

POST OFFICE INITIAL MEDIATION SCHEME

MEDIATION PACK

DRAFT – CONFIDENTIAL AND COMMERCIALY SENSITIVE

Version: 2

[PARTS IN YELLOW NEED TO BE COMPETED ON A CASE BY CASE BASIS]

[COMMENTS IN GREEN ARE INTERNAL NOTES / POINTS FOR DISCUSSION]

DRAFT

[1A: COVERING LETTER TO SPMR]

[TO GO ON POST OFFICE LETTERHEAD]

[SPMR NAME] JFSA / SHOOSMITHS]  
[SPMR ADDRESS]

[DATE]

Dear ~~Sir or Madam~~ Sirs

Post Office Initial Mediation Scheme [DO COMMS HAVE A NAME FOR THIS?]

As you ~~may~~will be aware, Post Office has been undertaking an independent review into the Horizon system and its related support and training processes.

Post Office is determined to ensure that Horizon and its related processes are fair, effective and reliable, and that Subpostmasters can have confidence in the system.

In some instances, however, Subpostmasters allege that Post Office and Horizon have not met these standards. To address these concerns, Post Office appointed independent forensic accountants, Second Sight, to investigate this situation.

In collaboration with the Justice for Subpostmasters Alliance (JFSA) and a group of MPs led by the Rt Hon James Arbuthnot MP, Post Office ~~set up~~established an Inquiry into Horizon. Second Sight ~~was~~was appointed to lead this Inquiry and ~~has~~has been working with a number of Subpostmasters for over 12 months. A copy of Second Sight's interim report is ~~enclosed with this letter~~available at <http://www.postoffice.co.uk/post-office-statement-horizon>.

Post Office now wishes to extend the Second Sight Inquiry into a Mediation Scheme so that individual Subpostmasters have an opportunity to raise their concerns ~~directly to~~with Post Office. In partnership with Subpostmasters, the JFSA, Second Sight and interested MPs, all sides can then work towards resolving those concerns.

Please find enclosed a pack of documents describing how the Mediation Scheme will work. We should be grateful if you would forward this letter and the enclosed pack to any Subpostmasters who you believe may be interested in this Scheme.

If ~~you wish~~a Subpostmaster wishes to take part in the Scheme ~~you~~he/she should:

- Carefully read the information enclosed with this letter.
- Complete and return ~~the enclosed~~an Application Form ~~using the Freepost envelope provided~~which can be found at: [INSERT WEBSITE ADDRESS].

~~You are~~A Subpostmaster is not obliged to submit ~~your~~his/her case through the Mediation Scheme and ~~you~~they may leave the Scheme at any time. ~~All your~~Their legal rights will remain in full force, whether or not ~~you~~they choose to enter the Mediation Scheme.

Your

A Subpostmaster's Application Form must be received by Post Office by [Cut-off date] if you Second Sight by 31 October 2013 if they wish to be involved in the Mediation Scheme.

If you have any questions, please contact the Justice for Subpostmasters Alliance [INSERT CONTACT DETAILS]

This letter has been sent to a number of interested parties. It is therefore possible that a Subpostmaster may be notified of this Scheme more than once, but the Subpostmaster need only make one Application.

Yours faithfully

[INSERT NAME OF SENDER]

**Enclosures**

- 1      Application Form
- 2      Mediation Scheme Guide + FAQs
- 3      ~~Second Sight Interim Report~~

**[1B: OVERVIEW DOCUMENT]**

**[TO BE POST OFFICE BRANDED]**

**Overview of the Post Office Initial Mediation Scheme**

**The Post Office Initial Mediation Scheme**

The Post Office Initial Mediation Scheme has been ~~set up~~established to help resolve the concerns of Subpostmasters regarding the Horizon system and ~~its training and support processes~~associated issues.

Post Office is determined to ensure that Horizon and its related processes are fair, effective and reliable, and that Subpostmasters can have confidence in the system.

In some instances, however, Subpostmasters allege that Post Office and Horizon have not met these standards. To address these concerns, Post Office appointed independent forensic accountants, Second Sight, to investigate this situation.

