

Monday, 16 December 2024

(9.30 am)

**Announcement by SIR WYN WILLIAMS**

**SIR WYN WILLIAMS:** Mr Beer, before we hear from those who wish to make final oral submissions, there's a bit of business you and I need to deal with. First of all, I have another sad announcement to make so we'll start with that.

The sad announcement is to record the death of Mrs Margaret Boston, who died on 2 November of this year. She was a Core Participant at this Inquiry. She became a post mistress in 1984 and, quite shortly after becoming a postmistress, she fulfilled what, for her, was a dream in beginning the post mistress at the Brecks post office in Rotherham in South Yorkshire.

In 2011, Mrs Boston ceased that role on the grounds of ill health, but she was succeeded by her daughter and son-in-law, and my understanding is that they still manage or own that post office, so that there has been very many years in which the Boston family has been involved in that post office in Rotherham. Mrs Boston viewed her work as a public service, so much so that on one occasion she confronted an armed robber and deflected him from his would be robbery of her post office, for which she received the certificate of

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I should say immediately that, unlike the position adopted by some counsel in other inquiries, I and my team do not consider it to be our role to make closing submissions that seek to persuade you of the conclusions which you should come to in your report. We have assembled, called and tested the evidence. It is not our function to urge particular conclusions upon you.

So then, reading into the record.

As you know, sir, I commonly undertake this exercise at the end of each phase and now is a good opportunity to do so, as this may be the last occasion on which the Inquiry holds a public hearing.

As you explained on the last occasion, although the Inquiry will continue to gather, analyse and disclose witness evidence over the coming months, we will not convene hearings simply to read into the record the evidence that has been obtained. Instead it will be disclosed to Core Participants and uploaded periodically to the Inquiry's public website.

I should say that the Inquiry does not expect any of the outstanding witness statements substantially to alter the submissions that are about to be made, although if, unexpectedly, there are any particular witness statements that are subsequently disclosed that might do so, we will carefully consider whether

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bravery from the post office. She also spanned the coming into being of Horizon, so she knew the Post Office prior to Horizon and she knew it afterwards and I understand at an Annual General Meeting of the NFSP she spoke up and suggested that the use of Horizon should cease while its faults were worked out.

She was a claimant in the litigation proceedings between Bates and the Post Office, and it is of some consolation, I believe, to her family, that she had received full compensation via the GLO scheme prior to her death.

On behalf of all of the members of the Inquiry Team and my own behalf, I extend deepest sympathy to Mrs Boston's family and friends. Mr Boston has been appointed as a Core Participant in place of his deceased wife.

Thank you. Over to you, Mr Beer.

**Closing remarks by MR BEER**

**MR BEER:** Thank you, sir. Before hearing the statements, the closing statements on behalf of the Core Participants, may I do two things: firstly, read into the record an additional 53 witness statements that the Inquiry has disclosed to Core Participants since we were last here at the end of Phase 7, on the 13 November; and, secondly, to make some very short closing remarks.

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a facility for additional written submissions should be afforded to Core Participants.

Can we please display the PowerPoint presentation INQ00002035 and look at slide 2, please.

There are 27 Phase 1 witnesses and I'll read the names, not the URN numbers. They are the statements of: Alistair Murray, Anjana Sethi, Aslam Ramtoola, Elaine Illidge, two anonymous witnesses, James Withers, a third anonymous witness, Shahla Ahmed, Christine Goodwin, Kanagasundaram Prince, an anonymous witness, Debbie Hall, Marion Drydale, Gary Brown, Gary and Tracey Etheridge, Terence Seeney, Arun Bhanote, Mahesh Kalia, John Beswick, Nichola Arch, Teresa Lean, Margaret White, Baljit Sethi, Suzanne Palmer and Rajpal Kaur. May those be read into the record.

For Phase 2, a single witness statement, the second witness statement of Anthony Oppenheim.

Over the page, please, witness statements from Lynne Sagar (née Fallowfield), Paul Holland and Kim Riley.

Over the page to Phase 4, witness statements from Dorothy Day, Debbie Atkinson, Kenneth Donnelly, Angus Crawford, Simon Hutchinson, Elizabeth Kennedy.

For Phases 5 and 6, there are, I think, 12 witness statements here: Peter Newsome, William Gibson, Sir Jonathan Swift, Amy Prime, Kevin Gilliland, Matthew

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1 Shiels, Richard Watson, Mike Deaton Christa Band,  
 2 Jessica Barker, Gareth Thomas MP and David Oliver.  
 3 Over the page, please, four witness statements for  
 4 Phase 7: Thomas Cooper, Kevin Hollinrake, Jane Davies  
 5 and Nick Read.

6 May those statements be read into the record.

7 **SIR WYN WILLIAMS:** Yes, of course.

8 **MR BEER:** Turning to closing remarks. When I made my  
 9 opening statement to you on 11 October 2022, I said  
 10 that, although the underlying subject matter of the  
 11 Inquiry was information technology, the Inquiry was not  
 12 and would not become a dry technical investigation into  
 13 an IT project gone wrong.

14 That was because it would be an Inquiry that was  
 15 actually about people, about people whose mental and  
 16 physical health had been impacted, about people whose  
 17 marriages and partnerships had deteriorated and failed,  
 18 about people who thought about taking their own lives  
 19 and, in some cases, who took their own lives.

20 Since that time we've been engaged in a rather  
 21 substantial task. We've disclosed 270,785 documents to  
 22 the Core Participants in the Inquiry. As you've heard  
 23 me say a number of times, the contemporaneous material  
 24 has been the lifeblood of the Inquiry because it has  
 25 allowed us properly to test what witnesses have said to

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1 Right, well, as I think everyone will know, we have  
 2 allocated effectively an hour to each advocate, apart  
 3 from one advocate who is limited to 30 minutes. I will  
 4 have to be reasonably strict about that, so that we get  
 5 through what we need to do in each day. Obviously,  
 6 there is a vast amount comparatively of written  
 7 submissions from the people who wanted to make them,  
 8 which I've been trying to digest faithfully during the  
 9 course of this last week, and it's obvious that I'll  
 10 have to read it more than once because they are  
 11 formidable pieces of work.

12 So I expect that each of the advocates will use  
 13 their time in order to summarise their main points and,  
 14 where appropriate, attack points of which they  
 15 disapprove.

16 So with those very short remarks, over to you,  
 17 Mr Henry. I think you're first in the batting order.

18 **Closing submissions by MR HENRY**

19 **MR HENRY:** Thank you, sir.

20 The racist horrors of the world, man's cruelty to  
 21 man, are not caused by monsters, malfunctions or  
 22 misfortune but by those who claim to act in the name of  
 23 good, enforcing a perverted vision of order that leaves  
 24 no room for dissent. Cruelty has a human heart.

25 The truth is that this tragedy, as Mr Beer has said,

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1 us. I am reliably informed that the page count for that  
 2 disclosure is 2,214,858 pages. So we've had plenty of  
 3 material to work with.

4 We have presently obtained 780 witness statements,  
 5 including disclosure statements, and the page count for  
 6 that material is 23,928 pages; and we have heard oral  
 7 evidence from some 298 witnesses, including a wide range  
 8 of expert evidence.

9 Perhaps the most significant figure, however, does  
 10 not relate to the work that we have had the privilege to  
 11 undertake. It's the number of postmasters and former  
 12 postmasters who have died whilst waiting for the Post  
 13 Office and Government fully and fairly to compensate  
 14 them, many of whom have been Core Participants in the  
 15 Inquiry and whose passing it has been your sombre duty  
 16 to announce, with, I'm afraid, tragic regularity.

17 I hope that we, as your team, have fulfilled the  
 18 promise that I made at the start of the Inquiry to you,  
 19 not to lose sight of the fact that the Inquiry was not  
 20 to be one into a computer system but, rather,  
 21 an investigation into the harm caused by people to  
 22 people. It is now for others to help you to marshal  
 23 your thoughts and your conclusions through the  
 24 submissions that they now make.

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

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1 is not about an IT system. Horizon did not destroy the  
 2 innocent: the malignant culture of the Post Office did.  
 3 The Post Office's inveterate contempt for the  
 4 subpostmasters, its corrosive prejudice against them,  
 5 its desire for absolute control over them was the  
 6 incubator for these terrible events.

7 The seeds of this tragedy lie in the  
 8 misappropriation of Horizon as a weapon of domination.  
 9 Voltaire's words come to mind, "Those who can make you  
 10 believe absurdities would have you commit atrocities".  
 11 The absurdity was the belief that cascaded from the top  
 12 down -- from the Board and the Executive to the Auditors  
 13 and the Investigators -- that Horizon was incapable of  
 14 generating shortfall errors. It was infallible. There  
 15 were no bugs.

16 And when they were caught in that lie, they used  
 17 this mantra instead: it was robust with a few minuscule  
 18 exceptions or anomalies. The subpostmasters' plaintiff  
 19 cries for help were dismissed. They were stigmatised as  
 20 troublemakers, incompetents or dishonest, and they were  
 21 then isolated and silenced with a lie:

22 "It's you. It's only you. You're the only one  
 23 complaining about a problem. There's nothing wrong with  
 24 the system."

25 Such heartlessness came from the top. They did not

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1 listen because Horizon was not rolled out to make  
2 balancing easier for the subpostmasters but as a means  
3 to annexe their accounts, deprive them of all autonomy  
4 and to exert a degree of totalitarian control. It was  
5 as if Horizon was its faithful spy for the Post Office  
6 at every branch and every counter, reporting accurately  
7 everything back to HQ. The annexation of their  
8 accounts, their being denied access to the constituent  
9 data and, ultimately, the removal of their right to  
10 challenge the figures was a modern form of corporate  
11 tyranny. Horizon had become a false god.

12 The atrocities that followed were the inevitable  
13 consequence of enforcing that dogma: people were ruined,  
14 people were bankrupted, people were imprisoned, there  
15 were atrocious miscarriages of justice. People died.

16 Whether the Board and the Executive knew of these  
17 injustices from the start is an irrelevant diversion.  
18 They ought to have known or appreciated that, by  
19 refusing to countenance the possibility that Horizon  
20 might generate shortfall errors, they had created  
21 a terrible risk. It was a recipe for certain disaster.  
22 By the time they realised that terrifying injustices had  
23 been inflicted in their name, they had a choice, but  
24 they closed their minds and closed ranks around the  
25 system.

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1 and external, who enforced this corporate psychopathy  
2 with ingenuity, ruthless disregard for ethical norms and  
3 even deceit.

4 This terrible story reflects badly on almost every  
5 aspect of our society and causes us to question  
6 everything we believed in previously about Britain. But  
7 you appreciate this already, sir, and I'm conscious that  
8 addressing you now at the end of years of evidence is  
9 about as useful as me presuming to teach a dolphin how  
10 to swim. You know your own mind and it is not for me to  
11 tell you what to conclude or how to think, but you have  
12 asked this question more than once: is the Post Office  
13 worth saving?

14 To answer that question, I refer to another mammal:  
15 has the leopard changed any of its spots? Whether the  
16 Post Office is worth saving must depend on whether it  
17 has changed or is its character, so often malignant and  
18 vindictive, immutable.

19 What is the test, sir? Compensation, writing past  
20 wrongs, however belatedly is surely the yardstick by  
21 which you, sir, shall judge whether the Post Office has  
22 really reformed itself. Unfortunately, the conduct of  
23 compensation, as you have seen, tells you that the  
24 leopard has not changed its spots and remains both  
25 cunning and dangerous. Its conduct of compensation

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1 There was a culture of contempt, ridicule, even  
2 hatred towards the subpostmasters and their complaints.  
3 Former SpAds derided the subpostmasters' allegations as  
4 "the self-indulgence of number of malcontents to the  
5 detriment of our customers". SPMs and others, SpAds  
6 said, had "lifestyle difficulties". So-called  
7 investigators boasted of retaining documents in breach  
8 of the Data Protection Act, "to prove there's no f-ing  
9 case for the justice of thieving subpostmasters. They  
10 were all crooks".

11 Of course, like all culture, the prejudice was  
12 top-down. Paula Vennells piously professed her  
13 disagreement with the instinct of her predecessor Alan  
14 Cook when he said that "subbies with their hands in the  
15 till choose to blame the technology when they're found  
16 short of cash". But in 2014, Ms Vennells was to write  
17 disdainfully, despite -- because of course, sir, it was  
18 2014 -- all she then knew that she was more bored than  
19 outraged by the subpostmasters' complaints.

20 Those who lack interest, let alone curiosity about  
21 the world beyond their own notions of order often lack  
22 compassion for others and become devoid of empathy.  
23 This typified the attitude and prejudices of the Board,  
24 the Executive, and even Whitehall, during this dreadful  
25 epoch. It similarly applies to the lawyers, internal

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1 reveals that the Post Office's reprehensible traits are  
2 not historic or past, but very much alive and continue  
3 to poison the process.

4 The Post Office's dirty tricks still continue, for  
5 all it says to the contrary, because the Post Office is  
6 not what it says, but what it does, and look at what it  
7 is doing now. Its technocratic demands for five expert  
8 medical reports concerning Janet Skinner's disability  
9 reflects its adversarial robotic disdain for its  
10 victims. It's heartless rejection of Gowri  
11 Jayakanthan's claim for compensation mirrors its cruel  
12 humiliation of her late husband: her entire claim was  
13 rejected based on a technicality. It echoes the  
14 approach you saw during the GLO steering group meeting  
15 of 11 September 2017, in which three strategies were  
16 advanced to, I quote, "force the claimants into  
17 a position where they give up or settle". One was  
18 called "thinning the herd", which has a neat,  
19 dehumanising touch, does it not?

20 I quote from the document:

21 "Thin the herd. We have identified various types of  
22 claimant that might be facing procedural problems that  
23 could see them struck out. Claimants who are dissolved  
24 companies. Claimants who are bankrupt or deceased."

25 The way the Post Office is treating Gowri

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1 Jayakanthan today was foretold in this GLO document,  
2 which is now seven years old: they're thinning the herd.  
3 The mindset remains the same.

4 The Post Office was thinning the herd with its  
5 ludicrous demands for contemporaneous documents, wasn't  
6 it? Despite knowing that it had locked subpostmasters  
7 out of their own premises, denying them access to their  
8 own documents and even shredding them. This requirement  
9 for contemporaneous documents during the compensation  
10 process reveals that the Post Office will put up any  
11 obstacle to evade, minimise or delay proper restitution,  
12 and that it crafted this process, not more than a few  
13 months after the Common Issues Judgment, which outlined  
14 its appallingly one-sided reverse burden of proof denial  
15 of documents to the subpostmasters. The fact that it  
16 crafted this process, predicated on such demands for  
17 contemporaneous documents, shows that it continues to  
18 manipulate, as cynically and as offensively as ever.

19 You will not forget, sir, that it was a Mr Underwood  
20 who made that calculated suggestion concerning  
21 contemporaneous documents to limit applications. I will  
22 return to Mr Underwood later in another context, if  
23 I have time, but he typifies the mindset of manipulation  
24 and the mindset remains the same.

25 The duplicitous arrogance that animated the  
13

1 do with the Post Office. The mindset remains the same.

2 So was this not the behaviour described by Lord  
3 Justice Coulson when rejecting leave to appeal after the  
4 Common Issues Judgment, when stating that the Post  
5 Office's application, and I quote:

6 "... is founded on the premise that it was not  
7 obliged to treat their subpostmasters with good faith  
8 and, instead, entitled to treat them in capricious or  
9 arbitrary ways which would not be unfamiliar to  
10 a mid-Victorian factory owner."

11 That memorable phrase sums up not only the Post  
12 Office's grotesque imbalance of power but also its  
13 unshakable belief in its own entitlement that continues.

14 The mindset remains the same.

15 You may have been struck, although it's now some  
16 time ago, by the Post Office's closing submissions in  
17 Phase 3, sir, when addressing the findings of Mr Justice  
18 Fraser, as he then was, in the Common Issues Judgment.  
19 I shall refer to that as the Post Office's modern  
20 slavery approach to contract law, for so it was.

21 Let me quote what the Post Office wrote in that  
22 submission, paragraph 29:

23 "The Post Office accepts the findings of Mr Justice  
24 Fraser in the Common Issues Judgment."

25 I'm sure everybody will be relieved to hear that,  
15

1 aggressive litigation before Mr Justice Fraser, before  
2 a jury at Guildford Crown Court in 2010 and before His  
3 Honour Judge Havery just off Fetter Lane in 2006 to 2007  
4 has now been superseded by a compensation process that  
5 is pettifogging, legalistic and cruelly slow, bogged  
6 down by attritional bureaucracy. Many claimants  
7 surrender, for that is what attrition does, you give up,  
8 you take the miserly offer you are given and do not  
9 settle for what you truly deserve.

10 People, as we have heard today, have died, and more  
11 will die without proper, let alone prompt, redress.

12 They're worn out by schemes that are cynically devised  
13 and brutally operated and so, therefore, some may take  
14 the cash not because it's fair or full but because they  
15 can no longer face the battle. This is a Dickensian  
16 process. Legal technicalities devoid of merit are taken  
17 on a whim by the Post Office. You'll have seen in the  
18 codicil to our written submissions reference to the  
19 grossly unmeritorious clawback employ the post office  
20 attempted, which Lord Dyson roundly rejected.

21 These spurious claims were driven by the Post  
22 Office's dictatorial belief in its sense of own  
23 self-entitlement. They believed they were entitled to  
24 grasp back these modest sums which the subpostmasters  
25 had agreed between themselves, and which had nothing to  
14

1 but there's a catch. They continue:

2 "However, it needs to be recognised that Mr Justice  
3 Fraser's interpretation of the respective obligations of  
4 the Post Office and postmaster were significantly  
5 different from the Post Office's genuinely held beliefs  
6 at the time as to what those obligations were. In  
7 particular, the Post Office held genuine beliefs that  
8 postmasters were contractually liable for all losses at  
9 their branch. The burden was on the postmasters to  
10 provide evidence that they should not be so liable,  
11 which, in a sense, flowed from the belief as to the  
12 postmasters' contractual liability. The belief [they  
13 say at paragraph 30] as to the contractual liability of  
14 postmasters is key."

15 Genuine belief. Genuine belief. Genuine belief.  
16 As Lewis Carroll once said, "Why, sometimes I believed  
17 as many as six impossible things before breakfast".

18 Those troubling submissions reveal a not even  
19 grudging acceptance of Mr Justice Fraser's decision,  
20 an almost palpable resentment towards his finding. They  
21 bring to mind his comments that the Post Office doesn't  
22 tend to focus on the precise words of a contract, it  
23 knows what its interpretation is and that is what  
24 everyone works to. This could be described as the Post  
25 Office method of contractual construction, and so the  
16

1 Post Office ignored the plain words of the contract: it  
2 believed it could do what it liked. Just like the  
3 clawback ploy, just like its approach to disclosure,  
4 just like its belief that it could set up mediation  
5 schemes, bring in people to report upon its actions and  
6 mandate the outcome in advance. So it was then, and so  
7 it remains today. The mindset remains the same.

8 That grotesque imbalance of power, with its wilful  
9 abuse of privilege, including access to deep, if not  
10 bottomless, Government-lined pockets continues to  
11 destabilise this process. It is an affront to justice.

12 Whilst survivors scan their depleted ranks, so many  
13 having died and those who are left surrender for  
14 a derisory sum, the Post Office, in contrast with  
15 an extraordinary abuse of its material power, yet again  
16 racks up millions upon millions of pounds in legal  
17 fees -- all public funds -- to HSF and other corporate  
18 law firms. It's a shameful spectacle and it conveys  
19 a pitiless, brutal message. In these circumstances, is  
20 it really any wonder that demoralised victims look on,  
21 exhausted and aghast, because nothing has changed?

22 Five years, sir, have now passed since Mr Justice  
23 Fraser said, and I quote:

24 "The Post Office appears at least at times to  
25 conduct itself as though it is only answerable to

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1 unsuccessful attempt to manipulate this Inquiry, present  
2 it with a *fait accompli*, Laidlaw volume 1, then ambush  
3 you with Laidlaw volume 2, and then question your  
4 decision not to admit that two-volume report into  
5 evidence.

6 But, of course, the Post Office knows best and  
7 continues to act as if it is answerable to no one. In  
8 fact, you will have read in its written submissions that  
9 all it ever wanted to do was assist you. All it ever  
10 wanted to do was help you when it did all of those  
11 things in defiance of the orders you had made. The  
12 mindset remains the same.

13 So it was when the Post Office claimed that the  
14 public interest cases were not to be compensated,  
15 despite offering no evidence against them, and so it was  
16 the same as ever when it grotesquely singled out, sought  
17 to victimise and to defame Mrs Adedayo, denying her  
18 conviction was unsafe under the cloak of qualified  
19 privilege. Its atrocious attempt at victimisation  
20 echoes its past wrongs. It's deplorable behaviour tells  
21 you that its instinct to scapegoat the individual  
22 remains unchanged, that its propensity to abuse both  
23 power and privilege still lurks beneath the surface.  
24 The mindset remains the same.

25 I began with compensation, because it demonstrates

19

1 itself. The statement that it is prepared to preserve  
2 documents as though that were a concession, and the  
3 obdurate refusal to accept the relevance of plainly  
4 important documents is extremely worrying."

5 The parallels with non-disclosure in this Inquiry to  
6 that in civil trials are glaring, and you may have read  
7 in the press, sir, about complaints from The  
8 Metropolitan Police that there are still problems with  
9 disclosure, where The Metropolitan Police has sought the  
10 assistance of the Post Office. But leaving aside issues  
11 of non-disclosure, the imperious attitude that  
12 Mr Justice Fraser astutely observed is also relevant,  
13 the same arrogance, high handedness and inexhaustible  
14 funds for attritional lawfare, we still see today not  
15 only in our clients' desperate contractual for  
16 compensation but in the Post Office's attempt to control  
17 you, sir.

18 Not once, not twice, but three times, the Post  
19 Office tried to play divide and rule in its attempt to  
20 overawe the expert you had nominated and to divert you  
21 from decisions you had made. Those decisions of yours,  
22 sir, being informed by your own substantial experience  
23 in criminal trials and appeals. But the Post Office  
24 wanted to hijack the narrative. I refer, of course, to  
25 the instruction of Mr Jonathan Laidlaw KC in a happily

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1 that the Post Office's wrongdoing is still continuing,  
2 not past or historic. The truth is that there is  
3 nothing full, fair or prompt in its conduct of this  
4 process, sir, and where victims have not had the benefit  
5 of legal representation, they have been further  
6 degraded, insulted and exploited in the most terrible  
7 fashion with token payments for the destruction of their  
8 lives.

9 So I return to your question: is the Post Office  
10 worth saving? Only when or if it is safe. It will only  
11 be safe if it grasps and understands the nature of its  
12 own history rather than continuing to deny it. It can  
13 only be trusted when its deeds match its words and when  
14 it has restored justice by way of full and fair  
15 compensation to those it destroyed.

16 You have seen that the Post Office and its Paymaster  
17 shareholder have failed dismally on both counts. So  
18 enough, we say, with commissioning reports and strategy  
19 papers and endless intangible outputs that waste public  
20 money and improve nothing.

21 The victims of its monumental harm deserve to be  
22 compensated. They are more deserving of millions than  
23 the firms who are paid to fight them. The evil that the  
24 Post Office did was profound. It was the cause, the  
25 perpetrator and the prolonger of the most serious series

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1 of miscarriages of justice in our history and yet,  
 2 still, it plays the adversarial game.  
 3 Together with Ms Page, instructed by Messrs Hodge  
 4 Jones & Allen, we represent a small cohort of  
 5 extraordinarily fine, courageous and exceptionally  
 6 remarkable people who have suffered beyond imagination  
 7 and who are being revictimised and retraumatised in this  
 8 appalling process. We only represent former  
 9 subpostmasters, which has allowed us the freedom to  
 10 argue that there is absolutely nothing to be done with  
 11 an institution so blind, so wilfully incapable of  
 12 understanding its own terrible wrongdoing. Our focus  
 13 throughout this Inquiry has been on genuinely attempting  
 14 to assist you to establish the truth and, thereby,  
 15 facilitating future prosecutions of those responsible  
 16 for these terrible crimes, based upon this Inquiry's  
 17 fair, impartial and unimpeachable findings of fact that  
 18 you will record in due course.

19 Of course, our other focus, which is why I began  
 20 with it, is compensation.

21 Unspeakable crimes were committed to convict the  
 22 innocent. Evidence was commodified, the truth was  
 23 withheld. Such outrages will only be propitiated by  
 24 full and fair compensation and by your fair and fearless  
 25 findings of fact which will bring it with the

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1 little legal trick to reverse the burden of proof to  
 2 ruin you, your family and all of your futures, to deter  
 3 others."

4 What about Seema Misra?

5 "We needed another scalp by 2010. Even before  
 6 Freeths ended the fray, Shoosmiths or Access Legal,  
 7 Edwin Coe were all breathing down our next, and so we  
 8 ready to trod on yours. If we convicted you we could  
 9 see off the civil claims and deter others from  
 10 challenging the system. We knew about bugs, we knew  
 11 that the receipts and payments mismatch bug ought to  
 12 have been disclosed to you, particularly as it revealed  
 13 remote access without branch knowledge or consent.

14 "We knew that the jury, according to Mr Singh were  
 15 utterly beholden to Gareth Jenkins and that it was his  
 16 evidence that convicted you. Of course, Mr Jenkins knew  
 17 all about covert remote access but he hid that from you  
 18 too. We allowed false and misleading evidence from Andy  
 19 Dunks to be used against you. So many people were  
 20 awaiting the outcome of your trial and, not long after  
 21 you were convicted, we obtained the transcripts to use  
 22 in our defence of the civil claims.

23 "You were our priceless test case and it was for  
 24 that that your freedom was stolen. Your conviction was  
 25 the so-called shining proof of Horizon's integrity.

23

1 restoration of justice and accountability.

2 So I come now to the paradigm cases of Lee Castleton  
 3 and Seema Misra and the perversion of justice at their  
 4 trials. They were regarded as test cases by the Post  
 5 Office, to be won at all costs and by any means  
 6 necessary. Seema Misra's case is of paramount  
 7 importance but Lee Castleton's reveals the manipulation  
 8 and abuse of civil justice, of which the Post Office is  
 9 still capable.

10 The Post Office should have said to Lee Castleton:  
 11 "We perverted the civil justice system for a collateral  
 12 purpose. We didn't come after you for the money, we  
 13 knew the case made no commercial sense but we wanted  
 14 a deterrent, we needed a precedent and, in order to get  
 15 one, we destroyed you and your family. We abused the  
 16 process of the court when we told the judge we didn't  
 17 know of any problems and withheld the Coyne/Cleveleys  
 18 report. We're sorry. We fought the case on a false  
 19 basis. We incited or allowed false evidence to be given  
 20 against you, be it from Anne Chambers or Helen Rose. We  
 21 admit it, even if they do not. We brought the case on  
 22 a dishonest basis when we said you'd adopted the  
 23 accounts. We took advantage of you. We knew you hadn't  
 24 adopted the accounts. You'd made nearly 100 calls to  
 25 the helpline begging for help. But we're used a clever

22

1 Your conviction was the cornerstone of our strategy of  
 2 deterrence and containment and when we, the Board and  
 3 the Executive, found out that Gareth Jenkins had lied,  
 4 we could not let you know. We could not tell you."

5 The case of Seema Misra is as dark and appalling as  
 6 anything you have witnessed. It is a microcosm of the  
 7 wickedness the Post Office perpetrated up and down the  
 8 country to convict people. But the cover-up brings with  
 9 it a deeper level of wickedness because it involves the  
 10 CEO and the Chair and, as time went on, countless  
 11 subcommittees. What the Post Office is trying to do in  
 12 its written submissions is to distance itself, its  
 13 corporate mind, from that infamous episode of  
 14 non-disclosure, and so abdicate responsibility for it.  
 15 It denies being the cause of this deplorable strategy of  
 16 suppression. It eschews responsibility for its strategy  
 17 of containment.

18 Containment was a concerted and coordinated policy  
 19 involving the upper echelons of the Post Office to  
 20 suppress knowledge of Horizon's flaws but it was not  
 21 only that, it was also predicated on containing civil  
 22 and criminal litigation risks involving potential civil  
 23 claims and potential criminal appeals. Impermissible  
 24 disclosure decisions, perverse and even perverted  
 25 disclosure determinations were arrived at, influenced by

24

1 the containment of those interlocking risks. Those  
2 interlocking civil and criminal litigation risks. You  
3 have seen that non-disclosure in criminal cases to  
4 buttress the defence of civil claims is but one example.

5 But in its closing submission, that 103-page  
6 document with 804 footnotes that will, for posterity,  
7 attest to the Post Office's dismal failure to face its  
8 wrongs, there is no mention of the word "containment",  
9 the very word the Board and the Executive used when  
10 discussing this calculated, callous and coordinated  
11 policy of suppressing the subpostmasters' concerns and  
12 complaints.

13 It's a word or concept you will find referred to  
14 hundreds, perhaps even thousands, of times in Board and  
15 Executive documents. It animated the policy of the  
16 Board and the Executive towards the subpostmasters, yet  
17 you will read nothing of it in the Post Office's closing  
18 submission. Nor, will you find any explanation for why  
19 this perverse, even perverted, disclosure decisions all  
20 go one way: in the Post Office's favour and to its  
21 adversarial advantage.

22 But there are clues because, although, as predicted,  
23 the Post Office wants to blame it on the lawyers, it  
24 wasn't just the lawyers. They were only part of the  
25 arsenal of containment. Containment extended to

25

1 Executive may be regarded as a misfortune. Two looks  
2 like carelessness. Three, could it really be  
3 a coincidence? Four or more, sir, were clearly  
4 following orders.

5 It's the culture. The Board and the Executive saw  
6 lawyers and legal reviews as tools for optics. They  
7 were interchangeable, malleable instruments for  
8 implementing its will but, if the Board saw lawyers as  
9 tools for optics, it cannot deny knowledge of what those  
10 lawyers were doing in its name. In the same way, it  
11 cannot say that the flaws about Horizon, the risks about  
12 Horizon, were all in a black box in either the IT  
13 Department or the Legal Department, an impenetrable  
14 black box which they could not peer inside. Nonsense.

15 The fact that they used the word "containment"  
16 imputes knowledge. They knew what was inside the box.  
17 They wanted to keep the lid on it and the lawyers were  
18 part of that strategy, along with PR, to enable them to  
19 do so.

20 That culture that directed that abusive policy was  
21 one that deprecated those who would put their  
22 professional obligations before their loyalty to the  
23 business. You will remember that extraordinary note  
24 from Paula Vennells about Susan Crichton, you will  
25 remember Alice Perkins complaining that Crichton hadn't

27

1 undermining the Mediation Scheme, notorious lies being  
2 told in public statements, lies to Parliament,  
3 disgraceful, unattributable briefings, the gelding and  
4 getting rid of Second Sight: all the dark acts of  
5 misinformation, diversion and deception.

6 The responsibility for all this lies with the Board,  
7 and the Senior Executive.

8 So we say that toxic policy of containment was  
9 mandated by the Board and, of course, it affected the  
10 conduct of both internal and external lawyers. The  
11 lawyers were following the path that had been set for  
12 them by the Chair and the Executive or they resorted to  
13 drafting their terms of reference in such a way that  
14 obvious questions need not be faced, for example, and it  
15 beggars belief, not to ask the question whether the  
16 conviction is unsafe.

17 So, thereby, responsibility would be fragmented.  
18 Mutually delegated irresponsibility, mutually delegated  
19 unaccountability. But, of course, as you have seen,  
20 this involved the misappropriation of civil and criminal  
21 justice for the Post Office's own commercial advantage.

22 By trying to hide behind the lawyers, the Post  
23 Office is worthy only of contempt. The misappropriation  
24 of civil and criminal justice came from the very top, it  
25 could only have done so. One rogue lawyer or other

26

1 marked Second Sight, and you'll remember later on, under  
2 Tim Parker, that the Board wanted to take potshots at  
3 Seema Misra. That is the culture, sir, that you are  
4 dealing with. The culture that even infected the law.

5 Because there were expectations, there were embedded  
6 commands disguised as questions, in the same way Paula  
7 Vennells learnt, so she said, from Alice Perkins to  
8 craft a question as a disguised imperative, which would  
9 necessarily result in an outcome of her choosing. So  
10 you can see how this attitude polluted everything.  
11 "I need to say this" became the be-all and end-all of  
12 everything because, just like its interpretation of the  
13 contract, the Post Office knows what its objective is  
14 and that is what everyone works to and that included  
15 delaying or denying rights of appeal.

16 You will remember, even in 2018 when there was so  
17 much knowledge about Horizon, Mr Butoy's case was  
18 rejected by the Court of Appeal based on the mantra, the  
19 mantra that, by that time, the Post Office knew was  
20 a lie.

