 accuracy and appropriateness of this reply, nor even the
16 letter in, to see what you were responding to?

17 **A.** I definitely didn't receive a submission. I'm saying
18 I may have received the original letter but I really
19 can't remember it, and I think, if I had, I would have
20 remembered it.

21 **Q.** The second line from the end says, "Whilst I do
22 appreciate your concerns and those of the Alliance
23 members", doesn't that indicate, because it is
24 personalising it, that you are likely to have seen the
25 letter?

120

1 A. Well, I do indeed say that in my -- in paragraph 97 --
 2 Q. Yes --
 3 A. -- in my written statement --
 4 Q. -- and I'm asking you now, is that right: it's likely
 5 that you did see the letter in?
 6 A. It's possible because, what I have been doing in
 7 preparing my statement is trying to think back 14 years,
 8 to a letter that I wrote, amongst many others, at a very
 9 early stage in my ministerial post, and I just genuinely
 10 can't remember. But you're right, that phrase suggests
 11 I might have done and I just can't recall and
 12 I apologise for that.
 13 Q. The very matter that Sir Alan was complaining about was
 14 that the Post Office had, to use his words, acted as
 15 judge, jury and executioner --
 16 A. Yes, if -- of course --
 17 Q. -- ie that there wasn't any independent oversight of
 18 what was going on?
 19 A. Indeed, and I -- when I had the submission for the
 20 meeting with Alan Bates later on the year, both original
 21 letter and the second letter were attached to that
 22 submission and I read those in detail before that
 23 meeting.
 24 Q. This letter takes the line that Horizon is
 25 an operational and contractual matter, which is for Post
 121

1 there, is that essentially -- and I'm summarising
 2 greatly here -- that the substance of the matters that
 3 Sir Alan was complaining about was correct?
 4 A. That clearly turned out to be the case.
 5 Q. Yes, so that's what the hindsight is referring to here?
 6 A. Yes, the hindsight that we now have because we now know
 7 many, many things that we -- I did not know back then.
 8 Q. Your reflection, with the benefit of hindsight, shows,
 9 would you agree, that there wasn't an inflexible rule,
 10 less still an inflexible rule of law, that prevented you
 11 from beginning involved was there?
 12 A. No, there wasn't because, as we are no doubt about to
 13 go, when I had the second letter from Mr Bates, I didn't
 14 have any advice on that but I decided I was going to see
 15 him. So I exercised that flexibility then.
 16 Q. More than that, there wasn't an inflexible rule of law
 17 that prevented you, as the Minister, from becoming
 18 involved in operational matters, was there?
 19 A. That is true, it wasn't completely inflexible, as
 20 clearly was the case because I met Mr -- I asked to see
 21 Sir Alan in July. But the advice I was given was that
 22 it was not a matter for a minister because it was
 23 an operational matter. In asking to see Sir Alan, I was
 24 effectively going over the advice.
 25 Q. Can we look, please, at POL00417098, and look, please,
 123

1 Office and not Government and that follows Post Office
 2 being an arm's-length body, given freedom to run its
 3 commercial operations without interference by
 4 Government?
 5 A. Yes, and that's -- that follows the logic that I'm
 6 trying to get over, that I was following the advice of
 7 officials and this was the advice of officials on many
 8 occasions in relation to this matter.
 9 Q. Can we look at your witness statement, please, page 24,
 10 at paragraph 101 and 102 at the foot of the page. You
 11 say:
 12 "On reflection, and with the benefit of hindsight,
 13 I am really sorry that I followed the advice and did not
 14 question it, and I can also see why Sir Alan took
 15 offence at the phrase 'I do not believe a meeting would
 16 serve any useful purpose'. It was poorly judged, and
 17 I apologise to Sir Alan for signing it off.
 18 "I should have accepted Sir Alan's request for
 19 a meeting when he first made it. However, I remain
 20 unconvinced that an earlier meeting would have changed
 21 the course of events. I expect that I would have put
 22 the same questions to my officials and [Post Office],
 23 and received the same categorical assurances about the
 24 integrity of Horizon that I did later that year."
 25 Is the hindsight that you're bringing into account
 122

1 at page 9. Can you see here, if we just scroll down,
 2 a letter dated 19 May --
 3 A. Yes, I can.
 4 Q. -- from Priti Patel, then MP for Witham, to, it seems,
 5 Vince Cable:
 6 "Dear Vincent ..."
 7 A. Yes.
 8 Q. "I have been contacted by a constituent who runs a local
 9 sub post office who has enquired as to which Minister
 10 will have responsibility for the Post Office.
 11 "They have quite a serious issue with the Horizon
 12 system, which as you are aware is the IT platform which
 13 Post Office has used to conduct their transactions.
 14 Prior to the election the previous Shadow Minister was
 15 willing to arrange a meeting to discuss the issue, and
 16 I wondered whether something could be set up with the
 17 new Minister once they are in situ?"
 18 That's you, essentially?
 19 A. Yes.
 20 Q. Was this correspondence drawn to your attention? This
 21 is the day before you took up office, the day before
 22 Sir Alan's letter to you?
 23 A. No, I can't remember that at all being brought to my
 24 attention.
 25 Q. Ought it to have been brought to your attention?
 124

1 **A.** Probably, yes. I know Priti Patel asked some written
2 Parliamentary Questions which I answered, as you'll be
3 aware, but I wasn't aware she was seeking a meeting.
4 **Q.** Okay. Thank you. I'm going to look now, before we come
5 to the meeting of 7 October with Sir Alan, to a series
6 of letters from MPs, either directly to you or
7 forwarding correspondence that they'd received from
8 their constituents describing problems with the Horizon
9 system, and prosecutions arising from Horizon, and
10 a number of written Parliamentary Questions.

11 Can we look at those, I hope, in chronological
12 order. Can we look at POL00417098, which I think in the
13 pack we're on at the moment, page 3, please. 7 June
14 2010 to you -- if we scroll down -- from Keith Simpson
15 MP, MP for Broadland, enclosing a letter which he's
16 received from a constituent, Margaret Callow, asking you
17 to look into the points and report back. If we go over
18 the page to page 4, please.

19 Mrs Callow congratulates Mr Simpson on his success
20 and says that she wrote to him on 3 March:

21 "... on behalf of my daughter [about] her treatment
22 along with others at the hands of the Post Office."

23 She says that it is a problem that will not go away
24 and they have a copy of a recent letter sent to Alan
25 Bates by you. That is obviously the letter we just
125

1 and then you reply.

2 Is that sometimes how it works? That although the
3 written PQ was addressed to the Secretary of State, one
4 of his or her ministers would be given the
5 responsibility of replying to it?

6 **A.** That's right and the draft Parliamentary Answer, written
7 Parliamentary Answer would be in another file in the red
8 box and you would go through them one by way.

9 **Q.** Was there just the Parliamentary Answer, the draft
10 answer in the box, or did that come with the submission?

11 **A.** No submission.

12 **Q.** Sorry? No submission?

13 **A.** No submission, no.

14 **Q.** Again, how would you judge the accuracy or
15 appropriateness of the answer, if it came just as
16 a single sheet of paper?

17 **A.** Well, you were reliant on what your officials were
18 telling you and one would expect, and certainly it was
19 my experience, that they would draft a reply that was
20 factually accurate and reasonable.

21 **Q.** You say in your reply:

22 "Given Post Office's responsibility for negotiating
23 contractual terms and conditions with subpostmasters,
24 I have asked David Smith, the Managing Director of Post
25 Office, to respond directly to my Honourable Friend and
127

1 looked at. She says:

2 "Clearly Mr Davey is neither interested nor helpful.

3 "Whilst he prefers to distance himself behind such
4 a reply, I respectfully suggest that all the ministers
5 in Government are there to represent us and best help
6 us. Therefore it is to be hoped that matters will be
7 taken up on our behalf.

8 "As the Government holds 100% shares in the Post
9 Office, this means we the public own them so the
10 validity of Mr Davey's reply is questionable.

11 Therefore, I would hope you could speak to Mr Davey or
12 his Department to ask him to look at this issue again."

13 Ought this letter -- ie the cover letter from Keith
14 Simpson, if we go back to page 3 -- and its enclosure,
15 to have been brought to your attention?

16 **A.** Yes, it's a letter to me, from an MP.

17 **Q.** Yes, and ought there to be a reply to this?

18 **A.** There should have been.

19 **Q.** So that was 7 June. Can we go forwards, please, to
20 WITN10610110. This a Parliamentary Question of 22 June
21 2010 from Priti Patel to ask the Secretary of State, so
22 that's addressed to Mr Cable, what representations he
23 has received from JFSA in the last 12 months, if he will
24 meet representatives of the Alliance to discuss Post
25 Office's Horizon system and if he will make a statement,
126

1 a copy of his reply will be placed in the libraries of
2 the House."

3 **A.** Yes.

4 **Q.** That seems to be repeated twice for some reason.

5 So here, the reply suggests that you had -- or
6 somebody on your behalf -- had asked the Managing
7 Director of Post Office to respond to the question
8 raised?

9 **A.** Indeed.

10 **Q.** But the question was to ask the Government what
11 representations it had received from JFSA in the last 12
12 months?

13 **A.** Indeed. But I was assuming --

14 **Q.** Why would Mr Smith know the answer to that more than
15 Government?

16 **A.** Well, I was assuming that was the way it had been done
17 on the basis of what advice officials were giving me.

18 **Q.** What do you mean you were assuming that was the way it
19 had been done? What was the "it"?

20 **A.** The response to those types of questions.

21 **Q.** The questions asking you what representations the
22 Secretary of State has received; why does passing that
23 on to Mr Smith help with the answer?

24 **A.** Well, I had assumed that those representations would
25 always go to the Post Office themselves, and that was
128

1 the way that it operated because of the arm's-length
2 relationship.

3 **Q.** I see. So that because you assumed that any previous
4 communications would themselves have been forwarded to
5 the Post Office, the Post Office was in best place to
6 answer how many --

7 **A.** Indeed.

8 **Q.** -- requests it had received for -- or representations it
9 had received from the JFSA?

10 **A.** I assume they'd all been passed to the Post Office. At
11 this stage, trying to understand my job, I was very,
12 very reliant on the advice I was being given.

13 **Q.** Can we turn to POL00417098, and page 17, please.
14 I think this is a draft reply to a PQ; is that right?
15 Maybe if we just pan out. Thank you, if you look under
16 the tramlines it says, "Draft Answer", and then at the
17 foot of the page, there are some approval boxes; can you
18 see that?

19 **A.** Yeah, I can.

20 **Q.** Is this the kind of thing that would come in the red
21 box?

22 **A.** Yes.

23 **Q.** The thing we saw before was an actual Parliamentary
24 Question/Answer, this is the stage before that, the
25 draft; is that right?

129

1 House."

2 Your draft answer:

3 "I have asked David Smith, the [MD] of Post Office,
4 to respond directly to the Honourable Member and a copy
5 of his reply will be placed in the House Libraries."
6 So, again, that's essentially maintaining the
7 operational responsibility point; is that right?

8 **A.** Yes, indeed.

9 **Q.** Can we turn on please to WITN10610111, 8 July, from
10 Priti Patel:

11 "To ask the Secretary of State for [Business], what
12 his most recent estimate is of the cost to postmasters
13 and subpostmasters of errors in the Horizon operating
14 system; and if he will make a statement."

15 Your reply:

16 "I have asked David Smith, [MD] of Post Office, to
17 respond directly to the Honourable Member and a copy of
18 his reply will be placed in the House Libraries."
19 So it's essentially the same answer as the previous
20 one, maintaining the operational responsibility for
21 Horizon being a matter for the Post Office line; is that
22 right?

23 **A.** *(The witness nodded)*

24 **Q.** Can we move forwards to 12 July, please, POL00417098,
25 page 19, please. A letter to you from Jenny Randerson

131

1 **A.** To be frank, Mr Beer, I don't know whether they all said
2 "Draft" before I signed them off, or whether they didn't
3 say "Draft". I'm not sure if it was quite that
4 methodical.

5 **Q.** Okay it's from Priti Patel again, "Question":
6 "To ask the Secretary of State ... how many times
7 Ministers have had discussions with Post Office on the
8 Horizon system ..."

9 Answer:

10 "[Horizon] is an operational responsible of the
11 company and I have had no such discussions."
12 That's you answering:
13 "It is an established convention that the Ministers
14 of one Administration cannot see the documents of
15 a previous Administration. I am therefore unable to
16 provide the information requested."
17 That's accurate obviously for you, you hadn't had
18 any meetings at this time?

19 **A.** Yes, that's accurate.

20 **Q.** Thank you. Then can we go forwards, please, to page 15.
21 Third question from Priti Patel, with, again, a draft
22 answer:
23 "To ask the Secretary of State [for BIS], if he will
24 review the effectiveness of the Post Office's Horizon
25 system; and if he will report his findings to the

130

1 Assembly Member, 12 July now, under the heading "Post
2 Office Horizon Accounting Problems". If we scroll down:
3 "As a former consultant in the postal services
4 sector, I am sure you are only too well aware of the
5 accounting problems that have arisen from the Post
6 Office Horizon computer system which have resulted in
7 postmasters and mistresses suffering financial losses
8 and sometimes even incurring criminal prosecutions
9 because of unexplained discrepancies that have let to
10 shortfalls."

11 She explains in paragraphs 2, 3 and 4 a problem with
12 her constituent, and then if we go down to paragraph 5,
13 at the foot of the page:
14 "I am aware that the previous government built up
15 an extremely poor IT record and that it had already
16 entered into a contract with [BOI] to enable [Post
17 Office] to provide a range of financial services ..."
18 Then over the page please:
19 "... I am sure you will agree that the apparent
20 inadequacies of the Horizon computer system, and the
21 injustices it has caused, need immediate investigation
22 and resolution and I would welcome your advice as to the
23 government's intentions in this matter."
24 Again, ought this to have been passed to you for
25 a reply or a draft reply provided to you for signature?

132

1 **A.** Yes.

2 **Q.** Can we move on please, POL00417099. A letter to you of
3 20 July 2010:

4 "I have been approached by my constituent ...
5 "I would be grateful if you could look at the
6 matters raised by my constituent ..."

7 Then, if we go over the page, please -- I should
8 have said this is from Alun Michael MP -- this is the
9 letter from his constituent, saying:

10 "I am writing to you with regard to the way I have
11 been treated by Post Office.

12 Second paragraph:

13 "At the end of the day, the root cause behind the
14 problems I had with Post Office was entirely due to
15 their fault hidden Horizon system. I am not alone in
16 suffering from a system which is prone to errors, has
17 negligible support, is inaccessible to the level
18 required to manage the business, but it is me that is
19 held accountable for its failures and losses.

20 "The Post Office is 100% owned by Government and
21 regardless of how Government try and sidestep its
22 responsibilities, it is the Government of today with its
23 silence, that ultimately approves and sanctions the
24 atrocity/ies that Post Office has inflicted on
25 me/subpostmasters. There has to be an independent

133

1 **A.** I can only presume they did.

2 **Q.** He, Mr Griffiths, continues:

3 "We are in theory happy to continue holding this
4 line -- but if we do so and it turns out that there have
5 been problems with Horizon, then there will be
6 significant political heat. Grateful therefore if you
7 could let me know how confident [the Post Office] is
8 that there is nothing behind these claims."

9 Then if we scroll up, the MD's PA, Tracy Abberstein,
10 replies:

11 "Mike Granville will liaise with you both to prepare
12 a brief for Oliver to give the reassurance required!"

13 This is the kind of thing that went on beneath the
14 surface and you didn't get to see, I presume?

15 **A.** No, not at all.

16 **Q.** Would you agree that this is, looking at it now,
17 an important exchange?

18 **A.** Yes, it is, and I'm -- we'll no doubt go on to other
19 important exchanges behind the scenes, which certainly
20 weren't brought to my attention.

21 **Q.** If we just look at the bottom of the page, ShEx is
22 saying, "We're happy in theory to continue to hold the
23 line, if it turns out there are problems, then there
24 will be significant political heat. Grateful to know
25 how confident [Post Office] is, there is nothing behind

135

1 investigation into how [Post Office] has abused its
2 power ..."

3 Then next paragraph, mention of the JFSA, and then
4 it is signed off. Again, ought this to have been
5 supplied to you by officials for reply and/or a draft
6 reply provided to you?

7 **A.** Yes.

8 **Q.** Can we move on, please, POL00417098, and this is
9 an email exchange in which you're not included -- if we
10 look at the foot of page 1, please -- between Oliver
11 Griffiths of ShEx and David Smith MD of Post Office,
12 with Mike Whitehead of ShEx copied in with the subject
13 of "Justice for [Subpostmasters]":

14 "Dave [that's Mr Smith]

15 "As we discussed briefly on Monday ... there has
16 been recent interest from MPs in purported cases where
17 the Horizon system has left subpostmasters out of
18 pocket. We have to date said that this is
19 an operational matter for POL and resisted calls to
20 impose a review of Horizon ..."

21 Just stopping there, do you think that the replies
22 to all of the letters that I have shown you would have
23 maintained that line, ie Horizon is an operational
24 matter for Post Office and a resistance to any call for
25 a review of Horizon?

134

1 the claims."

2 Do you agree this shows there was no requirement in
3 law for Government to adopt the position it did that
4 Post Office was an arm's-length body and that all
5 matters relating to Horizon were operational ones for
6 the Post Office to answer? That was just the line.

7 **A.** That is what he is saying in that and there is no doubt,
8 as I showed myself, that ministers could ultimately ask
9 about these sorts of questions. And I -- when I did ask
10 to see Mr Bates -- Sir Alan Bates to ask about these
11 questions, no one said I couldn't.

12 **Q.** So it was a matter of choice as to whether and to what
13 extent Government got involved, rather than the law
14 prohibiting it, correct?

15 **A.** That is true. In these early days, I was reliant on the
16 advice and I thought that was the case but, as we'll no
17 doubt come on to with Mr Bates second letter, Sir Alan
18 Bates second letter, I decided I would see him, despite
19 what I'd been told.

20 **Q.** Would you agree here, reading this exchange, that what
21 appears to matter to ShEx, in deciding whether to hold
22 the Government line, was the Government's confidence in
23 whether there was anything in the claims or not?

24 **A.** That's how it reads.

25 **Q.** Is this the extent of the testing that you would

136

1 envisage had gone on in testing the accuracy, strength,
 2 truthfulness and reliability of what Post Office was
 3 saying to Government, ie an email exchange between three
 4 people saying, "Tell me how confident Post Office is
 5 that there is nothing behind the claims", and then
 6 an email from a PA back saying, "You'll get a brief"?

7 **A.** Well, I'd have thought that, by the time they gave me
 8 advice they needed to be certain that advice was true,
 9 and one -- no doubt this Inquiry will make a judgment
 10 about whether or not they did enough to find out whether
 11 what they were telling me was true, but it -- ministers
 12 have to rely on being told the truth and, therefore,
 13 people briefing them need to be sure that the Minister
 14 is being given the truth.

15 **Q.** Would you expect something more from ShEx, putting it
 16 bluntly, to say, "Please Post Office, who people allege
 17 something is wrong with your system, tell us whether
 18 you're confident that there is something wrong with your
 19 system"?

20 **A.** It certainly looks like there could have been more
 21 probing, yes.

22 **Q.** Can we move forwards, please, to POL00294957. We're now
 23 on 26 July. There is a letter to you from the then
 24 Chancellor of the Exchequer George Osborne, writing in
 25 his capacity as a constituency MP. He says that his

137

1 saying that innocent until proven guilty does not come
 2 into it."

3 Penultimate paragraph on that page:
 4 "At the end of the day the root cause ... was due to
 5 their fault ridden Horizon system. We are not alone
 6 ..."

7 Last paragraph on that page:
 8 "The Post Office is 100% owned by the Government and
 9 regardless of how the Government try and sidestep its
 10 responsibilities, it is the Government of today with its
 11 silence, that ultimately approves and sanctions the
 12 atrocities ..."

13 You can see some similar language here from
 14 an earlier letter, yes?

15 **A.** Yes, indeed.

16 **Q.** Again, should this, should George Osborne's letter have
 17 been provided to you by officials for a reply?

18 **A.** I'm surprised it wasn't. I can't -- in the pack that
 19 I've been filed, I can't see any reply from me to this.

20 **Q.** When you say you're surprised, is that in particular
 21 because of the personality of the author?

22 **A.** Actually not. I think when an MP writes to a minister,
 23 my understanding was that the minister would reply to
 24 the MP. That was the sort of understanding that one
 25 acted on and one thought was the case. So one might not

139

1 constituent, Mr Walters:
 2 "... has written to me about errors on the Post
 3 Office computer system which he believes led to the
 4 termination of his contract ... he and others in
 5 a similar position have joined [JFSA].
 6 "I enclose a copy of his letter ..."
 7 If we go over the page, he says that he is writing
 8 to Mr Osborne in relation to the way he has been
 9 treated. Second main paragraph:
 10 "Unfortunately a few months after my contract was
 11 terminated the Post Office closed as part of the
 12 government cutbacks."
 13 He says it was a set up. Next paragraph:
 14 "Do you not think it strange that not only I but
 15 many other subpostmasters have experienced the same
 16 thing, that nearly 300 subpostmasters have been
 17 suspended for similar offences as we speak. It's all
 18 right expecting the poor subpostmaster to make good any
 19 shortfall but what happens when they are thousands of
 20 pounds under which obviously is a computer error and
 21 cannot be right and yet they are expected to make good
 22 this loss. Those that cannot are treated as criminals
 23 and sentenced as such because the Post Office say they
 24 have taken the money. Although the Post Office cannot
 25 produce such evidence to support these claims. The

138

1 reply to members of the public and officials might reply
 2 to that, because there's so many letters coming in, but
 3 I had assumed that any letter to me as a minister from
 4 an MP would get a reply from me.

5 **Q.** Can we go forwards, please, UKGI00014108. If we see at
 6 the top it's from Valerie Vaz MP, dated 29 July. It's
 7 about her constituent, Jasvinder Kaur. She says in the
 8 second paragraph:
 9 "There have been a number of subpostmasters and
 10 mistresses who appear to have been the subject of
 11 a fraud investigation. There have been some instances
 12 of transactions which appear to be inaccurate causing
 13 suspicion on the subpostmasters and mistresses. This is
 14 the Horizon system which appears to be ridden with
 15 faults. This has a detrimental affect on the
 16 subpostmasters and mistresses who have formed [JFSA].
 17 "I would be grateful if you could let me know if you
 18 are aware of other cases of postmasters and mistresses
 19 who have used the Horizon system who have then been
 20 prosecuted for fraud."
 21 "She [that's Ms Kaur] has asked if it is possible
 22 for an inquiry to be set up to look into the Horizon
 23 system."
 24 Again, this is the kind of correspondence, it being
 25 an MP letter, that should have been passed to you for

140

1 a reply?

2 **A.** Yes.

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

4 In your witness statement, you tell us that, as
5 a Minister, when MPs raise matters with you, you quote:

6 "... inevitably take them more seriously, there was
7 a small trickle of correspondence and Parliamentary
8 Questions from MPs on this issue. None of these seemed
9 to raise any issues that fundamentally questioned the
10 advice I had received from officials and the Post
11 Office."

12 **A.** Yes.

13 **Q.** Is the "small trickle" the four Parliamentary Questions
14 and the five letters that I've just shown you?

15 **A.** That's what I'm referring to. Well, no, if I didn't see
16 those letters, which I assume (*unclear*), if you look at
17 the pack that has been provided me from the time I was
18 a minister, the number of letters that I signed that
19 came into my file was, I think, smaller than the number
20 of people who had written in via their MPs.

21 **Q.** Can we look at an example of a response to the letters
22 that you received from MPs. UKGI00013913. This is
23 later, this is February 2001. If we scroll down, sorry,
24 2011. You say:

25 "Thank you for your letter setting out concerns
141

1 assured by Wipro as being 'best practice' ...

2 "As regards ongoing performance, the ... information
3 security management systems are accredited to industry
4 standards ... A transaction log is available for every
5 branch and full audit logs of all system and user
6 activity and transactions are securely sealed, backed up
7 and retained to provide an evidential and investigative
8 repository.

9 "The system is based on principles of 'double entry
10 bookkeeping'."

11 If we go over the page, please. I think that's the
12 end. So you sign or would have signed it off.

13 You see here, this is still taking, in the first
14 paragraph, the line that Horizon is an operational
15 issue, the Government maintains an arm's-length
16 relationship with the Post Office and it's, therefore,
17 for the Post Office to answer?

18 **A.** Yes, though I should add that, by this time in February
19 2011, I had had the meeting with Sir Alan Bates in
20 October, and I had asked my officials to ask POL a whole
21 series of extra questions. So, by this time, when I was
22 writing, while that was still my view, because it was
23 the law from the 2001 Act, I felt -- certainly the
24 officials drafting my letters must have felt -- that
25 I made those enquiries following the Sir Alan Bates
143

1 raised by constituents about [Horizon].

2 "The issues raised in your letter are, however,
3 operational and contractual matters between [Post
4 Office] and individual subpostmasters and I should make
5 clear that neither I nor the Department can intervene in
6 cases which are *sub judice* or where court action has
7 been determined.

8 "Whilst blame has been laid in a number of cases on
9 the Horizon system for the financial discrepancies and
10 shortages which have led to subpostmasters having their
11 contracts terminated and subsequent cost action, [the
12 Post Office] continues to express full confidence in the
13 integrity and robustness of the Horizon system.

14 "The [system] operates in all ... branches and has
15 done so for over 10 years, processing up to 750
16 transactions a second at peak times. The system and the
17 processes around it offer a very high level of security
18 and resilience and are designed to ensure that, should
19 part of the system or equipment fail, the integrity of
20 the accounting records is always maintained. [It's] has
21 proven to be very robust since its introduction.

22 "[It] was fully tested at the time of the nationwide
23 implementation and all new software releases are also
24 subject to rigorous testing ... For example, testing for
25 the latest upgrade to the system ... was independently
142

1 meeting, and so the letters seemed received to be a bit
2 more detailed by this time.

3 **Q.** You mention again the 2001 Act, I think you mean the
4 Postal Services Act 2000?

5 **A.** Oh, I beg your pardon.

6 **Q.** That's all right. You have said a number of times that
7 it was what the law required. What did you understand
8 the extent of the prohibition or the limits of the
9 prohibition on Government becoming involved in the
10 affairs of the Post Office as imposed by the 2000 Act?

11 **A.** I guess it was more on the day-to-day operation, and
12 when there were strategic issues, policy issues, then we
13 ought to get involved and, as we'll no doubt come to,
14 when I had the second letter from Sir Alan Bates,
15 although I wasn't advised to meet him, the number of
16 people who have engaged in that second letter, it did
17 seem to me that this was becoming more than
18 an operational matter. There was something that
19 I needed to find more information about.

20 **Q.** Because you see here, this doesn't simply stop at the
21 first paragraph --

22 **A.** Indeed.

23 **Q.** -- saying this is a Post Office matter. It essentially
24 adopts the Post Office account?

25 **A.** Yes, it does. From my perspective, as a Minister
144

1 signing that, by this time, I had done -- made my
 2 officials look further at the issue. But you're right,
 3 we were still referring back to the 2000 Act.

4 Q. So by this time, E because officials had looked more
 5 deeply into the issues raised, it was permissible and
 6 not contrary to the law to adopt the Post Office's
 7 account in a reply to MPs?

8 A. No, I'm not saying that, Mr Beer. I guess I'm saying
 9 that the officials felt able to put more into the reply.

10 Q. But the -- what they put into the reply was essentially
 11 the Post Office account?

12 A. Indeed.

13 Q. So the prohibition isn't operative at this point, you
 14 don't stop at paragraph 1?

15 A. No, they -- officials, given that I had asked them to
 16 look into it, could have been looking into it more.

17 Q. Can we move back to the meeting with Sir Alan Bates on
 18 7 October 2010, and start with what was the precursor to
 19 it, which was Sir Alan's second letter. That's
 20 UKGI00016099. We should find a letter of 8 July 2010,
 21 so it's in the midst of that slew of correspondence and
 22 PQs that I showed you.

23 "Dear Mr Davey
 24 "I have to say your response to me dated 31 May 2010
 25 [that's the one we've looked at] regarding the very
 145

1 actually up to.

2 "Your civil servants and [Post Office] will not tell
 3 you about [Post Office] staff harassing sick
 4 ex-subpostmasters demanding written promises of money or
 5 they'll send the police round. They won't tell you that
 6 [Post Office] watches post offices heading into trouble,
 7 fails to provide any help, and then waits until the
 8 problem shows a loss of £20,000 [or more] so that the
 9 subpostmaster then falls foul of the Proceeds of Crime
 10 Act. They won't tell you that when someone wants to
 11 sell their post office and has a suitable buyer, [Post
 12 Office] will turn down the applicant to drive that
 13 business into the ground. You won't hear about
 14 subpostmasters endlessly requesting audits of their
 15 offices and having to wait for up to five years for
 16 someone to turn up, in offices turning over £5 million
 17 a year. Neither will they tell you of the cases where
 18 [Post Office] have run an audit, closed a post office
 19 bankrupting the owner who loses his business, house and
 20 family, holds a pending court case over him for 18
 21 months, then drops the charges and walks away. Nor will
 22 they tell you about how they are stopping subpostmasters
 23 selling on the post office side of their business in
 24 order to recover their original investment. They won't
 25 even tell you that the Horizon system is designed to
 147

1 serious issues I had raised was not only disappointing
 2 but I actually found your comments offensive. It seems
 3 that though there are new politicians in post, the
 4 Government has not changed. The letter you sent is
 5 little different to the one I received seven years ago
 6 from the minister responsible for post offices at that
 7 time, and so many more lives have been ruined in the
 8 interim because of that same attitude.

9 "It's not that you can't get involved or cannot
 10 investigate the matter, after all you do own 100% of the
 11 shares and normally shareholders are concerned about the
 12 morality of the business they own. It is because you
 13 have adopted an arm's-length relationship that you have
 14 allowed a once great institution to be asset stripped by
 15 little more than thugs in suits, and you have enabled
 16 them to carry on with impunity regardless of the human
 17 misery and suffering they inflict.

18 "You can listen to your civil servants telling you
 19 these issues are really an operational matter for POL to
 20 deal with. You can even listen to [the Post Office]
 21 telling you that Horizon is wonderful, that there has
 22 never ever been a problem, it is inherently robust, and
 23 there is our just a few malcontents trying to cause
 24 trouble. Or you can meet with us and hear the real
 25 truth behind Horizon and what the Post Office is
 146

1 entrap subpostmasters so that they can easily finish up
 2 in prison, just by tying to open the day after a trading
 3 period balance.

4 "This is just a taste of some of the practices your
 5 company is carrying out in your name, day after day.
 6 They brandish a big legal stick, fail to provide
 7 evidence in court and rely on the clause in the 1994
 8 contract, about a subpostmaster being liable for any
 9 loss from their office however it occurs, yet it is
 10 their shoddy Horizon system that is the root cause of
 11 all this. Post Office themselves lose thousands of
 12 pounds from each of the Crown Offices that they run
 13 using Horizon, though their staff are not treated as
 14 guilty until proven innocent, but a subpostmaster is!

15 "The whole of this scan is teetering on the edge of
 16 a precipice at this point in time, but it is still not
 17 too late for you to reconsider convening a meeting to
 18 discuss the issues involved, if you are prepared to keep
 19 an open mind."

20 Can we turn up page 25 of your witness statement at
 21 paragraph 104, please. You say:
 22 "I recall being shown that letter by officials
 23 (probably in my private office) and being asked what
 24 I wanted to do. Realising that Sir Alan was quite cross
 25 with my initial reply, and reflecting on the seriousness
 148

1 of the concerns he was raising, I told my officials
 2 I wanted to meet him. I do not what, if any, advice my
 3 officials gave me at the time, but I did meet Sir Alan
 4 on 7 October. I note that Mike Whitehead's briefing
 5 [of] 5 October 2010 ... stated that officials
 6 recommended offering a meeting 'for presentational
 7 reasons'. As far as I can remember, that briefing --
 8 long after the meeting had been arranged -- was the
 9 first time that 'presentational reasons' for the meeting
 10 were mentioned to me. They were certainly not the
 11 reason I decided to meet Sir Alan Bates following his
 12 second letter. As set out above, I told officials
 13 I wanted to meet him because I could see he was cross at
 14 my initial response and wanted to hear his concerns
 15 directly."

16 So, in summary, you're saying that the meeting was
 17 arranged because you decide that it should be arranged,
 18 you could see from the content of his letter that he was
 19 angered by your reply and you denied that presentational
 20 reasons, as per the briefing of 5 October played a part?

21 **A.** Yes, that is my recollection. I should add, Mr Beer,
 22 that in, I think, one of the bundles that came quite
 23 late to me I noted an email from Mike Whitehead to Post
 24 Office Limited telling them that I had asked to meet
 25 JFSA, where he said that I had done that on the basis of

149

1 on the JFSA campaign. We then recommended offering
 2 a meeting in response to this 2nd request for
 3 presentational reasons against the background of
 4 potential publicity (Channel 4 News item) playing
 5 heavily on Government Minister 'refusing to meet victims
 6 of Government owned Post Office Horizon IT system which
 7 has systemic faults resulting in wrongful accusations of
 8 theft/false accounting'."

9 Just dealing with that piece of evidence to start
 10 with, in terms of accuracy, it's right that Sir Alan
 11 wrote a second letter on 8 July, isn't it?

12 **A.** That's correct.

13 **Q.** It's right that that second letter was more
 14 confrontational than the first?

15 **A.** Very much so.

16 **Q.** It's right that it was followed by reports that
 17 Channel 4 was going to run a news item on the JFSA
 18 campaign?

19 **A.** I now understand that to be the case, yes.

20 **Q.** But you say it's wrong that the recommendation to you
 21 was that the meeting was to be agreed to for
 22 presentational reasons?

23 **A.** That is wrong. I have this memory of this meeting with
 24 my junior official from my private office and there was
 25 no submission or recommendation for a meeting. It was

151

1 the second letter of Sir Alan and being told that
 2 Channel 4 news were thinking about some report --
 3 **Q.** We're going to come to that in a moment.

4 **A.** But the point was -- and he had added I had given no
 5 advice for that meeting.

6 The reason why I bring that to your attention and
 7 the Inquiry's attention, Sir Wyn, is it sort of confirms
 8 my recollection because I'm having to recollect issues
 9 from 14 years ago. I do remember my official from my
 10 private office coming in to me, talking about this
 11 letter, showing me the letter and me making the decision
 12 there and then that I ought to meet him.

13 **Q.** Can we look at the two pieces of evidence in turn, then,
 14 starting with the briefing of 5 October 2010.

15 UKGI00000062. This is the briefing of 5 October 2010,
 16 two days before the meeting was going to take place.
 17 We're going to come back to the substance of the
 18 briefing after the afternoon break. I just want to look
 19 at one part of it at the moment in relation to this
 20 narrow issue of the reason for agreeing to meet.

21 Can we look under "Background to the meeting", and
 22 can you see in the third line Mr Whitehead says to you:
 23 "His [that's Alan Bates] second (more
 24 confrontational) letter of 8 July was followed by
 25 reports that Channel 4 were planning to run a news item

150

1 my decision.

2 **Q.** Do you know why Mr Whitehead would say that the
 3 recommendation to you was to agree to a meeting for
 4 presentational reasons, if that was false?

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

6 **Q.** The problem, would you agree, with agreeing to a meeting
 7 for presentational reasons is that it may suggest that
 8 there is, in fact, little or no interest in the subject
 9 matter but, instead, the guiding light is how it all
 10 looks to the outside world?

11 **A.** That's what it would appear but that was certainly not
 12 in my mind and I repeat, from my statement, that this --
 13 the first time I saw this would have been in my red box
 14 of October. I took the decision to meet him in July,
 15 two months into my term of office.

16 **Q.** Meeting for presentational reasons would all be a bit
 17 plastic, a bit synthetic, wouldn't it?

18 **A.** Totally --

19 **Q.** If --

20 **A.** -- and it's worth adding at this point, Mr Beer, one of
 21 the things that was in my mind in accepting and asking
 22 for the meeting, was because there had been
 23 an organisation set up. The Justice for Subpostmasters
 24 Alliance seemed to me that number of people had come
 25 together, and while a Minister could not respond to

152

1 a court case involving an individual subpostmaster, it
2 seemed reasonable to meet a group of people who'd come
3 together and, with his second letter, understanding
4 a little more, two months into office, who he was and
5 there'd been these other -- these written questions and,
6 you know, because it had begun to be an issue coming
7 across my desk, I felt it was right to meet him.

8 **Q.** Was the meeting agreed to because Channel 4 had picked
9 up on the Parliamentary Questions?

10 **A.** No.

11 **Q.** Can we look, please, at POL00417097.

12 This is the email that I think you were referring to
13 I think a moment ago, Sir Ed. It is dated 28 July 2010,
14 so remember that Sir Alan's letter was 20 July 2010, his
15 second, more confrontational letter.

16 Mike Whitehead of ShEx writes to Sue Huggins and
17 Mike Granville, who are both at Post Office, and Oliver
18 Griffiths and Rosemary Buck who are both at ShEx, and
19 says:

20 "Further to our discussion on Monday, Ed Davey has
21 said that the JFSA should be invited to meet him. He
22 took this view on the basis of the 20 July letter from
23 JFSA and the briefing on the expected Channel 4 News
24 item and without further advice from me."

25 Then there is some other information that's not
153

1 a number of years campaigning on behalf of
2 subpostmasters, to have a letter in the way that
3 Sir Alan Bates wrote it, struck me very strongly, and so
4 I wanted the meeting.

5 I have to say, a possible Channel 4 News item was
6 not something that was particularly troubling to me.

7 **Q.** So there are two pieces of evidence, would you agree,
8 that record that the reasons for meeting Sir Alan
9 included a reason of how it would look?

10 **A.** There are. There's the submission, and I remember being
11 rather irked by that bit of the submission when I read
12 it, but we were about to go to the meeting and it was
13 the substantive points that I focused on, but
14 Mr Whitehead wasn't at the briefing with my private
15 office, and he is taking that no doubt from -- report
16 from the officials who were there.

17 **MR BEER:** Thank you, Sir Ed.

18 Sir, could we take the afternoon break, please,
19 until 3.40?

20 **SIR WYN WILLIAMS:** Certainly, yes.

21 **MR BEER:** Thank you, sir.

22 (3.25 pm)

(A short break)

24 (3.40 pm)

25 **MR BEER:** Can you still see and hear us, sir?

155

1 relevant to our question.

2 This is a record, would you agree, which suggests
3 that you took a view, ie decided, to meet Mr Bates in
4 part because of a Channel 4 News item that was expected,
5 doesn't it?

6 **A.** Well, it's his reporting of an oral meeting between my
7 private office and myself. I have no doubt that the
8 private office mentioned there could be Channel 4 News
9 item but the letter was the substantive reason because
10 it was a very strong letter, and I had no -- as three
11 goes on to say, there was no advice from him, there was
12 no written submission, and advised me whether or not to
13 take the meeting; the meeting was decided by me in my
14 office, having read the 20 July letter.

15 **Q.** The email records that you took the view "on the basis
16 of ... the expected Channel 4 News item". If that's
17 correct, that would be agreeing to a meeting in part for
18 a presentational reason, wouldn't it?

19 **A.** It would be. What I'm telling you is that I do have
20 a recollection of this because the second letter was so
21 strong, because two months into my posting I was
22 beginning to understand there might be an issue here,
23 I was beginning to understand that JFSA was
24 an organisation representing a number of subpostmasters
25 and it felt reasonable to meet them. Having spent
154

1 **SIR WYN WILLIAMS:** Yes, thank you.

2 **MR BEER:** Sir Ed, can we look at two documents at the same
3 time, please, on the screen. The first document,
4 please, POL00088974, and then UKGI00000062.

5 Thank you. You'll see on the left-hand side is the
6 briefing that was provided to you for your meeting on
7 7 October. It's dated 5 October, written by
8 Mr Whitehead.

9 Can we turn in that document, please, to page 3. Do
10 you see under the heading "Integrity of the Horizon
11 system", at the foot of the page, can you see it starts
12 with:

13 "The Horizon system has been in place for over
14 10 years."

15 Then, if we go over the page, that paragraph ends in
16 "the system".

17 Next paragraph, "The system is currently being
18 updated to 'Horizon Online'", and ends with "Horizon
19 system".

20 Next paragraph, "The integrity of both Horizon and
21 Horizon Online is built on tamper proof", ends in
22 "branch accounts remotely".

23 Next paragraph, "Critically, Horizon creates
24 a separate audit file", ends in "at the time concerned".

25 Scrolling down, "Subpostmasters are trained on the
156

1 system", ends in "update the accounts".
 2 Next paragraph, "As with any large organisation",
 3 ends in "ensure ongoing accuracy".
 4 Then a new heading "Action taken", begins with "Post
 5 Office Limited has a regular system", ends with
 6 "undertaken by the NFSP".
 7 Then all of the paragraphs to, in fact, the end of
 8 the document:
 9 "No court has ever ruled that there have been
 10 problems with the Horizon system."
 11 Just going back to the start of that, on page 3
 12 where it begins -- scrolling down, thank you -- when you
 13 read this, or when you would have read this, would you
 14 have expected that some system or process for verifying
 15 the accuracy of what you were being told had been
 16 undertaken.
 17 **A.** Yes, I would have assumed I was being told the truth and
 18 that it was, from my officials, the best provide they
 19 could provide with me.
 20 **Q.** You see the way it's presented to you is as a matter of
 21 fact, that this is the single truth?
 22 **A.** Yes.
 23 **Q.** It doesn't say "Post Office alleged to us the
 24 following"; it doesn't say, "Post Office say to us the
 25 following"; or "We've asked for a briefing from Post

157

1 **Q.** Is that what you would have expected to have happen by
 2 your officials when they were briefing you, and not
 3 attributed it to Post Office?
 4 **A.** It is not what I expected. When I saw these documents
 5 in the bundle sent to me it became obvious that there
 6 had been that cut and paste, as you say, and it
 7 surprised me.
 8 **Q.** Why is it surprising that officials would simply swallow
 9 whole what the Post Office were telling them, by cutting
 10 and pasting an account into a Ministerial briefing?
 11 **A.** I'd have thought they'd have had a meeting and argued --
 12 not argued but probed a bit because this meeting had
 13 been planned for. I'd asked for it in the July, two
 14 months after coming into office. It didn't happen until
 15 the October, so there was plenty of time for them to
 16 prepare and, given there'd been a number of written
 17 Parliamentary Questions and letters, this was a very
 18 important meeting to me and people knew that and I would
 19 have expected a quality brief.
 20 **Q.** Can I turn -- we can get rid of the document on the
 21 right-hand side, please -- to the meeting itself and, on
 22 the document on the left-hand side, go back to page 1 --
 23 thank you -- and scroll down. Just stop there.
 24 You'll see that in the attendees are listed Sir Alan
 25 and then two lawyers, one from Shoosmiths and one from

159

1 Office and they have provided the following".
 2 **A.** It doesn't say that.
 3 **Q.** No. So would you read this as this is essentially being
 4 ShEx's own account to you?
 5 **A.** Yes.
 6 **Q.** On the document on the right-hand side can we see a
 7 "Brief to BIS", we know this is from the Post Office, we
 8 know it's dated August 2010. It's a brief to BIS for
 9 your prospective meeting with JFSA.
 10 In that document, can we go, please, to page 2, and
 11 can we see a heading "Integrity of the Horizon system",
 12 and a paragraph that says, "The Horizon system has been
 13 in place for 10 years", yes?
 14 **A.** (*The witness nodded*)
 15 **Q.** Then, on the left hand page, if we can scroll down, we
 16 can see the next paragraph, "The system is currently
 17 being updated", and on the right-hand side, "The system
 18 is currently being updated"; and then on the left-hand
 19 side "The integrity of both Horizon and Horizon Online",
 20 and on the right-hand side -- and so it goes on.
 21 The entirety of the information in the sections that
 22 I've read you appears to be a cut and paste from the
 23 Post Office briefing: they've right clicked, swiped, cut
 24 and paste, or copied and paste?
 25 **A.** (*The witness nodded*)

158

1 Coomber Rich called Issy Hogg, a Basingstoke-based firm
 2 of solicitors who have defended number of subpostmasters
 3 who have been prosecuted by Post Office in recent years.
 4 This was a meeting on 7 October and we know that Issy
 5 Hogg was Seema Misra's solicitor and that Seema Misra's
 6 trial started a few days later on 11 October 2010.
 7 We also know, through other evidence, that David
 8 Smith of the Post Office and the Executive Team at the
 9 Post Office, were watching the trial very closely. Was,
 10 to your recollection, Seema Misra's case and her
 11 impending trial discussed at the meeting?
 12 **A.** I can't remember but I think in the reply that I gave to
 13 Sir Alan, there was a reference to it. So I think --
 14 **Q.** You sent that reply?
 15 **A.** In the 7 December reply but that may have been because
 16 he wrote two letters subsequent to the meeting and it
 17 may have been in there and, I'm sorry, I don't know but
 18 I can't remember it being raised at the meeting.
 19 **Q.** We haven't got a note of the meeting, I think you
 20 understand, or haven't been given the note --
 21 **A.** No, and I asked the Department for the minutes and all
 22 the submissions from my diary and they weren't able to
 23 give it to me.
 24 **Q.** And same here.
 25 Would you have followed the lines in your briefing?

160

1 A. By and large, yes. The lines were -- the key lines that
 2 I took from them was that, as they say, being listening
 3 mode, and their reason for that was there was
 4 a possibility of a court case and they were -- said it
 5 was prudent to -- as you see in there, prudent to adopt
 6 a *sub judice* approach in the comments you make. I don't
 7 know how many questions I asked; I certainly was keen to
 8 listen and hear their points of view.

9 Q. If you look at "Our objectives", at the foot of the
 10 page, you're advised by Mr Whitehead that:
 11 "Tactically we would advise you to seek to establish
 12 at a very early stage whether legal action against Post
 13 Office is imminent/planned. If so, it would be prudent
 14 to adopt a '*sub judice*' approach in the comments you
 15 make."
 16 Did you read that as being a device, ie to establish
 17 the concurrency of court action, therefore giving you
 18 an additional reason not to commit to anything?

19 A. I'm not sure if a device -- I assumed they were giving
 20 me their best advice and they --

21 Q. The sentence begins with the word "Tactically".

22 A. Well, there may have been wanting to protect me as
 23 a minister, I don't know. But it's difficult, Mr Beer,
 24 because I can't remember exactly all the details of that
 25 meeting. I can remember how I considered Sir Alan. I'm

161

1 A. I'm pretty sure I would have followed those lines, yes.
 2 I might well have asked one or two more questions than
 3 they wanted but it was a meeting which Sir Alan had
 4 wanted to put his case.

5 Q. Under the heading "Issues or elephant traps" in bold,
 6 Mr Whitehead says:
 7 "... we recommend that you should be primarily in
 8 listening mode on the basis that any statements or
 9 comments made at the meeting may be subsequently quoted
 10 in any legal process involving JFSA or its members."
 11 Did you remain primarily in listening mode?

12 A. I would have certainly been in listening mode for most
 13 of the meeting. My normal practice would probably be to
 14 have asked one or two questions for clarification but
 15 I'm afraid I can't remember the details of the meeting.

16 Q. Did you make any commitments in the meeting?

17 A. I can't remember making -- certainly not commitments to
 18 things like a review but I committed to come back to
 19 him, I would imagine, on the substantive points he was
 20 making, and no doubt we'll get on to that.
 21 I certainly --

22 Q. Did you agree to do or require others to do anything?

23 A. Well, after the meeting, I asked my officials to follow
 24 up on all his points. I found Sir Alan a very
 25 reasonable and credible representative. He had a strong

163

1 happy to go into details about that but I don't always
 2 follow the advice of my officials, and that's why the
 3 meeting was taking place.

4 Q. The advice continued that you should:
 5 "Emphasise that the issues raised by the JFSA are
 6 operational and contractual matters for [Post Office].
 7 "Make clear that, as the shareholder, Government has
 8 an arm's-length relationship ... and doesn't have any
 9 role in [the company's] day-to-day operations.
 10 "Establish whether ... legal action [is contemplated
 11 or committed to taking place].
 12 "If so, note it will be for the relevant legal
 13 process to decide on the JFSA case and that the issues
 14 are effectively *sub judice*."
 15 Then, over the page, please:
 16 "Demonstrate that you are prepared to hear JFSA's
 17 side of the story (JFSA claim both [Post Office] and
 18 officials are covering up the problems with Horizon) but
 19 make clear that you are not in a position to offer
 20 substantive comment."
 21 Then:
 22 "Avoid committing to [setting] up
 23 an independent/external review of Horizon."
 24 Do you think you're likely to have followed those
 25 lines?

162

1 story and I felt it needed to be looked at again. The
 2 submission that I received -- and we can no doubt go
 3 through other parts of it -- it made a powerful case
 4 because it wasn't just based on what my officials were
 5 telling me about Horizon but it was -- also referred to
 6 the National Federation of SubPostmasters view and the
 7 courts had not found problems with Horizon. And those
 8 were three reinforcing points that he made in that
 9 submission but, because Sir Alan was very articulate and
 10 able champion for his case, I still felt, despite this
 11 submission, that more work needed to be done to reassure
 12 me that what was in the submission was true.