In collaboration with the Justice for Subpostmasters Alliance (**JFSA**) and a group of MPs led by the Rt Hon James Arbuthnot MP, Post Office ~~set up~~established an Inquiry into Horizon. Second Sight ~~were~~was appointed to lead this Inquiry and ~~have~~s been working with a number of Subpostmasters for over 12 months. A copy of Second Sight's interim report is ~~enclosed with this letter~~available at <http://www.postoffice.co.uk/post-office-statement-horizon>.

Post Office now wishes to extend the Second Sight Inquiry into a Mediation Scheme so that individual Subpostmasters have an opportunity to raise their concerns ~~directly to~~with Post Office. In partnership with Subpostmasters, the JFSA, Second Sight and interested MPs, all sides can then work towards resolving those concerns.

This Scheme has been ~~approved~~developed by Post Office, Second Sight, ~~the Rt Hon James Arbuthnot MP\*~~ and the Justice for Subpostmasters Alliance.

**Mediation**

In essence, mediation is a face-to-face discussion between two parties. The discussion is chaired by a neutral and independent mediator.

The purpose of mediation is to give each side the opportunity to explain their position. The mediator will then discuss matters with both parties, sometimes together in the same room, sometimes privately with each party.

The mediator's role is to help the parties find common ground. Where common ground cannot be reached, the mediator will help the parties accept their differences and then try to find a resolution to those differences.

The mediator cannot impose a solution on any party (unlike a judge in a courtroom). He can recommend possible solutions to any disagreements. The parties are then free to accept or reject any recommendation. A solution is only binding on the parties where they both agree on that solution and that agreement is captured in writing and signed by both parties.



## Eligibility

The Scheme applies to both current and former Subpostmasters as well as counter clerks employed by Post Office.

Where we refer to "Subpostmasters" this includes Subpostmistresses, nominee Subpostmasters of multiple branches and counter clerks.

The Scheme is open to any Subpostmaster who believes they have suffered a loss or been treated unfairly as a result of: the Horizon system or any associated issues.

- ~~———— The Horizon system~~
- ~~———— Post Office's branch operating processes in relation to the Horizon system~~
- ~~———— Post Office's training on the Horizon system.~~

If a serving Subpostmaster wants to use the Scheme, he or she must have already raised their case with Post Office and have completed all Post Office's internal complaint processes. [WHO CAN THE SPMR CONTACT TO ENSURE THEY HAVE DONE THIS? CAN WE ADD MORE DETAIL ON THESE PROCESSES? AP TO LIAISE WITH ANGELA ON THIS QUESTION].

## The Scheme

The **starting point for the Mediation\*** Scheme is for Subpostmasters to submit details of their case to Second Sight\*. ~~Second Sight will then work with each Subpostmaster and Post Office to gather information about and investigate that case. As a result of this investigation, Second Sight will produce a Case Review summarising its findings\*. Post Office and the Subpostmaster will then attend mediation to discuss Second Sight's findings and to seek to find a solution to the Subpostmaster's concerns.~~ Scheme is being supervised by a Working Group comprising representatives from Post Office, Second Sight and JFSA. The Working Group's role is to ensure the Scheme is run in a fair and efficient manner. It will also be involved in making decisions on how particular cases should be managed through the Scheme.