21 But the Post Office says, "It's not our fault, we  
22 recruited the wrong people", Cartwright King; "we gave  
23 Mr Parsons too much responsibility". But the question,  
24 sir, is always why? Why did you pick such unsuitable  
25 advisers? Is it bad luck, incompetence, or a lack of

28

1 integrity?

2 That brings me to the two questions I put to the  
3 Post Office on 8 December 2022: did the Post Office  
4 deliberately interfere with or obstruct convicted  
5 defendants' rights of appeal; second, if so, was its  
6 purpose in so doing improper?

7 Why was Seema Misra not provided with the  
8 information that could have cleared her name in 2013?  
9 I described it as an integrity test, and answer came  
10 there none from Ms Gallafent, King's Counsel.

11 Two years have passed and you will not find  
12 an answer to those questions in the Post Office's  
13 written submissions. The Post Office's abject failure  
14 to answer those two questions, which are fundamental to  
15 the issues you are enquiring into, shows that it has not  
16 learned any lessons from of the past. The mindset  
17 remains the same.

18 The Post Office scandal is apparently, according to  
19 the modern Post Office, a 20-year long mistake. No one  
20 is to blame other than some lowly obscure functionaries  
21 who went off on a frolic of their own: a very long, very  
22 uniform and very coherent frolic of their own. There  
23 was no deliberate decision to use Horizon evidence to  
24 crack down on dreams of fraud, there was no deliberate  
25 decision to suppress the expert report in Cleveleys,

29

1 occurred.

2 As for the idea of suppressing the Clarke Advice,  
3 well, no, no, no. I mean, wasn't it précised, wasn't it  
4 effectively distilled in the Altman general review?  
5 Well, Mr Altman, of course, himself says he failed to  
6 realise that the Post Office needed to disclose the  
7 Gareth Jenkins taint, but the Post Office still says  
8 that it did all that it needed to do by disclosing the  
9 Altman General Review to the CCRC, and it was evidently  
10 the fault of the CCRC that they failed to realise that  
11 for themselves.

12 Well, we'll come to the CCRC later.

13 So, in other words, this is an outright repudiation  
14 of the findings of the Hamilton judgment, which, of  
15 course, in turn were predicated on the findings of the  
16 Common Issues Judgment and the Horizon Issues Judgment.  
17 So what the Post Office is doing is saying that the  
18 Court of Appeal got it wrong in the Hamilton appeals.  
19 There was no affront to the public conscience. There  
20 was no unconscionable misconduct. This was just  
21 a series of unfortunate mistakes which happened to have  
22 a cataclysmic effect on hundreds of convicted innocent  
23 postmasters but nothing was deliberate. There was no  
24 orchestration at all.

25 It is seeking a repugnant stance and it would be

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1 there was no deliberate decision to make Lee Castleton  
2 an example, put his head on a spike to strike fear into  
3 others.

4 What about Mr Smith, the Managing Director? He  
5 didn't commission a whitewash. The Ismay Report was  
6 a genuine attempt to find out whether there was any  
7 truth in the claims that Horizon was unreliable, and he,  
8 of course, had no idea that the Misra trial was a test  
9 case to vindicate Horizon at all costs and by any means  
10 necessary. He believed it was a genuine, properly  
11 founded, prosecution.

12 Thereafter, it was just a terrible mistake that the  
13 Post Office didn't realise, particularly the management,  
14 that they were covering up hundreds of miscarriages of  
15 justice because no one was deliberately suppressing  
16 knowledge that Fujitsu could tamper with branch  
17 accounts, no one was deliberately downplaying the fact  
18 that there were bugs that could have an impact on branch  
19 accounts and create shortfall errors. No one, of  
20 course, was deliberately suppressing the knowledge that  
21 the Post Office had been relying on an unsafe witness to  
22 prove that Horizon was reliable for its landmark case,  
23 the only one in which he gave oral evidence, and that  
24 the Post Office had failed to instruct him properly.  
25 No, it was just unfortunate that all of these things

30

1 astonishing, were we not already inured to the absurd  
2 malignance of this ungovernable institution. This  
3 strategy is a natural extension. It lies in succession  
4 with the aggressive and untenable positions taken in the  
5 GLO and the Hamilton appeals when resisting Limb 2. It  
6 proves, without any doubt yet again, that the Post  
7 Office will never change because the mindset remains the  
8 same. So what you will discover therein, instead, is  
9 a polished, an ever so carefully polished, attempt to  
10 promote a false narrative, a sustained effort to deny  
11 the reality and the gravity of the wicked wrongs it  
12 perpetrated.

13 It's all a failure of governance. It's the classic  
14 plead to a lesser offence: the governance failures of  
15 an inanimate corporate. The Board wasn't alive to the  
16 risk, the Board wasn't in possession of the Clarke  
17 Advices the Altman general review, et cetera, et cetera,  
18 "our systems were suboptimal". The Board had nothing to  
19 do, the Executive had nothing to do, with the deliberate  
20 suppression of Article 6 rights, which is embodied in  
21 the case of Seema Misra.

22 The truth is that human beings engaged in  
23 a deliberate conspiracy, first to convict innocent  
24 people either in the criminal courts or to destroy them  
25 in the civil courts, and then to cover it up. By

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1 refusing to admit these wrongs, these despicable acts,  
2 the Post Office has shown that its words of apology are  
3 bogus and that it cannot be trusted, and that deplorable  
4 wrongdoing went to the top.

5 Why? Well, because those two questions about why it  
6 suppressed article 6 rights and was its purpose improper  
7 in so doing, they lie so close to the heart of this  
8 Inquiry, and the answer for them can be found in the  
9 consequences of telling the truth.

10 Damages. Restitution of wrongful millions upon  
11 millions of shortfall monies received, loss of  
12 compensation awarded by criminal courts, and the  
13 reversal of confiscation orders. The damages would have  
14 been vast. These were existential risks that had to be  
15 contained. Rodric Williams knew that. Rodric Williams,  
16 during his telephone call with Martin Smith on  
17 2 September 2013 wrote down eight words which spelt out  
18 the consequences for the Post Office, should its  
19 wrongdoing ever be revealed, including, of course, that  
20 it had dismally failed in its duties as a prosecutor and  
21 was far more responsible for these disasters than the  
22 unsafe witness that it had failed to instruct. Those  
23 eight words were those that I've already mentioned.  
24 Those eight words were: damages, restitution of money  
25 received, loss of compensation.

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1 What the Post Office is trying to say is that its  
2 corporate mind was divorced from, and not responsible  
3 for, that protracted non-disclosure strategy. That  
4 almost sadistic strategy of delay that caused needless  
5 suffering, blighted so many lives, which was just  
6 fortuitously hatched on 9 September at the Altman  
7 disclosure consultation.

8 But the Post Office at paragraph 65 and 66 claims  
9 that a Horizon risks advice note, drafted by Womble Bond  
10 Dickinson in August, never got to the Board, that there  
11 was no evidence that it got to the Board, that there was  
12 no evidence that it was shared with the Board or later  
13 summarised with the Board. Then they say this, that  
14 this may explain:

15 "Why the Post Office appears not to have focused on  
16 the real risk of convictions being overturned and claims  
17 for malicious prosecution at an earlier stage."

18 Well, there is evidence, but they haven't referred  
19 to it: the evidence that showed that the lawyers were  
20 telling Ms Vennells not to do anything at all that might  
21 promote proactive criminal disclosure. The emails that  
22 the Post Office have not referred to, the 2 September  
23 emails that Hugh Flemington forwarded to her from Simon  
24 Richardson and Andrew Parsons, said this: they were  
25 advising Paula Vennells not to conduct a Lessons Learned

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1 This was an existential threat that had to be  
2 contained, and Rodric Williams knew that on 2 September,  
3 a week before the Altman disclosure consultation. He  
4 would have had no reason to withhold that knowledge.  
5 That apocalyptic knowledge that he had acquired from  
6 Smith about the Post Office's failure to instruct  
7 Jenkins. He would have been duty bound and no doubt  
8 anxious to report what he knew to those with whom he  
9 worked or instructed. We say, sir, it is the  
10 dissemination of that knowledge which may explain why  
11 the Jenkins taint took years to emerge and was avoided,  
12 overlooked, at the Altman consultation and subsequently.

13 Because you see on the same day that Rodric Williams  
14 spoke to Mr Smith, 2 September 2013, there is  
15 an interesting exchange of emails involving Ms Vennells  
16 and Flemington, who has forwarded emails to her from  
17 Mr Richardson and Mr Parsons of Womble Bond Dickinson's.  
18 Now, the Post Office, in its written submissions,  
19 doesn't refer to any of those emails, and the reason, we  
20 suggest, is because they would sit ill with the  
21 suggestion that the CEO and, therefore, potentially the  
22 Chair and the Board, was not fully sighted at that  
23 critical juncture on the risk of an overturned  
24 conviction, and the malicious prosecutions that -- or  
25 the malicious prosecution claims that would follow.

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1 Review.

2 She read that advice and she understood it. The  
3 reason why Andrew Parsons was advising her not to  
4 conduct a Lessons Learned Review into, of course, the  
5 Second Sight handling, and of course you'll know from  
6 the 2 July press briefing to Paula Vennells and the  
7 Board, that the Board and Paula Vennells, from 2 July  
8 2013 were aware that Gareth Jenkins had given evidence  
9 against Seema Misra. That is absolutely plain from the  
10 2 July press briefing in relation to Second Sight, which  
11 also adverted to the threat of criminal convictions  
12 being overturned with the risk that James Arbuthnot  
13 would press home the point, but let's go back to the  
14 2 September.

15 In that 2 September email, Mr Parsons said this:

16 "If this review does need to take place at all, then  
17 it should be deferred for 6 to 12 months so as to first  
18 allow Second Sight to be managed out and the Mediation  
19 Scheme to be completed. Should the review reveal any  
20 concerns about Horizon or branch accounting processes,  
21 then the Post Office may be obliged, under Criminal  
22 Procedure Rules, to proactively pass this information to  
23 subpostmasters involved in criminal prosecutions, both  
24 ongoing and historic, in particular recommendations for  
25 change could be interpreted as highlighting historic

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1 problems that would need to be disclosed."  
 2 Paula Vennells was fully aware of the real risk of  
 3 convictions being overturned and consequential claims  
 4 for malicious prosecution because of that briefing,  
 5 because of that email and because of her earlier  
 6 acquired knowledge about the Second Sight Interim  
 7 Report, which welded Seema Misra and Gareth Jenkins  
 8 together. But you will find no reference of those  
 9 emails, POL00146240, Flemington's email forwarding  
 10 Richardson and Parsons to her, nor POL00146243, her  
 11 response. Her response, sir, is telling:  
 12 "This is clear to me. I appreciate you spending  
 13 time to provide the advice. As you know, I respect the  
 14 views of our internal team and of Bond Dickinson and the  
 15 timing of this is helpful. Alwyn, can we speak first  
 16 thing, please?"  
 17 There is no record of what Paula Vennells discussed  
 18 with Alwen Lyons but the Lessons Learned Review, like so  
 19 many others, never happened.  
 20 "This is clear to me. The timing is helpful", in  
 21 other words, "I understand, I get what you're saying, or  
 22 what you're not writing. We won't go there".  
 23 Almost identical wording or code to Ms Perkins reply  
 24 to the unsafe witness email, "All clear and helpful."  
 25 "The timing of this is helpful", of course, may just  
 37

1 "Subsequent letters to the CCRC were drafted by  
 2 Womble Bond Dickinson, including a holding response on  
 3 24 July, and the substantive response on 26 July,  
 4 setting out POL's proposed cause of action, namely Brian  
 5 Altman's review, Cartwright King's review of  
 6 prosecutions over the previous three years to determine  
 7 the safety of the convictions, and once such a case is  
 8 identified, ie where there may be issues over the  
 9 safety, to determine the proper approach to be taken."  
 10 Well, you know that they dispensed with the issues  
 11 over the safety and you know, because the Post Office  
 12 tells you in its next line, "neither of these drafts  
 13 refer to any issue with Gareth Jenkins".  
 14 There is no evidence, the Post Office says, that  
 15 this was at the request of the Post Office rather than  
 16 at the instigation of Womble Bond Dickinson. This is  
 17 desperate stuff. It's risible. Playing the limits of  
 18 the evidence there is no evidence that this was done at  
 19 the request of the Post Office rather than at the  
 20 instigation of Womble Bond Dickinson. It is  
 21 inconceivable, sir, that the Executive would not have  
 22 been apprised of the contents of that letter.  
 23 The Post Office, a public corporation that inflicted  
 24 misery on thousands during this protracted scandal, this  
 25 country's most extensive and prolonged series of  
 39

1 be a coincidence, but if Paula Vennells had been told  
 2 about Rodric Williams' knowledge, which he acquired that  
 3 day, about the mounting concerns, the abject failure of  
 4 the Post Office to instruct Gareth Jenkins properly,  
 5 then that would make perfect sense but, of course, what  
 6 is undeniable is that those emails, reflecting the view  
 7 of Womble Bond Dickinson, occurred one week before the  
 8 Altman consultation:  
 9 "Should the review reveal any concerns about Horizon  
 10 or branch accounting processes, then Post Office may be  
 11 obliged under Criminal Procedure Rules to proactively  
 12 pass this information to subpostmasters, both ongoing  
 13 and historic."  
 14 Why did the tendrils of Womble Bond Dickinson, the  
 15 Post Office's civil lawyers, infiltrate, entwine,  
 16 clench, even, we say, suffocate, the criminal disclosure  
 17 process? Why was Mr Altman to be walked through the  
 18 civil implications of disclosure by Womble Bond  
 19 Dickinson?  
 20 Why were Cartwright King to be kept apprised of  
 21 civil claims? So many unanswered questions. But I now  
 22 go to paragraph 209 of the Post Office's written  
 23 submissions, where we're talking about the engagement  
 24 with the CCRC.  
 25 At paragraph 209, the Post Office says this:  
 38

1 miscarriages of justice, is acting like a teenage  
 2 defendant charged with TWOC: there is no evidence. But  
 3 of course there is. It didn't want the Jenkins taint to  
 4 emerge. It didn't want the Jenkins disaster to come  
 5 out. Those letters to the CCRC are an embodiment to the  
 6 Post Office's cynicism, its spin and manipulation.  
 7 Hugh Flemington, the Head of Legal had articulated  
 8 it well, when he said:  
 9 "We need to give off the signals that we are  
 10 proactive, doing all the right things to keep the  
 11 Attorney General and the CCRC calm. Hopefully, if they  
 12 see that, they may leave us to it for the moment."  
 13 So they brought in Mr Altman.  
 14 Sir, may I just check with you about time because we  
 15 started a little bit late?  
 16 **SIR WYN WILLIAMS:** Oh, yes, you can have until 10.45,  
 17 Mr Henry --  
 18 **MR HENRY:** Thank you very much, sir.  
 19 **SIR WYN WILLIAMS:** -- which gives you a generous hour.  
 20 **MR HENRY:** I'm very grateful.  
 21 Jonathan Swift, not the puny judge or author of the  
 22 report, once wrote that:  
 23 "Laws are best explained, interpreted and applied by  
 24 those whose interest and abilities lie in perverting,  
 25 confounding and alluding them."  
 40

1 It is a savage verdict on the profession of law.  
 2 But it has an uncomfortable resonance in this inquiry.  
 3 How was it that a cadre of professionals, no doubt  
 4 skilled, one indeed eminent, all failed, or so they  
 5 said, to discern an obvious, indeed invincible avenue of  
 6 appeal for Seema Misra? It takes extraordinary  
 7 ingenuity, or is it disingenuity to have denied Seema  
 8 Misra the ammunition to clear her name from 2013  
 9 onwards, by not disclosing to her that the credibility  
 10 of the man who had given the expert evidence against her  
 11 was, in your words, shot. Hers was a unique case. It  
 12 was against her alone that Gareth Jenkins had given oral  
 13 evidence.

14 When that devastating document, the Clarke Advice,  
 15 was eventually disclosed in November 2020, 11 months had  
 16 passed since the Horizon Issues Judgment and the  
 17 conclusion by settlement of the GLO proceedings. Is  
 18 that a clue that might help explain the long suppression  
 19 of that document?

20 Gareth Jenkins lurked in the twilight of those civil  
 21 proceedings, a ventriloquist for Dr Worden, Mr Godeseth,  
 22 Mr Parker and perhaps many others, had he not? But his  
 23 misfeasance was not disclosed in the Horizon Issues  
 24 trial and an elaborate unsworn explanation, estranged  
 25 from the truth, was offered for his absence.

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1 run-up to her appeal.

2 Of course, that was the document that revealed  
 3 unequivocally by the contents of Solution ONE that  
 4 Fujitsu had the covert capacity to tamper remotely with  
 5 the branch accounts without the permission or knowledge  
 6 of the subpostmasters.

7 You will, of course, recall that, at the time of her  
 8 trial, Mr Jenkins knew that. You will, of course,  
 9 recall, although he denies it, had Jarnail Singh held  
 10 that document, the notes of that meeting, in his hands  
 11 the Friday afternoon before Seema's trial. Had he and  
 12 Mr Rob Wilson done the right thing, no doubt Mrs Misra's  
 13 trial would have been brought to an abrupt conclusion on  
 14 the Monday morning with the offering of no evidence.  
 15 The right thing to do in 2010 was staring them in the  
 16 face. But they could not do the right thing because  
 17 Seema Misra's case held the dam for the flood waters of  
 18 claimants whose lives had been destroyed by the Post  
 19 Office's actions.

20 We know that from the emails of Mandy Talbot, where  
 21 she said that, if they lost the Seema Misra trial,  
 22 defending those civil claims would be difficult, if not  
 23 impossible. Those teeming flood waters threatened to  
 24 submerge the Post Office, so even though Mrs Misra ought  
 25 not to have been prosecuted at all, that document was

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1 I return to Seema Misra. How can one begin to  
 2 justify this protracted group error that denied Seema  
 3 Misra the precious prospect of securing justice in the  
 4 nearly eight years following the Clarke Advice until the  
 5 ruling of the Court of Appeal in Hamilton?

6 The most deluded people, as Mr Warmington pointed  
 7 out at the end of his witness statement, choose to  
 8 disregard what they already know. How much knowledge,  
 9 skill and practical expertise in the application of the  
 10 law one would have to compartmentalise, ignore, forget  
 11 or overlook, to commit such a collective catastrophic  
 12 failure of judgement?

13 Think of the people in that room on 9 September  
 14 2013. The combined experience of that room was vast,  
 15 yet no one spotted the obvious duty of disclosure that  
 16 would have speedily quashed Seema Misra's conviction.  
 17 It was a glaringly obvious solution: disclose to her the  
 18 prior existence of bugs and disclosed to her that the  
 19 credibility of Jenkins was fatally undermined.

20 If that had been done, one wonders how long it would  
 21 have taken to bring her case before the Court of Appeal:  
 22 not long, surely. Then, of course, if that had been  
 23 done, the disclosure of the October 2010 receipts and  
 24 payments mismatch bug issue notes could not have been  
 25 far behind. They would have been disclosed too, in the

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1 suppressed.

2 I regret to submit but it seems inescapable that the  
 3 same considerations, the civil crossover claims, the  
 4 perverse and perverted decisions of disclosure in one  
 5 being used to support and buttress the defence of the  
 6 other, is in action in the run-up to that consultation,  
 7 and during that consultation because the fact is, sir,  
 8 doing the right thing by her in either 2010 or 2014  
 9 would have meant that there could have been no possible  
 10 defence to the GLO.

11 This is a reflection of other aspects of the Post  
 12 Office's wrongdoing, such as on 14 March 2018, although  
 13 the Post Office denies it, schmoozing the CCRC, Fujitsu  
 14 and the Post Office, with anecdotal tales that Horizon  
 15 was all about a dog being caught on CCTV jumping on the  
 16 counter or a man using a frozen sausage to miskey. With  
 17 these words the point landed: there was always an  
 18 explanation. The point landed: there was always  
 19 a hidden agenda to give the appearance of being helpful  
 20 whilst all the time dripping poison in the CCRC's ear.

21 So we respectfully submit that no one at that  
 22 consultation wanted to give Seema Misra a ticket for  
 23 appeal, as Martin Smith said, and the question is: why?  
 24 The prospect of more "Misras crawling out of the  
 25 woodwork" was mentioned, a vile phrase but she, of

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1 course, was not a cockroach or a pest, but a human  
2 being. But for the Post Office, she represented the  
3 cornerstone of their policy and they knew that if you  
4 took away the cornerstone there would be a domino  
5 effect.

6 **SIR WYN WILLIAMS:** That's quite a good place for you to  
7 finish, I think, Mr Henry.

8 We'll start with the next domino at 10.55.

9 **MR HENRY:** Thank you, sir.

10 **SIR WYN WILLIAMS:** I'd like to make it clear to everyone  
11 that to keep this under control, I'm going to start at  
12 10.55, so those of you who go out either return  
13 timeously by 10.55 or come back in very quietly, please.

14 (10.45 am)

(A short break)

16 (10.55 am)

17 **SIR WYN WILLIAMS:** I think the backdoors have now been  
18 closed, Mr Stein. So I'd ask everyone to be ready to  
19 listen to Mr Stein, please.

**Closing submissions by MR STEIN**

21 **MR STEIN:** Louise Dar was a lead claimant in the High Court.  
22 She was cross-examined by advocates on behalf of the  
23 Post Office for three hours. She says this:

24 "I was suspended from my Post Office in Glasgow in  
25 2017 as a result of Horizon shortfalls. My mum died

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1 a computer problem: this was always a people problem.

2 It was people who suffered. It was people at the  
3 Post Office and Fujitsu who caused the scandal through  
4 cruelty, callousness, and connivance, and people are  
5 still suffering from the consequences. Our clients have  
6 attended the hearings, followed the hearings on the  
7 Inquiry live feed, and they have found the hearings  
8 distressing but also enormously cathartic. They take  
9 some comfort that the deplorable conduct of people such  
10 as Stephen Bradshaw, Paula Vennells, Alice Perkins,  
11 Angela van den Bogerd, Gareth Jenkins, Jarnail Singh and  
12 George Thomson, and many others, have been brought into  
13 the light. These people form part of the rogues'  
14 gallery of the Post Office, memorable for their lies and  
15 incompetence.

16 From the start-up of the Horizon system, postmasters  
17 were doomed. The system was never designed to be relied  
18 upon for legal purposes. The Post Office imported  
19 policies from the last century into an IT system that  
20 the subpostmaster had had little access to and was  
21 controlled by a third party.

22 The Subpostmaster Contract, which had not changed  
23 from the paper age, made subpostmasters responsible for  
24 all losses. Like the Titanic, the Post Office was  
25 running full speed ahead, directly for the iceberg, with

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1 a few weeks later. My father broke his hip three months  
2 later. As a result, when I was a lead claimant in the  
3 GLO litigation, my mother-in-law came from Pakistan to  
4 look after the children. That was so I could travel to  
5 London with my husband to give evidence to Mr Justice  
6 Fraser.

7 "My family and I are going on our pilgrimage, Umrah,  
8 to Makkah -- Mecca -- in the spring. I'm only supposed  
9 to go on this pilgrimage to seek forgiveness in  
10 circumstances where I have true good intentions and do  
11 not owe anyone any money. Despite being a lead claimant  
12 in the GLO, working to try and get the scandal in the  
13 media and giving a human impact statement, I am still  
14 awaiting final compensation, as the Post Office and  
15 Department of Business continue to drag their feet yet  
16 again.

17 "The general public will presume the compensations  
18 have been paid, as promised and publicised, not knowing  
19 that this is not the case. It's just gone quiet in the  
20 media. Are we allowed to owe monies to companies and  
21 delay without repercussions or hefty charges? No. So  
22 why can Post Office, the Department of Business, do this  
23 to us? So yet again, we are waiting and wondering: will  
24 this ever come to an end?"

25 As I think we all recognise, sir, this was never

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1 the subpostmasters locked in the hold.

2 Now, there was always the danger, sir, that  
3 subpostmasters might manage to speak to somebody within  
4 the organisation and query the shortfalls and that might  
5 lead to financial losses being highlighted that were not  
6 due to their actions. But the Post Office took care of  
7 that little problem through the sterling work of the  
8 helplines. They told subpostmasters that they were the  
9 only one, that they were liable for all shortfalls and  
10 they must pay up.

11 I recall the aftermath of the judgment in the  
12 Criminal Court of Appeal. We'd finished in the court,  
13 and we were tidying up our papers and moving out of the  
14 court into the corridors where all of the clients groups  
15 were with their families. There was a young woman who  
16 was crying, in distress, she seemed on her own and  
17 I just wanted to make sure that she had someone that  
18 could be with her and make sure that she knew where her  
19 Legal Team was. I didn't represent her. What she was  
20 saying, and I won't forget, was that "I thought I was  
21 the only one. That's what they told me".

22 Now, what was the effect of these helplines? Well,  
23 it meant that the subpostmaster paid up out of their own  
24 pocket but also it had the second effect, that issues  
25 being repeatedly raised about the Horizon system were

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1 never investigated. There is no accounting for the  
2 number of bugs, errors and defects in the system. The  
3 High Court judgment's bug table is no more than a tally  
4 from the evidence that Mr Justice Fraser had at that  
5 time. That is because subpostmasters who tried to raise  
6 issues regarding difficulties and errors within the  
7 system were shut down. Therefore, we will never know  
8 how many bugs, errors and defects existed in the Horizon  
9 system at any time. Even now, the Inquiry's YouGov  
10 survey tells us that subpostmasters are still paying off  
11 for shortfalls.

12 Now, that means that the current truth is that we  
13 don't know the full extent of bugs, errors and defects  
14 in the current version of Horizon. The system is  
15 obsolete and careering out of control. It has no  
16 back-up and Fujitsu does not even dare turn it off, as  
17 they have no idea what will happen if they then try and  
18 turn it back on again.

19 Now, having heard all of the evidence in this  
20 Inquiry, today we know considerably more about the  
21 defects in the Horizon system and the Post Office's  
22 cover-up, more than Mr Justice Fraser. But there remain  
23 black holes. Now, the first black hole is the issue of  
24 the helpline scripts. Our client group say that  
25 helpline staff members were reading from scripts and

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1 during the lifetime of Horizon, these figures in  
2 relation to monies put into suspense accounts would have  
3 been available, but Post Office has never wanted to look  
4 into this issue and have let time take its toll on  
5 accessing this data.

6 I won't go on the screen but I will read out a quote  
7 from an email dated 16 January 2015, from Christopher  
8 Aujard to Alisdair Cameron, the reference, just for note  
9 purposes is POL00040805. Mr Aujard says this:

10 "As you can imagine, I am concerned we give Second  
11 Sight no more information than is necessary to address  
12 the narrow proposition that money is missing from  
13 an SPMR account, is somehow taken into our suspense  
14 account and then appropriated to our profit and loss  
15 account."

16 So that's the suspense accounts. But the money that  
17 will be never found is the money used by subpostmasters  
18 to balance the branch accounts. That is when  
19 subpostmasters put their own hand in their own pockets  
20 to pay for shortfalls. Let's be clear about this. When  
21 a subpostmaster puts their own money into the branch  
22 account, the shortfall disappears because it now  
23 balances.

24 That money is untraceable and can only be accounted  
25 for in the memories of subpostmasters, who use their own

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1 that they, the helpline staff, didn't even appear to  
2 understand what they were reading out.

3 Now, we've been tilting at this windmill and asking  
4 for the scripts to be produced since the very first  
5 hearing in 2021. But here we are in December 2024, and  
6 still, three years on, no scripts. Our clients simply  
7 don't believe that they have vanished. The Post Office  
8 is an organisation which has buried evidence, peddled  
9 the dishonest line about the robustness of the Horizon  
10 system and sought to protect its own reputation above  
11 the lives, health and mental health of subpostmasters,  
12 and the Post Office. So they can't find the scripts:  
13 what a shocker!

14 The second black hole is the subpostmasters' money.  
15 Where has their money gone? Let's be clear about this.  
16 The money which would be possible to trace, would be  
17 money held in suspense accounts and those would have  
18 been verifiable figures held for the purposes of  
19 questioning a shortfall.

20 Now, sir, you'll recall from evidence from earlier  
21 parts of this Inquiry, that in about 2003 and then put  
22 into place in 2006 the IMPACT Programme limited the  
23 ability to use suspense accounts.

24 Mr Justice Hooper, Second Sight and Dr Kay Linnell  
25 have all walked this path before us. We suggest that,

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1 and their family's money to balance a bug-ridden Horizon  
2 system. That money, over the many years, will be in the  
3 very, many, many millions and will eclipse even the  
4 guesstimate figure of 37 million given by Mr Read when  
5 he was asked by us about this.

6 It's important. It's important to understand that  
7 the subpostmasters that we represent believe that they  
8 kept the Post Office going by subbing the Post Office  
9 for the shortfalls, in the past and to date and, because  
10 of this, sir, they do not accept the term "Compensation  
11 Scheme". The financial restitution schemes are giving  
12 them their money back. Now, of course, we all recognise  
13 and properly so that the schemes are about providing  
14 compensation as well. But for our clients, the schemes  
15 are about getting the money back stolen by the Post  
16 Office. As Sir Alan Bates put it, the schemes are  
17 really about redress rather than compensation.

18 Now, sir, I don't have the time to go into the  
19 torturous and painful history of financial restitution  
20 and compensation schemes and, sir, you know it all too  
21 well. From the start of this Inquiry you have devoted  
22 very considerable time and trouble in calling for  
23 evidence and keeping abreast of the various schemes.  
24 You have even taken the unusual step of delivering  
25 an interim report on compensation.

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1 It is no coincidence that over and over again the  
2 very existence of a hearing date on compensation has led  
3 to remarkably timely and positive announcements of  
4 changes in those schemes.

5 The progress of the financial redress schemes is  
6 something for which the Inquiry process must take some  
7 credit, yet no amount of money can turn the clock back  
8 and return what would have been the best years of our  
9 clients' lives. Maureen McKelvey from Northern Ireland  
10 says this:

11 "I was the subpostmistress at the Post Office branch  
12 in the village of Clanabogan in Omagh in Northern  
13 Ireland from 1990 until 2001. My husband, myself and  
14 our family were respected within our community and  
15 family reputation is very important here. I had worked  
16 for 10 years without any problems but, as soon as  
17 Horizon was brought in, money began to disappear from  
18 the branch account. I was suspended in 2001, charged  
19 with false accounting. I had to wait five long years  
20 before the case came to trial in Dungannon, where  
21 everyone knew me. The trial lasted a week. The Post  
22 Office prosecution took a sample of transactions from  
23 days when there were shortfalls to prove that I was  
24 a thief. However, on some of those days, the Post  
25 Office Area Manager was running my Post Office, as I was

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1 process and consideration of recommendations.

2 Now, we are at this stage, the close of evidence,  
3 Government and Fujitsu and the Post Office, they seek to  
4 breathe a sigh of relief that the Inquiry's dogged  
5 determination to hold them to account and to a timely  
6 timetable has gone away.

7 But there are still steps that could be taken by the  
8 Inquiry to continue to hold the Government, the Post  
9 Office, the Department for Business and Trade, to  
10 account.

11 For example, in the Infected Blood Inquiry, Sir  
12 Brian Langstaff recalled the Inquiry before the final  
13 report was delivered. He recalled the Inquiry on  
14 26 July 2023 to hear evidence from Mr Sunak,  
15 Ms Mordaunt, to ask them in public what was happening  
16 with the compensation scheme for those people infected  
17 through the Contaminated Blood Scandal and when would  
18 that compensation start to flow?

19 Further, after delivering the Infected Blood Inquiry  
20 report, Sir Brian Langstaff has retained his Inquiry  
21 powers, agreeing with submissions that I made on behalf  
22 of my client group in that Inquiry, that Section 14 of  
23 the Inquiries Act 2005 gives the Chair a discretion to  
24 continue to fulfil the terms of reference after delivery  
25 of the report. Sir Brian took this course after

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1 at the hospital with my son, who had been injured in  
2 an accident. I was acquitted and the local press were  
3 waiting for me on the steps of the court where I hoped  
4 to state my innocence. However, two Post Office  
5 Security people took me by my arms and escorted me to my  
6 car and warned me that I was not permitted to speak to  
7 the press.

8 "My family's reputation in the local area was  
9 wrecked, even though I was found not guilty. I lost my  
10 business. I lost my health. I became dependent on  
11 others and I was forced into an IVA. I lost myself.