13 Q. Can we turn, lastly, then, to POL00186759. This is your
 14 letter to Mr Bates of 7 December 2010. I'm going to
 15 skip over the contents of the letters that you refer to
 16 earlier, in the interests of time. You say:
 17 "Following our meeting, the points you raised as
 18 Chairman ... are being followed up on my behalf by
 19 officials as part of our dialogue with the company.
 20 However, as I made clear ... neither I nor the
 21 Department can intervene in cases which are *sub judice*
 22 or where court action has been determined, as in
 23 Mrs Misra's and Mrs Buffrey's cases."
 24 Given that one of the principal complaints was the
 25 conduct of the Post Office, which had led to court

164

1 proceedings and convictions, how could officials follow
 2 up matters on your behalf if they could not intervene in
 3 cases where court action had taken place?
 4 **A.** Well, the basic understanding that I have of court
 5 practices is that the executive arm of Government, be
 6 they officials or ministers, can't interfere/shouldn't
 7 interfere, and I wouldn't seek to interfere, with the
 8 judicial process.
 9 **Q.** Was anyone asking you, or your Department, to interfere
 10 with the judicial process, rather than examine the
 11 conduct of prosecutors?
 12 **A.** I think they were wanting to -- well, to be fair,
 13 I remember Jonathan Lord, in particular, the Member of
 14 Parliament for Woking, making it clear to me that they
 15 weren't asking me to intervene, and knew that
 16 I couldn't. But in terms of the prosecution process,
 17 that wasn't, to my understanding of the meeting with
 18 Sir Alan, the core part of his questioning. The core
 19 part of his questioning seemed to be around issues to do
 20 with Horizon.
 21 **Q.** You say in the third paragraph here that you realise
 22 that:
 23 "... the core of the JFSA's concerns relates to the
 24 Horizon system ... However POL continues to express full
 25 confidence in the integrity and robustness of the
 165

1 end of your witness statement concerning your
 2 reflections, and it begins on page 41.
 3 If we scroll down, you deal with your reflections in
 4 six subheadings. If I could look at those briefly with
 5 you because we've got your statement on the record.
 6 Start at page 42 over the page, please, foot of the
 7 page, "Duty of candour". Do you there argue for the
 8 consideration of the introduction of a duty of candour,
 9 given that this was addressed yesterday in the King's
 10 Speech.
 11 **A.** I do and I strongly support --
 12 **Q.** I'm not going to ask you further questions about it but
 13 you add your heft to that call; is that right?
 14 **A.** *(The witness nodded)*
 15 **Q.** Can we look at the foot of the --
 16 **A.** Sorry, I was told not to nod, so yes.
 17 **Q.** That's a "Yes", is it?
 18 **A.** Yes.
 19 **Q.** Thank you. Look at the foot of page 43, please. The
 20 second point that you make concerns the oversight of
 21 arm's-length bodies, and you speak to that issue between
 22 paragraphs 142 and 143. Can you explain what you are
 23 suggesting, please?
 24 **A.** Well, clearly, one of the big problems that arises from
 25 this tragedy and this appalling miscarriage of justice,
 167

1 Horizon system and also categorically states that there
 2 is no remote access to the system or to individual
 3 branch terminals which would allow accounting records to
 4 be manipulated in any way."
 5 I think you now know that that itself is a cut and
 6 paste from information provided from Post Office --
 7 **A.** Indeed, I do now.
 8 **Q.** -- a bit like before? I'm not going to spend time in
 9 showing you the documents because I think you will have
 10 reached that conclusion yourself.
 11 **A.** *(The witness nodded)*
 12 **Q.** Again, are you disappointed that your civil servants
 13 have simply swallowed what they've been told by Post
 14 Office, by cutting and pasting, in this case, an email
 15 into a draft letter for you?
 16 **A.** Particularly at this point because, having asked for the
 17 meeting with Sir Alan, having had the submission that
 18 I did but then saying I still think these points need to
 19 be looked into, I think that was an invitation for them
 20 to look rather harder.
 21 **Q.** Thank you. At least on this occasion, it says, "The
 22 Post Office continues to express" so it's attributing
 23 that which follows to the Post Office?
 24 Can we turn, lastly, so far as questions from me are
 25 concerned, to your witness statement, please. It's the
 166

1 is how the executive arm, the Government, the
 2 Department, oversees arm's-length bodies. That's come
 3 up in your questions today, Mr Beer.
 4 Now, when we reformed Royal Mail Group and split off
 5 POL, I insisted there should be a ShEx official on the
 6 Board although that wasn't welcome, I'm told, but
 7 I insisted on it and it follows from that, I'm a big
 8 believer in proving corporate governance and greater
 9 transparency. I think the lesson from this appalling
 10 situation is we need possibly to go even further and
 11 Government's should look across the piece to all
 12 arm's-length bodies to check that the governance is
 13 appropriate so the oversight is genuine, real and
 14 thorough.
 15 **Q.** The third reflection that you make is over the page at
 16 page 44, concerning the relationship, essentially,
 17 between the executive and the judiciary, and if we skip
 18 forward to paragraph 149 on page 45, you posit the
 19 creation of a new process. Can you explain what you
 20 have in mind?
 21 **A.** It seems to me that, if there is a real concern about
 22 too many prosecutions going through the court system
 23 that shouldn't be, that there needs to be a process
 24 within Government for officials, for ministers, to raise
 25 questions. There is a real balance, though, and I'm
 168

1 sure Sir Wyn will appreciate this, you don't want to
 2 give ministers a power to abuse the court's
 3 independence. So I don't quite know what that might be
 4 but I'm positing that should be at least looked at. But
 5 I go on to say it would be far preferable if there were
 6 reforms within the legal profession, the judiciary, to
 7 learn the lessons from what happened, rather than
 8 allowing the executive to intrude into the judicial arm.

9 **Q.** Thank you. Suggestion number 4 at the foot of the page
 10 is in relation to prosecutorial powers and what you say
 11 there is contained in those two paragraphs, 151 and 152,
 12 and you make the general point that it seems to you that
 13 prosecutions are best left to the CPS, who are
 14 independently investigated?

15 **A.** Indeed it is.

16 **Q.** Over the page, please, suggestion number 5. The
 17 suggestion, I think, to strengthen the protection
 18 afforded to whistleblowers?

19 **A.** It is, because it seems to me in this case the critical
 20 piece of evidence for the High Court -- and you saw it
 21 in the ITV drama, you saw it -- although I didn't see it
 22 at the time -- in the BBC Panorama in August 2015, the
 23 key thing was the evidence from Richard Roll. And we've
 24 seen in other scandals it's been the whistleblower
 25 that's been fundamental to that, and other countries

169

1 need to find a way to strengthen them, support them and
 2 rebuild the trust in that institution and it seems to me
 3 mutualisation offers a way forward, I legislated for it,
 4 so I hope that could be taken forward.

5 **MR BEER:** Sir Ed, thank you very much. Those are my
 6 questions.

7 Sir, there are some questions from Core
 8 Participants. Mr Moloney first, I think, up to
 9 15 minutes; Ms Page second, up to ten minutes; Mr Stein
 10 third, up to ten minutes; and then Ms Watt, on behalf of
 11 the NFSP, up to three minutes. So it's about
 12 a 4.35/4.40 finish.

13 **SIR WYN WILLIAMS:** We'll see, Mr Beer.

14 **MR BEER:** Thank you very much.

15 Mr Moloney first.

16 **Questioned by MR MOLONEY**

17 **MR MOLONEY:** Sir Ed, I'm over here. Thank you. My name is
 18 Tim Moloney and I represent a large number of
 19 subpostmasters, all of whom were prosecuted to
 20 conviction and all of whom have subsequently had their
 21 convictions quashed.

22 Sir Ed, you received number of letters from MPs on
 23 behalf of postmaster constituents -- and you're now not
 24 following your own lessons, which is to say yes, rather
 25 than simply nodding. Would you say, yes, rather than

171

1 have a much stronger protections for whistleblowers than
 2 we do and, indeed, I mentioned this in the House of
 3 Commons yesterday: we do need a much more robust system
 4 to enable and persuade and encourage and support people
 5 coming forward when they see that lies are being told.

6 **Q.** Then lastly, number 6, if we scroll down, please, to
 7 summarise, you say in paragraph 156 that you think that
 8 the idea of mutualisation of the Post Office, which you
 9 describe as radical, might offer a productive way
 10 forwards.

11 Yes, the Post Office Network is really important for
 12 our society, our country and our economy, and
 13 subpostmasters, in my experience, are cornerstones of
 14 our community, and I actually argued at the time -- the
 15 idea came from the National Federation of SubPostmasters
 16 but it reflected parties that my party had put in the
 17 Coalition Agreement, that we should look at mutual
 18 models and so, although it wasn't in any briefing, it
 19 wasn't from officials, I put into the Postal Services
 20 Bill, I think it was clause 7, the enabling power for,
 21 in the future, the Post Office to be mutualised, and
 22 that would mean that subpostmasters were in control and
 23 there would be no such thing as POL.

24 And, as we look forward, the Post Office is so
 25 important, the subpostmasters and their community, we

170

1 simply nod?

2 **A.** Yes. Yes, I did receive some letters.

3 **Q.** Thank you. You sent number of letters in response?

4 **A.** Yes, I did.

5 **Q.** You told the Inquiry that these letters in response were
 6 drafted by officials and you examined them and signed
 7 them, was the usual process?

8 **A.** Yes, that's right. There would be a file of letters in
 9 my red box, between 20 and 25, and I would sign them --
 10 yes, essentially, I would sign them most nights.

11 **Q.** Those letters would cover a wide range of subjects, not
 12 simply postmasters?

13 **A.** Oh, a huge number of subjects, as I say in paragraph 14
 14 of my evidence, I was responsible for a range of things
 15 from employment affairs to trade, to competition policy,
 16 consumer affairs and, yes, I had a large variety of
 17 issues and, within Royal Mail and Post Office in the
 18 postal affairs umbrella, there were a number of other
 19 issues raised, not just Horizon.

20 **Q.** Of course. Would you always just sign the letters, or
 21 might you sometimes raise matters with officials that
 22 you'd like checked?

23 **A.** Very occasionally I wouldn't sign them. That was very
 24 unusual but, occasionally, I wouldn't sign them.

25 **Q.** So far as the letters to MPs about postmasters were

172

1 concerned, were many of those *pro forma*?

2 **A.** Broadly speaking, that's true. But they -- there was
3 always a little bit of difference but they followed the
4 same lines, the sort of things that Mr Beer has been
5 talking about.

6 **Q.** Precisely, and Mr Beer showed you the letter to Karen
7 Lumley MP?

8 **A.** Yes.

9 **Q.** Might we just look at that again, just very briefly.
10 That's UKGI00013913. That's a good example, just to see
11 the format that it takes.

12 If we could just focus it, thank you, and scroll up,
13 if we can. So, essentially, thanking you for the
14 letter, is the first paragraph, and then the issues are
15 operational and contractual, and the Minister and the
16 Department cannot intervene in cases which are *sub*
17 *judice* or where court action had been determined,
18 essentially confirming what you said earlier: that the
19 Minister could not respond to individual cases of
20 subpostmasters, individual court cases.

21 **A.** That's true.

22 **Q.** Then there's mention there of the blame on Horizon, then
23 the next paragraph is how widespread Horizon operates.
24 Next one is the testing of Horizon, and so on.

25 **A.** I think I should say, to be as helpful as possible, that
173

1 The second is her history of being postmaster at
2 Worstead, leaving Hertfordshire and becoming
3 a postmaster, the finding of £18,000 missing from her
4 office, reduced to £11,000 and she's now facing a trial
5 at Norwich Crown Court accused of theft and false
6 accounting. She says, in the next paragraph:

7 "I have never taken a penny from that post office
8 but the prosecutors from the Post Office do not believe
9 me [essentially there saying that there were Post Office
10 prosecutors there], hence the trial. I was aware some
11 time ago that the figures were wrong during a weekly
12 balance -- some £4,000 appeared to be missing. I tried
13 to find the missing amount without success, and due to
14 the fact that the [Post Office] helpline were less than
15 helpful decided to roll over the figures hoping that
16 an error notice would be issued from Chesterfield and
17 the matter resolved. This did not happen and for some
18 reason the figures just seemed to get larger.

19 "Post Office Counters are adamant that there are no
20 issues with any part of their IT systems and are
21 demanding that I pay back the apparent missing money as
22 well as face a trial."

23 If we could go over to the next page, which
24 I believe is blank, and then to that final page, and
25 this is the fourth paragraph on that page:
175

1 I think -- and I haven't analysed them in huge detail
2 because there weren't that many, but there were some
3 before I met Sir Alan, some just after, and some after
4 I'd replied to him.

5 **Q.** Yes.

6 **A.** And I think you'll see a little bit of difference in the
7 replies that my officials drafted.

8 **Q.** Sure. I don't suppose you recollect sending a letter
9 concerning a Mrs Allison Henderson to Norman Lamb MP, do
10 you?

11 **A.** No.

12 **Q.** Right. Mrs Henderson sent a letter to Mr Lamb and asked
13 that it go to the relevant minister and that letter was
14 then forwarded to Vince Cable initially, but then it
15 came to you. Can we have look at Mrs Henderson's
16 letter, which is POL00294731. That's the covering
17 letter from Norman Lamb who was your successor in fact,
18 wasn't he?

19 **A.** Yes, he was.

20 **Q.** This forwards the letter of Mrs Henderson to Vince
21 Cable, as we can see there, but it eventually came to
22 you. If we go to the next page, we see the substance of
23 Mrs Henderson's letter, and then if we could scroll up,
24 it's addressed to Mr Lamb, it's November 2010. The
25 first paragraph is the reason for Mrs Henderson writing.
174

1 "My office surprisingly escaped the last round of
2 closures, but now instead of having to pay me
3 a redundancy sum, my reputation has been wrecked and
4 I face the prospect of a possible prison sentence, heavy
5 fine, or some other criminal punishment plus having to
6 pay of the Post Office a large sum of money. Money that
7 was never taken from the office, but just seemed to
8 vanish into cyberspace."

9 Your reply to that is UKGI00013863. Could we put
10 that up, please. Might we try also to put up the letter
11 to Karen Lumley MP next to it, which is UKGI00013913.

12 Thank you. Now, we can see the similarities between
13 the letters but there are also some important
14 differences. We see the first paragraph is thanking as,
15 before, and the issues raised paragraph, the first four
16 lines are the same in each letter. But then there's
17 further detail added in relation to Mrs Henderson's case
18 that I'll come back to.

19 We then see at the third paragraph "The Horizon
20 computerised accounting system operates", and we see
21 that at the bottom of the page on Mrs Henderson's
22 letter. If we scroll up on both letters, on the final
23 paragraph -- yes, thank you -- we see the Horizon system
24 was tested and we see the Horizon system was tested as
25 the first paragraph on the second page of
176

1 Mrs Henderson's letter.
 2 As regards ongoing performance, we see the second
 3 paragraph on both, and then the system is based on the
 4 principles of double entry bookkeeping. So very
 5 similar.
 6 But if we could please just go back to just
 7 Mrs Henderson's letter on the screen now, and to the
 8 second main paragraph on the first page. If we just
 9 focus in on that second main paragraph in
 10 Mrs Henderson's letter, on the right-hand side of the
 11 screen:
 12 "The issues raised in your letter are, however,
 13 operational ..."
 14 That's great, thank you very much:
 15 "The issues raised in your letter are, however,
 16 operational and contractual matters between Post Office
 17 Limited and Mrs Henderson and I should make clear that
 18 neither I nor the Department can intervene in cases
 19 which are *sub judice* or where court action had been
 20 determined."
 21 Essentially consistent with your evidence this
 22 afternoon. However, it goes on:
 23 "I understand that Mrs Henderson was charged to
 24 appear at Norwich Crown Court on 15 December 2010.
 25 I further understand that she pleaded guilty to false
 177

1 all of the postmasters and mistresses who have been so
 2 badly affected by this miscarriage of justice, and this
 3 clearly would not have helped.
 4 **Q.** No. I asked you at the start whether, whilst officials
 5 wrote letters for you, would you sometimes raise things
 6 if you thought you might have to be careful about
 7 things, and so on? Did you raise anything in this
 8 instance?
 9 **A.** No, I didn't.
 10 **Q.** Why would such a point-scoring comment be included in
 11 a letter from your Department, essentially saying,
 12 "Look, this woman is complaining about Horizon but when
 13 she went to court she didn't"? Why would
 14 a point-scoring comment of that nature be included in
 15 a letter from your Department?
 16 **A.** I don't know.
 17 **Q.** It might be viewed, mightn't it, as siding with Post
 18 Office?
 19 **A.** It can certainly be interpreted that way. Absolutely.
 20 **Q.** Did you think at the time it was right to send a letter
 21 like that?
 22 **A.** I genuinely can't remember. I can't recall signing this
 23 letter and, if it gave offence to Mrs Henderson,
 24 I apologise to her.
 25 **Q.** Do you know where that information came from about her
 179

1 accounting (POL having dropped a charge of theft) and
 2 the court imposed a sentence of a Community Penalty
 3 Order with unpaid work of 200 hours and £1,500 costs.
 4 Mrs Henderson also repaid the shortage and,
 5 I understand, at no time during the case were any
 6 problems with POL's Horizon IT system raised by
 7 Mrs Henderson, or separately identified."
 8 So, in this case, in Mrs Henderson's letter, it does
 9 comment on an individual case. It gives the
 10 circumstances of her pleading guilty and, moreover, goes
 11 on to say that she didn't say anything about Horizon; do
 12 you accept that, Sir Ed?
 13 **A.** That's what it says in the letter.
 14 **Q.** Indeed. Would you accept that the comment has the
 15 effect of saying that, well, while Mrs Henderson may be
 16 alluding to the unreliability as the cause of her
 17 problems in the letter to you, Mr Norman Lamb MP, she
 18 didn't do so in the proceedings against her when it
 19 really mattered?
 20 **A.** Well, I assume, when my officials drafted that, that was
 21 what they had in their mind, yes.
 22 **Q.** Yes, and you'd accept, would you, that such a comment
 23 would be likely to undermine the trust that Norman Lamb,
 24 her MP, might have in her sincerity?
 25 **A.** Yes, I feel very sorry for Mrs Henderson and, frankly,
 178

1 not saying anything about Horizon?
 2 **A.** No.
 3 **Q.** Well, can we please just look at the judgment of the
 4 Court of Appeal Criminal Division in the case of
 5 Hamilton & Others, which is POL00113278, and the first
 6 part of this judgment I'd like to look at is
 7 paragraph 116, which is at page 29 of the judgment.
 8 Here we are. Could we scroll up just a bit so we
 9 can see what's beneath that paragraph as well. That
 10 will really help. Thank you. That's perfect.
 11 "The appellant Allison Henderson pleaded guilty to
 12 false accounting and POL offered no evidence on the
 13 charge of theft. Before agreement was reached tot hat
 14 effect, POL's prosecuting lawyer gave instructions to
 15 counsel that a plea to false accounting on the basis
 16 that Horizon was at fault would not be acceptable. In
 17 her case it is conceded that:
 18 "It was improper to make the acceptability of her
 19 basis of plea conditional on her making no issue of
 20 Horizon;
 21 "Since the theft charge that been dropped, [Post
 22 Office] could no longer advance a case that she had
 23 stolen any money, and it should have been open to her to
 24 suggest that there was no actual loss and she had only
 25 covered up a shortfall created by Horizon."
 180

1 If we could then move forward six pages, please, to
 2 paragraph 156. If we could see the whole of that page,
 3 thank you. That's enough. Here we see more details in
 4 relation to Mrs Henderson's case. There are the
 5 circumstances of her plea, as reflected in your letter.
 6 At 157, we see that, in fact, Mrs Henderson denied
 7 theft, and this is five lines in:
 8 "... but accepted that she was contractually obliged
 9 to make good any discrepancies and was making efforts to
 10 do so. In an amended, signed defence statement, served
 11 on 16 November 2010, Mrs Henderson said that it was her
 12 belief that any discrepancy:
 13 "was a result of a malfunction of the Horizon
 14 computerised accounting system ... any discrepancy could
 15 have been discovered by the Post Office auditor", and
 16 so on.
 17 If we go further down, please, so that records what
 18 was in her defence statement and gives the lie to what
 19 was said in your letter just from the outset, as it
 20 were, Sir Edward, and we then see, though, in
 21 paragraph 159 that, at the end of September 2010,
 22 Mr Wilson wrote to an investigator, essentially saying
 23 that a plea on the basis of Horizon unreliability would
 24 not be acceptable.
 25 If we go down to the next paragraphs, please, and at
 181

1 **A.** It looks that way.
 2 **Q.** Yes, and, Sir Edward, you signed it without question as
 3 well, didn't you?
 4 **A.** Indeed, and I apologise for that. I have to say, when
 5 you are signing letters, you are working on the basis
 6 that people are telling you the truth and that's the
 7 only way that Government can work. It's one of the
 8 reasons why we need a duty of candour. It is shocking
 9 that people have misled ministers, misled
 10 subpostmasters, above all.
 11 **Q.** I'm sure you can, but can you understand the hurt that
 12 must have caused Mrs Henderson?
 13 **A.** Of course I can, and I apologise to her.
 14 **Q.** Can I ask you this question about the more general
 15 statement you have made: was it appropriate/is it
 16 appropriate for a Department to only go to, for example,
 17 Post Office for information, when it's Post Office that
 18 is being challenged?
 19 **A.** I think what comes through what you've just shown me is
 20 that I think if departments are quoting court cases,
 21 they should go back to the court case.
 22 **MR MOLONEY:** Thank you, Sir Ed.
 23 **SIR WYN WILLIAMS:** Thank you, Mr Moloney.
 24 Who is next?

Questioned by MS PAGE
 183

1 160, he says it in terms:
 2 "Clearly if there were to be a plea to false
 3 accounting but on the basis that the Horizon system was
 4 at fault then that would not be an acceptable basis of
 5 plea for the prosecution."
 6 Then there is discussion.
 7 It was absolutely plain that Mrs Henderson was
 8 raising Horizon all the way through this case and what
 9 was in your letter was a complete travesty, you can see
 10 now, can't you?
 11 **A.** What you've shown me is quite shocking --
 12 **Q.** Yes.
 13 **A.** -- and, clearly, I was asked to sign a letter which was
 14 clearly wrong. I didn't know that at the time,
 15 I believed the letter to be true.
 16 **Q.** Plainly, the only checks that were done were with Post
 17 Office, weren't they?
 18 **A.** It looks that way.
 19 **Q.** Post Office did not tell the officials the truth, did
 20 they; they can't have done, can then?
 21 **A.** From what you've shown me they can't have done.
 22 **Q.** But it looks like officials were more than happy,
 23 without question, to include a completely untruthful
 24 slur on Mrs Henderson in the letter in order to
 25 undermine her position?
 182

1 **MS PAGE:** It's me sir, thank you.
 2 Mr Davies, on the subject of lies, this lie
 3 originated in what the Inquiry knows as the Ismay
 4 Report. It goes like this:
 5 "The integrity of Horizon is founded on its
 6 tamper-proof logs, its realtime backups and the absence
 7 of 'backdoors', so that all data entry or acceptance is
 8 at branch level, and is tagged against the log-on ID of
 9 the user. This means that ownership of the accounting
 10 is truly at branch level."
 11 Mr Beer has taken you to the way that that lie found
 12 its way into the Whitehead briefing to you, and it was
 13 a copy and paste from a Post Office briefing, which was
 14 a copy and paste from the Ismay Report. The rest of the
 15 Whitehead briefing was really aimed at persuading you to
 16 fob Sir Alan off; do you agree?
 17 **A.** I think they wanted me to just listen and not ask
 18 questions, yes.
 19 **Q.** In effect, the officials closed ranks with the Post
 20 Office against the JFSA, and the subpostmasters, would
 21 you agree with that?
 22 **A.** It's really clear that the officials were following the
 23 line from Post Office Limited, that is really clear in
 24 the way you've described the Ismay Report finding its
 25 way into what was sent to me.
 184

1 Q. That report was commissioned, the Ismay Report, by David
2 Smith, who you met with regularly, and Mr Smith was
3 also, as Mr Beer said, keeping a close eye on the Misra
4 trial, which started a few days after the meeting that
5 you had with Sir Alan.

6 A. *(The witness nodded)*

7 Q. Mr Smith was delighted with his team for securing the
8 conviction against Mrs Misra. He apparently, or at
9 least the team apparently, believed that it vindicated
10 Horizon that Mrs Misra had been convicted; did you ever
11 raise the JFSA complaints directly with David Smith when
12 you met him?

13 A. This is an interesting point. When I got the letter to
14 Sir Alan Bates of 7 December, which was essentially my
15 response to the questions he'd asked at the meeting,
16 which I'd asked to be followed up and checked, I'm
17 assuming, because it would have been my normal practice,
18 that I would have discussed that with either an official
19 or with a member of Post Office, in this case David
20 Smith.

21 I have racked my memory to see whether that was
22 raised, and I assume I did it, but I cannot remember the
23 precise meeting or the precise discussion.

24 Q. How regularly were you meeting with him at that sort of
25 time, in the latter end of 2010?

185

1 roundabout way.

2 If we go, please, to page 7 and if we zoom in at the
3 bottom of the letter, we can see how he raises it.
4 Penultimate paragraph in the final sentences:

5 "I know that the Horizon system has had a great
6 amount of problems since its introduction, and the
7 majority of subpostmasters have blamed it as a defence
8 in court cases."

9 Then this:

10 "I also gather that access to the system is possible
11 remotely through the Post Office's network."

12 It seems that that has been picked up by
13 Mr Whitehead because, if we could then, please, go to
14 POL00417094, he sends an email to Post Office following
15 up on that. If we look at the bottom of page 1 going
16 into page 2, there's the email where he picks up on it.
17 Thank you. It's 26 November, and he says:

18 "Mike

19 "Thanks.

20 "Re the Lord/Misra case, can we quote POL as
21 categorically stating that there is no remote access to
22 the system or to individual branch Horizon terminals
23 which would allow accounting records to be manipulated
24 as JFSA claims?"

25 So it's very specifically about the Misra case; do

187

1 A. I genuinely don't remember, I don't think it was that
2 week. Most of my meetings at the time at postal affairs
3 were to do with the Bill and the Royal Mail Group, but
4 I remember meeting him on one or two occasions. He was
5 not a frequency attendee.

6 Q. Can I -- sorry.

7 SIR WYN WILLIAMS: I don't want either Sir Ed or you to be
8 on a false premise here. My recollection is that
9 Mr Smith's tenure as Managing Director ended in 2010 but
10 I stand to be corrected.

11 MS PAGE: You're quite right, sir.

12 THE WITNESS: Correct.

13 SIR WYN WILLIAMS: I wouldn't want Sir Edward to think there
14 were many, many months when he was in post, that is all.

15 MS PAGE: No, you're absolutely right, sir. He was only
16 there for a short time during the period but, obviously,
17 covering this period of autumn 2010.

18 SIR WYN WILLIAMS: Yes, certainly, yes.

19 MS PAGE: Can I then just turn to the letter that you wrote
20 to Jonathan Lord and the background to that, Jonathan
21 Lord being Ms Misra's MP. Mr Lord wrote to you about
22 the Misra case and, if I can bring that back up, please,
23 it's POL00004279. I haven't been able to find a very
24 good copy of this letter but one of the points that is
25 raised within it is remote access, albeit in a slightly

186

1 you see that?

2 A. I do.

3 Q. Your reply to Mr Lord dealt with remote access in a very
4 similar way to the letter that was written to Sir Alan,
5 touching on the same subject which has just been shown
6 to you by Mr Beer. Both of those letters were based on
7 the wording from the POL briefing that you received. So
8 to save time, I'll simply give the reference for the
9 letter to Mr Lord. It's SMIS0000268, at page 3 and at
10 least the passage on remote access has that same
11 categorical refusal to accept it:

12 "POL also categorically states that there is no
13 remote access to the system or to individual branch
14 terminals, which would allow accounting records to be
15 manipulated in any way."

16 So that same wording is used as in the letter to
17 Sir Alan?

18 Now, that letter will have been received by Mr Misra
19 when Mrs Misra was in jail, because it was forwarded on
20 from Mr Lord and you can imagine how that would have
21 broken his heart.

22 A. It must have been dreadful for him.

23 Q. An interesting point is, on the same day as the Post
24 Office briefing was sent, which that letter was based
25 on, so this is 2 December 2010, there seems to have been

188

1 another communication going on about these cases and, if
2 I can bring the reference up, it's POL00295322. This
3 seems to indicate that Mr Whitehead was asking further
4 questions from Post Office and it says this:

5 "Mike,
6 "Further to your query."

7 So this is from Post Office to Mike Whitehead, so
8 evidently Mr Whitehead has raised a query -- confused,
9 of course, by the fact they are both called Mike -- but
10 evidently this is referring to Mr Whitehead raising
11 a query:

12 "Further to your query.

13 "The position is that [Post Office] acts as
14 a private prosecutor in relation to the specific
15 criminal case -- adhering to the Code for Crown
16 Prosecutors and all statutory or other rules in relation
17 to prosecuting offenders. It should be noted that
18 legislation gives the Director of Public Prosecutions
19 the right to take over and close down a case if they
20 regard that as appropriate.

21 "I hope that this assists."

22 If you look a little further down, you can see that
23 this is on an email chain related to "SAVE MY WIFE",
24 that's because that was the way Mr Misra had headed up
25 various emails that were then being sent around.

189

1 not put more forcefully and we didn't get the answers.
2 I had assumed that I was being told the truth.
3 **Q.** Did you ever hear about the Misra case in any way other
4 than the letters that we've seen -- obviously not
5 recently, I'm talking about back in the day?

6 **A.** Back then?

7 **Q.** Mm.

8 **A.** I can't remember beyond the letters. I'm sorry, I can't
9 be precise about what I knew about an individual case.

10 **Q.** Do you remember hearing at all about Mrs Misra being
11 sent to prison when pregnant?

12 **A.** I genuinely don't, I'm sorry.

13 **MS PAGE:** Thank you. Those are my questions.

14 **SIR WYN WILLIAMS:** Thank you, Ms Page.

15 **Questioned by MR STEIN**

16 **MR STEIN:** My name is Sam Stein. I'm going to ask you some
17 questions. I don't think I'll be that long.

18 Can we go to document RLIT0000251 and page 67 of
19 that document. If we can centre on 5(b), if we go
20 further down -- so page 67 of the document on
21 Relativity, please, internal pagination would be
22 page 287. Thank you.

23 Now, to explain, Sir Edward, this is a part of the
24 Infected Blood Inquiry report. The report itself was
25 delivered on 20 May this year. You'll see there at 5(b)

191

1 So, clearly, it seems that, whilst seeking some
2 information about the Misra case, there was also
3 a question raised about whether or not these were
4 private prosecutions; do you think you asked that
5 question?

6 **A.** No.

7 **Q.** Where do you think that might have come from?

8 **A.** I don't know, presumably within ShEx.

9 **Q.** It's a telling question, isn't it, given that most
10 people at this time -- most of the evidence we've had is
11 that people outside of Post Office, and sometimes even
12 people inside Post Office -- it may surprise you to hear
13 that even Ms Vennells claims that she didn't know that
14 Post Office was forming private prosecutions at this
15 time, and yet clearly somebody has asked the question
16 and been given the answer. Why do you think that didn't
17 filter out?

18 **A.** I don't know. I find quite a lot of things I've been
19 reading both shocking and surprising.

20 **Q.** The key thing is that people were being sent to prison
21 by a state-owned entity and that should have demanded
22 real scrutiny, shouldn't it?

23 **A.** It should, indeed.

24 **Q.** It just doesn't seem to have happened, does it?

25 **A.** Well, I am disappointed that the questions I asked were

190

1 the part that I'm going to quote, starting with the
2 heading for that paragraph, "Ending a defensive culture
3 in the Civil Service and government".

4 Now, this is before the King's Speech, which you
5 replied to yesterday, and it's the report in relation to
6 infected blood, whereby Government lines were kept for
7 many, many years, undisturbed by investigation. Okay?

8 So 5(b) says this:

9 "If, on review, the Government considers that it is
10 sufficient to rely on the current non-statutory duties
11 in the Civil Service Code, it should nonetheless
12 introduce a statutory duty of accountability on senior
13 civil servants for the candour and completeness of
14 advice given to Permanent Secretaries and Ministers, and
15 the candour and completeness of their response to
16 concerns raised by members of the public and staff."

17 Yesterday in the Commons you explained that, on
18 behalf of the Liberal Democrats, you welcome the
19 promised Hillsborough Law, with its statutory Duty of
20 Candour on public officials. But you go on to say this:

21 "But we urge the Government to go further in this
22 area."

23 For the moment, then, let's just pull two pieces
24 together. You can see that, from the Infected Blood
25 Inquiry Report, that the reference to the Duty of

192

1 candour is not only in relation to candour itself,
 2 ie tell the truth, which might be thought as a basic
 3 minimum, but also for completeness of advice.
 4 I've got a feeling you're going to agree with my
 5 next question.

6 From the evidence and the questions that you've been
 7 asked today, you can see that there is a need for
 8 completeness of advice to include making sure that
 9 advice is right, not that you are being told what people
 10 believe is the truth because another entity tells it so.
 11 In other words, there's got to be something that
 12 actually looks into this; do you agree?

13 **A.** I do agree. Strongly.

14 **Q.** Now, how to do that is not easy. Government needs to be
 15 able to sort out that the difference between someone
 16 that refers to the passing UFO -- forgive me, any extra
 17 terrestrials watching -- but it might be a different
 18 question to looking into the issues that relate to
 19 an organisation which is prosecuting its own people, and
 20 there there needs to be some type of body that is
 21 capable of carrying out investigation.

22 That would have to be backed up with some power, in
 23 other words, some powers to conduct an investigation and
 24 for other people to answer those questions. Do you
 25 again agree?

193

1 scandals and we restore the public trust in the system.
 2 The system has clearly failed on a most shocking way and
 3 has to be reformed, root and branch.

4 **Q.** That must be done in timely fashion.

5 Peter Holmes was a branch manager, Jesmond branch of
 6 the Post Office. He was convicted in 2010, not long
 7 before you took up your post. He had been a police
 8 officer in Jesmond. His area was his beat. He had had
 9 a hotel there. His great love in life was, with his
 10 family, taking drives out to the country. He was
 11 a modest man, who wanted to work to support his family
 12 and provide a service in the area, and hence he was
 13 a branch manager at a post office.

14 I mention timeliness of investigation: he died in
 15 2015; his name was cleared in 2021. Do you see what
 16 I mean?

17 **A.** I absolutely do. I mean --

18 **Q.** Not only must there be an investigation, consideration
 19 of these matters that are serious, but it must be done
 20 so that where there is wrong, that wrong is identified.

21 **A.** Absolutely.

22 I mean, I hope you don't mind, Sir Wyn: I have three
 23 constituents I'm representing now whose lives have been
 24 very severely affected by this scandal. I'm obviously
 25 not going to name names but, listening to their stories,

195

1 **A.** Yes, although I'm -- for clarification, can you say
 2 a little bit more about what you're proposing?

3 **Q.** Well, Government is going to have to consider a way of
 4 not only looking into things but also getting answers.

5 **A.** *(The witness nodded)*

6 **Q.** That may need a power of compulsion that the courts
 7 have, in order to call for evidence and documents,
 8 perhaps instruct experts. So do you understand that,
 9 from all of the evidence that you've given today, the
 10 sorts of questions that you've been asked, you need to
 11 go further than just making sure that officials are
 12 telling what they think is the truth; you need to look
 13 into it?

14 **A.** I agree with that.

15 **Q.** And to look into it, you're going to have to have some
 16 power to get some answers.

17 **A.** Yes. I mean in the way, for example, a select committee
 18 has powers to call evidence and force people and call
 19 for papers, and to cross-check between what witnesses
 20 are saying. On a matter that's as serious as this, when
 21 people are being prosecuted, losing their livelihoods,
 22 their homes and being so appallingly affected, there
 23 absolutely has to be those powers and that ability.

24 I mean, if I was in Government looking at this,
 25 I would want to make sure we'd learn from these various

194

1 like the one you've just spoken about, like so many,
 2 justice demands that we change the systems to make sure
 3 this can't happen again.

4 **Q.** Agreed.

5 Sir Edward, you're not in Government. You are now
 6 the leader of the third largest party in Government.
 7 You have increased weight and increased influence in
 8 Government. Will you use that weight in influencing
 9 Government to try and push through, so that there is
 10 something done in this area, a duty of candour plus, in
 11 other words take it that step further?

12 **A.** Yes, I hope when Sir Wyn finalises his report, alongside
 13 the Hillsborough recommendations, the Contaminated Blood
 14 Scandal recommendations and others, the Government
 15 implements those recommendations and, if it does, it
 16 will have the full support, indeed we will champion
 17 them. And I mentioned earlier another reform that we
 18 are championing, namely an office for the whistleblower
 19 because I do think that's another important element of
 20 reforms. There are many we need to make. We can't just
 21 rest at legislating for duty of candour, important
 22 though that is.

23 **Q.** Yesterday you mentioned the question of whistleblowers
 24 and stronger protections. What we have seen here within
 25 the Post Office Inquiry is that, for many, many years,

196

1 subpostmasters were not brought within whistleblower
 2 protection by the Post Office.
 3 **A.** *(The witness nodded)*
 4 **Q.** Now, we think that that is because that they were agents
 5 of the Post Office and didn't have employee status
 6 within the legislation. There are many people that work
 7 as agents, there are many people that work as
 8 consultants that are not protected by the whistleblower
 9 legislation. That is another area that I believe, you
 10 may well agree, needs concern, needs attention and needs
 11 change; do you agree?

12 **A.** Yes, I agree.

13 **MR STEIN:** Thank you, Sir Edward.

14 **SIR WYN WILLIAMS:** The last series of questions, I believe.

15 **Questioned by MS WATT**

16 **MS WATT:** Thank you, sir.

17 Sir Ed, I ask questions on behalf of the NFSP.

18 I think, obviously, you mention the NFSP in your
 19 statement and the former General Secretary, George
 20 Thomson, and the Inquiry has heard what he had to say
 21 about his position on Horizon.

22 I want to ask you, though, about some of the other
 23 representative bodies or unions that you met with to
 24 find out what you gleaned about Horizon there. At
 25 paragraph 28 of your statement you say you met with the

1 **Q.** It didn't occur to you to ask, given that these people
 2 working in Crown post offices were actually Post Office
 3 employees and, effectively, civil servants?

4 **A.** Well, all I'd been told -- and it's there in the Mike
 5 Whitehead submission -- that the Crown Post Office
 6 weren't reporting any problems with the system.

7 **MS WATT:** Thank you, those are my questions.

8 **SIR WYN WILLIAMS:** Thank you, Ms Watt.

9 Is that it, Mr Beer?

10 **MR BEER:** Sir, it is.

11 **SIR WYN WILLIAMS:** Well, thank you, Sir Ed, for making
 12 a full witness statement and for answering a great many
 13 questions, both before lunch and after lunch today.

14 I'm very grateful to you for so doing.

15 **THE WITNESS:** Thank you, sir.

16 **SIR WYN WILLIAMS:** We'll resume again at 9.45 with
 17 Ms Swinson; is that correct?

18 **MR BEER:** That's right, sir. Thank you very much.

19 **(4.49 pm)**

20 **(The hearing adjourned until 9.45 am the following day)**

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1 CWU 12 times and the NFSP nine times in your two-year
 2 tenure. The Inquiry heard evidence in June from the
 3 CWU's Tony Kearns that, during the relevant period of
 4 Horizon, there were approximately 9,000 employees in
 5 Crown post offices using the Horizon system, and those
 6 employees would likely -- perhaps not all -- but likely
 7 have been CWU members.

8 It is accepted there were prosecutions and
 9 dismissals arising from Horizon data of Crown Office
 10 employees, and that there was an increase in
 11 prosecutions for them, albeit not at the level of the
 12 subpostmasters.

13 So what I wanted to ask you was: when the CWU came
 14 to meetings with you, did they raise anything about
 15 Horizon in those meetings?

16 **A.** I can't remember them doing that at all.

17 **Q.** Do you remember if you ever asked them about Horizon?

18 **A.** No. The only thing I can remember, and it was
 19 an informal meeting with George Thomson from the NFSP,
 20 amongst many other issues because we were dealing with
 21 the Bill and Network Transformation, and so on, I did
 22 ask him about Horizon, although my brief had already
 23 told me that they didn't agree with the JFSA, but
 24 I wanted to hear it directly from him. So I asked him.
 25 But I -- it didn't come up at any CWU meeting.

INDEX

THE RIGHT HONOURABLE PATRICK	1
MCFADDEN MP (sworn)	
Questioned by MR STEVENS	1
Questioned by MR STEIN	73
Questioned by MS WATT	78
THE RIGHT HONOURABLE SIR EDWARD	84
JONATHAN DAVEY MP (sworn)	
Questioned by MR BEER	84
Questioned by MR MOLONEY	171
Questioned by MS PAGE	183
Questioned by MR STEIN	191
Questioned by MS WATT	197

<p>MR BEER: [15] 84/8 84/10 84/13 106/7 106/12 106/16 106/18 155/17 155/21 155/25 156/2 171/5 171/14 199/10 199/18</p> <p>MR MOLONEY: [2] 171/17 183/22</p> <p>MR STEIN: [4] 73/7 78/3 191/16 197/13</p> <p>MR STEVENS: [14] 1/5 1/7 1/10 13/19 44/24 45/17 45/20 46/1 46/3 72/16 72/21 83/18 83/25 84/4</p> <p>MS PAGE: [5] 184/1 186/11 186/15 186/19 191/13</p> <p>MS WATT: [5] 78/7 78/10 83/16 197/16 199/7</p> <p>SIR WYN WILLIAMS: [32] 1/6 13/6 13/11 13/14 13/17 43/23 44/22 45/19 45/22 46/2 72/13 73/3 78/5 78/8 83/17 83/20 84/3 84/9 106/11 106/17 155/20 156/1 171/13 183/23 186/7 186/13 186/18 191/14 197/14 199/8 199/11 199/16</p> <p>THE WITNESS: [3] 83/24 186/12 199/15</p>	<p>156/14 158/13 10,000 [1] 41/13 10.00 [1] 1/4 100 [11] 27/6 29/3 36/14 108/3 108/6 108/8 113/16 126/8 133/20 139/8 146/10</p> <p>101 [2] 36/9 122/10 102 [1] 122/10 104 [1] 148/21 108 [2] 108/20 108/21</p> <p>109 [1] 109/7</p> <p>11 October [1] 160/6</p> <p>11,000 [1] 175/4 11,500 [1] 11/8 11.13 [1] 45/23 11.25 [2] 45/20 45/25 116 [2] 103/17 180/7 119 [1] 108/12</p> <p>12 [3] 128/11 132/1 198/1</p> <p>12 July [1] 131/24</p> <p>12 months [1] 126/23</p> <p>12.30 [1] 84/5 12.40 [1] 84/2 12.44 [1] 84/7</p> <p>13 October [1] 63/16</p> <p>131 [1] 103/17 138 [2] 103/17 103/22</p> <p>14 [6] 29/4 54/25 58/20 69/13 85/5 172/13</p> <p>14 years [4] 103/1 103/5 121/7 150/9 14,000 [4] 10/3 11/8 11/16 41/11</p> <p>142 [1] 167/22 143 [1] 167/22 149 [1] 168/18</p> <p>15 [3] 10/8 10/20 130/20</p> <p>15 December [1] 177/24</p> <p>15 minutes [1] 171/9</p> <p>15 October [1] 65/12</p> <p>15-month [1] 15/6</p> <p>150 million [1] 41/5</p> <p>151 [1] 169/11 152 [1] 169/11 153 [1] 103/17 156 [2] 170/7 181/2 157 [1] 181/6 159 [1] 181/21</p> <p>16 [2] 14/10 78/20</p> <p>16 November [1] 181/11</p> <p>160 [1] 182/1 17 [1] 129/13 18 [1] 147/20</p> <p>18 July 2024 [1] 1/1</p> <p>18,000 [1] 175/3</p>	<p>19 [1] 131/25 19 May [1] 124/2 1994 [2] 114/19 148/7 1997 [1] 86/2</p> <hr/> <p>2</p> <p>2 December [1] 188/25</p> <p>2 July [1] 4/14</p> <p>2,500 [2] 10/2 38/16</p> <p>2.10 [2] 106/9 106/15</p> <p>20 [4] 15/8 86/14 97/3 172/9</p> <p>20 July [4] 133/3 153/14 153/22 154/14</p> <p>20 June [1] 2/11</p> <p>20 May [6] 86/9 107/10 112/22 113/4 116/15 191/25</p> <p>20,000 [1] 147/8</p> <p>20-month [1] 87/2</p> <p>20/25 [1] 120/9</p> <p>200 hours [1] 178/3</p> <p>2000 [4] 2/1 144/4 144/10 145/3</p> <p>2001 [9] 93/25 94/22 95/10 95/11 96/8 116/17 141/23 143/23 144/3</p> <p>2005 [1] 3/4 2006 [1] 3/6 2007 [4] 3/6 4/14 5/12 6/12</p> <p>2008 [4] 4/21 17/5 18/5 48/22</p> <p>2009 [9] 6/23 29/15 47/13 50/22 51/7 54/10 60/13 60/16 65/12</p> <p>2010 [34] 4/17 17/6 80/23 86/9 107/10 108/18 108/23 110/5 110/11 112/19 112/22 125/14 126/21 133/3 145/18 145/20 145/24 149/5 150/14 150/15 153/13 153/14 158/8 160/6 164/14 174/24 177/24 181/11 181/21 185/25 186/9 186/17 188/25 195/6</p> <p>2011 [3] 110/5 141/24 143/19</p> <p>2012 [1] 86/9</p> <p>2015 [4] 86/3 89/7 169/22 195/15</p> <p>2017 [1] 86/3</p> <p>2019 [1] 107/20</p> <p>2021 [1] 195/15</p> <p>2024 [2] 1/1 2/11</p> <p>21 [1] 65/9</p> <p>22 [2] 89/13 99/8</p> <p>22 June [1] 126/20</p>	<p>23 [1] 1/21</p> <p>24 [2] 90/10 122/9</p> <p>24 February [1] 50/22</p> <p>25 [4] 36/9 120/9 148/20 172/9</p> <p>26 [2] 2/6 95/3</p> <p>26 July [1] 137/23</p> <p>26 November [1] 187/17</p> <p>27 [1] 79/25</p> <p>28 [1] 197/25</p> <p>28 July [1] 153/13</p> <p>28 June [1] 3/6</p> <p>287 [1] 191/22</p> <p>29 [1] 180/7</p> <p>29 July [1] 140/6</p> <p>2nd [1] 151/2</p> <hr/> <p>3</p> <p>3 February [1] 86/9</p> <p>3 March [1] 125/20</p> <p>3 November [2] 60/13 60/15</p> <p>3.25 [1] 155/22</p> <p>3.40 [2] 155/19 155/24</p> <p>30 [2] 108/20 108/21</p> <p>30 April [1] 54/10</p> <p>300 [1] 138/16</p> <p>31 May [2] 116/12 145/24</p> <p>36 [1] 28/7</p> <p>37 [1] 30/23</p> <p>39 [1] 64/16</p> <hr/> <p>4</p> <p>4,000 [2] 41/11 175/12</p> <p>4.40 [1] 171/12</p> <p>4.49 [1] 199/19</p> <p>40 [1] 15/7</p> <p>41 [1] 167/2</p> <p>42 [1] 167/6</p> <p>43 [1] 167/19</p> <p>44 [1] 168/16</p> <p>45 [1] 168/18</p> <p>47 [2] 85/14 85/15</p> <hr/> <p>5</p> <p>5 June [1] 6/23</p> <p>5 May [1] 3/6</p> <p>5 million [1] 147/16</p> <p>5 October [8] 108/18 108/23 110/11 149/5 149/20 150/14 150/15 156/7</p> <p>52 [2] 73/14 73/17</p> <p>54 [1] 73/14</p> <p>550 [1] 108/10</p> <p>555 [1] 108/5</p> <p>56 [1] 55/1</p> <p>57 [1] 55/23</p>	<p>6</p> <p>60-odd [1] 17/21</p> <p>61 [1] 85/6</p> <p>62 [3] 58/7 85/13 85/15</p> <p>67 [2] 191/18 191/20</p> <hr/> <p>7</p> <p>7 December [3] 160/15 164/14 185/14</p> <p>7 June [2] 125/13 126/19</p> <p>7 October [4] 125/5 145/18 149/4 156/7</p> <p>750 [1] 142/15</p> <hr/> <p>8</p> <p>8 July [4] 131/9 145/20 150/24 151/11</p> <hr/> <p>9</p> <p>9 February [1] 48/4</p> <p>9 January [1] 47/13</p> <p>9,000 [1] 198/4</p> <p>9.45 [3] 1/2 199/16 199/20</p> <p>90-odd [1] 39/15</p> <p>91 [1] 99/9</p> <p>92 [1] 103/7</p> <p>94 [2] 89/14 106/20</p> <p>95 [2] 90/5 106/20</p> <p>96 [1] 108/12</p> <p>97 [1] 121/1</p> <p>99 [1] 90/11</p> <hr/> <p>A</p> <p>ABAT00000001 [1] 116/11</p> <p>Abberstein [1] 135/9</p> <p>ability [1] 194/23</p> <p>able [9] 32/23 37/15 103/24 114/2 145/9 160/22 164/10 186/23 193/15</p> <p>about [166] 2/19 2/19 2/24 6/6 6/11 10/16 10/17 10/20 11/8 12/1 15/24 17/1 21/14 21/20 22/10 24/13 26/5 27/21 28/22 29/17 32/7 35/4 35/11 35/13 36/16 36/22 36/25 37/1 37/21 38/15 39/15 40/12 41/5 41/6 41/11 42/17 42/20 43/21 44/20 45/14 46/7 46/15 46/17 47/25 48/14 50/12 50/15 53/24 54/5 57/23 60/4 60/6 61/4 62/6 65/17 66/6 67/13 67/19 67/25 68/9 68/10 68/16</p>
<p>'backdoors' [2] 109/3 184/7</p> <p>'best' [1] 143/1</p> <p>'double' [1] 143/9</p> <p>'expressed' [1] 109/1</p> <p>'for' [1] 149/6</p> <p>'handled' [1] 115/14</p> <p>'Horizon' [1] 156/18</p> <p>'I' [1] 122/15</p> <p>'I do' [1] 122/15</p> <p>'No' [1] 66/25</p> <p>'presentational' [1] 149/9</p> <p>'proved' [1] 108/25</p> <p>'refusing' [1] 151/5</p> <p>'sub' [1] 161/14</p> <p>'was' [1] 181/13</p> <hr/> <p>1</p> <p>1,500 [1] 178/3</p> <p>1.18 [1] 106/13</p> <p>1.20 [1] 106/8</p> <p>1.7 billion [1] 40/9</p> <p>10 [1] 28/7</p> <p>10 April [1] 66/17</p> <p>10 years [3] 142/15</p>				