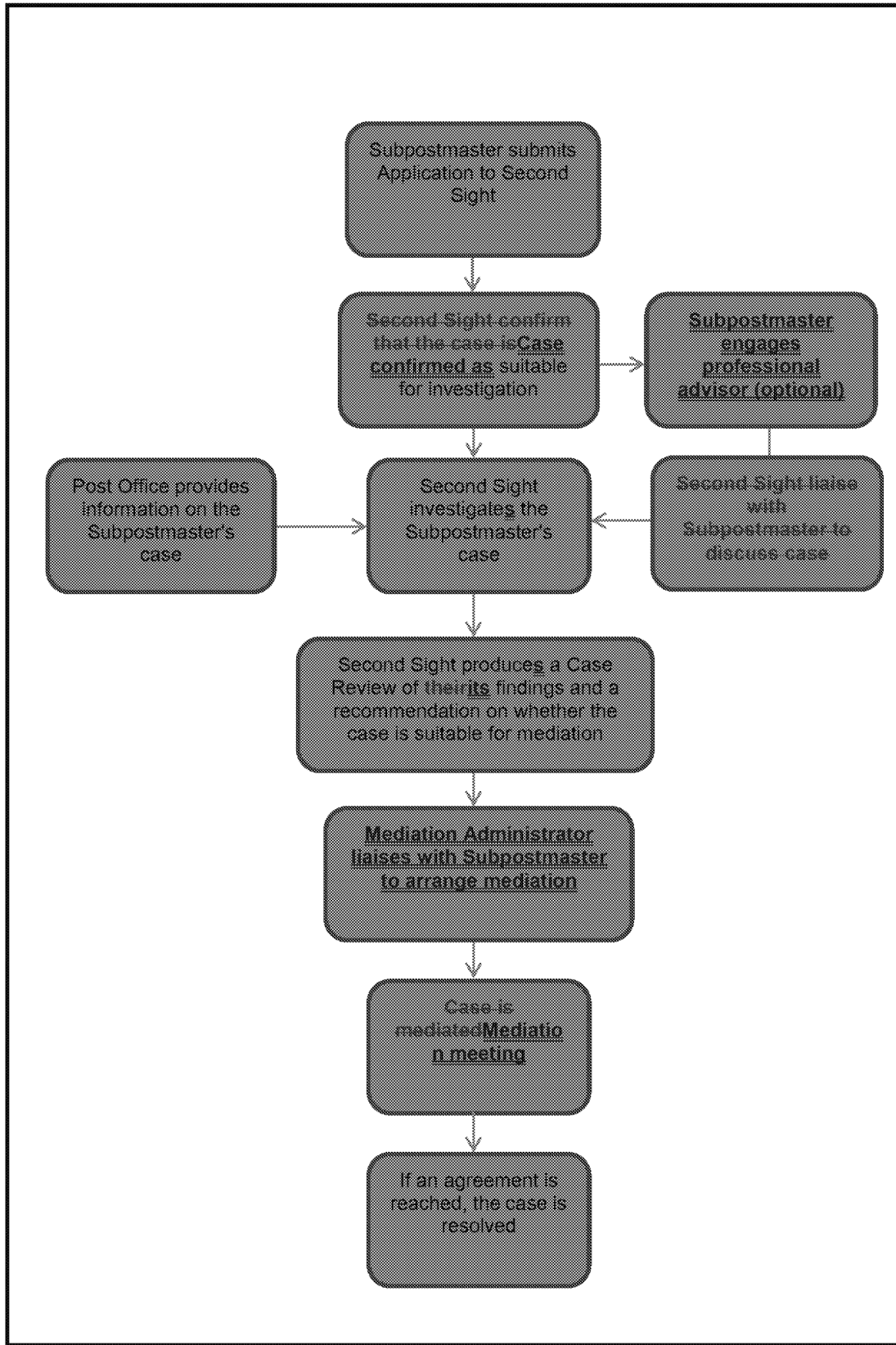
The starting point for the\* Scheme is for Subpostmasters to submit details of their case to Second Sight\* as part of an initial application process. Second Sight, in collaboration with the Working Group, will check to make sure that each case is eligible.

\*Second Sight will then work with each Subpostmaster and Post Office to gather information about and investigate that case. \*The Subpostmaster will be sent a Case Questionnaire setting requests for more detailed information. Post Office will also provide additional information from its own records.

\*As a result of this investigation, Second Sight will produce a Case Review summarising its findings\* and a recommendation on whether the case is suitable for mediation. The Working Group will however take the final decision on any cases that may not be suitable for mediation.

The Case Review should bring clarity to many cases. Post Office may contact a Subpostmaster directly to discuss the Case Review and to seek closure to any outstanding issues. If solution cannot be reached directly between Post Office and the Subpostmaster, both parties will then be invited to attend mediation.

The mediation process will be administered by an independent mediation body and the mediator will be selected by the parties from a panel of mediators. The mediation administrator and the panel of mediators will be nominated by the Working Group.





### The Subpostmaster's role

In order for mediation to work, it is important that each case is properly investigated by Second Sight before the mediation begins. It is therefore critical that each Subpostmaster provides complete and accurate information to Second Sight in a timely manner.