12 "Almost 20 years on I applied for compensation  
13 through the Post Office's Historic Shortfall Scheme, the  
14 process has gone on, and on, and on. I met Nick Read  
15 and Simon Recaldin in Belfast in June 2023. I have  
16 travelled to London repeatedly to the Business Select  
17 Committee and to see you, sir, and your Inquiry. But  
18 perhaps [she says] the worst thing is I'm a proud and  
19 reserved woman. I've always made my own way in life,  
20 but I've been made to feel like a beggar with my hand  
21 out, waiting for compensation, when what I really want  
22 is the years that were stolen from us."

23 The hearing dates in this Inquiry have come to  
24 an end, sir. Now, the Inquiry goes into a period of  
25 reflection on the evidence, drafting, the maximisation

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1 considering the precedent in the Soham Inquiry, chaired  
2 by Sir Michael Richard.

3 Now, the Inquiries Act 2005, Section 14 states,  
4 under the heading "End of Inquiry", subsection 1:

5 "For the purposes of this Act, an Inquiry comes to  
6 an end on the date after the delivery of the report of  
7 the Inquiry, on which the Chairman notifies the Minister  
8 that the Inquiry has fulfilled its Terms of Reference or  
9 on any earlier dates specified in a notice given to the  
10 Chairman by the Minister."

11 I'll repeat that:

12 "For the purpose of this Act, an Inquiry comes to  
13 an end on the date after the delivery of the report of  
14 the Inquiry on which the Chairman notifies the Minister  
15 that the inquiry has fulfilled its Terms of Reference  
16 ..."

17 The terms of reference for this Inquiry contain no  
18 limitation of time, other than a professed aim to report  
19 by the autumn of 2022.

20 Sir, I suspect you won't make that date!

21 **SIR WYN WILLIAMS:** I'm sorry to be smiling, Mr Stein.

22 **MR STEIN:** It follows from the wording of Section 14 that  
23 an Inquiry does not end with the delivery of the report  
24 but with the Chair's -- in this case, sir, yours --  
25 notification to the Minister that the Inquiry has

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1 fulfilled its terms of reference.

2 The terms of reference of this Inquiry at D state  
3 that:

4 "The Inquiry shall assess whether the commitments  
5 made by the Post Office within the Mediation Scheme,  
6 including the Historical Shortfall Scheme, have been  
7 properly delivered."

8 Properly delivered.

9 Those terms of reference were set in mid-2021. Time  
10 has moved on and we know that this scandal has led to  
11 the establishment of a number of schemes. We suggest,  
12 sir, that the terms of reference of this Inquiry must be  
13 read in the light of all of the schemes established to  
14 provide financial restitution and compensation and that,  
15 in order to fulfil the terms of reference, the Inquiry  
16 must ensure that they have been properly delivered.

17 As a matter of importance, we ask that the Inquiry  
18 adopts the approach of Sir Brian Langstaff and retain  
19 oversight of the content of the compensation redress  
20 schemes and the progress of any reinvention of the Post  
21 Office to fulfil terms of reference at F, which states:

22 "To establish whether current controls are now  
23 sufficient to ensure that failing leading to the issues  
24 covered by this Inquiry do not happen again."

25 So, sir, your terms of reference are peppered with  
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1 to further significant harm. Almost all of those  
2 affected, instructed the key firms who have been  
3 assisting postmasters in relation to financial redress  
4 and compensation: that's Howe+Co, Hudgell Solicitors and  
5 Freeths.

6 The Post Office accepted liability in August. Last  
7 Thursday, representatives from Howe+Co, Hudgells and  
8 Freeths, met with representatives of Post Office  
9 Limited. However, so negative was the Post Office  
10 stance that, after three hours of attempts to make any  
11 form of headway, the representative of all three firms  
12 were forced to walk out with nothing to show for their  
13 efforts on behalf of their clients.

14 So it seems that the 555 members of the GLO  
15 litigation group will now have to return to court once  
16 again to challenge Post Office because fundamentally --  
17 and I note Mr Henry has taken the point about leopards  
18 can't change their spots -- but, fundamentally, the Post  
19 Office is a tiger that can't change its stripes.

20 The Post Office can't be trusted to act fairly when  
21 it comes to subpostmasters. They cannot be trusted to  
22 prioritise the issues. So we ask that, in addition to  
23 the Inquiry adopting the approach taken in the Soham  
24 Inquiry and the Infected Blood Inquiry, the Inquiry  
25 should continue to scrutinise matters relating to the  
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1 points that relate to whether the procedure, processes  
2 and information provided by the Post Office to  
3 subpostmasters are sufficient, in other words sufficient  
4 at this time, whether current controls are now  
5 sufficient, it says.

6 We make this request, sir, because our clients do  
7 not trust the Post Office or DBT because they believe  
8 that they will revert to a litigious approach within the  
9 redress schemes and when the process of this Inquiry  
10 concludes. We suggest that they are right to do so.  
11 Anna and Bharat Dalal and others are now having to start  
12 to fight all over again to make the Department  
13 understand the underlying purposes and principles of the  
14 financial redress schemes.

15 Sadly this week, just this last week, we have more  
16 evidence or we have evidence of difficulties happening  
17 yet again in the attitude and approach being taken by  
18 the Post Office.

19 Sir, you will recall that on 19 June this year, it  
20 became clear that the Post Office had leaked the  
21 confidential data of all of the 555 postmaster GLO  
22 litigants. That data leak was not limited just to their  
23 identities and locations but also disclosed other  
24 personal matters. The data breach retraumatised almost  
25 all of the claimants and exposed a considerable number  
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1 financial redress schemes through requiring that every  
2 two months -- a matter for you, sir, to consider how  
3 often -- the Remediation Unit and the Department for  
4 Business and Trade must report back to the Inquiry and  
5 Select Committee at the House of Commons in relation to  
6 progress.

7 Sir, we also ask that there is an avenue for  
8 subpostmasters to comment on progress. I've been  
9 thinking about this. I've been thinking about the  
10 burden that you have, sir.

11 Trust, it's a weight, isn't it? As lawyers and  
12 judges, we all want to be trusted but, once we have  
13 trust, it's hard to put down. Trust becomes its own  
14 duty and it's a hard taskmaster.

15 Sir, you have the subpostmasters' trust. You have  
16 that burden. We know it's a weight. We ask that you  
17 consider the points that we have made in our  
18 submissions, both written and oral today, in looking at  
19 both the purposes of the terms of reference, whether  
20 they have been fulfilled, but also obviously retaining  
21 oversight of compensation matters.

22 We know that you're going to have a busy New Year  
23 and so we thought long and hard about how far we should  
24 be requesting this additional burden. But  
25 subpostmasters, they ask it of you, and we consider on  
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1 their behalf that it's right that the Inquiry does so.  
 2 I now turn to restorative justice. We cannot  
 3 express enough the importance of restorative justice to  
 4 the Inquiry process. This issue was raised in relation  
 5 to this Inquiry by my instructing solicitors, Howe+Co,  
 6 as early as December 2022, and the issue appears to have  
 7 been accepted by the Post Office.

8 Now, restorative justice is important because it can  
 9 plug the gaps in financial redress schemes. The  
 10 evidence of Simon Recaldin on 4 November 2024, this  
 11 year -- in his evidence, he accepted that there is no  
 12 provision in any scheme for family members. Many of  
 13 those family members have suffered, he agreed, from  
 14 intimidation, harassment, bullying, educational  
 15 disruption, as a result of the actions taken by Post  
 16 Office against their parents or spouses.

17 Restorative justice will also help the individual  
 18 subpostmasters and branch employees who are all so badly  
 19 hurt and damaged by the actions of Post Office and  
 20 Fujitsu.

21 The measures proposed by Howe+Co back in December  
 22 2022 include ongoing psychiatric and counselling support  
 23 for subpostmasters and their families; bursaries to  
 24 assist with the retraining of subpostmasters and for the  
 25 education of their children, whose education was

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1 Post Office actions, endures in a significant number of  
 2 cases.

3 Marion Holmes from England says this, Marion Holmes  
 4 who is here today:

5 "Sir, I gave evidence to you when you came to Leeds.  
 6 I had a picture of Peter with me for support. You  
 7 noticed the picture and asked to see it. Thank you.  
 8 Peter was a policeman. A good husband and father. He  
 9 was also a postmaster and later a Post Office Manager.  
 10 Everyone in Jesmond knew him. When I met you, I showed  
 11 you a letter that Peter wrote to the Post Office on  
 12 13 June 1999 regarding the new Horizon system. Peter  
 13 wrote of how appalling the training was on the new  
 14 system and how the trainers were learning as they went  
 15 along. He said that balancing on a Wednesday night now  
 16 took five hours when previously it had taken only one.

17 "He said in that letter that he was prepared to go  
 18 anywhere, night or day, even on a Sunday, just to get  
 19 better training on the Horizon system. He finished his  
 20 letter saying that he no longer slept beyond 4.00 am and  
 21 felt ill at ease going to work. He said that if the  
 22 Post Office would not give better training, he would  
 23 resign in July 1999.

24 "He didn't resign but, as ever, he soldiered on.  
 25 10 years after writing this letter, Peter was convicted

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1 disrupted by the scandal; a tangible memorial to mark  
 2 this largest miscarriage of justice in British legal  
 3 history that sympathetically records the experiences of  
 4 subpostmasters and how profoundly they and their  
 5 communities were failed by this scandal.

6 We suggest that the Post Office Museum in London  
 7 might be an appropriate venue for such a memorial that  
 8 should obviously be devised principally and mainly by  
 9 subpostmasters.

10 What about restoration of reputation? In many  
 11 cases, subpostmasters' reputations were trashed in their  
 12 local communities and regionally. Subpostmasters'  
 13 reputations must also be restored within their local  
 14 communities through engagement with those communities  
 15 and the local press. In addition, we proposed  
 16 an entrepreneurial fund and a fund for affected family  
 17 members was proposed in the questions we asked of  
 18 Mr Recaldin.

19 Now, sir, you're aware from the recently published  
 20 report, by the "In Your Own Words" listening project of  
 21 this Inquiry, that 65 per cent of people affected by the  
 22 Horizon scandal have said that their family and  
 23 relationships were affected. Furthermore, it was  
 24 a striking feature of the Human Impact Hearings that the  
 25 stigma, which subpostmasters faced as a consequence of

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1 of false accounting. Peter's conviction was reported in  
 2 the local press. As a former police officer and Post  
 3 Office Manager, Peter was very well known in the  
 4 community. It was devastating to him. He was left  
 5 a mere shadow of the man he had been. 13 years after  
 6 his conviction and five years after his death, I was at  
 7 the Court of Appeal with my son when Peter's conviction  
 8 was quashed. Such a pity he did not live to see it.

9 "I think that three groups are responsible for this  
 10 scandal: the Post Office, the Government and Fujitsu.  
 11 They should all be held responsible when this Inquiry is  
 12 over. I think that they will all carry on as before.  
 13 Please, sir, don't let this happen."

14 Let me turn to Fujitsu. Fujitsu say at paragraph 3  
 15 of their closing written submissions that they fully  
 16 accept their share of the failings which brought about  
 17 these appalling miscarriages of justice.

18 Fujitsu's Mr Patterson appeared to accept when he  
 19 first gave evidence that Fujitsu may have a wider role  
 20 in supporting schemes which would assist family members  
 21 of those impacted by the scandal.

22 However, and conspicuously, Fujitsu have failed to  
 23 take steps towards implementing any scheme. By the  
 24 time, at our urging, Mr Patterson returned to the  
 25 witness box, he claimed in answers to me and my

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1 questions that he and Fujitsu had no experience in  
 2 devising such a scheme. So, therefore, we address  
 3 ourselves via this Inquiry to the Board of Fujitsu in  
 4 Japan. For a multinational company of the size and  
 5 value of Fujitsu, a failure to do nothing for  
 6 subpostmasters, other than hide behind your third party  
 7 legal status to avoid financial liability is shameful.  
 8 Sir, I'd like a document to go on the screen, please.  
 9 RLIT0000350.

10 Sir, this document is a document that is described  
 11 by Fujitsu as the "Fujitsu Way" and sadly we suggest  
 12 that they have lost theirs.

13 This is Fujitsu's claim to holding itself to high  
 14 standards. On page 1, you can see the Fujitsu way is  
 15 comprised of three parts, "Our Purpose"; "Our Values";  
 16 and "Code of Conduct". "Our purpose" indicates why  
 17 Fujitsu exists in society.

18 Can I turn now to page 3. Thank you. We see there  
 19 under "Trust":

20 "[Fujitsu honours] promises and exceeds  
 21 expectations.

22 "[Acts] with ethics, transparency and integrity."

23 Scrolling down, please, under "Empathy", same page:

24 "Listen to all people and acts for the needs of our  
 25 planet ...

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1 So, what of Horizon now? Mr Patterson was referred  
 2 on 11 November to a document dated 15 December 2023 from  
 3 Mr Walton, the Head of the Post Office Account of  
 4 Fujitsu to Mr Brocklesby at Post Office. I'll give the  
 5 document number, I won't put it on the screen. Again,  
 6 just for the note, FUJ00243299.

7 That note contains the following passage:

8 "The Post Office has historically been strategically  
 9 focused on alternative solutions to Horizon, rather than  
 10 investing in the existing infrastructure. Due to the  
 11 age and consequent end of service life status of the  
 12 underpinning Horizon infrastructure, there is  
 13 an increasing risk of the failure of the infrastructure  
 14 that could result in adverse impact in the delivery of  
 15 services to the public."

16 Now, that and other letters from Fujitsu to the Post  
 17 Office tells us that Fujitsu are saying that the Horizon  
 18 system is now obsolete and increasingly likely to fail.  
 19 That Post Office has not kept its house in order, and  
 20 the Horizon system is as much of a loose cannon now as  
 21 it was at what might be said to be the height of the  
 22 scandal but, apparently, the Horizon system may be used  
 23 for years to come.

24 No wonder Fujitsu are keen to get it off their hands  
 25 in the way that is suggested by the NBIT proposal. It

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1 "Generate shared value for our people, customers,  
 2 partners, community and shareholders."

3 In other words, Fujitsu professes to hold itself to  
 4 high standards. Sadly, we suggest to the Board of  
 5 Fujitsu, you are not honouring trust and exceeding  
 6 postmaster or anyone's expectations. You are not acting  
 7 with ethics or integrity and you are definitely not  
 8 generating shared value for people, customers, partners  
 9 and community.

10 If you claim you have learned lessons and are sorry  
 11 and want to make amends then empower Mr Patterson, the  
 12 European Director of Fujitsu, to do so. Establish, we  
 13 suggest -- it's not the only route -- a beneficial trust  
 14 with sufficient funds to support the families of  
 15 subpostmasters in entrepreneurial pursuits. To assist  
 16 with their education and potentially offer work  
 17 experience.

18 If your lawyer's advice is that this could be seen  
 19 as some sort of admission of direct liability to  
 20 subpostmasters, it is not. Instead, this could be the  
 21 start of something great. This is an opportunity to  
 22 make something good arise from the ashes of this scandal  
 23 and it would support the restitution of Fujitsu's good  
 24 name.

25 Can we take that off the screen, please. Thank you.

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1 takes it out of Fujitsu's arms and into the Post Office.  
 2 But we suggest the NBIT system is wrong headed and it  
 3 seems wrong headed to our client. It doesn't address  
 4 the problems of the past and just brings the existing  
 5 Horizon system in-house.

6 Now, I turn to the question of the Post Office's  
 7 Strategic Review, which I will ask to go on the screen.  
 8 So this is the Post Office's Strategic Review, Strategic  
 9 Transformation Plan. It has this reference,  
 10 POL00462532. Thank you. Turn to page 9, please.

11 This was available to the Core Participant teams on  
 12 Relativity, sir, from, as far as we're aware, the date  
 13 we can find is 7 December 2024. This review, as we see  
 14 on the screen, seems to turn on a £1.8 billion  
 15 investment requirement over the next five years.  
 16 Page 13, please.

17 You'll see there under "Strategic Imperatives, New  
 18 Deal for [subpostmasters] PMs":

19 "Create a sustainable, fair and attractive  
 20 proposition for postmasters that reflects their vital  
 21 role in delivering Post Office services."

22 The review does contain, sir, a recommendation of  
 23 a significant increase in postmaster remuneration. But  
 24 this review, we suggest, falls far short of a strategy  
 25 which reverses the polarity of the Post Office, as, sir,

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1 you'll recall the evidence of Mr Railton.

2 Now, sir, we request, because of the timing of the  
3 publication and the need to take instructions, that we  
4 have some more time to make some further written  
5 submissions on this document and no doubt other  
6 documents of its ilk will be produced in response by  
7 Government.

8 Our recommendations, in relation to the future of  
9 the Post Office -- if it is allowed, frankly, to  
10 continue -- to protect postmasters in the future,  
11 include these: a guarantee of a living wage;  
12 whistleblowing rights established through legislation;  
13 an institution, the Post Office, listening and  
14 investigating, and a Chief Inspector of the Post Office,  
15 and other arm's-length bodies, to consider their  
16 operation, the welfare within the Post Office of  
17 subpostmasters, employees and workers, and the  
18 maintenance within the Post Office of its social  
19 purposes and intent.

20 I have provided you so far, sir, with the thoughts  
21 and reflections of our clients from England, Scotland  
22 and Northern Ireland. Let me turn to Wales.

23 Pamela Lock says:

24 "I became a postmistress in Swansea in 1974. My  
25 husband Geoffrey and I ran a successful Post Office,

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1 years.

2 "Not one person has been held to account for my  
3 wrongful conviction, or the wrongful convictions of the  
4 scores of other subpostmasters. Anyone with eyes in  
5 their heads could have seen the problem must lie with  
6 the new computer system. How could a woman work as  
7 a postmaster for 25 years without problems of any kind  
8 and then suddenly change and become dishonest and inept?  
9 I'd like the Post Office to pay for a front page  
10 advertisement in the South Wales Evening Post showing  
11 a picture of me then and now with the headline, 'Pamela  
12 Lock was innocent, Post Office apologises'."

13 Now, sir, as you know, we have a large client group  
14 and we can see, because of that group, trends and  
15 patterns within the scandal: 49 of our clients were  
16 expressly told they were the only one; 43 were told by  
17 the helpline that they should pay for the shortfall; and  
18 35 of these say that the helpline told them that they  
19 must pay because their contract required them to do so;  
20 61 of our clients were threatened with prosecution; 26  
21 were threatened with action in the civil courts; 95 say  
22 they were not properly trained to use the Horizon  
23 system; and 19 -- 19 -- actually experienced shortfalls  
24 while they were being trained.

25 Now, those figures come from 102 clients which

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1 bakery and shop for 25 years. We'd begin work at  
2 1.30 am and work until 5.00 pm, going to bed at 8.00 pm.  
3 We were proud of the business and the community we  
4 serve. Everyone knew us. We worked without a single  
5 problem until the introduction of the Horizon system in  
6 2000. Within seven months of Horizon coming in, we had  
7 shortfalls in excess of £30,000. Within another year  
8 I stood numb before the Crown Court in Swansea pleading  
9 guilty to false accounting. My daughter was crying, my  
10 husband was very quiet, my paralysed son was there in  
11 spirit.

12 "On my way home from court, the headline of the  
13 front page of the South Wales Evening Post showed my  
14 picture and told the world I was a criminal. Geoffrey  
15 and I retreated into ourselves. My husband was a very  
16 private person. He didn't say a lot but he felt deeply.  
17 The following years and decades were very hard. We lost  
18 our home that we had worked all our lives to buy. We  
19 had to go to the council office to beg to be housed in  
20 our old age. Eventually, we were offered  
21 a one-bedroomed flat in sheltered housing.

22 "When the Court of Appeal quashed my conviction,  
23 I cannot describe the relief of having my conviction  
24 overturned and to get my good name back but it cannot  
25 make up for what we have suffered over those 20 long

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1 responded to our questions in that regard.

2 51 of that 102 say they were ostracised by their  
3 local communities; 18 were made bankrupt or subject to  
4 an IVA; 41 found themselves in desperate financial  
5 circumstances; and 23 suffered from marriage breakdown.

6 Our clients routinely talk about suicidal thoughts,  
7 suicide attempts and ongoing mental health problems.

8 Let me turn to the Post Office's prosecutors. We  
9 have said that Mr Clarke and Mr Altman, King's Counsel,  
10 and others did not act appropriately in relation to the  
11 Gareth Jenkins issue because their roles as advisors to  
12 the Post Office and their duties as prosecutors became  
13 blurred.

14 The entirety of the Clarke Advice dated 15 July 2013  
15 should have been disclosed to all those who had been  
16 convicted of offences which included the use of evidence  
17 from Horizon.

18 Statements from Mr Clarke and his colleague who  
19 investigated the Jenkins issues should have been made.  
20 The recording of the call with Mr Jenkins should also  
21 have been disclosed. The police should have been called  
22 to investigate what was believed to be perjury and  
23 an attempt to pervert the course of justice by  
24 Mr Jenkins. Mr Jenkins had been the main go-to Fujitsu  
25 witness, who was used by Post Office lawyers as

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1 an expert, despite the failings in his instruction. But  
2 Mr Jenkins was also a principal architect of the Horizon  
3 system. In other words, he had been a designer and bug  
4 investigator and bug resolution engineer from inception  
5 of Horizon.

6 The lawyers on behalf of the Post Office which  
7 included Cartwright King, Mr Altman, Post Office  
8 Executive, Mr Clarke and General Counsel, knew that  
9 Mr Jenkins was believed to have committed serious  
10 criminal acts and that he was also a mainstay of the  
11 system. That put into doubt his evidence at any time as  
12 well as the reliability and digital integrity of the  
13 Legacy Horizon and Horizon system.

14 Bugs emerging in 2013 included bugs in the Legacy  
15 and Online system. It also means that the question of  
16 the timeline for consideration of appeals, before and  
17 after 2010, should have included all Horizon cases not  
18 just them.

19 Now, Mr Altman was asked a number of questions  
20 obviously by Mr Beer about this and he accepted that it  
21 should have been disclosed, that's the material in  
22 relation to Mr Jenkins: "Yeah, I'm accepting that", said  
23 Mr Altman.

24 Another piece of the jigsaw puzzle as to why this  
25 all occurred in relation to the criminal lawyers can be

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1 So how did this happen? How did this failure, which  
2 was not just the mistake and failure of one individual,  
3 but failure of a number of criminal lawyers? Perhaps we  
4 have something of an answer from Mr Clarke when I asked  
5 him these questions:

6 "So when you were providing the advice to the Post  
7 Office in relation to Mr Jenkins, 'Look, there is this  
8 massive problem, really it's a problem', was that to  
9 a private client?"

10 Mr Clarke said, "Yes".

11 We suggest that Mr Clarke is right. He and others  
12 failed in what any other scenario would have been their  
13 simple operation of their duty, as prosecutors in  
14 relation to disclosure, recognising the obvious: that  
15 the Jenkins material must be disclosed, and an immediate  
16 investigation launched by the police. The failure was  
17 because, by the point that they were engaged, they had  
18 become company men.

19 In future, no lawyer who has any part in the process  
20 of prosecution should ever be allowed to divorce their  
21 responsibilities in relation to prosecutorial duties and  
22 their advice to the entity who instructs them. We  
23 suggest the legal regulators, the Bar Standards Board,  
24 SRA at ILEX, responsible for advocates before the  
25 courts, consider these questions and put in place clear

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1 found in the conference notes in September 2013, again  
2 for the note, INQ00001143.

3 Mr Altman is then recorded as saying:

4 "Can't avoid possibility Misras may crawl out of the  
5 woodwork."

6 Now, Mr Altman went on to prosecute, or he would say  
7 "respond", in the Court of Appeal and he worked on the  
8 question of whether abuse of process applied to all  
9 appellants, resisted some appeals successfully, argued  
10 which limb of abuse of process should be applied to  
11 which case and, in doing so, obviously the blame was  
12 directed at the Post Office. But failed to mention his  
13 own parts in disclosure failures.

14 Now, of course, Post Office was centrally to blame,  
15 but the duty to ensure disclosure was plain as  
16 a pikestaff to all criminal lawyers, of which he was  
17 one.

18 They hadn't pressed the disclosure button or called  
19 the police, or indeed it seems, in reality, sought  
20 introductions to do so. By that point, Mr Altman was  
21 a witness to those past events, and other witnesses,  
22 such as Mr Clarke and other people at Cartwright King.  
23 At that time in the Court of Criminal Appeal, the finger  
24 was pointed solely, it seems, at the Post Office, rather  
25 than the work of the lawyers engaged.

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1 regulatory guidance that puts the prosecution duty  
2 first.

3 This Inquiry has highlighted important issues  
4 surrounding the use of computer data in the court. In  
5 our written submissions we have asked and suggested  
6 a recommendation that the Law Commission reviews the  
7 current position in relation to the presumption of  
8 regularity of mechanical instruments, the term used in  
9 the Law Commission going back now some time, and that  
10 courts have regard to the problem that the absence of  
11 evidence that there is a software bug is not evidence of  
12 the absence of software bugs. That needs to be done  
13 through the provision of detailed prescribed information  
14 where relevant in proceedings.

15 It would be intolerable, sir, to our clients were  
16 the courts to carry on acting on a presumption that  
17 computer produced evidence must be reliable unless the  
18 contrary is proved, which is the current position.

19 Bugs, errors and defects will always be present in  
20 IT systems. They may not be readily apparent or even  
21 visible to those accused of crimes or having actions  
22 taken against them in the civil courts, where there is  
23 the intent to use and rely upon the product of an IT  
24 system or computer data.

25 Now, sir, this is relevant to the terms of

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1 reference, because we know that, in the future, in  
 2 whatever guise the Post Office continue to operate,  
 3 there will be an IT system. There will be Horizon 3 or  
 4 10 that will be in operation, and that system will be  
 5 used in relation to the ongoing work of subpostmasters.  
 6 So there needs to be some consideration, we respectfully  
 7 suggest, within the report, of how such data can  
 8 possibly be used when there is a presumption that it is  
 9 correct, which is currently in operation in the courts.

10 Now, sir, you have seen our submissions in relation  
 11 to whistleblowing in our written submissions. Effective  
 12 whistleblowing policies would have given subpostmasters  
 13 a chance of bringing the scandal into the open much  
 14 earlier but it is apparent to us and many other  
 15 commentators that the law regarding whistleblowing has  
 16 not caught up with the variety of ways that individuals  
 17 work. We ask that the Inquiry recommends that  
 18 legislative changes are brought about to ensure that  
 19 subpostmasters, NEDs, and others working outside the  
 20 traditional employment contract are protected.

21 We submit that whistleblowing protection should be  
 22 extended to all those in the workplace who may see  
 23 wrongdoing and may suffer as a result of raising public  
 24 interest concerns.

25 The definition of "Worker" in Section 43(k) of the  
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1 Sir Alan, have been campaigning for for many years.

2 Let me conclude, though, my submissions today, by  
 3 returning to the most important people in the Inquiry:  
 4 the subpostmasters, assistant subpostmasters, branch  
 5 employees and their families. We think, obviously, of  
 6 all the people that we have lost, including Mr Holmes,  
 7 the former policeman I spoke about earlier, a thoroughly  
 8 good and decent man who didn't live to see his  
 9 conviction overturned by the Court of Appeal.

10 I reflect upon Stanley Fell, a subpostmaster of the  
 11 previous century, who couldn't cope with the business  
 12 side of his branch and who couldn't work Horizon, whose  
 13 appeal was dismissed by the Court of Appeal but whose  
 14 fight continues. He died last year.

15 It is heartbreaking that so many of our clients who  
 16 were with us in 2021 have not lived to see the end of  
 17 this Inquiry process. This includes Carol Riddell,  
 18 Isabella Wall, Thomas Brown and, of course, sir, as  
 19 you've mentioned earlier, Margaret Boston.

20 Many of our clients' partners have also died since  
 21 the Inquiry began. These are people who suffered with  
 22 their husbands and wives and their reputations were also  
 23 destroyed. These include Veronica Maye, the beloved  
 24 wife of Francis Maye; Fiona Whybro, who was  
 25 a subpostmistress and whose interests are now  
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1 Employment Rights Act 1996 is already different for  
 2 whistleblowers than other areas of employment law, and  
 3 there are sound public policy reasons to extend it  
 4 further.

5 It is important, we suggest, that the Inquiry  
 6 recommends that the Employment Rights Act 1996 is  
 7 amended to include subpostmasters, non-executive  
 8 directors within the category of workers that are  
 9 protected under the Act in relation to whistleblowing  
 10 rights.

11 I would now like to talk, and very briefly, about  
 12 the unsung heroes of this terrible scandal. Those  
 13 individuals are well known to the Inquiry: lord  
 14 Arbuthnot; Second Sight; Dr Linnell and her partner  
 15 Barbara; Computer Weekly, which picked up the scandal  
 16 and brought it to the attention of the public in 2009;  
 17 Nick Wallis, whose podcasts and book have provided  
 18 a journalistic narrative which has been of enormous help  
 19 and assistance to all those who have wanted to know more  
 20 about what has actually happened; and of course the  
 21 producers of the ITV documentary, Little Gem, which  
 22 exploded the story of the subpostmasters into the public  
 23 consciousness and shamed the Government into taking the  
 24 sort of urgent action that Private Eye, Computer Weekly,  
 25 Lord Arbuthnot and many others, including, obviously,  
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1 represented by her husband, Brent Whybro.

2 Now, sir, we thank the entire Inquiry Team for your  
 3 hard work and dedication. We thank you, sir, for your  
 4 time and trouble and patience and, frankly, tolerance of  
 5 their counsel. We thank the solicitor to the Inquiry,  
 6 all those people, our transcriber, document handler and,  
 7 of course, Ms Pilgrim, for the wonderful arrangements  
 8 that have been put in place to have allowed this Inquiry  
 9 to have continued so seamlessly, and we thank you, sir,  
 10 for listening to our submissions today.

11 **SIR WYN WILLIAMS:** Thank you very much, Mr Stein.

12 I make it 11.52, so we will start again at 12.05.

13 Is that all right with you?

14 **MR MOLONEY:** Yes, sir, I'd be happy to start at 12 and then  
 15 we can have a clear hour before 1.00 and 2.00 before --

16 **SIR WYN WILLIAMS:** Well, you'll have your hour, even if we  
 17 have to go on until 1.05 or 1.10, so don't worry about  
 18 that. We need to have a slightly longer break, all  
 19 right? So we'll start again at 12.05.

20 (11.52 am)

(A short break)

22 (12.04 pm)

23 **SIR WYN WILLIAMS:** We're a minute early, Mr Moloney, so  
 24 we'll let the people come in.

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

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1 **Closing submissions BY MR MOLONEY**

2 **SIR WYN WILLIAMS:** I think they're all in the room now, so  
3 could we have some quiet for Mr Moloney to start,  
4 please.

5 **MR MOLONEY:** Thank you, sir. Sir, this Inquiry is the  
6 latest step in a long, long search for justice. A group  
7 of people came together to put right a terrible wrong  
8 perpetrated against them by the Post Office, a wholly  
9 State-owned institution. The impact of the events which  
10 sit behind this Inquiry are undoubtedly life altering.  
11 Homes and families lost and broken, savings and  
12 prospects destroyed, stability and health ruined,  
13 reputation and dignity irreparably damaged.

14 Some did not live to see their conviction  
15 overturned. Julian Wilson, for example, is now  
16 represented by his wife Karen. She had his photograph  
17 with her when she gave evidence. He is one of the  
18 Shoosmiths claimants all the way back in 2011.

19 Moreover, very sadly, some died while evidence was  
20 being heard, and are now represented by their families.  
21 Indeed, the Inquiry has announced and mourned name upon  
22 name during its course, Lynette Hutchings, Robert Boyle  
23 and Gillian Blakey to name but a few, and very sadly  
24 today Margaret Boston.

25 As we did in our opening statements on 13 October  
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1 people at the Post Office."

2 The same Tim Brentnall now says of the people that  
3 have worked in this Inquiry:

4 "The Inquiry Team deserves enormous thanks. They  
5 have considered every stage and tried to help us attend  
6 and make sure our concerns have been met and have all  
7 been as helpful and accommodating as possible."

8 Our submission today deals with six main topics:  
9 first, we look at Phases 5 to 6, and the years upon  
10 years spent by the Post Office supported by Fujitsu in  
11 their unblinking defence of Horizon and their  
12 prosecution practices; second, we consider the last of  
13 the evidence served on investigations and prosecutions;  
14 third, we look to the role of regulated legal  
15 professionals in this scandal; fourth, we look at  
16 management, governance and oversight; fifth, we turn to  
17 redress, restorative justice and rebuilding trust; and,  
18 sixth and finally, we ask where we are now as the  
19 Inquiry ends.