<p>A</p> <p>about... [104] 68/24 69/8 69/14 69/24 70/5 70/15 71/19 73/11 73/22 73/25 74/1 74/2 75/4 75/7 75/14 75/18 76/6 77/18 77/24 78/12 78/16 79/1 79/14 79/19 80/7 81/1 81/2 81/5 81/19 81/20 82/7 82/10 82/15 86/14 88/2 98/5 101/17 101/17 102/17 102/22 106/24 107/6 108/10 108/16 110/12 111/13 111/24 112/15 113/13 115/5 118/12 118/22 119/8 121/13 122/23 123/3 123/12 125/21 136/9 136/10 137/10 138/2 140/7 142/1 144/19 146/11 147/3 147/13 147/22 148/8 150/2 150/10 155/12 162/1 164/5 167/12 168/21 171/11 172/25 173/5 178/11 179/6 179/12 179/25 180/1 183/14 186/21 187/25 189/1 190/2 190/3 191/3 191/5 191/9 191/9 191/10 194/2 196/1 197/21 197/22 197/24 198/14 198/17 198/22</p> <p>above [3] 105/21 149/12 183/10</p> <p>absence [1] 184/6</p> <p>absolute [1] 27/9</p> <p>absolutely [10] 27/23 29/6 39/7 65/21 179/19 182/7 186/15 194/23 195/17 195/21</p> <p>absolve [1] 82/20</p> <p>abuse [2] 115/21 169/2</p> <p>abused [2] 76/12 134/1</p> <p>abuser [1] 74/25</p> <p>accept [12] 40/18 57/24 67/3 81/8 82/18 101/14 108/9 118/13 178/12 178/14 178/22 188/11</p> <p>acceptability [1] 180/18</p> <p>acceptable [3] 180/16 181/24 182/4</p> <p>acceptance [1] 184/7</p> <p>accepted [5] 102/16 102/19 122/18 181/8 198/8</p> <p>accepting [1] 152/21</p>	<p>access [10] 39/13 39/20 114/4 166/2 186/25 187/10 187/21 188/3 188/10 188/13</p> <p>accordance [1] 44/10</p> <p>accorded [1] 90/19</p> <p>account [9] 19/11 19/15 85/19 122/25 144/24 145/7 145/11 158/4 159/10</p> <p>accountability [3] 36/19 37/4 192/12</p> <p>accountable [4] 20/4 36/13 87/17 133/19</p> <p>accounting [16] 53/5 74/11 132/2 132/5 142/20 166/3 175/6 176/20 178/1 180/12 180/15 181/14 182/3 184/9 187/23 188/14</p> <p>accounting' [1] 151/8</p> <p>accounts [6] 50/7 51/11 53/8 74/3 156/22 157/1</p> <p>accredited [1] 143/3</p> <p>accuracy [10] 2/23 2/25 65/17 110/13 120/15 127/14 137/1 151/10 157/3 157/15</p> <p>accurate [7] 27/7 34/1 111/23 112/1 127/20 130/17 130/19</p> <p>accusation [1] 105/5</p> <p>accusations [1] 151/7</p> <p>accuse [2] 104/10 104/10</p> <p>accused [2] 61/10 175/5</p> <p>accusing [1] 105/6</p> <p>achieve [1] 94/10</p> <p>acknowledged [1] 70/3</p> <p>across [7] 9/6 11/10 15/13 27/1 99/16 153/7 168/11</p> <p>act [30] 2/1 2/3 2/4 12/13 25/11 25/17 31/23 37/7 67/6 71/1 81/16 82/16 83/12 93/25 94/22 95/9 95/11 95/18 95/20 96/1 96/8 100/22 100/24 101/2 143/23 144/3 144/4 144/10 145/3 147/10</p> <p>acted [2] 121/14 139/25</p> <p>acting [1] 15/12</p> <p>action [13] 71/7 107/25 108/6 142/6 142/11 157/4 161/12</p>	<p>161/17 162/10 164/22 165/3 173/17 177/19</p> <p>actions [2] 36/13 36/19</p> <p>active [1] 101/14</p> <p>activity [1] 143/6</p> <p>acts [3] 74/18 113/19 189/13</p> <p>actual [4] 38/8 58/8 129/23 180/24</p> <p>actually [9] 75/6 75/6 117/8 139/22 146/2 147/1 170/14 193/12 199/2</p> <p>Adam [1] 65/5</p> <p>adamant [1] 175/19</p> <p>add [5] 22/7 111/2 143/18 149/21 167/13</p> <p>added [4] 5/21 111/9 150/4 176/17</p> <p>adding [1] 152/20</p> <p>addition [1] 109/10</p> <p>additional [5] 6/15 7/6 22/7 22/11 161/18</p> <p>address [3] 51/2 114/20 115/16</p> <p>addressed [9] 31/1 31/9 47/13 56/14 113/3 126/22 127/3 167/9 174/24</p> <p>adhering [1] 189/15</p> <p>adjourned [1] 199/20</p> <p>Adjournment [1] 106/14</p> <p>administration [3] 117/24 130/14 130/15</p> <p>admit [1] 113/24</p> <p>adopt [4] 136/3 145/6 161/5 161/14</p> <p>adopted [2] 116/20 146/13</p> <p>adopts [1] 144/24</p> <p>advance [1] 180/22</p> <p>advancement [1] 23/4</p> <p>advantage [1] 73/4</p> <p>advice [48] 15/24 22/7 22/11 25/24 28/2 28/4 30/1 30/8 31/3 33/4 33/9 33/17 87/22 92/6 98/23 100/12 100/17 100/19 111/16 112/9 119/10 119/17 119/18 119/23 122/6 122/7 122/13 123/14 123/21 123/24 128/17 129/12 132/22 136/16 137/8 137/8 141/10 149/2 150/5 153/24 154/11 161/20 162/2 162/4 192/14 193/3 193/8 193/9</p> <p>advise [1] 161/11</p> <p>advised [6] 93/14</p>	<p>99/19 99/21 144/15 154/12 161/10</p> <p>Adviser [2] 22/25 23/11</p> <p>advisers [3] 22/17 22/18 28/3</p> <p>affairs [20] 1/25 6/17 9/25 10/11 10/19 14/3 14/7 14/15 15/14 78/19 86/8 87/15 99/17 110/2 113/9 144/10 172/15 172/16 172/18 186/2</p> <p>affect [1] 140/15</p> <p>affected [4] 57/8 179/2 194/22 195/24</p> <p>affecting [2] 80/7 91/8</p> <p>affects [1] 11/21</p> <p>affirming [1] 53/8</p> <p>afforded [1] 169/18</p> <p>afraid [4] 89/5 107/25 117/13 163/15</p> <p>after [31] 3/14 4/21 13/11 23/24 37/22 55/12 57/17 58/21 59/6 59/17 60/11 67/20 69/13 69/23 75/21 85/9 90/12 101/9 109/14 138/10 146/10 148/2 148/5 149/8 150/18 159/14 163/23 174/3 174/3 185/4 199/13</p> <p>afternoon [8] 40/1 78/10 84/8 106/16 106/19 150/18 155/18 177/22</p> <p>afterwards [1] 85/8</p> <p>again [29] 7/4 31/21 37/3 60/12 60/17 64/12 74/22 79/13 86/3 93/5 93/7 98/5 99/6 126/12 127/14 130/5 130/21 131/6 132/24 134/4 139/16 140/24 144/3 164/1 166/12 173/9 193/25 196/3 199/16</p> <p>against [10] 10/15 90/9 96/12 105/9 151/3 161/12 178/18 184/8 184/20 185/8</p> <p>age [1] 19/8</p> <p>agencies [1] 3/24</p> <p>Agency [1] 9/3</p> <p>agenda [1] 27/22</p> <p>agents [4] 42/21 44/3 197/4 197/7</p> <p>ago [11] 18/13 44/16 66/4 103/1 103/5 109/12 119/8 146/5 150/9 153/13 175/11</p> <p>agree [33] 38/20 39/8</p>	<p>40/13 41/22 73/4 74/19 87/14 100/6 104/12 115/24 116/8 117/3 123/9 132/19 135/16 136/2 136/20 152/3 152/6 154/2 155/7 163/22 184/16 184/21 193/4 193/12 193/13 193/25 194/14 197/10 197/11 197/12 198/23</p> <p>agreed [7] 10/4 11/11 73/7 114/18 151/21 153/8 196/4</p> <p>agreeing [4] 11/5 150/20 152/6 154/17</p> <p>agreement [7] 10/5 40/25 41/2 91/12 95/25 170/17 180/13</p> <p>ahead [1] 87/23</p> <p>Aid [1] 109/24</p> <p>aimed [1] 184/15</p> <p>aims [1] 113/14</p> <p>airspace [1] 8/19</p> <p>Alan [58] 52/17 54/10 54/15 54/20 55/7 55/12 56/1 56/14 56/24 63/16 64/22 65/4 65/12 90/15 107/21 108/13 109/14 112/19 115/25 116/12 119/3 121/13 121/20 122/14 122/17 123/3 123/21 123/23 125/5 125/24 136/10 136/17 143/19 143/25 144/14 145/17 148/24 149/3 149/11 150/1 150/23 151/10 155/3 155/8 159/24 160/13 161/25 163/3 163/24 164/9 165/18 166/17 174/3 184/16 185/5 185/14 188/4 188/17</p> <p>Alan's [7] 107/8 112/21 118/1 122/18 124/22 145/19 153/14</p> <p>albeit [3] 4/17 186/25 198/11</p> <p>all [83] 2/19 5/20 9/16 9/25 11/24 13/19 15/19 19/14 20/11 20/14 21/12 21/17 23/4 23/17 25/9 25/10 30/5 39/14 39/15 41/24 43/7 44/16 44/22 57/17 58/13 58/21 61/2 67/20 72/22 81/10 83/2 83/13 84/3 85/8 88/12 91/4 96/7 96/20 99/14 99/17 100/19 105/21 110/17 113/23 115/8 117/13 118/7 118/21</p>
---	--	---	--	--

A	Alun [1] 133/8	88/25 89/19 96/17	161/6 161/14	162/16 162/18 162/19
all... [35] 119/18	always [14] 6/8 7/7	96/20 97/4 98/21	approached [1]	164/18 164/21 166/12
124/23 126/4 129/10	12/8 16/1 32/12 45/14	105/9 106/21 106/25	133/4	166/24 167/22 169/13
130/1 134/22 135/15	69/9 69/12 94/16	110/25 114/8 114/15	appropriate [10]	169/13 170/5 170/13
136/4 138/17 142/14	128/25 142/20 162/1	117/2 117/5 118/10	45/18 102/20 114/8	171/5 171/7 173/14
142/23 143/5 144/6	172/20 173/3	119/18 120/9 120/11	118/18 118/23 119/16	173/16 175/19 175/19
146/10 148/11 152/9	am [29] 1/2 1/4 2/18	121/17 122/16 123/14	168/13 183/15 183/16	175/20 176/13 176/16
152/16 157/7 160/21	2/23 45/23 45/25	129/3 130/18 134/24	189/20	177/12 177/15 177/19
161/24 163/24 168/11	48/21 52/24 56/7 76/7	138/18 139/19 140/3	appropriate/is [1]	180/8 181/4 183/5
171/19 171/20 179/1	83/22 89/18 97/1	141/9 147/7 148/8	183/15	183/5 183/6 183/20
182/8 183/10 184/7	104/13 110/4 113/8	149/2 157/2 162/8	appropriateness [2]	189/9 191/13 193/9
186/14 189/16 191/10	114/10 115/17 115/17	163/8 163/10 163/16	120/15 127/15	194/11 194/20 194/21
194/9 198/6 198/16	118/14 122/13 130/15	166/4 170/18 175/20	approval [1] 129/17	195/19 196/5 196/18
199/4	132/4 132/14 132/19	178/5 180/23 181/9	approved [1] 117/21	196/20 197/6 197/7
allegation [2] 75/12	133/10 133/15 190/25	181/12 181/14 188/15	approves [2] 133/23	197/8 199/7
105/23	199/20	191/3 193/16 198/25	139/11	area [15] 10/13 11/18
allegations [9] 13/2	amend [1] 22/5	199/6	approximately [1]	12/8 13/24 14/12
52/19 63/23 64/4	amended [1] 181/10	anyone [5] 13/11	198/4	17/11 24/9 39/23
64/24 71/7 74/15	amongst [3] 99/18	43/22 72/24 114/1	April [2] 54/10 66/17	47/20 119/24 192/22
74/16 77/9	121/8 198/20	165/9	Arbuthnot [10] 60/14	195/8 195/12 196/10
allege [1] 137/16	amount [3] 96/4	anything [17] 9/6 9/8	60/14 60/21 60/22	197/9
alleged [3] 102/7	175/13 187/6	22/5 31/15 32/3 32/8	60/23 61/21 64/3	areas [6] 14/5 14/6
107/18 157/23	analyse [2] 22/5	59/22 64/1 102/22	66/16 66/16 66/16	14/7 15/2 15/20 92/14
alleging [1] 105/9	114/5	114/16 136/23 161/18	Arbuthnot's [1]	aren't [2] 11/20 14/25
Alliance [5] 113/3	analysed [1] 174/1	163/22 178/11 179/7	62/10	argue [1] 167/7
117/1 120/22 126/24	analysis [1] 31/3	180/1 198/14	are [168] 2/13 2/15	argued [3] 159/11
152/24	angered [1] 149/19	apologies [1] 62/19	2/21 6/1 8/1 15/14	159/12 170/14
Allison [2] 174/9	angry [1] 67/4	apologise [7] 118/24	18/10 20/4 20/6 22/18	arisen [1] 132/5
180/11	annoyed [2] 66/19	119/11 121/12 122/17	22/19 23/2 23/3 23/13	arises [1] 167/24
allocation [1] 7/19	66/20	179/24 183/4 183/13	25/13 25/14 25/19	arising [2] 125/9
allow [4] 114/25	another [9] 29/18	apologised [1]	25/20 27/19 27/20	198/9
166/3 187/23 188/14	42/6 111/6 127/7	117/14	27/22 27/23 29/22	arm [3] 165/5 168/1
allowed [4] 22/19	189/1 193/10 196/17	apology [1] 117/15	32/16 33/1 33/3 33/11	169/8
34/16 72/3 146/14	196/19 197/9	appalling [2] 167/25	34/13 34/20 35/13	arm's [31] 1/24 18/25
allowing [1] 169/8	answer [25] 16/12	168/9	36/16 37/25 38/9 41/6	36/12 36/20 36/23
allows [1] 82/20	36/15 68/24 77/12	appallingly [1]	41/14 43/5 43/7 43/11	40/14 41/19 70/12
alluding [1] 178/16	77/16 79/22 104/13	194/22	43/17 44/16 45/10	70/20 70/25 81/6 81/9
almost [5] 14/19	127/6 127/7 127/9	apparent [2] 132/19	47/19 49/19 50/14	82/17 82/18 82/19
32/12 37/1 97/23	127/10 127/15 128/14	175/21	51/10 55/24 57/7 61/6	87/11 89/24 90/19
109/12	128/23 129/6 129/16	apparently [3] 82/20	63/8 63/13 63/23	94/3 95/6 95/12
alone [4] 33/1 76/7	129/24 130/9 130/22	185/8 185/9	65/18 65/25 68/2 69/9	116/20 122/2 129/1
133/15 139/5	131/2 131/19 136/6	Appeal [1] 180/4	69/12 70/25 72/22	136/4 143/15 146/13
along [2] 49/25	143/17 190/16 193/24	appeals [1] 109/4	74/9 74/11 74/15	162/8 167/21 168/2
125/22	answered [2] 35/13	appear [6] 16/7 61/9	74/15 74/18 75/7	168/12
alongside [2] 19/5	125/2	140/10 140/12 152/11	76/12 76/12 82/5	arm's-length [18]
196/12	answering [4] 100/8	177/24	82/12 83/18 84/20	36/23 41/19 70/12
already [8] 16/3	104/3 130/12 199/12	appeared [2] 115/19	85/17 85/20 85/25	70/20 70/25 81/6 81/9
26/16 38/4 66/15 76/5	answers [13] 2/22	175/12	99/13 101/1 102/6	82/17 82/18 87/11
113/5 132/15 198/22	96/23 100/5 100/9	appears [5] 26/18	102/6 103/17 103/24	94/3 116/20 122/2
also [26] 4/1 12/13	100/14 101/2 101/6	85/7 136/21 140/14	106/1 108/5 113/10	129/1 136/4 167/21
14/22 16/14 16/22	102/16 102/19 115/15	158/22	114/15 114/20 115/3	168/2 168/12
75/23 78/15 81/4	191/1 194/4 194/16	appellant [1] 180/11	115/14 116/8 119/21	arms [3] 31/24 41/20
82/17 92/10 108/7	Anthony [1] 86/19	applicant [1] 147/12	120/3 120/4 120/24	62/12
109/11 122/14 142/23	any [85] 2/24 4/8	applies [1] 105/23	123/12 124/12 124/17	arms-length [1]
160/7 164/5 166/1	7/18 13/1 14/2 15/21	apply [4] 29/12 94/11	126/5 129/17 132/4	31/24
176/10 176/13 178/4	23/13 26/8 27/14	94/17 105/24	135/3 135/23 138/19	arose [1] 63/7
185/3 187/10 188/12	27/25 32/19 38/11	appointed [5] 4/12	138/21 138/22 139/5	around [10] 7/12 9/3
190/2 193/3 194/4	43/19 44/8 44/9 45/3	4/21 5/12 7/3 25/22	140/18 142/2 142/6	9/20 38/11 50/1 59/8
although [11] 17/16	45/17 46/10 48/7	appointment [2] 5/14	142/18 142/23 143/3	61/24 142/17 165/19
53/10 106/8 127/2	51/15 51/16 55/6	13/22	143/6 146/3 146/11	189/25
138/24 144/15 168/6	57/23 63/13 63/18	appreciate [5] 71/25	146/19 147/22 148/13	arrange [1] 124/15
169/21 170/18 194/1	64/24 66/1 67/9 68/20	114/10 116/25 120/22	148/18 153/17 153/18	arranged [3] 149/8
198/22	70/9 74/6 78/18 80/3	169/1	155/7 155/10 156/25	149/17 149/17
	80/16 83/14 88/7	approach [3] 118/4	159/24 162/5 162/14	arrives [1] 29/21

A	104/15 105/17 111/1 112/14 119/22 129/10 141/16 178/20 185/22 assumed [11] 66/24 100/24 111/3 111/15 112/15 128/24 129/3 140/3 157/17 161/19 191/2 assumes [1] 105/16 assuming [4] 128/13 128/16 128/18 185/17 assurance [1] 112/11 assurances [3] 77/23 81/10 122/23 assured [2] 109/9 143/1 Astwood [1] 48/19 at [292] atrocities [1] 139/12 atrocious [1] 133/24 atrocities [1] 139/12 atrocious [1] 133/24 atrocious/ies [1] 133/24 attached [4] 22/21 30/10 55/21 121/21 attachment [2] 52/4 52/16 attendee [1] 186/5 attendees [1] 159/24 attending [1] 1/14 attention [11] 10/10 29/10 29/23 124/20 124/24 124/25 126/15 135/20 150/6 150/7 197/10 attitude [1] 146/8 Attorney [1] 96/21 attributed [1] 159/3 attributing [1] 166/22 audience [1] 116/6 audit [4] 109/3 143/5 147/18 156/24 auditor' [1] 181/15 audits [1] 147/14 August [2] 158/8 169/22 August 2010 [1] 158/8 author [1] 139/21 Authority [1] 23/25 automotive [1] 8/19 autumn [2] 96/3 186/17 available [2] 19/24 143/4 average [1] 120/9 avoid [2] 91/12 162/22 aware [24] 6/1 27/10 53/14 61/25 62/2 90/1 90/6 96/10 96/13 96/21 101/25 102/11 106/24 107/5 107/17 107/22 108/1 124/12 125/3 125/3 132/4	132/14 140/18 175/10 away [4] 3/14 101/24 125/23 147/21 awful [3] 70/23 77/15 83/6	B back [47] 3/13 3/16 12/1 19/15 29/2 29/5 44/23 49/23 51/15 53/2 53/8 56/8 56/24 64/10 68/11 73/9 74/6 74/17 74/23 74/25 75/10 77/11 77/14 82/15 90/12 96/8 97/23 107/13 115/1 121/7 123/7 125/17 126/14 137/6 145/3 145/17 150/17 157/11 159/22 163/18 175/21 176/18 177/6 183/21 186/22 191/5 191/6 backed [2] 143/6 193/22 background [6] 3/2 85/23 88/24 150/21 151/3 186/20 backups [1] 184/6 bad [1] 77/1 badly [1] 179/2 balance [4] 14/15 148/3 168/25 175/12 bank [3] 19/15 42/5 48/19 bankruptcy [3] 52/25 61/15 74/12 bankrupting [1] 147/19 Barely [1] 20/14 barriers [1] 114/3 base [2] 108/15 110/23 based [12] 18/11 20/18 24/21 26/1 26/13 119/17 143/9 160/1 164/4 177/3 188/6 188/24 basic [2] 165/4 193/2 basically [2] 8/1 29/19 Basingstoke [1] 160/1 basis [24] 12/13 25/15 25/21 25/22 36/4 37/14 38/1 43/22 83/4 94/4 95/16 117/15 119/23 128/17 149/25 153/22 154/15 163/8 180/15 180/19 181/23 182/3 182/4 183/5 Bates [23] 90/15 107/21 109/14 112/19 116/12 117/15 121/20	123/13 125/25 136/10 136/10 136/17 136/18 143/19 143/25 144/14 145/17 149/11 150/23 154/3 155/3 164/14 185/14 BBC [1] 169/22 be [252] beat [1] 195/8 became [6] 8/15 9/22 16/4 26/11 37/10 159/5 because [122] 4/22 11/21 12/1 14/23 15/1 15/16 16/6 17/8 17/15 18/6 18/9 18/14 19/7 23/17 24/23 25/3 25/13 27/19 30/14 31/22 31/24 32/14 33/13 34/2 34/8 35/17 36/22 37/4 38/16 41/6 44/15 45/15 46/21 46/25 53/2 54/4 54/23 55/15 60/10 60/19 60/22 61/3 66/21 67/16 69/8 69/16 69/21 70/16 70/19 75/8 80/8 82/11 82/24 83/5 85/11 87/25 97/7 97/21 97/22 98/8 98/9 99/20 100/21 102/3 104/14 105/16 106/2 109/18 109/21 110/2 110/6 111/11 112/16 117/7 117/12 118/11 119/12 120/23 121/6 123/6 123/12 123/20 123/22 129/1 129/3 132/9 138/23 139/21 140/2 143/22 144/20 145/4 146/8 146/12 149/13 149/17 150/8 152/22 153/6 153/8 154/4 154/9 154/20 154/21 159/12 160/15 161/24 164/4 164/9 166/9 166/16 167/5 169/19 174/2 185/17 187/13 188/19 189/24 193/10 196/19 197/4 198/20 become [10] 10/25 40/20 46/9 46/14 93/11 93/20 94/19 96/13 107/5 107/17 becoming [5] 64/5 123/17 144/9 144/17 175/2 been [176] 5/17 7/7 9/21 9/24 10/4 10/13 17/16 17/17 18/7 18/8 18/8 22/2 25/3 25/25 27/10 29/2 30/5 30/10 30/15 31/23 33/24	34/9 34/12 37/6 40/11 41/11 42/4 42/5 42/12 42/14 43/13 47/11 47/12 48/6 48/13 48/13 49/5 50/10 50/16 52/24 52/25 53/3 53/11 55/3 55/22 56/2 56/4 56/6 58/1 58/3 62/6 63/12 63/20 63/25 64/13 65/4 65/5 65/19 71/11 71/19 71/23 75/15 76/5 77/6 81/4 81/15 82/2 93/13 95/1 98/7 98/8 98/11 98/13 101/15 101/18 101/19 102/11 102/21 102/25 104/5 106/5 106/9 107/8 107/16 107/20 107/23 109/4 109/19 111/11 111/11 112/4 112/11 114/15 114/23 115/10 115/22 119/1 119/7 119/22 121/6 124/8 124/25 126/15 126/18 128/16 128/19 129/4 129/10 132/24 133/4 133/11 134/4 134/16 135/5 136/19 137/20 138/8 138/16 139/17 139/19 140/9 140/10 140/11 140/19 140/25 141/17 142/7 142/8 145/16 146/7 146/22 149/8 152/13 152/22 153/5 156/13 157/9 157/15 158/12 159/6 159/13 159/16 160/3 160/15 160/17 160/20 161/22 163/12 164/22 166/13 169/24 169/25 173/4 173/17 176/3 177/19 179/1 180/21 180/23 181/15 185/10 185/17 186/23 187/12 188/5 188/18 188/22 188/25 190/16 190/18 193/6 194/10 195/7 195/23 198/7 199/4 Beer [25] 83/25 84/12 84/14 85/14 95/24 101/7 102/24 104/3 111/14 112/14 117/6 130/1 145/8 149/21 152/20 161/23 168/3 171/13 173/4 173/6 184/11 185/3 188/6 199/9 200/14 before [38] 1/20 5/5 5/14 5/17 9/21 23/14 23/17 37/10 40/24 54/14 55/18 63/5 63/7 65/13 69/9 72/14 75/16 79/9 80/23
----------	--	--	---	--	---

B	believed [3] 104/11 182/15 185/9	blind [4] 68/1 81/20 82/1 82/3	breadth [2] 17/2 118/13	156/21
before... [19] 106/19 107/2 111/19 120/6 121/22 124/21 124/21 125/4 129/23 129/24 130/2 150/16 166/8 174/3 176/15 180/13 192/4 195/7 199/13	believer [1] 168/8	blindly [1] 114/14	break [9] 45/18 45/24 69/9 84/1 84/6 106/9 150/18 155/18 155/23	bundle [1] 159/5
beg [1] 144/5	believes [1] 138/3	blood [4] 191/24 192/6 192/24 196/13	breaking [1] 115/2	bundles [1] 149/22
beginning [7] 25/18 30/20 54/3 119/20 123/11 154/22 154/23	below [1] 7/24	bluntly [1] 137/16	Brian [11] 20/8 50/22 52/4 54/13 55/3 55/7 55/25 56/11 56/13 64/3 66/9	burdens [1] 6/7
begins [4] 157/4 157/12 161/21 167/2	Bender [1] 20/9	blurred [1] 40/20	brief [10] 10/19 70/6 87/23 89/10 135/12 137/6 158/7 158/8 159/19 198/22	buried [1] 115/10
begs [1] 71/1	beneath [5] 9/11 24/2 55/24 135/13 180/9	board [3] 27/1 87/21 168/6	briefed [1] 107/2	busier [2] 17/7 17/11
begun [1] 153/6	benefit [5] 59/19 59/21 101/22 122/12 123/8	bodies [10] 70/13 70/18 70/25 82/18 83/14 94/3 167/21 168/2 168/12 197/23	briefing [46] 21/3 21/6 21/20 22/1 22/6 23/7 23/14 89/16 89/19 89/21 93/12 93/22 95/17 106/21 106/23 108/17 108/22 108/23 109/10 109/20 110/10 110/23 111/20 120/5 120/14 137/13 149/4 149/7 149/20 150/14 150/15 150/18 153/23 155/14 156/6 157/25 158/23 159/2 159/10 160/25 170/18 184/12 184/13 184/15 188/7 188/24	business [38] 4/4 4/13 5/1 5/13 6/3 6/7 6/10 6/22 6/25 7/11 8/15 9/6 19/7 19/17 19/21 24/10 24/23 26/5 26/14 32/1 32/2 35/18 35/23 37/18 38/1 75/14 77/4 87/3 90/25 91/21 96/2 116/21 131/11 133/18 146/12 147/13 147/19 147/23
behalf [16] 78/11 84/15 88/18 113/9 115/13 115/17 125/21 126/7 128/6 155/1 164/18 165/2 171/10 171/23 192/18 197/17	benefits [1] 19/12	body [21] 18/25 23/21 36/12 36/20 40/14 41/19 70/20 71/5 71/15 72/7 82/17 83/10 88/14 89/24 90/19 98/18 105/12 105/24 122/2 136/4 193/20	briefings [7] 21/16 88/18 97/11 109/11 109/15 110/4 110/24	businesses [2] 16/25 79/4
behind [9] 11/6 49/2 126/3 133/13 135/8 135/19 135/25 137/5 146/25	benign [1] 81/25	BOI [1] 132/16	briefly [4] 3/9 134/15 167/4 173/9	busy [2] 27/19 27/20
being [81] 7/14 9/22 11/12 12/2 14/4 14/20 16/23 17/12 26/5 29/5 36/1 36/5 40/8 43/4 45/15 46/25 58/24 59/8 64/4 66/20 67/21 73/21 73/23 74/12 74/14 74/17 74/17 76/12 77/9 78/25 82/5 83/12 87/20 97/8 100/9 102/7 102/8 103/18 103/19 103/24 108/6 111/23 114/2 118/4 118/17 119/17 120/6 122/2 124/23 129/12 131/21 137/12 137/14 140/24 143/1 148/8 148/22 148/23 150/1 155/10 156/17 157/15 157/17 158/3 158/17 158/18 160/18 161/2 161/16 164/18 170/5 175/1 183/18 186/21 189/25 190/20 191/2 191/10 193/9 194/21 194/22	BERR [2] 78/17 115/9	bold [1] 163/5	bring [12] 13/20 28/6 54/25 56/8 57/6 57/10 64/17 65/9 83/2 150/6 186/22 189/2	but [216]
best [11] 2/13 12/25 21/24 85/18 111/15 112/9 126/5 129/5 157/18 161/20 169/13	between [34] 1/24 3/6 11/9 14/15 40/19 40/25 41/15 42/13 46/19 67/6 76/24 79/2 79/6 79/10 86/2 86/9 88/20 90/20 92/3 95/21 105/25 108/5 108/12 134/10 137/3 142/3 154/6 167/21 168/17 172/9 176/12 177/16 193/15 194/19	bookkeeping [1] 177/4	bring [12] 13/20 28/6 54/25 56/8 57/6 57/10 64/17 65/9 83/2 150/6 186/22 189/2	buyer [1] 147/11
better [1] 77/16	big [10] 9/19 17/1 18/17 18/22 19/2 92/24 98/10 148/6 167/24 168/7	bookkeeping' [1] 143/10	bringing [1] 122/25	C
between [34] 1/24 3/6 11/9 14/15 40/19 40/25 41/15 42/13 46/19 67/6 76/24 79/2 79/6 79/10 86/2 86/9 88/20 90/20 92/3 95/21 105/25 108/5 108/12 134/10 137/3 142/3 154/6 167/21 168/17 172/9 176/12 177/16 193/15 194/19	bigger [1] 42/4	boss [1] 9/11	British [1] 43/10	Cabinet [9] 3/7 3/10 3/11 3/13 4/4 4/11 5/9 5/10 8/5
bill [12] 25/9 25/9 80/14 80/14 96/2 96/6 98/6 98/9 110/8 170/20 186/3 198/21	bottom [9] 54/11 56/8 62/19 65/10 68/5 135/21 176/21 187/3 187/15	both [28] 5/3 25/16 55/5 60/25 77/4 88/4 91/15 92/11 92/17 99/23 110/2 118/19 118/20 118/25 119/23 121/20 135/11 153/17 153/18 156/20 158/19 162/17 176/22 177/3 188/6 189/9 190/19 199/13	broader [1] 17/8	Cable [5] 87/4 124/5 126/22 174/14 174/21
billion [1] 40/9	bought [1] 45/2	bottom [9] 54/11 56/8 62/19 65/10 68/5 135/21 176/21 187/3 187/15	broads [1] 99/16	call [10] 18/22 29/22 30/18 74/10 84/10 134/24 167/13 194/7 194/18 194/18
Binley [13] 50/22 52/4 52/21 54/13 55/7 55/25 56/11 56/13 57/9 59/1 64/3 66/9 73/22	box [17] 21/15 22/3 30/6 30/12 33/20 35/5 35/5 118/6 118/10 118/19 120/8 120/10 127/8 127/10 129/21 152/13 172/9	boxed [2] 21/14 129/17	broads [1] 99/16	called [12] 3/19 8/23 9/20 19/10 39/21 71/6 71/20 72/7 73/20 73/21 160/1 189/9
Binley's [1] 55/3	boxes [2] 21/14 129/17	branch [19] 11/23 12/6 12/8 12/9 12/10 46/16 48/19 63/11 143/5 156/22 166/3 184/8 184/10 187/22 188/13 195/3 195/5 195/5 195/13	broken [1] 188/21	Callow [2] 125/16 125/19
BIS [4] 87/7 130/23 158/7 158/8	branch [19] 11/23 12/6 12/8 12/9 12/10 46/16 48/19 63/11 143/5 156/22 166/3 184/8 184/10 187/22 188/13 195/3 195/5 195/5 195/13	branches [10] 11/10 11/16 18/8 38/22 39/3 41/11 49/19 74/17 90/4 142/14	Brooks [1] 63/16	calls [3] 4/2 64/5 134/19
bit [27] 4/20 5/4 7/8 7/12 9/1 17/25 24/22 25/6 25/12 28/2 30/22 59/8 71/17 71/17 80/5 88/22 118/11 144/1 152/16 152/17 155/11 159/12 166/8 173/3 174/6 180/8 194/2	brand [1] 64/10	brandish [1] 148/6	brought [8] 37/9 85/19 108/5 124/23 124/25 126/15 135/20 197/1	calm [1] 17/14
bits [3] 59/7 118/5 118/16	brand [1] 64/10	brandish [1] 148/6	Brussels [1] 9/1	calmed [1] 18/6
blame [3] 65/24 142/8 173/22	brand [1] 64/10	brandish [1] 148/6	Buck [1] 153/18	came [28] 11/15 17/9 17/21 27/3 32/3 32/17 56/5 67/11 78/25 88/3 88/9 91/24 97/23 100/17 102/17 104/7 104/15 107/21 113/13 119/18 127/15 141/19 149/22 170/15 174/15 174/21 179/25 198/13
blamed [1] 187/7	brand [1] 64/10	brandish [1] 148/6	budget [1] 9/8	campaign [2] 151/1 151/18
blank [1] 175/24	brand [1] 64/10	brandish [1] 148/6	Buffrey's [1] 164/23	campaigning [1] 155/1
	brand [1] 64/10	brandish [1] 148/6	building [1] 65/17	campaigns [2] 38/12 38/13
	brand [1] 64/10	brandish [1] 148/6	buildings [2] 90/1 91/10	can [147] 1/5 1/6 2/5 2/6 12/16 13/6 21/6 29/3 32/21 35/24 35/25 36/3 36/9 36/13 36/24 40/15 40/17

C	capable [1] 193/21	12/5 42/15 50/11	cheer [1] 70/19	closed [7] 11/2 12/10
can... [130] 40/20	capacity [2] 98/20	50/15 55/16 61/15	Chester [1] 48/17	17/9 18/8 138/11
40/21 40/21 41/20	137/25	69/17 96/15 97/15	Chesterfield [1]	147/18 184/19
46/1 46/2 46/22 50/19	car [1] 17/2	97/23 98/23 101/22	175/16	closely [1] 160/9
54/17 54/25 55/1	Card [1] 19/11	106/11 109/12 127/18	Chief [8] 24/6 47/11	closing [3] 10/2
56/23 57/6 58/9 59/2	care [1] 39/17	135/19 137/20 143/23	70/17 71/1 71/3 71/13	38/10 38/12
61/18 62/21 66/14	career [4] 22/20	149/10 152/11 155/20	75/2 83/13	closure [16] 9/20
70/25 71/6 71/20	22/20 23/2 23/3	161/7 163/12 163/17	children [1] 3/25	10/13 10/16 10/23
73/10 73/17 83/10	careful [1] 179/6	163/21 179/19 186/18	choice [1] 136/12	10/24 11/7 12/14
83/10 84/8 84/9 84/15	carried [3] 6/17	cetera [1] 34/5	choose [2] 44/1	12/24 14/21 15/16
84/22 85/13 85/21	11/18 62/24	chain [5] 30/20 30/21	65/24	16/22 17/15 17/19
85/22 85/23 85/24	carry [2] 27/11	30/22 35/2 189/23	chronological [1]	18/22 38/5 39/13
87/10 103/7 103/14	146/16	Chair [2] 44/25 76/5	125/11	closures [5] 41/13
106/9 106/16 112/10	carrying [2] 148/5	Chairman [1] 164/18	church [1] 40/2	91/12 93/1 93/5 176/2
112/18 112/19 112/21	193/21	challenge [1] 59/23	circulated [1] 77/11	Coalition [4] 86/8
115/18 116/11 117/13	case [63] 7/17 10/22	challenged [2] 47/1	circumstances [3]	91/12 95/24 170/17
117/23 118/11 122/9	22/2 25/16 29/1 31/18	183/18	102/8 178/10 181/5	Code [2] 189/15
122/14 123/25 124/1	33/10 37/19 42/4	champion [2] 164/10	cited [1] 43/7	192/11
124/3 125/11 125/12	43/23 55/21 56/19	196/16	cities [1] 92/25	cohort [1] 107/17
126/19 129/13 129/17	60/17 60/25 61/25	championing [1]	civil [40] 4/5 7/19	collating [1] 114/23
129/19 130/20 131/9	62/3 63/23 86/20	196/18	14/5 19/1 19/23 20/1	colleague [1] 62/5
131/24 133/2 134/8	88/17 90/23 94/16	Chancellor [1]	21/11 22/18 22/20	colleagues [1] 93/2
135/1 137/22 139/13	97/9 107/24 112/14	137/24	22/21 23/2 23/6 23/13	collective [1] 111/4
140/5 141/3 141/21	115/18 116/3 117/12	change [26] 2/2 4/16	26/1 27/4 27/8 27/9	coloured [2] 57/7
142/5 145/17 146/18	119/7 119/11 123/4	5/3 6/2 6/11 6/13 7/5	34/4 34/6 35/20 35/22	57/16
146/20 146/24 148/1	123/20 136/16 139/25	7/5 7/16 7/18 7/21	89/9 94/18 97/13	combination [2]
148/20 149/7 150/13	147/20 151/19 153/1	8/11 9/21 19/4 22/5	103/11 107/14 108/18	80/20 92/6
150/21 150/22 153/11	160/10 161/4 162/13	29/3 46/11 86/16 87/6	110/19 110/22 110/22	come [41] 2/5 16/20
155/25 156/2 156/9	163/4 164/3 164/10	91/20 92/22 96/7	111/11 111/17 112/8	20/20 21/8 28/17
156/11 158/6 158/10	166/14 169/19 176/17	115/15 115/20 196/2	146/18 147/2 166/12	30/17 33/18 33/21
158/11 158/15 158/16	178/5 178/8 178/9	197/11	192/3 192/11 192/13	34/3 41/18 52/22
159/20 159/20 161/25	180/4 180/17 180/22	changed [7] 4/17	199/3	56/23 56/24 59/2
164/2 164/13 164/21	181/4 182/8 183/21	4/19 25/5 26/12 26/12	claim [3] 58/12 61/11	66/14 85/22 89/13
166/24 167/15 167/22	185/19 186/22 187/20	122/20 146/4	162/17	91/16 101/8 101/9
168/19 173/13 174/15	187/25 189/15 189/19	changes [9] 3/12	claims [7] 135/8	107/15 112/19 115/23
174/21 176/12 177/18	190/2 191/3 191/9	7/15 7/15 15/11 70/10	136/1 136/23 137/5	117/9 119/18 125/4
179/19 180/3 180/9	cases [25] 50/14	75/5 89/3 91/20 98/4	138/25 187/24 190/13	127/10 129/20 136/17
182/9 182/20 183/7	58/11 59/18 67/23	changing [3] 19/8	clarification [2]	139/1 141/3 144/13
183/11 183/11 183/13	82/8 82/11 113/14	47/2 91/22	163/14 194/1	150/3 150/17 152/24
183/14 186/6 186/19	113/23 120/1 120/7	Channel [11] 23/24	clarify [1] 68/23	153/2 163/18 168/2
186/22 187/3 187/20	134/16 140/18 142/6	150/2 150/25 151/4	clause [2] 148/7	176/18 190/7 198/25
188/20 189/2 189/22	142/8 147/17 164/21	151/17 153/8 153/23	170/20	comes [12] 23/7 33/7
191/18 191/19 192/24	164/23 165/3 173/16	154/4 154/8 154/16	clause 7 [1] 170/20	38/20 41/14 48/2
193/7 194/1 198/18	173/19 173/20 177/18	155/5	clear [23] 12/8 37/11	53/21 55/16 56/18
can't [29] 69/16 76/3	183/20 187/8 189/1	Channel 4 [9] 23/24	55/1 56/12 59/3 67/6	58/5 106/4 109/19
92/14 97/22 117/7	cash [1] 65/25	150/2 150/25 151/4	67/25 77/2 81/20	183/19
119/7 120/19 121/10	categorical [2]	151/17 153/8 153/23	93/10 93/19 99/1	coming [14] 21/13
121/11 124/23 139/18	122/23 188/11	154/8 154/16	99/11 99/14 103/20	28/4 32/9 49/1 61/2
139/19 146/9 160/12	categorically [3]	character [3] 39/1	142/5 162/7 162/19	83/21 84/13 90/11
160/18 161/24 163/15	166/1 187/21 188/12	40/3 40/4	164/20 165/14 177/17	106/8 140/2 150/10
163/17 165/6 179/22	cause [6] 40/15	charge [5] 39/23 88/1	184/22 184/23	153/6 159/14 170/5
179/22 182/10 182/20	133/13 139/4 146/23	178/1 180/13 180/21	clearance [1] 109/24	commenced [1]
182/21 191/8 191/8	148/10 178/16	charged [5] 24/3	cleared [1] 195/15	102/9
196/3 196/20 198/16	caused [3] 58/2	37/17 95/24 95/25	clearly [13] 67/20	comment [6] 162/20
candour [10] 167/7	132/21 183/12	177/23	92/24 123/4 123/20	178/9 178/14 178/22
167/8 183/8 192/13	causing [4] 51/11	charges [1] 147/21	126/2 167/24 179/3	179/10 179/14
192/15 192/20 193/1	51/17 52/8 140/12	check [3] 101/7	182/2 182/13 182/14	comments [6] 61/17
193/1 196/10 196/21	cent [5] 15/7 15/9	168/12 194/19	190/1 190/15 195/2	62/21 146/2 161/6
cannot [12] 53/2 65/3	27/6 29/3 39/15	checked [2] 172/22	clicked [1] 158/23	161/14 163/9
82/13 89/16 104/14	centre [1] 191/19	185/16	Climate [1] 86/16	commercial [6]
130/14 138/21 138/22	centred [1] 19/3	checking [1] 112/5	clipped [1] 55/5	37/15 41/10 88/24
138/24 146/9 173/16	certain [4] 5/21 39/16	checkpoints [1]	close [7] 11/16 11/23	91/18 116/21 122/3
185/22	65/3 137/8	112/4	38/7 38/17 113/16	commissioned [3]
	certainly [28] 10/6	checks [1] 182/16	185/3 189/19	16/19 85/6 185/1

C	194/6	considerable [1] 96/4	continue [8] 46/1 46/3 64/6 102/14 102/20 113/16 135/3 135/22	cornerstones [1] 170/13
commit [1] 161/18	computer [9] 51/7 73/20 77/9 90/4 114/11 132/6 132/20 138/3 138/20	consideration [3] 72/15 167/8 195/18	contract [11] 39/24 41/15 46/15 79/10 79/19 114/18 114/19 132/16 138/4 138/10 148/8	corporate [3] 70/8 105/24 168/8
commitments [2] 163/16 163/17	computerised [2] 176/20 181/14	considerations [1] 92/12	contractually [1] 181/8	correct [22] 2/12 3/5 6/24 8/7 16/8 16/11 20/3 33/10 53/16 64/23 85/11 86/4 86/10 86/15 86/17 107/4 123/3 136/14 151/12 154/17 186/12 199/17
committed [2] 162/11 163/18	conceded [1] 180/17	considered [6] 46/13 79/6 79/12 111/3 111/4 161/25	contracts [1] 142/11	corrected [1] 186/10
committee [5] 76/16 98/9 98/9 115/8 194/17	concern [4] 40/15 89/22 168/21 197/10	considering [2] 71/5 71/12	contractual [10] 35/10 42/12 63/9 116/24 121/25 127/23 142/3 162/6 173/15 177/16	correction [1] 85/5
committees [1] 4/5	concerned [6] 36/17 50/10 146/11 156/24 166/25 173/1	considers [1] 192/9	contractually [1] 181/8	corrections [2] 84/20 85/19
committing [1] 162/22	concerning [8] 14/24 32/4 61/4 62/8 94/13 167/1 168/16 174/9	consistent [1] 177/21	contrary [1] 145/6	correctly [1] 44/15
common [6] 28/13 29/8 89/8 92/11 94/5 105/5	concerns [13] 57/25 58/25 77/21 81/1 81/2 116/25 120/22 141/25 149/1 149/14 165/23 167/20 192/16	constantly [1] 19/20	control [2] 98/21 170/22	correspondence [38] 21/17 29/9 29/14 29/17 29/20 29/21 30/2 30/6 30/24 31/9 32/15 33/11 35/6 35/7 44/14 46/17 46/22 49/23 52/2 54/19 55/16 55/18 56/2 56/21 57/3 59/7 75/19 75/22 77/8 81/11 108/2 108/13 117/25 124/20 125/7 140/24 141/7 145/21
commonplace [1] 89/3	conclusion [4] 69/25 83/4 83/12 166/10	constituent [10] 47/23 63/8 124/8 125/16 132/12 133/4 133/6 133/9 138/1 140/7	controversial [7] 16/21 17/18 18/7 18/14 18/18 19/16 80/13	cost [2] 131/12 142/11
Commons [10] 15/13 16/7 16/10 16/13 62/8 62/15 62/17 100/10 170/3 192/17	concurrency [1] 161/17	constituency [4] 56/17 61/12 93/2 137/25	controversy [1] 19/10	costs [1] 178/3
communication [1] 189/1	conditional [1] 180/19	constituent [10] 47/23 63/8 124/8 125/16 132/12 133/4 133/6 133/9 138/1 140/7	convening [1] 148/17	could [74] 1/10 1/20 1/21 3/9 3/21 3/25 5/7 6/7 13/20 16/7 19/21 21/10 22/7 22/7 28/6 29/25 29/25 36/1 37/2 42/18 45/20 47/20 47/22 48/9 49/21 50/21 51/2 51/20 52/11 59/22 61/19 65/9 65/10 71/23 72/3 72/19 75/8 75/9 77/17 91/17 92/16 112/17 114/5 119/15 124/16 126/11 133/5 135/7 136/8 137/20 140/17 145/16 149/13 149/18 152/25 154/8 155/18 157/19 165/1 165/2 167/4 171/4 173/12 173/19 174/23 175/23 176/9 177/6 180/8 180/22 181/1 181/2 181/14 187/13
communications [1] 129/4	conditions [1] 127/23	constituents [6] 61/7 62/6 125/8 142/1 171/23 195/23	convention [1] 130/13	couldn't [3] 35/25 136/11 165/16
community [6] 10/16 11/22 115/4 170/14 170/25 178/2	conduct [11] 71/16 96/13 96/18 96/22 96/24 99/12 102/11 124/13 164/25 165/11 193/23	constitutes [1] 105/6	convicted [2] 185/10 195/6	counsel [1] 180/15
companies [1] 97/8	conducted [2] 44/10 45/4	constituting [1] 100/12	conviction [2] 171/20 185/8	counter [2] 39/5 39/9
company [20] 24/4 26/7 42/20 43/2 43/25 44/3 44/7 45/1 45/1 45/2 45/3 53/6 69/4 70/21 87/16 116/18 116/20 130/11 148/5 164/19	conducting [1] 68/8	constitution [1] 43/10	convictions [8] 43/17 44/13 68/9 90/8 96/12 107/18 165/1 171/21	Counters [1] 175/19
company's [2] 63/14 162/9	conduit [1] 111/8	constitutional [2] 43/6 69/13	Cook [17] 52/17 54/10 54/15 54/20 55/7 56/1 56/5 56/14 58/10 63/16 64/22 65/5 65/12 66/1 76/9 77/11 77/14	countries [1] 169/25
compare [1] 25/1	confidence [4] 109/2 136/22 142/12 165/25	constitutionally [1] 69/15	Cook's [2] 55/12 56/24	country [8] 11/10 16/23 17/18 41/12
comparison [1] 41/21	confident [6] 89/18 109/8 135/7 135/25 137/4 137/18	constructed [1] 31/23	coordinate [1] 4/7	
competition [1] 172/15	confirmed [2] 5/7 85/25	consult [1] 25/8	copied [2] 134/12 158/24	
complaining [3] 121/13 123/3 179/12	confirming [1] 173/18	consultant [1] 132/3	copy [10] 1/16 84/19 125/24 128/1 131/4 131/17 138/6 184/13 184/14 186/24	
complaint [1] 51/12	confirms [1] 150/7	consultants [1] 197/8	core [5] 23/5 165/18 165/18 165/23 171/7	
complaints [6] 24/13 77/15 106/25 107/5 164/24 185/11	confrontational [3] 150/24 151/14 153/15	consumed [1] 10/9		
complete [2] 18/20 182/9	confused [1] 189/8	consumer [2] 86/8 172/16		
completed [1] 30/5	congratulates [1] 125/19	contact [2] 14/4 52/24		
completely [4] 110/16 118/13 123/19 182/23	conjunction [1] 53/22	contacted [1] 124/8		
completeness [4] 192/13 192/15 193/3 193/8	connected [2] 14/2 78/19	contacting [1] 115/12		
complexity [2] 31/1 114/13	consequence [1] 89/23	contained [1] 169/11		
comprehensive [1] 85/7	consequences [6] 34/12 52/23 68/12 70/23 74/11 83/6	Contaminated [1] 196/13		
compulsion [1]	consider [5] 43/14 70/9 72/12 72/19 194/3	contemplated [1] 162/10		
		content [2] 51/1 149/18		
		contentious [2] 10/1 111/19		
		contents [2] 85/17 164/15		
		context [1] 120/6		
		continually [2] 99/19 99/21		