If a ~~case~~ an Application is ~~suitable~~ accepted, the Subpostmaster will be asked to submit a more detailed explanation of ~~the his/her~~ case along with any supporting documents. ~~Second Sight may then contact the in the form of a Case Questionnaire. Subpostmasters will have 4 weeks to complete this Case Questionnaire. Subpostmasters will receive guidance on the information required and may use a professional advisor to help with this process. Second Sight may also contact a~~ Subpostmaster (by phone, letter or email) to seek more information or to clarify some matters.

The information provided in the Case Questionnaire is likely to be shared with Post Office so that Post Office can make its own enquiries and provide further relevant information to Second Sight.

If the information provided by the Subpostmaster is insufficiently detailed or not clear, or information is not provided promptly, it may mean that a case is not investigated or mediated. It is also very important that the information provided is accurate and truthful.

### Support for Subpostmasters

Post Office recognises that mediation will be unfamiliar to many Subpostmasters. It is therefore prepared to make a financial contribution towards the reasonable costs that a Subpostmaster may incur in bringing of a professional representative advisor (such as a lawyer or an accountant) to a mediation, supporting a Subpostmaster through the Scheme.

\*Post Office will provide \*a financial contribution of:

- ~~\*Post Office will provide up to £XXX1,500 + VAT towards the reasonable costs of a professional advisor for assisting a Subpostmaster. – during Second Sight's investigation (ie. gathering information, completing the Case Questionnaire, responding to Second Sight's questions, etc.)~~
- up to £XXX + VAT towards costs of a professional advisor in preparing for and attending a half-day mediation or up to £XXX + VAT for a full day mediation.

Post Office will also pay the reasonable expenses of travelling to and from the mediation for a Subpostmaster and up to 2 representatives.

Subpostmasters will not be asked to contribute towards the costs of the mediator or the mediation venue.

Subpostmasters may engage a professional advisor to ~~support them through other parts of the Mediation Scheme, such as preparing their submission to Second Sight. [However, Post Office will not contribute towards these costs. TO BE DISCUSSED].~~ provide additional support in other areas or in excess of the above contribution levels however they will be responsible for these costs. In exceptional circumstances, a Subpostmaster may make a written request to the Working Group for additional financial support.

If, ~~after Second Sight's investigation, a case is suitable for mediation~~ an Application is accepted, the Subpostmaster will be sent a Mediation Funding Agreement that will explain how Post Office will provide this financial support.

**Further information**

For further information, please see the enclosed Frequently Asked Questions.

~~If you have any other questions, please contact JFSA [INSERT CONTACT DETAILS]~~

DRAFT

[1C: FAQ]  
[TO BE POST OFFICE BRANDED]

Post Office Mediation Scheme

Frequently Asked Questions

**Eligibility for the Mediation Scheme**

**What are the eligibility criteria for the Scheme?**

You must meet both the following criteria.

First, your case must relate to a financial loss or unfair treatment that you believe you have suffered as a result of: the Horizon system or any associated issues.

- ~~\_\_\_\_\_ The Horizon system~~
- ~~\_\_\_\_\_ Post Office's branch operating processes in relation to the Horizon system~~
- ~~\_\_\_\_\_ Post Office's training on the Horizon system.~~

~~If **Secondly, if** a serving Subpostmaster wants to use the Scheme, he or she must have already raised their case with Post Office and have completed all Post Office's internal complaint processes. [SEE ABOVE - WHO CAN THE SPMR CONTACT TO ENSURE THEY HAVE DONE THIS? CAN WE ADD MORE DETAIL ON THESE PROCESSES? – TO BE UPDATED].~~

**My case is very old. Can I still mediate it?**

~~Records on Horizon~~Post Office's records only date back 7 years and therefore it may not be possible more difficult to investigate very old cases. ~~As such, Post Office may not be able to mediate cases that involve events occurring before 1 January 2006.~~ unless you are able to provide information and documents.

~~You~~if your case is very old, you may still submit your case to Second Sight for consideration. However ~~Second Sight may decide~~it may be decided by the Working Group that your case is not suitable for investigation or mediation.