20 Before dealing with each of those topics in turn, in  
21 this introduction, there are three initial propositions  
22 we invite the Inquiry to consider. First, our Core  
23 Participants are very conscious that this Inquiry may  
24 not be the last step in the process of accountability.  
25 The Metropolitan Police service is a Core Participant

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1 2022 and as we have done at the closing of each phase,  
2 we reiterate the value of this Inquiry's work for those  
3 we represent. Through three years of work and many,  
4 many hours of evidence, the Core Participants we  
5 represent have followed the Inquiry. Many have attended  
6 in person, others have watched at home, others still  
7 find it too painful to hear the minutiae of the scandal  
8 which stole their lives.

9 Yet for them, its work is crucial. Each of our  
10 clients is grateful for the work of all the Inquiry  
11 Team. Everyone involved in the proceedings, from you,  
12 sir, and your assessors, to counsel and solicitors, from  
13 the ushers and the shorthand writer, to the staff here  
14 at Aldwych House and at the IDRC, all have treated the  
15 postmasters with dignity and care and this Inquiry with  
16 the seriousness it deserves. We and our clients are  
17 grateful.

18 It was Tim Brentnall who said in his evidence, first  
19 referred to at the end of Phase 4:

20 "Horizon merely provided the data that showed  
21 a shortfall but it was people who chose to believe that  
22 data, over myself or hundreds of other subpostmasters.  
23 It wasn't Horizon that prosecuted us, it was the Post  
24 Office. It wasn't Horizon that encouraged us to pay  
25 back money under threat of theft charges, that was

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1 and continues its investigation concerning possible  
2 criminal offences arising from this scandal. While not  
3 for this Inquiry to determine any question of civil or  
4 criminal liability, this cannot inhibit the Inquiry's  
5 duty to reach conclusions on the facts and make  
6 recommendations within its terms of reference.

7 Second, on knowledge. A key question has always  
8 been who knew what and when. This must include  
9 individuals who were purposefully shutting their eyes  
10 when faced with evidence that ought obviously to have  
11 been explored. This included failings to confront risks  
12 and failing to tell people about those risks. The  
13 evidence supports that, throughout this scandal,  
14 structural problems at both Post Office and Fujitsu  
15 aside, there were people within the business who knew or  
16 were reckless to the truth, or were wilfully blind when  
17 confronted with the possibility of failures in the  
18 integrity of Horizon, and that Post Office prosecution  
19 practices were deeply flawed. Horizon was seen to be  
20 too important to fail.

21 Thirdly, while explanations may properly be offered,  
22 we urge the Inquiry to carefully scrutinise any conduct  
23 which may have contributed to this scandal. For  
24 example, first on individual memory. The events in this  
25 scandal span decades. The Inquiry is familiar with how

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1 the law approaches evidence and memory. Calls for  
 2 caution inevitably and reasonably echo in earlier  
 3 submissions. The Inquiry has substantial contemporary  
 4 documentation, against which it may test recall and  
 5 faulty memory. Those we represent have found it  
 6 surprising when some witnesses with a vague recollection  
 7 are suddenly sharp in their recall of conversations or  
 8 meetings that put them in a good light.

9 The excuse, "I was poorly advised", after decades is  
 10 no excuse when the questions they asked were skewed or  
 11 advice ignored, or obvious matters left unpursued; and  
 12 "I wasn't told", which may provide an explanation for  
 13 some, is insufficient when the culture of the business  
 14 was set from the top to deny any possibility that  
 15 Horizon was flawed or that the prosecution practices of  
 16 the Post Office had operated egregiously for years.

17 Fourthly and finally, but importantly, any  
 18 suggestion that the Inquiry must identify the villain of  
 19 this piece as either Fujitsu or the Post Office draws  
 20 a false premise. Both have their explaining to do. We  
 21 have heard apology upon apology and we anticipate  
 22 further contrition to come at the conclusion of the  
 23 Inquiry.

24 However, after decades of dogged resistance to hear  
 25 and see the problems they were causing, these are

1 Government kicked the wrong can along the road. They  
 2 left the wrong people in charge at a time of existential  
 3 crisis, and sowed the seeds of this disaster. When  
 4 things had plainly gone horribly wrong, they were slow  
 5 to step in for reasons of political expediency.

6 In this, the biggest miscarriage of justice in  
 7 modern legal history, transparency and accountability  
 8 really matter. After years of obfuscation and denial,  
 9 this Inquiry has served to bring some clarity as to how  
 10 and why the Post Office came to wrongfully prosecute  
 11 hundreds of its own people.

12 With that, we now turn to the first subject of these  
 13 submissions, an important characteristic, we say, of the  
 14 events that this Inquiry has been concerned with, that  
 15 being really an overarching theme of the story of this  
 16 scandal: the unblinking defence of Horizon.

17 The response to any question over the integrity of  
 18 Horizon was defensive: defensive of Horizon, defensive  
 19 of Fujitsu and defensive of the Post Office. Phases 5  
 20 and 6 taken together provide months of shocking evidence  
 21 on the actions taken year on year that would keep the  
 22 truth about Horizon and the Post Office's mistreatment  
 23 of postmasters out of the public domain and, in this  
 24 section, we suggest ten propositions the Inquiry might  
 25 consider in respect of the Post Office response to

1 difficult to hear. They are especially difficult to  
 2 hear alongside mismanagement of disclosure in this  
 3 Inquiry and evidence which suggests that for five years,  
 4 since the judgments in the GLO, both Post Office and  
 5 Fujitsu have remained slow to recognise the scale and  
 6 significance of this scandal.

7 They are difficult to hear alongside witness upon  
 8 witness slow to accept there was a problem with what  
 9 they did. Fujitsu only accepted a moral responsibility  
 10 to the victims of this scandal in late January 2024,  
 11 coincidentally a few short weeks after the showing of  
 12 *Mr Bates*. Contrition now for some feels self-serving  
 13 for many CPs, another in a long line of manoeuvres in  
 14 brand management, defence, and damage limitation.

15 This scandal could not have happened if either  
 16 Fujitsu or the Post Office had acted on the appreciation  
 17 that Horizon was not infallible and had listened when  
 18 postmaster after postmaster told them there was  
 19 a problem.

20 Without errors by both and clear failures in the  
 21 oversight exercised by Government, this scandal would  
 22 never have happened, for this story is also about poor  
 23 decisions in Government. The Inquiry might conclude  
 24 that in dodging important strategic decisions about the  
 25 future of the Post Office Network in a digital age,

1 concerns about Horizon and unsafe convictions.

2 Firstly, the unblinking defence of Horizon did not  
 3 start in 2013 after Second Sight. Instead, the defence  
 4 of Horizon was only doubled down on, to use Mr Cameron's  
 5 words, in 2013. The business knew from rollout that, if  
 6 the Post Office were to survive, its ethos had to be  
 7 Horizon centric. There wasn't a Plan B. From the  
 8 apparent ignorance or ignoring of the warnings in Jeremy  
 9 Folkes' red flags to the business, which was  
 10 commissioned by David Miller, to the critical failure to  
 11 engage with the joint expert report in Cleveleys,  
 12 everything in the first days of Horizon pointed to the  
 13 prospect of it going wrong, being too big a reality to  
 14 face: consequently it was never faced.

15 The Inquiry has good grounds to be sceptical as to  
 16 whether the troubled early history was forgotten or,  
 17 instead, a blind eye was wilfully turned in the face of  
 18 growing evidence. The evidence of Phases 3 and 4  
 19 demonstrates the continued refusal to countenance any  
 20 message that the operation of Horizon and the approach  
 21 of Post Office to the investigation and prosecution of  
 22 its own people was worthy of concern. One only needs to  
 23 look at the Ismay Report in 2010 to see that this was  
 24 an approach that was set well before 2013.

25 Secondly, independent technical interrogation of

1 Horizon was dodged time and again. Opportunity upon  
 2 opportunity to consider and conduct a full independent  
 3 investigation was passed over before the engagement of  
 4 Second Sight. It was a lose-lose prospect for Post  
 5 Office and so it never happened. In truth,  
 6 recommendations for independent investigation of Horizon  
 7 as a system went ignored or allowed to drift.

8 Third, any independent view was to be ignored,  
 9 dismissed, avoided or diminished. Any critical or  
 10 potentially critical external view on Horizon delivered  
 11 to the Post Office was forgotten, ignored, dismissed,  
 12 avoided or diminished. Alternatively, its circulation  
 13 was limited with the very real prospect that it was  
 14 hidden. It is, we say, sir, striking that documents  
 15 that really damaged the business view of Horizon had  
 16 very limited circulation.

17 The Inquiry has evidence of the role played by  
 18 Fujitsu from Paul Patterson. The Inquiry also has the  
 19 evidence of Phases 2 to 4. Fujitsu undoubtedly did not  
 20 pass on everything it should to Post Office in the way  
 21 it should, and the handling of the EPOSS Taskforce is  
 22 a case in point.

23 Where bugs were passed on, they appear to have been  
 24 consistently dismissed or explained away as fixed or not  
 25 relevant, with limited questioning, and this was

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1 have been. Yet the business plainly saw the appointment  
 2 not as an opportunity for rigorous interrogation of  
 3 Horizon and honest reflection on Post Office's own past  
 4 practices but, instead, as a means of shutting down  
 5 press and Parliamentary pressure.

6 When Second Sight wasn't man marked by Susan  
 7 Crichton, in the way Post Office expected, they had to  
 8 go and the handling of external inputs from experts  
 9 after the Second Sight Interim Report is a sorry tale.  
 10 After Second Sight, the whole business ought to have  
 11 been on alert but it was not because, instead, it was on  
 12 the defensive.

13 It will be for the Inquiry to conclude whether to  
 14 accept incompetence truly did ensure ignorance but we  
 15 urge scepticism. The actions taken in the post-2013  
 16 period invite close scrutiny. Unblinking in its  
 17 defensiveness at best, it appears that individuals shut  
 18 their eyes to information which didn't suit the  
 19 narrative. At worst, they may have buried it, and the  
 20 greater the opportunity for dots to be joined, the less  
 21 credible the claims of incompetence or ignorance.

22 The handling of the Clarke Advice of July 2013 is  
 23 another shameful case in point and we spend a little  
 24 time on that because of its importance. The Clarke  
 25 Advice was plainly seen by many lawyers for the Post

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1 precisely how it appeared the bugs considered in the  
 2 Second Sight Interim Report had been handled long before  
 3 2013.

4 Moreover, Ernst & Young raised the flag on remote  
 5 access in 2011 and continued their work into 2012.  
 6 Alice Perkins was full of apology that she didn't get to  
 7 the bottom of what was going on. Yet, at the start of  
 8 her tenure in September 2011, Angus Grant at Ernst &  
 9 Young appears to have given her an idea, jotted down in  
 10 a Post Office notebook with the prescient legend, "We do  
 11 not see things as they are, we see them as we are". She  
 12 recorded:

13 "With Fujitsu, Post Office drove a very hard bargain  
 14 on price but they took back on quality/assurance.  
 15 Horizon is a real risk for us."

16 Days later as Ms Perkins recognised, Donald Brydon,  
 17 Chair at the parent Royal Mail Group, RMG, was  
 18 questioning what he'd read in Private Eye about Horizon.  
 19 Even if, as suggested by Ms Perkins, Ernst & Young's  
 20 concerns were for the past, which were patently not the  
 21 case, this was a glaring warning that perhaps there  
 22 might just be something in the postmasters' claims that  
 23 Horizon lacked integrity but nothing was done.

24 The appointment of Second Sight was apparently a sea  
 25 change in the attitude at Post Office, and it ought to

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1 Office, both internal and external. It went to General  
 2 Counsel and to Bond Dickinson. Its significance is  
 3 plainly understood from the outset with Gavin Matthews  
 4 from Bond Dickinson and Susan Crichton discussing  
 5 potential liabilities for Post Office, Fujitsu and  
 6 Cartwright King, as a result of Mr Jenkins' failure to  
 7 comply with his obligations as an expert witness.

8 The information in the Clarke Advice ought to have  
 9 gone to the Board and directly to the CCRC in July 2013.  
 10 There were plainly cases within Post Office's knowledge  
 11 where Horizon integrity had been in issue.

12 Had a proper Inquiry been conducted, consistent with  
 13 the duties of the Post Office, then a range of other  
 14 exculpatory matters may have been discovered. It might  
 15 have been included that Mr Jenkins had not been properly  
 16 instructed before each case by the Post Office, their  
 17 Legal Team or Fujitsu. They would have arguably  
 18 discovered Mr Jenkins' far wider knowledge of bugs,  
 19 errors and defects relevant to Horizon, including in its  
 20 development and knowledge of KELs, and so on.

21 Further, on examination of his earlier witness  
 22 statements, it would be, we say, inevitable that the  
 23 trail of edits relating to Mr Jenkins' statement in the  
 24 Thomas case would have been discovered.

25 The advice should have been disclosed without delay.

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1 Instead, the narrow focus of Cartwright King and, in  
2 turn, the Post Office fell horribly short. The Inquiry  
3 has numerous examples of this narrow focus. To take  
4 one, the Inquiry has the advice of Andrew Parsons on the  
5 approach to the Helen Rose Report as disclosed.  
6 Limiting disclosure and downplaying the significance of  
7 a document, which, if disclosed without redaction, could  
8 have exposed the position of Mr Jenkins, was what  
9 Mr Parsons advised in relation to the Helen Rose Report.  
10 We know that information was passed to Paula Vennells  
11 and to Alice Perkins, so they were or ought to have been  
12 aware of the substance of the advice of July 2013.

13 Ms Crichton's recollection of dates was unclear but  
14 she testified that she would have briefed Ms Vennells on  
15 the Cartwright King advice some time after they advised  
16 at the London office. Ms Vennells conceded that she  
17 would have known about the problem with the Fujitsu  
18 witness at least a month before September 2013, and  
19 definitely in July. She insisted that she never saw the  
20 advice, and never had its full implications explained to  
21 her. On her own explanation as to what she knew, we  
22 suggest it is simply incredible that she did not ask to  
23 be fully briefed about such an important topic.

24 Similarly, that Ms Crichton and Mr Aujard and then  
25 Ms MacLeod all proceed in the tasks that they did

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1 directors asking for a briefing on the insurance  
2 position and tasking the team to update the insurers.  
3 Did no one in that meeting or any later meeting ask to  
4 talk to the lawyers directly about what exactly  
5 triggered the real risk to the business and were there  
6 no repercussions for the Board members who failed to ask  
7 such questions?

8 The following things did happen: members of the  
9 Board were told that there was a need for a new witness.  
10 They knew this conversation was going on against the  
11 background of years of challenge to POL's historic  
12 prosecutions. Did no one really ask: why now, what's  
13 wrong with the one we used to use? Again, is this  
14 incompetence or might the absence of any question  
15 suggest that the reason had already been explained, even  
16 if not recorded?

17 The Inquiry heard that the Board continued to be  
18 involved in conversations on change in policy on  
19 prosecutions and on prosecutions being paused. The  
20 suggestion that during this time there was no discussion  
21 of the true reason why the pause had become necessary,  
22 again appears incredible and, whilst the plight of  
23 postmasters was conspicuously ignored, we know the issue  
24 triggered a series of enquiries about insurance for  
25 Directors and Officers' liabilities and notification to

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1 without ensuring the full understanding of the Chief  
2 Executive Officer as to the serious implications of this  
3 revelation for the business appears simply incredible.  
4 The Inquiry will determine whether the suggestion that  
5 no request was ever made for a briefing or a copy of the  
6 advice, is credible or merely convenience.

7 Ms Perkins asserts that she was unaware of the  
8 Clarke Advice until much later. That is during the  
9 appeals. She said it ought to have been provided to her  
10 by Ms Crichton and she said:

11 "I see this as one of number of failed turning  
12 points in this very sorry story."

13 Yet it's Ms Vennells' evidence that she told her  
14 Chair what she knew. We observed that this appears  
15 supported by the unsafe witness email of 21 October  
16 2013.

17 This has to be, at best one, of the most egregious  
18 examples of reckless incompetence on the part of each of  
19 the players.

20 The Board was updated at the disastrous meeting of  
21 16 July, whilst General Counsel was held outside. The  
22 Board had a paper, including Appendix 1. It didn't deal  
23 with the tainted witness. But whatever the Board was  
24 told, it caused sufficient concern for wrongful  
25 prosecutions and the liability of Post Office and its

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1 the Board's insurers.

2 The Inquiry might conclude that there was much too  
3 great a focus on the possible civil liabilities of the  
4 Post Office and its directors and scandalously little  
5 regard had for the impact of the serious miscarriages of  
6 justice which had occurred for postmasters.

7 Fourth, public relations governed the public  
8 interest. Any concern about Horizon or the safety of  
9 prosecutions was met first with concern for the business  
10 and its public perception. Whilst those in corporate  
11 control of an organisation must have concern for its  
12 brand reputation and public relations, evidence before  
13 the Inquiry was of a Post Office wholly driven by  
14 a desire to protect the brand, its message and  
15 commercial interests to the exclusion of all else.

16 Steps responsive to substantive concerns raised  
17 about Horizon or about prosecutions were never about  
18 asking the right questions, "Is this thing working? Are  
19 we in the wrong?" Instead, they asked "How do we defend  
20 ourselves from this attack?" The Post Office lines on  
21 Horizon evolved but, at the core of the business,  
22 remained a combination of disdain and contempt for  
23 postmasters.

24 As examples, subpostmasters were incompetent or on  
25 the take, Horizon was robust, Horizon worked across the

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1 network and many, many transactions were absolutely  
 2 perfect, and it didn't matter if what was said was wrong  
 3 if the myth stood, the myth being that Post Office had  
 4 never lost a case where Horizon was challenged.  
 5 It didn't matter if what was said was offensive,  
 6 there were moments when the mask truly slipped. We've  
 7 been reminded this morning of Mark Davies describing  
 8 what postmasters were suffering as "lifestyle  
 9 difficulties", which was shameful, of course. But  
 10 Ms Vennells asked the Inquiry to believe that she rolled  
 11 her eyes and said, "Oh, Mark", when but only days later  
 12 her unguarded late evening post-*One Show* congratulations  
 13 showed the true position. She said she was more bored  
 14 than outraged by the plight of the postmasters,  
 15 Mrs Hamilton lacked passion -- which was a risky  
 16 remark -- and Ms Vennells was so apologetic when shown  
 17 this whilst sitting in the room with Mrs Hamilton. Yet  
 18 in 2014, she was so proud of her team she copied this to  
 19 the Chair, Mrs Perkins, twice, once in the original and  
 20 again recirculating her missive the next morning in the  
 21 cold light of day.  
 22 The Inquiry may be invited to treat these as  
 23 gratuitous moments of unguarded chat between colleagues  
 24 under pressure. Instead, they paint a telling picture  
 25 of the true story.

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1 but it wasn't and Rodric Williams effectively conceded  
 2 as much.  
 3 Seven, the Post Office did not respect obligations  
 4 as a prosecutor or its duties to the court. By way of  
 5 contrast to the very assiduous approach taken to  
 6 privilege, it appears that there was very little  
 7 understanding or little respect for the duties of Post  
 8 Office as a prosecutor, including the continuing duty of  
 9 disclosure. It is plain that Post Office were advised  
 10 in the Clarke Advice and in the advice of Brian Altman,  
 11 King's Counsel, both of which were predicated on the  
 12 prosecutorial duty. However, the Inquiry may wish to  
 13 consider whether the business ever understood, respected  
 14 or took ownership of that duty.  
 15 When this duty was spelled out with the business it  
 16 was, coincidentally, once again restricted in its  
 17 circulation. Those who sought to understand and had  
 18 a responsibility to do so, ought to have done better.  
 19 It appears that successive lawyers failed to appreciate  
 20 the scope and implications of the continuing common law  
 21 duty of disclosure, or approached it in an unduly narrow  
 22 way in its application. General Counsel, such as Susan  
 23 Crichton, Chris Aujard and Jane MacLeod, and Bond  
 24 Dickinson, all ought to have understood the duty by  
 25 virtue of information provided to them by Cartwright

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1 Fifth, the message from the top was, "I need to know  
 2 all is well, so tell me what I need to know, tell me  
 3 what I want to hear", and that was seen in February 2015  
 4 before Ms Vennells' appearance before the Select  
 5 Committee, when she said:  
 6 "Is it possible to access the system remotely? We  
 7 are told it is. What is the true answer? I hope that  
 8 it is that we know that this is not possible, and that  
 9 we are able to explain why that is. I need to say no,  
 10 it is not possible and that we are sure of this because  
 11 of XX and that we know this because we have had the  
 12 system assured."  
 13 Litigation privilege and secrecy in all its forms  
 14 was overused by the Post Office. The Inquiry has heard  
 15 a lot about concerns for privilege within the Post  
 16 Office and it underlines the criticism made of Post  
 17 Office by Mr Justice Fraser. The Inquiry will remember  
 18 the circular from Ms Springford in the face of the  
 19 Shoosmiths letters before claim:  
 20 "Your staff should therefore think very carefully  
 21 before committing to writing anything relating to the  
 22 above issues which is critical of our own processes or  
 23 systems, including emails, reports, or briefing notes."  
 24 Lawyers for Post Office were very quick to assert  
 25 that this was standard commercial litigation practice,

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1 King or Brian Altman, and we return to consider the  
 2 position of regulated legal professionals shortly.  
 3 When problems were escalated thorough the business,  
 4 as my eighth point, there was a wholly inadequate  
 5 response. When issues were escalated no one acted as  
 6 they should. When information which should have changed  
 7 the path of this scandal crossed the desk of anyone at  
 8 the Post Office, the response fell short. We have  
 9 already dealt with the 2013 Clarke Advice but we now  
 10 deal very briefly with Project Zebra and the Zebra  
 11 Action Summary because the handling of Deloitte is  
 12 a paradigm example of Post Office's approach to external  
 13 expert input.  
 14 The Zebra project was of course so closely guarded  
 15 when all it was doing was looking into whether or not  
 16 matters such as remote access were possible, but it was  
 17 so closely guarded that when disclosure was eventually  
 18 given, the name remained redacted for privilege. Hence  
 19 the comments on the absurdity of the approach to  
 20 privilege from Mr Justice Fraser. We ask again: why is  
 21 it that documents that were fundamentally problematic to  
 22 Post Office just happened to have a very limited  
 23 circulation and ended up not being properly escalated?  
 24 Because Project Zebra resulted to advice to the  
 25 Board from Linklaters designed to satisfy the Board that

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1 all was well. The work was to expressly consider data  
2 integrity and the Zebra Action Summary eventually  
3 disclosed into the GLO shows that the business was  
4 plainly aware of the Deloitte work for the integrity of  
5 Horizon at this time and didn't just become aware of it  
6 when Jonathan Swift QC, as he then was, pointed it out.

7 The report, the Board summary and the action summary  
8 contain very important information about remote access  
9 and the integrity of data and the actions summary is  
10 very clear that, essentially, remote access was possible  
11 in an undetectable way. That was there in 2014. It  
12 wasn't disclosed.

13 On Zebra, Mr Aujard made a point to Ms Sewell and  
14 Ms Sewell made points to Mr Aujard. Mr Ismay, who again  
15 wrote the whitewash, which of course covered integrity  
16 issues and to whom we will return shortly, was again in  
17 the mix. The Inquiry may conclude that questions of  
18 accountability must be considered for all. This was yet  
19 another seemingly missed or maybe dodged opportunity for  
20 things to have gone so very differently. It ought to  
21 have been disclosed in 2014 and, certainly, no later  
22 than 2016, when the question was raised by Jonathan  
23 Swift.

24 Nine, the hardened beat all defence of Horizon of  
25 POL, of the individuals involved, presented any notion

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1 if we may.

2 First, the approach of the Post Office supported by  
3 Fujitsu to investigation and recovery of losses, as well  
4 as prosecution of alleged offences, was deeply and  
5 fundamentally flawed.

6 Second the management and oversight of  
7 investigations and prosecutions by the Post Office, as  
8 supported by Fujitsu was wilfully blind to, or  
9 disregarding, of the proper, lawful administration of  
10 justice.

11 Thirdly and finally, an overarching focus on the  
12 commercial interests of both the Post Office and  
13 Fujitsu, including in protecting the brand reputation of  
14 both companies, contributed significantly and  
15 detrimentally to the prosecution of individuals in the  
16 face of faults in Horizon, of which the Post Office  
17 were, or ought to have been, aware.

18 Since Phase 4, we've had further evidence about  
19 investigation and prosecutions over the summer and  
20 autumn in Phases 5 and 6. That evidence confirms that  
21 the approach of Post Office to prosecution was  
22 fundamentally flawed. It was built on a toxic premise,  
23 it was run by those who were incompetent, ill trained,  
24 under-supervised and overly aggressive and, ultimately,  
25 motivated by commercial and/or personal interest.

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1 of true accountability and infected the approach to both  
2 the Mediation Scheme and the GLO.

3 The "defend at all costs" attitude that we've seen  
4 in the previous eight points -- the failure to disclose  
5 things, the failure to let people know about the  
6 problems -- that attitude calcified and hardened the  
7 approach of the Post Office to every step in the  
8 scandal. This included the mediation and the conduct of  
9 the GLO. Again, the evidence heard by the Inquiry fully  
10 justified the criticisms laid at the door of the  
11 business by Mr Justice Fraser.

12 Tenth and finally, Fujitsu supported Post Office  
13 until the end. We address the role of Fujitsu in  
14 support of the actions of the Post Office in Phases 2, 3  
15 and 4. We don't repeat those submissions here but we  
16 reiterate that, while the decision making of Post Office  
17 was front and centre in the final stages of this  
18 Inquiry, Fujitsu's role remained critical. All of those  
19 ten points were part of the unblinking defence of  
20 Horizon by Post Office as a theme running throughout  
21 this Inquiry.

22 Now, the second of our topics: investigation and  
23 prosecution. We don't revisit our lengthy and detailed  
24 submissions made at the close of Phase 4. We repeat  
25 them and adopt them and summarise them briefly now, sir,

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1 There was structural and individual failures in  
2 investigation and prosecution at the Post Office from  
3 the start. While focus may principally have been on  
4 Mr Bradshaw and on Mr Singh, there remains considerable  
5 concern that the action of others, including those who  
6 did not give evidence, ought not to be overlooked,  
7 whether for criticism by the Inquiry and/or some other  
8 outcome.

9 Examples of poor conduct pepper the evidence. One  
10 example is found in the interview of David Blakey  
11 covered in the evidence of Paul Whitaker. There were  
12 first unfounded insinuations of an unfair, and then  
13 implicit threat that continuing to resist the  
14 allegations of Post Office would result in the interview  
15 and investigation of his ill wife.

16 The other example is the questioning of Lynette  
17 Hutchings by Gary Thomas, accompanied by Graham Brander,  
18 as to why they had retained Issy Hogg as a solicitor  
19 instead of a local solicitor. Ms Hogg had first  
20 represented Jo Hamilton and then went on to represent  
21 a number of other postmasters who raised Horizon when  
22 they were prosecuted. She believed in the postmasters'  
23 cause at a time when it was not a *cause célèbre*. She  
24 was plainly a thorn in the side of Post Office and that  
25 question should never have been asked.

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1 Ms Hogg died on 26 November this year after living  
2 with cancer for a long time, and living every moment of  
3 what life was left to her to the full, and so we pay  
4 tribute to her courage and integrity.

5 We anticipate that such prosecution files that  
6 remain available and subject to complaint by individual  
7 postmasters have been passed not only to the Inquiry,  
8 but to the Metropolitan Police Service.

9 We spend no more time on this now but turn to where  
10 we are now: whether Post Office has learned enough from  
11 the past to make proper change. We make a number of  
12 observations on this. In order to consider whether the  
13 Post Office has learnt lessons of the past, the Inquiry  
14 must consider how its approach to investigation and  
15 prosecution has changed.

16 First, we underline that while much store was placed  
17 in the decision to stop prosecutions in 2014, this was  
18 not a swift, full stop. We note that there appear to be  
19 at least some evidence of a discussion of a return to  
20 prosecution as late as 2019, and we say that the Post  
21 Office should never be permitted to pursue private  
22 prosecutions in their own right ever again.

23 The evidence about self-reflection in Phase 7 is  
24 deeply disappointing. It appears that this work was  
25 prompted only by the work of this Inquiry and the

1 a number of bodies which have pursued and continue to  
2 pursue private prosecutions.

3 We invite this Inquiry to recommend Government  
4 conduct a review of the operation of private criminal  
5 investigations and prosecutions within the UK, focusing  
6 on both public and private bodies who pursue these  
7 activities outside of the ordinary activities of the  
8 police and CPS.

9 The House of Commons Justice Select Committee  
10 previously recommended that an inspectorate for private  
11 prosecutions be created. This would have included the  
12 introduction of a binding code of standards. These  
13 proposals were rejected by the Government but we invite  
14 the Inquiry to revisit these recommendations and  
15 associated safeguards and to urge Government to  
16 establish an Inspectorate of Private Prosecutions  
17 without delay in order to try to ensure that no  
18 repetition of this scandal can ever occur.

19 We turn now to our third topic, the role of  
20 regulated legal professionals. Whether working in-house  
21 or at Post Office, or acting for Post Office when based  
22 externally in firms in chambers, regulated legal  
23 professionals might be expected to provide the requisite  
24 independence to rein in a blinkered corporate resistance  
25 to criticism. But this scandal all too often saw both

1 evidence of postmaster Core Participants on Human Impact  
2 and we note that Project Phoenix was only concluded in  
3 August 2024, and Post Office employees were supported to  
4 come before this Inquiry to give evidence when they were  
5 working in roles which essentially led them to have  
6 direct contact with postmasters when they were seeking  
7 redress. The process of ensuring that that didn't  
8 happen has taken way too long and the suspicion must be,  
9 sir, that this process of self-reflection didn't really  
10 matter to the business until it had the potential to  
11 embarrass senior management during the coverage of this  
12 Inquiry.

13 Third, whilst a renewed commitment to whistleblowing  
14 appears positive on paper, in practice, the Inquiry  
15 might be concerned that the commitment is hollow with  
16 all the different investigations that have gone out, and  
17 then come back in with nothing resolved.

18 Fourth, and most importantly, a true change in  
19 approach is unlikely to occur until the toxic attitude  
20 of disbelief and distrust in postmasters, and especially  
21 as seen with the Postmaster Non-Executive Directors, is  
22 made a thing of the past.

23 Finally, there is scope for learning beyond the Post  
24 Office in this Inquiry. While the Post Office may have  
25 stopped pursuing private prosecutions, there are

1 internal and external lawyers form an integral part of  
2 the robust defence of Horizon, and the civil and  
3 criminal proceedings which were founded on its corrupt  
4 data.

5 All too often, lawyers were seen to fight a rear  
6 guard action for Post Office, whether they were involved  
7 in civil proceedings, criminal prosecutions, reviews of  
8 convictions or the Group Litigation. We have touched on  
9 some examples of this in our written submissions. We  
10 won't expand too much, sir, but, firstly, the civil  
11 proceedings.

12 The early proceedings which led to the bankruptcy of  
13 Lee Castleton are informative of the approach which was  
14 to be taken by Post Office throughout this scandal. It  
15 had nothing other than a vindication of Horizon to gain  
16 from fighting to a conclusion against a man who is  
17 experiencing health problems. They should have settled  
18 but they didn't and forced a conclusion in their favour.

19 But it was the response to the Shoosmiths litigation  
20 that saw the real doubling down and the real foundations  
21 for the inexorable outcome that POL's legal strategy was  
22 to become as much a part of the robust defence of  
23 Horizon as the actions of its PR-driven Executive and  
24 Mafiosi investigators.

25 The advice from Emily Springford became the

1 orthodoxy within Post Office and echoes of this guidance  
2 can be found in the advice offered by Bond Dickinson in  
3 the aftermath of the Second Sight Interim Report and  
4 beyond.

5 Until the Clarke Advice of June 2013 shattered  
6 forever the smug triumphalism of Post Office prosecutors  
7 epitomised by the "bandwagon" email from Jarnail Singh  
8 at conclusion of the trial of Seema Misra, no lawyer in  
9 Post Office had ever turned their mind to whether such  
10 an approach, in terms of privilege, created issues for  
11 the prosecutions conducted by RMG and Post Office.

12 In reality, if John Scott shredded notes of the  
13 review meeting and ordered that no notes be taken other  
14 than by him and his Department, he may only have been  
15 acting in accordance with longstanding practice.

16 In criminal prosecutions, the treatment of the  
17 evidence of Gareth Jenkins as an expert witness is  
18 almost inconceivably poor. That none of the lawyers  
19 involved in deploying his evidence realised at the time  
20 that Gareth Jenkins was acting as an expert evidence and  
21 therefore should be guided as to his duties as an expert  
22 and properly deployed by them as such, is difficult to  
23 believe.

