



Date
9 December 2024

Post Office
100 Wood Street
London EC2V 9ER

Your Ref:

Classification:
Public

Dear [REDACTED],

Freedom of Information Request – FOI2024/00352

We are writing in response to your email received by Post Office Limited (**"Post Office"**) on 26 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.

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

"I would like to make a request for information under the Freedom of Information Act (2000).

A letter from Post Office CEO Nick Read sent to Lord Chancellor Alex Chalk MP on 9 January 2024 said that Post Office would be "bound to oppose an appeal" in 369 cases where there was other corroborating evidence unrelated to the Horizon computer system.

I would like to know what form that other evidence took. Did the law firm Peters and Peters or the Post Office sort those cases into any more detailed sub-categories? If so what were the sub-categories and how many cases fell into each?

How many cases relied on confessions from sub-Postmasters?

How many of those cases involved charges of false accounting, and how many of theft?"

We can confirm that Post Office does hold some of the information you have requested as provided in paragraph 15 below. Please note that given the complex nature of the subject involved, we have been guided by the following considerations in responding to this request:

1. At the time of Nick Read's letter of 9 January 2024 to the then Lord Chancellor Alex Chalk MP referred to in your request ("**the Letter**"), Post Office considered that, following the established caselaw and guidance of the Court of Appeal and based solely on the information in its possession, there were 369 cases in which it could not concede a hypothetical appeal, assuming the appeal did not rely on any additional or new information.
2. Post Office's stance in the Letter was based on the work carried out by a team of independent barristers (including two King's Counsel specialising in criminal law cases), whom it had engaged to review outstanding conviction cases to identify and proactively encourage appeals from all postmasters whose appeals it would concede because, based on the information in its possession, the reliability of Horizon was essential to the prosecution (according to the test established by the Court of Appeal (Criminal Division) in *Hamilton & Ors v Post Office Limited* [2021] EWCA Crim 577).
3. This process was known as the Proactive Case Review. Necessarily, the Proactive Case Review also identified those cases in which Post Office could not proactively concede an appeal or had insufficient information to make a determination.
4. A decision in the Proactive Case Review that a hypothetical appeal could not be conceded on the available information did not mean that any appeal by that postmaster would, in fact, be opposed. The information in Post Office's possession at the time of the reviews included, where available, court records, press reports and other open-source material. In the event of an appeal, a fresh review and decision would be taken based on any new information, evidence or arguments put forward by the postmaster or their representatives.
5. With the foregoing in mind and to answer the specific questions in this request, we have relied on (i) the independent barristers' summaries, and (ii) the full pieces of legal advice in respect of 94 cases that junior counsel specifically referred to King's Counsel for further review.

6. We have not done a full review of all the available evidence in each case as such an exercise would exceed the appropriate fees limit under section 12 of the FOIA, which currently stands at £450. This represents the estimated cost of one person spending 18 hours in determining whether we hold the information, and in locating, retrieving and extracting the information.
7. Our analysis has shown that there was, inconsistency in Post Office's charging practices; so, cases based on similar facts may have been charged completely differently, for example as either theft, false accounting or (after 15 January 2007 when the Fraud Act 2006 came into force) fraud.
8. Although your request has mentioned only "sub-Postmasters", we can clarify that the 369 cases relate to all convicted defendants irrespective of job role, so the figure includes postmasters and individuals in non-postmaster roles. For ease of reference, we have referred throughout this response to all individuals convicted in the 369 cases as "postmasters".
9. Again, although you wish to know how many of those 369 cases "involved charges" of false accounting, and how many of theft, we have provided answers based on the charges for which the postmaster was convicted which were not always the same as the offences originally charged, as charges were often dropped, substituted, or not proceeded with, depending on the circumstances of each case.
10. Similarly, although you have asked only about the offences of "false accounting" and "theft", we can clarify that the 369 cases, and therefore our answers to your questions, relate to all convictions irrespective of the charges underlying the convictions. Indeed, many defendants were convicted of neither false accounting nor theft (for example, many were convicted for fraud only) while others were convicted of both or some other combination. A list of offences and combinations covered in the 369 cases is in paragraph 15(d) below.
11. You have asked "how many cases relied on confessions". We have interpreted this to mean, of the 369 cases, (i) in how many did Post Office rely on the defendant's confession, solely or in conjunction with other factors, in deciding to charge the defendant with one or more offences; and (ii) in how many was the confession one of the reasons (but not necessarily the only or primary reason) for Post Office's decision in the Proactive Case Review that, based on the information in its possession, the reliability of Horizon evidence was not essential to the original prosecution and, therefore, a hypothetical appeal would be opposed.