**What if my case has already been settled by Post Office?**

You may put your case through the Scheme even if you have already entered into a settlement with Post Office.

**What if my case has already been considered by the civil courts and they have given judgment against me?**

You may put your case through the Scheme even if the Courts have already given judgment against you.



**What if my case involves a completed criminal prosecution or conviction?**

You may put your case through the Scheme even if you have already received a Police caution or have been subject to a criminal prosecution or conviction.

However, Post Office does not have the power to reverse or overturn any criminal conviction – only the Criminal Courts have this power.

If at any stage during the Scheme, new information comes to light that might reasonably be considered capable of undermining the case for a prosecution or of assisting the case for the defence, Post Office has a duty to notify you and your defence lawyers. You may then choose whether to use that new information to appeal your conviction or sentence.

**What if my case is subject to on-going court proceedings?**

Post Office reserves the right not to investigate or mediate any case which is subject to live court proceedings.

**When is the deadline for a Applications to the Mediation Scheme?**

Your application must be received before [Date] by 31 October 2013.

**Where should I send my Application?**

Please either use the Freepost envelope enclosed with this pack or send email your application to [INSERT SECOND SIGHT DETAILS] EMAIL ADDRESS].

If you would prefer to submit a hardcopy Application, please send this to [INSERT POSTAL ADDRESS].

**How should I complete my application?**

You may complete the Application by hand. If you would prefer to use a computer, please email [INSERT ADDRESS OF JFSA] who will send you a WORD document version of the Application. The Application Form can be downloaded from either the Second Sight or JFSA websites.

[INSERT WEBSITE LINKS]

If you would prefer to complete the Application in hardcopy, please contact Second Sight (details below) who will send you a paper version of the Application Form.

**If I'm not sure if my case is eligible, what should I do?**

If you need advice on the Mediation Scheme please contact the JFSA.

### What is the Justice for Subpostmasters Alliance?

JFSA is an independent organization, established to raise awareness of the alleged problems within the Post Office Horizon system. The organisation mainly comprises of ex-Subpostmasters.

<http://www.jfsa.org.uk/>

[INSERT CONTACT DETAILS]

### Second Sight Investigation

#### What are is Second Sight?

Second Sight ~~are~~is a firm of independent forensic accountants and ~~fraud examiners who have~~investigators which has been engaged to investigate and report on the Horizon system.

<http://www.secondsightsupport.co.uk/default.html>

[INSERT POSTAL ADDRESS]

#### What is Second Sight's role?

Second Sight was appointed by\* the Rt Hon James Arbuthnot MP\* and Post Office to independently review and report on the Horizon system and any associated issues.

As a part of the Mediation Scheme, Second Sight will work with you to ~~understand~~investigate your case. ~~They~~It will then liaise with Post Office to obtain further information ~~about your case,~~ before giving ~~their~~an assessment of your case.

Some cases will be very complex. You should not therefore expect Second Sight to come up with definitive answers to all questions. ~~They~~It will however provide ~~their~~its best, impartial and reasoned assessment based on the evidence available ~~to them.~~

#### What information do I need to provide to Second Sight?

At this stage, you just need to provide ~~an overview~~preliminary details of your case ~~within~~ your Application Form.

If your case is eligible for the Mediation Scheme, Second Sight will send you a full Case Questionnaire to complete. You need to provide as much detail about your case as possible in the Case Questionnaire along with any supporting documents and other evidence. You will receive guidance on the information required.

#### Can I use a professional advisor to help prepare my written submissions to Second Sight?

Yes – you may use a professional advisor to help present your case to Second Sight. ~~[SUPPORT FOR SPMRs TO BE DISCUSSED]~~ engage a professional advisor, such as a lawyer or an accountant, to help with this.

~~If your case goes forward to mediation, Post Office will then offer contribute towards professional advisor costs in relation to preparation for and attendance at that mediation.~~

Post Office will pay up to £1,500 + VAT towards the reasonable costs of a professional advisor assisting you during Second Sight's investigation (ie. gathering information, completing the Case Questionnaire, responding to Second Sight's questions, etc.).

You will be sent a Funding Agreement for this financial support if your Application is accepted.