24 Additionally, the approach to disclosure was very  
25 often flawed. Post Office, whether through its internal

1 continued aggressive defence of the position of Post  
2 Office by internal and external lawyers. That  
3 Mr Justice Fraser considered it necessary to refer to  
4 the litigation strategy adopted by POL in his judgment  
5 in the terms that he did is a measure of how apparent  
6 that approach was. The application to recuse the trial  
7 judge and the subsequent appeal against the refusal of  
8 that application were, in reality, entirely consistent  
9 with that strategy.

10 In summary, issues of independence, conflict and  
11 competence arise throughout the evidence of the legal  
12 professionals paid to support POL through this crisis.  
13 The Inquiry might conclude that this evidence, taken  
14 together, makes a strong case for the more effective  
15 regulation of both professions. It may wish to call for  
16 a substantial change to the guidance which the SRA and  
17 the BSB provides to solicitors and barristers on the  
18 dangers of losing independence.

19 Our fourth topic now, that of management, governance  
20 and oversight. We take this briefly, as we have dealt  
21 with it in detail in our written submissions: first,  
22 pre-2013; second, post-2013; and then some themes in the  
23 evidence.

24 Pre-2013. Plainly, failures in governance were not  
25 limited to the period post-second Sight. The Cleveleys

1 or external lawyers, and whether in respect of  
2 third-party disclosure concerning Fujitsu or response to  
3 defence requests, failed so often in its disclosure  
4 duties. Mr Singh described disclosure requests by  
5 Ms Misra's Legal Team as unreasonably and unnecessarily  
6 raised, completely in keeping with the robust defence of  
7 Horizon.

8 On reviews of convictions, Post Office announced  
9 that it had instructed an independent firm of criminal  
10 specialist solicitors to identify every criminal case  
11 prosecuted by Post Office and Royal Mail Group prior to  
12 their separation. As Simon Clarke accepted, that was  
13 not accurate. In fact, it was positively misleading.  
14 Cartwright King were not independent. Only weeks before  
15 they were appointed as an independent firm of criminal  
16 specialist solicitors, they had secured a PII  
17 certificate, with the stated objective being to protect  
18 the reputation of Post Office. They had been  
19 prosecuting the very cases they were looking into; they  
20 were marking their own homework. If a truly interpreter  
21 firm had been commissioned to carry out the review, it  
22 may be that the false substance of the Clarke Advice  
23 would have been disclosed in appropriate cases as Brian  
24 Altman conceded that it should have been.

25 The Group Litigation, finally. The GLO saw the

1 case study reached significant conclusions about the  
2 weakness in governance at POL and RMG in the period  
3 around 2004. There were plainly other failures, whether  
4 in communication, failures to exercise curiosity or to  
5 act on obvious indications of risk, which directly  
6 contributed to the making of this scandal or which were  
7 obvious missed opportunities to avert it.

8 David Miller, who signed off the Cleveleys  
9 settlement, had been Programme Manager for Horizon. The  
10 same Mr Miller now accepts they ought not to have told  
11 the Post Office Board before acceptance that Horizon was  
12 robust and fit for service.

13 The failure to act in response to the growing  
14 recognition of problems in the context of ongoing  
15 proceedings, at the same time as the Castleton  
16 proceedings evidences continuing failure.

17 By March 2006, Keith Baines was being copied in on  
18 important correspondence regarding expert evidence on  
19 prosecutions. Almost at the same time, he was  
20 coordinating with Mandy Talbot and highlighting the  
21 issues raised in the Thomas case and others for  
22 Castleton. Whether aware of the Cleveleys and/or  
23 Castleton reports or not, this discovery, both of the  
24 position of Mr Jenkins, and that POL was actively  
25 seeking to doctor supposed expert evidence, ought to

1 have been escalated up the executive line and beyond.  
 2 Against the background of the Cleveleys and  
 3 Castleton experiences, it ought to have been a clear  
 4 indicator of a problem for both POL and Fujitsu in their  
 5 approach to Horizon integrity and the supported  
 6 proceedings against postmasters, and this shut down of  
 7 proposals for an independent investigation in March 2010  
 8 is familiar to the Inquiry. Again, we see Ms Talbot,  
 9 Mr Ismay and Mr Scott playing a role in this  
 10 conversation alongside Mr Wilson.

11 In 2011, the first subpostmaster letters before  
 12 claim arrived. One of them was on behalf of Scott  
 13 Darlington, who is in the room today. These were being  
 14 run under the RMG Legal Team with the advice on  
 15 privilege circulated by Emily Springford in October  
 16 2011. The Ernst & Young work done on integrity went  
 17 nowhere.

18 The Inquiry is invited to treat with scepticism any  
 19 assertions of those in leadership, whether at Post  
 20 Office or Royal Mail Group, of ignorance of the  
 21 prosecuting function of the Post Office or the  
 22 continuing question of Horizon integrity. Mr Miller,  
 23 for example, was clear that he understood that function  
 24 and the role of RMG Legal when part of the Executive  
 25 Team before he retired in 2006.

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1 inertia, Board effectiveness and the role of the  
 2 Shareholder. There are clearly issues to consider under  
 3 wrongdoing, wilful blindness, incompetence or inertia  
 4 about the state of mind of those involved in making  
 5 decisions. So far as Board effectiveness is concerned,  
 6 the Inquiry may consider issues of overboarding, whether  
 7 or not directors had sufficient guidance and training,  
 8 and whether or not Board Effectiveness Reviews are  
 9 sufficient to ensure that public companies are able to  
 10 function properly.

11 Finally, in this section the role of the  
 12 shareholder. The Inquiry may recommend that UKGI take  
 13 ownership of the failings of the successive  
 14 Non-Executive Directors in this process and  
 15 accountability for the failures of oversight afforded by  
 16 Government generally. There ought to be a serious  
 17 process of reflection within UKGI and Government more  
 18 generally, as to the effectiveness of the safeguards in  
 19 place for the management of risk in Government assets,  
 20 taking on board all of the learning in this Inquiry and  
 21 its conclusions.

22 We turn now to our fifth, penultimate, and quite  
 23 short topic: redress, restorative justice and rebuilding  
 24 trust. As said earlier, the impact on postmasters and  
 25 their families affected by this scandal has been life

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1 At each of these stages there were commercial  
 2 incentives and imperatives to look the other way. In  
 3 2005, impact was being rolled out. By 2006, plans were  
 4 beginning for Horizon Next Generation. The Board wanted  
 5 it to be cheaper and the planning was discussed by the  
 6 Board both at Post Office and Royal Mail Group. These  
 7 provided the foundation for cheaper operations and the  
 8 growth of network banking. No one appears to have  
 9 considered the operational experience for the  
 10 postmaster.

11 Post-2013, there are numerous failures of governance  
 12 illustrated in the two case studies in 2013. We don't  
 13 repeat them but there were further problems beyond the  
 14 case studies. Those failures must be viewed in the  
 15 context of a history of years of defensive retrenchment  
 16 on the part of the leadership of POL, a toxic culture of  
 17 anti-postmaster feeling, which carried into every aspect  
 18 of POL's engagement with the issue of Horizon integrity  
 19 and the evidence included as analysed in both case  
 20 studies supports the conclusion that precisely those who  
 21 that the opportunity to halt this scandal, the Chief  
 22 Executive, the Chair and the Shareholder singularly  
 23 failed.

24 The themes we identify in terms of governance are  
 25 perhaps wrongdoing, wilful blindness, incompetence or

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1 altering. Full, fair and prompt compensation has been  
 2 the touchstone commitment repeatedly given by ministers  
 3 and the Post Office since 2021. From its outset, this  
 4 Inquiry has consistently asked whether those twin goals  
 5 of full and fair compensation could be delivered  
 6 promptly. Compensation has not been prompt; for many,  
 7 it has also so far been neither full nor fair.

8 In our written submissions, we have identified  
 9 a number of difficulties with the operation of each of  
 10 the schemes. There is no time to mention those problems  
 11 now but problems persist with each, and all of those  
 12 failures contributed to cause, delay, and to undermine  
 13 the trust of postmasters in each of these schemes.

14 For many, the retraumatising impact of making  
 15 a complaint is confirmed in expert evidence. Put  
 16 simply, many awaiting compensation, continue to live in  
 17 poverty. Many are aging and desperate to move on and  
 18 these vulnerabilities should not be ignored or  
 19 exploited. It seems that many problems have any been  
 20 addressed once the Inquiry has asked Post Office to  
 21 address them. The Inquiry is invited to consider  
 22 whether a more fundamental shift in approach by both  
 23 Post Office and the Department is necessary to secure  
 24 the confidence of postmasters and the wider public in  
 25 the continuing process.

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1 On restorative justice, we welcome the indication by  
2 the Minister and by Fujitsu that they will be open to  
3 engaging with Lost Chances for Subpostmaster Children.  
4 A more innovative and open-minded approach to  
5 restorative justice for those impacted by this scandal  
6 is well warranted.

7 To conclude on redress, we suggest that this is  
8 a scandal founded on flawed corporate culture and  
9 repeated corporate failings. Where the actions of the  
10 State harm its citizens, there must be a moral  
11 obligation to see justice as more than simply  
12 an opportunity for good press or political popularity.  
13 The State must accept that when it's wrong and its  
14 citizens are damaged, the value of compensating those  
15 who suffer must be measured in more than solely pounds  
16 and pence, and this is a lesson which appears long  
17 overdue. It ought to have been learned time and again  
18 in previous schemes. It is one which ought to be marked  
19 in this Inquiry.

20 This injustice cannot be undone. It cannot be  
21 forgotten, and redress for all may start to rebuild  
22 trust for some, but no postmaster will truly be able to  
23 move on nor can the Post Office even begin to be  
24 rehabilitated in the public consciousness until that is  
25 achieved.

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1 separation. The Inquiry might also consider that the  
2 roots of this scandal lie in a bigger question, tied  
3 more inherently to a more fundamental schism in the Post  
4 Office, in an unhappy marriage between the public and  
5 the private.

6 At the inception of Horizon, the Post Office was in  
7 existential crisis, looking into the future to a very  
8 different business model to support the move away from  
9 a network supported by a closed market in benefits  
10 collection.

11 As the pension book system was ripped up, successive  
12 governments sought to both maintain the community model  
13 for the Post Office and, at the same time, impose a more  
14 commercial, efficient operation designed with  
15 a long-term goal to reduce reliance on public funds.

16 Yet, through all the projects and all the  
17 strategies, up to Network Transformation and beyond, it  
18 must be asked whether anyone really considered whether  
19 a successful commercial operation would or could operate  
20 on the same model as a network designed to preserve  
21 a nationally valued community resource.

22 The tension between these goals runs through the  
23 evidence before the Inquiry. In failing to grapple with  
24 this problem effectively in 1999, and again and again  
25 and again throughout the last 25 years, it might be said

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1 We turn now to our final topic: where are we now?

2 When Mr Read gave evidence to the Inquiry on  
3 11 October 2024, he recognised that securing  
4 a replacement for Horizon should be something that Post  
5 Office should quickly deal with. On the 4 December  
6 2024, The Daily Mail reported that Post Office had  
7 dumped plans for introduction of NBIT. Instead, Post  
8 Office had agreed a one-year extension to its Horizon  
9 contract with Fujitsu.

10 Whilst a new deal for postmasters was trumpeted on  
11 13 November, it is now five years since the Horizon  
12 Issues Judgment conclusively established the  
13 unreliability of the system; it's now three and a half  
14 years since the judgment in Hamilton & Others and there  
15 still appears to be no firm plan for the replacement of  
16 Horizon. Progress has been too slow in that regard, and  
17 progress has been too slow in too many regards.

18 Mr Cameron suggested that NBIT and its management  
19 had problems which were both structural and individual.  
20 He and other witnesses agreed that the funding rounds of  
21 Central Government are necessarily not suited to  
22 a dynamic business or the planning of longer-term  
23 commercial projects. However, he also appeared to  
24 accept that the failure to grapple with this scandal  
25 went back to the failure of management during

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1 that successive governments contributed to the position  
2 of crisis and commercial hunger which drove the Post  
3 Office, as an institution, and individuals within it, to  
4 lose sight of the true value of the network and the  
5 individuals within it.

6 The focus of all in 2013 on the future of Post  
7 Office as a freestanding entity with an eye on  
8 mutualisation, as Royal Mail passed into private  
9 ownership, was plain in the evidence of Ms Vennells and  
10 Ms Perkins. If Horizon were to fail, mutualisation, the  
11 public goal for the future of a commercially viable Post  
12 Office, would be impossible. Post Office strategy is  
13 a problem with which this Government, and any that  
14 follows, must grapple with honestly.

15 A truthful strategy that understands the value of  
16 the network to the communities we live in now must be  
17 the starting point. What happened to the postmasters  
18 can never be allowed to happen to others again. It is  
19 simply not acceptable for decent, hardworking people of  
20 good character to be collateral damage in the pursuit of  
21 commercial imperatives. Their value must be recognised.  
22 The value of what they do must be recognised. High net  
23 worth should not just be viewed as how much money  
24 a person has: it should be measured by what worth the  
25 person is to the community in which they live, their

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1 contribution to the lives of others, to education, to  
 2 healthcare and security.  
 3 In communities across this country, the role of  
 4 postmaster is of high net worth, and now needs to be  
 5 treated accordingly. Although Post Office refused to  
 6 hear the concerns of postmasters and dismissed them as  
 7 "subbies with their hands in the till" who "lacked  
 8 passion" and had "lifestyle problems", this Inquiry has  
 9 listened intently to them and the evidence of the  
 10 reasons for their plight.

11 They are uniformly grateful for that now and now  
 12 await the findings and recommendations of the Inquiry.

13 **SIR WYN WILLIAMS:** Thank you, Mr Moloney.

14 It's now just about 1.05, so we will resume at 2.00.

15 (1.05 pm)

16 (The Short Adjournment)

17 (1.59 pm)

18 **SIR WYN WILLIAMS:** Are we ready then, ladies and gentlemen?

19 Mr Munro is anxious to make his submissions.

20 Mr Henry is trying to knock the pillar down! At  
 21 least we'd have a better line of sight if that happened,  
 22 Mr Henry.

23 Right, Mr Munro, please.

24 **Closing submissions by MR MUNRO**

25 **MR MUNRO:** Thank you, sir.

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1 I propose to begin by outlining some key differences  
 2 in the system as between Scotland and the rest of the  
 3 UK, and I'll try to identify four broad categories, if  
 4 I may. The first main point of contrast is that,  
 5 broadly speaking, all prosecutions in Scotland are  
 6 brought in the name of the Crown, specifically by the  
 7 Crown Office and Procurator Fiscal Service, with the  
 8 Lord Advocate at its head. There is no tradition of  
 9 private prosecutions in Scotland. Whilst technically  
 10 that is a remedy that is available, it is all but  
 11 extinct.

12 POL, as a result, could not prosecute directly in  
 13 Scotland. It was instead a Specialist Reporting Agency,  
 14 or SRA. There are in the region of 40 or 50 such  
 15 bodies, largely public authorities, and, arguably, the  
 16 only one that appeared on that list that was  
 17 a commercial enterprise was POL and, arguably, the only  
 18 one which had a financial interest in the outcome of  
 19 prosecutions and on any proceeds of crime procedure that  
 20 may follow was POL.

21 The role of an SRA in the Scottish system is akin to  
 22 that of the police, in a normal conventional  
 23 prosecution: to investigate, to detect evidence of  
 24 criminality, to report. Interestingly, whilst the Crown  
 25 has a statutory right to direct and instruct the police

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1 Sir, my client, Susan Sinclair and my firm came into  
 2 the Inquiry mid-way through Phase 4. As a result,  
 3 others are far better placed to address many of the core  
 4 issues surrounding this terrible scandal and have done  
 5 so in comprehensive and skillfully made submissions.

6 We have instead sought to focus on a discrete issue,  
 7 namely the experiences of those wrongly accused and  
 8 prosecuted in Scotland, and we are very grateful to you  
 9 and to the Inquiry team as a whole for allowing us to  
 10 attend and offer these submissions.

11 Sir, the experiences of those affected in Scotland,  
 12 as against those in the rest of the UK, had many  
 13 similarities. The same terrible accounts of careers,  
 14 families, lives, destroyed, of institutional cruelty, of  
 15 systematic injustice. But there were also several  
 16 important differences and I urge the Inquiry to keep  
 17 those differences in mind, not only so that we in  
 18 Scotland can benefit from any specific recommendations  
 19 that this Inquiry can make but also so that the Scottish  
 20 experience can inform the analysis of what might need to  
 21 change across this United Kingdom. Events north of the  
 22 border, for instance, might cast some doubt on the  
 23 impact that stripping POL of the right to privately  
 24 prosecute in England and Wales will have or would have  
 25 had, had that happened earlier.

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1 with regard to the investigation and reporting of  
 2 criminal offences, there is no corresponding provision  
 3 in relation to SRAs.

4 I will return to the issue of revelation and  
 5 disclosure but to note briefly here: SRAs are, as with  
 6 the police, under a duty of revelation, in terms of the  
 7 Criminal Justice and Licensing Scotland Act 2010, and  
 8 are obliged to comply with the Crown's Code of Practice  
 9 on disclosure of evidence in criminal proceedings, and  
 10 that, read short, requires SRAs to comply with a number  
 11 of core responsibilities, including conducting  
 12 reasonable lines of inquiry, identifying and  
 13 investigating exculpatory information, and revealing  
 14 information to the Crown and, as a whole, in submitting  
 15 standard prosecution reports, the template by which all  
 16 criminal matters are reported to the Crown in Scotland.

17 COPFS also issues guidance to SRAs, including  
 18 guidance on disclosure, which has, we were told by the  
 19 Deputy Crown Agent, a senior official at COPFS, Kenneth  
 20 Donnelly, has apparently existed in one shape or form  
 21 since the mid-1990s.

22 Training is also offered by COPFS and Mr Donnelly  
 23 told the Inquiry that, between 2000 and 2013, COPFS  
 24 would routinely meet with SRAs to provide guidance and  
 25 advice. There was an annual training conference held

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1 for SRAs from 2003 onwards regarding the reporting of  
 2 cases to COPFS and training regarding the duties of  
 3 disclosure specifically was delivered to SRAs, including  
 4 POL, we are told, in 2009. Despite those efforts by the  
 5 Crown, however, it was apparent from the evidence that  
 6 there was a profound lack of knowledge in POL about its  
 7 duties under the Scottish system. Robert Daily, for  
 8 instance, a Scottish POL Investigator, gave evidence in  
 9 Phase 4 of the Inquiry and he said that, while those at  
 10 POL did indeed receive copies of the guidance issued to  
 11 SRAs by COPFS, his earliest memory of any formal  
 12 training was in 2009. He recognised there was generally  
 13 a lack of knowledge within POL when it came to Scots  
 14 criminal law. He himself did not feel adequately  
 15 supported by POL's Criminal Law Team for the work that  
 16 he was doing in Scotland.

17 Raymond Grant described the training he received as  
 18 a "bone of contention". Jarnail Singh, the Inquiry will  
 19 recollect, the Head of Criminal Law at POL, clearly had  
 20 little understanding of the Prosecutors Code and the  
 21 duties of disclosure in England and Wales, so there was  
 22 little chance of him understanding the distinct and  
 23 discrete duties that POL had under the Scottish system.

24 Even when the current Chief Executive of the Post  
 25 Office, Nick Read, came to give evidence to this Inquiry  
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1 law and the typical charge in POL cases was one of  
 2 embezzlement, which, read short, involves the dishonest  
 3 appropriation of funds belonging to another whilst  
 4 entrusted to the accused.

5 The third and perhaps more substantial point of  
 6 contrast relates to evidential and procedural  
 7 distinctions. Perhaps the most obvious distinction, and  
 8 it's one that has been referred to in written  
 9 submissions lodged by other parties, is the requirement  
 10 in Scots Law for corroboration, a rule that goes back  
 11 centuries. Nobody, in principle, can be convicted on  
 12 the basis of a single source of evidence. But it is  
 13 important to understand the extent of this: there is no  
 14 requirement for every fact in a criminal case to be  
 15 corroborated. Corroboration simply extends to the fact  
 16 that an offence was committed and the accused was the  
 17 person who committed it.

18 Conviction does not require there to be two strong  
 19 independent sources. Where there is one strong source,  
 20 all that is generally needed is something that is  
 21 capable of pointing in the same direction. It's about  
 22 providing an independent check on the primary source of  
 23 evidence.

24 That was the case here. Horizon was presented as  
 25 a very strong source of evidence to show that funds had  
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1 on 11 October 2024, a matter of weeks ago: the position  
 2 of POL as an SRA in Scotland was not something he was  
 3 aware of.

4 I will return to the issue of revelation and  
 5 disclosure a little later on but if I can say this: it  
 6 is worth stressing that the relevant rules are not  
 7 difficult. Everything relevant must be revealed.

8 It might be seen that there were gaps in the  
 9 institutional knowledge in POL in respect of its legal  
 10 position in Scotland. But, even allowing for that,  
 11 there was no obvious need for POL or indeed any SRA to  
 12 obtain external legal support and certainly not at the  
 13 level of individual cases. Unlike elsewhere in the UK,  
 14 POL was not a prosecuting authority. The reason for its  
 15 decision to specifically engage external Scottish  
 16 lawyers, BTO, in 2013 was never established. That  
 17 created an odd dynamic, I suggest. Having, on the one  
 18 hand, a privileged relationship with lawyers dealing  
 19 with individual cases, while on the other, having  
 20 absolute duties of revelation.

21 The second main point of contrast between the  
 22 Scottish and other domestic systems relates to the  
 23 substantive law and I can touch on this very briefly.  
 24 The Fraud Act does not apply in Scotland. Most  
 25 financial crimes in Scotland are governed by the common  
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1 been appropriated. The fact of Horizon's reliability  
 2 did not, in and of itself, require to be corroborated.  
 3 What did, namely that an offence had been committed,  
 4 was, from the Crown's perspective, typically supported  
 5 by the words of accused persons when confronted by  
 6 Investigators, very often confronted in their own homes  
 7 or in private places of work.

8 The corroboration requirement in Scotland is often  
 9 seen as providing a balance to other peculiar features  
 10 of the Scottish system that may be less well known to  
 11 practitioners south of the border, including firstly, in  
 12 jury cases, the ability of the jury to convict by  
 13 a simple majority. I should stress that although some  
 14 cases in Scotland were prosecuted on indictment, there  
 15 is no evidence of any actually going as far as a jury  
 16 trial.

17 Secondly, the absence of equivalent powers to those  
 18 contained in Section 78 of the Criminal Evidence Act of  
 19 1984 and Sections 125 and 126 of the Criminal Justice  
 20 Act 2003, essentially allowing the court to exclude  
 21 unfair evidence and to exclude hearsay evidence.

22 Thirdly and importantly, I respectfully submit,  
 23 until 2010, suspects in Scotland were not regarded as  
 24 having any right to legal advice and representation  
 25 during suspect interviews. Scotland did not experience  
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1 the scandals of the 1980s that led to the passing of the  
2 Police and Criminal Evidence Act 1984, an Act which does  
3 not apply north of the border. Indeed, as recently as  
4 2009, a full bench of the Scottish Criminal Appeal Court  
5 held that there was no unfairness arising from the  
6 Crown's reliance on admissions given during a police  
7 interview, where the accused had been unrepresented.  
8 For the avoidance of doubt, that wasn't a Horizon case.

9 But the court's view, even as late as 2009, was that  
10 the absence of the right to representation in a suspect  
11 interview was balanced by other features of the system,  
12 such as corroboration. The following year, however, in  
13 2010, the United Kingdom Supreme Court, in the case of  
14 Cadder, unanimously disagreed with that approach and  
15 held that the absence of the right to representation  
16 created a breach of Article 6 of the convention.

17 I will return to the question of suspect interviews  
18 and their salience when dealing with the matter of  
19 corroboration later.

20 The next point to make is the prosecutorial test  
21 applied by the Crown in Scotland differs from that  
22 applied, for instance, by the CPS today. It does not  
23 include a reasonable prospect of conviction like.  
24 Instead the focus is on technical sufficiency and the  
25 public interest.

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1 more serious cases and then eventually the legislative  
2 framework that came in 2010.

3 The 2010 Act requires an investigating agency,  
4 usually the police, but an SRA as well, to reveal all  
5 relevant information to the Crown, and that's Sections  
6 117 and 119 for summary in solemn cases respectively.

7 The Crown then requires to disclose all information  
8 meeting the statutory test, in essence evidence which is  
9 part of the Crown case, evidence which materially  
10 weakens the Crown case or evidence which materially  
11 strengthens the defence case, to the defence as soon as  
12 reasonably practicable.

13 The statutory duty of revelation persists during the  
14 lifetime of the case, but the Crown's guidance makes it  
15 clear that that continues beyond as well. At least at  
16 common law, and at least in terms of convention  
17 compliance. The Crown's duty, the duty to disclose to  
18 the defence, continues in perpetuity. Section 137 of  
19 the 2010 Act makes that clear, and it continues after  
20 the final disposal of a case.

21 There is also a concomitant statutory duty on the  
22 Crown to review information held, even after the  
23 conclusion of a case. Now, having set out that  
24 framework, I now turn to the question of how that worked  
25 in practice in Scottish cases.

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1 Then, finally, another salient point, section 196 of  
2 the Criminal Procedure of Scotland Act 1995, which  
3 obliges courts to take account of the point at which  
4 an intention to plead guilty was intimated when  
5 determining sentence, in practice, that means a discount  
6 for early pleas.

7 The fourth and final main category of contrast, sir,  
8 relates to the statutory scheme for revelation and  
9 disclosure of evidence, which is now found in Part 6 of  
10 the Criminal Justice and Licensing Scotland Act 2010,  
11 and the process by which that came into being was not,  
12 I might submit, Scotland's finest hour. Previously,  
13 there was no statutory regime for disclosure. The  
14 Criminal Proceedings and Investigation Act in England  
15 and Wales did not extend to Scotland. The system  
16 instead operated on trust, the premise that the Crown  
17 would disclose what was appropriate. Statements given  
18 by witnesses to the police, for instance, were not  
19 routinely disclosed to the defence. The defence would  
20 be given a list of witnesses and would have to carry out  
21 its own investigations.

22 Following a series of decisions before the Privy  
23 Council, including the cases of Sinclair in 2005 and  
24 McDonald in 2008, the position developed, initially with  
25 the Crown issuing a practice statement on disclosure in

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1 **SIR WYN WILLIAMS:** Before you do, can I just ask you  
2 a question, because you told me, I think, that, given  
3 the special status conferred upon the Post Office,  
4 during the course of a trial, the duty of revelation or  
5 disclosure would be imposed upon them, but did that  
6 persist once there'd been a conviction, so far as the  
7 Post Office is concerned?

8 **MR MUNRO:** Post Office as an SRA did not have a statutory  
9 duty to reveal, but the Crown made it clear in its  
10 training and protocols that it took the view that they  
11 had a common law and convention duty to reveal in  
12 perpetuity. So whilst there wasn't a statutory  
13 provision that could be pointed to, that was the  
14 understanding of the prosecution authorities.

15 **SIR WYN WILLIAMS:** Fine. Thank you.

16 **MR MUNRO:** Thank you.

17 As I say, there were undoubted failures in  
18 revelation. To take as an example, COPFS  
19 representatives met with POL in September 2013. It was  
20 a meeting arranged to discuss the findings of the Second  
21 Sight and Helen Rose Reports and whether the defects  
22 identified in the system were present in any live or  
23 pending prosecutions. We now know that, during that  
24 meeting, POL failed to mention or otherwise disclose  
25 the Simon Clarke Advice notes from July and August of

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1 that year relating to Gareth Jenkins. Redacted versions  
2 of these advice notes were only made by available by POL  
3 to COPFS in 2023, 10 years later, in the context of the  
4 criminal appeal proceedings that took place before the  
5 Scottish criminal appeal court.

6 POL also failed to reveal the true extent of  
7 problems with Horizon and indeed that issues were, in  
8 fact, identified with Legacy Horizon, which had been in  
9 operation from 2000 to 2010, and then, and even until  
10 recently, the Crown seemingly did not know about the  
11 existence and role of Fujitsu in supplying the Horizon  
12 data, resulting in no attempt to secure information  
13 directly from that company.

14 Although it appears that Gareth Jenkins was never  
15 involved in a Scottish prosecution, the disclosure of  
16 Simon Clarke's Advice to COPFS at this meeting would  
17 have provided an important indicator as to: (a) the  
18 existence of Fujitsu in providing POL with the  
19 underlying Horizon data; (b) potential issues  
20 surrounding the reliability of such data and the ability  
21 for this to be spoken to and supported at trial; and (c)  
22 the possibility of POL shredding or at least not handing  
23 over information relating to issues with Horizon,  
24 contrary to its duty of revelation.

25 So what did the Crown know, and when? Kenneth  
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1 Clearly, these were matters that were known about by  
2 the Crown at that stage. But upon receipt of the Helen  
3 Rose and Second Sight Reports in 2014, COPFS decided  
4 that these reports did not meet the statutory test for  
5 disclosure, given POL's assurances that the bugs, errors  
6 and defects identified did not impact live or concluded  
7 cases, and further action was to be taken by POL for the  
8 purpose of future prosecutions, which were reliant on  
9 Horizon evidence.

10 That decision, in retrospect, is very difficult to  
11 understand. Horizon evidence formed the basis upon  
12 which the prosecution proved appropriation. These  
13 reports materially undermined the reliability of that  
14 evidence, evidence which was crucial in securing  
15 convictions.

16 Of course, by 2019 we have the Bates judgment and  
17 nobody could be any clearer on what had gone wrong. Yet  
18 there was no attempt to alert convicted persons to that  
19 information. Even then, notwithstanding the clear  
20 relevance to the convictions and the statutory duty in  
21 Section 137 of disclosure in perpetuity, the Crown did  
22 not undertake its own retrospective review of the cases  
23 upon disclosure of the Second Sight and Helen Rose  
24 Report in 2013, it trusted what POL said.

25 Only in recent months has its own internal review  
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1 Donnelly, the Deputy Crown Agent, says that, between  
2 2000 and 2013, COPFS was not institutionally aware of  
3 the bugs, errors and defects in the Horizon system. No  
4 record is held, he said, which suggests that POL  
5 provided details of any issues with Horizon prior to May  
6 2013. That being said, we know of one case where  
7 information about the reliability of Horizon featured in  
8 2012. The case of Aleid Kloosterhuis.

9 In mid-2012, her solicitor wrote to the Crown and  
10 referred to his client being:

11 "... aware from the national newspapers that the  
12 accounting system used by Post Office Counters is  
13 currently being questioned on its accuracy."

14 It remains unclear whether the national press  
15 concerns had not been picked up on by the Crown's Policy  
16 Unit at that time.

17 We know of other instances, such as a report by  
18 a Procurator Fiscal Depute in May 2014, that is Andrew  
19 Lazzarin in the criminal case against Rosemary Stewart,  
20 where he comments on well-publicised concerns about the  
21 reliability of the Horizon system. A similar comment  
22 was made in a later report in the case of Murtaza Rasul  
23 by the same prosecutor, who said the problems concerning  
24 the Horizon system were widely reported at the time so  
25 would probably be something that the defence focus on.

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1 determined that, of the 148 cases between 2000 and 2020,  
2 originally identified as being potentially impacted by  
3 issues with Horizon, 52 are considered now as giving  
4 rise to miscarriage of justice, due to reliance on  
5 faulty Horizon evidence.

6 So what do we now know of Horizon prosecutions in  
7 Scotland? Mr Donnelly confirmed that:

8 "... of the cases identified by COPFS in its recent  
9 review of cases, in which a conviction may have been  
10 impacted by Horizon unreliability [that was something  
11 like 60 cases], only one case went to trial", Susan  
12 Sinclair's.

13 In every other case, every subpostmaster prosecution  
14 reliant on Horizon evidence concluded in a guilty plea.

15 As Mr Donnelly said, in a significant proportion of  
16 these cases, the accused subpostmaster had admitted the  
17 offence during an interview with POL investigators at  
18 the initial investigation stage. These admissions will  
19 have formed a major plank of prosecution cases and will  
20 have provided the necessary corroboration. These  
21 admissions were generally not given in police stations,  
22 they were not video recorded. At least and until 2010,  
23 and in many cases beyond that, the suspects did not have  
24 access to legal advice or representation prior to or  
25 during their interviews.

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1 In the case of Colin Smith, for instance -- and the  
2 instances that I'm going to refer to are all drawn from  
3 the Appeal Court decision that forms part of the  
4 Inquiry's papers -- apparent admission is given at the  
5 time of the audit, not repeated in subsequent interview,  
6 were what were relied upon for corroboration. The court  
7 concluded in the appeal that these could not be regarded  
8 as having been given freely and consistently but,  
9 rather, arose from the seemingly indisputable evidence  
10 with which he was faced: Horizon infallible.