<p>C</p> <p>country... [4] 61/24 64/10 170/12 195/10</p> <p>couple [3] 22/14 53/4 78/12</p> <p>course [20] 11/21 23/2 28/9 34/7 37/23 53/12 59/13 60/2 68/15 70/1 70/23 88/13 89/10 90/2 104/20 121/16 122/21 172/20 183/13 189/9</p> <p>court [55] 43/7 43/11 43/12 44/14 44/17 45/11 45/13 58/6 59/12 59/14 59/16 60/8 63/25 64/9 64/13 67/22 68/17 69/18 70/2 75/24 75/25 76/3 77/25 82/3 82/8 82/10 82/12 82/13 102/5 107/20 109/5 142/6 147/20 148/7 153/1 157/9 161/4 161/17 164/22 164/25 165/3 165/4 168/22 169/20 173/17 173/20 175/5 177/19 177/24 178/2 179/13 180/4 183/20 183/21 187/8</p> <p>court's [1] 169/2</p> <p>courts [5] 43/8 70/1 105/21 164/7 194/6</p> <p>cover [7] 5/1 11/3 22/9 26/25 120/2 126/13 172/11</p> <p>covered [6] 15/1 15/2 15/9 26/16 28/9 180/25</p> <p>covering [4] 14/5 162/18 174/16 186/17</p> <p>CPS [2] 45/8 169/13</p> <p>crash [2] 16/24 17/8</p> <p>create [2] 50/8 111/25</p> <p>created [3] 5/14 37/7 180/25</p> <p>creates [1] 156/23</p> <p>creation [1] 168/19</p> <p>credible [1] 163/25</p> <p>Crime [1] 147/9</p> <p>criminal [7] 45/11 74/18 102/6 132/8 176/5 180/4 189/15</p> <p>criminals [1] 138/22</p> <p>criteria [1] 39/14</p> <p>critical [2] 29/6 169/19</p> <p>Critically [1] 156/23</p> <p>criticised [1] 43/11</p> <p>criticism [1] 67/3</p> <p>cross [4] 85/3 148/24 149/13 194/19</p>	<p>cross-check [1] 194/19</p> <p>Crown [13] 44/4 79/15 96/22 96/23 102/9 148/12 175/5 177/24 189/15 198/5 198/9 199/2 199/5</p> <p>Crozier [1] 65/5</p> <p>culpable [1] 105/20</p> <p>culture [1] 192/2</p> <p>cumulative [1] 105/1</p> <p>current [7] 5/6 5/8 5/9 37/20 51/9 74/1 192/10</p> <p>currently [4] 113/15 156/17 158/16 158/18</p> <p>cut [5] 118/11 158/22 158/23 159/6 166/5</p> <p>cutbacks [1] 138/12</p> <p>cutting [2] 159/9 166/14</p> <p>CWU [9] 80/3 80/6 80/18 80/25 81/2 198/1 198/7 198/13 198/25</p> <p>CWU's [1] 198/3</p> <p>cyberspace [1] 176/8</p> <p>D</p> <p>damage [1] 68/15</p> <p>data [4] 50/8 114/6 184/7 198/9</p> <p>date [3] 17/5 86/3 134/18</p> <p>dated [9] 2/11 63/15 113/3 124/2 140/6 145/24 153/13 156/7 158/8</p> <p>daughter [1] 125/21</p> <p>Dave [1] 134/14</p> <p>Davey [8] 84/10 84/11 84/17 126/2 126/11 145/23 153/20 200/12</p> <p>Davey's [2] 84/2 126/10</p> <p>David [12] 61/20 62/5 62/14 104/4 127/24 131/3 131/16 134/11 160/7 185/1 185/11 185/19</p> <p>Davies [1] 184/2</p> <p>day [74] 3/20 17/18 17/20 17/23 20/4 20/4 24/4 24/4 25/15 25/15 25/21 25/21 25/22 25/22 26/6 26/6 26/13 28/25 32/1 32/1 32/2 32/2 32/4 32/4 37/14 37/14 38/1 38/1 40/1 47/4 47/4 81/6 81/6 81/9 81/9 83/3 83/3 90/22 90/22 90/25 90/25 91/2 91/2 92/14</p>	<p>92/14 93/9 93/9 94/1 94/1 94/4 94/4 94/19 94/19 94/25 94/25 99/20 99/20 107/9 107/12 113/4 124/21 124/21 133/13 139/4 144/11 144/11 148/2 148/5 148/5 162/9 162/9 188/23 191/5 199/20</p> <p>days [7] 5/14 17/22 115/20 136/15 150/16 160/6 185/4</p> <p>deal [8] 15/19 15/22 16/9 26/21 54/23 85/24 146/20 167/3</p> <p>dealing [11] 17/3 24/14 24/24 27/2 37/11 49/10 49/11 109/23 118/9 151/9 198/20</p> <p>dealt [12] 27/3 30/25 32/18 42/19 48/13 52/1 52/2 79/15 99/17 104/2 104/4 188/3</p> <p>Dear [3] 116/12 124/6 145/23</p> <p>debate [4] 6/6 10/15 12/9 17/19</p> <p>debates [2] 12/6 17/23</p> <p>deceive [2] 104/12 105/8</p> <p>December [5] 160/15 164/14 177/24 185/14 188/25</p> <p>decide [2] 149/17 162/13</p> <p>decided [10] 9/21 11/17 12/14 38/17 123/14 136/18 149/11 154/3 154/13 175/15</p> <p>deciding [5] 12/9 30/19 92/17 92/18 136/21</p> <p>decision [25] 10/25 11/22 11/24 12/16 12/19 16/14 28/1 30/2 38/8 38/10 38/18 42/24 46/9 46/14 54/20 56/1 56/2 57/14 57/14 57/16 67/9 70/12 150/11 152/1 152/14</p> <p>decision-making [1] 16/14</p> <p>decisions [9] 37/16 38/2 41/22 45/14 46/7 46/12 49/17 49/17 50/3</p> <p>declined [1] 90/15</p> <p>declining [1] 91/22</p> <p>Decommissioning [1] 23/25</p> <p>decrease [1] 4/1</p>	<p>deeply [2] 77/9 145/5</p> <p>defence [6] 57/21 75/20 75/23 181/10 181/18 187/7</p> <p>defended [2] 58/12 160/2</p> <p>defending [1] 54/1</p> <p>defensive [1] 192/2</p> <p>deferential [3] 25/24 26/4 26/8</p> <p>deficit [1] 109/23</p> <p>deficits [6] 51/11 51/18 52/8 53/2 53/7 74/3</p> <p>definite [1] 119/8</p> <p>definitely [1] 120/17</p> <p>degree [2] 46/15 83/5</p> <p>delayed [1] 1/3</p> <p>delete [1] 85/8</p> <p>deliberately [1] 37/7</p> <p>delighted [1] 185/7</p> <p>delivered [1] 191/25</p> <p>delivering [2] 39/4 40/7</p> <p>delivery [1] 42/8</p> <p>demand [1] 190/21</p> <p>demanding [2] 147/4 175/21</p> <p>demands [1] 196/2</p> <p>Democrats [2] 86/5 192/18</p> <p>Demonstrate [1] 162/16</p> <p>Dems [1] 86/24</p> <p>denied [2] 149/19 181/6</p> <p>department [95] 3/11 3/15 3/18 4/5 4/13 4/17 4/18 4/24 5/2 5/4 5/11 5/13 5/18 5/21 5/24 6/3 6/18 6/19 6/21 6/22 6/25 7/4 7/10 7/11 7/14 7/21 8/13 8/14 8/16 8/21 8/25 9/14 9/22 10/11 10/25 11/4 13/16 14/5 15/1 15/12 16/18 16/25 17/6 19/25 20/2 20/5 23/23 24/21 25/7 26/1 26/13 26/14 28/14 29/10 29/21 30/18 32/1 32/7 33/2 33/13 33/18 35/1 35/10 40/23 40/25 52/19 55/9 61/3 65/2 65/7 67/19 72/3 77/10 77/12 80/10 83/14 87/6 87/7 87/23 88/3 88/10 88/12 98/8 112/5 126/12 142/5 160/21 164/21 165/9 168/2 173/16 177/18 179/11 179/15 183/16</p>	<p>Department's [3] 6/13 7/4 17/10</p> <p>departmental [8] 21/1 24/9 31/13 31/15 31/16 44/21 67/16 83/13</p> <p>departments [3] 4/7 20/8 183/20</p> <p>dependent [1] 23/5</p> <p>depending [1] 30/25</p> <p>depleted [1] 53/3</p> <p>describe [2] 91/14 170/9</p> <p>described [6] 30/23 35/21 48/1 53/20 110/18 184/24</p> <p>describing [2] 34/9 125/8</p> <p>description [2] 3/12 71/22</p> <p>desert [1] 39/19</p> <p>deserted [1] 113/20</p> <p>design [4] 67/8 67/10 71/22 72/2</p> <p>designed [2] 142/18 147/25</p> <p>desk [1] 153/7</p> <p>desperation [1] 53/4</p> <p>despite [3] 81/10 136/18 164/10</p> <p>detail [7] 5/4 21/24 66/4 90/12 121/22 174/1 176/17</p> <p>detailed [3] 50/12 57/4 144/2</p> <p>details [6] 72/11 115/8 161/24 162/1 163/15 181/3</p> <p>detain [1] 46/21</p> <p>determined [4] 142/7 164/22 173/17 177/20</p> <p>detrimental [1] 140/15</p> <p>devastating [1] 74/10</p> <p>develop [1] 65/22</p> <p>device [2] 161/16 161/19</p> <p>devices [1] 98/19</p> <p>dialogue [2] 98/24 164/19</p> <p>diary [2] 27/19 160/22</p> <p>did [84] 4/4 4/8 7/4 9/16 12/6 12/25 13/8 13/10 14/16 14/23 15/18 16/14 17/12 21/2 26/18 27/25 28/17 32/11 33/20 34/14 40/23 43/18 46/10 53/7 64/6 64/24 65/1 65/2 65/6 72/9 75/10 76/10 76/23 81/17 82/21 88/25 89/17 89/19 89/24</p>
---	---	---	--	--

D	54/13 56/5 56/7 56/11 56/14 60/21 67/15 104/3 113/3 125/6 127/25 131/4 131/17 149/15 185/11 198/24 Director [10] 24/7 35/16 52/18 54/21 63/16 64/21 127/24 128/7 186/9 189/18 directs [1] 56/13 disappeared [1] 115/11 disappointed [2] 166/12 190/25 disappointing [1] 146/1 disastrous [1] 99/11 discovered [2] 76/22 181/15 discrepancies [5] 47/15 58/15 132/9 142/9 181/9 discrepancy [2] 181/12 181/14 discuss [14] 2/23 9/16 20/17 32/11 33/11 41/19 50/18 64/24 88/5 99/3 116/16 124/15 126/24 148/18 discussed [10] 9/24 10/7 21/4 43/4 69/8 79/9 100/17 134/15 160/11 185/18 discussing [3] 20/12 36/10 55/24 discussion [12] 19/6 25/18 34/18 43/21 44/19 44/20 55/15 81/5 101/17 153/20 182/6 185/23 discussions [4] 12/23 55/7 130/7 130/11 dishonesty [1] 82/4 dismissals [1] 198/9 dispute [2] 35/10 38/11 disputes [4] 42/13 42/17 42/17 47/3 disputing [1] 108/8 dissolved [1] 6/23 distance [2] 39/16 126/3 distinction [2] 38/6 40/18 distinguish [3] 92/3 105/4 105/25 distinguishing [1] 108/5 disturbing [1] 77/9 division [4] 8/9 46/19 94/11 180/4 do [130] 1/17 2/9	2/10 3/25 5/15 9/9 11/3 12/14 15/4 16/2 22/12 22/13 25/22 31/15 32/3 32/23 35/8 35/9 36/14 36/25 37/2 37/5 41/25 42/6 43/10 45/2 48/7 51/21 52/13 53/17 55/6 59/3 59/22 66/1 67/2 68/6 68/16 69/4 69/12 69/21 69/23 70/4 71/2 71/2 71/5 71/9 71/14 71/21 71/24 74/19 75/4 75/6 75/11 75/13 76/8 76/11 76/11 77/20 80/8 80/14 80/14 82/12 83/1 85/8 85/10 85/14 87/14 87/18 87/19 94/7 99/4 101/14 103/3 103/10 103/15 104/12 110/17 111/21 116/25 117/1 117/4 117/13 120/21 121/1 122/15 128/18 134/21 135/4 136/2 138/14 146/10 148/24 149/2 150/9 152/2 154/19 156/9 162/24 163/22 163/22 165/19 166/7 167/7 167/11 170/2 170/3 174/9 175/8 178/11 178/18 179/25 181/10 184/16 186/3 187/25 188/2 190/4 190/7 190/16 191/10 193/12 193/13 193/14 193/24 194/8 195/15 195/17 196/19 197/11 198/17 document [17] 29/13 30/24 56/23 110/13 111/23 111/25 118/2 156/3 156/9 157/8 158/6 158/10 159/20 159/22 191/18 191/19 191/20 documentation [3] 29/9 29/12 29/13 documents [5] 130/14 156/2 159/4 166/9 194/7 does [21] 8/15 8/16 20/15 29/17 29/17 29/18 36/19 61/9 68/1 84/23 96/17 97/2 98/17 114/11 114/19 128/22 139/1 144/25 178/8 190/24 196/15 doesn't [13] 11/20 12/19 29/20 31/13 56/20 120/23 144/20 154/5 157/23 157/24 158/2 162/8 190/24 doing [13] 5/2 14/25	15/17 24/14 35/5 91/14 98/15 102/13 109/22 112/6 121/6 198/16 199/14 dominant [2] 9/19 10/20 dominated [1] 14/20 don't [53] 13/4 15/21 18/9 26/4 26/8 27/1 28/22 29/4 30/16 37/20 39/19 43/4 46/21 49/1 49/11 51/23 53/21 64/16 68/3 69/15 81/2 82/5 89/5 93/22 95/8 101/4 101/5 103/3 105/25 106/2 106/4 106/6 118/23 119/1 130/1 145/14 152/5 160/17 161/6 161/23 162/1 169/1 169/3 174/8 179/16 186/1 186/1 186/7 190/8 190/18 191/12 191/17 195/22 done [30] 30/3 30/15 33/24 44/4 55/22 59/23 60/2 61/18 62/21 68/7 69/5 69/7 69/22 101/6 102/25 103/5 119/2 121/11 128/16 128/19 142/15 145/1 149/25 164/11 182/16 182/20 182/21 195/4 195/19 196/10 door [1] 17/10 doors [1] 114/2 dossiers [2] 8/24 9/2 double [1] 177/4 doubt [13] 58/17 114/9 117/9 123/12 135/18 136/7 136/17 137/9 144/13 154/7 155/15 163/20 164/2 down [33] 2/5 11/8 17/14 18/6 34/23 35/19 55/1 56/23 59/2 65/15 66/14 85/22 92/1 112/19 116/12 124/1 125/14 132/2 132/12 141/3 141/23 147/12 156/25 157/12 158/15 159/23 167/3 170/6 181/17 181/25 189/19 189/22 191/20 draft [23] 33/8 33/17 33/19 90/14 90/14 107/13 108/13 118/2 119/19 120/5 127/6 127/9 127/19 129/14 129/16 129/25 130/2 130/3 130/21 131/2 132/25 134/5 166/15 drafted [9] 30/10 33/20 95/15 100/6	110/24 117/18 172/6 174/7 178/20 drafting [2] 99/24 143/24 drafts [3] 97/12 100/13 100/14 drama [1] 169/21 drawn [2] 42/12 124/20 dreadful [1] 188/22 drive [1] 147/12 drives [1] 195/10 driving [2] 40/22 43/24 dropped [2] 178/1 180/21 drops [1] 147/21 DTI [4] 6/2 6/18 8/15 115/9 due [4] 2/25 133/14 139/4 175/13 duration [1] 97/3 during [13] 7/15 9/15 17/19 25/5 68/6 87/21 89/17 96/14 103/11 175/11 178/5 186/16 198/3 duties [1] 192/10 duty [8] 167/7 167/8 183/8 192/12 192/19 192/25 196/10 196/21
			E	
			each [5] 14/17 56/20 64/14 148/12 176/16 earlier [10] 12/1 13/23 55/16 57/13 80/12 122/20 139/14 164/16 173/18 196/17 early [8] 9/18 29/4 50/15 93/19 110/6 121/9 136/15 161/12 ease [1] 58/8 easily [2] 114/9 148/1 East [1] 3/4 easy [1] 193/14 economic [1] 9/6 economy [2] 9/5 170/12 Ed [16] 84/2 84/10 106/19 111/22 153/13 153/20 155/17 156/2 171/5 171/17 171/22 178/12 183/22 186/7 197/17 199/11 edge [1] 148/15 education [2] 7/9 7/10 EDWARD [9] 84/11 84/17 181/20 183/2 186/13 191/23 196/5 197/13 200/11 effect [9] 23/21 35/22 64/3 77/5 83/3 105/1	

E	<p>enclose [1] 138/6</p> <p>enclosed [2] 50/25 61/20</p> <p>enclosing [1] 125/15</p> <p>enclosure [1] 126/14</p> <p>encourage [1] 170/4</p> <p>encouraged [2] 39/22 39/24</p> <p>end [22] 5/5 17/15 18/5 18/19 25/11 30/20 35/2 36/25 37/23 52/16 82/25 84/23 115/23 119/20 120/21 133/13 139/4 143/12 157/7 167/1 181/21 185/25</p> <p>ended [1] 186/9</p> <p>Ending [1] 192/2</p> <p>endlessly [1] 147/14</p> <p>ends [7] 156/15 156/18 156/21 156/24 157/1 157/3 157/5</p> <p>energy [2] 10/10 86/16</p> <p>engaged [3] 44/7 70/21 144/16</p> <p>engine [1] 4/6</p> <p>enormous [1] 69/21</p> <p>enormously [1] 19/2</p> <p>enough [2] 137/10 181/3</p> <p>enquired [1] 124/9</p> <p>enquiries [2] 67/11 143/25</p> <p>ensure [5] 11/14 44/9 91/5 142/18 157/3</p> <p>enter [1] 18/10</p> <p>entered [1] 132/16</p> <p>entering [1] 16/23</p> <p>Enterprise [4] 4/13 5/13 6/3 6/22</p> <p>entertain [2] 51/19 52/10</p> <p>entirely [3] 83/2 114/16 133/14</p> <p>entirety [1] 158/21</p> <p>entity [2] 190/21 193/10</p> <p>entrap [1] 148/1</p> <p>entry [3] 143/9 177/4 184/7</p> <p>environment [1] 9/7</p> <p>envisage [2] 36/2 137/1</p> <p>equipment [2] 51/14 142/19</p> <p>equivalent [1] 97/4</p> <p>error [3] 114/9 138/20 175/16</p> <p>errors [7] 58/2 63/11 114/12 114/16 131/13 133/16 138/2</p> <p>escaped [1] 176/1</p> <p>especially [2] 49/6</p>	<p>114/12</p> <p>essentially [16] 123/1 124/18 131/6 131/19 144/23 145/10 158/3 168/16 172/10 173/13 173/18 175/9 177/21 179/11 181/22 185/14</p> <p>establish [3] 161/11 161/16 162/10</p> <p>established [5] 46/19 71/5 83/10 88/7 130/13</p> <p>estimate [2] 72/25 131/12</p> <p>et [1] 34/5</p> <p>et cetera [1] 34/5</p> <p>EU [1] 8/23</p> <p>European [3] 8/21 8/22 14/24</p> <p>even [18] 17/20 18/16 19/19 37/21 37/22 37/24 47/3 51/19 60/25 68/13 119/4 120/15 132/8 146/20 147/25 168/10 190/11 190/13</p> <p>evening [2] 30/13 49/12</p> <p>evenings [1] 21/16</p> <p>events [1] 122/21</p> <p>eventually [4] 21/22 30/21 80/23 174/21</p> <p>ever [18] 15/21 22/17 43/4 53/11 79/6 86/11 95/17 95/20 109/5 111/24 113/12 113/25 114/15 146/22 157/9 185/10 191/3 198/17</p> <p>every [5] 21/10 63/23 64/18 113/19 143/4</p> <p>everything [5] 8/14 15/13 27/3 36/2 109/22</p> <p>evidence [55] 1/14 2/17 2/24 13/23 16/6 18/21 20/21 45/5 53/20 55/11 57/13 57/24 58/1 58/3 58/17 60/7 60/16 64/1 66/17 67/21 70/7 70/10 76/15 78/13 78/16 79/23 80/12 81/5 82/25 83/22 84/2 84/14 91/4 110/25 114/1 114/9 114/23 120/13 138/25 148/7 150/13 151/9 155/7 160/7 169/20 169/23 172/14 177/21 180/12 190/10 193/6 194/7 194/9 194/18 198/2</p> <p>evidential [1] 143/7</p> <p>evidently [2] 189/8</p>	<p>189/10</p> <p>evolved [1] 4/20</p> <p>ex [2] 113/10 147/4</p> <p>ex-subpostmasters [1] 147/4</p> <p>exact [4] 15/5 51/3 71/21 95/8</p> <p>exactly [5] 47/17 49/25 68/21 101/11 161/24</p> <p>examine [2] 115/1 165/10</p> <p>examined [1] 172/6</p> <p>example [20] 8/18 10/12 19/9 22/10 25/4 27/1 29/14 38/4 38/11 38/19 46/23 48/14 77/11 100/1 100/11 141/21 142/24 173/10 183/16 194/17</p> <p>exchange [5] 75/21 134/9 135/17 136/20 137/3</p> <p>exchanges [2] 76/1 135/19</p> <p>Exchequer [1] 137/24</p> <p>exclusion [1] 3/20</p> <p>exclusively [1] 98/13</p> <p>executioner [2] 113/20 121/15</p> <p>executive [37] 20/19 20/21 20/22 21/21 21/25 23/7 23/19 23/20 23/24 24/6 24/8 24/20 24/22 25/12 25/25 31/5 32/20 32/23 33/5 33/6 34/10 34/25 40/5 41/18 49/4 75/2 88/12 88/21 88/21 88/23 97/14 105/10 160/8 165/5 168/1 168/17 169/8</p> <p>Executive's [3] 20/24 24/11 71/3</p> <p>executives [12] 70/18 71/1 71/13 83/13 103/24 103/25 104/2 104/4 105/3 105/16 105/25 106/1</p> <p>exercise [1] 98/21</p> <p>exercised [1] 123/15</p> <p>expand [1] 16/15</p> <p>expanded [1] 4/25</p> <p>expect [12] 21/5 28/14 28/16 28/25 89/17 89/25 110/22 111/17 111/21 122/21 127/18 137/15</p> <p>expectation [3] 28/17 32/17 33/5</p> <p>expected [8] 138/21 153/23 154/4 154/16 157/14 159/1 159/4</p>	<p>159/19</p> <p>expecting [1] 138/18</p> <p>experience [6] 7/14 28/19 29/5 98/23 127/19 170/13</p> <p>experienced [2] 92/7 138/15</p> <p>experts [3] 21/1 115/1 194/8</p> <p>explain [8] 21/9 58/15 84/23 84/25 118/8 167/22 168/19 191/23</p> <p>explained [1] 192/17</p> <p>explaining [1] 117/24</p> <p>explains [1] 132/11</p> <p>explicitly [1] 93/22</p> <p>explore [3] 2/24 38/2 44/24</p> <p>exploring [2] 12/16 87/11</p> <p>exposed [2] 71/11 115/6</p> <p>express [4] 70/11 142/12 165/24 166/22</p> <p>expressing [2] 59/11 66/1</p> <p>extent [10] 9/15 10/24 18/25 20/11 27/25 81/20 97/25 136/13 136/25 144/8</p> <p>external [6] 14/3 15/25 62/24 63/18 114/7 162/23</p> <p>extra [2] 143/21 193/16</p> <p>extremely [3] 52/24 57/25 132/15</p> <p>eye [1] 185/3</p>
			F	
			<p>fabric [1] 24/16</p> <p>face [6] 33/22 33/23 66/10 82/8 175/22 176/4</p> <p>facing [1] 175/4</p> <p>fact [18] 41/9 48/8 69/13 73/25 74/9 77/23 77/24 89/24 95/18 101/8 105/9 152/8 157/7 157/21 174/17 175/14 181/6 189/9</p> <p>facts [2] 2/13 120/3</p> <p>factually [1] 127/20</p> <p>fail [2] 142/19 148/6</p> <p>failed [2] 81/12 195/2</p> <p>fails [1] 147/7</p> <p>failures [1] 133/19</p> <p>fair [6] 9/1 32/14 40/17 72/17 80/25 165/12</p> <p>fairly [6] 5/23 42/11 42/23 43/3 68/9 69/7</p>	

F	16/24 17/8 41/3 61/16 132/7 132/17 142/9	122/13 150/24 151/16 160/25 162/24 163/1 164/18 173/3 185/16	140/11 140/20	37/12 44/6 47/4 50/4 57/19 67/15 68/5 73/17 75/1 75/6 77/20 90/24 91/2 92/14 94/1 94/12 94/24 109/24 122/6 135/14 137/6 140/4 144/13 146/9 159/20 163/20 175/18 191/1 194/16
fairness [1] 68/23	financially [2] 19/5 19/20	following [14] 85/25 96/3 107/13 122/6 143/25 149/11 157/24 157/25 158/1 164/17 171/24 184/22 187/14 199/20	freedom [3] 37/15 116/21 122/2	gets [2] 30/4 111/24
faith [8] 59/11 60/6 64/9 66/10 68/1 81/21 82/1 82/4	find [12] 3/13 74/22 80/21 114/9 137/10 144/19 145/20 171/1 175/13 186/23 190/18 197/24	force [2] 116/9 194/18	frequency [1] 186/5	getting [6] 19/8 38/8 53/6 72/25 73/20 194/4
falls [1] 147/9	findings [1] 130/25	forced [2] 52/25 74/12	Friend [1] 127/25	give [14] 1/14 10/12 15/4 22/11 28/2 30/22 80/22 83/22 84/13 84/15 135/12 160/23 169/2 188/8
false [10] 53/5 74/11 151/8 152/4 175/5 177/25 180/12 180/15 182/2 186/8	fine [4] 45/19 45/22 84/3 176/5	forceful [1] 117/12	front [6] 1/16 35/4 39/14 84/20 111/15 112/9	given [36] 25/24 30/12 48/1 49/5 57/17 61/13 67/4 68/16 70/24 72/9 73/11 76/15 90/16 91/20 94/21 95/1 106/5 119/2 120/5 122/2 123/21 127/4 127/22 129/12 137/14 145/15 150/4 159/16 160/20 164/24 167/9 190/9 190/16 192/14 194/9 199/1
families [3] 3/22 4/1 61/15	finish [2] 148/1 171/12	forces [1] 102/7	frustrated [1] 66/19	gives [3] 178/9 181/18 189/18
family [3] 147/20 195/10 195/11	finished [1] 83/18	form [3] 12/19 56/16 71/15	frustrating [2] 38/14 72/1	giving [5] 22/8 104/7 128/17 161/17 161/19
far [8] 6/16 7/22 79/13 106/24 149/7 166/24 169/5 172/25	firm [1] 160/1	forma [1] 173/1	fulfil [1] 91/5	glad [1] 71/11
fashion [1] 195/4	first [49] 1/12 1/15 8/12 10/8 10/20 13/8 14/19 14/20 15/6 15/15 15/18 27/20 29/22 30/18 53/14 53/20 53/21 66/5 73/7 84/21 85/6 86/11 89/18 96/5 96/12 107/5 107/12 107/17 110/5 111/1 113/12 117/11 117/16 122/19 143/13 144/21 149/9 151/14 152/13 156/3 171/8 171/15 173/14 174/25 176/14 176/15 176/25 177/8 180/5	format [1] 173/11	full [9] 1/10 49/2 84/16 84/17 142/12 143/5 165/24 196/16 199/12	gleaned [1] 197/24
fashioned [1] 101/21	firstly [2] 52/7 105/4	formed [1] 140/16	function [2] 25/7 29/7	Glenn [1] 48/17
fast [1] 19/14	fit [4] 19/20 58/19 59/10 64/12	former [4] 51/9 74/1 132/3 197/19	fundamental [2] 76/17 169/25	go [73] 1/20 3/12 5/5 21/9 21/21 28/7 29/17 32/6 32/15 32/24 33/5 33/7 34/14 39/25 46/22 49/14 50/19 50/20 50/21 50/25 54/4 55/1 55/17 62/19 65/10 67/2 72/7 73/7 73/9 73/14 74/8 77/14 82/21 92/1 111/1 117/14 123/13 125/17 125/23 126/14 126/19 127/8 128/25 130/20 132/12 133/7 135/18 138/7 140/5 143/11 155/12 156/15 158/10 159/22 162/1 164/2 168/10 169/5 174/13 174/22 175/23 177/6 181/17 181/25 183/16 183/21 187/2 187/13 191/18 191/19 192/20 192/21 194/11
fault [4] 133/15 139/5 180/16 182/4	five [11] 19/2 21/11 37/10 40/8 40/10 73/1 73/2 73/5 141/14 147/15 181/7	forming [1] 190/14	fundamentally [3] 92/22 96/7 141/9	goes [12] 22/1 36/24 48/2 48/20 71/2 102/4 112/9 154/11 158/20
faults [2] 140/15 151/7	five-year [2] 19/2 40/8	forward [13] 6/20 19/14 37/9 70/6 71/12 72/12 104/24 168/18 170/5 170/24 171/3 171/4 181/1	funnel [1] 21/12	
fears [1] 65/21	flat [1] 114/25	forwarded [3] 129/4 174/14 188/19	funnelled [1] 21/17	
feature [1] 35/6	flaws [6] 51/10 52/7 74/2 79/15 104/23 113/23	forwarding [1] 125/7	further [23] 7/9 44/24 63/18 68/20 72/10 91/12 115/25 145/2 153/20 153/24 167/12 168/10 176/17 177/25 181/17 189/3 189/6 189/12 189/22 191/20 192/21 194/11 196/11	
February [5] 48/4 50/22 86/9 141/23 143/18	floated [1] 72/20	forwards [7] 126/19 130/20 131/24 137/22 140/5 170/10 174/20	future [12] 11/6 11/14 16/20 17/2 19/20 37/1 43/18 71/21 72/6 75/4 93/9 170/21	
February 2001 [1] 141/23	floating [1] 72/14	foul [1] 147/9	gain [1] 114/24	
Federation [7] 41/1 76/14 76/24 78/11 113/22 164/6 170/15	flow [1] 27/20	found [12] 50/6 58/1 58/3 59/14 65/25 109/6 113/17 114/1 146/2 163/24 164/7 184/11	gather [1] 187/10	
feel [5] 15/18 44/9 47/20 105/11 178/25	fob [1] 184/16	founded [1] 184/5	gave [9] 4/22 38/4 66/16 89/6 137/7 149/3 160/12 179/23 180/14	
feeling [2] 49/21 193/4	focus [10] 9/13 16/18 24/23 26/10 91/13 92/15 98/3 99/13 173/12 177/9	four [4] 101/8 101/10 141/13 176/15	geared [1] 3/21	
feels [3] 15/21 16/1 44/8	focused [3] 93/6 96/8 155/13	fourth [2] 48/20 175/25	general [8] 13/7 22/23 76/15 79/23 96/21 169/12 183/14 197/19	
felt [9] 92/15 107/23 143/23 143/24 145/9 153/7 154/25 164/1 164/10	focusing [2] 6/20 12/24	frame [2] 31/20 33/3	generally [3] 28/15 28/17 28/23	
few [11] 5/14 18/13 34/3 52/6 64/18 96/5 115/19 138/10 146/23 160/6 185/4	follow [8] 13/9 96/17 97/2 98/17 103/19 162/2 163/23 165/1	framing [1] 30/16	genuine [1] 168/13	
fight [1] 93/1	followed [10] 115/11	frank [1] 130/1	genuinely [4] 121/9 179/22 186/1 191/12	
figures [3] 175/11 175/15 175/18		frankly [2] 92/1 178/25	George [4] 137/24 139/16 197/19 198/19	
file [11] 52/25 74/12 118/19 118/22 118/25 119/21 120/8 127/7 141/19 156/24 172/8		Fraser [1] 20/9	get [41] 6/7 18/4 18/11 19/19 19/20 21/16 22/4 30/3 30/6 32/5 34/14 35/15	
filed [1] 139/19		fraud [3] 61/11		
filter [1] 190/17				
final [6] 7/18 81/4 82/14 175/24 176/22 187/4				
finalises [1] 196/12				
finally [1] 82/15				
financial [8] 11/14				

G	67/1 68/7 69/4 69/5 70/8 74/14 75/6 80/13 80/22 81/8 81/11 82/6 82/20 86/8 89/3 89/11 90/20 91/16 91/21 92/16 94/23 95/12 95/21 96/1 96/18 97/5 102/22 108/14 115/20 115/23 116/19 116/19 116/25 122/1 122/4 126/5 126/8 128/10 128/15 132/14 133/20 133/21 133/22 136/3 136/13 136/22 137/3 138/12 139/8 139/9 139/10 143/15 144/9 146/4 151/5 151/6 162/7 165/5 168/1 168/24 183/7 192/3 192/6 192/9 192/21 193/14 194/3 194/24 196/5 196/6 196/8 196/9 196/14	guessing [1] 72/4 guiding [1] 152/9 guilty [5] 139/1 148/14 177/25 178/10 180/11 guy' [1] 66/25	16/17 17/4 46/24 53/20 80/10 110/5 hall [2] 22/15 40/2 halves [1] 14/20 Hamilton [2] 61/25 180/5 Hamilton's [1] 62/2 hand [14] 22/8 22/9 38/6 40/19 65/24 156/5 158/6 158/15 158/17 158/18 158/20 159/21 159/22 177/10 handle [1] 56/1 handled [1] 30/19 handover [2] 88/25 89/6 handovers [1] 89/4 hands [2] 113/11 125/22 handwriting [2] 112/25 119/20 happen [10] 9/11 29/24 77/17 77/19 93/5 93/7 159/1 159/14 175/17 196/3 happened [10] 33/16 67/4 74/22 74/23 75/8 77/14 89/6 100/11 169/7 190/24 happening [5] 37/2 49/5 73/18 75/3 88/3 happens [5] 36/24 68/4 82/5 102/5 138/19 happy [5] 73/3 135/3 135/22 162/1 182/22 harassing [1] 147/3 hard [1] 84/19 harder [1] 166/20 hardship [1] 61/16 harm [1] 69/21 has [105] 7/7 7/12 17/24 18/7 18/8 20/21 21/10 28/22 30/5 30/7 30/9 30/15 31/23 33/13 33/24 41/21 43/18 44/14 45/3 47/17 48/6 48/13 48/18 53/9 53/11 54/12 55/22 56/10 56/19 57/24 58/1 58/2 58/3 60/23 61/3 61/13 62/6 65/13 65/19 67/22 69/14 69/23 71/11 73/1 73/25 79/13 79/24 82/2 92/13 92/24 111/11 112/8 113/25 114/4 115/10 115/19 115/22 116/19 116/21 124/9 124/13 126/23 128/22 132/21 133/16 133/24 133/25 134/1 134/15 134/17 138/2 138/8	140/15 140/21 141/17 142/6 142/8 142/14 142/20 146/4 146/21 147/11 151/7 153/20 156/13 157/5 157/9 158/12 162/7 164/22 173/4 176/3 178/14 184/11 187/5 187/12 188/5 188/10 189/8 190/15 194/18 194/23 195/2 195/3 197/20 hat [1] 180/13 have [337] haven't [9] 39/14 66/12 79/9 97/22 111/14 160/19 160/20 174/1 186/23 having [22] 13/23 16/12 24/5 35/3 50/24 54/18 55/6 89/16 92/25 93/3 98/24 104/23 142/10 147/15 150/8 154/14 154/25 166/16 166/17 176/2 176/5 178/1 he [75] 13/10 16/7 47/14 47/17 47/19 47/19 50/22 58/16 58/16 60/22 61/7 61/8 62/7 66/18 66/18 66/20 67/1 76/16 76/17 107/9 107/22 108/2 108/3 113/7 115/25 116/3 116/5 116/6 122/19 126/3 126/22 126/23 126/25 130/23 130/25 131/14 135/2 136/7 137/25 138/3 138/4 138/7 138/7 138/8 138/13 149/1 149/13 149/18 149/25 150/4 153/4 153/21 155/15 160/16 163/19 163/25 164/8 174/18 174/19 182/1 185/8 186/4 186/14 186/15 187/3 187/14 187/16 187/17 195/6 195/7 195/8 195/10 195/12 195/14 197/20 he'd [2] 57/1 185/15 he's [5] 52/18 62/14 67/4 67/5 125/15 headed [1] 189/24 heading [7] 132/1 147/6 156/10 157/4 158/11 163/5 192/2 hear [15] 1/5 46/1 70/7 70/10 84/8 106/16 146/24 147/13 149/14 155/25 161/8 162/16 190/12 191/3 198/24 heard [7] 20/21 21/14
goes... [3] 177/22 178/10 184/4 going [74] 2/18 2/24 5/3 6/1 11/20 11/23 12/1 12/20 14/13 15/4 17/1 21/4 21/5 21/23 28/7 29/16 32/12 33/11 33/19 34/2 34/14 46/4 46/5 47/25 48/3 50/18 51/16 51/20 52/11 64/15 68/23 70/5 70/7 70/15 71/12 71/13 71/20 72/10 72/12 74/7 75/1 75/10 78/21 83/4 85/24 90/11 92/22 96/6 101/8 107/15 115/20 115/22 119/21 121/18 123/14 123/24 125/4 150/3 150/16 150/17 151/17 157/11 164/14 166/8 167/12 168/22 187/15 189/1 191/16 192/1 193/4 194/3 194/15 195/25 gone [4] 50/3 97/22 111/25 137/1 good [16] 1/5 14/18 24/15 27/17 69/11 76/4 78/10 84/8 95/23 106/16 106/19 138/18 138/21 173/10 181/9 186/24 got [33] 4/19 17/7 17/7 17/7 17/11 33/15 34/24 34/25 34/25 35/1 35/11 35/18 39/14 40/24 41/17 60/5 68/20 73/16 77/16 78/12 92/13 112/3 118/1 118/4 118/12 118/15 118/16 136/13 160/19 167/5 185/13 193/4 193/11 governance [3] 70/8 168/8 168/12 governing [1] 98/18 government [119] 1/24 3/12 3/20 4/6 4/16 5/8 5/18 7/8 7/24 17/20 18/15 20/2 23/21 24/12 25/7 26/11 29/19 34/5 35/1 35/23 35/24 36/4 36/14 36/21 37/4 37/25 38/6 38/21 39/11 40/5 40/15 41/12 41/16 41/25 42/7 42/10 42/20 42/22 43/1 43/17 43/18 50/10 62/11 63/10 66/23 66/24	67/1 68/7 69/4 69/5 70/8 74/14 75/6 80/13 80/22 81/8 81/11 82/6 82/20 86/8 89/3 89/11 90/20 91/16 91/21 92/16 94/23 95/12 95/21 96/1 96/18 97/5 102/22 108/14 115/20 115/23 116/19 116/19 116/25 122/1 122/4 126/5 126/8 128/10 128/15 132/14 133/20 133/21 133/22 136/3 136/13 136/22 137/3 138/12 139/8 139/9 139/10 143/15 144/9 146/4 151/5 151/6 162/7 165/5 168/1 168/24 183/7 192/3 192/6 192/9 192/21 193/14 194/3 194/24 196/5 196/6 196/8 196/9 196/14 government's [8] 36/8 41/20 87/11 88/15 91/6 132/23 136/22 168/11 governmental [1] 25/10 Grade [2] 27/8 27/8 grades [2] 8/1 27/6 gradually [1] 88/22 Granville [2] 135/11 153/17 grateful [13] 47/22 51/2 61/17 62/20 72/19 73/15 73/18 83/22 133/5 135/6 135/24 140/17 199/14 great [8] 16/24 17/8 43/13 146/14 177/14 187/5 195/9 199/12 greater [1] 168/8 greatly [1] 123/2 Griffiths [3] 134/11 135/2 153/18 ground [1] 147/13 group [29] 3/22 52/24 73/8 87/25 88/1 88/10 88/12 88/15 90/7 91/15 92/9 94/2 94/24 95/5 95/13 95/22 96/10 98/16 99/1 107/25 108/6 110/3 113/10 113/15 113/15 115/17 153/2 168/4 186/3 Group's [1] 97/6 grow [1] 114/24 growing [1] 115/2 guaranteed [1] 80/15 guess [7] 92/6 93/12 98/6 98/14 105/11 144/11 145/8	had [162] 3/18 3/22 5/17 8/24 9/21 10/4 10/13 11/14 14/23 15/19 16/9 16/19 17/16 17/17 17/18 17/20 21/1 22/2 22/14 22/16 24/13 24/15 24/23 25/3 26/10 27/1 27/17 32/1 32/21 33/17 33/21 34/18 37/6 37/7 38/16 38/21 40/5 40/8 41/18 41/25 42/4 46/11 46/17 46/24 50/11 54/14 55/15 56/6 59/20 60/2 60/3 60/4 63/22 66/12 66/21 67/17 68/15 75/15 75/18 77/18 80/10 80/11 80/14 81/15 91/1 92/7 93/1 94/6 101/17 102/11 102/21 102/25 105/17 107/23 108/24 109/1 109/4 109/5 109/9 109/9 109/13 110/4 110/16 111/7 111/24 111/25 112/4 112/11 117/10 118/19 118/20 119/8 119/12 119/14 120/19 121/14 121/19 123/13 128/5 128/6 128/11 128/16 128/19 128/24 129/8 129/9 130/7 130/11 130/17 132/15 133/14 137/1 140/3 141/10 141/20 143/19 143/19 143/20 144/14 145/1 145/4 145/15 146/1 149/8 149/24 149/25 150/4 150/4 152/22 152/24 153/6 153/8 154/10 157/15 159/6 159/11 159/12 163/3 163/25 164/7 164/25 165/3 166/17 170/16 171/20 172/16 173/17 177/19 178/21 180/22 180/24 185/5 185/10 187/5 189/24 190/10 191/2 195/7 195/8 195/8 197/20 198/22 hadn't [3] 111/2 111/4 130/17 hair [1] 37/13 half [8] 15/11 15/14		

H	181/3 186/8 196/24	hope [9] 104/18	29/6 29/12 29/24	I assume [9] 93/18
heard... [5] 47/17	here's [2] 33/18	105/19 115/20 125/11	30/19 34/14 35/24	94/15 104/15 105/17
53/11 66/7 197/20	33/19	126/11 171/4 189/21	35/25 36/6 36/6 36/6	112/14 129/10 141/16
198/2	Hertfordshire [1]	195/22 196/12	36/12 43/19 45/3 46/7	178/20 185/22
hearing [3] 1/7	175/2	hoped [1] 126/6	49/8 49/11 53/19 54/1	I assumed [3] 66/24
191/10 199/20	hidden [1] 133/15	hoping [1] 175/15	57/3 57/17 70/3 75/4	100/24 161/19
heart [5] 34/8 34/14	high [5] 91/23 98/6	Horizon [133] 13/3	75/6 75/20 79/13	I became [2] 9/22
36/5 57/19 188/21	107/20 142/17 169/20	32/16 35/6 35/7 35/9	79/14 79/24 80/5	37/10
heat [2] 135/6 135/24	higher [1] 7/9	42/16 50/5 50/6 50/12	87/19 91/19 92/3	I beg [1] 144/5
heavily [2] 99/7	Hillsborough [2]	51/8 57/21 57/22 58/2	92/23 93/3 100/11	I believe [15] 17/21
151/5	192/19 196/13	58/14 58/18 61/11	101/4 104/14 109/15	41/9 46/13 47/9 48/12
heavy [1] 176/4	him [28] 13/9 47/18	62/9 62/13 63/13	113/13 118/3 118/16	60/3 60/4 60/10 68/20
heft [1] 167/13	56/7 82/25 107/13	63/15 65/17 67/13	119/15 127/2 127/14	72/23 86/20 103/9
held [6] 4/16 23/21	117/10 123/15 125/20	68/25 72/4 75/17 81/1	129/6 130/6 133/21	175/24 197/9 197/14
32/7 36/13 86/2	126/12 136/18 144/15	81/3 81/13 89/20 90/2	134/1 135/7 135/25	I believed [1] 182/15
133/19	147/20 149/2 149/13	90/17 99/12 99/18	136/24 137/4 139/9	I bring [1] 150/6
help [13] 3/25 16/25	150/12 152/14 153/7	99/21 100/16 104/22	147/22 152/9 155/9	I but [1] 138/14
19/21 32/21 41/3 53/6	153/21 154/11 163/19	106/22 107/1 107/6	161/7 161/25 165/1	I call [2] 18/22 84/10
103/24 113/18 117/23	174/4 185/12 185/24	108/24 108/24 109/6	168/1 173/23 185/24	I came [1] 91/24
126/5 128/23 147/7	186/4 188/22 198/22	109/8 109/11 113/12	187/3 188/20 193/14	I can [20] 1/6 2/6
180/10	198/24 198/24	113/23 114/14 115/6	however [10] 18/7	12/16 40/21 40/21
helped [1] 179/3	himself [1] 126/3	116/16 116/23 121/24	89/18 122/19 142/2	46/2 46/22 73/10 84/9
helpful [4] 45/21	hindsight [8] 59/19	122/24 124/11 125/8	148/9 164/20 165/24	117/13 122/14 124/3
126/2 173/25 175/15	59/20 59/21 122/12	125/9 126/25 130/8	177/12 177/15 177/22	129/19 135/1 149/7
helping [1] 33/3	122/25 123/5 123/6	130/10 130/24 131/13	huge [5] 80/17 92/13	161/25 183/13 186/22
helpline [1] 175/14	123/8	131/21 132/2 132/6	119/9 172/13 174/1	189/2 198/18
helps [2] 4/6 107/15	his [50] 48/21 54/10	132/20 133/15 134/17	Huggins [1] 153/16	I can't [16] 69/16
hence [2] 175/10	60/15 61/7 61/21 62/6	134/20 134/23 134/25	human [4] 34/12	76/3 97/22 117/7
195/12	66/19 108/2 112/21	135/5 136/5 139/5	68/12 83/6 146/16	119/7 124/23 139/18
Henderson [17]	116/3 117/8 117/9	140/14 140/19 140/22	hurt [1] 183/11	139/19 160/12 160/18
174/9 174/12 174/20	117/15 121/14 125/19	142/1 142/9 142/13	Hutton [3] 8/13 13/7	161/24 163/15 163/17
174/25 177/17 177/23	126/12 127/4 128/1	143/14 146/21 146/25	18/2	179/22 191/8 198/16
178/4 178/7 178/15	130/25 131/5 131/12	147/25 148/10 148/13	I	I cannot [4] 65/3
178/25 179/23 180/11	131/18 133/9 137/25	151/6 156/10 156/13	I absolutely [1]	89/16 104/14 185/22
181/6 181/11 182/7	137/25 138/4 138/6	156/18 156/20 156/21	195/17	I certainly [4] 10/6
182/24 183/12	147/19 149/11 149/14	156/23 157/10 158/11	I accept [1] 108/9	96/15 161/7 163/21
Henderson's [9]	149/18 150/23 153/3	158/12 158/19 158/19	I actually [2] 146/2	I commissioned [1]
174/15 174/23 176/17	153/14 154/6 163/4	162/18 162/23 164/5	170/14	85/6
176/21 177/1 177/7	163/24 164/10 165/18	164/7 165/20 165/24	I agree [2] 194/14	I committed [1]
177/10 178/8 181/4	165/19 185/7 188/21	166/1 172/19 173/22	197/12	163/18
her [24] 51/1 125/21	195/8 195/8 195/9	173/23 173/24 176/19	I almost [1] 14/19	I completely [1]
127/4 132/12 140/7	195/9 195/11 195/15	176/23 176/24 178/6	178/11 179/12 180/1	118/13
160/10 175/1 175/3	196/12 197/21	178/11 179/12 180/1	180/16 180/20 180/25	I considered [1]
178/10 178/16 178/18	history [1] 175/1	181/13 181/23 182/3	181/13 181/23 182/3	161/25
178/24 178/24 179/24	hit [1] 16/23	182/8 184/5 185/10	187/5 187/22 197/21	I could [2] 1/21 167/4
179/25 180/17 180/18	Hogg [2] 160/1 160/5	187/5 187/22 197/21	197/24 198/4 198/5	I couldn't [2] 136/11
180/19 180/23 181/5	hold [2] 135/22	198/9 198/15 198/17	198/22	165/16
181/11 181/18 182/25	136/21	Horizon' [1] 109/2	hot [1] 10/18	I dealt [3] 99/17
183/13	holding [2] 115/1	hotel [1] 195/9	hours [1] 178/3	104/2 104/4
here [47] 7/6 7/13	135/3	hot [1] 10/18	house [16] 4/24	I decided [3] 123/14
27/22 29/22 33/15	holds [2] 126/8	hotel [1] 195/9	15/13 16/7 16/10	136/18 149/11
34/13 36/25 47/21	147/20	hours [1] 178/3	16/13 62/8 62/15	I definitely [1] 120/17
48/10 49/5 49/21 50/2	Holmes [1] 195/5	house [16] 4/24	62/16 83/2 100/9	I describe [1] 91/14
54/22 56/13 58/23	home [4] 8/24 26/12	15/13 16/7 16/10	128/2 131/1 131/5	I described [1] 53/20
59/13 59/19 60/2 61/7	47/9 47/11	16/13 62/8 62/15	131/18 147/19 170/2	I did [17] 12/6 21/2
62/11 70/17 71/24	homes [1] 194/22	62/16 83/2 100/9	133/10 133/15 190/25	65/1 65/6 76/23 89/17
73/16 73/24 75/3 75/8	honest [2] 103/4	128/2 131/1 131/5	I and [1] 8/25	89/19 89/24 122/24
79/10 82/22 83/7	111/13	131/18 147/19 170/2	I answered [1] 125/2	123/7 136/9 149/3
119/19 120/4 123/2	HONOURABLE [7]	how [75] 14/16 17/11	I apologise [6]	166/18 172/2 172/4
123/5 124/1 128/5	1/8 84/11 127/25	18/24 23/6 24/13	118/24 121/12 122/17	185/22 198/21
136/20 139/13 143/13	131/4 131/17 200/2	24/14 24/16 27/11	179/24 183/4 183/13	I didn't [9] 11/22
144/20 154/22 160/24	200/11	27/23 28/19 28/21	I appreciate [1]	59/15 104/19 112/14
165/21 171/17 180/8	Hooper [3] 16/19		71/25	123/13 141/15 169/21
	18/11 80/11		I ask [4] 78/10 84/15	179/9 182/14
			183/14 197/17	
			I asked [7] 123/20	
			160/21 161/7 163/23	
			179/4 190/25 198/24	