You are solely responsible for any costs incurred before the Funding Agreement is signed or for costs that are outside the scope of the Funding Agreement.

### **Will my case definitely get investigated by Second Sight?**

~~Second Sight may not be able to consider cases that are more than 7 years old as there may not be any records available to review.~~

The depth of Second Sight's investigation is very much dependent on the quality of the information provided by you. The more specific and comprehensive you can be, the better chances of Second Sight providing good answers.

If there is insufficient information for Second Sight to investigate a case, the case may not be investigated or may not proceed to mediation.

### **How will Second Sight investigate my case?**

Second Sight's investigation will be principally based on information provided by you and Post Office. In some cases, Second Sight may contact you or Post Office (by phone, email or letter) to discuss your case or to request more information.

Second Sight will seek to determine whether there was a problem with Horizon (or ~~its related support and training~~ any associated issue) that had an impact on you. If so, Second Sight will also try to determine the scale and scope that impact on you case.

### **How long will it take for Second Sight to investigate my case?**

~~We estimate~~ It is estimated that it will take between ~~[1-43 months]~~ from receipt of a properly completed Case Questionnaire to investigate a case depending on its complexity.

### **What will Second Sight's findings reveal?**

This very much depends on the nature of your case but Second Sight will provide the best assessment possible based on the available information.

However, you should bear in mind that Second Sight are independent of both Post Office and you. Their investigation may therefore reveal information that could assist either you or Post Office.

In particular, the investigation into your case could reveal that you owe a debt or loss to Post Office. In that circumstance, Post Office will be entitled to act on this information and seek to recover this loss from you.

Likewise, ~~should the investigation reveal~~ **could disclose information that may assist you in a claim against Post Office.**

**Should Second Sight discover evidence of** any criminal wrongdoing, Post Office may pass this information to the Police, the ~~Criminal~~ **Crown** Prosecution Service or seek to prosecute directly.

**If you have been previously involved in criminal proceedings, Post Office also** ~~has a duty to disclose to you and your defence counsel, any new information which comes to light that might reasonably be considered capable of undermining the case for~~ **\*the\*** ~~prosecution or of assisting the case for~~ **\*your** ~~defence.~~

### **Will my case definitely be referred to mediation?**

If your case is suitable and you provide accurate, detailed information to Second Sight, then this is likely in most circumstances.

However, ~~the Working Group may consider that~~ some cases ~~may be~~ not be suitable for mediation. For example, if there is insufficient information about a case or the case is not one requiring resolution.

Also, once Second Sight have submitted their findings, Post Office may contact you to discuss your case and to seek a resolution without needing to attend mediation.

**If your case is not referred to mediation, then you may still pursue other methods of resolution such as by bringing a claim through the Courts.**

## **Mediation**

### **What is mediation?**

In essence, mediation is a face-to-face discussion between two parties. The discussion is chaired by a neutral and independent mediator.

The purpose of mediation is to give each side the opportunity to explain their position. The mediator will then discuss matters with both parties, sometimes together in the same room, sometimes privately with each party.

The mediator's role is to help the parties find common ground. Where common ground cannot be reached, the mediator will help the parties accept their differences and then try to find a resolution to those differences.

### **Who is the mediator?**

The mediator is a neutral individual who specialises in resolving disputes ~~between parties~~. Typically, mediators are independent ~~lawyers~~. ~~Under the Scheme, Post Office will be using a panel of mediators from~~ **[INSERT MEDIATION CHAMBERS IF BEING USED]professionals.**



The Working Group will be nominating a panel of suitable mediators. A mediator from this panel will be jointly chosen by you and Post Office. If the parties cannot agree on a mediator then the mediator will be selected by the Mediation Administrator.

#### Who is the Mediation Administrator?

The Working Group will be nominating a Mediation Administrator. This will be an independent body specialising in providing mediation services.

The Mediation Administrator's role will be to organise the mediation process by helping the parties chose a mediator and by finding an appropriate location and time for the mediation.

Full details of the Mediation Administrator will be provided you if your case proceeds to mediation.

#### **What powers does the mediator have?**

The mediator's role is to facilitate a discussion between you and Post Office. He/she is there to help the parties find a solution to their disagreement.