11 In the case of Aleid Kloosterhuis, whom I have  
12 mentioned, the Post Office Investigator submitted an  
13 "incorrect and misleading" standard prosecution report  
14 to the Crown which essentially misreported the position  
15 admission regarding admissions that had been made,  
16 admissions made in an interview in 2011, so after the  
17 Supreme Court decision in Cadder, without  
18 representatives present in her small Post Office on  
19 an island on the west coast of Scotland. She "declined"  
20 the opportunity of having a lawyer attend.

21 Even where Horizon evidence was originally  
22 challenged by the defence, such as in the case of  
23 William Quarm, who originally pleaded not guilty in  
24 2010, and a forensic accountant was instructed, the  
25 Horizon system was deemed to be watertight. Mr Quarm

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1 relied on the fact that she had continued to deny any  
2 wrongdoing without providing a coherent explanation."

3 So her persistent denials were somehow regarded as  
4 corroborative of her guilt.

5 According to Lord Justice Clerk:

6 "There could hardly have been a clearer case of  
7 a miscarriage of justice having regard to the disclosure  
8 issues."

9 Susan Sinclair was convicted in 2004, it took  
10 19 years for her conviction to be overturned, and yet  
11 the Crown was aware of difficulties with Horizon from at  
12 least 2013.

13 In the written submissions, which were tendered last  
14 week to the Inquiry, I returned to four questions that  
15 had been posed in the Phase 4 submissions and, rather  
16 than going into detail of them, I simply refer to what  
17 was said, and pose and answer them. Did the involvement  
18 of COPFS afford greater protections to those accused in  
19 Scotland? In my submission, no is the answer.

20 Did POL understand and discharge its duties as  
21 an SRA? Plainly no.

22 A real question, I should add, arises as to whether  
23 it should ever have had the status of SRA, given its  
24 commercial nature and financial interest in the outcome.  
25 But the next question: did COPFS comply with its duty of

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1 was left with no real choice, as he saw it, but to  
2 tender a plea of guilty to "simply get the matter  
3 resolved". Tragically, he died before he was able to  
4 clear his name.

5 Robert Thompson is another gentleman who was put in  
6 a position where his original account of innocence was  
7 deemed impossible by POL Investigators, based on the  
8 supposed reliability of Horizon. Thus, his eventual  
9 admission was not freely obtained.

10 The Inquiry didn't hear from any defence solicitors  
11 or counsel instructed for those accused in Scotland but  
12 the assumed reliability of a computer system developed  
13 by Fujitsu and rolled out by a major public institution,  
14 combined with the damning effect of a perceived  
15 admission, were likely to have led both the accused and  
16 their legal representatives to the conclusion that the  
17 allegations were nigh on impossible to defend.

18 The alternative -- plead guilty to a restricted  
19 charge, secure a lesser sentence -- was likely to have  
20 been seen as irresistible.

21 In the one Scottish case, where we know an accused  
22 person went to trial, Susan Sinclair, we see how that  
23 went. To quote the Lord Justice Clerk, Scotland's  
24 second most senior judge, in the Appeal Court decision:

25 "In convicting her [Susan Sinclair], the Sheriff

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1 continuing disclosure? No and, had it done so, people  
2 like Susan Sinclair would have been able to take steps  
3 to try and clear their name at a much earlier time than  
4 turned out to be the case.

5 Finally this: did corroboration act as a safeguard?  
6 No. Simply put, it appears that nobody was able or  
7 prepared to look past Horizon evidence, which was held  
8 to be the strongest piece of evidence justifying  
9 prosecution, leading to confirmation bias.

10 Everything, even protestations of innocence, were  
11 then regarded as corroborative. In any event, the  
12 ability of Investigators to wrest admissions from  
13 vulnerable suspects neutered the safeguard of  
14 corroboration. A much more productive approach would  
15 have been to look for corroboration elsewhere, such as  
16 in the type of financial audits so common in criminal  
17 confiscation applications, and to investigate the  
18 totality of the crime alleged. Evidence of an increased  
19 availability of funds not matched by declared income  
20 would have acted as an independent check on the Horizon  
21 evidence but such evidence checks were generally not  
22 carried out. They weren't necessary because the Crown  
23 or POL had what they needed.

24 There is no evidence of that than, again, in the  
25 case of Susan Sinclair, where the Crown did in fact lead

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1 evidence from a Post Office Auditor at the trial who  
 2 said he had not attempted to trace the alleged missing  
 3 money as this was "not part of his remit".

4 In other Scottish cases, the accused were prosecuted  
 5 without any independent evidence of theft and loss  
 6 beyond Horizon.

7 Sir, I would end, if I may, with a rhetorical  
 8 question: what confidence can we have that the scandal  
 9 could not happen now, whether in a Post Office setting  
 10 or otherwise? Are we as a society or as a justice  
 11 system any less trusting of large-scale propriety  
 12 computer systems? Are we any less inclined to rush to  
 13 judgement to see everything through the prism of our  
 14 initial conclusions? Are we sure that our public  
 15 prosecutors will be better able and better equipped to  
 16 spot patterns, investigate concerns and disclose all  
 17 relevant information without delay? Are we sure that  
 18 comments made by terrified suspects, faced by  
 19 investigators who repeatedly insist on the impossibility  
 20 of their denials, will not be regarded as evidentially  
 21 significant?

22 Finally, nobody who's innocent should ever plead  
 23 guilty but are we sure that a vulnerable accused person,  
 24 finding themselves in the position that countless  
 25 subpostmasters did, would not conclude that a guilty

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1 allegation made.

2 This Inquiry, sir, has performed a vital function.  
 3 It has shone an arc light into these appalling events  
 4 and the victims of this appalling scandal trust that it  
 5 will produce robust recommendations that will prevent or  
 6 at least limit the chances of something similar  
 7 happening again.

8 I'm obliged.

9 **SIR WYN WILLIAMS:** Thank you very much, Mr Munro.

10 So I think Ms Watt next, yes? Ah, she has moved.

11 That's why I was slightly taken out of my stride. There  
 12 you are, Ms Watt.

13 **Closing submissions by MS WATT**

14 **MS WATT:** Just keeping you on your toes, sir!

15 **SIR WYN WILLIAMS:** It is very important that you all do  
 16 that.

17 **MS WATT:** Sir, the National Federation of SubPostmasters,  
 18 the NFSP, takes this opportunity to reiterate its thanks  
 19 to you, this Inquiry, its legal and counsel team and all  
 20 of those who have supported and worked to make it run as  
 21 smoothly as it has. The NFSP looks forward to the  
 22 publication of your report and we make the following  
 23 oral closing statement to add to the original opening  
 24 statement and the closing submissions for Phases 2, 3,  
 25 4, 5, 6 and 7.

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1 plea was their only conceivable option? There are, we  
 2 suggest, several measures that would lead to these  
 3 questions being answered in a more positive way, some of  
 4 which include: an expectation of a cultural shift, so  
 5 that lines of defence are not dismissed out of hand but  
 6 professionally and properly investigated; independent  
 7 investigation of potentially criminal allegations by  
 8 properly trained police officers, not agency employees  
 9 who have a financial interest in the outcome;  
 10 recognition of trends and patterns, as Mr Stein alluded  
 11 to but, in this case, by police and prosecution having  
 12 a proper oversight so that common threads can be  
 13 investigated; and a clear recognition that computer  
 14 systems we do not properly understand should not be  
 15 assumed to be infallible, a matter of ever greater  
 16 importance, I submit, as we move you have into a world  
 17 of machine learning artificial intelligence, where going  
 18 and checking the code book isn't nearly as simple as it  
 19 once was.

20 As Mr Moloney reminded us in his submission, in the  
 21 words of Tim Brentnall: it wasn't Horizon that  
 22 prosecuted the SPMs.

23 Finally this, a focus on searching for corroboration  
 24 in its truest form, not tick box checking, but evidence  
 25 that provides a proper independent check on the

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1 The NFSP also endorses and adopts the submissions of  
 2 Howe+Co, Hudgells and HJA on behalf of their clients, in  
 3 respect of their position and comments on Post Office  
 4 UKGI, Government and Paula Vennells. The NFSP, without  
 5 repeating them all here, adopts and endorses the  
 6 recommendations and requests made in the written closing  
 7 submission produced by Howe+Co.

8 I would also say, in setting off on these closing  
 9 submissions, that the submissions for the NFSP, having  
 10 fully engaged with the Inquiry and fully reflected on  
 11 its place within the history of Horizon, are made both  
 12 with reference to the present and the future, as well as  
 13 to the past, all of which fall within the Inquiry's  
 14 terms of reference.

15 Sir, whatever the motto for the Post Office is  
 16 today, the phrase from Dante's Inferno, "Abandon hope,  
 17 all ye who enter here", is the one that was  
 18 metaphorically across the top of the door for all those  
 19 postmasters, assistants and Crown Office employees who  
 20 had the misfortune to be the victims of the bugs, errors  
 21 and defects of the Horizon system, and even greater  
 22 misfortune to have been victims of the Post Office's  
 23 toxic culture which saw a ruthless and relentless  
 24 prosecution and recovery strategy over many years,  
 25 culminating in its full-scale defence of the GLO court

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1 actions.

2 There he seemed to be no hope for the users of

3 Horizon, who were investigated and prosecuted, or those

4 who became broken financially paying for shortfalls

5 which the system generated. No hope for each individual

6 presented with Horizon data, advised to plead guilty in

7 the face of the evidence, to avoid a more severe

8 sentence, told they were the only one, and

9 geographically distant from anyone else in a similar

10 situation. No hope for the loss of their reputations,

11 families, finances and, in some tragic cases, their

12 lives. All at the hands of the Post Office. Another

13 translation of Dante's phrase is "Abandon all hope, ye

14 who enter", but, sir, the placement of "all" in this

15 translation suggests there is, and can be no hope at

16 all. It is submitted that that is not necessarily the

17 case.

18 In the Greek myth of Pandora's box, after all the

19 evils had escaped when it was opened, hope remained

20 inside and, sir, the hope that sits at the bottom of the

21 Post Office box of evils resides with you and your

22 Inquiry. The hope that through the Inquiry's dogged

23 determination eventually to recovery all the documents,

24 its focus on the compensation scheme and its careful

25 interrogation of the documentary evidence and witnesses,

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1 despite all the time that has passed all that became

2 known from the court cases and everything that has

3 subsequently come out in the Inquiry still, many, many

4 issues remain. As the Phase 7 evidence has shown,

5 a very great deal is unresolved, including but not

6 limited to ongoing lack of proper redress for the

7 thousands of victims of prosecutions and shortfall

8 recoveries, lack of transformation in the Post Office's

9 culture and governance, past roles and the failure to

10 recognise and deal with those involved, postmaster

11 relationships with and trust in the Post Office,

12 postmaster remuneration, the continuing use of and

13 reliance on Horizon as the operating system meantime,

14 NBIT, delays, spiralling costs and likely lack of

15 suitability of the Horizon replacement, public trust in

16 the Post Office.

17 Those whose lives and finances were ruined still do

18 not have the redress they deserve, whether through the

19 Overturned Convictions Compensation Scheme, the Group

20 Litigation Order Compensation Scheme, the Horizon

21 Shortfall Scheme. Alongside that, the victims have also

22 had to hear that some of those who had involvement in

23 the Horizon scandal years, even where no direct

24 wrongdoing, somehow ended up working on and assessing

25 applications in the very compensation schemes for what

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1 there will be an outcome and recommendations from your

2 report which ensures a dreadful, terrible thing, such as

3 the Horizon scandal, can never happen again.

4 Hope, sir, is to expect the good while fear is to

5 expect the evil. Hope, expecting the good, is and must

6 be a good thing. However, it is submitted for the NFSP

7 that, based on Phase 7's evidence, we are unfortunately

8 still somewhere between hope and fear in terms of the

9 future of the Post Office, its culture and governance,

10 the role of UKGI and Government, and, most importantly,

11 the role, status and remuneration of the key investors

12 and stakeholders in the business: the postmasters.

13 For far too long and far too often, taking account

14 of the actual views and input of postmasters and their

15 representatives has been ignored or sidelined. True

16 engagement has been illusory and everything that was

17 said over the years to the NFSP and to others by the

18 Post Office has turned out not to be true. Just taking

19 a few examples: Horizon was robust, not true;

20 prosecutions were safe, not true; recoveries were

21 required under the postmaster contract in all

22 circumstances, not true; network Transformation would

23 provide services and products which would transform the

24 earnings and businesses of postmasters, not true.

25 But that was then and this is now. Sadly, however,

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1 went wrong during their employment.

2 Worse, the victims have had to hear that it was only

3 in the last 18 months or so that the Post Office thought

4 to examine this and move some people, and only even more

5 recently, following direct interventions by the Post

6 Office, that the Post Office took steps to relieve Past

7 Roles individuals who are now current senior people at

8 the Post Office from their postmaster-facing roles.

9 At the present time, there's no confidence that

10 Horizon in its current form can be relied upon and now

11 has come the news that the Government may no longer be

12 going to fund the already scandal-hit, proposed Horizon

13 successor, NBIT. Due to have replaced Horizon in March

14 2024 at a cost of approximately 200 million, it has

15 spiralled out of control, had costs escalating into the

16 billions, has IT equipment purchased sitting in

17 warehouses, all in a further demonstration of the lack

18 of Board and UKGI oversight, their lack of risk

19 identification and without there even having been

20 clarity to them that the final product would, in fact,

21 be fit for purpose. That all sounds very familiar when

22 we think back to what we heard in Phase 2 about the

23 procurement of Horizon.

24 Now, the existing Horizon will remain in place,

25 complete with its bugs, errors and defects and, while it

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1 was wrong for Post Office to prosecute and recover money  
2 on the basis of a faulty system, equally, the Post  
3 Office is certainly losing money, which it legitimately  
4 is owed, but is paralysed from doing anything about.

5 It is submitted that it is hard to imagine how  
6 things could get any worse for postmasters who have to  
7 live with the system, for taxpayers and Government who  
8 have to fund a replacement for Horizon, however long  
9 that may now take, and for the public and their lack of  
10 trust in the Post Office brand.

11 The Inquiry has heard that inertia and paralysis are  
12 widespread, both at senior management and board level,  
13 in respect of decision making at Post Office, and that  
14 culture change and significant governance improvements  
15 needed have not yet happened.

16 Some minor changes have been magnified, made to look  
17 as if they are bigger than they actually are, for  
18 instance that postmaster engagement and postmaster views  
19 are being taken seriously by the creation of two  
20 Postmaster Non-Executive Directors on the Board.  
21 However, sadly in a demonstration that little has moved  
22 on from the Horizon years, both the Postmaster NEDs have  
23 been or are being investigated by the Post Office, and  
24 one gave evidence to the Inquiry about the heavy-handed  
25 way in which this has been done.

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1 for engaging with and obtaining the views of a wide and  
2 diverse range of many thousands of postmasters, which  
3 an organisation like the NFSP does.

4 The Postmaster NEDs may be complementary to, but  
5 they cannot and must not be the last word in postmaster  
6 representation. That, it is submitted, is a job they  
7 and the role they are in is simply not one they can or  
8 should do. Anyone, on the NFSP's analysis, going into  
9 the Postmaster NED role in the next changeover, thinking  
10 they'll be able to campaign, influence or change the  
11 Post Office's mind on strategy with the focus of  
12 postmaster benefit will have to be mindful of their  
13 Director duties under Sections 170 to 176 of the  
14 Companies Act, which means that they will always have to  
15 compromise on their own personal and business interests  
16 as a postmaster to ensure they fulfil their duty to act  
17 in the best interests of the company, which in this  
18 instance is the Post Office.

19 In addition to this, it is submitted that everything  
20 said, heard and seen, Post Office simply cannot be  
21 trusted not to control every narrative, every aspect of  
22 what is to happen to postmasters and their businesses,  
23 and their remuneration, and not necessarily for the  
24 betterment of postmasters.

25 It is not just that rabbits are coming out of the

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1 This evidence sat alongside the evidence of both  
2 Postmaster NEDs that they felt they were not being  
3 listened to at the Board. As well as this, the issue of  
4 conflict of interest has meant Postmaster NEDs cannot  
5 vote or even sometimes participate in matters which  
6 affect them directly as postmasters, such as the vexed  
7 issue of remuneration.

8 Postmasters have reported through the Inquiry's  
9 YouGov survey that they feel they are not kept informed  
10 by the Postmaster NEDs. Meanwhile, the Inquiry heard  
11 that it's a necessary part of being a board member that  
12 some matters remain confidential.

13 While there is a suggestion, in at least one Core  
14 Participant's submission, that increasing the number of  
15 Postmaster NEDs is a solution, it is submitted for the  
16 NFSP it is not the solution, and it doesn't and can't  
17 change the issues that arise from the inevitable  
18 conflicts of interest. Yes, they can give the board  
19 some additional insight from those individual Postmaster  
20 NEDs and their experience, but it doesn't change the  
21 fact they may not be able to participate in some  
22 discussions or some votes.

23 It doesn't change that they still won't be able to  
24 share information from the Board due to confidentiality,  
25 and, importantly, they have no real or formal mechanism

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1 hat with astonishing speed but also the timing of what  
2 is being said about the future is incomprehensible when  
3 the work and scrutiny of the Inquiry and the stage it  
4 has reached is taken into account, including the  
5 announcement of the new deal, a so-called transformation  
6 plan, made public on the last day of the Inquiry's  
7 evidence sessions on 13 November. Ironically, when the  
8 expert evidence was giving evidence on appropriate  
9 governance arrangements at the Post Office, and which  
10 includes the proposed closure of over 100 Crown post  
11 offices.

12 Apart from the loss of the Crown post offices and  
13 the hundreds of job losses involved, there was next to  
14 no consultation with representative bodies such as the  
15 CWU and the NFSP on the detail of what was announced.  
16 It's certainly not clear what the headline-grabbing sum  
17 in the face of publicised postmaster remuneration being  
18 at the top of the list of priorities for postmasters is  
19 going to equate to, potentially a transformation that  
20 may not be an actual transformation, and certainly not  
21 one that has had any real, meaningful engagement with  
22 postmasters and their representatives.

23 A strategic review presentation pack provided to the  
24 Inquiry, after the conclusion of evidence, which meant  
25 it could not be scrutinised in any way by the Inquiry

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1 and those representing the key Core Participants, could  
 2 not interrogate it; a strategic review presentation pack  
 3 that is exactly that: a presentation. No detail as to  
 4 how any of those objectives are going to be achieved.  
 5 No consultation with the NFSP and what was in the  
 6 presentation pack, despite it having more than 6,800  
 7 postmaster members.  
 8 A transformation plan introduces a so-called  
 9 consultative council, a postmaster panel, to work with  
 10 the Post Office to deliver the transformation plan. It  
 11 is submitted that this simply reinforces, rather than  
 12 changes the way in which Post Office consults, delivers  
 13 and transforms. In other words, yet another illusory  
 14 mechanism purporting to show engagement with postmasters  
 15 while retaining the control over the plan, its delivery  
 16 and who can comment on it.  
 17 It is submitted that a postmaster panel run by and  
 18 appointed by the Post Office could not actually  
 19 realistically challenge senior management and the Board  
 20 about a plan which will, by then, have been approved by  
 21 Government, and therefore not subject to any real  
 22 change, but it will allow the Post Office to say it has  
 23 consulted some postmasters.  
 24 A strategic review and transformation plan that  
 25 simply doesn't take account of the current and ongoing

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1 Office to postmasters. Under a franchising model, it's  
 2 likely that postmasters would have to pay the Post  
 3 Office to provide Post Office services within their  
 4 branch. They would also have to lease the IT equipment  
 5 from Post Office. If there was an issue with the IT  
 6 equipment causing a loss to the postmaster, the  
 7 postmaster, rather than the Post Office, would  
 8 automatically carry the loss until they could prove that  
 9 the fault was with the Post Office's IT system, and they  
 10 would then have to pursue the Post Office for the loss.  
 11 "It may be that franchising could be held out by the  
 12 Post Office as increasing postmaster remuneration,  
 13 however how exactly this increase is generated is  
 14 unclear and a movement to this model would mask  
 15 a significant transfer of risk and cost to the  
 16 postmaster. The NFSP's position remains that  
 17 mutualisation should be the goal."  
 18 It's submitted that the postmasters need certainty  
 19 that their investment partner, Post Office, has a vision  
 20 to make sure their businesses are, at the very least,  
 21 sustainable and that there is a plan for the future.  
 22 Postmasters today are facing an attrition of business  
 23 and associated remuneration, traditional streams of  
 24 revenue are decreasing, and the Government work promised  
 25 to them under Network Transformation simply did not

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1 failures of governance, budgeting and relationships,  
 2 which mean that, despite the transformation,  
 3 an unreliable Horizon system will remain in place with  
 4 NBIT as I mentioned over budget, badly managed and well  
 5 overdue.  
 6 The NBIT project is the perfect example of how  
 7 little has changed despite everything that this Inquiry  
 8 has heard: a senior management which knows what happened  
 9 in the Horizon procurement rollout and introduction,  
 10 a Board which also knows the same, a Board which has  
 11 UKGI represented on it. It's not so much that the  
 12 governance and oversight of Post Office is credible.  
 13 Rather, that it is incredible it is still capable of  
 14 this astonishing failure and with no real plan  
 15 identified in the transformation plan as to what will  
 16 happen.  
 17 In relation to the proposition within the Strategic  
 18 Review of the Post Office as a franchiser, the NFSP has  
 19 concerns about such a model as compared to the goal of  
 20 mutualisation, quite a different thing. As Calum  
 21 Greenhow said in his first witness statement at  
 22 paragraph 343:  
 23 "The NFSP is aware that franchising has been  
 24 proposed as another way forward for the Post Office. We  
 25 believe this would cause a movement of risk from Post

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1 happen. Indeed, some Government work is, in fact, being  
 2 removed, an example being the DVLA contract which NFSP  
 3 has campaigned to get extended to March 2025 and has now  
 4 been further extended until 2026. But it's still due to  
 5 come to an end in the next few years.  
 6 The postmasters of today are expected to carry out  
 7 a public service and have continued to do so at great  
 8 personal sacrifice. However, it is submitted that the  
 9 Government and Post Office have been unwilling or unable  
 10 to repay postmaster investment and public service with  
 11 appropriate stewardship of the network, including  
 12 a long-term strategy that would enable their businesses  
 13 to be viable.  
 14 While there is some encouragement to be taken from  
 15 movement towards having a long-term strategic direction  
 16 for Post Office and the network, there is a lack of  
 17 detail about what it actually means, other than it aims  
 18 to change the polarisation of Post Office, and that  
 19 there is an objective to increase postmaster  
 20 remuneration.  
 21 Early reports suggest it's intended there will be  
 22 a decrease in central costs, and there may be a closure  
 23 programme or a transfer of ownership of Crown Offices.  
 24 The CWU has hit out against a proposal and the way in  
 25 which it was announced with little or no warning. For

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1 the NFSP, there is a significant lack of detail about  
 2 what the new deal actually involves, how the supposed  
 3 increase in remuneration are meant to become a reality  
 4 and, at a practically level, how a viable network is to  
 5 be achieved.  
 6 This makes the NFSP wary about the new deal.  
 7 Postmasters have been subject to numerous change  
 8 programmes: the Network Urban Reinvention in 2003,  
 9 Network Change in 2007 and Network Transformation in  
 10 2012. None of these change programmes transformed the  
 11 business of postmasters other than in a largely negative  
 12 way and, of course, we have what happened with Horizon,  
 13 with Network Transformation in particular being missold  
 14 to postmasters and the NFSP in a blaze of ultimately  
 15 unfulfilled promises. It was a transformation that  
 16 promised many new services to be provided by Government  
 17 in exchange for large scale closures and changes to the  
 18 business model and method of remuneration. Postmasters  
 19 today, sir, remain worse off because of Network  
 20 Transformation and those unfulfilled promises, and that  
 21 all sits alongside the Horizon scandal.  
 22 It is submitted that feedback from postmasters and  
 23 the NFSP could only have made the new deal stronger.  
 24 Surely, when determining whether this is a plan that is  
 25 sensible, it could only have been a useful thing for the

1 benefit from the experience and insights of an Inquiry  
 2 that has been examining these pertinent issues for  
 3 a number of years.  
 4 The scrutiny would also have given postmasters some  
 5 confidence that the Strategic Review, the New Deal and  
 6 the Green Paper on the future of the Post Office, has  
 7 been examined and commented on by the Inquiry.  
 8 The examination and comment of the Inquiry would be  
 9 independent from Post Office or Government, who, it is  
 10 submitted, carry much of the responsibility for this  
 11 scandal in the first place. The NFSP does not want  
 12 sections of the Inquiry's report when published to be  
 13 cherry-picked out of context, simply to support a Green  
 14 Paper or a New Deal but without the Inquiry ever having  
 15 been able to scrutinise these.  
 16 Therefore, as has been mentioned this morning, the  
 17 NFSP submits there may be a need to resume the Inquiry  
 18 briefly at a later point, prior to the issuing of your  
 19 report, sir, to check what is actually going to happen  
 20 with the new deal so that the answers to the questions  
 21 in terms of reference E can be answered fully.  
 22 Given the Post Office's history of selectively  
 23 focusing on aspects of reports, unfortunately the  
 24 cherry-picking cannot be considered to be beyond the  
 25 realm of possibility.

1 Government actively to seek the views of postmasters and  
 2 the NFSP as to whether this would actually work in  
 3 practice. On what basis should the Government determine  
 4 whether the plan was otherwise a sensible one?  
 5 The NFSP questions how postmaster centric the new  
 6 deal can be if postmasters and their representatives  
 7 have not been consulted or feedback sought on it before  
 8 publication.  
 9 As already mentioned, the timing of the announcement  
 10 of the new deal and the proposed time line of the  
 11 Government's Green Paper has meant that this Inquiry is  
 12 now unable to scrutinise and comment upon these and, in  
 13 particular, to answer with certainty the questions posed  
 14 at the Inquiry's term of reference E. As mentioned  
 15 already, the announcement of the new deal itself fell on  
 16 the last day of the Inquiry's evidential hearings. Even  
 17 the Strategic Review, despite being dated 21 October  
 18 2024, was made available only on Friday 6 December, one  
 19 working day or the last working day before the deadline  
 20 for written submissions by Core Participants to this  
 21 Inquiry and the review cannot be examined through the  
 22 evidential hearings.  
 23 It is unclear if the timing is designed to avoid the  
 24 scrutiny, but this scrutiny would have been  
 25 an opportunity for the Government and the Post Office to

1 Taking the behaviour, failure to change and,  
 2 ironically, the failure to transform itself, it is  
 3 submitted that it's essential for something independent  
 4 to be put in place as the NFSP considers the evidence in  
 5 Phase 7 shows that the answers to the questions in the  
 6 Inquiry's terms of reference at E(i) and (ii) and at F  
 7 currently have to be "No, the processes as provided by  
 8 the Post Office are not sufficient to enable postmasters  
 9 to run their businesses and, no, the Inquiry cannot be  
 10 satisfied that relevant controls are in place to avoid  
 11 issues such as have taken place, do not happen again".  
 12 It is submitted that the evidence of the past phases  
 13 and the evidence of the current position in Phase 7 of  
 14 the Inquiry has shown that simply the Post Office  
 15 rearranging the deck chairs does not bring material and  
 16 relevant change. It is submitted that the failure of  
 17 both Post Office and Government to grasp the real issues  
 18 of culture and governance mean that the NFSP's proposal  
 19 for an oversight committee, or something akin to it, is  
 20 what is needed to restore the trust of the public and  
 21 postmasters and to ensure the appropriate level of  
 22 curiosity, challenge and risk identification actually  
 23 comes into being.  
 24 It is submitted that this Inquiry has heard evidence  
 25 of significant concerns about the governance of Post



1 Office, as have said. The NFSP has been trying to bring  
 2 attention to these concerns. If we think about the key  
 3 findings of the Grant Thornton report, it said there was  
 4 an inability to unlock a unified purpose and shared  
 5 ambition around a longer-term vision and strategic  
 6 between POL and its shareholder. There was  
 7 an unconscious bias around the lack of accountability.  
 8 There was a lack of clarity around the practical  
 9 application of foundational governance documents.

10 Decision making forums appeared to lack a clear  
 11 understanding of objectives, roles and responsibilities.  
 12 On culture, the misalignment on accountabilities between  
 13 POL, DBT and UKGI is culminating in a failing working  
 14 relationship.

15 These key findings go to the heart of the expected  
 16 and best practice governance principles as outlined in  
 17 Dame Sandra Dawson and Dr Katy Steward's first report.  
 18 While it is the case that the response to the NFSP's  
 19 questions on an oversight committee, that Dame Sandra  
 20 said the ideal model was a Board that was properly  
 21 functioning, able to challenge and interrogate the Post  
 22 Office senior management, it is the NFSP's position that  
 23 sadly we are not anywhere near that being a reality.

24 The NFSP agrees that this should be an organisation  
 25 able to operate and manage itself in accordance with the  
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1 the compensation schemes, mounting significant concerns  
 2 about NBIT, what will happen if NBIT is indeed abandoned  
 3 and Horizon is not fit for purpose?

4 That does not mean the NFSP considers that  
 5 an accountable, fully-functioning board cannot be  
 6 achieved, rather something urgent and independent needs  
 7 to be put in place, even if temporarily or even if with  
 8 a role which changes over time, and it asks this Inquiry  
 9 to consider seriously that proposal.

10 It is interesting to note that Sir Alex Chisholm,  
 11 former Permanent Secretary at what is now the DBT, was  
 12 open to the possibility of an independent committee to  
 13 scrutinise arm's-length bodies with mandatory reporting  
 14 responsibilities to their board, and the authority to  
 15 write to the Secretary of State with concerns.

16 While he thought that in a perfect world you  
 17 wouldn't need it, he did note that in the particular  
 18 circumstances of the Post Office, where the Board had  
 19 failed in its oversight responsibilities and the  
 20 management executive and internal legal teams had failed  
 21 over many years to provide effective service, causing  
 22 a terrific breakdown in trust with both postmasters and  
 23 the wider public, special measures, such as  
 24 an independent oversight committee, might well be  
 25 required.  
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1 principles of the Companies Act, the Nolan Principles  
 2 and with social purpose front and centre of all it does.

3 Right now, the production of the Transformation  
 4 Plan's Strategic Review, the timing of announcements,  
 5 the lack of consultation, and the way in which things,  
 6 such as a consultative council are apparently to be set  
 7 out without such as a "by your leave" from postmasters  
 8 and their representatives show that Dame Sandra's ideal  
 9 is some way off.

10 The evidence before the Inquiry as submitted  
 11 indicates that, since the GLO, time and time again, Post  
 12 Office governance has failed, despite attempts to change  
 13 its internal culture and governance. For example, the  
 14 improvements to culture and governance cited by the Post  
 15 Office as being a protected factor against a similar  
 16 scandal happening again have not prevented the Post  
 17 Office's decision after the GLO to nevertheless pay  
 18 leadership bonuses in full, which they had to be talked  
 19 out of by Sir Alex Chisholm, the payment of Nick Read's  
 20 incentive payment prior to shareholder approval, the  
 21 payment of bonuses which NFSP calls "bonusgate", that is  
 22 the one relate to the fulfilling the Inquiry's  
 23 requirements, the requirement for the Past Roles Review  
 24 or Project Phoenix as motivated by the Inquiry, not by  
 25 the Post Office itself, five years' worth of delays in  
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1 While the submissions of the DBT commit the  
 2 Government to bringing forward legislation for a legal  
 3 duty of candour to be introduced for all public servants  
 4 and public bodies, this is welcomed by the NFSP as  
 5 absolutely necessary, it's also submitted that, at this  
 6 time, it's not enough.

7 I will turn to matters such as representation, Past  
 8 Roles and recommendations towards the end of these oral  
 9 submissions, but it is the NFSP's submission that its  
 10 proposal for an interpreter oversight committee is  
 11 something the Inquiry should consider seriously. It has  
 12 been refined and revised, and it has gone to Boston  
 13 Consulting, the group working with DBT on the future of  
 14 the Post Office. It is submitted it is an imperative to  
 15 have something which is outside of the control of the  
 16 Post Office, and even UKGI, which, it is submitted, has  
 17 not shown sufficient insight into the failings of its  
 18 NEDs and its advice to DBT over many years.

19 The idea of an independent body with representative  
 20 bodies and consumer champions which therefore have the  
 21 interests of the Post Office, Government, postmasters  
 22 and the public at its heart, already experienced  
 23 knowledgeable in Post Office issues, and able to see  
 24 what needs challenged in the way the previous iterations  
 25 did not, is essential.  
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1 The Oversight Committee has its aims and purpose to  
 2 expand on the existing shareholder relationship  
 3 framework that currently exists between the Government  
 4 and Post Office while retaining its social purpose. The  
 5 NFSP believes that the Oversight Committee would be  
 6 a vital new tool in the toolkit of Post Office  
 7 Government. It is used and seen in a number of other  
 8 public sector areas, including health boards. It is not  
 9 the creation of an additional layer of meaningless  
 10 bureaucracy, rather it would be as an active reviewer,  
 11 an interrogator of risk, strategy and delivery of  
 12 culture and governance improvements, providing checks  
 13 and balances in a way that evidence to the Inquiry has  
 14 demonstrated did not happen and has not yet happened.