I	I have [29] 36/22 42/25 50/25 51/9 53/11 70/15 71/23 72/22 76/22 103/9 115/7 117/14 121/6 124/8 127/24 130/11 131/3 131/16 133/4 134/22 145/24 151/23 154/7 155/5 165/4 175/7 183/4 185/21 195/22	151/19 I only [1] 115/20 I ought [1] 150/12 I pay [1] 175/21 I play [1] 12/9 I played [2] 11/16 38/18 I point [1] 58/23 I presume [3] 89/8 92/9 135/14 I put [1] 170/19 I raised [1] 65/4 I read [2] 121/22 155/11 I really [3] 88/19 103/3 120/18 I recall [1] 148/22 I received [3] 108/24 146/5 164/2 I refer [2] 19/9 38/24 I relied [2] 98/23 99/4 I remain [1] 122/19 I remember [6] 18/1 110/18 117/8 155/10 165/13 186/4 I repeat [1] 152/12 I replied [1] 109/13 I represent [3] 73/8 74/21 171/18 I respectfully [1] 126/4 I said [8] 5/11 18/13 24/5 40/24 44/15 46/4 76/1 80/12 I saw [4] 66/3 66/4 152/13 159/4 I say [4] 20/15 101/23 120/8 172/13 I see [1] 129/3 I served [1] 28/13 I should [12] 2/21 24/19 61/16 62/20 117/10 122/18 133/7 142/4 143/18 149/21 173/25 177/17 I shouldn't [1] 66/12 I showed [2] 136/8 145/22 I signed [2] 130/2 141/18 I sort [1] 111/3 I stand [1] 186/10 I start [1] 87/10 I still [2] 164/10 166/18 I strongly [1] 167/11 I support [1] 69/20 I suppose [3] 26/19 38/20 93/17 I suspect [2] 109/13 110/5 I take [1] 112/24 I that [1] 18/3 I then [1] 186/19	I think [104] 5/23 7/14 13/7 15/22 20/7 26/12 27/7 28/20 28/23 31/14 33/8 34/7 38/4 38/5 40/17 40/21 41/2 42/14 43/13 43/24 44/6 45/11 45/17 45/20 51/24 53/13 56/16 57/8 57/13 57/15 57/17 64/8 66/3 66/5 66/11 66/13 68/24 69/20 70/14 70/15 70/18 71/10 71/19 72/7 76/25 77/20 78/3 79/8 79/18 79/19 81/15 81/24 81/25 82/2 82/23 83/4 84/20 86/14 88/17 89/8 91/14 93/24 94/22 95/8 95/9 95/14 96/15 96/21 97/15 101/11 102/3 102/15 105/18 107/8 107/16 107/20 117/10 119/2 120/19 125/12 129/14 139/22 141/19 143/11 149/22 153/12 153/13 160/12 160/13 160/19 165/12 166/5 166/9 166/19 168/9 170/20 171/8 173/25 174/1 174/6 183/19 183/20 184/17 197/18 I thought [4] 24/13 76/20 100/22 136/16 I told [2] 149/1 149/12 I took [3] 107/9 152/14 161/2 I tried [1] 175/12 I turn [1] 159/20 I understand [9] 2/2 43/23 48/17 58/20 63/10 67/4 83/25 177/23 178/5 I understood [5] 88/9 90/23 92/11 93/15 95/16 I want [11] 1/14 3/2 7/23 19/23 20/20 26/15 36/8 38/2 70/5 73/9 197/22 I wanted [8] 79/1 99/5 148/24 149/2 149/13 155/4 198/13 198/24 I was [56] 3/16 3/16 9/23 10/21 13/16 16/16 17/4 24/5 25/5 26/8 34/2 41/9 43/21 46/4 46/5 57/2 75/16 87/22 88/19 89/7 90/1 91/1 93/14 95/25	96/16 96/20 99/7 99/15 99/18 103/9 103/19 107/22 118/21 119/9 119/10 119/17 119/22 122/6 123/14 123/21 123/23 128/13 128/16 129/11 129/12 136/15 141/17 143/21 154/21 154/23 157/17 167/16 172/14 182/13 191/2 194/24 I wasn't [5] 62/4 101/25 107/25 125/3 144/15 I will [2] 53/21 76/6 I wish [3] 60/2 68/15 105/19 I wonder [2] 71/4 72/6 I wondered [1] 124/16 I worked [3] 8/12 84/24 84/25 I would [48] 9/24 12/8 14/25 15/5 17/5 20/14 20/17 26/4 38/24 46/13 47/22 49/13 51/1 52/2 52/3 52/15 53/23 55/5 57/1 74/10 79/14 88/4 90/3 97/19 99/2 102/15 102/16 109/13 111/1 117/11 118/20 119/2 120/19 122/21 126/11 132/22 133/5 136/18 140/17 157/17 159/18 163/1 163/12 163/19 172/9 172/10 185/18 194/25 I wouldn't [4] 165/7 172/23 172/24 186/13 I write [1] 50/24 I wrote [3] 107/13 119/12 121/8 I'd [19] 52/1 66/21 72/13 73/14 73/18 101/17 101/18 110/16 111/9 118/19 118/20 136/19 137/7 159/11 159/13 174/4 180/6 185/16 199/4 I'll [12] 5/5 34/2 46/3 54/7 65/8 70/6 73/23 78/4 101/6 176/18 188/8 191/17 I'm [93] 5/3 6/15 6/20 12/16 12/20 15/4 15/12 15/17 21/23 26/9 27/6 28/7 29/3 29/16 34/19 38/19 40/21 45/9 47/11 47/25 48/3 54/4 54/8 59/19 60/1 67/25 68/4 68/9 68/9 68/19 68/23
----------	--	---	--	---

I	imagine [6] 37/19 37/21 43/16 44/25 163/19 188/20	121/1 121/19 128/9 128/13 129/7 131/8 139/15 144/22 145/12 166/7 169/15 170/2 178/14 183/4 190/23 196/16	183/17 190/2	184/5
I'm... [62] 69/8 70/24 71/11 71/12 72/10 72/25 73/3 75/19 77/16 79/13 81/20 81/24 83/9 85/23 89/5 89/6 95/8 95/8 96/14 98/2 104/13 107/25 111/22 117/13 119/7 120/17 121/4 122/5 123/1 125/4 130/3 135/18 139/18 141/15 145/8 145/8 150/8 154/19 160/17 161/19 161/25 163/1 163/15 164/14 166/8 167/12 168/6 168/7 168/25 169/4 171/17 183/11 185/16 191/5 191/8 191/12 191/16 192/1 194/1 195/23 195/24 199/14	immediate [1] 132/21 imminent [1] 161/13 imminent/planned [1] 161/13 impact [2] 10/16 61/13 impending [1] 160/11 implement [4] 17/16 91/18 91/24 98/3 implementation [3] 10/6 110/7 142/23 implemented [5] 9/23 18/7 40/9 42/2 91/7 implements [1] 196/15 implied [1] 7/16 importance [1] 34/4 important [19] 30/14 31/21 39/6 39/12 57/1 57/18 79/8 79/18 82/11 82/23 99/15 135/17 135/19 159/18 170/11 170/25 176/13 196/19 196/21 importantly [1] 31/18 impose [1] 134/20 imposed [2] 144/10 178/2 impression [1] 30/17 improper [2] 46/14 180/18 improve [3] 14/14 25/4 78/22 impunity [1] 146/16 inability [1] 80/21 inaccessible [1] 133/17 inaccurate [1] 140/12 inadequacies [1] 132/20 include [3] 49/17 182/23 193/8 included [8] 14/1 14/13 78/21 112/12 134/9 155/9 179/10 179/14 includes [1] 116/17 including [4] 38/22 56/17 61/12 78/18 incoming [1] 81/10 increase [2] 4/1 198/10 increased [4] 17/3 64/4 196/7 196/7 incurring [1] 132/8 indeed [24] 87/25 88/5 93/24 94/8 99/18 99/25 100/15 116/5	121/1 121/19 128/9 128/13 129/7 131/8 139/15 144/22 145/12 166/7 169/15 170/2 178/14 183/4 190/23 196/16 independence [1] 169/3 independent [13] 35/11 61/3 64/5 71/15 72/2 102/4 102/7 110/25 113/10 114/6 121/17 133/25 162/23 independently [4] 48/24 109/9 142/25 169/14 indicate [3] 63/12 120/23 189/3 indicated [1] 108/24 indispensable [1] 27/23 individual [27] 10/23 12/5 23/5 26/19 32/3 32/8 35/8 41/15 42/13 46/15 49/18 50/1 56/20 59/7 61/5 67/12 76/25 113/20 142/4 153/1 166/2 173/19 173/20 178/9 187/22 188/13 191/9 individuals [2] 94/12 103/23 industrial [3] 8/18 17/9 47/3 industry [4] 5/19 17/2 18/17 143/3 inevitably [1] 141/6 infected [3] 191/24 192/6 192/24 inflexible [4] 123/9 123/10 123/16 123/19 inflict [1] 146/17 inflicted [1] 133/24 influence [3] 41/21 46/11 196/7 influencing [1] 196/8 informal [1] 198/19 information [54] 30/22 32/6 32/7 32/12 32/25 33/6 33/7 33/15 33/25 34/11 34/23 35/4 35/11 35/18 48/13 48/25 49/5 49/6 50/4 56/4 61/2 61/4 61/6 63/22 67/15 67/17 67/19 68/24 72/3 73/10 73/20 75/18 104/7 104/9 104/15 106/4 108/15 110/12 110/19 111/8 111/18 112/13 114/4 115/10 116/1 130/16 143/2 144/19 153/25 158/21 166/6 179/25	informed [2] 48/21 57/14 inherently [1] 146/22 initial [4] 89/16 112/18 148/25 149/14 initially [1] 174/14 injustice [1] 66/22 injustices [2] 72/5 132/21 innocent [2] 139/1 148/14 Innovation [2] 7/1 87/4 innovations [1] 40/11 input [4] 23/8 23/11 23/14 33/21 inquire [1] 83/11 inquiry [42] 1/13 2/17 20/21 62/8 62/15 62/16 65/13 66/4 66/17 68/5 70/7 70/10 70/14 71/7 72/11 72/18 72/19 76/6 79/13 83/22 84/15 86/6 93/14 96/14 99/14 102/18 103/20 104/18 104/21 104/22 105/19 106/5 106/6 137/9 140/22 172/5 184/3 191/24 192/25 196/25 197/20 198/2 Inquiry's [1] 150/7 insert [1] 85/3 inside [2] 66/6 190/12 insist [1] 81/12 insisted [2] 168/5 168/7 insisting [2] 59/10 63/24 inspectorate [1] 72/6 installed [1] 113/13 instance [3] 112/13 113/19 179/8 instances [1] 140/11 instead [5] 41/10 51/13 114/2 152/9 176/2 instigated [1] 114/7 instincts [2] 65/23 66/6 institution [2] 146/14 171/2 instruct [1] 194/8 instructions [1] 180/14 integrity [17] 13/3 58/18 63/14 99/21 107/1 107/6 109/1 116/23 122/24 142/13 142/19 156/10 156/20 158/11 158/19 165/25	intended [1] 105/24 intends [2] 62/7 62/14 intense [1] 17/7 intensity [1] 17/3 intention [2] 104/12 105/8 intentions [1] 132/23 intents [1] 5/20 interactions [1] 98/5 interest [7] 13/7 36/8 44/2 45/3 80/9 134/16 152/8 interested [2] 79/14 126/2 interesting [2] 185/13 188/23 interests [1] 164/16 interfere [10] 43/8 43/12 44/17 69/10 82/12 82/13 165/6 165/7 165/7 165/9 interfere/shouldn't [1] 165/6 interfered [1] 94/4 interference [2] 116/22 122/3 interim [1] 146/8 internal [3] 15/25 65/13 191/21 Internet [1] 19/8 interpreted [1] 179/19 interrupted [1] 23/17 intervene [11] 43/6 44/17 45/14 76/3 90/22 142/5 164/21 165/2 165/15 173/16 177/18 intervening [1] 43/12 interviewed [1] 48/23 intimidate [1] 114/21 into [54] 16/20 18/12 18/17 19/8 19/15 23/8 23/14 33/18 42/12 46/22 51/15 52/19 54/12 54/17 56/10 79/13 81/13 83/11 85/19 92/1 96/1 122/25 125/17 132/16 134/1 139/2 140/22 141/19 145/5 145/9 145/10 145/16 145/16 147/6 147/13 152/15 153/4 154/21 159/10 159/14 162/1 166/15 166/19 169/8 170/19 176/8 184/12 184/25 187/16 193/12 193/18 194/4 194/13 194/15 introduce [1] 192/12 introduced [1] 113/24

I	issue [36] 9/19 9/20 9/24 10/20 31/1 34/8 34/9 35/10 36/22 47/23 47/24 50/5 65/8 76/21 91/11 95/18 97/15 99/18 99/20 100/16 100/16 107/3 112/2 115/25 120/3 124/11 124/15 126/12 141/8 143/15 145/2 150/20 153/6 154/22 167/21 180/19	188/9 189/2 190/9 192/5 199/4 item [8] 150/25 151/4 151/17 153/24 154/4 154/9 154/16 155/5 items [1] 18/22 its [50] 3/11 4/19 11/14 18/20 21/22 25/9 25/10 26/12 26/12 36/13 37/15 37/16 40/23 42/21 42/22 43/19 43/20 44/3 44/15 47/2 52/16 68/8 70/21 72/18 87/15 87/20 87/21 94/2 98/19 98/20 102/21 116/19 116/21 122/2 126/14 133/19 133/21 133/22 134/1 139/9 139/10 142/21 163/10 184/5 184/6 184/12 184/24 187/6 192/19 193/19	journalist [1] 73/12 judge [8] 45/13 113/19 118/3 118/17 119/15 120/14 121/15 127/14 judged [2] 33/13 122/16 judgement [2] 29/12 118/21 judges [1] 82/13 judgment [6] 82/13 82/14 137/9 180/3 180/6 180/7 judgments [16] 43/7 44/17 59/12 59/14 59/16 60/8 64/9 67/24 68/18 69/19 70/2 75/24 75/25 76/3 77/25 82/3 judice [6] 142/6 161/6 162/14 164/21 173/17 177/19 judice' [1] 161/14 judicial [5] 45/16 69/10 165/8 165/10 169/8 judiciary [2] 168/17 169/6 Julian [1] 47/14 July [19] 1/1 4/14 5/12 123/21 131/9 131/24 132/1 133/3 137/23 140/6 145/20 150/24 151/11 152/14 153/13 153/14 153/22 154/14 159/13 July 2007 [1] 5/12 jumped [2] 110/15 110/16 June [8] 2/11 3/6 6/23 86/3 125/13 126/19 126/20 198/2 junior [4] 3/17 8/2 112/6 151/24 jury [2] 113/20 121/15 just [105] 5/7 5/24 6/20 10/22 12/12 12/14 12/16 12/20 13/6 13/14 15/1 15/4 21/6 24/16 24/21 26/9 27/2 28/19 33/18 34/22 35/7 38/19 42/4 44/24 55/1 55/24 56/12 57/3 58/8 59/3 68/3 68/23 68/23 72/25 73/18 73/23 75/7 75/10 77/14 79/22 80/5 80/18 81/4 82/15 90/12 94/6 105/1 105/4 106/8 111/7 111/14 112/2 112/24 113/7 115/4 116/6 116/12 118/4	118/11 118/14 119/9 119/11 121/9 121/11 124/1 125/25 127/9 127/15 129/15 134/21 135/21 136/6 141/14 146/23 148/2 148/4 150/18 151/9 157/11 159/23 164/4 172/19 172/20 173/9 173/9 173/10 173/12 174/3 175/18 176/7 177/6 177/6 177/8 180/3 180/8 181/19 183/19 184/17 186/19 188/5 190/24 192/23 194/11 196/1 196/20 justice [7] 58/21 113/2 134/13 152/23 167/25 179/2 196/2			
introducing [1] 70/3 introduction [3] 142/21 167/8 187/6 intrude [1] 169/8 Invariably [1] 113/22 investigate [7] 47/22 61/18 62/12 62/13 62/21 81/12 146/10 investigated [6] 63/12 77/10 90/8 96/11 102/7 169/14 investigating [2] 51/13 52/9 investigation [15] 51/15 62/24 63/19 64/6 74/6 81/13 114/7 132/21 134/1 140/11 192/7 193/21 193/23 195/14 195/18 investigations [1] 48/18 investigative [1] 143/7 investigator [1] 181/22 investment [4] 40/9 80/4 80/11 147/24 Investments [1] 26/11 investor [3] 18/12 18/16 80/21 invitation [1] 166/19 invite [1] 18/15 invited [2] 48/23 153/21 involve [2] 20/15 70/12 involved [35] 3/23 4/2 10/25 11/4 16/16 19/18 20/12 22/17 26/6 32/25 34/20 41/17 42/8 43/21 46/9 46/14 47/4 64/5 77/1 89/25 90/24 91/2 92/14 93/11 93/20 94/1 94/13 94/19 123/11 123/18 136/13 144/9 144/13 146/9 148/18 involvement [4] 4/9 28/1 56/15 66/13 involving [5] 31/17 34/10 61/15 153/1 163/10 irked [1] 155/11 is [479] ismay [4] 184/3 184/14 184/24 185/1 isn't [11] 30/9 41/16 44/20 52/6 52/9 55/17 76/11 120/1 145/13 151/11 190/9	issued [1] 175/16 issues [42] 14/12 15/14 16/10 26/20 32/16 47/14 50/1 55/9 63/8 65/6 80/7 81/13 91/8 97/21 99/16 99/17 99/22 100/7 112/3 118/9 141/9 142/2 144/12 144/12 145/5 146/1 146/19 148/18 150/8 162/5 162/13 163/5 165/19 172/17 172/19 173/14 175/20 176/15 177/12 177/15 193/18 198/20 issues' [1] 109/1 Issy [2] 160/1 160/4 it [551] it's [117] 2/11 3/14 4/5 4/6 5/20 5/23 12/3 15/2 15/16 22/7 25/12 30/14 31/14 32/11 34/7 34/7 36/3 37/3 37/4 39/15 39/17 42/21 42/25 43/17 44/2 45/11 45/13 47/8 47/13 48/6 49/10 50/7 50/20 51/5 51/6 51/24 55/15 57/1 57/4 57/10 59/6 59/20 60/7 60/7 60/13 60/20 63/3 63/25 64/12 64/13 65/13 66/5 66/13 68/4 69/15 69/22 70/14 70/22 71/3 71/4 82/23 82/23 89/8 93/18 102/15 103/3 103/5 103/20 105/1 105/18 106/8 106/8 109/12 113/2 113/3 116/13 121/4 121/6 126/16 130/5 131/19 138/17 140/6 140/6 142/20 143/16 145/21 146/9 151/10 151/13 151/16 151/20 152/20 154/6 156/7 157/20 158/8 158/8 161/23 166/22 166/25 169/24 171/11 174/24 174/24 183/7 183/17 184/1 184/22 186/23 187/17 187/25	ITV [1] 169/21	J	Jacqui [5] 47/8 48/6 48/9 61/1 64/2 jail [1] 188/19 James [3] 60/14 61/21 66/15 January [1] 47/13 Janary [1] 84/14 Jasvinder [1] 140/7 Jenny [1] 131/25 Jesmond [2] 195/5 195/8 JFSA [25] 113/9 113/17 115/3 115/11 126/23 128/11 129/9 134/3 138/5 140/16 149/25 151/1 151/17 153/21 153/23 154/23 158/9 162/5 162/13 162/17 163/10 184/20 185/11 187/24 198/23 JFSA's [2] 162/16 165/23 job [9] 3/12 16/2 21/12 22/22 23/1 24/14 25/23 71/22 129/11 John [2] 8/13 18/2 joined [3] 8/10 113/16 138/5 JONATHAN [6] 84/11 84/17 165/13 186/20 186/20 200/12 Jones [2] 62/5 62/14	John [2] 8/13 18/2 joined [3] 8/10 113/16 138/5 JONATHAN [6] 84/11 84/17 165/13 186/20 186/20 200/12 Jones [2] 62/5 62/14	journalist [1] 73/12 judge [8] 45/13 113/19 118/3 118/17 119/15 120/14 121/15 127/14 judged [2] 33/13 122/16 judgement [2] 29/12 118/21 judges [1] 82/13 judgment [6] 82/13 82/14 137/9 180/3 180/6 180/7 judgments [16] 43/7 44/17 59/12 59/14 59/16 60/8 64/9 67/24 68/18 69/19 70/2 75/24 75/25 76/3 77/25 82/3 judice [6] 142/6 161/6 162/14 164/21 173/17 177/19 judice' [1] 161/14 judicial [5] 45/16 69/10 165/8 165/10 169/8 judiciary [2] 168/17 169/6 Julian [1] 47/14 July [19] 1/1 4/14 5/12 123/21 131/9 131/24 132/1 133/3 137/23 140/6 145/20 150/24 151/11 152/14 153/13 153/14 153/22 154/14 159/13 July 2007 [1] 5/12 jumped [2] 110/15 110/16 June [8] 2/11 3/6 6/23 86/3 125/13 126/19 126/20 198/2 junior [4] 3/17 8/2 112/6 151/24 jury [2] 113/20 121/15 just [105] 5/7 5/24 6/20 10/22 12/12 12/14 12/16 12/20 13/6 13/14 15/1 15/4 21/6 24/16 24/21 26/9 27/2 28/19 33/18 34/22 35/7 38/19 42/4 44/24 55/1 55/24 56/12 57/3 58/8 59/3 68/3 68/23 68/23 72/25 73/18 73/23 75/7 75/10 77/14 79/22 80/5 80/18 81/4 82/15 90/12 94/6 105/1 105/4 106/8 111/7 111/14 112/2 112/24 113/7 115/4 116/6 116/12 118/4	118/11 118/14 119/9 119/11 121/9 121/11 124/1 125/25 127/9 127/15 129/15 134/21 135/21 136/6 141/14 146/23 148/2 148/4 150/18 151/9 157/11 159/23 164/4 172/19 172/20 173/9 173/9 173/10 173/12 174/3 175/18 176/7 177/6 177/6 177/8 180/3 180/8 181/19 183/19 184/17 186/19 188/5 190/24 192/23 194/11 196/1 196/20 justice [7] 58/21 113/2 134/13 152/23 167/25 179/2 196/2
			K	Karen [2] 173/6 176/11 Kate [1] 22/15 Kaur [2] 140/7 140/21 Kearns [1] 198/3 keel [1] 19/19 keen [1] 161/7 keep [3] 11/24 19/16 148/18 keeping [1] 185/3 Keith [2] 125/14 126/13 kept [3] 59/9 59/11 192/6 key [6] 8/18 39/11 91/11 161/1 169/23 190/20 kind [5] 35/13 71/21 129/20 135/13 140/24 kindly [1] 84/18 kinds [1] 40/11 King's [2] 167/9 192/4 Kingston [1] 86/1 knew [6] 104/11 105/7 112/16 159/18 165/15 191/9 know [87] 22/8 26/4 28/3 28/22 29/4 31/12 31/14 31/14 33/20 37/20 38/13 39/17 39/18 41/24 44/16 44/19 46/17 46/21 48/24 49/1 49/11 51/3 52/15 53/12 57/2 59/15 59/16 59/20 60/1 66/6 66/10 67/5 68/3 68/11 69/12 69/15 69/16 71/23 77/6 81/18 81/24 82/5 82/25 83/7 84/14 89/5 95/8 97/7 101/4			

K	lawfully [4] 42/23 43/3 44/10 69/7	lessons [2] 169/7 171/24	30/17 32/15 46/5 47/2 47/6 64/15 68/22	likelihood [1] 120/13	
know... [38] 101/23 103/4 103/10 103/19 104/14 104/19 105/14 106/3 106/4 106/6 107/9 123/6 123/7 125/1 128/14 130/1 135/7 135/24 140/17 152/2 152/5 153/6 158/7 158/8 160/4 160/7 160/17 161/7 161/23 166/5 169/3 179/16 179/25 182/14 187/5 190/8 190/13 190/18	lawyer [1] 180/14	let [7] 42/6 51/3 61/17 62/20 132/9 135/7 140/17	93/13 93/17 95/15 97/12 99/24 99/25 100/13 101/1 101/4 107/8 110/24 118/19 118/21 119/10 119/22 120/9 125/6 134/22 140/2 141/14 141/16 141/18 141/21 143/24 144/1 159/17 160/16 164/15 171/22 172/2 172/3 172/5 172/8 172/11 172/20 172/25 176/13 176/22 179/5 183/5 188/6 191/4 191/8	likely [8] 51/24 110/4 120/24 121/4 162/24 178/23 198/6 198/6	
knowing [2] 50/12 79/14	layers [3] 34/20 34/22 35/3	let's [12] 5/11 44/1 47/6 49/15 50/19 52/22 54/4 57/10 60/12 77/13 89/12 192/23	100/13 101/1 101/4 107/8 110/24 118/19 118/21 119/10 119/22 120/9 125/6 134/22 140/2 141/14 141/16 141/18 141/21 143/24 144/1 159/17 160/16 164/15 171/22 172/2 172/3 172/5 172/8 172/11 172/20 172/25 176/13 176/22 179/5 183/5 188/6 191/4 191/8	limited [28] 16/12 36/13 48/14 48/18 48/23 49/1 49/19 56/5 63/10 63/11 87/24 88/2 88/5 88/11 91/15 94/3 94/24 97/20 99/1 104/16 104/24 105/11 105/13 116/18 149/24 157/5 177/17 184/23	
knowledge [6] 2/14 85/18 94/7 100/23 101/22 104/22	learn [2] 169/7 194/25	letter [161] 30/7 32/17 32/21 33/17 33/18 33/20 33/22 33/24 33/25 34/21 47/8 48/1 48/2 48/5 48/8 48/11 48/12 49/8 49/14 50/20 52/3 52/16 52/20 54/6 54/14 55/3 55/5 55/20 55/25 56/13 57/11 58/9 59/4 59/21 59/25 60/9 60/13 62/10 63/17 63/20 90/17 112/21 112/22 115/24 116/2 116/15 117/8 117/9 117/11 117/16 117/17 118/1 118/1 118/15 118/15 118/17 118/19 118/22 118/23 118/25 118/25 119/4 119/5 119/14 119/19 120/6 120/8 120/16 120/18 120/25 121/5 121/8 121/21 121/21 121/24 123/13 124/2 124/22 125/15 125/24 125/25 126/13 126/13 126/16 131/25 133/2 133/9 136/17 136/18 137/23 138/6 139/14 139/16 140/3 140/25 141/25 142/2 144/14 144/16 145/19 145/20 146/4 148/22 149/12 149/18 150/1 150/11 150/11 150/24 151/11 151/13 153/3 153/14 153/15 153/22 154/9 154/10 154/14 154/20 155/2 164/14 166/15 173/6 173/14 174/8 174/12 174/13 174/16 174/17 174/20 174/23 176/10 176/16 176/22 177/1 177/7 177/10 177/12 177/15 178/8 178/13 178/17 179/11 179/15 179/20 179/23 181/5 181/19 182/9 182/13 182/15 182/24 185/13 186/19 186/24 187/3 188/4 188/9 188/16 188/18 188/24	limits [1] 144/8	164/15 171/22 172/2 172/3 172/5 172/8 172/11 172/20 172/25 176/13 176/22 179/5 183/5 188/6 191/4 191/8	line [19] 7/20 40/18 40/22 84/23 92/10 92/11 103/8 117/4 120/21 121/24 131/21 134/23 135/4 135/23 136/6 136/22 143/14 150/22 184/23
known [3] 78/2 101/17 104/16	learned [2] 88/22 113/17	letters [51] 29/23	183/5 188/6 191/4 191/8	lines [10] 50/1 160/25 161/1 161/1 162/25 163/1 173/4 176/16 181/7 192/6	
knower [2] 47/19 184/3	learning [1] 43/8		191/8	listed [2] 105/2 159/24	
L	learnt [3] 53/17 102/17 111/13		level [27] 27/4 27/9 32/1 32/2 34/6 40/16 41/4 41/4 44/21 61/13 69/21 71/7 80/3 89/22 91/19 91/25 92/16 92/20 94/10 98/6 114/7 114/13 133/17 142/17 184/8 184/10 198/11	listen [4] 146/18 146/20 161/8 184/17	
Labour [4] 18/15 80/13 80/18 86/19	least [7] 57/14 61/12 62/13 166/21 169/4 185/9 188/10		192/18	listening [7] 51/13 52/9 161/2 163/8 163/11 163/12 195/25	
laid [1] 142/8	leave [3] 39/19 76/6 94/24		Lib [1] 86/24	litigation [1] 109/20	
Lamb [7] 86/22 174/9 174/12 174/17 174/24 178/17 178/23	leaving [3] 8/10 17/6 175/2		Liberal [2] 86/5 192/18	little [12] 7/8 24/22 80/5 111/13 146/5 146/15 152/8 153/4 173/3 174/6 189/22 194/2	
language [1] 139/13	led [3] 138/3 142/10 164/25		libraries [3] 128/1 131/5 131/18	live [2] 39/16 71/10	
large [17] 15/23 15/23 30/11 68/14 73/8 74/21 79/3 99/15 107/17 107/25 108/6 108/10 157/2 161/1 171/18 172/16 176/6	left [11] 46/8 60/11 70/1 89/7 98/19 134/17 156/5 158/15 158/18 159/22 169/13		library [1] 100/10	livelihoods [1] 194/21	
larger [1] 175/18	left-hand [3] 156/5 158/18 159/22		lie [6] 36/21 37/4 106/2 181/18 184/2 184/11	lives [3] 61/14 146/7 195/23	
largest [1] 196/6	legal [9] 79/2 95/21 109/5 148/6 161/12 162/10 162/12 163/10 169/6		lies [2] 170/5 184/2	local [4] 10/16 11/18 11/21 124/8	
last [8] 12/23 34/18 115/19 126/23 128/11 139/7 176/1 197/14	legislate [1] 70/1		life [3] 19/7 53/1 195/9	locations [2] 38/23 39/3	
lasted [1] 86/14	legislated [5] 1/25 67/8 67/10 72/1 171/3		light [2] 87/15 152/9	log [2] 143/4 184/8	
lastly [4] 90/10 164/13 166/24 170/6	legislating [2] 69/18 196/21		like [54] 7/9 8/8 9/3 9/7 10/9 17/21 18/17 19/18 20/25 21/11 21/17 21/19 23/2 23/24 26/11 32/14 32/17 35/22 36/12 37/2 37/12 40/2 40/14 42/5 42/18 43/21 45/8 46/16 46/20 49/8 49/14 49/24 57/21 58/3 59/1 60/24 70/7 71/8 72/9 81/17 93/8 101/21 109/18 110/10 137/20 163/18 166/8 172/22 179/21 180/6 182/22 184/4 196/1 196/1	log-on [1] 184/8	
late [2] 148/17 149/23	legislation [21] 14/2 14/13 14/23 18/11 18/19 25/4 25/19 35/19 37/6 37/9 37/12 67/5 69/20 70/3 78/18 78/21 98/10 110/6 189/18 197/6 197/9		likelihood [1] 120/13	logic [1] 122/5	
later [16] 26/11 34/3 50/6 55/12 67/9 67/24 76/16 77/17 78/1 108/1 108/19 110/6 121/20 122/24 141/23 160/6	length [33] 1/24 18/25 31/24 36/12 36/20 36/23 40/14 41/19 41/20 70/12 70/20 70/25 81/6 81/9 82/17 82/18 82/19 87/11 89/24 90/19 94/3 95/6 95/12 116/20 122/2 129/1 136/4 143/15 146/13 162/8 167/21 168/2 168/12		likely [8] 51/24 110/4 120/24 121/4 162/24 178/23 198/6 198/6	logical [2] 5/23 65/21	
latest [1] 142/25	less [4] 6/8 29/2 123/10 175/14		limited [28] 16/12 36/13 48/14 48/18 48/23 49/1 49/19 56/5 63/10 63/11 87/24 88/2 88/5 88/11 91/15 94/3 94/24 97/20 99/1 104/16 104/24 105/11 105/13 116/18 149/24 157/5 177/17 184/23	logs [2] 143/5 184/6	
latter [1] 185/25	lesson [1] 168/9		line [19] 7/20 40/18 40/22 84/23 92/10 92/11 103/8 117/4 120/21 121/24 131/21 134/23 135/4 135/23 136/6 136/22 143/14 150/22 184/23	long [14] 18/9 34/16 57/8 57/8 58/4 59/16 60/11 75/21 77/7 109/12 119/8 149/8 191/17 195/6	
launch [1] 71/6			levels [3] 41/14 92/17 93/8	longer [2] 22/24 180/22	
law [12] 92/12 94/22 95/5 95/7 123/10 123/16 136/3 136/13 143/23 144/7 145/6 192/19			liable [2] 79/12 148/8	look [84] 5/3 5/11 7/23 16/20 19/23 21/23 26/15 27/21 30/1 31/13 32/15 36/8 36/9 37/8 37/24 47/6	

L	losing [4] 11/9 17/22 41/8 194/21	maintaining [5] 38/22 39/2 39/3 131/6 131/20	59/6 59/17 61/23 65/20 67/24 69/23 72/1 76/25 82/18 92/13 92/24 94/7 94/9 97/19 97/19 97/21 97/21 99/18 101/4 121/8 122/7 123/7 123/7 129/6 130/6 138/15 140/2 146/7 161/7 168/22 173/1 174/2 186/14 186/14 192/7 192/7 196/1 196/20 196/25 196/25 197/6 197/7 198/20 199/12	119/7 120/18 124/2 145/24 152/7 160/15 160/17 161/22 163/9 178/15 190/12 191/25 194/6 197/10
look... [68] 48/11 48/15 49/15 49/23 50/11 52/19 54/9 54/12 54/17 55/23 56/10 58/20 59/6 63/3 67/4 68/11 68/11 73/17 75/12 75/18 95/20 103/7 108/2 108/19 112/21 112/24 116/11 118/7 122/9 123/25 123/25 125/4 125/11 125/12 125/17 126/12 129/15 133/5 134/10 135/21 140/22 141/16 141/21 145/2 145/16 150/13 150/18 150/21 153/11 155/9 156/2 161/9 166/20 167/4 167/15 167/19 168/11 170/17 170/24 173/9 174/15 179/12 180/3 180/6 187/15 189/22 194/12 194/15	loss [5] 57/24 138/22 147/8 148/9 180/24	maintains [1] 143/15	92/13 92/24 94/7 94/9 97/19 97/19 97/21 97/21 99/18 101/4 121/8 122/7 123/7 123/7 129/6 130/6 138/15 140/2 146/7 161/7 168/22 173/1 174/2 186/14 186/14 192/7 192/7 196/1 196/20 196/25 196/25 197/6 197/7 198/20 199/12	maybe [9] 15/5 15/6 15/8 39/25 40/22 49/25 71/17 102/16 129/15
looked [11] 53/23 66/8 66/15 75/5 79/13 126/1 145/4 145/25 164/1 166/19 169/4	losses [3] 79/12 132/7 133/19	majority [4] 17/20 120/7 120/10 187/7	196/20 196/25 196/25 197/6 197/7 198/20 199/12	MD [3] 131/3 131/16 134/11
looking [19] 14/18 15/18 23/24 57/3 78/14 80/1 82/15 83/7 91/4 91/19 96/8 117/18 118/2 119/15 135/16 145/16 193/18 194/4 194/24	lost [2] 53/1 68/14	make [36] 12/8 19/5 21/22 30/2 33/25 37/15 42/3 72/18 84/21 92/16 93/5 93/6 94/5 98/4 112/8 118/20 126/25 131/14 137/9 138/18 138/21 142/4 161/6 161/15 162/7 162/19 163/16 167/20 168/15 169/12 177/17 180/18 181/9 194/25 196/2 196/20	196/20 196/25 196/25 197/6 197/7 198/20 199/12	MD's [1] 135/9
looks [10] 49/2 54/22 70/14 71/8 137/20 152/10 182/18 182/22 183/1 193/12	lot [32] 6/6 6/9 8/21 10/10 14/21 14/22 14/23 15/2 15/24 16/16 16/18 16/24 17/9 18/18 19/10 29/3 36/22 38/13 42/3 46/24 47/3 49/24 56/17 60/4 75/14 80/8 80/18 81/4 98/11 117/23 118/9 190/18	making [26] 11/22 16/14 16/14 28/1 41/7 41/25 51/2 51/14 54/8 57/14 57/15 57/16 70/12 71/13 74/5 77/15 108/9 150/11 163/17 163/20 165/14 180/19 181/9 193/8 194/11 199/11	196/20 196/25 196/25 197/6 197/7 198/20 199/12	me [110] 11/12 21/22 24/15 31/7 32/11 33/4 35/10 39/14 42/6 48/15 48/24 49/2 51/3 53/24 54/18 55/3 55/13 56/20 60/1 60/20 60/24 61/1 61/17 62/5 62/20 66/21 66/25 72/14 77/3 81/3 82/24 87/23 89/6 89/21 91/1 92/1 93/4 94/5 95/15 98/25 100/6 100/23 102/17 102/24 102/25 103/4 103/11 104/8 104/19 105/5 105/14 106/5 107/9 107/21 109/20 111/15 112/6 126/16 128/17 133/18 133/25 135/7 137/4 137/7 137/11 138/2 139/19 140/3 140/4 140/17 141/17 144/17 145/24 149/3 149/10 149/23 150/10 150/11 150/11 152/24 153/24 154/12 154/13 155/3 155/6 157/19 159/5 159/7 159/18 160/23 161/20 161/22 164/5 164/12 165/14 165/15 166/24 168/21 169/19 171/2 175/9 176/2 182/11 182/21 183/19 184/1 184/17 184/25 193/16 198/23
Lord [25] 4/21 8/11 13/9 13/11 16/4 16/6 16/13 29/15 60/14 60/14 60/22 62/10 64/3 66/16 66/16 86/19 88/25 165/13 186/20 186/21 186/21 187/20 188/3 188/9 188/20	lots [4] 3/23 12/6 26/25 30/12	malcontents [1] 146/23	196/20 196/25 196/25 197/6 197/7 198/20 199/12	me/subpostmasters [1] 133/25
Lord Arbuthnot [4] 60/14 64/3 66/16 66/16	love [1] 195/9	malfunction [1] 181/13	196/20 196/25 196/25 197/6 197/7 198/20 199/12	mean [22] 5/20 11/20 24/13 28/20 44/12 49/10 56/20 85/14 93/17 94/21 98/2 101/21 102/24 107/21 128/18 144/3 170/22 194/17 194/24 195/16
Lord Arbuthnot's [1] 62/10	Lovegrove [1] 109/18	man [1] 195/11	196/20 196/25 196/25 197/6 197/7 198/20 199/12	
Lord Mandelson [2] 4/21 13/9	Lumley [2] 173/7 176/11	manage [1] 133/18	196/20 196/25 196/25 197/6 197/7 198/20 199/12	
Lord Mandelson's [1] 29/15	lunch [5] 90/12 106/10 106/19 199/13 199/13	managed [2] 17/13 87/20	196/20 196/25 196/25 197/6 197/7 198/20 199/12	
Lord/Misra [1] 187/20	lying [3] 104/10 105/6 105/23	management [17] 7/20 11/13 20/5 21/2 25/20 25/22 26/6 31/25 34/22 34/24 37/16 64/18 77/4 87/20 87/24 98/25 143/3	196/20 196/25 196/25 197/6 197/7 198/20 199/12	
Lords [1] 4/25	luxembourg [1] 9/2	manager [2] 195/5 195/13	196/20 196/25 196/25 197/6 197/7 198/20 199/12	
lose [3] 22/22 22/25 148/11	lyng [3] 104/10 105/6 105/23	managers [3] 96/2 99/3 99/5	196/20 196/25 196/25 197/6 197/7 198/20 199/12	
loses [1] 147/19	M	managing [13] 24/6 25/13 27/19 27/20 35/16 52/17 54/21 63/16 64/21 111/12 127/24 128/6 186/9	196/20 196/25 196/25 197/6 197/7 198/20 199/12	
	main [6] 22/16 88/2 98/3 138/9 177/8 177/9	Mandelson [8] 4/21 8/11 13/9 13/11 16/4 16/6 16/13 60/15	196/20 196/25 196/25 197/6 197/7 198/20 199/12	
	mainly [2] 88/23 108/9	Mandelson's [1] 29/15	196/20 196/25 196/25 197/6 197/7 198/20 199/12	
	maintain [1] 91/13	manifesto [1] 91/11	196/20 196/25 196/25 197/6 197/7 198/20 199/12	
	maintained [2] 134/23 142/20	manipulated [3] 166/4 187/23 188/15	196/20 196/25 196/25 197/6 197/7 198/20 199/12	
		manner [2] 40/13 40/14	196/20 196/25 196/25 197/6 197/7 198/20 199/12	
		many [49] 3/14 37/19 49/11 57/20 57/22	196/20 196/25 196/25 197/6 197/7 198/20 199/12	
			196/20 196/25 196/25 197/6 197/7 198/20 199/12	

M	144/3 173/22 195/14 197/18	35/2 35/11 37/11 37/12 42/16 43/1 44/18 46/6 46/11 55/18 55/19 56/7 67/10 68/6 75/16 78/17 83/15 85/1 85/4 86/19 87/14 87/16 88/8 88/19 90/22 91/5 92/13 93/20 96/16 97/3 99/5 103/12 112/4 112/7 112/9 113/9 123/17 123/22 124/9 124/14 124/17 137/13 139/22 139/23 140/3 141/5 141/18 144/25 146/6 151/5 152/25 161/23 173/15 173/19 174/13	186/21 miss [1] 76/13 missing [4] 175/3 175/12 175/13 175/21 mistresses [7] 61/24 132/7 140/10 140/13 140/16 140/18 179/1 Mm [1] 191/7 mode [4] 161/3 163/8 163/11 163/12 model [1] 70/5 models [1] 170/18 modest [1] 195/11 Moloney [6] 171/8 171/15 171/16 171/18 183/23 200/16 moment [14] 4/25 6/21 18/3 44/16 50/25 107/15 108/3 118/3 119/15 125/13 150/3 150/19 153/13 192/23 moments [1] 18/13 Monday [3] 66/5 134/15 153/20 money [13] 41/8 51/15 53/7 53/9 68/14 74/6 80/22 138/24 147/4 175/21 176/6 176/6 180/23 monitor [2] 97/25 98/19 monitoring [3] 40/6 98/2 98/14 month [2] 15/6 87/2 months [15] 10/8 10/20 64/19 86/14 96/5 97/3 126/23 128/12 138/10 147/21 152/15 153/4 154/21 159/14 186/14 morality [1] 146/12 more [84] 3/24 5/1 5/4 6/8 7/11 7/13 7/16 16/12 16/16 16/18 17/7 19/5 19/8 21/23 22/19 24/23 25/3 25/6 25/24 26/4 26/5 26/8 26/25 30/22 46/5 46/23 50/14 50/14 50/14 50/14 59/22 60/2 60/19 64/5 65/8 65/19 68/2 68/7 68/16 69/5 79/16 81/22 82/18 86/5 88/24 90/12 97/19 100/5 102/3 102/4 103/11 103/16 109/17 109/21 110/4 111/13 119/7 123/16 128/14 137/15 137/20 141/6 144/2 144/11 144/17 144/19 145/4 145/9 145/16 146/7 146/15 147/8 150/23 151/13 153/4	153/15 163/2 164/11 170/3 181/3 182/22 183/14 191/1 194/2 moreover [1] 178/10 morning [8] 1/5 1/7 45/18 62/5 75/15 78/13 79/9 81/5 most [19] 2/20 8/2 8/4 9/19 9/25 20/1 21/16 35/12 61/16 62/20 88/12 114/8 131/12 163/12 172/10 186/2 190/9 190/10 195/2 mostly [1] 99/4 motives [1] 81/25 move [8] 12/21 60/12 131/24 133/2 134/8 137/22 145/17 181/1 moved [2] 7/12 82/3 Moving [1] 6/20 MP [39] 1/8 4/24 12/7 30/7 32/10 33/13 33/16 35/17 47/9 50/22 54/13 55/20 56/11 61/21 62/5 62/14 63/17 73/21 84/11 93/1 124/4 125/15 125/15 126/16 133/8 137/25 139/22 139/24 140/4 140/6 140/25 173/7 174/9 176/11 178/17 178/24 186/21 200/3 200/12 MP's [2] 55/25 56/13 MPs [20] 11/20 58/25 64/5 66/9 67/12 80/18 81/11 99/25 100/4 101/10 115/12 125/6 134/16 141/5 141/8 141/20 141/22 145/7 171/22 172/25 Mr [130] 1/7 1/9 1/12 1/22 2/6 2/16 13/6 13/7 13/18 43/24 43/24 44/6 44/16 44/23 46/4 47/14 48/21 52/21 56/5 56/19 57/9 58/10 59/1 60/21 60/22 61/21 62/5 66/1 72/13 72/14 72/21 72/24 73/1 73/6 73/8 73/22 76/2 76/9 77/6 77/11 77/14 78/5 78/10 79/22 79/23 82/24 83/16 83/17 83/19 83/20 83/25 84/12 85/14 95/24 99/23 100/15 101/7 102/24 104/3 108/8 111/14 112/14 117/6 117/15 123/13 123/20 125/19 126/2 126/10 126/11 126/22 128/14
----------	-------------------------------	--	--	--

