

## OFFICIAL - SENSITIVE

**Briefing for Jo Swinson regarding recent reports on Horizon System – 10<sup>th</sup> September 2014**

A report leaked yesterday is critical of POL's Horizon accounting system which it claims has led to subpostmaster losses. This is strongly refuted by POL, but is part of the continuing mediation scheme which was announced in July last year. This briefing gives the background to this issue.

*It is important to stress that despite over a year's worth of investigation by POL and independent investigators Second Sight, no systemic or technical deficiencies have been found with the Horizon system.*

**Summary**

Horizon is the accounting system POL and its subpostmasters use to operate the network. Following criticism of the system last summer, a mediation scheme was announced which involved a joint working group headed by independent chair and high court judge Tony Hooper, the Justice for Subpostmasters Alliance (JFSA) consisting of concerned SPMs, and POL itself. Forensic investigators, Second Sight, were jointly appointed to lead an independent investigation in to the issues.

As part of that process, Second Sight were asked to draft a "thematic report" that would set out the factual position in relation to the relevant issues that could be covered during the mediation process e.g. the contractual relationship between POL and SPM's, the training requirements of both parties, and the technical specifications and operational requirements of the system. It would also consider common problems found. This would provide a neutral but informative reference point for parties during the individual mediation sessions.

This report has recently been sent to the 150 SPMs or former SPMs proceeding through the mediation process on a confidential basis. POL considers that it contains a number of inaccuracies and unsubstantiated accusations and has written to SPMs accordingly.

**It is important to note that in all of the investigations undertaken since July, no systemic issues have been found with the Horizon system**, and the flavour of the report reflects POL's general concern that Second Sight has not been as objective or forensic as they might otherwise have been given their role.

**Further detail**

The mediation scheme has been a significant concern to POL for some time. Whilst no substantial issues with the Horizon system have been found, their concerns include the following:

- They consider that independent investigators Second Sight have "gone native" and are unduly taking the side of JFSA. This is supported by the fact that SS have admitted privately that they find it emotionally difficult to opine against SPMs, regardless of the circumstances of the case.
- Claims in the thematic report (and the individual reports on each case prepared by SS) have generally been unsubstantiated. For example, SS claim that power loss can lead to data loss for the SPM, creating discrepancies between cash accounted for in Horizon and cash in the safe or till. There is no evidence to support these claims.
- SS do not sufficiently acknowledge that the relationship between POL and SPM is one of principal and contractor i.e. not one of employer and employee. POL's legal advice supports the fact that the duty of care in the former case is less than in the latter, with the SPM taking contractual responsibility for their cash count, training, and employees, for example.
- A number of the reports written by SS in relation to individual cases have been rejected by Tony Hooper, on the basis that the claims are unsubstantiated. In such cases he has tasked SS with re-writing the report. It is not clear why he has not treated this report similarly.

## OFFICIAL - SENSITIVE

- JFSA has had difficulty in accepting that some cases will not warrant mediation, because the SPM was clearly at fault or was victim of fraud by their own staff.
- Second Sight has continued to widen the scope of the investigation rather than focus on the Horizon system, prolonging the investigations and increasing costs (most of which fall on POL).
- Meanwhile, whilst the mediation scheme continues, expectations around possible compensation have grown to potentially unrealistic levels.

Of the 150 cases that were raised by SPMs, 63 have been investigated by POL, 22 draft reports have been composed by SS (12 have been finalised) and 3 cases have been mediated. To date no systemic issues with the Horizon system itself have been found although around a dozen have been settled outside of the mediation process.

In those cases that have been mediated or settled, POL considers it should have conducted itself better operationally, but it is important to stress that these are not system related. For example:

- In one case POL were aware that an employee at a branch that a prospective SPM was attempting to buy was suspected of fraud. POL accepts that they should have made that clear to the prospective buyer, who suffered losses as a result once he had bought the branch.
- SPMs are responsible for flagging their own training needs and being comfortable in operating the system. In one case an SPM made a number of calls to POL to book training courses but these went unanswered, resulting in losses to the SPM.

### Why does POL continue with the scheme?

POL has considered its options in terms of taking a different approach to bringing the cases to a close (such as appointing other independent investigators, for example), given SS's perceived lack of independence, and the time and resources that the scheme takes. However, there are two main reasons for continuing with the scheme in its current form:

- Legal: undertakings given to Parliament in July last year about the scheme and the key role of Second Sight means that this poses significant legal (judicial review) risk.
- Presentational: as you are aware, there are a number of interested MP's, most prominently James Arbuthnot, who are very supportive of the JFSA and Second Sight. Despite the difficulties with Second Sight, Tony Hooper's view is that POL "have made their bed and must lie in it", and he would not be prepared to support the removal of SS or back POL in pulling out of the scheme. There are doubts as to whether the JFSA and Second Sight are necessarily complying with the Terms of Reference agreed at the start of the scheme (e.g. SS neutrality), but efforts by POL to take a harder line risk the JFSA leaving the scheme and the presentational issues this may cause.

POL is therefore continuing to work through the scheme.

### Lines to take

We have discussed lines with colleagues in Comms. This is primarily a matter for the company and the working group to address, and it would not be appropriate to comment on confidential leaked documents.

### Next Steps

We would be very happy to brief you in more detail should you so wish.