15 It is also to ensure that nothing even similar to  
 16 the Horizon scandal can ever happen again, whilst  
 17 securing the future of the network. As has been heard  
 18 by the Inquiry, there has been a failure over many years  
 19 and across different Board members, Chairs and senior  
 20 management to either identify risks or ask questions  
 21 which would have identified risks to the business and  
 22 might have avoided this scandal and thereby prevented it  
 23 from getting worse. Postmasters invest in the network  
 24 via their retail businesses which host post offices.  
 25 However, their ability to understand or feed into the

1 repairing the relationships, restoring public and  
 2 postmaster trust in Post Office. The preferred option  
 3 in terms of ownership of the Post Office, as I've said,  
 4 is via mutualisation. However, the financial stability  
 5 of the Post Office must be secured first to ensure that  
 6 is feasible. The secondary aim of this proposal,  
 7 therefore, is to provide the ground for mutualisation.

8 I'd like to call up a document, if I can. That  
 9 would be NFSP00001481.

10 Thank you, if we could scroll down, I'll say when to  
 11 stop -- keep going. There we are "Current Postmaster  
 12 Representation" notes there are two formal  
 13 representative voices for postmasters holding contracts  
 14 with the Post Office, being the NFSP and the Postmaster  
 15 NEDs.

16 "Current Postmaster views of Post Office", a 9 per  
 17 cent decrease on postmasters feeling valued as a partner  
 18 of the Post Office; 14 per cent decrease on how  
 19 supported postmasters feel by Post Office; and a 12 per  
 20 cent decrease in the number of postmasters who believed  
 21 Post Office were genuinely trying to improve the  
 22 relationship.

23 If we can just scroll down further, on "Postmaster  
 24 earnings":

25 "In 2024, postmaster perceptions of Post Office

1 short or long-term strategy of the Post Office is  
 2 limited, as is that of the public, who are the ultimate  
 3 owners and users of the Post Office.

4 As mentioned for the NFSP, there remain questions  
 5 over whether the Government as a shareholder and the  
 6 Post Office as the operator can, on their own, make  
 7 effective changes in governance and culture, and ensure  
 8 the oversight necessary for proper safeguarding of the  
 9 investment postmasters make in the network, or not to  
 10 act in a manner that is not actually a detriment to the  
 11 investment of postmasters. It is therefore the aim of  
 12 this proposal of the oversight committee to bring  
 13 together people with specific Post Office knowledge,  
 14 alongside those from a wider social perspective to  
 15 ensure the social purpose of the Post Office remains  
 16 key.

17 The relationships between Post Office, Government  
 18 and representative bodies and consumer groups need to be  
 19 repaired following the damage done by the Horizon  
 20 scandal, and the cultural and governance failures which  
 21 led to it, as well as the ongoing failure to transform  
 22 culture and governance.

23 It's true to say that the reputation of the Post  
 24 Office has been severely impacted by past and present  
 25 events. The oversight committee is proposed as a way of

1 continued to erode, as found via the 2024 YouGov  
 2 Postmaster Survey [for] the Inquiry ...

3 "48% felt dissatisfied with their roles as  
 4 a postmaster.

5 "72% reported feeling undervalued by POL.

6 "74% disagreed that the POL Board understand the  
 7 concerns of postmasters."

8 If we can scroll on a couple of pages, please, and  
 9 stop at "Key aims". There we are, "Key aims":

10 "To review and, where relevant and appropriate,  
 11 challenge the strategy of Post Office and identify  
 12 potential risks, interrogate those risks ...

13 "To enhance the role of the Government as sole  
 14 shareholder ...

15 "To Ensure Government uses its powers to improve the  
 16 culture at [the Post Office] ...

17 "To ensure the Post Office's ... IT system is  
 18 externally audited ...

19 "To demonstrate that a diverse group of people with  
 20 a range of interests in a successive Post Office can  
 21 work together."

22 If we scroll down to "The role of the Oversight  
 23 Committee", that would be:

24 "Due diligence takes place before key decisions are  
 25 made.

1 "Policies and strategies are being implemented as  
 2 intended.  
 3 "Key risks identified, monitored ...  
 4 "Business processes and systems working well  
 5 "Expected results being achieved.  
 6 "Value for money being obtained.  
 7 "Activities comply with policies, laws, regulations  
 8 ...  
 9 "Developing areas of concern are dealt with.  
 10 Just scroll down again to the "Committee  
 11 Membership", thank you. The Charity Governance Code  
 12 proposes that the Board should comprise of between 5-12  
 13 people, it's said here 12, the make-up being: Government  
 14 DBT civil servant 1; membership bodies the NFSP, CWU,  
 15 Unite; and external legal representation; representative  
 16 bodies for older people, those with disabilities, the  
 17 rural network, economically deprived, the consumer  
 18 champion.  
 19 Now, if we can just scroll to the next diagram that  
 20 shows how that committee would be made up. Just scroll  
 21 down one more page to "What the Oversight Committee  
 22 offers". So, what does the oversight committee offer  
 23 that isn't currently met? Preparation for  
 24 mutualisation; ensure transparent distribution of  
 25 subsidy; ensure the future viability of the network;

1 at representation and the roles of the representative  
 2 bodies of the past, another aspect of the present Post  
 3 Office is concern in the way it has conducted reviews of  
 4 key issues, such as Past Roles, Project Phoenix, and  
 5 Project Boland.  
 6 In Past Roles, the NFSP has previously raised  
 7 concerns about Post Office employees who were part of  
 8 the Post Office in the Horizon scandal years, however  
 9 culpable or otherwise they were or were not, and are now  
 10 in roles that are postmaster facing or affect  
 11 postmasters.  
 12 The NFSP wrote to the then Postal Affairs Minister  
 13 Kevin Hollinrake on 8 January and said, "We're not  
 14 confident that the correct review has or will be taken".  
 15 Various individuals within the Post Office, who have had  
 16 past roles in the Post Office continue to hold or held  
 17 until recently postmaster facing roles, including:  
 18 Rodric Williams, who provided legal advice to the  
 19 Senior Management Team and was, until recently, involved  
 20 with the Remediation Unit.  
 21 Tracy Marshall, who appears to have had at least  
 22 some knowledge of remote access when passing information  
 23 to Angela van den Bogerd and is current Retail  
 24 Engagement Director with responsibilities for postmaster  
 25 onboarding and postmaster training.

1 offer a solution to any findings to be shared by your  
 2 report, sir; scrutiny of daily running of Post Office to  
 3 protect the investment made by postmasters, invaluable  
 4 insights from those at operational level; and ensure the  
 5 principles of public life.  
 6 So we can take that down now. Thank you.  
 7 The oversight committee does not seek to take the  
 8 ownership of or control of day-to-day operations.  
 9 Instead, it's to include a scrutiny function between the  
 10 Board and Government as seen in diagram 3, a check and  
 11 balance. It is straightforward. Those participating  
 12 come with knowledge, experience and background. It is  
 13 not meaningless bureaucracy.  
 14 It might be the Inquiry considers such a committee  
 15 can be adjusted to fit its own recommendations, sir. It  
 16 might be the Inquiry considers such a committee has  
 17 a limited life, while things get on to the footing that  
 18 Dame Sandra envisions. Whatever it is called and  
 19 however it exactly would work, it is a submission of the  
 20 NFSP that, at the very least, something independent of  
 21 the current stakeholders is absolutely required for the  
 22 Inquiry to answer questions E and F in the terms of  
 23 reference positively.  
 24 I'm going to move now from the present and the  
 25 future to look at the past and, before moving on to look

1 Nick Beal, Head of Network Development, which  
 2 includes the NBIT project -- we've already spoken about  
 3 that -- and who gave evidence on behalf of Post Office  
 4 to Mr Justice Fraser in the GLO and was criticised.  
 5 Martin Edwards, who was Paula Vennells' Chief of  
 6 Staff and, for instance, was seen in emails back in 2013  
 7 looking at how the Second Sight Interim Report could be  
 8 spun to Lord Arbuthnot. He is now Network Strategy and  
 9 Development Director, and the NFSP understands that,  
 10 despite his previous role as Paula Vennells' Chief of  
 11 Staff and the evidence this Inquiry has seen, Martin  
 12 Edwards has responsibility for the Strategic Review and  
 13 will be part of its implementation. The NFSP considers  
 14 it completely inappropriate that someone involved in the  
 15 Horizon scandal is now in charge of implementing a plan  
 16 for the Post Office's and the postmasters' future.  
 17 In addition, the NFSP raised past roles with Post  
 18 Office when it transpired Post Office were intending to  
 19 send individuals with Past Roles and whose names had  
 20 come up in the Inquiry, to the NFSP's annual conference  
 21 this year, and Mr Greenhow had to write to the Post  
 22 Office asking them not to send individuals, including  
 23 Tracy Marshall.  
 24 It appears that the Past Roles Project only came  
 25 about due to the Inquiry's compensation hearings in

1 December 2022, in which it became clear Post Office had  
 2 recruited people into the Remediation Unit. That was  
 3 three years after Lord Justice Fraser's judgment. The  
 4 question arises: why, in the near present day, was it  
 5 ever considered appropriate for such people to be  
 6 allocated to the Remediation Unit in the first place?

7 There has been reference to the "untouchables".  
 8 Added to these issues, the Inquiry has heard evidence  
 9 there are some within the Post Office who are said to be  
 10 considered "untouchables", including investigators, the  
 11 Legal Department, individuals within the Legal Team, and  
 12 the Retail Team. This is potentially as a matter of  
 13 culture within the Post Office but, at the very least,  
 14 they are said to have been referred to as such by Nick  
 15 Read, although he considered he had not used this term.  
 16 Mr Ismail, Mr Elliot, Mr Staunton and Ms Burton all gave  
 17 evidence to this Inquiry indicating that it was a term  
 18 used.

19 Putting to the side the recent history of the Post  
 20 Office should mean that absolutely no one is above  
 21 investigation or accountability, the NFSP questions  
 22 whether there's a possibility that the approach taken to  
 23 the Past Roles Project or Project Phoenix was influenced  
 24 by an idea that some of those involved in the projects  
 25 were untouchable. Project Boland, another major failure

1 UK-wide Metropolitan Police investigation.

2 In terms of knowledge, information and  
 3 representation, the submissions for Phases 5 and 6 for  
 4 the NFSP made extensive reference to the past, as set  
 5 out in full in the written closing submissions, the NFSP  
 6 in the current Chief Executive, Calum Greenhow, wish to  
 7 take this further opportunity to recognise and apologise  
 8 for the failings of the past. It is accepted that those  
 9 failings meant there were members affected by Horizon  
 10 and sought assistance who did not get the response or  
 11 the support they ought to have done.

12 It also meant that when information that the Post  
 13 Office line that Horizon was robust, as fed over many  
 14 years by the Post Office to Government, courts, the  
 15 media, the NFSP and many others, could not be true, was  
 16 brought to the attention of the then General Secretary  
 17 George Thompson. For instance, in the correspondence to  
 18 the NFSP from Lee Castleton in 2009 and from Sir Alan  
 19 Bates in 2012, which the Inquiry has seen, it was not  
 20 acted on in the way it should have been.

21 Although this correspondence was not properly shared  
 22 within the NFSP by Mr Thomson, he certainly should have  
 23 given serious consideration to what was in that  
 24 correspondence and, at the very least, started to  
 25 question the Post Office narrative. It turned out

1 to identify, "Where has the money gone?" That is in  
 2 reference to the millions recovered and paid by  
 3 postmasters and arising from shortfalls in the Horizon  
 4 years.

5 The Post Office project investigate this, when asked  
 6 where the money went, former Financial Director Alisdair  
 7 Cameron said the question should be asked of Mr Read.  
 8 Mr Read in his evidence suggested a figure of  
 9 36 million. The NFSP is concerned that the issues of  
 10 wrongfully obtained recoveries may fall into obscurity,  
 11 and that, without the scrutiny of this Inquiry, it may  
 12 not be kept on the agenda. The NFSP has been calling  
 13 for a full investigation into the wrongful use of the  
 14 Subpostmaster Contract which required shortfalls to be  
 15 made good only where error, negligence or carelessness  
 16 on the part of the postmaster had taken place, that  
 17 excludes Horizon, and all that we know about it.

18 At a recent meeting which the NFSP had with the Lord  
 19 Advocate in Scotland on 12 December, they raised the  
 20 issue of whether any criminal offences may have been  
 21 committed by Post Office personnel in enforcing the  
 22 postmaster contract for shortfall recoveries based on  
 23 Horizon, knowing that there were bugs, errors and  
 24 defects in Horizon. It's now understood that this is  
 25 something which will be looked at as part of the overall

1 Mr Thomson was not the person to fulfil that role.  
 2 Instead of Mr Thomson forwarding the correspondence to  
 3 the Post Office as rubbish, he should have strongly  
 4 challenged the Post Office about the reliability of its  
 5 claims that Horizon was robust but he did not. For  
 6 that, the organisation of today is truly sorry.

7 Although only 54 per cent of those prosecuted were  
 8 subpostmasters and not all of them were members of the  
 9 NFSP, and although a challenge from the NFSP would not  
 10 have stopped the Post Office -- as we have found through  
 11 this Inquiry, nothing and no one could stop the Post  
 12 Office machine -- it certainly would have offered some  
 13 support to those affected. This is also so because the  
 14 Inquiry has heard that the Post Office and Government  
 15 were able to rely on Mr Thomson's support for the  
 16 "Horizon is robust" mantra.

17 Turning to the representative bodies, of which  
 18 listed issues 49 to 60, as part of your Inquiry, sir,  
 19 being the CWU and the NFSP, the one thing the NFSP  
 20 wishes to be clear to the Inquiry and has included in  
 21 its Phase 5/6 submissions: in terms of the start of  
 22 Horizon's rollout in 1999, right up until the removal of  
 23 trade union status in 2014, there was no difference at  
 24 all between the CWU and the NFSP and the methodology for  
 25 the representation of their members.

1 Neither organisation did or does now provide legal  
 2 funding or legal backing for criminal representation.  
 3 Neither organisation at the time had any real method of  
 4 local representation with issues being fed back up the  
 5 line to HQ. Both organisations did not know about those  
 6 members who resigned or left their post quietly without  
 7 seeking help. Neither organisation had information  
 8 coming through to it which showed a pattern of  
 9 prosecutions. Both organisations described regularly  
 10 feeding back to the Post Office, for instance Colin  
 11 Baker of the NFSP and Tony Kearns of the CWU did this,  
 12 describing in their evidence to this Inquiry about what  
 13 they understood were teething problems and glitches.  
 14 As Tony Kearns said, it was not for them to look  
 15 under the bonnet. The assurances given to them by the  
 16 Post Office were taken at face value by both  
 17 organisations.  
 18 It is submitted the Inquiry can find there were no  
 19 real differences between the NFSP and the CWU in the way  
 20 in which they were organised and undertook their  
 21 representation of members on the ground.  
 22 The NFSP's written closing submissions note the  
 23 difficulty the Inquiry may have being able to scrutinise  
 24 the CWU's role in terms of question 49 or listed issue  
 25 49, due to the lack of available information from it as  
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1 demonstrates real learning and a very wide set of  
 2 changes made since the Common Issues Judgment. The NFSP  
 3 wishes to assure you, sir, that it is committed to  
 4 representing its members' views and is not afraid to  
 5 challenge the Post Office when that is in the interests  
 6 of its members. It is submitted the NFSP has  
 7 demonstrated this initiative, such as the training of  
 8 branches officials to the introduction of the advocacy  
 9 system, information gathering monthly and reporting from  
 10 branch officials for board meetings to identify patterns  
 11 and issues, helping members with the Horizon Shortfall  
 12 Scheme and identifying suitable legal support, meeting  
 13 with and campaigning on diverse issues from Hard to  
 14 Place, remuneration, failure of Network Transformation,  
 15 the historic systems of capture and ECCO+ and much more,  
 16 introduction of its own whistleblowing and complaints  
 17 policies.  
 18 The campaigns with the other jurisdictions and the  
 19 quashing of convictions. The NFSP is very pleased to  
 20 report a very useful meeting with the Lord Advocate and  
 21 Cabinet Secretary of Justice for the Scottish  
 22 Government. As I mentioned, it took place last week,  
 23 and a lot of work is clearly being done to identify past  
 24 victims, and also with involvement with the Metropolitan  
 25 Police into potential criminality.  
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1 apparently it knew nothing, didn't hear from its members  
 2 about Horizon, despite thousands of them using it every  
 3 day, anyone charged with a criminal offence would have  
 4 been dismissed or resigned and would no longer be  
 5 a member and so wouldn't have contacted them, according  
 6 to the witness statement of Andy Furey.  
 7 The Inquiry will also have seen the CWU's brief  
 8 written closing submissions, which says that failed  
 9 representation of the past means there should be  
 10 an independent trade union for postmasters and this  
 11 should be recommended by the Inquiry.  
 12 The NFSP considers those submissions do not show  
 13 insight into the failure of the model of representation  
 14 which both organisations operated at the time. There  
 15 appears to have been no look-back, no information about  
 16 how it has changed its representative model. By  
 17 contrast, it's submitted through the evidence provided  
 18 in the witness statement of Calum Greenhow the documents  
 19 including the updated grant funding agreement with the  
 20 much criticised clauses removed, the ongoing public  
 21 criticism of the Post Office by the NFSP, demonstrates  
 22 that the CWU's submission on the NFSP is simply out of  
 23 date, focused on the past, and not the present.  
 24 It is submitted that the evidence of Calum Greenhow  
 25 in his witness statement and to this Inquiry  
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1 As was said, the question is asked: if you can't  
 2 trust a senior in-house solicitor and a senior barrister  
 3 when they tell you they have looked at all past  
 4 prosecutions and it's okay to continue with  
 5 prosecutions, then who can you trust? It's submitted it  
 6 was reasonable for the Crown to believe what they were  
 7 told, just as it was reasonable, subject to the caveats  
 8 I've mentioned earlier about Mr Thomson, for the NFSP  
 9 over many years to believe what it was told, certainly  
 10 in the early years about Horizon.  
 11 The NFSP is an organisation today which has looked  
 12 in an in-depth way to understand what went wrong and to  
 13 change it, and marry that up with what works well. It  
 14 is submitted that is a measure of an organisation which  
 15 has insight. It has updated, reformed and adjusted  
 16 where necessary, while continuing to campaign and noise  
 17 up where necessary the Post Office.  
 18 It has admitted that nothing has been seen, heard,  
 19 or done in the time of this Inquiry that could allow the  
 20 Inquiry to find that the NFSP today is some sort of  
 21 puppet or Patsy for the Post Office, it is not. It is  
 22 submitted that it is vital that a large and strong  
 23 organisation which the NFSP is remains very firmly on  
 24 the map for postmaster representation. It is even more  
 25 vital when it appears the Post Office seeks to divide  
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1 the postmaster groups appearing to consult or take views  
2 into account but in a way that waters down actual  
3 campaigning and challenge.

4 The NFSP asks the Inquiry to take into account its  
5 submission on the relevant timelines as set out in its  
6 submissions on Phase 5 and 6. That was done in some  
7 detail in the submissions, sir, but we'd ask you to take  
8 that into account. There's not enough time to go into  
9 all of that now.

10 **SIR WYN WILLIAMS:** Sure.

11 **MS WATT:** But it's there.

12 In particular, where each event sits in the history  
13 between 2000 and 2016, the trade union status, Network  
14 Transformation, the coming into being of the GFA in July  
15 2015, it is submitted that things have moved on so much  
16 and so much has been done and changed that much of what  
17 has been said about these matters is time limited and  
18 now in the past.

19 Right now, it's submitted that the thousands of  
20 postmasters who are members of the NFSP need such a body  
21 bored with its structures, experience and knowledge to  
22 represent them. Informal groups of a few hundred here  
23 and there have no funding, no structure, and the danger  
24 is they could ultimately be used by or subsumed into the  
25 corporate structure via, for instance, the Postmaster

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1 properly with proper oversight put in place, bringing  
2 back the trust the public and the postmasters so want to  
3 have in it.

4 In closing these oral submissions, sir, the NFSP  
5 turns back to the theme of hope. It hopes that the  
6 simple truth is that there is some good in this network,  
7 and that it is worth fighting for. It is a good that  
8 every postmaster upholds when they make the choice to  
9 invest in the Post Office Network and serve their  
10 communities every day. It is a good felt by the most  
11 vulnerable groups in our society, and it is a good that,  
12 if it is removed, will not be brought back.

13 The good that is brought into this society by the  
14 service of postmasters and others within Post Office  
15 branches must be valued and must be protected.  
16 Postmasters, including the NFSP's members, feel real  
17 pride in serving their communities and they should be  
18 able to do so in a way that rewards their service. The  
19 NFSP has faith in the findings of this Inquiry that it  
20 will help to realise the vision and protect the service  
21 of so many hardworking public-minded individuals across  
22 the country, who have been let down and undervalued  
23 consistently for decades.

24 While the Inquiry has heard much of the "Can't  
25 remember, can't recall, I don't remember seeing that,

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1 NED role, the postmaster panel role, which ultimately  
2 weakens rather than strengthens the ability to  
3 challenge. It may be complementary but it weakens the  
4 ability to challenge. It is something of an irony that  
5 the organisation criticised by Lord Justice Fraser is  
6 today the organisation which actually can and does  
7 challenge the Post Office on so much and campaigns on so  
8 many issues affecting postmasters.

9 For the NFSP it is an organisation of the now and  
10 the future. It has looked, learned and adjusted, and it  
11 is the true voice for today's postmasters.

12 In concluding remarks, sir, it is submitted that the  
13 postmasters in the Post Office Network deliver  
14 an essential service. This service should be valued and  
15 promoted. Although the Post Office has broken every  
16 element of trust that there ever was, there has to be  
17 the hope that it can be saved for the public who need  
18 it. The NFSP say the Post Office should not be closed  
19 down. Postmasters have invested in the network, it  
20 serves communities, vulnerable individuals and the  
21 public at large.

22 Those people have invested their funds their time,  
23 their families and their lives into this. It is  
24 submitted that it is time the Government DBT, UKGI and  
25 Post Office itself honours that investment and acts

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1 I don't remember reading that, I don't remember  
2 receiving that", and so on, and so on, the documents  
3 interrogated by this Inquiry give the lie to that. As  
4 Robert Burns famously said in his poem, "A Dream":

5 "... Facts are chieils that winna ding,  
6 "And canna be disputed ..."

7 Translated as:

8 "Facts, and therefore the truth, can never be  
9 denied."

10 Sir, it is a big ask, a huge ask, but the hope of  
11 the postmasters of the past, the postmasters of today  
12 and the public, now resides with you. Thank you.

13 **SIR WYN WILLIAMS:** Thank you, Ms Watt.

14 Right. So we will break now and have 15 minutes.  
15 I think if we start just after 3.40, Mr Sheldon, and  
16 then we'll continue until you have used up your time.

17 (3.26 pm)

(A short break)

18  
19 (3.39 pm)

20 **SIR WYN WILLIAMS:** I think the door has been closed, so if  
21 we'd all now be quiet so that Mr Sheldon can make his  
22 submissions.

23 **Closing submissions by MR SHELDON**

24 **MR SHELDON:** Sir, thank you.

25 As you are aware, I act for UK Government

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1 Investments, UKGI in this Inquiry, which is grateful to  
2 you for giving us the opportunity to make these closing  
3 submissions at the end of your hearings.

4 I'm very conscious that I'm delivering them at the  
5 end of a long day and I would wish to reassure you and  
6 indeed everyone else that what I'm going to say I will  
7 say as concisely as possible.

8 I last addressed you, sir, in October 2022, by way  
9 of an opening statement which was accompanied, as you  
10 may recall, by a lengthy set of written submissions,  
11 which sought to set out in as much detail as possible  
12 the nature of the role played by UKGI and its  
13 predecessor organisation, ShEx, an analysis of the  
14 chronology by what we perceive to be the key milestones  
15 and UKGI's reflection on its performance.

16 Sir, those opening submissions and the witness  
17 statements we have provided to the Inquiry for the  
18 purposes of Phases 5, 6 and 7, which we sought to make  
19 as detailed, precise as comprehensive as we could, set  
20 out our account of what we did, what we did not do and  
21 what we should have done better.

22 In both our written evidence and the oral evidence  
23 of those witnesses from whom you have heard, we have  
24 endeavoured to be frank and self-critical, and we hope  
25 you have found that evidence to be of assistance.

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1 had heard eloquently from their representatives today.

2 They also, I suspect, will have little time for yet  
3 further expressions of sympathy from yet another  
4 institution that had the capacity to do more to at least  
5 potentially prevent some of the harm that they have  
6 suffered.

7 But it is important that I provide you and everyone  
8 else with an interest in this Inquiry with the  
9 reassurance that, throughout this process, we have not  
10 lost sight for a moment of why we are here. UKGI's  
11 Board, our Chief Executive, Charles Donald, who has  
12 spent many days in this room listening to the evidence,  
13 our witnesses, the team at UKGI, that have been  
14 supporting the work of the Inquiry, and its external  
15 Legal Team, all of us, have had at the forefronts of our  
16 minds throughout the responsibility we have to  
17 postmasters and their families, who have been affected  
18 by this scandal, and the overriding imperative to  
19 ensure, as far as humanly possible, that nothing like  
20 this ever happens again.

21 That obligation has informed every witness  
22 statement, every set of submissions and every decision  
23 that has been taken in determining our approach to this  
24 Inquiry.

25 As to how that obligation is to be discharged by

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1 Sir, we have now provided you with an equally  
2 lengthy set of written closing submissions and, in those  
3 submissions and the brief observations I propose to make  
4 this afternoon, we have not sought to repeat or  
5 reanalyse the chronology of our involvement. You have  
6 our evidence as to what occurred, and you will, of  
7 course, reach your own conclusions on that.

8 We have instead sought to focus primarily on the  
9 present situation for the purposes of addressing head on  
10 some of the issues of concern we anticipate that the  
11 Inquiry may have, having listened to the evidence in  
12 Phases 5 to 7. We have sought to explain how we have  
13 addressed those issues and we have provided, we hope,  
14 some reassurance that the lessons of this scandal have  
15 been learned, at least from UKGI's corporate governance  
16 perspective.

17 Before I turn briefly to look at some aspects of  
18 that analysis, which we would submit are of particular  
19 significance, it's right that I deal with two matters of  
20 fundamental importance at the outset.

21 The first is to address directly the purpose of the  
22 task with which we are all engaged. Sir, you do not  
23 need me to tell you of the utter devastation that this  
24 scandal has caused to the lives of postmasters and their  
25 families. You have heard from them directly, and you

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1 a responsible public body, I can only repeat what I said  
2 to you in our opening statement. A responsible public  
3 body must give a full and frank account of itself at the  
4 earliest possible opportunity.

5 It must provide the investigation with complete and  
6 unequivocal cooperation. It must be objective and  
7 self-critical in its evidence and it must remain  
8 open-minded and willing to learn lessons throughout.

9 Sir, we stand by those obligations and we  
10 acknowledge that we should be and will be judged by  
11 them.

12 Secondly, whilst the rest of what I'm going to say  
13 is going to be directed primarily at the future and the  
14 present, I need to deal with what has happened in the  
15 past to at least this extent. As we anticipated in our  
16 opening statement, it seems to us that the evidence you  
17 have heard has borne out the conclusion that there were  
18 governance failures relating to Horizon in which UKGI,  
19 and its predecessor, ShEx, played a part and for which  
20 it must therefore bear its share of responsibility.

21 There were times when we were too accepting or  
22 trusting of assurances given by others as to the  
23 integrity of Horizon, and the baselessness of legitimate  
24 postmaster concerns.

25 There were times when there were opportunities to

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1 effectively challenge such assurances, which were not  
 2 taken. There were times when investigations were  
 3 started which might have led to the true position being  
 4 identified much earlier, but they were not followed  
 5 through. There were times when advice was given in  
 6 relation to Horizon which lacked sufficient objectivity  
 7 and failed to make clear that it merely reflected what  
 8 we had been told by the Post Office.

9 We have read with care the closing submissions of  
 10 the other Core Participants, including those of the  
 11 Department. In some respects, the criticisms made of  
 12 ShEx and UKGI reflect our own analysis, which I have  
 13 just sought to summarise. In others respects, we would  
 14 disagree for reasons that are addressed fully in the  
 15 witness evidence of the individuals concerned, which we  
 16 know you will consider with care. But we have sought,  
 17 as an institution, and through our individual witnesses,  
 18 to be as frank and objective as we can in identifying  
 19 where we fell short, and we have no intention now to  
 20 start engaging in an exercise of blaming others or  
 21 avoiding responsibility.

22 Corporate governance may often be thought to be  
 23 a dry and rather esoteric subject, of interest to  
 24 company directors but perhaps not many others. However,  
 25 corporate governance goes to the heart of what we do,  
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1 being aware of defects with Horizon that they sought to  
 2 conceal, deny or obfuscate.

3 There is no evidence whatsoever of any UKGI or ShEx  
 4 employee being aware of a wrongful conviction that they  
 5 sought to conceal, deny or obfuscate, and there is no  
 6 evidence whatsoever of any UKGI or ShEx employee  
 7 deliberately providing information they knew to be  
 8 misleading or seeking to hide the truth. No such  
 9 allegations have been put to any of the ShEx or UKGI  
 10 witnesses from whom you have heard, and there is no  
 11 support for them in any of the evidence before the  
 12 Inquiry. UKGI itself has found no evidence for such  
 13 suggestions. If we had, we would have told you.

14 The answer to the question of whether ShEx and UKGI  
 15 should have reached a better understanding of the  
 16 nature, scale and implications of the Horizon scandal  
 17 sooner is undoubtedly yes. The answer to the question  
 18 of whether UKGI and ShEx or any of its employees  
 19 deliberately sought to suppress evidence of that scandal  
 20 is unequivocally no.

21 Sir, having dealt with those two important  
 22 preliminary matters, can I turn to the focus of my  
 23 submissions this afternoon, which is on the way in which  
 24 UKGI now seeks to deliver effective corporate governance  
 25 oversight as a shareholder representative to the assets  
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1 and we have devoted a great deal of energy on assessing  
 2 where corporate governance for the Post Office could and  
 3 should have been delivered more effectively. I doubt  
 4 there has ever been a clearer example, in the history of  
 5 this country at least, of the real world impact on  
 6 people's lives if corporate governance is not delivered  
 7 effectively and well.

8 Having reflected on our role very carefully, it  
 9 seems to us to be clear on the totality of the evidence  
 10 that you have heard that, at critical junctures, we  
 11 should have provided more robust challenge and, had we  
 12 shown more curiosity, the legitimate concerns raised by  
 13 postmasters and their representatives may have been  
 14 given more weight. For that, sir, we apologise  
 15 unreservedly.

16 Nonetheless, it is also important that I make clear  
 17 that there is no suggestion in the reams of evidence and  
 18 millions of pages of documents that are before the  
 19 Inquiry of any ShEx or UKGI employee ever having  
 20 deliberately sought to victimise postmasters, hide the  
 21 truth or engage in any form of cover-up.

22 The failings which we have acknowledged, and for  
 23 which we apologise, significant though they were, result  
 24 from a lack of curiosity and/or objectivity. There is  
 25 no evidence whatsoever of any ShEx or UKGI employee  
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1 in its portfolio and the Post Office in particular, and  
 2 the ways in which we have sought to address the historic  
 3 shortcomings which the evidence given to this Inquiry  
 4 has helped to identify.

5 Sir, the first submission I want to make in this  
 6 regard is that the shareholder model or framework within  
 7 which UKGI seeks to provide effective corporate  
 8 governance oversight to complex arm's-length bodies,  
 9 such as the Post Office, which has evolved in a number  
 10 of important respects since 2012, is fundamentally  
 11 a sound one.

12 I won't deal this afternoon with the rationale for  
 13 the existence of arm's-length bodies, which, as you  
 14 know, there are over 300 across Government and which  
 15 have been a feature of the Government landscape for over  
 16 50 years, nor am I going to set out the reasons why  
 17 Government departments consider it appropriate to  
 18 outsource the shareholder responsibility for the most  
 19 complex of those arm's-length bodies to a specialist  
 20 organisation, such as UKGI. We have dealt with all of  
 21 that in our written submissions and you have heard  
 22 evidence from a number of very senior and experienced  
 23 witnesses as to why individual departments require the  
 24 specialist corporate governance and corporate finance  
 25 expertise of a body such as UKGI for those complex  
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1 assets.  
 2 I'm going to focus, if I may, on the more difficult  
 3 and, we would submit, pertinent question of how  
 4 effective corporate governance should be delivered  
 5 within that model. Put simply: how should the system  
 6 operate and who is responsible for doing what?