M	Mr Moloney [3] 171/8 171/15 183/23	Mrs Misra's [1] 164/23	84/17 86/14 87/22 88/17 89/18 89/21 90/19 90/21 91/14 93/2 96/4 96/5 96/7 97/21 98/4 99/2 99/5 100/23 101/23 103/11 103/20 104/7 106/4 108/7 110/3 110/17 112/2 112/7 117/7 117/13 117/14 118/8 118/19 118/19 118/25 119/9 120/8 121/1 121/3 121/7 121/9 122/22 124/23 125/21 127/19 127/25 129/11 133/4 133/6 135/20 138/10 139/23 141/19 143/20 143/22 143/24 144/25 145/1 148/23 148/25 149/1 149/2 149/14 149/21 150/8 150/9 150/9 151/24 151/24 152/1 152/12 152/12 152/13 152/15 152/21 153/7 154/6 154/13 154/21 155/14 157/18 160/22 162/2 163/13 163/23 164/4 164/18 165/17 170/13 170/16 171/5 171/17 172/9 172/14 174/7 176/1 176/3 178/20 185/14 185/17 185/21 186/2 186/8 189/23 191/13 191/16 193/4 198/22 199/7	92/22 112/5 119/3 179/14 nearly [2] 19/14 138/16 necessarily [3] 6/8 54/16 54/18 need [19] 64/16 71/22 72/5 91/7 91/20 95/3 108/11 132/21 137/13 166/18 168/10 170/3 171/1 183/8 193/7 194/6 194/10 194/12 196/20 needed [8] 11/7 30/1 33/6 92/1 137/8 144/19 164/1 164/11 needs [8] 30/2 33/6 168/23 193/14 193/20 197/10 197/10 197/10 negligible [1] 133/17 negotiating [2] 9/2 127/22 negotiations [1] 17/1 neighbouring [1] 39/25 neither [7] 51/16 120/14 126/2 142/5 147/17 164/20 177/18 nervousness [1] 65/17 network [18] 9/20 10/2 11/6 11/7 11/14 18/8 18/22 19/3 19/19 40/11 41/3 42/1 42/3 79/5 91/13 170/11 187/11 198/21 neutrally [1] 44/1 never [8] 43/21 44/18 44/20 66/3 66/7 146/22 175/7 176/7 nevertheless [1] 101/25 new [9] 6/18 19/21 95/25 114/20 124/17 142/23 146/3 157/4 168/19 newly [1] 6/18 Newmark [1] 63/17 news [9] 150/2 150/25 151/4 151/17 153/23 154/4 154/8 154/16 155/5 next [19] 50/20 74/22 74/23 134/3 138/13 156/17 156/20 156/23 157/2 158/16 173/23 173/24 174/22 175/6 175/23 176/11 181/25 183/24 193/5 NFSP [12] 72/23 73/1 77/13 77/19 79/24 79/24 157/6 171/11 197/17 197/18 198/1 198/19
Mr... [58] 128/23 130/1 134/14 135/2 136/10 136/17 138/1 138/8 145/8 145/23 149/21 150/22 152/2 152/20 154/3 155/14 156/8 161/10 161/23 163/6 164/14 168/3 171/8 171/9 171/13 171/15 171/16 173/4 173/6 174/12 174/24 178/17 181/22 183/23 184/2 184/11 185/2 185/3 185/7 186/9 186/21 187/13 188/3 188/6 188/9 188/18 188/20 189/3 189/8 189/10 189/24 191/15 199/9 200/5 200/7 200/14 200/16 200/20	Mr Norman [1] 178/17	Ms [20] 49/20 55/7 55/10 73/12 73/23 78/6 78/9 140/21 171/9 171/10 183/25 186/21 190/13 191/14 197/15 199/8 199/17 200/9 200/18 200/22	171/10 199/8 200/9 171/10 199/8 200/9	
Mr Osborne [1] 138/8	Mr Simpson [1] 125/19	Ms Kaur [1] 140/21	much [27] 1/6 10/19 13/17 14/16 20/14 41/21 49/8 69/25 83/20 83/24 84/13 85/12 85/21 87/9 88/20 100/17 106/7 106/12 108/1 115/19 151/15 170/1 170/3 171/5 171/14 177/14 199/18	
Mr Smith [5] 128/14 128/23 134/14 185/2 185/7	Mr Smith's [1] 186/9	Ms Page [2] 171/9 191/14	multiple [1] 3/22	
Mr Stein [7] 72/24 73/1 78/5 79/22 171/9 191/15 200/20	MR STEVENS [11] 1/9 13/18 43/24 44/6 44/16 44/23 72/13 76/2 82/24 83/17 200/5	Ms Smith [1] 49/20	must [11] 39/16 104/16 104/17 107/8 107/16 143/24 183/12 188/22 195/4 195/18 195/19	
Mr Thomson [1] 79/23	Mr Thomson [1] 79/23	Ms Swinson [1] 199/17	mutual [1] 170/17	
Mr Arbutnot [2] 60/21 60/22	Mr Walters [1] 138/1	Ms Thomson [3] 55/10 73/12 73/23	mutualisation [2] 170/8 171/3	
Mr Bates [6] 117/15 123/13 136/10 136/17 154/3 164/14	Mr Whitehead [12] 99/23 100/15 150/22 152/2 155/14 156/8 161/10 163/6 187/13 189/3 189/8 189/10	Ms Vennells [1] 190/13	mutualised [1] 170/21	
Mr Beer [24] 83/25 84/12 85/14 95/24 101/7 102/24 104/3 111/14 112/14 117/6 130/1 145/8 149/21 152/20 161/23 168/3 171/13 173/4 173/6 184/11 185/3 188/6 199/9 200/14	Mr Whitehead's [1] 108/8	Ms Watt [5] 78/6 78/9 171/10 199/8 200/9	my [178] 1/11 4/25 5/5 5/9 6/1 7/14 9/18 10/8 10/19 14/1 14/12 16/17 19/9 20/18 21/9 22/14 23/17 23/23 25/2 26/13 27/17 28/9 28/13 28/19 29/4 29/10 29/11 29/11 30/25 31/2 35/20 38/24 42/16 44/1 44/12 44/18 45/8 46/24 47/23 55/16 55/25 56/3 56/17 58/7 59/7 61/12 61/23 62/19 64/14 65/23 67/19 68/23 69/2 69/4 69/17 72/9 72/14 74/4 74/13 74/23 76/1 76/7 77/7 77/7 78/18 80/10 80/12 82/25 84/14	
Mr Binley [4] 52/21 57/9 59/1 73/22	Mr Wilson [2] 48/21 181/22	Ms Swinson [1] 199/17	myself [5] 3/13 99/2 104/25 136/8 154/7	
Mr Cable [1] 126/22	Mrs [34] 61/25 62/2 125/19 164/23 164/23 174/9 174/12 174/15 174/20 174/23 174/25 176/17 176/21 177/1 177/7 177/10 177/17 177/23 178/4 178/7 178/8 178/15 178/25 179/23 181/4 181/6 181/11 182/7 182/24 183/12 185/8 185/10 188/19 191/10	Ms Thomson [3] 55/10 73/12 73/23	N	
Mr Cook [6] 56/5 58/10 66/1 76/9 77/11 77/14	Mrs Buffrey's [1] 164/23	Ms Vennells [1] 190/13	name [19] 1/10 1/11 4/19 6/2 6/11 7/5 7/15 7/16 7/20 26/12 84/14 84/16 84/17 115/16 148/5 171/17 191/16 195/15 195/25	
Mr Davey [3] 126/2 126/11 145/23	Mrs Callow [1] 125/19	Ms Watt [5] 78/6 78/9 171/10 199/8 200/9	named [1] 6/18	
Mr Davey's [1] 126/10	Mrs Hamilton [1] 61/25	Ms Watt [5] 78/6 78/9 171/10 199/8 200/9	namely [4] 39/9 100/13 105/6 196/18	
Mr David [1] 62/5	Mrs Hamilton's [1] 62/2	Ms Watt [5] 78/6 78/9 171/10 199/8 200/9	names [5] 4/18 5/25 104/6 104/8 195/25	
Mr Davies [1] 184/2	Mrs Henderson [15] 174/12 174/20 174/25 177/17 177/23 178/4 178/7 178/15 178/25 179/23 181/6 181/11 182/7 182/24 183/12	Ms Watt [5] 78/6 78/9 171/10 199/8 200/9	narrow [1] 150/20	
Mr Griffiths [1] 135/2	Mrs Henderson's [9] 174/15 174/23 176/17 176/21 177/1 177/7 177/10 178/8 181/4	Ms Watt [5] 78/6 78/9 171/10 199/8 200/9	National [7] 41/1 76/14 76/24 78/11 113/22 164/6 170/15	
Mr Hutton [1] 13/7	Mrs Henderson's [9] 174/15 174/23 176/17 176/21 177/1 177/7 177/10 178/8 181/4	Ms Watt [5] 78/6 78/9 171/10 199/8 200/9	nationalised [1] 18/17	
Mr James [1] 61/21	Mrs Henderson's [9] 174/15 174/23 176/17 176/21 177/1 177/7 177/10 178/8 181/4	Ms Watt [5] 78/6 78/9 171/10 199/8 200/9	nationally [1] 38/22	
Mr Julian [1] 47/14	Mrs Henderson's [9] 174/15 174/23 176/17 176/21 177/1 177/7 177/10 178/8 181/4	Ms Watt [5] 78/6 78/9 171/10 199/8 200/9	nationwide [1] 142/22	
Mr Lamb [2] 174/12 174/24	Mrs Henderson's [9] 174/15 174/23 176/17 176/21 177/1 177/7 177/10 178/8 181/4	Ms Watt [5] 78/6 78/9 171/10 199/8 200/9	natter [1] 77/18	
Mr Lord [4] 186/21 188/3 188/9 188/20	Mrs Henderson's [9] 174/15 174/23 176/17 176/21 177/1 177/7 177/10 178/8 181/4	Ms Watt [5] 78/6 78/9 171/10 199/8 200/9	nature [12] 30/25 32/8 47/2 64/8 68/17 79/10 79/19 91/23	
Mr McFadden [16] 1/7 1/12 1/22 2/6 2/16 43/24 46/4 56/19 72/14 72/21 73/8 77/6 78/10 83/16 83/19 83/20	Mrs Henderson's [9] 174/15 174/23 176/17 176/21 177/1 177/7 177/10 178/8 181/4	Ms Watt [5] 78/6 78/9 171/10 199/8 200/9		
Mr Misra [2] 188/18 189/24	Mrs Henderson's [9] 174/15 174/23 176/17 176/21 177/1 177/7 177/10 178/8 181/4	Ms Watt [5] 78/6 78/9 171/10 199/8 200/9		

N	Norwich [2] 175/5 177/24	obliged [1] 181/8	officials [71] 20/17 20/22 23/13 24/19 24/21 31/3 31/17 33/2 55/8 56/3 87/22 88/3 88/20 92/6 93/12 94/23 98/24 100/6 103/21 104/7 108/7 108/14 109/8 117/18 119/10 119/17 119/24 122/7 122/7 122/22 127/17 128/17 134/5 139/17 140/1 141/10 143/20 143/24 145/2 145/4 145/9 145/15 148/22 149/1 149/3 149/5 149/12 155/16 157/18 159/2 159/8 162/2 162/18 163/23 164/4 164/19 165/1 165/6 168/24 170/19 172/6 172/21 174/7 178/20 179/4 182/19 182/22 184/19 184/22 192/20 194/11	64/11 67/16 68/13 104/7 136/5 ongoing [3] 143/2 157/3 177/2 online [3] 2/18 156/21 158/19 Online' [1] 156/18 only [33] 29/2 30/4 32/5 39/18 53/21 61/5 70/1 75/23 89/5 97/16 106/4 108/23 110/3 114/25 115/15 115/20 116/19 118/16 119/5 119/14 132/4 135/1 138/14 146/1 180/24 182/16 183/7 183/16 186/15 193/1 194/4 195/18 198/18 open [5] 11/24 12/10 148/2 148/19 180/23 opening [1] 52/6 operate [5] 22/19 35/25 35/25 36/3 95/12 operated [2] 95/6 129/1 operates [4] 40/15 142/14 173/23 176/20 operating [1] 131/13 operation [6] 12/17 67/13 72/4 96/13 96/22 144/11 operational [45] 12/11 33/14 38/2 38/10 41/22 42/15 46/7 46/9 46/14 46/19 49/17 50/3 63/9 67/7 89/25 90/18 91/8 92/3 92/15 93/11 93/21 94/13 94/19 94/25 99/20 99/22 101/16 116/24 121/25 123/18 123/23 130/10 131/7 131/20 134/19 134/23 136/5 142/3 143/14 144/18 146/19 162/6 173/15 177/13 177/16 operations [9] 40/19 81/6 81/9 90/23 93/9 94/1 116/22 122/3 162/9 operative [1] 145/13 opine [1] 66/12 opportunity [2] 57/24 116/3 opposed [3] 80/3 81/7 109/17 opposition [6] 17/18 17/23 18/18 80/17 80/20 92/25 options [1] 120/4 or [193] 4/1 4/8 4/8 4/9 6/18 7/10 7/20 9/1 9/12 10/8 10/20 11/1
nights [1] 172/10	not [225]	obtained [4] 48/13 58/13 90/8 96/11	64/11 67/16 68/13	
nine [1] 198/1	note [11] 22/9 30/8 33/9 33/17 90/5 108/8 108/17 149/4 160/19 160/20 162/12	obvious [1] 159/5	104/7 136/5	
no [105] 4/11 7/22 7/22 11/16 12/9 13/13 22/24 23/16 24/13 26/2 26/8 27/13 27/13 27/17 32/1 32/7 32/19 35/11 38/18 39/20 42/24 48/11 48/24 50/11 53/10 58/1 58/3 58/14 58/17 60/7 61/3 62/4 63/25 65/14 65/21 66/3 66/12 72/2 75/2 79/8 87/6 87/8 89/2 91/10 95/3 95/19 95/23 100/2 100/21 108/11 108/25 109/3 109/5 113/1 117/9 123/12 123/12 124/23 127/11 127/12 127/13 127/13 130/11 135/15 135/18 136/2 136/7 136/11 136/16 137/9 141/15 144/13 145/8 145/15 150/4 151/25 152/8 153/10 154/7 154/10 154/11 154/12 155/15 157/9 158/3 160/21 163/20 164/2 166/2 170/23 174/11 175/19 178/5 179/4 179/9 180/2 180/12 180/19 180/22 180/24 186/15 187/21 188/12 190/6 198/18	noted [2] 149/23 189/17	obviously [13] 26/17 34/13 72/12 88/17 99/3 107/21 125/25 130/17 138/20 186/16 191/4 195/24 197/18	157/3 177/2	
nobody [2] 75/11 77/12	nothing [5] 35/9 63/12 135/8 135/25 137/5	occasion [1] 166/21	156/21 158/19	
nod [2] 167/16 172/1	notice [1] 175/16	occasionally [2] 172/23 172/24	Online' [1] 156/18	
nodded [8] 131/23 158/14 158/25 166/11 167/14 185/6 194/5 197/3	November [6] 29/15 60/13 60/15 174/24 181/11 187/17	occasions [5] 115/9 117/25 118/14 122/8 186/4	only [33] 29/2 30/4	
nodding [1] 171/25	now [64] 16/23 18/7 19/14 20/20 23/22 27/6 31/4 34/2 46/5 47/25 48/7 58/20 59/13 59/22 60/14 60/17 60/23 62/2 65/18 65/20 65/21 68/3 69/2 69/14 69/20 74/13 74/15 76/22 78/4 78/23 84/1 90/13 92/12 99/11 99/13 101/22 103/19 106/8 106/9 115/3 121/4 123/6 123/6 125/4 132/1 135/16 137/22 151/19 166/5 166/7 168/4 171/23 175/4 176/2 176/12 177/7 182/10 188/18 191/23 192/4 193/14 195/23 196/5 197/4	occupied [1] 97/5	32/5 39/18 53/21 61/5	
non [1] 192/10	nowhere [1] 113/18	occur [3] 58/2 92/1 199/1	70/1 75/23 89/5 97/16	
non-statutory [1] 192/10	Nuclear [1] 23/25	occurred [3] 55/12 89/21 106/23	106/4 108/23 110/3	
None [1] 141/8	number [40] 1/19 30/11 38/7 61/10 64/4 70/24 74/21 79/3 93/1 93/13 95/15 99/15 107/22 107/25 108/6 108/10 112/4 113/16 114/4 119/9 125/10 140/9 141/18 141/19 142/8 144/6 144/15 152/24 154/24 155/1 159/16 160/2 169/9 169/16 170/6 171/18 171/22 172/3 172/13 172/18	occurring [1] 97/22	114/25 115/15 115/20	
nonetheless [3] 61/9 117/21 192/11	number 4 [1] 169/9	occurs [1] 148/9	116/19 118/16 119/5	
nor [12] 51/16 89/20 106/22 107/2 114/15 114/20 120/15 126/2 142/5 147/21 164/20 177/18	number 5 [1] 169/16	October [21] 17/5 63/16 65/12 97/18 108/18 108/23 110/11 125/5 143/20 145/18 149/4 149/5 149/20 150/14 150/15 152/14 156/7 156/7 159/15 160/4 160/6	119/14 132/4 135/1	
normal [3] 46/18 163/13 185/17	number 6 [1] 170/6	off [10] 22/3 109/25 115/15 120/6 122/17 130/2 134/4 143/12 168/4 184/16	138/14 136/5	
normally [5] 23/16 44/4 49/13 110/15 146/11	numbers [1] 115/3	offence [2] 122/15 179/23	144/18 146/19 162/6	
Norman [5] 86/22 174/9 174/17 178/17 178/23	O	offences [2] 102/6 138/17	173/15 177/13 177/16	
	objective [9] 11/11 39/4 39/11 42/2 42/7 42/9 42/22 43/2 43/19	offenders [1] 189/17	operations [9] 40/19	
	objectives [2] 40/7 161/9	offensive [1] 146/2	81/6 81/9 90/23 93/9	
		offer [3] 142/17 162/19 170/9	94/1 116/22 122/3	
		offered [1] 180/12	162/9	
		offering [3] 113/14 149/6 151/1	operative [1] 145/13	
		offers [1] 171/3	opine [1] 66/12	
		office [433]	opportunity [2] 57/24	
		Office's [16] 50/7 53/14 57/20 64/25 68/17 77/23 90/22 91/20 97/6 99/12 101/14 126/25 127/22 130/24 145/6 187/11	116/3	
		officer [1] 195/8	opposed [3] 80/3	
		offices [16] 10/2 38/7 38/12 79/16 80/8 91/13 91/22 93/2 93/3 146/6 147/6 147/15 147/16 148/12 198/5 199/2	81/7 109/17	
		official [5] 30/1 150/9 151/24 168/5 185/18	opposition [6] 17/18	
			17/23 18/18 80/17	
			80/20 92/25	
			options [1] 120/4	
			or [193] 4/1 4/8 4/8	
			4/9 6/18 7/10 7/20 9/1	
			9/12 10/8 10/20 11/1	

<p>O or... [181] 12/10 14/3 15/25 16/13 16/14 17/11 19/12 20/23 21/4 21/5 21/11 21/11 22/4 22/5 22/23 23/8 23/11 23/13 23/21 24/6 24/18 26/23 27/8 28/1 29/18 30/7 30/24 31/7 31/14 32/4 32/8 32/11 33/2 33/4 33/10 33/21 34/19 35/10 37/10 38/3 38/8 39/19 39/25 40/1 40/2 42/17 42/21 43/1 43/12 43/14 44/3 44/8 44/13 44/17 44/25 46/11 46/15 46/16 47/11 49/3 51/14 52/9 55/7 55/9 56/5 56/6 57/14 57/15 59/23 62/12 64/24 66/9 66/12 67/3 67/9 67/11 67/12 67/13 67/15 67/18 68/14 71/7 72/7 74/12 74/17 74/17 76/19 78/19 79/7 81/12 81/21 88/7 88/14 88/14 90/1 94/2 94/6 94/11 94/23 96/10 96/13 96/13 96/18 97/4 98/16 98/21 100/3 101/1 101/11 102/23 103/11 103/12 104/5 104/11 104/25 105/7 105/23 108/3 110/12 110/13 112/7 112/12 115/11 115/14 118/24 119/16 125/6 126/11 127/4 127/10 127/14 128/5 129/8 130/2 132/25 134/5 136/23 137/10 142/6 142/19 143/12 144/8 146/9 146/24 147/4 147/8 151/25 152/8 154/12 157/13 157/14 157/25 158/24 160/20 162/11 163/2 163/5 163/8 163/10 163/14 163/22 164/22 165/6 165/9 166/2 172/20 173/17 176/5 177/19 178/7 184/7 185/8 185/19 185/23 186/4 186/7 187/22 188/13 189/16 190/3 197/23 oral [7] 1/14 55/6 83/22 100/2 109/11 109/15 154/6 order [10] 30/3 73/4 73/7 91/5 120/14 125/12 147/24 178/3</p>	<p>182/24 194/7 organisation [11] 37/14 41/8 41/10 80/1 88/14 113/21 114/4 152/23 154/24 157/2 193/19 organisations [10] 6/11 23/22 24/1 24/24 25/1 25/14 25/19 37/13 75/8 83/11 orient [1] 73/19 oriented [1] 26/6 original [8] 30/7 49/13 55/18 117/8 118/25 120/18 121/20 147/24 originated [1] 184/3 Osborne [2] 137/24 138/8 Osborne's [1] 139/16 other [54] 4/4 4/7 6/10 9/4 9/7 9/12 14/25 15/9 22/9 23/13 24/20 25/1 29/25 35/3 35/7 35/9 35/12 40/20 42/17 47/17 48/25 55/8 58/5 62/23 66/9 67/9 68/15 94/7 94/9 97/21 102/5 111/17 112/3 115/9 118/7 135/18 138/15 140/18 153/5 153/25 160/7 164/3 169/24 169/25 172/18 176/5 189/16 191/3 193/11 193/23 193/24 196/11 197/22 198/20 others [16] 47/19 50/18 53/1 60/25 63/21 104/6 104/25 109/18 113/17 115/11 121/8 125/22 138/4 163/22 180/5 196/14 ought [7] 124/25 126/13 126/17 132/24 134/4 144/13 150/12 our [30] 9/1 18/19 23/6 25/18 45/18 53/20 63/24 91/11 91/13 91/24 92/15 92/19 92/24 98/3 99/3 113/13 113/14 114/4 115/18 126/7 146/23 153/20 154/1 161/9 164/17 164/19 170/12 170/12 170/12 170/14 ourselves [1] 73/19 out [41] 10/2 11/18 13/7 26/9 27/11 34/11 37/12 38/9 47/14 48/3 50/6 53/3 57/18 58/23 62/24 63/15 66/19 66/23 66/25 67/22 74/22 76/13 85/3</p>	<p>110/16 118/2 118/15 119/14 123/4 129/15 134/17 135/4 135/23 137/10 141/25 148/5 149/12 190/17 193/15 193/21 195/10 197/24 outcome [1] 43/14 outlines [2] 113/13 115/25 outreach [1] 39/21 outset [2] 99/10 181/19 outside [5] 94/18 98/7 110/23 152/10 190/11 over [42] 4/3 7/12 8/18 13/15 16/13 19/10 40/10 41/21 50/13 59/9 60/1 64/11 64/12 90/10 92/13 93/1 97/20 114/22 114/23 115/7 115/19 122/6 123/24 125/17 132/18 133/7 138/7 142/15 143/11 147/16 147/20 156/13 156/15 162/15 164/15 167/6 168/15 169/16 171/17 175/15 175/23 189/19 overall [7] 6/14 8/14 15/15 19/18 46/20 67/7 79/20 oversee [3] 69/6 96/18 98/19 overseeing [3] 18/24 24/10 88/13 oversees [2] 96/22 168/2 oversight [12] 8/17 70/8 88/7 88/9 88/16 97/25 98/15 98/21 102/23 121/17 167/20 168/13 overturn [2] 69/18 70/2 overturned [3] 59/17 67/24 78/2 own [15] 18/19 25/20 37/15 37/16 43/19 70/21 70/22 74/9 98/19 126/9 146/10 146/12 158/4 171/24 193/19 owned [16] 25/14 25/20 36/21 37/3 37/5 37/23 42/20 43/2 66/23 69/4 70/20 87/16 133/20 139/8 151/6 190/21 owner [5] 43/25 44/7 45/1 45/3 147/19 ownership [4] 67/2 67/7 80/4 184/9</p>	<p>P PA [2] 135/9 137/6 pack [3] 125/13 139/18 141/17 package [1] 3/24 page [89] 1/21 1/22 2/6 13/20 14/10 28/7 36/9 50/21 51/5 54/9 54/25 58/8 61/19 62/19 65/9 65/10 84/21 85/5 85/13 85/14 89/13 89/15 90/10 90/10 95/4 99/8 108/20 108/21 114/22 122/9 122/10 124/1 125/13 125/18 125/18 126/14 129/13 129/17 130/20 131/25 132/13 132/18 133/7 134/10 135/21 138/7 139/3 139/7 143/11 148/20 156/9 156/11 156/15 157/11 158/10 158/15 159/22 161/10 162/15 167/2 167/6 167/6 167/7 167/19 168/15 168/16 168/18 169/9 169/16 171/9 174/22 175/23 175/24 175/25 176/21 176/25 177/8 180/7 181/2 183/25 187/2 187/15 187/16 188/9 191/14 191/18 191/20 191/22 200/18 page 1 [5] 54/9 62/19 134/10 159/22 187/15 page 10 [1] 28/7 page 14 [2] 54/25 85/5 page 15 [1] 130/20 page 17 [1] 129/13 page 2 [4] 50/21 84/21 158/10 187/16 page 21 [1] 65/9 page 22 [2] 89/13 99/8 page 24 [2] 90/10 122/9 page 25 [2] 36/9 148/20 page 26 [1] 2/6 page 287 [1] 191/22 page 29 [1] 180/7 page 3 [8] 13/20 51/5 61/19 125/13 126/14 156/9 157/11 188/9 page 30 [2] 108/20 108/21 page 4 [2] 14/10 125/18 page 41 [1] 167/2 page 42 [1] 167/6 page 43 [1] 167/19</p>	<p>page 44 [1] 168/16 page 45 [1] 168/18 page 47 [1] 85/14 page 6 [1] 1/21 page 62 [1] 85/13 page 67 [2] 191/18 191/20 page 7 [2] 95/4 187/2 page 9 [1] 124/1 pages [1] 181/1 pagination [1] 191/21 paid [1] 19/15 pan [1] 129/15 Panorama [1] 169/22 paper [9] 25/8 25/8 26/18 27/20 113/3 118/5 118/16 120/2 127/16 papers [5] 89/11 97/23 106/4 118/8 194/19 paperwork [3] 15/23 21/13 93/23 paragraph [82] 1/21 1/23 13/20 13/21 14/10 28/7 30/23 36/9 47/16 48/15 48/20 49/15 49/22 49/24 52/6 55/1 55/23 58/7 61/8 63/4 64/16 65/15 78/15 78/20 79/25 84/22 85/6 89/14 90/5 90/11 90/13 95/3 99/9 103/7 103/22 108/20 108/21 121/1 122/10 132/12 133/12 134/3 138/9 138/13 139/3 139/7 140/8 143/14 144/21 145/14 148/21 156/15 156/17 156/20 156/23 157/2 158/12 158/16 165/21 168/18 170/7 172/13 173/14 173/23 174/25 175/6 175/25 176/14 176/15 176/19 176/23 176/25 177/3 177/8 177/9 180/7 180/9 181/2 181/21 187/4 192/2 197/25 paragraph 1 [1] 145/14 paragraph 101 [2] 36/9 122/10 paragraph 108 [2] 108/20 108/21 paragraph 116 [1] 180/7 paragraph 138 [1] 103/22 paragraph 14 [1] 172/13 paragraph 149 [1]</p>
--	---	---	--	---

P	paragraphs 94 [1] 106/20	paste [7] 158/22 158/24 158/24 159/6 166/6 184/13 184/14	14/19 14/20 15/6 15/11 16/3 16/17 16/23 17/4 18/10 34/17 44/18 59/9 69/14 69/24 87/2 97/3 148/3 186/16 186/17 198/3	platform [1] 124/12
paragraph 149... [1] 168/18	paragraphs 96 [1] 108/12	pasting [2] 159/10 166/14	periodically [1] 64/21	play [2] 12/9 92/19
paragraph 156 [2] 170/7 181/2	pardon [1] 144/5	Pat [3] 1/11 54/12 56/10	permanent [8] 19/25 19/25 20/8 20/11 20/15 20/16 23/3 192/14	played [6] 11/16 38/18 39/6 39/12 57/18 149/20
paragraph 159 [1] 181/21	parentheses [2] 85/8 85/9	Patel [7] 101/11 124/4 125/1 126/21 130/5 130/21 131/10	person [3] 24/9 68/21 105/6	playing [1] 151/4
paragraph 16 [2] 14/10 78/20	Parliament [22] 2/23 2/25 3/3 10/17 11/21 12/2 14/13 17/24 18/20 36/16 36/17 69/14 69/24 78/21 86/1 91/18 93/25 96/25 100/22 100/24 101/3 165/14	PATRICK [2] 1/8 200/2	personal [2] 31/11 61/13	plea [6] 180/15 180/19 181/5 181/23 182/2 182/5
paragraph 2 [1] 1/23	Parliamentary [29] 3/1 3/7 3/10 3/16 8/2 10/15 25/10 26/23 86/6 86/18 86/21 87/2 99/25 100/1 100/3 100/4 100/14 101/6 125/2 125/10 126/20 127/6 127/7 127/9 129/23 141/7 141/13 153/9 159/17	pattern [1] 35/15	personalising [1] 120/24	pleaded [2] 177/25 180/11
paragraph 23 [1] 1/21	part [36] 9/18 10/19 10/23 11/17 12/19 15/15 15/15 15/17 15/18 23/6 24/16 27/23 38/18 40/3 40/4 42/24 70/16 76/6 79/5 79/19 89/9 110/3 112/24 138/11 142/19 149/20 150/19 154/4 154/17 164/19 165/18 165/19 175/20 180/6 191/23 192/1	Paula [1] 104/5	personality [1] 139/21	pleading [1] 178/10
paragraph 26 [1] 95/3	particular [15] 9/13 10/13 12/7 13/24 18/15 39/17 49/12 59/25 74/13 82/10 90/2 105/9 117/4 139/20 165/13	pause [3] 12/20 21/6 54/4	personally [3] 106/2 106/6 115/7	please [80] 1/10 1/20 3/2 3/9 5/7 13/5 13/20 28/6 36/10 47/6 47/8 50/20 50/21 51/5 54/9 54/25 55/1 60/12 61/19 63/3 65/9 65/10 73/10 73/14 84/16 85/5 85/13 85/23 87/10 89/13 99/8 103/7 112/21 112/24 116/11 122/9 123/25 123/25 125/13 125/18 126/19 129/13 130/20 131/9 131/24 131/25 132/18 133/2 133/7 134/8 134/10 137/16 137/22 140/5 143/11 148/21 153/11 155/18 156/3 156/4 156/9 158/10 159/21 162/15 166/25 167/6 167/19 167/23 169/16 170/6 176/10 177/6 180/3 181/1 181/17 181/25 186/22 187/2 187/13 191/21
paragraph 27 [1] 79/25	Participants [1] 171/8	penalty [1] 178/2	persuade [1] 170/4	plenty [1] 159/15
paragraph 28 [1] 197/25	particular [15] 9/13 10/13 12/7 13/24 18/15 39/17 49/12 59/25 74/13 82/10 90/2 105/9 117/4 139/20 165/13	pending [1] 147/20	persuading [1] 184/15	plus [3] 91/18 176/5 196/10
paragraph 23 [1] 1/21	particular [15] 9/13 10/13 12/7 13/24 18/15 39/17 49/12 59/25 74/13 82/10 90/2 105/9 117/4 139/20 165/13	penny [1] 175/7	perspective [2] 88/15 144/25	pm [7] 84/5 84/7 106/13 106/15 155/22 155/24 199/19
paragraph 26 [1] 95/3	particular [15] 9/13 10/13 12/7 13/24 18/15 39/17 49/12 59/25 74/13 82/10 90/2 105/9 117/4 139/20 165/13	pension [2] 19/17 109/23	phrase [3] 28/20 121/10 122/15	pocket [1] 134/18
paragraph 27 [1] 79/25	particular [15] 9/13 10/13 12/7 13/24 18/15 39/17 49/12 59/25 74/13 82/10 90/2 105/9 117/4 139/20 165/13	pensions [1] 19/12	phrases [2] 57/21 58/3	point [42] 8/11 13/1 14/4 17/19 27/14 41/19 51/2 52/3 54/8 58/6 58/23 59/12 63/18 67/25 68/4 68/18 71/8 73/19 75/24 75/25 76/1 76/2 76/7 79/18 81/22 82/2 82/6 82/10 108/9 111/5 131/7 145/13 148/16 150/4 152/20 166/16 167/20 169/12 179/10 179/14 185/13 188/23
paragraph 28 [1] 197/25	particular [15] 9/13 10/13 12/7 13/24 18/15 39/17 49/12 59/25 74/13 82/10 90/2 105/9 117/4 139/20 165/13	Penultimate [2] 139/3 187/4	pick [2] 19/12 19/17	pointed [1] 100/12
paragraph 36 [1] 28/7	particular [15] 9/13 10/13 12/7 13/24 18/15 39/17 49/12 59/25 74/13 82/10 90/2 105/9 117/4 139/20 165/13	people [64] 19/12 19/17 20/17 20/25 21/3 24/3 24/5 27/21 27/22 30/16 34/13 34/21 37/24 47/1 53/10 53/12 55/17 58/22 61/5 65/13 66/8 68/2 69/3 70/19 72/1 74/5 74/11 74/21 75/7 75/13 75/17 75/17 76/12 77/15 81/25 88/15 88/23 98/7 98/12 104/8 109/18 137/4 137/13 137/16 141/20 144/16 152/24 153/2 159/18 170/4 183/6 183/9 190/10 190/11 190/12 190/20 193/9 193/19 193/24 194/18 194/21 197/6 197/7 199/1	picked [2] 153/8 187/12	pointing [2] 26/9 38/9
paragraph 37 [1] 30/23	particular [15] 9/13 10/13 12/7 13/24 18/15 39/17 49/12 59/25 74/13 82/10 90/2 105/9 117/4 139/20 165/13	peak [1] 142/16	picks [1] 187/16	points [15] 41/21 57/19 60/6 78/1 82/8
paragraph 39 [1] 64/16	particular [15] 9/13 10/13 12/7 13/24 18/15 39/17 49/12 59/25 74/13 82/10 90/2 105/9 117/4 139/20 165/13	peer [1] 16/7	piece [6] 30/24 56/21 98/10 151/9 168/11 169/20	
paragraph 5 [1] 132/12	particular [15] 9/13 10/13 12/7 13/24 18/15 39/17 49/12 59/25 74/13 82/10 90/2 105/9 117/4 139/20 165/13	Penalty [1] 178/2	pieces [3] 150/13 155/7 192/23	
paragraph 56 [1] 55/1	particular [15] 9/13 10/13 12/7 13/24 18/15 39/17 49/12 59/25 74/13 82/10 90/2 105/9 117/4 139/20 165/13	pending [1] 147/20	piloting [1] 110/8	
paragraph 57 [1] 55/23	particular [15] 9/13 10/13 12/7 13/24 18/15 39/17 49/12 59/25 74/13 82/10 90/2 105/9 117/4 139/20 165/13	penny [1] 175/7	place [13] 35/20 44/21 59/17 72/5 88/8 96/1 129/5 150/16 156/13 158/13 162/3 162/11 165/3	
paragraph 6 [1] 84/22	particular [15] 9/13 10/13 12/7 13/24 18/15 39/17 49/12 59/25 74/13 82/10 90/2 105/9 117/4 139/20 165/13	pension [2] 19/17 109/23	placed [3] 128/1 131/5 131/18	
paragraph 61 [1] 85/6	particular [15] 9/13 10/13 12/7 13/24 18/15 39/17 49/12 59/25 74/13 82/10 90/2 105/9 117/4 139/20 165/13	pensions [1] 19/12	placing [1] 114/3	
Paragraph 62 [1] 58/7	particular [15] 9/13 10/13 12/7 13/24 18/15 39/17 49/12 59/25 74/13 82/10 90/2 105/9 117/4 139/20 165/13	Penultimate [2] 139/3 187/4	plain [1] 182/7	
paragraph 9 [3] 13/20 13/21 78/15	particular [15] 9/13 10/13 12/7 13/24 18/15 39/17 49/12 59/25 74/13 82/10 90/2 105/9 117/4 139/20 165/13	people [64] 19/12 19/17 20/17 20/25 21/3 24/3 24/5 27/21 27/22 30/16 34/13 34/21 37/24 47/1 53/10 53/12 55/17 58/22 61/5 65/13 66/8 68/2 69/3 70/19 72/1 74/5 74/11 74/21 75/7 75/13 75/17 75/17 76/12 77/15 81/25 88/15 88/23 98/7 98/12 104/8 109/18 137/4 137/13 137/16 141/20 144/16 152/24 153/2 159/18 170/4 183/6 183/9 190/10 190/11 190/12 190/20 193/9 193/19 193/24 194/18 194/21 197/6 197/7 199/1	phrases [2] 57/21 58/3	
paragraph 91 [1] 99/9	particular [15] 9/13 10/13 12/7 13/24 18/15 39/17 49/12 59/25 74/13 82/10 90/2 105/9 117/4 139/20 165/13	per [6] 15/7 15/8 27/6 29/3 39/15 149/20	Plainly [1] 182/16	
paragraph 92 [1] 103/7	particular [15] 9/13 10/13 12/7 13/24 18/15 39/17 49/12 59/25 74/13 82/10 90/2 105/9 117/4 139/20 165/13	per cent [1] 39/15	plan [2] 40/8 43/18	
paragraph 94 [1] 89/14	particular [15] 9/13 10/13 12/7 13/24 18/15 39/17 49/12 59/25 74/13 82/10 90/2 105/9 117/4 139/20 165/13	percentage [1] 15/3	planned [2] 159/13 161/13	
paragraph 95 [1] 90/5	particular [15] 9/13 10/13 12/7 13/24 18/15 39/17 49/12 59/25 74/13 82/10 90/2 105/9 117/4 139/20 165/13	perfect [1] 180/10	planning [1] 150/25	
paragraph 97 [1] 121/1	particular [15] 9/13 10/13 12/7 13/24 18/15 39/17 49/12 59/25 74/13 82/10 90/2 105/9 117/4 139/20 165/13	performance [4] 40/6 96/24 143/2 177/2	plastic [1] 152/17	
paragraph 99 [1] 90/11	particular [15] 9/13 10/13 12/7 13/24 18/15 39/17 49/12 59/25 74/13 82/10 90/2 105/9 117/4 139/20 165/13	perhaps [9] 7/15 26/22 36/1 66/11 77/1 81/24 81/25 194/8 198/6		
paragraphs [13] 28/8 49/6 73/14 103/17 105/2 106/20 108/12 108/16 132/11 157/7 167/22 169/11 181/25	parties [1] 170/16	period [21] 13/16		
paragraphs 142 [1] 167/22	partly [1] 17/8			
paragraphs 3 [1] 49/6	parts [3] 2/21 74/13 164/3			
paragraphs 4 [1] 103/17	party [2] 170/16 196/6			
paragraphs 52 [1] 73/14	passage [2] 18/20 188/10			
	passed [7] 37/6 46/17 60/16 73/21 129/10 132/24 140/25			
	passing [3] 104/8 128/22 193/16			
	past [4] 3/13 43/16 43/17 45/20			

P	22/19 135/6 135/24	151/4	11/12 41/24 89/11	178/6 178/17 187/6
points... [10] 82/11	politically [2] 10/1	potentially [1] 66/22	115/23 124/14 129/3	199/6
125/17 155/13 161/8	10/18	pounds [4] 51/12	130/15 131/19 132/14	procedure [1] 96/15
163/19 163/24 164/8	politician [1] 77/6	74/4 138/20 148/12	previously [1] 86/2	proceedings [4] 1/3
164/17 166/18 186/24	politicians [1] 146/3	power [9] 46/10	primarily [4] 87/22	58/6 165/1 178/18
POL [15] 96/13 98/16	politics [1] 69/17	70/11 101/24 134/2	89/22 163/7 163/11	Proceeds [1] 147/9
109/21 110/3 134/19	poor [2] 132/15	169/2 170/20 193/22	Prime [1] 22/23	process [24] 21/12
143/20 146/19 165/24	138/18	194/6 194/16	principal [3] 80/9	31/16 33/1 34/9 35/21
168/5 170/23 178/1	poorly [1] 122/16	powerful [1] 164/3	88/14 164/24	43/12 48/1 48/2 53/19
180/12 187/20 188/7	population [1] 39/15	powers [5] 43/9	principally [2] 93/16	55/17 68/19 69/10
188/12	port [2] 29/22 30/18	169/10 193/23 194/18	97/13	102/3 109/5 112/15
POL's [2] 178/6	Porteous [2] 22/15	194/23	principle [1] 10/5	157/14 162/13 163/10
180/14	26/18	PQ [2] 127/3 129/14	principles [2] 143/9	165/8 165/10 165/16
POL00004279 [1]	portfolio [10] 6/13	PQs [4] 101/2 101/8	177/4	168/19 168/23 172/7
186/23	7/4 13/24 14/13 14/16	101/10 145/22	printed [1] 22/3	processes [3] 109/3
POL00027890 [2]	14/24 15/20 17/11	practical [3] 71/14	Prior [1] 124/14	112/8 142/17
50/20 56/8	25/2 99/16	90/24 92/12	prison [4] 148/2	processing [1]
POL00088974 [1]	portfolios [1] 26/20	practice [9] 10/6	176/4 190/20 191/11	142/15
156/4	posit [1] 168/18	28/13 28/21 29/8	Priti [7] 101/11 124/4	produce [1] 138/25
POL00113278 [1]	positing [1] 169/4	44/11 70/24 83/9	125/1 126/21 130/5	produced [2] 107/14
180/5	position [24] 7/24 9/2	163/13 185/17	130/21 131/10	114/19
POL00130687 [1]	12/6 23/4 30/15 34/5	practice' [1] 143/1	private [66] 18/12	producing [1] 83/21
57/10	47/18 48/22 52/15	practices [2] 148/4	18/16 21/9 21/10	productive [1] 170/9
POL00158368 [1]	63/14 66/24 86/2 88/8	165/5	21/18 21/21 21/23	profession [1] 169/6
65/9	91/24 97/4 102/22	precipice [1] 148/16	22/1 22/4 22/12 22/13	profit [1] 41/7
POL00186759 [1]	113/8 114/2 136/3	precise [3] 185/23	22/14 22/16 23/8 23/9	programme [24] 9/20
164/13	138/5 162/19 182/25	185/23 191/9	26/15 26/16 26/19	9/21 10/7 10/9 10/18
POL00294731 [1]	189/13 197/21	precisely [2] 71/6	26/24 27/2 27/5 27/12	10/24 11/7 11/17
174/16	positive [2] 51/21	173/6	27/15 27/17 27/18	12/14 12/24 14/21
POL00294957 [1]	59/3	precursor [1] 145/18	27/25 28/5 29/6 29/11	15/16 16/22 17/15
137/22	possibility [3] 51/19	predecessor [3]	29/11 29/25 31/2	17/17 17/19 18/4 18/6
POL00295322 [1]	52/11 161/4	86/18 88/25 89/4	31/10 31/17 32/18	18/22 19/2 19/4 38/5
189/2	possible [7] 44/1	predicament [1]	32/19 32/25 34/10	38/15 39/13
POL00417094 [1]	121/6 140/21 155/5	61/23	44/8 44/25 45/1 45/2	programs [1] 114/13
187/14	173/25 176/4 187/10	preferable [1] 169/5	45/5 49/3 54/16 54/22	prohibiting [1]
POL00417097 [1]	possibly [2] 33/9	prefers [1] 126/3	55/4 55/25 56/3 56/12	136/14
153/11	168/10	pregnant [1] 191/11	73/11 76/9 80/3 80/11	prohibition [5] 94/11
POL00417098 [5]	post [392]	premise [1] 186/8	80/21 88/17 101/15	94/17 144/8 144/9
123/25 125/12 129/13	postal [40] 1/25 2/2	prepare [5] 21/3 50/7	148/23 150/10 151/24	145/13
131/24 134/8	2/4 6/17 9/25 10/11	96/6 135/11 159/16	154/7 154/8 155/14	projects [1] 3/18
POL00417099 [1]	10/19 12/13 14/3 14/7	prepared [4] 21/6	189/14 190/4 190/14	prominent [1] 46/23
133/2	14/15 15/14 16/16	108/14 148/18 162/16	privilege [1] 3/1	promised [1] 192/19
police [3] 102/7	18/5 25/17 27/2 31/23	preparing [1] 121/7	pro [1] 173/1	promises [1] 147/4
147/5 195/7	37/6 39/20 67/6 78/19	present [2] 115/18	probably [13] 15/13	promotion [1] 86/15
policies [1] 3/21	81/16 82/16 86/8	116/3	24/23 33/1 35/7 65/5	prone [1] 133/16
policy [45] 10/5	87/15 95/9 95/11	presentational [8]	81/24 95/23 96/15	proof [11] 45/7 58/6
11/11 12/17 16/14	95/17 95/20 95/25	149/6 149/19 151/3	100/4 110/2 125/1	59/12 68/18 75/24
23/13 24/9 24/12	96/6 98/6 99/17 110/2	151/22 152/4 152/7	148/23 163/13	75/25 77/25 82/8
24/12 24/20 25/7 28/1	113/9 132/3 144/4	152/16 154/18	probe [1] 111/17	82/11 156/21 184/6
28/3 28/4 38/3 38/8	170/19 172/18 186/2	presented [2] 110/19	probed [1] 159/12	proper [2] 44/11
38/21 39/4 39/11 40/7	posting [1] 154/21	157/20	probing [2] 112/12	109/3
40/16 41/4 41/14 42/7	postmaster [3]	presently [1] 85/25	137/21	properly [2] 68/8
42/9 42/22 43/2 43/14	171/23 175/1 175/3	press [2] 65/18	problem [15] 47/21	87/20
43/19 45/16 46/20	postmasters [13]	115/19	48/10 49/21 50/9	proposal [3] 80/23
46/24 67/9 71/10 83/7	47/17 52/23 53/1 53/4	pressured [1] 16/1	51/18 58/14 62/7 75/3	83/1 84/1
89/23 91/25 92/5	61/10 61/14 61/24	presumably [1]	76/18 113/25 125/23	propose [4] 71/15
92/21 98/3 98/8 118/8	131/12 132/7 140/18	190/8	132/11 146/22 147/8	71/17 72/10 80/14
119/24 119/25 144/12	172/12 172/25 179/1	presume [4] 89/8	152/6	proposed [2] 60/18
172/15	postmasters/mistres	92/9 135/1 135/14	problems [21] 3/23	120/4
policy-making [1]	ses [1] 61/24	pretty [3] 36/3 103/20	17/9 51/13 52/9 63/13	proposing [2] 18/10
16/14	postmistresses [2]	163/1	99/11 109/6 125/8	194/2
politely [1] 116/9	61/10 61/14	prevented [2] 123/10	132/2 132/5 133/14	prosecute [7] 42/24
political [4] 10/10	posts [1] 110/17	123/17	135/5 135/23 157/10	43/18 44/3 50/8 67/22
	potential [2] 18/23	previous [10] 6/18	162/18 164/7 167/24	102/21 114/21