12. Where Post Office identified a confession as the reason, or one of the reasons, why it would not concede an appeal, that was not determined by the specific offence (or offence type) to which the defendant had pleaded guilty (including false accounting and / or theft). Rather, the question in the Proactive Case Review was whether the confession, in the context of all the available material, and irrespective of the offences for which the defendant was convicted, meant that the reliability of Horizon was not essential to the original prosecution as per the Court of Appeal's judgment in *Hamilton* referred to in paragraph 2 above.
13. The Proactive Case Review did not regard confessions as automatically reliable: it considered the reasons why someone may have chosen falsely to confess, including the information from the Post Office Horizon IT and whether the confession was corroborated by other available evidence. Post Office decided that some convictions should be conceded on appeal because the confessions appeared to be unreliable. In other cases, postmasters had confessed to taking money from the Post Office, or manipulating pension and allowance payments, to recoup the cost of meeting previously unexplained shortfalls. Post Office regarded such convictions as unfair due to the failures of Horizon and has conceded appeals on this basis. Any such cases were not within the 369 referred to in the Letter.
14. For more information on how Post Office approached confession cases in the Proactive Case Review in determining whether or not an appeal could be conceded, please see the minutes of the Horizon Compensation Advisory Board meeting of 31 July 2023, freely available to the public at <https://www.gov.uk/government/publications/horizon-compensation-advisory-board-2023-meetings>.
15. With the above explanations and caveats in mind, we respond to the specific questions in the request as follows:

a) I would like to know what form that other evidence took.

Every case was considered on its own facts. It is not possible to set out and explain all the forms of evidence which were considered in the Proactive Case Review to indicate that the reliability of Horizon was not essential to the prosecution. However, such evidence included, but was not limited to, confessions which appeared to be reliable, physical evidence such as pension and allowance vouchers, CCTV, financial records, and witness testimony from postmasters, customers, and other members of staff.

- b) Did the law firm Peters and Peters or the Post Office sort those cases into any more detailed sub-categories? If so what were the sub-categories and how many cases fell into each?**

No, the 369 cases identified in the Proactive Case Review that Nick Read's Letter said that Post Office was "bound to oppose an appeal" were not sorted into sub-categories.

- c) How many cases relied on confessions from sub-Postmasters?**

Of the 369 cases identified in the Proactive Case Review that Nick Read's Letter said that Post Office was "bound to oppose an appeal", 315 relied at least in part on confession (i.e., confession as explained in paragraphs 11 to 13 above).

- d) How many of those cases involved charges of false accounting, and how many of theft?"**

We have interpreted this question as explained at paragraphs 9 to 10 above. The breakdown of the 315 cases by offence-type is:

- i. Theft only (186);
- ii. False accounting only (34);
- iii. False accounting and theft (24);
- iv. Theft plus another offence type (18);
- v. False accounting plus another offence type (4);
- vi. Neither false accounting nor theft (37); and
- vii. Not known (12).

For completeness, the offences charged within the 369 cases other than theft, false accounting, and fraud (where known) were: furnishing false information, suppression of a valuable security, conversion of criminal property, attempted theft, concealing a document, obtaining money transfer by deception/dishonestly obtaining a money transfer, concealing a valuable security, obtaining property by deception, and money laundering.

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
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