



Date
15 October 2024

Post Office
100 Wood Street
London EC2V 9ER

Your Ref:

Classification:
Public

Dear [REDACTED],

Freedom of Information Request – FOI2024/00284

We are writing in response to your email received by Post Office Limited (**“Post Office”**) on 9 February, which has been dealt with under the terms of the Freedom of Information Act 2000 (**“FOIA”**). We sincerely apologise for the delay in responding to your request.

In your email you have requested the information shown verbatim in bold below:

“What test or guidance did the Post Office use when determining whether or not to recommend a charge or to continue to proceed with a case against a defendant at court in original Horizon Prosecutions and more recently when choosing to oppose appeals to have convictions overturned?As this headline in the FT suggests”Post Office told UK government it would oppose appeals by half of convicted sub-postmasters””

We can confirm that Post Office does hold the information you have requested. We have interpreted your question as requesting what guidance was used by Post Office when carrying out prosecutions and when determining whether to oppose or concede convictions.

Post Office lawyers applied the [“Full Code Test”](#) in deciding whether to bring a prosecution. Post Office also applied the [Post Office Prosecution Policy](#).

There are two tests that Post Office applies in deciding whether to oppose or concede an appeal, depending on the Court in which the appeal is heard, which in turn depends on the Court in which the individual was originally convicted.

People convicted in the Crown Court can appeal to the Court of Appeal. The test used in this instance, was established by the Court of Appeal in the case of [Hamilton & Others v Post Office Ltd](#) ([2021] EWCA Crim 577 (23 April 2021)), namely whether the reliability of Horizon data was essential to the original prosecution.

Post Office Limited also follows the guidance given by the Court of Appeal in the later case of [White & Cameron v Post Office Ltd](#) ([2022] EWCA Crim 435 (31 March 2022)). This is where the appellant puts forward an arguable basis on which the Court could properly find that the reliability of Horizon was essential to their prosecution. It is insufficient for an appellant merely to assert a belief that Horizon was in some way relevant to the prosecution case.

People convicted in the Magistrates' Court can appeal to the Crown Court where the appeal proceeds by way of a retrial. The test is the "[Full Code Test](#)", namely whether, at a retrial in the Crown Court, there would be sufficient evidence for a realistic prospect of conviction and, if so, whether a prosecution would be in the public interest.

If you are dissatisfied with the handling of this response, you do have a right to request an internal review. You can do this by writing to the address above within 40 working days of receipt of this response stating your reasons for your internal review request or alternatively, by emailing information.rights@postoffice.co.uk.

If, having requested an internal review by Post Office, you are still not satisfied with our response you also have a right of appeal to the Information Commissioner at:

Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire SK9 5AF

Telephone: 0303 123 1113
www.ico.org.uk/foicomplaints

Yours sincerely,

Information Rights Team

information.rights@postoffice.co.uk

<https://corporate.postoffice.co.uk/en/governance/access-to-information/access-to-information/>

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