P	public [15] 3/23 4/2 25/13 62/8 80/16 92/23 93/3 99/14 116/18 126/9 140/1 189/18 192/16 192/20 195/1 publication [1] 73/20 publicity [1] 151/4 publicly [4] 37/23 70/20 87/16 103/9 publicly-owned [1] 70/20 published [2] 2/18 66/3 pull [1] 192/23 punishment [1] 176/5 purely [1] 41/10 purported [1] 134/16 purpose [9] 1/18 37/11 42/9 58/19 59/11 64/13 92/24 117/2 117/5 purpose' [1] 122/16 purposes [1] 5/20 pursued [2] 45/8 102/9 pursuing [1] 114/3 PUS [1] 86/19 push [1] 196/9 put [34] 15/2 22/9 34/20 35/4 42/6 43/16 49/6 55/19 55/22 56/6 72/17 85/21 91/16 91/21 93/13 95/14 99/5 100/9 102/25 103/4 104/24 111/6 111/15 115/10 116/9 122/21 145/9 145/10 163/4 170/16 170/19 176/9 176/10 191/1 putting [4] 22/3 95/25 98/10 137/15	104/3 104/13 122/14 126/20 128/7 128/10 129/24 130/5 130/21 154/1 182/23 183/2 183/14 190/3 190/5 190/9 190/15 193/5 193/18 196/23 Question/Answer [1] 129/24 questionable [1] 126/10 questioned [18] 1/9 73/6 78/9 84/12 102/16 141/9 171/16 183/25 191/15 197/15 200/5 200/7 200/9 200/14 200/16 200/18 200/20 200/22 questioning [7] 40/23 43/10 83/19 104/21 110/18 165/18 165/19 questions [71] 2/19 2/22 5/5 10/17 12/2 16/12 28/9 36/15 45/17 47/25 50/15 65/8 67/12 70/5 72/10 72/22 72/23 76/5 78/10 78/12 84/15 87/10 99/6 99/25 100/2 100/2 100/3 100/3 100/4 100/6 100/8 100/14 101/12 105/18 110/11 114/5 122/22 125/2 125/10 128/20 128/21 136/9 136/11 141/8 141/13 143/21 153/5 153/9 159/17 161/7 163/2 163/14 166/24 167/12 168/3 168/25 171/6 171/7 184/18 185/15 189/4 190/25 191/13 191/17 193/6 193/24 194/10 197/14 197/17 199/7 199/13 quickly [1] 43/11 quiet [1] 18/9 quite [38] 6/6 10/5 10/18 14/22 15/2 16/1 17/17 18/3 29/4 30/11 33/11 33/16 40/20 46/18 49/22 49/24 56/17 60/4 60/11 80/8 81/4 82/5 83/1 98/6 98/9 98/11 101/21 103/3 103/6 105/13 124/11 130/3 148/24 149/22 169/3 182/11 186/11 190/18 quote [3] 141/5 187/20 192/1 quoted [2] 49/24 163/9	quoting [2] 74/8 183/20 R racked [1] 185/21 radical [1] 170/9 radius [1] 47/18 raise [12] 11/20 77/21 81/1 81/16 141/5 141/9 168/24 172/21 179/5 179/7 185/11 198/14 raised [32] 10/23 12/2 12/2 32/16 55/9 58/25 59/9 63/8 64/4 65/4 67/12 79/18 102/12 128/8 133/6 142/1 142/2 145/5 146/1 160/18 162/5 164/17 172/19 176/15 177/12 177/15 178/6 185/22 186/25 189/8 190/3 192/16 raises [1] 187/3 raising [9] 12/7 35/17 48/9 49/20 76/21 81/2 149/1 182/8 189/10 ran [1] 75/17 Randerson [1] 131/25 random [2] 51/10 74/2 range [8] 8/16 16/10 23/22 24/1 49/12 132/17 172/11 172/14 ranging [1] 3/11 rank [1] 8/6 ranking [1] 8/3 ranks [1] 184/19 rapidly [2] 96/1 98/11 rare [3] 31/11 120/7 120/12 rarely [1] 110/17 rather [15] 4/1 6/21 60/24 75/10 77/15 83/8 83/11 117/3 136/13 155/11 165/10 166/20 169/7 171/24 171/25 Re [1] 187/20 reach [2] 69/24 92/20 reached [3] 44/15 166/10 180/13 reaches [2] 23/14 71/8 read [31] 2/4 21/15 48/8 49/13 49/13 52/14 52/22 54/5 54/7 54/14 54/18 55/5 56/21 58/23 84/25 90/13 110/13 110/15 111/23 113/7 117/11 118/20 119/12 121/22 154/14 155/11 157/13	157/13 158/3 158/22 161/16 reading [10] 51/22 55/11 58/20 59/4 59/21 96/3 117/8 117/9 136/20 190/19 reads [2] 85/6 136/24 ready [1] 96/2 real [8] 18/4 71/10 115/5 146/24 168/13 168/21 168/25 190/22 realise [3] 76/23 96/16 165/21 realised [1] 90/3 Realising [1] 148/24 reality [1] 15/22 really [37] 4/6 6/11 7/13 7/16 9/6 13/6 19/3 28/2 28/3 28/4 31/12 31/14 34/23 57/2 57/18 68/24 70/25 71/24 75/19 88/19 89/5 92/14 103/3 105/20 111/2 111/4 111/14 111/22 120/18 122/13 146/19 170/11 178/19 180/10 184/15 184/22 184/23 realtime [1] 184/6 reason [22] 5/7 6/2 11/12 46/10 58/23 60/9 65/16 65/21 76/4 90/16 95/23 128/4 149/11 150/6 150/20 154/9 154/18 155/9 161/3 161/18 174/25 175/18 reasonable [5] 100/21 127/20 153/2 154/25 163/25 reasons [14] 12/12 26/5 43/6 66/19 69/11 90/24 149/20 151/3 151/22 152/4 152/7 152/16 155/8 183/8 reasons' [2] 149/7 149/9 reassurance [2] 88/2 135/12 reassure [1] 164/11 Rebecca [3] 51/6 53/25 55/4 rebuild [1] 171/2 recall [8] 89/16 104/6 106/24 118/24 119/2 121/11 148/22 179/22 receive [9] 27/11 88/25 89/4 89/19 95/17 106/21 110/10 120/17 172/2 received [28] 29/10 50/24 60/18 97/19 100/20 108/13 108/17 108/24 109/11 109/15
----------	--	---	---	--

R	103/22 117/6 164/15 received... [18] 120/14 120/18 122/23 125/7 125/16 126/23 128/11 128/22 129/8 129/9 141/10 141/22 144/1 146/5 164/2 171/22 188/7 188/18 receiving [2] 22/3 68/25 recent [5] 17/24 125/24 131/12 134/16 160/3 recently [1] 191/5 recession [1] 65/23 recollect [2] 150/8 174/8 recollection [13] 12/25 48/7 48/11 51/21 54/5 59/4 59/8 66/1 149/21 150/8 154/20 160/10 186/8 recommend [1] 163/7 recommendation [5] 70/9 120/3 151/20 151/25 152/3 recommendations [5] 36/10 72/18 196/13 196/14 196/15 recommended [3] 80/11 149/6 151/1 recommends [1] 70/11 reconsider [1] 148/17 record [8] 1/18 65/1 65/2 65/7 132/15 154/2 155/8 167/5 recorded [2] 33/22 33/23 records [7] 57/22 142/20 154/15 166/3 181/17 187/23 188/14 recover [1] 147/24 red [16] 6/9 6/10 21/14 30/6 33/20 35/5 35/5 118/6 118/10 118/19 120/8 120/10 127/7 129/20 152/13 172/9 redacted [1] 48/6 Redditch [1] 47/19 reduce [4] 6/10 11/7 19/4 41/2 reduced [2] 18/8 175/4 reducing [1] 38/16 reduction [1] 40/10 redundancy [1] 176/3 refer [8] 2/22 19/9 38/24 73/10 103/17	reference [15] 1/18 12/20 44/13 58/6 60/8 85/7 85/11 93/24 95/9 95/14 100/22 160/13 188/8 189/2 192/25 references [1] 103/16 referred [21] 3/17 16/3 18/21 25/17 26/17 29/14 31/2 31/7 34/3 38/4 44/25 52/17 58/11 60/20 63/21 67/14 79/22 93/7 100/8 101/2 164/5 referring [11] 13/21 52/7 57/11 74/10 100/24 102/6 123/5 141/15 145/3 153/12 189/10 refers [5] 47/13 61/7 61/21 63/17 193/16 reflected [3] 50/17 170/16 181/5 reflecting [1] 148/25 reflection [4] 67/19 122/12 123/8 168/15 reflections [2] 167/2 167/3 reform [8] 4/14 5/14 5/22 6/4 6/16 6/23 8/16 196/17 reformed [2] 168/4 195/3 reforms [2] 169/6 196/20 refusal [4] 90/17 112/18 114/25 188/11 refuse [1] 113/24 refuses [2] 51/18 52/10 refusing [1] 67/1 regard [5] 5/24 31/22 113/8 133/10 189/20 regarded [3] 50/2 50/16 74/24 regarding [7] 9/25 13/2 48/18 51/3 55/9 68/25 145/25 regardless [3] 133/21 139/9 146/16 regards [4] 10/11 63/14 143/2 177/2 regular [3] 98/24 109/4 157/5 regularly [3] 80/6 185/2 185/24 regulation [3] 6/5 6/8 6/9 regulatory [8] 4/13 5/13 5/22 6/3 6/7 6/16 6/23 8/16 reinforcing [1] 164/8 reject [1] 67/3	rejecting [1] 63/18 relate [1] 193/18 related [1] 189/23 relates [1] 165/23 relating [5] 4/9 20/12 31/19 49/18 136/5 relation [13] 77/8 97/5 97/15 122/8 138/8 150/19 169/10 176/17 181/4 189/14 189/16 192/5 193/1 relations [9] 8/18 14/2 14/12 14/22 15/8 25/2 78/14 78/19 86/7 relationship [27] 1/24 8/8 24/15 24/18 24/18 27/17 31/24 36/23 37/21 76/23 77/2 79/17 81/6 81/9 82/19 87/11 90/20 95/21 96/7 109/21 111/12 116/20 129/2 143/16 146/13 162/8 168/16 relatively [1] 109/17 Relativity [1] 191/21 relay [1] 88/18 relaying [1] 111/19 releases [1] 142/23 relevance [1] 2/20 relevant [11] 9/4 31/17 32/10 33/13 34/8 39/11 49/20 154/1 162/12 174/13 198/3 relevantly [1] 86/6 reliability [1] 137/2 reliable [2] 65/20 110/20 reliance [3] 35/20 81/8 82/19 reliant [11] 18/25 27/18 33/21 33/23 35/3 87/22 99/7 119/10 127/17 129/12 136/15 relied [3] 97/11 98/23 99/4 reluctance [2] 43/13 69/11 reluctant [3] 43/5 45/14 69/10 rely [6] 35/22 64/6 89/9 137/12 148/7 192/10 relying [1] 111/7 remain [3] 80/15 122/19 163/11 remaining [1] 15/8 remains [2] 28/25 63/15 remember [36] 5/15 18/1 43/4 44/18 44/20 53/17 53/19 55/6 59/7	81/2 110/18 117/7 117/8 120/19 121/10 124/23 149/7 150/9 153/14 155/10 160/12 160/18 161/24 161/25 163/15 163/17 165/13 179/22 185/22 186/1 186/4 191/8 191/10 198/16 198/17 198/18 remembered [2] 117/11 120/20 remote [8] 38/23 39/3 166/2 186/25 187/21 188/3 188/10 188/13 remotely [2] 156/22 187/11 repaid [1] 178/4 repeat [2] 117/14 152/12 repeated [1] 128/4 replaced [1] 6/25 replied [3] 109/13 174/4 192/5 replies [7] 57/7 58/4 66/9 68/17 134/21 135/10 174/7 reply [78] 30/9 30/16 30/21 31/20 32/9 32/22 33/3 33/12 34/21 35/16 48/12 48/15 49/2 49/7 49/13 49/14 50/17 53/22 53/24 54/7 54/13 55/13 55/19 55/22 56/6 56/11 56/18 56/20 56/22 56/25 57/4 57/9 58/5 60/21 60/25 63/15 75/1 116/11 117/3 117/6 118/2 119/12 119/16 120/5 120/15 126/4 126/10 126/17 127/1 127/19 127/21 128/1 128/5 129/14 131/5 131/15 131/18 132/25 132/25 134/5 134/6 139/17 139/19 139/23 140/1 140/1 140/4 141/1 145/7 145/9 145/10 148/25 149/19 160/12 160/14 160/15 176/9 188/3 replying [2] 56/7 127/5 report [17] 80/11 85/7 85/9 125/17 130/25 150/2 155/15 184/4 184/14 184/24 185/1 185/1 191/24 191/24 192/5 192/25 196/12 reporter [1] 51/6 reporting [4] 36/16	47/15 154/6 199/6 reports [5] 58/13 104/21 106/6 150/25 151/16 repository [1] 143/8 represent [4] 73/8 74/21 126/5 171/18 representation [1] 109/5 representations [5] 126/22 128/11 128/21 128/24 129/8 representative [4] 76/20 113/21 163/25 197/23 representatives [3] 55/8 76/19 126/24 representing [4] 107/22 108/3 154/24 195/23 reputation [1] 176/3 reputedly [1] 113/21 request [6] 62/7 62/11 62/14 90/15 122/18 151/2 requested [1] 130/16 requesting [3] 62/23 116/15 147/14 requests [3] 63/24 116/9 129/8 require [2] 95/11 163/22 required [4] 114/6 133/18 135/12 144/7 requirement [1] 136/2 requires [1] 22/24 reshuffle [1] 22/23 resigned [1] 48/21 resilience [1] 142/18 resistance [1] 134/24 resisted [1] 134/19 resolution [1] 132/22 resolved [1] 175/17 respect [5] 20/24 27/14 47/15 66/18 99/16 respectfully [1] 126/4 respond [8] 52/20 63/22 127/25 128/7 131/4 131/17 152/25 173/19 responding [1] 120/16 response [39] 12/3 30/3 33/8 47/23 48/3 49/9 54/10 54/15 55/12 55/23 56/4 58/25 60/5 60/18 60/19 63/3 63/24 64/2 64/8 64/14 64/25 66/15 66/18 67/15 67/16 90/14 90/14
----------	---	---	--	--	---

R	138/21 144/6 145/2 151/10 151/13 151/16 153/7 158/6 158/17 158/20 158/23 159/21 167/13 172/8 174/12 177/10 179/20 186/11 186/15 189/19 193/9 199/18 200/2 200/11 right-hand [5] 158/6 158/17 158/20 159/21 177/10 rightly [1] 99/13 rights [5] 14/7 14/14 14/16 25/4 78/22 rigorous [1] 142/24 RLIT0000251 [1] 191/18 RMG [2] 80/4 96/13 Robert [2] 22/15 26/18 robust [8] 58/18 59/10 60/7 63/25 64/12 142/21 146/22 170/3 robust' [1] 108/25 robustness [7] 54/2 66/11 68/18 77/24 82/7 142/13 165/25 rogue [1] 71/2 role [41] 3/9 4/8 4/8 4/16 4/20 4/25 5/4 5/8 5/9 6/21 7/23 12/9 16/14 20/24 23/18 24/10 24/11 27/5 27/11 32/2 38/22 38/25 39/2 39/6 39/12 40/6 40/8 40/23 41/25 53/15 80/6 86/15 90/21 91/5 91/20 92/18 93/8 101/14 105/17 107/3 162/9 roll [2] 169/23 175/15 room [1] 4/6 root [4] 133/13 139/4 148/10 195/3 Rosemary [1] 153/18 roughly [8] 10/3 13/15 15/4 15/7 17/5 21/4 28/19 49/8 round [3] 75/19 147/5 176/1 roundabout [1] 187/1 rounded [1] 3/24 route [1] 115/11 routine [1] 4/4 Royal [44] 4/9 16/17 16/18 16/20 18/12 18/17 18/23 24/2 24/2 24/6 25/16 39/1 46/23 46/25 47/5 64/18 80/9 80/12 80/15 87/25 87/25 88/4 88/10 89/16 90/7 91/15 92/8 94/2 94/24 95/5 95/13	95/21 96/10 97/6 97/20 98/15 98/25 109/21 109/23 110/2 116/17 168/4 172/17 186/3 ruined [1] 146/7 rule [3] 123/9 123/10 123/16 ruled [1] 157/9 rules [1] 189/16 run [15] 25/15 25/19 25/21 25/21 35/18 36/15 41/10 42/5 83/3 116/21 122/2 147/18 148/12 150/25 151/17 running [17] 18/24 31/25 32/2 32/5 37/13 37/17 38/1 47/4 49/18 50/12 64/11 67/7 75/14 77/22 90/25 91/2 94/19 runs [1] 124/8 rural [2] 38/23 39/3	saved [1] 38/17 savings [2] 53/1 53/2 saw [9] 66/3 66/4 106/19 119/5 129/23 152/13 159/4 169/20 169/21 say [95] 1/23 2/21 6/22 8/6 13/25 14/11 15/5 16/5 20/14 20/15 21/4 22/1 22/10 24/19 27/21 28/12 28/16 29/22 30/23 32/21 34/4 35/8 36/11 38/7 38/9 42/8 42/21 45/10 45/20 46/15 48/20 49/10 51/10 51/24 53/13 55/2 56/19 64/2 64/17 64/21 65/3 66/8 67/1 69/16 70/13 70/20 72/13 78/16 78/20 80/2 80/25 89/15 95/4 99/9 101/23 102/19 103/8 108/21 120/8 121/1 122/11 127/21 130/3 137/16 138/23 139/20 141/24 145/24 148/21 151/20 152/2 154/11 155/5 157/23 157/24 157/24 158/2 159/6 161/2 164/16 165/21 169/5 169/10 170/7 171/24 171/25 172/13 173/25 178/11 178/11 183/4 192/20 194/1 197/20 197/25 saying [45] 7/13 11/23 38/6 45/10 45/12 52/6 54/17 57/2 57/7 59/24 60/9 60/10 62/14 66/25 68/22 75/2 75/7 76/8 76/10 76/12 77/5 81/14 81/19 101/1 104/10 105/6 120/17 133/9 135/22 136/7 137/3 137/4 137/6 139/1 144/23 145/8 145/8 149/16 166/18 175/9 178/15 179/11 180/1 181/22 194/20 says [40] 47/16 48/16 49/16 50/2 50/23 51/8 52/12 52/22 54/11 55/24 58/10 58/16 61/8 61/22 63/7 65/15 76/16 113/7 116/2 120/2 120/21 125/20 125/23 126/1 129/16 137/25 138/7 138/13 140/7 150/22 153/19 158/12 163/6 166/21 175/6 178/13 182/1	187/17 189/4 192/8 scan [1] 148/15 scandal [5] 71/11 77/1 115/2 195/24 196/14 scandals [2] 169/24 195/1 scenes [1] 135/19 scoring [2] 179/10 179/14 screen [9] 1/21 2/5 48/3 73/17 89/13 112/20 156/3 177/7 177/11 scroll [14] 116/12 124/1 125/14 132/2 135/9 141/23 158/15 159/23 167/3 170/6 173/12 174/23 176/22 180/8 scrolling [2] 156/25 157/12 scrutinised [1] 57/22 scrutiny [1] 190/22 sealed [1] 143/6 search [1] 19/6 searching [1] 19/21 seats [1] 17/21 second [44] 15/11 15/14 16/3 16/17 17/4 20/16 46/24 49/15 61/8 63/4 65/15 72/4 80/10 84/23 85/5 96/3 117/9 120/21 121/21 123/13 133/12 136/17 136/18 138/9 140/8 142/16 144/14 144/16 145/19 149/12 150/1 150/23 151/11 151/13 153/3 153/15 154/20 167/20 171/9 175/1 176/25 177/2 177/8 177/9 second-guessing [1] 72/4 secondly [3] 1/13 52/8 105/8 secretaries [12] 20/8 20/12 22/14 22/16 26/17 26/19 27/15 27/25 29/11 31/2 31/10 192/14 secretary [62] 3/7 3/10 3/16 4/22 4/23 7/24 8/2 8/4 8/8 8/12 8/13 8/17 8/25 9/10 9/12 9/17 9/25 10/7 12/23 13/1 13/8 13/15 16/4 18/1 18/2 19/25 20/1 20/15 20/16 23/9 26/22 27/2 27/5 27/12 32/18 32/20 32/25 37/8 47/9 47/11 60/15 60/23 76/15 79/23
----------	---	--	---	--

S	100/21 141/8 144/1 152/24 153/2 165/19 175/18 176/7	serious [7] 18/3 52/24 104/23 124/11 146/1 194/20 195/19	34/25 36/14 40/5 41/18 49/4 88/11 88/21 88/21 88/23 97/14 98/20 116/19 116/22 162/7	101/24 102/3 102/13 108/21 117/10 122/18 126/18 133/7 139/16 139/16 140/25 142/4 142/18 143/18 145/20 149/17 149/21 153/21 162/4 163/7 168/5 168/11 169/4 170/17 173/25 177/17 180/23 183/21 189/17 190/21 190/23 192/11
secretary... [18] 84/24 85/3 86/7 86/16 86/18 86/21 87/1 87/3 87/3 87/7 112/7 126/21 127/3 128/22 130/6 130/23 131/11 197/19	seems [15] 94/22 101/21 101/24 102/1 124/4 128/4 146/2 168/21 169/12 169/19 171/2 187/12 188/25 189/3 190/1	seriously [4] 17/23 58/1 103/10 141/6	shareholders [1] 146/11	shoulder [1] 71/4 shouldn't [4] 66/12 165/6 168/23 190/22
Secretary's [1] 26/24	seen [14] 32/16 52/2 52/3 65/2 65/13 65/15 66/12 76/15 93/3 97/16 120/24 169/24 191/4 196/24	servant [3] 20/1 26/1 108/18	shares [4] 23/22 25/13 126/8 146/11	showed [4] 55/13 136/8 145/22 173/6
sections [1] 158/21	sees [1] 55/19	servants [25] 7/19 14/5 19/1 21/11 22/19 23/2 23/13 27/4 27/8 34/4 35/22 89/9 94/18 97/13 103/11 107/14 110/19 110/22 110/22 111/17 146/18 147/2 166/12 192/13 199/3	she [23] 47/11 47/12 48/9 51/2 52/12 73/25 125/3 125/20 125/23 126/1 132/11 140/7 140/21 175/6 177/25 178/11 178/17 179/13 179/13 180/22 180/24 181/8 190/13	showing [2] 150/11 166/9
sector [7] 8/19 8/19 18/12 18/16 80/16 80/21 132/4	select [3] 76/16 115/8 194/17	serve [5] 13/8 112/17 117/2 117/5 122/16	she's [3] 73/25 74/2 175/4	shown [9] 55/3 58/9 134/22 141/14 148/22 182/11 182/21 183/19 188/5
sectors [1] 8/18	self [4] 78/23 79/4 98/18 98/18	served [3] 3/6 28/13 181/10	sheet [1] 127/16	shows [4] 58/1 123/8 136/2 147/8
securely [1] 143/6	self-employed [2] 78/23 79/4	service [17] 4/5 19/24 22/20 22/21 23/6 27/9 34/6 35/21 40/1 44/5 96/23 102/9 111/11 112/8 192/3 192/11 195/12	shelf [1] 115/15	sick [1] 147/3
securing [1] 185/7	self-governing [1] 98/18	Service's [1] 96/24	shelved [1] 80/23	side [19] 14/22 16/17 18/5 18/19 25/2 25/2 43/16 78/14 85/21 147/23 156/5 158/6 158/17 158/19 158/20 159/21 159/22 162/17 177/10
security [2] 142/17 143/3	sell [2] 42/18 147/11	services [24] 2/3 2/4 4/2 12/13 22/24 25/17 31/23 37/6 39/20 39/21 67/6 81/16 82/16 95/9 95/11 95/18 95/20 96/1 96/6 98/6 132/3 132/17 144/4 170/19	ShEx [35] 28/4 55/9 88/11 88/14 88/18 93/16 93/18 94/12 94/18 97/17 97/24 98/5 98/7 98/13 98/14 98/17 98/22 98/24 99/4 99/7 105/12 108/19 109/16 110/22 110/23 111/17 134/11 134/12 135/21 136/21 137/15 153/16 153/18 168/5 190/8	sidestep [2] 133/21 139/9
see [101] 1/5 2/9 14/19 29/21 30/4 36/3 40/22 40/23 41/12 42/7 42/22 44/12 45/15 46/1 48/5 49/24 50/21 53/21 53/22 54/9 55/20 55/21 56/8 57/1 61/7 61/20 69/6 73/18 84/8 88/20 89/10 93/13 95/20 103/14 106/16 107/21 108/7 113/2 116/13 119/4 119/19 120/16 121/5 122/14 123/14 123/20 123/23 124/1 129/3 129/18 130/14 135/14 136/10 136/18 139/13 139/19 140/5 141/15 143/13 144/20 149/13 149/18 150/22 155/25 156/5 156/10 156/11 157/20 158/6 158/11 158/16 159/24 161/5 169/21 170/5 171/13 173/10 174/6 174/21 174/22 176/12 176/14 176/19 176/20 176/23 176/24 177/2 180/9 181/2 181/3 181/6 181/20 182/9 185/21 187/3 188/1 189/22 191/25 192/24 193/7 195/15	selling [1] 147/23	session [2] 69/9 106/9	ShEx's [2] 97/25 158/4	siding [1] 179/17
seeing [2] 43/2 81/24	send [3] 54/20 147/5 179/20	set [12] 3/21 35/19 63/15 67/11 75/15 81/15 116/18 124/16 138/13 140/22 149/12 152/23	shocked [1] 79/25	sign [12] 35/5 49/14 95/15 118/18 120/6 143/12 172/9 172/10 172/20 172/23 172/24 182/13
seek [2] 161/11 165/7	sent [17] 29/9 29/15 30/21 54/9 55/25 74/14 125/24 146/4 159/5 160/14 172/3 174/12 184/25 188/24 189/25 190/20 191/11	sets [3] 25/18 47/14 82/16	shocking [5] 66/5 182/11 183/8 190/19 195/2	signature [7] 1/20 2/9 30/10 48/6 85/15 116/14 132/25
seeking [3] 16/25 125/3 190/1	sentence [4] 85/6 161/21 176/4 178/2	setting [4] 9/8 66/19 141/25 162/22	shoddy [1] 148/10	signed [15] 32/11 53/8 60/20 61/1 61/1 116/13 117/21 119/6 130/2 134/4 141/18 143/12 172/6 181/10 183/2
seem [3] 102/2 144/17 190/24	sentenced [1] 138/23	seven [2] 11/9 146/5	Shoosmiths [1] 159/25	significant [6] 15/17 61/9 61/16 79/5 135/6 135/24
Seema [3] 160/5 160/5 160/10	sentences [1] 187/4	several [3] 3/18 51/9 74/1	short [8] 45/24 65/25 70/18 84/6 106/9 106/14 155/23 186/16	significantly [1] 97/11
seemed [16] 17/14 18/6 66/21 88/23 93/4 93/15 94/5 98/25	separate [2] 67/18 156/24	severely [1] 195/24	shortage [1] 178/4	signing [7] 114/18 118/21 119/9 122/17 145/1 179/22 183/5
	separately [1] 178/7	Shadow [5] 70/17 71/1 71/13 83/13 124/14	shortages [1] 142/10	signposts [1] 115/25
	separation [6] 35/19 37/7 38/3 43/9 67/8 71/25	shall [2] 45/19 70/10	shorten [2] 41/20 62/12	silence [2] 133/23 139/11
	September [2] 48/22 181/21	shareholder [36] 20/19 20/20 20/22 20/23 21/20 21/25 23/7 23/19 23/20 23/23 24/8 24/11 24/20 24/22 25/12 25/25 31/5 32/20 32/23 33/5 33/6 34/10	shortfalls [1] 132/10 180/25	similar [11] 15/7 37/22 61/23 61/25 63/4 77/5 138/5 138/17 139/13 177/5

S	125/5 136/10 136/17 143/19 143/25 144/14 145/17 148/24 149/3 149/11 150/1 151/10 155/3 155/8 159/24 160/13 161/25 163/3 163/24 164/9 165/18 166/17 174/3 184/16 185/5 185/14 188/4 188/17	185/11 185/20 Smith's [1] 186/9 so [205] social [9] 3/19 38/21 38/25 39/2 40/3 41/6 42/1 42/9 92/24 society [2] 92/19 170/12 software [2] 51/14 142/23 solely [1] 26/1 solicitor [1] 160/5 solicitors [1] 160/2 some [76] 2/18 2/20 5/21 7/6 7/9 12/12 17/19 18/21 19/23 24/25 28/7 28/9 29/25 31/16 32/10 33/10 34/12 35/9 41/21 47/25 52/3 52/23 57/15 57/16 57/17 59/17 62/23 65/16 66/4 70/5 71/5 71/15 72/6 75/16 76/16 82/2 82/4 83/10 92/9 100/5 101/4 102/8 104/17 111/9 111/12 112/11 113/15 120/1 120/5 125/1 128/4 129/17 139/13 140/11 148/4 150/2 153/25 157/14 171/7 172/2 174/2 174/3 174/3 175/10 175/12 175/17 176/5 176/13 190/1 191/16 193/20 193/22 193/23 194/15 194/16 197/22 somebody [7] 24/7 31/13 33/2 56/18 104/10 128/6 190/15 someone [8] 21/25 22/4 29/24 75/9 104/15 147/10 147/16 193/15 something [41] 7/8 17/21 19/10 21/11 21/19 31/11 32/4 37/2 37/23 40/2 41/16 46/16 49/25 50/9 60/24 66/22 68/2 68/4 71/20 72/11 77/2 81/22 83/1 83/8 83/8 89/20 90/11 95/2 102/25 104/11 105/7 106/22 110/15 124/16 137/15 137/17 137/18 144/18 155/6 193/11 196/10 sometimes [11] 3/17 35/2 42/17 51/11 74/3 120/4 127/2 132/8 172/21 179/5 190/11 somewhere [1] 11/9 soon [1] 36/3	sorry [19] 13/18 24/19 54/4 58/10 62/16 63/1 66/16 71/18 95/8 119/7 122/13 127/12 141/23 160/17 167/16 178/25 186/6 191/8 191/12 sort [19] 21/13 21/15 25/13 26/9 40/21 40/22 66/25 70/17 71/5 72/6 102/15 111/3 112/11 112/15 139/24 150/7 173/4 185/24 193/15 sorted [1] 66/22 sorts [2] 136/9 194/10 source [5] 32/11 56/3 61/4 67/18 72/2 sources [3] 108/15 110/12 110/14 South [2] 3/4 61/25 speak [4] 37/25 126/11 138/17 167/21 speaking [1] 173/2 special [6] 3/18 22/17 22/18 22/24 23/11 27/2 specialists [1] 114/5 specific [6] 48/11 89/19 89/21 106/21 106/23 189/14 specifically [1] 187/25 speculate [1] 102/24 speculating [1] 103/5 Speech [2] 167/10 192/4 spend [1] 166/8 spent [4] 9/1 49/9 117/23 154/25 split [1] 168/4 spoken [5] 51/9 53/5 73/25 75/9 196/1 spokesperson [1] 15/12 stable [1] 65/20 staff [9] 42/10 43/20 70/22 70/22 90/1 91/10 147/3 148/13 192/16 stage [10] 28/10 28/10 29/16 50/11 68/19 104/17 121/9 129/11 129/24 161/12 stages [2] 25/10 50/15 stake [3] 18/16 80/16 80/17 stakeholders [2] 14/3 88/5 stand [2] 2/16 186/10 standalone [1] 24/25 standard [4] 45/5	45/7 45/10 49/23 standards [1] 143/4 standing [1] 114/24 start [13] 3/2 8/10 43/10 72/4 81/25 84/2 85/23 87/10 145/18 151/9 157/11 167/6 179/4 started [3] 119/9 160/6 185/4 starting [4] 19/24 88/19 150/14 192/1 starts [1] 156/11 state [65] 1/10 4/12 4/22 4/23 5/12 7/3 7/23 7/25 8/3 8/4 8/9 8/10 8/12 8/14 8/17 9/1 9/10 9/11 9/12 9/15 9/17 9/25 10/7 12/24 13/1 13/8 13/12 13/22 16/4 16/9 18/1 18/2 20/7 23/15 25/14 25/15 25/20 25/21 37/3 37/5 37/8 37/24 37/24 60/15 60/23 78/17 84/24 85/3 86/7 86/16 86/19 86/22 87/1 87/3 87/7 109/24 112/7 114/14 126/21 127/3 128/22 130/6 130/23 131/11 190/21 State's [3] 13/15 26/22 26/23 state-owned [1] 25/14 stated [3] 2/13 103/9 149/5 statement [71] 1/13 1/15 1/19 2/7 2/13 2/17 2/19 2/21 11/4 13/21 14/10 16/5 19/10 28/6 28/8 36/10 36/25 38/24 51/24 53/13 54/25 57/5 58/7 58/24 64/16 73/9 74/9 78/15 78/20 80/1 83/21 84/18 85/17 85/22 89/12 89/14 91/14 95/3 96/9 97/10 99/2 99/8 101/23 103/8 103/16 103/22 106/20 108/11 117/7 117/17 117/24 118/8 118/12 120/9 121/3 121/7 122/9 126/25 131/14 141/4 148/20 152/12 166/25 167/1 167/5 181/10 181/18 183/15 197/19 197/25 199/12 statements [1] 163/8 states [4] 13/23 47/19 166/1 188/12 stating [1] 187/21
----------	--	--	--	--

S	strong [4] 74/16 154/10 154/21 163/25	170/15 170/22 170/25 171/19 173/20 183/10	supplied [2] 100/13 134/5	74/2 75/17 75/20 76/18 77/22 77/24
status [2] 87/15 197/5	stronger [2] 170/1 196/24	184/20 187/7 197/1 198/12	support [10] 41/5 69/20 115/3 133/17	79/15 81/19 82/8 89/20 90/2 90/4 90/17
statutory [4] 189/16 192/10 192/12 192/19	strongly [3] 155/3 167/11 193/13	subsequent [3] 82/3 142/11 160/16	138/25 167/11 170/4 171/1 195/11 196/16	104/23 106/22 107/1 107/7 113/12 113/23
stay [1] 18/9	struck [3] 57/2 75/19 155/3	subsequently [6] 51/7 76/22 114/16	supported [2] 79/4 92/23	114/9 114/11 114/14 114/15 115/1 116/16
stays [2] 12/10 12/10	structure [2] 67/11 75/15	115/13 163/9 171/20	suppose [5] 26/19 38/20 74/21 93/17	116/23 124/12 125/9 126/25 130/8 130/25
steadily [1] 65/16	structures [1] 19/23	subsidiaries [1] 94/2	174/8	131/14 132/6 132/20
Stein [10] 72/24 73/1 73/6 78/5 79/22 171/9 191/15 191/16 200/7 200/20	sub [9] 35/8 120/1 124/9 142/6 161/6 162/14 164/21 173/16 177/19	subsidising [1] 42/3	supposed [4] 45/6 45/6 45/7 89/10	133/15 133/16 134/17 137/17 137/19 138/3
stem [1] 113/23	subject [7] 14/6 134/12 140/10 142/24 152/8 184/2 188/5	subsidy [4] 41/4 91/17 92/17 93/8	Surbiton [1] 86/1	139/5 140/14 140/19 140/23 142/9 142/13
step [2] 69/18 196/11	subjected [1] 62/7	substance [5] 7/16 87/10 123/2 150/17 174/22	sure [39] 6/15 8/12 27/7 29/3 33/25 40/21	142/14 142/16 142/19 142/25 143/5 143/9
Stephen [1] 109/18	subjects [4] 30/12 49/12 172/11 172/13	substantial [1] 109/22	41/25 42/3 45/9 47/12 60/1 68/4 68/19 69/8	147/25 148/10 151/6 156/11 156/13 156/16
steps [1] 96/17	submission [24] 97/16 99/23 100/15 101/1 112/3 120/11 120/11 120/17 121/19 121/22 127/10 127/11 127/12 127/13 151/25 154/12 155/10 155/11 164/2 164/9 164/11 164/12 166/17 199/5	substantive [6] 32/19 108/23 154/9 155/13 162/20 163/19	69/17 70/24 71/12 77/17 79/13 89/6 93/5 93/7 97/22 98/2 112/8 114/10 130/3 132/4 132/19 137/13 161/19 163/1 169/1 174/8 183/11 193/8 194/11 194/25 196/2	157/5 157/10 157/14 158/11 158/12 158/16 158/17 165/24 166/1 166/2 168/22 170/3 176/20 176/23 176/24 177/3 178/6 181/14 182/3 187/5 187/10 187/22 188/13 195/1 195/2 198/5 199/6
STEVENS [11] 1/9 13/18 43/24 44/6 44/16 44/23 72/13 76/2 82/24 83/17 200/5	submitted [1] 115/7	success [2] 125/19 175/13	114/10 130/3 132/4 132/19 137/13 161/19 163/1 169/1 174/8 183/11 193/8 194/11 194/25 196/2	158/17 165/24 166/1 166/2 168/22 170/3 176/20 176/23 176/24 177/3 178/6 181/14 182/3 187/5 187/10 187/22 188/13 195/1 195/2 198/5 199/6
steward [1] 23/21	subpostmaster [9] 32/4 41/15 57/23 114/17 138/18 147/9 148/8 148/14 153/1	successor [2] 86/21 174/17	surprise [2] 102/17 190/12	systemic [2] 108/25 151/7
stew [1] 148/6	subpostmasters [82] 13/2 32/8 39/5 39/9 39/22 41/1 42/8 42/10 42/13 50/2 50/8 51/10 52/7 57/25 61/5 67/13 67/22 68/12 69/22 73/9 74/1 74/5 74/16 74/24 75/9 76/14 76/21 76/24 76/25 78/11 78/23 79/4 79/11 79/12 90/9 93/4 96/12 99/13 102/21 105/22 107/1 107/6 107/18 107/23 113/2 113/11 113/22 114/21 115/21 127/23 131/13 133/25 134/13 134/17 138/15 138/16 140/9 140/13 140/16 142/4 142/10 147/4 147/14 147/22 148/1 152/23 154/24 155/2 156/25 160/2 164/6 170/13	such [15] 6/21 34/16 36/20 44/7 46/11 71/8 89/25 102/23 126/3 130/11 138/23 138/25 170/23 178/22 179/10	surprised [5] 101/18 101/19 139/18 139/20 159/7	systems [6] 90/1 91/10 92/2 143/3 175/20 196/2
still [14] 29/1 29/5 61/2 72/5 80/17 114/20 123/10 143/13 143/22 145/3 148/16 155/25 164/10 166/18	submitting [1] 115/7	Sue [1] 153/16	surprising [2] 159/8 190/19	
stolen [1] 180/23	substantive [6] 32/19 108/23 154/9 155/13 162/20 163/19	suffer [1] 114/12	surprisingly [1] 176/1	T
stonewalled [1] 115/14	sum [3] 41/3 176/3 176/6	suffered [3] 68/14 113/11 113/25	Susannah [1] 109/19	Tactically [2] 161/11 161/21
stop [6] 12/16 37/2 78/4 144/20 145/14 159/23	summarise [5] 3/9 32/14 73/23 115/24 170/7	suffering [3] 132/7 133/16 146/17	suspect [2] 109/13 110/5	tagged [1] 184/8
stopping [2] 134/21 147/22	summarising [1] 123/1	sufficient [3] 15/19 15/22 192/10	suspended [1] 138/17	take [22] 14/17 28/10 29/20 45/18 57/25 67/2 71/7 73/4 84/1 92/20 110/12 110/15 110/20 111/23 112/24 115/12 141/6 150/16 154/13 155/18 189/19 196/11
store [1] 67/18	summary [5] 74/5 74/13 74/23 85/24 149/16	suggest [8] 64/1 94/22 95/2 105/1 105/2 126/4 152/7 180/24	swallow [1] 159/8 190/19	taken [20] 6/15 7/6 17/23 17/24 39/17 56/2 66/10 69/15 69/23 101/24 109/7 118/4 126/7 138/24 157/4 165/3 171/4 175/7 176/7 184/11
Storey [1] 109/19	sums [1] 68/14	suggested [1] 90/16	swallowed [1] 166/13	takes [4] 25/9 53/3 121/24 173/11
stories [1] 195/25	superintend [1] 96/18	suggesting [1] 167/23	Swinson [1] 199/17	taking [11] 22/8 44/21 62/10 75/12 107/3 117/10 143/13 155/15 162/3 162/11 195/10
story [11] 50/13 52/3 57/19 60/2 68/1 79/20 81/23 82/1 82/2 162/17 164/1		suggestion [4] 65/14 169/9 169/16 169/17 128/5 154/2	sworn [4] 1/8 84/11 200/3 200/12	talk [2] 57/23 80/6 talked [4] 46/7 75/14 78/16 82/15
strange [3] 65/16 65/19 138/14		suitable [1] 147/11	synthetic [1] 152/17	
strategic [16] 11/11 19/2 38/3 38/8 46/20 81/7 89/23 91/19 91/25 92/5 92/16 92/18 92/21 94/10 98/4 144/12		suits [1] 146/15	system [128] 8/25 13/3 36/6 45/16 47/21 48/9 49/21 50/5 50/6 50/9 50/9 50/13 51/8 51/19 52/11 54/2 57/21 58/2 58/14 58/18 59/10 60/7 61/11 62/9 62/13 63/13 63/15 63/24 64/9 64/11 64/12 65/18 65/19 66/11 67/14 68/2 68/19 68/25 69/13 71/25	
strategy [6] 40/19 91/6 91/16 91/18 93/6 99/3		sum [3] 41/3 176/3 176/6		
streams [2] 19/7 19/21		summarise [5] 3/9 32/14 73/23 115/24 170/7		
street [1] 91/23		summarising [1] 123/1		
strength [1] 137/1		summary [5] 74/5 74/13 74/23 85/24 149/16		
strengthen [2] 169/17 171/1		sums [1] 68/14		
stress [1] 37/5		superintend [1] 96/18		
strikes [1] 53/24				
stripped [1] 146/14				

T	terse [3] 117/3 117/6 119/13	74/13 76/10 83/4 83/9 83/18 84/3 85/11	196/17 198/11 198/16 198/17	29/22 37/13 39/13 42/19 50/1 53/10
talking [18] 21/19 29/17 40/12 41/6 68/9 68/9 69/14 69/24 73/11 73/25 74/1 74/2 88/10 88/10 119/8 150/10 173/5 191/5	tested [3] 142/22 176/24 176/24	86/10 86/17 88/17 95/2 97/9 107/4 107/11 108/22 116/2 120/7 122/5 123/5 124/18 126/22 127/6 130/12 130/17 130/19 131/6 134/14 136/24 140/21 141/15 143/11 144/6 145/19 145/25 150/23 151/12 152/11 153/25 154/16 162/2 167/17 168/2 169/25 172/8 173/2 173/10 173/10 173/21 174/16 177/14 178/13 180/10 181/3 183/6 189/24 194/20 196/19 199/18	themselves [15] 11/13 11/19 26/20 34/24 35/14 42/19 61/6 70/12 90/7 96/11 103/12 120/10 128/25 129/4 148/11	58/13 59/6 59/14 60/3 60/6 60/10 61/14 64/15 64/24 65/4 65/21 67/20 67/24 68/22 70/18 74/15 74/15 74/18 75/5 77/15 77/21 83/2 83/11 94/3 113/22 116/8 120/3 120/4 135/8 136/9 136/10 136/15 138/25 141/8 146/19 153/5 153/5 159/4 166/18 172/5 189/1 190/3 194/25 195/19 199/1
tamper [2] 156/21 184/6	text [1] 85/9	than [35] 6/21 7/16 9/7 22/20 25/25 29/2 35/12 42/4 48/25 60/24 75/10 77/15 77/16 83/8 83/11 100/5 109/21 110/5 123/16 128/14 136/13 141/19 144/17 146/15 151/14 163/2 165/10 169/7 170/1 171/25 171/25 175/14 182/22 191/4 194/11	then [103] 3/15 3/16 5/11 7/23 8/15 18/10 19/15 25/8 26/15 28/9 30/25 32/24 33/7 34/24 35/1 47/3 47/6 47/9 48/2 48/20 50/19 51/5 53/10 60/15 60/22 61/19 61/21 73/3 74/8 74/22 76/15 84/2 85/7 86/3 88/14 90/5 90/10 91/11 102/8 104/5 105/8 112/18 115/9 117/6 123/7 123/15 124/4 127/1 129/16 130/20 132/12 132/18 133/7 134/3 134/3 135/5 135/9 135/23 137/5 137/23 140/19 144/12 147/7 147/9 147/21 150/12 150/13 151/1 153/25 156/4 156/15 157/4 157/7 158/15 158/18 159/25 162/15 162/21 164/13 166/18 170/6 171/10 173/14 173/22 173/22 174/14 174/14 174/23 175/24 176/16 176/19 177/3 181/1 181/20 182/4 182/6 182/20 186/19 187/9 187/13 189/25 191/6 192/23	68/22 59/12 62/23 83/14 104/6 116/10 118/15
tamper-proof [1] 184/6	thank [77] 1/6 1/12 1/13 2/5 2/16 13/17 46/2 46/3 48/5 56/23 59/2 65/10 66/14 72/21 78/5 78/7 78/8 79/21 83/16 83/20 83/24 83/25 84/4 84/9 84/10 84/13 85/11 85/15 85/21 87/9 105/23 106/7 106/12 106/17 106/18 112/20 112/22 116/13 116/15 125/4 129/15 130/20 141/3 141/25 155/17 155/21 156/1 156/5 157/12 159/23 166/21 167/19 169/9 171/5 171/14 171/17 172/3 173/12 176/12 176/23 177/14 180/10 181/3 183/22 183/23 184/1 187/17 191/13 191/14 191/22 197/13 197/16 199/7 199/8 199/11 199/15 199/18	theft [8] 53/11 53/12 151/8 175/5 178/1 180/13 180/21 181/7	theory [2] 135/3 135/22	77/15 77/21 83/2 83/11 94/3 113/22 116/8 120/3 120/4 135/8 136/9 136/10 136/15 138/25 141/8 146/19 153/5 153/5 159/4 166/18 172/5 189/1 190/3 194/25 195/19 199/1
tape [2] 6/9 6/10	that [1118]	theft/false [1] 151/8	there [244]	they [210]
target [1] 38/16	that I [1] 104/6	their [77] 7/20 11/21 13/24 16/2 19/17 21/12 22/25 23/3 23/3 23/4 24/14 25/20 27/18 29/12 30/6 37/21 51/11 51/12 51/13 51/18 51/19 53/1 53/2 53/3 57/20 59/11 60/6 61/14 64/8 64/8 64/9 65/24 66/10 68/1 73/4 75/20 80/7 80/9 82/1 93/3 93/4 98/15 100/9 104/8 104/14 107/18 110/23 111/15 113/12 113/21 114/18 115/12 115/13 124/13 125/8 133/15 139/5 141/20 142/10 147/11 147/14 147/23 147/24 148/9 148/10 148/13 161/3 161/8 161/20 170/25 171/20 175/20 178/21 192/15 194/21 194/22 195/25	there'd [4] 65/1 120/9 153/5 159/16	they'd [7] 95/1 111/9 111/11 119/22 125/7 129/10 159/11
task [2] 96/4 105/19	that's [104] 3/5 3/8 4/16 7/8 7/24 11/11 14/9 14/18 16/1 16/2 16/8 16/11 20/3 20/10 20/20 23/5 29/23 33/10 33/18 35/4 35/15 36/20 38/7 38/10 38/11 40/17 44/4 45/8 45/12 45/18 45/19 45/22 48/5 50/3 50/17 52/12 52/12 53/16 54/7 55/15 56/16 62/16 64/2 64/13 64/23 72/17	theft/false [1] 151/8	there's [25] 31/16 33/1 39/20 41/3 48/2 57/18 59/22 60/7 63/25 64/1 70/15 71/15 79/16 81/4 83/10 93/24 102/4 120/1 120/2 140/2 155/10 173/22 176/16 187/16 193/11	they'll [3] 26/25 45/15 147/5
taste [1] 148/4	Thanks [1] 187/19	their [77] 7/20 11/21 13/24 16/2 19/17 21/12 22/25 23/3 23/3 23/4 24/14 25/20 27/18 29/12 30/6 37/21 51/11 51/12 51/13 51/18 51/19 53/1 53/2 53/3 57/20 59/11 60/6 61/14 64/8 64/8 64/9 65/24 66/10 68/1 73/4 75/20 80/7 80/9 82/1 93/3 93/4 98/15 100/9 104/8 104/14 107/18 110/23 111/15 113/12 113/21 114/18 115/12 115/13 124/13 125/8 133/15 139/5 141/20 142/10 147/11 147/14 147/23 147/24 148/9 148/10 148/13 161/3 161/8 161/20 170/25 171/20 175/20 178/21 192/15 194/21 194/22 195/25	thereabouts [1] 21/12	they're [15] 19/14 22/21 25/15 25/20 25/21 27/19 28/3 35/5 57/2 59/12 62/23 83/14 104/6 116/10 118/15
taught [1] 69/12	that I [1] 104/6	theft/false [1] 151/8	therefore [11] 48/22 86/14 92/9 93/6 126/6 126/11 130/15 135/6 137/12 143/16 161/17	they're [15] 19/14 22/21 25/15 25/20 25/21 27/19 28/3 35/5 57/2 59/12 62/23 83/14 104/6 116/10 118/15
team [3] 160/8 185/7 185/9	that's [104] 3/5 3/8 4/16 7/8 7/24 11/11 14/9 14/18 16/1 16/2 16/8 16/11 20/3 20/10 20/20 23/5 29/23 33/10 33/18 35/4 35/15 36/20 38/7 38/10 38/11 40/17 44/4 45/8 45/12 45/18 45/19 45/22 48/5 50/3 50/17 52/12 52/12 53/16 54/7 55/15 56/16 62/16 64/2 64/13 64/23 72/17	theft/false [1] 151/8	these [61] 5/24 7/15 8/24 9/2 14/5 24/24 25/14 25/19 27/6 28/8	they're [15] 19/14 22/21 25/15 25/20 25/21 27/19 28/3 35/5 57/2 59/12 62/23 83/14 104/6 116/10 118/15
technology [3] 47/1 65/25 114/20	that's [104] 3/5 3/8 4/16 7/8 7/24 11/11 14/9 14/18 16/1 16/2 16/8 16/11 20/3 20/10 20/20 23/5 29/23 33/10 33/18 35/4 35/15 36/20 38/7 38/10 38/11 40/17 44/4 45/8 45/12 45/18 45/19 45/22 48/5 50/3 50/17 52/12 52/12 53/16 54/7 55/15 56/16 62/16 64/2 64/13 64/23 72/17	theft/false [1] 151/8	theory [2] 135/3 135/22	they've [5] 33/14 35/17 50/3 158/23 166/13
teetering [1] 148/15	that's [104] 3/5 3/8 4/16 7/8 7/24 11/11 14/9 14/18 16/1 16/2 16/8 16/11 20/3 20/10 20/20 23/5 29/23 33/10 33/18 35/4 35/15 36/20 38/7 38/10 38/11 40/17 44/4 45/8 45/12 45/18 45/19 45/22 48/5 50/3 50/17 52/12 52/12 53/16 54/7 55/15 56/16 62/16 64/2 64/13 64/23 72/17	theft/false [1] 151/8	there [244]	thing [28] 31/15 39/21 53/24 58/5 58/22 59/13 69/21 69/22 71/9 71/21 75/13 76/8 76/11 76/11 77/20 80/13 101/21 102/15 119/5 119/14 129/20 129/23 135/13 138/16 169/23 170/23 190/20 198/18
tell [19] 65/23 89/12 97/10 108/11 108/16 108/20 109/7 117/17 137/4 137/17 141/4 147/2 147/5 147/10 147/17 147/22 147/25 182/19 193/2	that's [104] 3/5 3/8 4/16 7/8 7/24 11/11 14/9 14/18 16/1 16/2 16/8 16/11 20/3 20/10 20/20 23/5 29/23 33/10 33/18 35/4 35/15 36/20 38/7 38/10 38/11 40/17 44/4 45/8 45/12 45/18 45/19 45/22 48/5 50/3 50/17 52/12 52/12 53/16 54/7 55/15 56/16 62/16 64/2 64/13 64/23 72/17	theft/false [1] 151/8	there'd [4] 65/1 120/9 153/5 159/16	things [52] 5/1 5/22 7/9 8/17 9/3 9/4 9/7 14/25 15/9 15/24 16/16 17/7 17/14 18/5 18/9 21/17 23/24 26/25 35/8 35/13 38/15 42/18 48/25 49/22 52/6 57/7 60/10 65/4 66/12 68/21 70/7 77/5 78/14 82/4 82/21 83/2 83/5 93/8 94/7 94/9 100/12 110/14 118/11 123/7 152/21 163/18 172/14 173/4 179/5 179/7 190/18 194/4
telling [14] 64/7 68/3 100/23 127/18 137/11 146/18 146/21 149/24 154/19 159/9 164/5 183/6 190/9 194/12	that's [104] 3/5 3/8 4/16 7/8 7/24 11/11 14/9 14/18 16/1 16/2 16/8 16/11 20/3 20/10 20/20 23/5 29/23 33/10 33/18 35/4 35/15 36/20 38/7 38/10 38/11 40/17 44/4 45/8 45/12 45/18 45/19 45/22 48/5 50/3 50/17 52/12 52/12 53/16 54/7 55/15 56/16 62/16 64/2 64/13 64/23 72/17	theft/false [1] 151/8	there's [25] 31/16 33/1 39/20 41/3 48/2 57/18 59/22 60/7 63/25 64/1 70/15 71/15 79/16 81/4 83/10 93/24 102/4 120/1 120/2 140/2 155/10 173/22 176/16 187/16 193/11	think [146] 5/23 7/14 13/7 15/21 15/22 20/7 26/8 26/12 27/1 27/7 28/20 28/23 31/12 31/14 33/8 34/7 38/4 38/5 40/17 40/21 41/2
tells [1] 193/10	that's [104] 3/5 3/8 4/16 7/8 7/24 11/11 14/9 14/18 16/1 16/2 16/8 16/11 20/3 20/10 20/20 23/5 29/23 33/10 33/18 35/4 35/15 36/20 38/7 38/10 38/11 40/17 44/4 45/8 45/12 45/18 45/19 45/22 48/5 50/3 50/17 52/12 52/12 53/16 54/7 55/15 56/16 62/16 64/2 64/13 64/23 72/17	theft/false [1] 151/8	thereabouts [1] 21/12	think [146] 5/23 7/14 13/7 15/21 15/22 20/7 26/8 26/12 27/1 27/7 28/20 28/23 31/12 31/14 33/8 34/7 38/4 38/5 40/17 40/21 41/2
temporary [1] 22/18	that's [104] 3/5 3/8 4/16 7/8 7/24 11/11 14/9 14/18 16/1 16/2 16/8 16/11 20/3 20/10 20/20 23/5 29/23 33/10 33/18 35/4 35/15 36/20 38/7 38/10 38/11 40/17 44/4 45/8 45/12 45/18 45/19 45/22 48/5 50/3 50/17 52/12 52/12 53/16 54/7 55/15 56/16 62/16 64/2 64/13 64/23 72/17	theft/false [1] 151/8	therefore [11] 48/22 86/14 92/9 93/6 126/6 126/11 130/15 135/6 137/12 143/16 161/17	think [146] 5/23 7/14 13/7 15/21 15/22 20/7 26/8 26/12 27/1 27/7 28/20 28/23 31/12 31/14 33/8 34/7 38/4 38/5 40/17 40/21 41/2
temptation [1] 70/16	that's [104] 3/5 3/8 4/16 7/8 7/24 11/11 14/9 14/18 16/1 16/2 16/8 16/11 20/3 20/10 20/20 23/5 29/23 33/10 33/18 35/4 35/15 36/20 38/7 38/10 38/11 40/17 44/4 45/8 45/12 45/18 45/19 45/22 48/5 50/3 50/17 52/12 52/12 53/16 54/7 55/15 56/16 62/16 64/2 64/13 64/23 72/17	theft/false [1] 151/8	these [61] 5/24 7/15 8/24 9/2 14/5 24/24 25/14 25/19 27/6 28/8	think [146] 5/23 7/14 13/7 15/21 15/22 20/7 26/8 26/12 27/1 27/7 28/20 28/23 31/12 31/14 33/8 34/7 38/4 38/5 40/17 40/21 41/2
tempting [1] 83/4	that's [104] 3/5 3/8 4/16 7/8 7/24 11/11 14/9 14/18 16/1 16/2 16/8 16/11 20/3 20/10 20/20 23/5 29/23 33/10 33/18 35/4 35/15 36/20 38/7 38/10 38/11 40/17 44/4 45/8 45/12 45/18 45/19 45/22 48/5 50/3 50/17 52/12 52/12 53/16 54/7 55/15 56/16 62/16 64/2 64/13 64/23 72/17	theft/false [1] 151/8	theory [2] 135/3 135/22	think [146] 5/23 7/14 13/7 15/21 15/22 20/7 26/8 26/12 27/1 27/7 28/20 28/23 31/12 31/14 33/8 34/7 38/4 38/5 40/17 40/21 41/2
ten [5] 17/22 34/19 84/1 171/9 171/10	that's [104] 3/5 3/8 4/16 7/8 7/24 11/11 14/9 14/18 16/1 16/2 16/8 16/11 20/3 20/10 20/20 23/5 29/23 33/10 33/18 35/4 35/15 36/20 38/7 38/10 38/11 40/17 44/4 45/8 45/12 45/18 45/19 45/22 48/5 50/3 50/17 52/12 52/12 53/16 54/7 55/15 56/16 62/16 64/2 64/13 64/23 72/17	theft/false [1] 151/8	there [244]	think [146] 5/23 7/14 13/7 15/21 15/22 20/7 26/8 26/12 27/1 27/7 28/20 28/23 31/12 31/14 33/8 34/7 38/4 38/5 40/17 40/21 41/2
tends [1] 105/2	that's [104] 3/5 3/8 4/16 7/8 7/24 11/11 14/9 14/18 16/1 16/2 16/8 16/11 20/3 20/10 20/20 23/5 29/23 33/10 33/18 35/4 35/15 36/20 38/7 38/10 38/11 40/17 44/4 45/8 45/12 45/18 45/19 45/22 48/5 50/3 50/17 52/12 52/12 53/16 54/7 55/15 56/16 62/16 64/2 64/13 64/23 72/17	theft/false [1] 151/8	there'd [4] 65/1 120/9 153/5 159/16	think [146] 5/23 7/14 13/7 15/21 15/22 20/7 26/8 26/12 27/1 27/7 28/20 28/23 31/12 31/14 33/8 34/7 38/4 38/5 40/17 40/21 41/2
tenure [8] 9/18 10/8 46/24 80/10 87/21 93/19 186/9 198/2	that's [104] 3/5 3/8 4/16 7/8 7/24 11/11 14/9 14/18 16/1 16/2 16/8 16/11 20/3 20/10 20/20 23/5 29/23 33/10 33/18 35/4 35/15 36/20 38/7 38/10 38/11 40/17 44/4 45/8 45/12 45/18 45/19 45/22 48/5 50/3 50/17 52/12 52/12 53/16 54/7 55/15 56/16 62/16 64/2 64/13 64/23 72/17	theft/false [1] 151/8	there's [25] 31/16 33/1 39/20 41/3 48/2 57/18 59/22 60/7 63/25 64/1 70/15 71/15 79/16 81/4 83/10 93/24 102/4 120/1 120/2 140/2 155/10 173/22 176/16 187/16 193/11	think [146] 5/23 7/14 13/7 15/21 15/22 20/7 26/8 26/12 27/1 27/7 28/20 28/23 31/12 31/14 33/8 34/7 38/4 38/5 40/17 40/21 41/2
term [2] 70/19 152/15	that's [104] 3/5 3/8 4/16 7/8 7/24 11/11 14/9 14/18 16/1 16/2 16/8 16/11 20/3 20/10 20/20 23/5 29/23 33/10 33/18 35/4 35/15 36/20 38/7 38/10 38/11 40/17 44/4 45/8 45/12 45/18 45/19 45/22 48/5 50/3 50/17 52/12 52/12 53/16 54/7 55/15 56/16 62/16 64/2 64/13 64/23 72/17	theft/false [1] 151/8	thereabouts [1] 21/12	think [146] 5/23 7/14 13/7 15/21 15/22 20/7 26/8 26/12 27/1 27/7 28/20 28/23 31/12 31/14 33/8 34/7 38/4 38/5 40/17 40/21 41/2
terminals [3] 166/3 187/22 188/14	that's [104] 3/5 3/8 4/16 7/8 7/24 11/11 14/9 14/18 16/1 16/2 16/8 16/11 20/3 20/10 20/20 23/5 29/23 33/10 33/18 35/4 35/15 36/20 38/7 38/10 38/11 40/17 44/4 45/8 45/12 45/18 45/19 45/22 48/5 50/3 50/17 52/12 52/12 53/16 54/7 55/15 56/16 62/16 64/2 64/13 64/23 72/17			

