

[POST OFFICE LETTERHEAD]

PRIVATE AND CONFIDENTIAL

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[] August 2014

Dear Sirs

Second Sight's Part Two Mediation Briefing Report ("the Report")

Further to our conversation on Monday you asked that Post Office put its preliminary comments on the Report in writing. As you emphasised on the call, it is vital to have an audit trail of what comments are made and how consideration of those comments is reflected in the Report.

I would stress again that it is disappointing that you are unwilling to sit down and go through the Report in detail at this stage. Post Office is concerned to make brisk progress on the completion of this Report. However, the overriding aim as far as Post Office is concerned is for the Report to assist Applicants and a mediator. Post Office takes this very seriously.

The process by which this is achieved, is in our view, secondary to achieving the delivery of a high quality Report which supports the objectives of the Scheme and, importantly, the Applicants as parties to the Scheme, and achieves this in a way that ensures value for money to taxpayers. This was the basis on which we agreed to your suggestion for a more thematic Report which can be referred to in shorter more focussed Case Reports.

To that end, as we discussed, the Report must be thorough, accurate, well evidenced and as complete as it can be at this time. As drafted, Post Office is concerned that it does not achieve that. Whilst we understand that the Report may be added to over time, given the substantial time and money already invested in the investigation so far, Post Office would have expected your investigations and analysis of the issues and evidence to have been further advanced than this Report suggests.

Although you have requested only minor factual comments, as we discussed on Monday, Post Office considers that the factual errors are inextricably linked to the more substantive issues I raised. Post Office does expect the answers it has given to the questions asked by Second Sight are duly considered, and for that this consideration is reflected in Second Sight's analysis and findings (even, or, perhaps especially) if Second Sight disagrees, so that the parties are able to consider this well in advance of mediation.

Post Office sets out below our high level comments with more detailed comments on sections of the Report provided in the Appendix to this letter. To be absolutely clear, the comments that follow are in no way aimed at fettering Second Sight's independence. The aim of these comments is to support the production of a high quality Report which in turn will assist Applicants and contribute to the success of the Scheme.

Many of these comments are similar to ones we have made previously on a number of occasions in various discussions and exchanges about documents Second Sight has produced during the period of your engagement. As I explained, there is a value for money issue as it takes substantial time and resource to continue to comment on matters that have already been addressed.

Enquiries On-going

As it stands, as I pointed out when we spoke, the Report references a number of issues where 'enquiries are on-going' and it is hard to see how that assists an Applicant who has raised one of the 'thematic issues' and expects to find further useful information in the Part Two Report. In fact, it could be that an Applicant may decline mediation, or resolution, until those "enquiries" have been completed. At the very least, I would expect Second Sight to be able to describe the actual problem that sits beneath the broad 'thematic issue'; cite the number of instances this problem has been cited by Applicants; reference the number of cases which Second Sight have investigated; and provide an analysis of the evidence Second Sight has considered. That would give the applicant, and Post Office, a clear understanding of the current position.

Evidence, analysis and context

The Report lacks facts or examples or statistics to substantiate the speculative conclusions it does draw. The Report also fails to describe the overarching methodology used by Second Sight to examine the issues presented. Post Office considers that these are fundamental requirements for a Report purporting to provide sound investigative analysis and conclusions. It also appears to present allegations from Applicants as established facts that have been accepted by Second Sight.

Scope

The scope of Second Sight's original investigation, and the matters which are within the scope of the Scheme are matters "concerning Horizon and any associated issues". This is made clear on the Application Form and in Second Sight's letter of engagement. Matters such as Subpostmaster contracts and criminal, or indeed any other legal, matters are not reasonably related (or related at all) to issues concerning Horizon and any associated issues.

For the purpose of Second Sight's investigations, the Subpostmaster Contract is relevant only to the extent that it is necessary to consider the benchmark against, and legal framework within which the actions of Post Office and Applicants must be assessed. But it is not a legitimate, or indeed useful part of Second Sight's investigations for it to be attempting to test that benchmark or questioning or suggesting alterations to that framework.

Failure by Second Sight to draw conclusions or make assessments against this benchmark, or, to put it another way, for Second Sight to, in effect, seek to retrospectively impose obligations on Post Office (or indeed Applicants) which it did not and does not have, will inevitably result in conclusions which have no foundation and, importantly, may impede a successful resolution of the complaint.

Furthermore, and importantly, Second Sight are forensic accountants and were specifically engaged on that basis. As we discussed, you are not qualified as either criminal or commercial lawyers and therefore not qualified to comment on such matters. This is especially important in a document on which Applicants may rely in either mediation or legal hearings. It is, therefore, inappropriate for Second Sight to refer to such matters in the Report.

Conclusion

I attach an Appendix containing more detailed comments and look forward to receiving a full response to the points raised before a draft of your Report is circulated to the Working Group or at least at the same time.

I look forward to hearing from you.

Yours sincerely

[Chris Aujard
General Counsel]