7 In seeking to express this as clearly as possible,  
 8 and I accept that there have been times during the  
 9 evidence where it has seemed perhaps unnecessarily  
 10 complicated, we will gratefully take the lead from your  
 11 corporate governance experts and describe the way the  
 12 process is supposed to work by reference to the three  
 13 levels of governance and how they are supposed to  
 14 operate when a problem like Horizon comes along.

15 The first level of effective corporate governance is  
 16 frank, accurate and honest reporting by the Executive to  
 17 the Board. It is a fundamental requirement of  
 18 responsible management that when you identify a problem,  
 19 you provide an honest and accurate account of that  
 20 problem to the Board, and the culture of the company  
 21 must encourage that approach.

22 The second level of effective corporate governance  
 23 is professional curiosity and challenge by an engaged,  
 24 proactive and suitably skilled Board. The Board is  
 25 obviously entitled to expect that it is receiving

1 ranging from meetings between ministers and the Chief  
 2 Executive or Chairman down to day-to-day contact between  
 3 members of the shareholder team and their counterparts  
 4 in the company on a whole range of issues.

5 It is through this interaction that the Department  
 6 or the UKGI Shareholder Team deal with the way or become  
 7 aware of the way in which issues are being dealt with by  
 8 the company. If they are concerned about how that is  
 9 being done, there are a number of things they can do  
 10 about it.

11 They include, as you have heard, escalating the  
 12 issue within UKGI up to the Chief Executive and, if  
 13 necessary, the Board, and escalation with the potential  
 14 for direct intervention by the Department, including by  
 15 the Minister.

16 However, sir, it will be immediately obvious that  
 17 the effectiveness of this level of governance also  
 18 depends upon the reliability of the information that is  
 19 being provided by the company as to the nature and  
 20 extent of the issues, and the willingness of the  
 21 Shareholder Team and the Department to challenge and  
 22 interrogate what they are being told. It is also  
 23 self-evident that, if a proper understanding of the  
 24 problem is not grasped at levels 1 and 2, the Management  
 25 and the Board, it is going to be very difficult to do so

1 a frank and honest account from the Executive, but it  
 2 still has the responsibility to question, challenge, and  
 3 test what it is being told. Where necessary, it can  
 4 call for further information. It can direct the  
 5 Executive to do further work. It can commission  
 6 investigations of its own.

7 There are a range of tools available to the Board to  
 8 get to the truth of the matter and, if it has any  
 9 concerns about the accuracy of the information with  
 10 which it is being provided by the Executive Team, it  
 11 must use them.

12 The Shareholder Non-Executive Director, as a member  
 13 of the Board, must play his or her part in ensuring that  
 14 that is done.

15 The third level to is that of the shareholder, in  
 16 this case the Department for Business and Trade and its  
 17 representatives, namely the shareholder team within ShEx  
 18 or UKGI, with responsibility for the asset.

19 It is important to note that ShEx was a Directorate  
 20 of the Department until UKGI was formed in 2016. When  
 21 things are working as they should, both the Department  
 22 and the UKGI Shareholder Team will have good visibility  
 23 of the operation of the company, including how it is  
 24 dealing with significant problems or difficult issues,  
 25 through frequent interactions at a variety of levels,

1 for the first time at the third level.

2 Now, that is not to say of course that the third  
 3 level of governance is not important or that its  
 4 effectiveness should not be optimised. Operated  
 5 properly, it provides a vital opportunity to identify  
 6 governance shortcomings at levels 1 and 2, and to take  
 7 action to address them through the variety of means that  
 8 we've described in our written submissions. In  
 9 particular, sir, in this regard, we would respectfully  
 10 disagree with the witnesses who have suggested that  
 11 ministers lack the power to act in circumstances for the  
 12 purposes of directing how the companies should approach  
 13 an issue such as Horizon.

14 There are, and there were at the time, a suite of  
 15 hard and soft powers available to ministers ranging from  
 16 the power to dismiss the Chairman, contained in the  
 17 Articles and exercised recently to remove the former  
 18 Chair, to issuing of the annual Chair's Letter, to the  
 19 power to call in the Chair or the Chief Executive for  
 20 a meeting to provide direction, as to was the case when  
 21 Baroness Neville-Rolfe commissioned Mr Parker to  
 22 undertake his review.

23 It may be that the full range of these powers was  
 24 not clearly understood by all of those in office through  
 25 the relevant period but there is no doubt that those

1 powers existed and continue to exist and the chronology  
2 shows examples of them being used effectively.  
3 In short, therefore, sir, we submit that there is  
4 nothing fundamentally wrong with the underlying  
5 governance model in place for complex government-owned  
6 assets such as the Post Office and we would agree with  
7 the submissions of DBT in this regard: it is a well  
8 developed model, it is applied to a large number of  
9 complex commercial assets across Government, and it has  
10 the potential to operate successfully, provided, of  
11 course, that those involved at each level effectively  
12 discharge their responsibilities.

13 That being so, the focus of UKGI's reflections and  
14 the analysis of how we ensure that the failings evident  
15 in relation to Horizon are not repeated has been on how  
16 to promote good practice at each of those three levels  
17 of governance, so that, if issues of the type that arose  
18 in this case were to arise again, whether in the Post  
19 Office or in any of our other assets, they would be  
20 identified and properly dealt with before they can cause  
21 the type of damage we have seen here.

22 Sir, as you will have seen, the greater part of our  
23 written closing submissions is directed to that issue,  
24 and there is no value to be gained from me trying to  
25 summarise 90 pages of analysis in 30 minutes or so.

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1 issues effectively and appropriately.

2 Secondly, sir, we would wish to emphasise that UKGI  
3 is committed to remaining a learning organisation which  
4 seeks consistently to evolve in order to incorporate  
5 developing corporate governance standards in its  
6 practice.

7 Whilst we seek to reflect current best practice in  
8 our operating principles and guidance, we recognise that  
9 delivering effective shareholder oversight of a complex  
10 company, which is not providing a full and accurate  
11 account of the difficult issues it is facing, is a very  
12 challenging task.

13 The history of corporate scandals is sadly littered  
14 with examples of high powered and experienced boards  
15 failing to detect or address what turned out to be  
16 a devastating problem. As you have heard, the Board of  
17 the Post Office included, over a period of many years,  
18 highly capable and experienced individuals who failed to  
19 understand fully the scale and impact of the Horizon  
20 problem, the same obviously applies to the ShEx and  
21 shareholder teams and the Department.

22 You've heard many of them say that they would have  
23 positively welcomed a clear answer to the question of  
24 the reliability of Horizon and the resolution of the  
25 dispute with postmasters, regardless of which way it

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1 What I would like to do, however, is to provide  
2 a short overview of the work that has been done by UKGI  
3 over the last five years or so, some of which has been  
4 directly in response to the Horizon scandal, and how  
5 that is intended to fit together in a coherent and  
6 comprehensive way to ensure that the governance  
7 framework I've just described is operated effectively.

8 So before I deal with that, can I just pause to make  
9 these two important points, which set the context for  
10 what follows. First, it is not the role of  
11 a shareholder body such as UKGI, or indeed the  
12 shareholding department to run the company. That is the  
13 job of the company's management, overseen by the  
14 company's board and, as I've touched on, there are good  
15 and obvious reasons why that should be so.

16 Nor is it the role of the shareholder to act as  
17 a shadow board or a shadow executive. The measures that  
18 I'm just about to describe, the operating principles,  
19 training, guidance, evaluation, and so on, are not  
20 designed to equip UKGI's Shareholder Non-Executive  
21 Director or the Shareholder Teams to run assets or  
22 second guess the Executive, but to put them in the best  
23 position possible to assess the performance and culture  
24 of the company, identify issues facing the company when  
25 they arise and support the company in dealing with those

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1 went, and yet it look the litigation to uncover what on  
2 any view should have been revealed much sooner.

3 So in reflecting on this scandal, the one lesson  
4 that has been driven home to UKGI, above all others,  
5 perhaps, is that it has to continually reflect and  
6 enhance how it performs the shareholder role for  
7 organisations in its portfolio, and identify strategies  
8 to ensure that it can support those organisations in  
9 identifying issues early and take appropriate action in  
10 response.

11 What we have sought to provide you with, sir, and  
12 what I'm about to briefly describe is where we have got  
13 to thus far in that process. But we acknowledge that  
14 there will always be more to do and the findings of this  
15 Inquiry will inevitably play an important part in that  
16 work.

17 Turning then to the first level of corporate  
18 governance and the fundamental requirement of an open,  
19 no-surprises culture of frank reporting. The focus of  
20 UKGI's attention has been on ensuring that we more  
21 rigorously and actively assess the culture of  
22 an organisation from a shareholder perspective. Horizon  
23 has brought home very clearly how vital this is. There  
24 should never be circumstances in which the Executive  
25 feels able to be less than frank and open with the

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1 Board, or to withhold important documents which  
2 illustrate the true position.  
3 If they do, then the corporate governance framework  
4 will be very seriously undermined from the outset. We  
5 identified this issue as one of the five key reflections  
6 in our internal review, and we have reflected on it  
7 further over the course of this Inquiry to identify how  
8 best we can ensure that deficiencies in the culture of  
9 a portfolio asset can be quickly identified and  
10 addressed.

11 As we set out in our written submissions, there is  
12 now a clear emphasis on the importance of corporate  
13 culture that runs through UKGI's training, our guidance,  
14 and our operational processes.

15 UKGI's Shareholder Non-Executive Directors and  
16 Shareholder Teams understand that it is a central part  
17 of their role to monitor and report on the state of the  
18 culture within their assets and to take active steps to  
19 encourage and promote a healthy corporate culture. This  
20 is done at Board level by the Shareholder Non-Executive  
21 Director. It is done through the Shareholder Teams'  
22 interactions with the chair and the senior executive,  
23 including at quarterly shareholder meetings, where the  
24 Post Office corporate culture is now a standard agenda  
25 item, and it is done through monthly ministerial

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1 Sir, that's a brief summary. It's by no means  
2 a comprehensive one. The key point that we would wish  
3 to convey is that this lesson, the fundamental  
4 importance of carefully monitoring and assessing the  
5 corporate culture of a portfolio asset, and ensuring  
6 that that vital first level of corporate governance is  
7 effective, has been well learned, and a wide range of  
8 measures implemented to ensure that, if an unhealthy  
9 corporate culture starts to develop in an asset, it is  
10 quickly identified and robustly addressed.

11 As to the second level, sir, professional curiosity  
12 and effective challenge by the asset Board, we have  
13 developed a range of measures designed to support asset  
14 boards in being more robust and more effective in this  
15 respect.

16 This is an area in which we would respectfully  
17 suggest that the problem is quite easy to articulate but  
18 the solution is much more sophisticated and  
19 multi-layered. Sir, we don't seek to pre-empt your  
20 conclusions in any way but it seems to us clear that  
21 there were points in the chronology where the Post  
22 Office Board did not display adequate curiosity or apply  
23 adequate challenge or, when it did, it failed to follow  
24 through with investigations it had set in train.

25 Now, a Board inevitably relies in the first instance

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1 meetings involving the Post Office, UKGI and the  
2 Department.

3 Activity 1 of our Portfolio Operating Principles, to  
4 which I will return in a moment directs that UKGI  
5 Shareholder Teams should seek to promote a healthy  
6 corporate culture within the asset and ensure that the  
7 asset develops appropriate metrics and reporting on  
8 cultural issues, and we have developed internal guidance  
9 and training to assist Shareholder Teams and  
10 Non-Executive Directors in effectively supporting and  
11 challenging our asset boards to address cultural  
12 challenges.

13 They set out the specific actions that the  
14 Non-Executive Director and the team should undertake in  
15 relation to culture, providing practical guidance as to  
16 positive and negative indicators the Board should be  
17 monitoring, and how the shareholder team should seek to  
18 encourage these activities.

19 We encourage the appointment of Postmaster  
20 Non-Executive Directors to the Board of the Post Office  
21 and we continue wholeheartedly to support that  
22 initiative.

23 The annual Chair's Letter emphasises the importance  
24 of maintaining a healthy corporate culture and sets out  
25 clear expectations in this regard.

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1 on what it's being told by the Executive and the  
2 material with which it is provided. It will justifiably  
3 place a degree of trust in that information. But it can  
4 ask questions. It can demand more information. It can  
5 direct the Executive to undertake further  
6 investigations. It can commission independent assurance  
7 exercises itself and the Horizon chronology contains  
8 periods in which that was done. Examples include the  
9 Board's demand for a comprehensive programme of remedial  
10 action in response to the Second Sight Interim Report,  
11 once the initial concerns about the handling of the  
12 process had been addressed. That's one example.

13 The commissioning of the independent assurance work  
14 by Linklaters and Deloitte is another but there are  
15 other examples of where the curiosity and interrogation  
16 was limited, including the Second Sight thematic report  
17 and the Panorama broadcast. Detailed refutations were  
18 prepared by the Executive and considered by the Board  
19 with little, if anything, in the way of challenge and,  
20 in the final analysis, there is simply no getting away  
21 from the fact that the Board never demanded or  
22 commissioned a full drains-up review of the Horizon  
23 system, of the type it ultimately took the litigation to  
24 deliver.

25 So how do you ensure that a Board, faced with

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1 an issue like this in the future, is more curious, more  
2 challenging and more ready to do whatever is necessary  
3 to get to the bottom of the matter? UKGI has reflected  
4 very carefully on that and, from our perspective, there  
5 are three central elements to the answer to that  
6 question. That is to say three key ways in which UKGI  
7 can seek to promote high standards of curiosity and  
8 challenge on the Boards of its assets.

9 The first is ensuring that the Board is subject to  
10 a regular and thorough process of evaluation. Our  
11 Portfolio Operating Principles now set a clear  
12 requirement for Board Effectiveness Reviews to be  
13 conducted every year with every third review undertaken  
14 by external reviewers.

15 That requirement is reinforced in the Chair's  
16 Letter, along with the requirement to involve  
17 stakeholders, including the Government, in the process.  
18 The reviews must include Board composition, risk  
19 management, the overarching culture and tone of the  
20 Board, and the clarity of leadership it gives to the  
21 Company.

22 Our Portfolio Operating Principles also require  
23 a separate appraisal process for the Chair, in addition  
24 to the Board Effectiveness Review and for the evaluation  
25 of the performance of individual Non-Executive

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1 through the engagement of Public Digital and the  
2 Infrastructure Projects Authority.

3 So the third way in which we seek to achieve this  
4 objective now is the development of a suite of good  
5 practice guidance to help provide UKGI Shareholder  
6 Non-Executive Directors and their teams with a set of  
7 standards by which the quality of a Board's processes  
8 and procedures can be assessed.

9 Sir, I don't have time to deal, even in summary,  
10 with all the relevance of this guidance this afternoon  
11 and it's all set out in our written closing submissions  
12 and the documents we have referred to, but I would just  
13 take a moment to deal with one issue of particular  
14 relevance and importance, which is whistleblowing.

15 Sir, as you may recall, this was an issue that was  
16 identified as requiring careful attention in our  
17 internal review, and we dealt with it at some length in  
18 our opening statement. The position now is that our  
19 Portfolio Operating Principles expressly require  
20 Shareholder Teams and Shareholder Non-Executive  
21 Directors to ensure that the assets' whistleblowing  
22 policies and procedures are adequate and effective, and  
23 there is a detailed set of guidance which identifies  
24 precisely what good practice looks like in this area,  
25 including regular reporting, analysis of how complaints

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1 Directors.

2 The second, sir, is the establishment of a clear set  
3 of specific requirements concerning information flow  
4 into the Board and the circumstances in which the Board  
5 should seek its own independent assurance of what it's  
6 being told. As to the former, sir, you will have heard  
7 number of times from number of different witnesses that  
8 legal professional privilege was used as a justification  
9 for failing to provide important information to the  
10 Board. It is now made crystal clear that LPP will not  
11 provide a proper reason for withholding any information  
12 from the Board, and this has been expressly written into  
13 the Framework Agreement that covers the relationship  
14 between the Post Office and the shareholder.

15 As to the latter, the Portfolio Operating Principles  
16 deal expressly with the importance of a board  
17 commissioning its own assurance work, and also make  
18 clear that this is a tool available to the shareholder  
19 as well, if it has concerns as to the accuracy of the  
20 information with which it is being provided.

21 Sir, you have seen some evidence of the operation of  
22 these principles in relation to the current project to  
23 replace Horizon, and the commissioning of external  
24 assurance work by the Board, including the recent  
25 instruction of Accenture, and by the Department as well,

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1 are being handled, the role of the Board Whistleblowing  
2 Champion, and so on.

3 Both Tom Cooper and Lorna Gratton in their Phase 7  
4 witness statements have described how the shareholder  
5 team has assessed the Post Office's procedures against  
6 those standards.

7 So, in short, that model of identifying an express  
8 requirement on the part of the Shareholder Team in the  
9 Portfolio Operating Principles, to monitor and assess  
10 the information flowing into the Board, backed up by  
11 a suite of guidance that makes clear what good practice  
12 should look like, provides a benchmark for the assurance  
13 process. That model is one that has been applied in the  
14 same way across number of relevant areas, and I refer to  
15 whistleblowing simply as a representative example in  
16 that regard.

17 Sir, I turn then, finally, to the third level of  
18 governance, which is the level provided through the  
19 oversight of the asset by UKGI, in conjunction with the  
20 relevant department and the ways in which we've sought  
21 to improve our effectiveness at this level, with  
22 particular regard to the issues which we anticipate are  
23 likely to be of concern to you.

24 Sir, as you will have seen from the written  
25 submissions, there is again a lot of detail here, and

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1 I won't lengthen these submissions by attempting even  
2 a summary of all of it, but there are just four short  
3 areas I would wish to highlight as being of particular  
4 significance in the light of the evidence you have  
5 heard.

6 The first is the development of our Portfolio  
7 Operating Principles, which you will have seen were  
8 introduced in 2020 and have been updated on a regular  
9 basis to take into account evolving developments in  
10 corporate governance standards. In keeping with UKGI's  
11 reflective approach and desire to avoid recurrence of  
12 a significant failing such as Horizon occurring in its  
13 portfolio, the Portfolio Operating Principles have also  
14 been significantly amended to incorporate further  
15 lessons and insights derived from our reflections on  
16 Horizon and our engagement with your Inquiry. I'm very  
17 conscious that this may not be the most exhilarating  
18 topic to introduce at this stage in the afternoon but  
19 its importance really cannot be overstated. The  
20 Portfolio Operating Principles and the guidance that  
21 they incorporate amounts to nothing less than a clear,  
22 comprehensive and accessible codification of how UKGI  
23 should go about discharging its shareholder governance  
24 functions, which any member of any shareholder team can  
25 refer to whenever they are considering how best to deal  
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1 current Shareholder Non-Executive Director on the Post  
2 Office Board, stands as a representative example of this  
3 approach.

4 To the extent that there may have been an impression  
5 in the past, fair or otherwise, of UKGI being solely  
6 staffed by investment banking deal makers, with limited  
7 interest in corporate governance, that is emphatically  
8 not the case now.

9 The organisation today is a broad church with civil  
10 servants, corporate restructuring experts, accountants,  
11 lawyers, consultants, all well represented, alongside  
12 those with banking and corporate finance experience.

13 It's precisely this mix of skillsets, we would  
14 respectfully suggest, that enables UKGI to deal  
15 effectively with a very wide range of different assets,  
16 from the Nuclear Decommissioning Authority, to the  
17 Ordnance Survey, to the British Business Bank, as well  
18 as the wide range of Government departments with  
19 responsibility for those assets.

20 As for training, about which all our Shareholder  
21 Non-Executive Directors were quite understandably asked  
22 by your counsel, UKGI frankly acknowledges that there  
23 was plenty of room for improvement in this area and, as  
24 you've heard, this has been a particular focus for our  
25 Chief Executive since taking up post in March 2020.  
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1 with an issue.

2 Everyone is trained against using them, and  
3 performance is regularly assessed against them.

4 Sir, you will have heard evidence from a number of  
5 witnesses at a variety of levels who have described  
6 having to navigate novel situations or deal with  
7 difficult issues at times without the necessary guidance  
8 to do so. UKGI has sought to address the thematic  
9 governance issues it has identified from Horizon to  
10 date, and to evolve its processes accordingly.

11 Whether the issue is whistleblowing, the  
12 commissioning of independent assurance of management  
13 information, the performance of the Board, the  
14 performance of the Executive, or effective engagement  
15 with the Department, the correct approach will be found  
16 in the Portfolio Operating Principles and the guidance  
17 embedded within them.

18 So the second key element of this is an overhaul of  
19 the recruitment and training of Shareholder  
20 Non-Executive Directors and Shareholder Teams. In  
21 relation to recruitment, there is a clear emphasis on  
22 identifying and developing Shareholder Non-Executive  
23 Directors with the right balance of skills and  
24 backgrounds, including Board experience and very often  
25 Civil Service experience as well. Lorna Gratton, the  
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1 UKGI now has a Learning and Development Leader who  
2 oversees an extensive programme of formal training for  
3 our Shareholder Non-Executive Directors, and Shareholder  
4 Teams, supported by a variety of initiatives including  
5 seminars run by experienced external chairs and a number  
6 of internal forums, in which Shareholder Non-Executive  
7 Directors can discuss difficult issues in their assets  
8 and shared experience. Understanding of and compliance  
9 with the Civil Service Code is treated importantly,  
10 forming part of the induction training for all our new  
11 joiners. Its significance for UKGI staff in the  
12 discharge of their duties is also emphasised in UKGI's  
13 internal code of conduct.

14 Sir, you will recall the evidence of those dealing  
15 with Horizon issues at particularly challenging points  
16 in the chronology, including 2015, to the effect that it  
17 was very difficult to see a solution or an effective way  
18 forward other than litigation. That generated a degree  
19 of frustration which had the potential to bleed into  
20 correspondence, submissions and the approach to issues  
21 more generally. That is not an excuse but it is at  
22 least a partial explanation.

23 In light of that evidence, the benefits of the suite  
24 of resources now available to a Shareholder  
25 Non-Executive Director and a shareholder team, in terms  
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1 of training, guidance and encouragement to test their  
2 understanding of how best practice might be applied to  
3 the issue in question, when to escalate their concerns,  
4 are obvious.

5 Sir, the third area I wanted to highlight briefly  
6 concerns the separation of the shareholding and policy  
7 roles, which occurred in 2018 in the case of the Post  
8 Office and is now the established model across UKGI's  
9 portfolio of assets. Sir, as you've seen, one of the  
10 complexities in assessing the performance of ShEx and/or  
11 UKGI over the lengthy period with which you are  
12 concerned, is that the model was different at different  
13 times. The first Shareholder Non-Executive who was in  
14 post from 2012 to 2014 was not part of the Shareholder  
15 Team, was not involved at all in briefing ministers  
16 regarding the Post Office.

17 Between 2014 and 2018, when the second Shareholder  
18 Non-Executive Director was in post, that Director was  
19 also the head of the Shareholder Team and was  
20 responsible for briefing ministers, interacting with the  
21 Department on both policy and shareholder issues. From  
22 2018, roughly coinciding with the appointment of the  
23 third Shareholder NED, the Department set up its own  
24 Policy Team, leaving the Shareholder Team and the  
25 Shareholder Non-Executive Director to focus on

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1 Again, at the risk of oversimplification, the answer  
2 to the question of how best a minister should approach  
3 a difficult and controversial issue, receiving critical  
4 public attention, may well be different, depending on  
5 whether you're approaching that question from a policy  
6 perspective or a corporate governance perspective.

7 In relation to the former, it's understandable how  
8 advice relating to the operation of a company's IT  
9 system could be characterised as an operational matter  
10 for the company -- leave it there; in relation to the  
11 latter, corporate governance, the correct approach may  
12 well be to shorten the arm in relation to the  
13 arm's-length body and get directly involved in seeking  
14 a solution.

15 So the final area I wanted to highlight is how UKGI  
16 and its Shareholder Non-Executives manage conflicts of  
17 interest when they arise.

18 UKGI recognises that there will be times when  
19 specific issues will arise in which the interests of the  
20 company and the priorities of the shareholder may pull  
21 in different directions. As you've heard, funding is  
22 one example, and others may arise from time to time.

23 That said, it is important, we would respectfully  
24 submit, not to overstate the issue. Where a company is  
25 owned by a sole shareholder, substantive conflicts are

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1 shareholder governance issues alone.

2 Now, it's that final model that UKGI has identified  
3 as the correct one. As to why this should be of any  
4 interest to you, we have attempted to articulate that as  
5 clearly as we can in our written submissions but there  
6 are just two essential points. The first relates to the  
7 provision of advice to ministers. There were points in  
8 the chronology, particularly around 2015, when the issue  
9 arose of how directly the Department should seek to  
10 involve itself in the Horizon issue, and whether it  
11 should establish some form of further investigation.  
12 You will recall that some concern was expressed as to  
13 the nature of the advice that was given on that issue.

14 It's fair to say that those concerns do not appear  
15 to have been expressed at the time, and that ultimately  
16 the minister did commission a further investigation in  
17 the form of Tim Parker's review, but it is also fair to  
18 say that, with the benefit of hindsight, those concerns  
19 are understandable.

20 The problem in this context, which, with respect,  
21 sir, we submit you correctly identified in some of your  
22 questions to the relevant witnesses, is that there is  
23 the potential for conflict between the policy and the  
24 shareholder roles when it comes to a difficult issue  
25 receiving public attention.

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1 likely to be rare, as the views of the company and the  
2 shareholder are, more often than not, going to be  
3 aligned. Nor is this a situation that is unique to the  
4 Post Office or Government-owned companies generally.  
5 Indeed, this is a challenge which is regularly grappled  
6 with by private sector companies and frequently within  
7 the public equity model, where it is customary to place  
8 a shareholder representative on a board.

9 Where conflicts of interest do arise for Shareholder  
10 Non-Executive Directors at the Board, however  
11 infrequently that may be, UKGI's view is that these are  
12 very manageable. For the most part, constructive  
13 dialogue will provide mutually acceptable ways forward.  
14 In some cases, formal recusal may be necessary, but even  
15 in that situation, the Shareholder Non-Executive  
16 Director will still typically be able to convey the  
17 views of the Department to the asset board so that the  
18 shareholder's perspective can be provided to the board  
19 in their decision making.

20 The issues that arose in the very particular context  
21 of the recusal application concerning Lord Justice  
22 Fraser were unique and do not, we would submit, reveal  
23 any inherent deficiency in the model.

24 The Inquiry will recall that, at the time, given the  
25 uniqueness of the situation, the Shareholder

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1 Non-Executive Director sought and followed legal advice  
2 from the Department's lawyers and acted in a manner  
3 which was consistent with the messaging received from  
4 the Department.

5 As with private equity funds companies, it is UKGI's  
6 view that the advantages of having shareholder  
7 representation on boards in terms of information flows  
8 and helping boards understand the priorities of  
9 shareholders generally significantly outweigh any  
10 potential disadvantages.

11 So, sir, in addition to the guidance and training to  
12 which I have already referred, UKGI has given careful  
13 thought to how the structural issues that have been  
14 exposed by the evidence relating to at least some of the  
15 parts of the chronology should be addressed. The role  
16 of the Shareholder Non-Executive Director and the  
17 Shareholder Team, when dealing with a difficult and  
18 intractable issue within an asset, are now very clear.

19 Sir, that's all I intend to say for the purposes of  
20 highlighting what we consider to be some of the most  
21 relevant aspects of the work that has been done since  
22 the events that you have been examining in Phases 5  
23 and 6.

24 There is much more in our written closing  
25 submissions which we know you will consider in full, but  
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1 treats them as valued partners working towards a common  
2 set of objectives.

3 UKGI is committed to doing all it can in supporting  
4 the company to overcome those challenges, and if the  
5 Inquiry identifies ways in which it considers that that  
6 can more effectively be done, we will, of course, be  
7 very receptive to any such guidance and direction.

8 Sir, just finally this: I am conscious, acutely  
9 conscious, that it is not uncommon for institutional  
10 Core Participants to stand up at the conclusion of  
11 an Inquiry of this nature and assert their unwavering  
12 commitment to the learning of lessons, and how much they  
13 are looking forward to receiving the Inquiry's  
14 recommendations. The understandable reaction to any  
15 assertions of that sort will obviously be "They would  
16 say that, wouldn't they?"

17 In my submission, what an Inquiry will expect to see  
18 from an institutional Core Participant at this point in  
19 the process and what the public, and most importantly  
20 those directly affected, are entitled to see, is that  
21 the institution has not sat around waiting for the  
22 Inquiry to tell it what to do, but has got on with the  
23 task of working out what went wrong, identifying the  
24 changes and improvements that need to be made to ensure  
25 that it doesn't happen again, and implementing those  
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1 we hope that we have provided you, and all those  
2 concerned, with summary assurance as to the nature and  
3 extent of the progress that has been made.

4 As for Phase 7 and the Post Office today, UKGI has  
5 an important role to play in the future of the company.  
6 We need to support it, provide a critical shareholder  
7 oversight role, and act as an interlocutor between the  
8 company and the shareholder. The structures that are  
9 now in place in UKGI for delivering on those objectives  
10 are essentially sound, and you have heard from our  
11 current Shareholder Non-Executive Director and Chief  
12 Executive how they're being operated.

13 The effectiveness of the Post Office Board is being  
14 regularly assessed, and now seems to be heading broadly  
15 in the right direction. There is good visibility of the  
16 company's operations on the part of the Department and  
17 the Shareholder, the lines of communication are  
18 effective, there is frequently challenge and  
19 interrogation of information.

20 However, whilst that may be the state of play from  
21 a corporate governance perspective, there is no avoiding  
22 the fact that the Post Office continues to face  
23 significant challenges in delivering substantial and  
24 tangible improvement in its relationship with  
25 postmasters, and embedding a corporate culture that  
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1 changes.

2 Sir, as you've heard, UKGI started a formal process  
3 of reflection and learning lessons in 2020. In our  
4 opening statement in 2022, we sought to provide you with  
5 a progress report on the work done at that point. We  
6 have sought, in our closing submissions and in the brief  
7 summary I've sought to give you this afternoon, to  
8 provide you with a further update. We are acutely  
9 conscious that we cannot undo the mistakes that have  
10 been made in the past or the damage that has been  
11 suffered. We can only apologise for what we got wrong,  
12 and I repeat that apology, and do our utmost to ensure  
13 that it doesn't happen again.

14 I hope that our closing submissions have gone some  
15 way to demonstrating our continuing determination in  
16 that regard.

17 Can I make these two very short observations in  
18 conclusion: the first concerns the Inquiry Team,  
19 including, but by no means limited to, your Legal Team.  
20 Sir, you will know better than anyone that the last few  
21 phases of this Inquiry have been run to a demanding  
22 timetable, which has led to everyone concerned working  
23 under considerable pressure. Notwithstanding those  
24 pressures, UKGI has been treated throughout this  
25 investigation with the highest standards of  
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1 professionalism and courtesy by the entire Inquiry Team,  
 2 and we would wish to record our thanks and appreciation  
 3 for that.

4 Finally, UKGI would wish to conclude these closing  
 5 submissions by addressing the postmasters and their  
 6 families whose lives have been irreparably damaged by  
 7 the tragic and unjustifiable events with which this  
 8 Inquiry is concerned.

9 UKGI has paid close attention to the evidence given  
 10 in this Inquiry from the outset, including the Human  
 11 Impact Hearings and focus groups. Representatives from  
 12 UKGI, including our Chief Executive, General Counsel,  
 13 members of our Board, have spent many days in this room  
 14 listening to evidence, much of which must have been  
 15 incredibly difficult for postmasters and their families  
 16 to hear. The dignity and resilience that they have  
 17 shown during the Inquiry, as indeed with the fight for  
 18 justice which preceded it and which still continues, has  
 19 been remarkable, and all of those involved in this  
 20 Inquiry, both within and on behalf of UKGI, would wish  
 21 to pay tribute to them.

22 Sir, thank you very much. Pause.

23 **SIR WYN WILLIAMS:** Thank you, Mr Sheldon.

24 Well, I think we are on schedule, and we will resume  
 25 again at 9.30 tomorrow morning.

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1 Yes, Mr Beer?

2 **MR BEER:** That's correct, sir. Thank you very much.

3 **SIR WYN WILLIAMS:** All right. See you all in the morning.

4 (4.35 pm)

5 (The hearing adjourned until 9.30 am the following day)

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