T	67/20 77/1 79/2 79/6 79/6 85/18 88/6 93/5 96/5 96/20 97/8 97/23 99/2 99/6 100/6 100/7 100/8 100/17 101/9 106/1 108/15 108/16 114/3 117/1 117/25 118/4 118/14 119/24 120/22 121/22 125/11 128/20 128/24 138/22 141/16 143/25 162/24 163/1 164/7 167/4 169/11 171/5 172/11 173/1 188/6 191/13 193/24 194/23 196/15 198/5 198/15 199/7	8/22 8/23 9/1 9/3 9/15 14/16 14/21 15/7 15/9 15/18 15/19 15/22 16/1 16/3 18/3 18/4 20/18 20/22 21/2 21/2 22/14 23/18 23/20 23/23 25/5 28/13 30/4 34/17 35/13 37/9 41/7 42/16 45/18 45/19 46/6 46/13 49/8 50/13 51/12 52/18 53/14 57/9 57/15 57/16 58/4 59/5 59/9 59/15 59/16 59/20 60/11 62/3 64/14 64/25 65/3 65/3 65/7 65/15 66/5 66/7 66/8 68/6 69/17 72/25 74/4 75/13 75/21 76/17 76/19 76/23 77/3 77/7 77/14 78/2 79/24 80/19 81/18 82/6 87/25 88/19 89/5 90/21 91/1 92/9 94/6 96/5 96/7 97/2 97/21 99/15 100/19 103/11 104/20 109/12 110/8 111/12 112/3 114/11 114/11 115/5 117/23 119/8 130/18 137/7 141/17 142/22 143/18 143/21 144/2 145/1 145/4 146/7 148/16 149/3 149/9 152/13 156/3 156/24 159/15 164/16 166/8 169/22 170/14 175/11 178/5 179/20 182/14 185/25 186/2 186/16 188/8 190/10 190/15	166/13 167/16 168/6 170/5 172/5 191/2 193/9 198/23 199/4 Tony [1] 198/3 too [7] 1/22 16/21 81/24 99/5 132/4 148/17 168/22 took [23] 14/21 16/13 23/17 27/5 42/24 59/16 59/17 72/5 82/7 88/8 96/4 96/18 107/2 107/9 113/4 122/14 124/21 152/14 153/22 154/3 154/15 161/2 195/7 top [5] 27/9 81/21 112/24 112/25 140/6 tot [1] 180/13 total [1] 10/2 totally [2] 80/3 152/18 touching [1] 188/5 towards [5] 3/21 17/15 18/5 25/24 99/12 town [2] 39/19 39/25 towns [1] 92/25 Tracy [1] 135/9 trade [3] 5/18 77/5 172/15 trading [1] 148/2 traditional [1] 25/6 tragedy [1] 167/25 trained [1] 156/25 training [2] 27/10 109/2 tramlines [1] 129/16 transaction [2] 57/22 143/4 transactions [4] 124/13 140/12 142/16 143/6 Transformation [1] 198/21 transparency [1] 168/9 traps [1] 163/5 travesty [1] 182/9 Treasury [2] 9/7 91/17 treat [1] 98/17 treated [7] 42/11 63/20 101/15 133/11 138/9 138/22 148/13 treating [1] 112/1 treatment [3] 39/8 39/10 125/21 trenchant [1] 77/8 trial [7] 160/6 160/9 160/11 175/4 175/10 175/22 185/4 trickle [2] 141/7 141/13 tricky [1] 103/6	tried [1] 175/12 trouble [3] 18/4 146/24 147/6 troubling [1] 155/6 true [16] 2/13 28/24 28/25 85/17 103/21 104/11 105/7 115/21 123/19 136/15 137/8 137/11 164/12 173/2 173/21 182/15 truly [1] 184/10 trust [7] 30/15 34/6 36/1 36/5 171/2 178/23 195/1 trusted [2] 36/2 64/10 trusting [2] 33/24 34/4 truth [18] 35/3 68/3 81/13 100/23 100/25 104/17 115/5 137/12 137/14 146/25 157/17 157/21 182/19 183/6 191/2 193/2 193/10 194/12 truthful [3] 110/20 111/23 112/1 truthfulness [1] 137/2 try [8] 18/11 34/14 77/20 118/11 133/21 139/9 176/10 196/9 trying [19] 18/15 19/19 34/19 43/12 44/6 71/19 71/23 94/9 96/14 98/2 98/4 104/13 104/13 109/24 112/16 121/7 122/6 129/11 146/23 turn [30] 1/15 1/22 2/6 14/10 29/16 46/4 51/5 58/8 61/19 68/2 84/22 85/13 89/12 95/3 99/8 108/11 108/21 112/18 113/18 129/13 131/9 147/12 147/16 148/20 150/13 156/9 159/20 164/13 166/24 186/19 turned [3] 53/5 67/22 123/4 turning [3] 74/11 74/18 147/16 turns [3] 34/11 135/4 135/23 twice [1] 128/4 two [39] 9/12 13/14 13/15 14/7 14/20 22/16 29/2 48/25 52/25 53/23 57/7 57/18 60/6 61/12 79/6 84/20 85/18 100/12 101/11 104/5 115/9 118/4 118/16 150/13
----------	--	---	---	---

T	Under-Secretary's [1] 26/24	untrue [1] 104/9	usual [2] 44/3 172/7	viewed [3] 24/16
two... [15] 150/16	underlying [2] 10/25	untruthful [1] 182/23	usually [3] 24/25	42/14 179/17
152/15 153/4 154/21	12/19	unusual [9] 4/22 44/2	30/6 76/2	views [1] 66/2
155/7 156/2 159/13	undermine [2]	60/19 69/22 70/3		vigorously [1] 58/12
159/25 160/16 163/2	178/23 182/25	74/15 74/18 74/20		village [2] 39/18
163/14 169/11 186/4	underneath [2] 30/8	172/24	V	39/25
192/23 198/1	116/13	up [79] 13/20 14/17	Valerie [1] 140/6	villages [1] 92/25
two paragraphs [1]	understand [19] 2/2	14/21 19/12 19/17	validity [1] 126/10	Vince [4] 87/4 124/5
169/11	43/23 48/17 58/20	25/18 28/6 52/16	value [6] 66/10 80/22	174/14 174/20
two-year [1] 198/1	63/10 67/4 83/25	54/25 56/8 57/6 57/10	82/9 93/3 93/4 111/9	Vincent [1] 124/6
tying [1] 148/2	92/11 129/11 144/7	58/5 64/10 64/17 65/9	vanish [1] 176/8	vindicated [1] 185/9
type [3] 31/9 82/19	151/19 154/22 154/23	67/11 69/25 73/17	variety [1] 172/16	visible [1] 112/6
193/20	160/20 177/23 177/25	75/15 81/15 82/16	various [4] 4/2 20/21	volume [3] 15/23
types [2] 26/20	178/5 183/11 194/8	84/22 88/8 89/13	189/25 194/25	15/23 118/13
128/20	understandable [1]	89/13 91/16 95/3 99/8	vast [2] 120/7 120/10	volunteers [1] 12/15
typical [2] 28/14	43/5	106/8 107/3 108/12	Vaz [1] 140/6	vote [1] 17/22
28/16	understandably [1]	108/21 113/4 115/12	Vennells [2] 104/5	votes [2] 17/22 17/24
	17/17	116/18 124/16 124/21	190/13	
U	understanding [13]	126/7 132/14 135/9	verbal [1] 93/22	W
UFO [1] 193/16	20/23 21/24 45/9	138/13 140/22 142/15	verdict [1] 44/15	wage [1] 25/6
UK [6] 8/25 9/2 9/5	90/20 91/7 94/17	143/6 147/1 147/15	verdicts [1] 43/11	wages [1] 53/4
17/2 26/11 69/12	112/2 112/7 139/23	147/16 148/1 148/20	verifying [1] 157/14	wait [1] 147/15
UKGI0000062 [2]	139/24 153/3 165/4	152/23 153/9 162/18	versus [1] 12/17	waits [1] 147/7
150/15 156/4	165/17	162/22 163/24 164/18	very [96] 1/6 3/14	walks [1] 147/21
UKGI00011504 [1]	understood [11] 43/9	165/2 168/3 171/8	3/21 10/1 10/13 10/19	Walters [1] 138/1
60/13	88/9 90/23 92/8 92/10	171/9 171/10 171/11	13/17 15/4 15/17	want [25] 1/14 3/2
UKGI00011506 [1]	92/11 93/15 95/11	173/12 174/23 176/10	17/16 18/14 18/18	7/23 19/23 20/20
63/3	95/16 104/17 105/5	176/10 176/22 180/8	20/14 22/21 27/18	26/15 30/16 36/8 37/5
UKGI00013863 [1]	undertaken [3] 97/8	180/25 185/16 186/22	27/18 27/19 27/20	38/2 39/19 41/12
176/9	157/6 157/16	187/12 187/15 187/16	28/22 30/9 31/11	46/21 46/21 68/5 70/5
UKGI00013913 [3]	undisturbed [1]	189/2 189/24 193/22	31/13 31/18 33/23	73/9 74/22 90/12
141/22 173/10 176/11	192/7	195/7 198/25	34/7 35/3 35/24 36/3	150/18 169/1 186/7
UKGI00014108 [1]	unexplained [1]	update [1] 157/1	37/11 39/12 43/5	186/13 194/25 197/22
140/5	132/9	updated [3] 156/18	43/11 44/2 45/14	wanted [23] 6/5
UKGI00016099 [1]	Unfortunately [1]	158/17 158/18	46/25 51/1 58/21	19/16 46/9 52/15
145/20	138/10	upgrade [1] 142/25	61/23 69/10 69/22	66/21 79/1 80/5 93/5
UKGI00016119 [1]	unhappy [1] 57/23	upon [3] 71/20 107/3	70/6 72/17 73/3 76/4	96/2 99/5 105/4 116/6
112/22	union [2] 8/22 77/5	108/15	77/5 77/6 79/3 80/13	148/24 149/2 149/13
ultimate [3] 36/19	unions [2] 109/1	urge [1] 192/21	83/20 83/22 83/24	149/14 155/4 163/3
82/21 92/18	197/23	URN [1] 84/18	84/13 85/12 85/21	163/4 184/17 195/11
ultimately [8] 37/3	Unique [1] 1/18	us [28] 1/5 4/22	87/9 89/18 91/25	198/13 198/24
81/12 87/17 88/1	unit [1] 26/10	30/22 32/21 46/1	92/24 99/16 100/17	wanting [3] 91/24
105/18 133/23 136/8	unless [2] 45/17	75/12 84/8 84/16	106/7 106/12 107/12	161/22 165/12
139/11	110/15	84/18 89/12 97/10	110/17 113/4 120/7	wants [1] 147/10
umbrella [1] 172/18	unlike [1] 22/20	97/10 103/24 106/16	120/11 121/8 121/13	Warnborough [1]
unable [1] 130/15	unlock [1] 114/2	108/11 108/16 108/20	129/11 129/12 142/17	62/1
unaware [4] 96/17	unpaid [1] 178/3	109/7 117/17 117/23	142/21 145/25 151/15	was [549]
96/20 97/2 106/25	unprecedented [2]	126/5 126/6 137/17	154/10 155/3 159/17	wasn't [25] 12/14
unclear [2] 60/16	69/16 69/18	141/4 146/24 155/25	160/9 161/12 163/24	62/4 67/9 77/2 77/7
141/16	unreasonable [2]	157/23 157/24	164/9 171/5 171/14	100/16 100/16 101/25
unconvinced [1]	116/8 116/10	use [10] 46/22 54/17	172/23 172/23 173/9	107/25 112/6 121/17
122/20	unreliability [2]	57/21 64/9 68/17 72/9	177/4 177/14 178/25	123/9 123/12 123/16
uncover [2] 104/18	178/16 181/23	75/23 75/24 121/14	186/23 187/25 188/3	123/19 125/3 139/18
104/19	unsafe [2] 59/14 78/1	196/8	195/24 199/14 199/18	144/15 155/14 164/4
under [18] 3/16 4/18	unsatisfied [1] 27/15	used [10] 50/7 50/7	via [1] 141/20	165/17 168/6 170/18
5/24 8/2 13/8 26/24	unsound [3] 59/15	56/16 58/4 67/21 90/4	viability [1] 11/15	170/19 174/18
86/7 86/18 86/21 87/3	70/21 78/1	108/15 124/13 140/19	viable [1] 19/5	watched [1] 41/24
95/5 115/22 129/15	unsure [1] 7/8	188/16	victims [2] 58/22	watches [1] 147/6
132/1 138/20 150/21	until [13] 4/16 17/5	useful [3] 117/2	151/5	watching [2] 160/9
156/10 163/5	84/2 86/15 106/9	117/5 122/16	view [16] 17/25 20/23	193/17
Under-Secretary [6]	108/1 115/5 139/1	user [2] 143/5 184/9	23/18 24/11 44/12	Watt [7] 78/6 78/9
3/16 8/2 86/7 86/18	147/7 148/14 155/19	using [7] 38/19 59/12	46/8 50/9 82/6 111/4	171/10 197/15 199/8
86/21 87/3	159/14 199/20	77/25 82/10 114/21	117/10 143/22 153/22	200/9 200/22
		148/13 198/5	154/3 154/15 161/8	way [71] 6/10 12/13
			164/6	

W	40/21 42/12 43/9 44/12 46/19 48/3 52/15 53/19 54/7 57/1 58/8 60/11 60/22 61/2 63/20 65/18 69/8 69/23 71/2 71/17 73/2 73/3 75/2 75/12 76/5 76/14 77/13 77/16 80/19 81/15 82/23 83/20 92/22 93/12 98/23 99/23 102/24 104/2 105/19 109/17 111/1 111/11 112/2 112/14 112/17 113/14 115/23 118/6 121/1 127/17 128/16 128/24 132/4 137/7 141/15 154/6 161/22 163/2 163/23 165/4 165/12 167/24 175/22 178/15 178/20 180/3 180/9 183/3 190/25 194/3 197/10 199/4 199/11	92/20 93/14 93/15 95/17 95/20 97/25 101/4 101/22 102/25 103/5 103/20 104/13 104/14 104/18 104/20 105/1 105/5 105/11 111/7 111/10 111/15 111/22 111/25 112/5 112/8 112/15 114/17 116/2 118/23 119/3 120/16 121/6 121/18 123/5 126/22 127/17 128/10 128/17 128/18 128/19 128/21 131/11 136/7 136/12 136/19 136/20 137/2 137/11 138/19 141/15 144/7 144/7 145/10 145/18 146/25 148/23 149/2 152/11 154/19 157/15 159/1 159/4 159/9 164/4 164/12 166/13 167/22 168/19 169/3 169/7 169/10 173/18 178/13 178/21 181/17 181/18 182/8 182/11 182/21 183/19 183/19 184/3 184/25 191/9 193/9 194/2 194/12 194/19 195/15 196/24 197/20 197/24 198/13	185/11 185/13 186/14 188/19 191/11 194/20 196/12 198/13 whenever [1] 35/5 where [48] 2/22 4/23 10/22 11/4 16/23 17/19 18/10 20/20 22/23 28/17 29/17 31/12 31/24 32/16 33/20 36/2 36/19 39/14 39/19 39/21 39/24 40/22 43/16 55/17 60/17 63/21 68/2 69/14 79/16 92/16 102/4 115/15 115/18 118/1 118/15 134/16 142/6 147/17 149/25 157/12 164/22 165/3 173/17 177/19 179/25 187/16 190/7 195/20 whereby [2] 19/12 192/6 whether [39] 3/20 3/24 11/1 32/9 32/11 42/16 44/7 56/5 70/8 70/9 93/22 97/4 102/13 105/4 105/8 108/8 111/2 111/24 112/6 118/3 118/17 118/22 118/24 119/15 124/16 130/1 130/2 136/12 136/21 136/23 137/10 137/10 137/17 154/12 161/12 162/10 179/4 185/21 190/3 which [125] 1/15 3/20 8/24 10/9 11/16 12/9 12/10 13/24 16/20 17/4 17/5 17/9 17/9 19/11 21/2 21/16 25/17 27/3 27/8 28/14 38/9 40/13 40/15 43/22 44/7 46/23 48/4 49/17 50/5 50/10 50/24 52/4 57/7 57/19 58/5 61/19 61/20 63/17 71/1 71/11 71/25 73/4 76/22 77/19 79/9 79/9 79/11 80/11 80/15 82/16 83/5 83/14 84/19 84/24 84/25 89/14 89/23 90/18 91/25 92/4 92/7 93/7 93/25 95/7 96/4 96/6 98/10 99/13 100/23 104/9 108/15 108/20 113/4 113/24 115/1 116/17 118/7 120/2 121/25 124/9 124/12 124/12 125/2 125/12 125/15 132/6 133/16 134/9 135/19 138/3 138/20	140/12 140/14 141/16 142/6 142/10 145/19 151/6 154/2 163/3 164/21 164/25 166/3 166/23 170/8 171/24 173/16 174/16 175/23 176/11 177/19 180/5 180/7 182/13 184/13 185/4 185/14 185/16 187/23 188/5 188/14 188/24 192/4 193/2 193/19 while [5] 9/23 13/12 143/22 152/25 178/15 whilst [8] 20/7 99/10 116/25 120/21 126/3 142/8 179/4 190/1 Whip [1] 47/11 whistleblower [4] 169/24 196/18 197/1 197/8 whistleblowers [3] 169/18 170/1 196/23 White [2] 25/7 25/8 Whitehall [1] 28/21 Whitehead [23] 97/17 99/23 100/15 108/18 108/22 110/11 134/12 149/23 150/22 152/2 153/16 155/14 156/8 161/10 163/6 184/12 184/15 187/13 189/3 189/7 189/8 189/10 199/5 Whitehead's [2] 108/8 149/4 who [85] 3/22 9/13 18/2 20/25 21/3 22/5 22/13 22/19 23/14 24/3 24/5 24/8 24/21 26/18 27/4 27/22 30/18 31/13 33/3 33/20 34/13 34/15 34/23 37/8 37/25 41/1 42/20 47/9 51/7 51/10 52/17 54/20 57/23 58/22 61/5 61/11 63/22 67/16 68/13 68/13 74/24 75/17 75/18 77/21 79/2 88/11 88/20 92/13 93/10 98/24 99/21 100/4 103/23 103/25 105/12 105/20 106/1 107/23 110/23 113/11 113/17 114/5 115/12 124/8 124/9 137/16 140/10 140/16 140/19 140/19 141/20 144/16 147/19 153/4 153/17 153/18 155/16 160/2 160/3 169/13 174/17 179/1 183/24 185/2 195/11
way... [69] 16/21 18/14 21/22 22/20 25/5 28/23 31/23 32/5 34/16 38/15 42/2 42/6 43/4 46/18 48/12 48/24 50/11 51/16 52/1 54/16 54/23 55/14 55/19 56/6 63/21 71/14 72/7 72/17 75/5 81/15 81/16 83/7 84/24 84/25 91/21 110/18 111/6 111/10 114/3 118/6 127/8 128/16 128/18 129/1 133/10 138/8 155/2 157/20 166/4 170/9 171/1 171/3 179/19 182/8 182/18 183/1 183/7 184/11 184/12 184/24 184/25 187/1 188/4 188/15 189/24 191/3 194/3 194/17 195/2	went [9] 6/17 7/22 67/1 70/16 74/23 74/25 83/5 135/13 179/13 were [233] weren't [12] 35/21 47/1 68/13 76/21 88/20 94/1 135/20 160/22 165/15 174/2 182/17 199/6 West [1] 47/20 what [198] 3/15 3/19 5/7 7/12 8/8 8/23 9/11 9/15 10/24 11/5 15/17 16/1 17/3 18/21 18/25 20/11 20/23 21/5 22/10 22/11 23/18 24/11 27/4 27/21 27/25 29/24 30/2 31/9 34/4 34/5 34/13 34/19 35/22 36/1 36/5 36/24 36/24 37/1 37/8 37/20 40/23 42/18 42/20 43/24 44/6 45/12 45/19 46/10 48/7 48/9 49/4 49/20 50/13 51/16 52/12 52/13 52/15 53/17 53/25 54/6 57/1 57/2 57/2 58/24 59/20 59/23 61/7 61/17 62/21 64/2 64/6 64/14 66/21 67/4 67/10 67/25 67/25 68/3 70/13 70/16 71/2 71/4 71/23 72/5 73/23 74/10 74/22 74/23 75/7 75/8 75/19 76/9 76/19 76/22 77/13 81/14 81/17 81/18 81/20 81/22 82/7 82/25 83/7 88/2 92/3	what's [11] 21/4 21/5 27/22 33/21 33/23 49/15 73/18 74/6 74/13 75/1 180/9 whatever [1] 46/10 when [96] 4/21 8/9 9/10 11/15 15/11 16/4 16/13 17/23 20/15 22/1 28/16 29/21 30/5 30/17 30/21 33/19 36/24 37/22 41/14 41/18 45/10 48/8 48/11 49/20 49/23 52/13 53/6 53/9 53/17 53/21 54/5 55/16 55/22 65/25 66/8 67/11 68/11 71/2 71/7 73/10 75/4 75/18 75/24 82/5 82/12 82/21 87/2 88/8 88/19 89/7 96/12 96/16 102/17 107/5 107/17 107/21 109/13 110/10 111/24 114/12 114/18 116/17 118/21 119/21 121/19 122/19 123/13 136/9 138/19 139/20 139/22 141/5 143/21 144/12 144/14 147/10 155/11 157/12 157/13 159/2 159/4 168/4 170/5 178/18 178/20 179/12 183/4 183/17	ways [3] 24/25 57/20 68/15 we [277] we' [1] 64/15 we'd [5] 19/17 80/10 101/17 110/15 194/25 we'll [14] 1/7 32/14 50/25 52/22 101/9 108/2 116/13 117/9 135/18 136/16 144/13 163/20 171/13 199/16 we're [19] 11/23 36/25 50/18 59/3 69/14 69/24 71/19 90/11 101/8 107/15 117/18 118/2 119/8 119/14 125/13 135/22 137/22 150/3 150/17 we've [13] 32/21 34/18 35/11 46/7 66/15 75/14 118/12 145/25 157/25 167/5 169/23 190/10 191/4 website [1] 113/13 week [2] 40/1 186/2 weekly [8] 51/7 51/11 53/8 73/21 74/3 77/10 110/1 175/11 weeks [4] 29/3 66/4 89/18 96/5 weight [3] 114/23 196/7 196/8 welcome [3] 132/22 168/6 192/18 well [91] 6/1 6/5 9/18 14/25 17/14 20/16 20/25 22/14 23/1 26/4 26/5 28/10 29/2 32/19 33/9 34/7 35/24 37/24	

W	27/15 39/16 47/18 63/23 65/14 74/8 77/12 83/14 88/12 94/8 94/12 97/13 98/7 103/23 104/23 105/13 112/4 120/8 168/24 169/6 172/17 186/25 190/8 196/24 197/1 197/6	55/22 71/22 83/8 83/9 98/14 109/22 118/13 164/11 178/3 183/7 195/11 197/6 197/7	150/7 169/1 195/22 196/12	167/16 167/17 167/18 170/11 171/24 171/25 172/2 172/2 172/4 172/8 172/10 172/16 173/8 174/5 174/19 176/23 178/21 178/22 178/25 182/12 183/2 184/18 186/18 186/18 194/1 194/17 196/12 197/12
who'd [1] 153/2	without [14] 33/17 51/15 54/18 56/14 74/6 114/8 116/22 119/19 120/11 122/3 153/24 175/13 182/23 183/2	worked [9] 8/12 24/17 25/6 28/21 38/15 84/24 84/25 92/8 118/6	yeah [12] 31/8 45/13 52/1 93/18 95/14 102/15 107/13 107/16 108/4 110/9 112/2 129/19	yesterday [5] 167/9 170/3 192/5 192/17 196/23
who's [2] 8/5 35/17	WITN10250100 [1] 1/19	workers [2] 9/4 56/19	year [10] 13/16 19/2 40/8 41/5 66/17 121/20 122/24 147/17 191/25 198/1	yet [4] 29/4 138/21 148/9 190/15
whoever [4] 29/23 30/7 35/17 93/17	WITN10250102 [1] 47/8	working [9] 3/19 7/19 9/3 24/15 24/18 28/23 98/12 183/5 199/2	years [36] 3/12 3/14 4/3 7/12 17/24 29/4 37/10 37/19 40/10 57/17 58/20 59/6 59/17 65/20 67/20 67/24 69/13 69/23 75/16 76/16 93/1 103/1 103/5 114/24 115/7 121/7 142/15 146/5 147/15 150/9 155/1 156/14 158/13 160/3 192/7 196/25	you [782]
whole [11] 8/16 11/15 23/22 24/1 36/23 50/13 60/1 143/20 148/15 159/9 181/2	WITN10250103 [1] 48/4	works [6] 23/6 29/24 36/6 36/6 53/19 127/2	you'd [5] 44/19 111/22 118/4 172/22 178/22	you'll [10] 21/14 49/10 49/24 113/2 125/2 137/6 156/5 159/24 174/6 191/25
wholly [1] 74/18	WITN10610100 [1] 84/19	world [2] 36/2 152/10	you're [44] 7/13 9/10 13/21 21/19 29/16 33/19 33/23 33/24 34/13 36/5 36/10 38/12 40/22 45/12 71/12 73/11 74/8 75/4 76/8 76/10 86/5 89/10 96/21 102/24 110/8 112/6 118/17 120/5 121/10 122/25 134/9 137/18 139/20 145/2 149/16 161/10 162/24 171/23 186/11 186/15 193/4 194/2 194/15 196/5	you've [31] 10/22 16/5 26/15 26/17 28/9 30/23 32/16 34/3 34/23 34/24 34/25 35/1 48/1 54/10 76/5 77/6 79/18 82/15 82/17 97/10 100/12 110/18 118/16 182/11 182/21 183/19 184/24 193/6 194/9 194/10 196/1
whom [2] 171/19 171/20	WITN10610110 [1] 126/20	worrying [1] 51/1	yes [152] 1/6 2/4 2/8 2/15 4/15 4/18 5/16 5/20 7/2 8/1 8/7 12/5 13/10 14/9 20/17 21/7 22/18 23/10 23/12 29/20 31/6 38/19 38/24 38/24 39/7 39/12 40/8 40/17 46/2 55/13 55/20 57/12 57/17 60/19 62/14 62/16 62/18 62/25 63/1 63/2 63/6 64/20 69/1 72/16 72/24 73/13 73/16 74/20 78/7 81/2 83/18 84/9 85/2 85/10 85/16 85/20 86/13 86/17 86/20 86/23 86/25 87/5 87/13 87/18 88/17 93/17 94/21 97/1 97/9 97/19 100/18 101/11 101/13 102/10 102/10 103/2 103/15 103/19 105/15 106/17 108/7 110/21 111/21 113/6 116/7 117/6 117/20 117/22 119/21 121/2 121/16 122/5 123/5 123/6 124/3 124/7 124/19 125/1 126/16 126/17 128/3 129/22 130/19 131/8 133/1 134/7 135/18 137/21 139/14 139/15 141/2 141/12 143/18 144/25 149/21 151/19 155/20 156/1 157/17 157/22 158/5 158/13 161/1 163/1	you're [44] 7/13 9/10 13/21 21/19 29/16 33/19 33/23 33/24 34/13 36/5 36/10 38/12 40/22 45/12 71/12 73/11 74/8 75/4 76/8 76/10 86/5 89/10 96/21 102/24 110/8 112/6 118/17 120/5 121/10 122/25 134/9 137/18 139/20 145/2 149/16 161/10 162/24 171/23 186/11 186/15 193/4 194/2 194/15 196/5
whose [3] 30/1 79/4 195/23	WITN10610111 [1] 131/9	worth [3] 71/4 99/10 152/20	you're [44] 7/13 9/10 13/21 21/19 29/16 33/19 33/23 33/24 34/13 36/5 36/10 38/12 40/22 45/12 71/12 73/11 74/8 75/4 76/8 76/10 86/5 89/10 96/21 102/24 110/8 112/6 118/17 120/5 121/10 122/25 134/9 137/18 139/20 145/2 149/16 161/10 162/24 171/23 186/11 186/15 193/4 194/2 194/15 196/5	you're [44] 7/13 9/10 13/21 21/19 29/16 33/19 33/23 33/24 34/13 36/5 36/10 38/12 40/22 45/12 71/12 73/11 74/8 75/4 76/8 76/10 86/5 89/10 96/21 102/24 110/8 112/6 118/17 120/5 121/10 122/25 134/9 137/18 139/20 145/2 149/16 161/10 162/24 171/23 186/11 186/15 193/4 194/2 194/15 196/5
why [32] 26/3 26/4 34/15 35/15 39/12 49/20 50/3 55/14 55/14 56/24 64/6 65/21 67/4 75/10 76/11 76/13 77/17 83/9 101/19 102/2 102/13 122/14 128/14 128/22 150/6 152/2 159/8 162/2 179/10 179/13 183/8 190/16	witness [37] 1/13 2/17 13/21 28/6 78/15 80/1 84/18 85/17 85/22 89/12 89/14 95/2 96/9 97/10 99/8 103/7 103/16 103/22 106/20 108/11 117/17 117/23 118/12 122/9 131/23 141/4 148/20 158/14 158/25 166/11 166/25 167/1 167/14 185/6 194/5 197/3 199/12	would [257]	yes [152] 1/6 2/4 2/8 2/15 4/15 4/18 5/16 5/20 7/2 8/1 8/7 12/5 13/10 14/9 20/17 21/7 22/18 23/10 23/12 29/20 31/6 38/19 38/24 38/24 39/7 39/12 40/8 40/17 46/2 55/13 55/20 57/12 57/17 60/19 62/14 62/16 62/18 62/25 63/1 63/2 63/6 64/20 69/1 72/16 72/24 73/13 73/16 74/20 78/7 81/2 83/18 84/9 85/2 85/10 85/16 85/20 86/13 86/17 86/20 86/23 86/25 87/5 87/13 87/18 88/17 93/17 94/21 97/1 97/9 97/19 100/18 101/11 101/13 102/10 102/10 103/2 103/15 103/19 105/15 106/17 108/7 110/21 111/21 113/6 116/7 117/6 117/20 117/22 119/21 121/2 121/16 122/5 123/5 123/6 124/3 124/7 124/19 125/1 126/16 126/17 128/3 129/22 130/19 131/8 133/1 134/7 135/18 137/21 139/14 139/15 141/2 141/12 143/18 144/25 149/21 151/19 155/20 156/1 157/17 157/22 158/5 158/13 161/1 163/1	you're [44] 7/13 9/10 13/21 21/19 29/16 33/19 33/23 33/24 34/13 36/5 36/10 38/12 40/22 45/12 71/12 73/11 74/8 75/4 76/8 76/10 86/5 89/10 96/21 102/24 110/8 112/6 118/17 120/5 121/10 122/25 134/9 137/18 139/20 145/2 149/16 161/10 162/24 171/23 186/11 186/15 193/4 194/2 194/15 196/5
wide [2] 3/11 172/11	witnesses [3] 41/18 41/24 194/19	wouldn't [12] 11/3 32/18 42/12 94/6 98/13 98/21 152/17 154/18 165/7 172/23 172/24 186/13	you're [44] 7/13 9/10 13/21 21/19 29/16 33/19 33/23 33/24 34/13 36/5 36/10 38/12 40/22 45/12 71/12 73/11 74/8 75/4 76/8 76/10 86/5 89/10 96/21 102/24 110/8 112/6 118/17 120/5 121/10 122/25 134/9 137/18 139/20 145/2 149/16 161/10 162/24 171/23 186/11 186/15 193/4 194/2 194/15 196/5	you're [44] 7/13 9/10 13/21 21/19 29/16 33/19 33/23 33/24 34/13 36/5 36/10 38/12 40/22 45/12 71/12 73/11 74/8 75/4 76/8 76/10 86/5 89/10 96/21 102/24 110/8 112/6 118/17 120/5 121/10 122/25 134/9 137/18 139/20 145/2 149/16 161/10 162/24 171/23 186/11 186/15 193/4 194/2 194/15 196/5
wider [1] 16/9	Woking [1] 165/14	wouldn't [12] 11/3 32/18 42/12 94/6 98/13 98/21 152/17 154/18 165/7 172/23 172/24 186/13	you're [44] 7/13 9/10 13/21 21/19 29/16 33/19 33/23 33/24 34/13 36/5 36/10 38/12 40/22 45/12 71/12 73/11 74/8 75/4 76/8 76/10 86/5 89/10 96/21 102/24 110/8 112/6 118/17 120/5 121/10 122/25 134/9 137/18 139/20 145/2 149/16 161/10 162/24 171/23 186/11 186/15 193/4 194/2 194/15 196/5	you're [44] 7/13 9/10 13/21 21/19 29/16 33/19 33/23 33/24 34/13 36/5 36/10 38/12 40/22 45/12 71/12 73/11 74/8 75/4 76/8 76/10 86/5 89/10 96/21 102/24 110/8 112/6 118/17 120/5 121/10 122/25 134/9 137/18 139/20 145/2 149/16 161/10 162/24 171/23 186/11 186/15 193/4 194/2 194/15 196/5
widespread [1] 173/23	Wolverhampton [1] 3/4	wouldn't [12] 11/3 32/18 42/12 94/6 98/13 98/21 152/17 154/18 165/7 172/23 172/24 186/13	you're [44] 7/13 9/10 13/21 21/19 29/16 33/19 33/23 33/24 34/13 36/5 36/10 38/12 40/22 45/12 71/12 73/11 74/8 75/4 76/8 76/10 86/5 89/10 96/21 102/24 110/8 112/6 118/17 120/5 121/10 122/25 134/9 137/18 139/20 145/2 149/16 161/10 162/24 171/23 186/11 186/15 193/4 194/2 194/15 196/5	you're [44] 7/13 9/10 13/21 21/19 29/16 33/19 33/23 33/24 34/13 36/5 36/10 38/12 40/22 45/12 71/12 73/11 74/8 75/4 76/8 76/10 86/5 89/10 96/21 102/24 110/8 112/6 118/17 120/5 121/10 122/25 134/9 137/18 139/20 145/2 149/16 161/10 162/24 171/23 186/11 186/15 193/4 194/2 194/15 196/5
WIFE [1] 189/23	woman [1] 179/12	wouldn't [12] 11/3 32/18 42/12 94/6 98/13 98/21 152/17 154/18 165/7 172/23 172/24 186/13	you're [44] 7/13 9/10 13/21 21/19 29/16 33/19 33/23 33/24 34/13 36/5 36/10 38/12 40/22 45/12 71/12 73/11 74/8 75/4 76/8 76/10 86/5 89/10 96/21 102/24 110/8 112/6 118/17 120/5 121/10 122/25 134/9 137/18 139/20 145/2 149/16 161/10 162/24 171/23 186/11 186/15 193/4 194/2 194/15 196/5	you're [44] 7/13 9/10 13/21 21/19 29/16 33/19 33/23 33/24 34/13 36/5 36/10 38/12 40/22 45/12 71/12 73/11 74/8 75/4 76/8 76/10 86/5 89/10 96/21 102/24 110/8 112/6 118/17 120/5 121/10 122/25 134/9 137/18 139/20 145/2 149/16 161/10 162/24 171/23 186/11 186/15 193/4 194/2 194/15 196/5
will [67] 2/16 2/17 8/4 9/11 9/12 9/13 26/24 28/2 29/24 30/1 30/2 30/6 30/19 30/21 32/10 34/21 37/4 38/12 44/14 45/13 48/12 53/21 55/20 55/21 56/19 68/5 70/9 70/19 70/20 71/22 72/12 76/2 76/6 84/1 84/19 89/13 93/13 104/18 108/19 124/10 125/23 126/6 126/23 126/25 128/1 130/23 130/25 131/5 131/14 131/18 132/19 135/5 135/11 135/24 137/9 147/2 147/12 147/17 147/21 162/12 166/9 169/1 180/10 188/18 196/8 196/16 196/16	women [1] 15/5 147/5 147/10 147/13 147/24	wouldn't [12] 11/3 32/18 42/12 94/6 98/13 98/21 152/17 154/18 165/7 172/23 172/24 186/13	you're [44] 7/13 9/10 13/21 21/19 29/16 33/19 33/23 33/24 34/13 36/5 36/10 38/12 40/22 45/12 71/12 73/11 74/8 75/4 76/8 76/10 86/5 89/10 96/21 102/24 110/8 112/6 118/17 120/5 121/10 122/25 134/9 137/18 139/20 145/2 149/16 161/10 162/24 171/23 186/11 186/15 193/4 194/2 194/15 196/5	you're [44] 7/13 9/10 13/21 21/19 29/16 33/19 33/23 33/24 34/13 36/5 36/10 38/12 40/22 45/12 71/12 73/11 74/8 75/4 76/8 76/10 86/5 89/10 96/21 102/24 110/8 112/6 118/17 120/5 121/10 122/25 134/9 137/18 139/20 145/2 149/16 161/10 162/24 171/23 186/11 186/15 193/4 194/2 194/15 196/5
willing [1] 124/15	wonder [2] 71/4 72/6	wouldn't [12] 11/3 32/18 42/12 94/6 98/13 98/21 152/17 154/18 165/7 172/23 172/24 186/13	you're [44] 7/13 9/10 13/21 21/19 29/16 33/19 33/23 33/24 34/13 36/5 36/10 38/12 40/22 45/12 71/12 73/11 74/8 75/4 76/8 76/10 86/5 89/10 96/21 102/24 110/8 112/6 118/17 120/5 121/10 122/25 134/9 137/18 139/20 145/2 149/16 161/10 162/24 171/23 186/11 186/15 193/4 194/2 194/15 196/5	you're [44] 7/13 9/10 13/21 21/19 29/16 33/19 33/23 33/24 34/13 36/5 36/10 38/12 40/22 45/12 71/12 73/11 74/8 75/4 76/8 76/10 86/5 89/10 96/21 102/24 110/8 112/6 118/17 120/5 121/10 122/25 134/9 137/18 139/20 145/2 149/16 161/10 162/24 171/23 186/11 186/15 193/4 194/2 194/15 196/5
Wilson [3] 47/14 48/21 181/22	wondered [1] 124/16	wouldn't [12] 11/3 32/18 42/12 94/6 98/13 98/21 152/17 154/18 165/7 172/23 172/24 186/13	you're [44] 7/13 9/10 13/21 21/19 29/16 33/19 33/23 33/24 34/13 36/5 36/10 38/12 40/22 45/12 71/12 73/11 74/8 75/4 76/8 76/10 86/5 89/10 96/21 102/24 110/8 112/6 118/17 120/5 121/10 122/25 134/9 137/18 139/20 145/2 149/16 161/10 162/24 171/23 186/11 186/15 193/4 194/2 194/15 196/5	you're [44] 7/13 9/10 13/21 21/19 29/16 33/19 33/23 33/24 34/13 36/5 36/10 38/12 40/22 45/12 71/12 73/11 74/8 75/4 76/8 76/10 86/5 89/10 96/21 102/24 110/8 112/6 118/17 120/5 121/10 122/25 134/9 137/18 139/20 145/2 149/16 161/10 162/24 171/23 186/11 186/15 193/4 194/2 194/15 196/5
Wipro [1] 143/1	wonderful [1] 146/21	wouldn't [12] 11/3 32/18 42/12 94/6 98/13 98/21 152/17 154/18 165/7 172/23 172/24 186/13	you're [44] 7/13 9/10 13/21 21/19 29/16 33/19 33/23 33/24 34/13 36/5 36/10 38/12 40/22 45/12 71/12 73/11 74/8 75/4 76/8 76/10 86/5 89/10 96/21 102/24 110/8 112/6 118/17 120/5 121/10 122/25 134/9 137/18 139/20 145/2 149/16 161/10 162/24 171/23 186/11 186/15 193/4 194/2 194/15 196/5	you're [44] 7/13 9/10 13/21 21/19 29/16 33/19 33/23 33/24 34/13 36/5 36/10 38/12 40/22 45/12 71/12 73/11 74/8 75/4 76/8 76/10 86/5 89/10 96/21 102/24 110/8 112/6 118/17 120/5 121/10 122/25 134/9 137/18 139/20 145/2 149/16 161/10 162/24 171/23 186/11 186/15 193/4 194/2 194/15 196/5
wiring [1] 49/2	wondering [1] 83/9	wouldn't [12] 11/3		