The mediator cannot order the parties to do anything or to impose an outcome on the parties.

#### **What will happen on the mediation day?**

The course of events at the mediation will be set by the mediator. The mediator will look to use the time available at the mediation in the most productive way possible.

A typical mediation will run as follows:

- The parties arrive at the venue and are each allocated separate private rooms.
- The mediator arrives and introduces himself to each party separately.
- The parties convene in a joint meeting. Each party or their representative makes a short opening statement (lasting just a few minutes) setting out their position.
- The mediator then chairs a discussion between the parties about the issues to be considered.
- The parties retire to their separate rooms. The mediator speaks separately to each party about their thoughts and opportunities for resolution.
- The mediator may ~~then take messages~~ assist negotiations between the parties in an attempt to agree a solution.
- ~~The mediator or the parties are free at any time to suggest further face-to-face meetings if appropriate.~~ Further face-to-face meetings may be held between various people at the mediation.
- If a deal is reached, the mediator may help the parties to draw up a settlement agreement.

#### **Who attends mediation?**



There are no strict rules on who can attend. However it is usual to have only 2 or 3 people representing each side. You may bring with you anyone you consider appropriate. However, Post Office will only pay reasonable travelling expenses for you and 2 representatives.

#### **Can I bring a professional advisor to the mediation?**

Yes – you may bring a professional advisor, such as a lawyer or accountant, to the mediation

#### **Who will pay for my professional advisor to attend the mediation?**

Post Office will make a contribution towards the reasonable costs of a professional advisor up to ~~XXXX + VAT. This contribution is towards your advisor's costs in preparing for and attending mediation.~~ preparing for and attending mediation on your behalf.

~~Your professional advisor will be able to invoice Post Office direct for this contribution.~~

~~Any professional advisor costs in excess of this contribution will be payable by you. Post Office is not liable for any professional advisor costs (including fees, expenses or disbursements) or any other costs you may incur in excess of the above contribution level.~~

~~Following Second Sight's investigation, if your case is suitable for mediation, you~~

~~For a half-day mediation, Post Office will contribute XXXX + VAT.~~

~~For a full-day mediation, Post Office will contribute XXXX + VAT.~~

~~You will be sent a Mediation Agreement for you to sign and more information about Post Office's contribution towards the costs of your professional advisor. Funding Agreement for this financial support if your case is deemed suitable for mediation by the Working Group. This decision will be made after Second Sight has produced its Case Review.~~

~~You are solely responsible for any costs incurred before the Mediation Funding Agreement is signed or for costs that are outside the scope of the Mediation Funding Agreement.~~

#### **Will Post Office pay my expenses of travelling to the mediation?**

Yes – Post Office will pay the reasonable expenses for you and up to 2 representatives to travel to the mediation. Full details of this support will be provided in your Mediation Funding Agreement.

#### **\*What is a Mediation Agreement?\***

~~\*A Mediation Agreement outlines the basic principles of the mediation process\*\* – It also contains the obligation on the parties to keep the Mediation discussions confidential. – \*Finally, the Mediation Agreement will also set out Post Office's commitment to provide the financial support described above.~~

~~\*You will be sent a Mediation Agreement after Second Sight's investigation is complete and your case is considered suitable for mediation.\*~~

### How long will the mediation last?

In most cases, the mediation will last about half a day (4 hours). For complex cases, the mediation may last a full day (8 hours).

### Where will the mediation be held?

The mediation will be held in a set of meeting rooms at an appropriate venue. The venue will be selected depending on the location of the mediator and the parties. Post Office will seek to find a venue within 3 hours travel of where you live, but this cannot be guaranteed in all situations.

### When will the mediation happen?

The precise date depends on your availability and the availability of the mediator and Post Office. ~~We estimate that~~The aim is to hold most mediations ~~will be conducted~~ within ~~[6-9 months]~~ of receipt of your Application Form.

The Mediation is likely to happen on a weekday so you may need to take time off work.

### Will Post Office compensate me for taking time off work to attend mediation?

No.

### How might my case be resolved?

The advantage of mediation is that the parties can agree any solution ~~imaginable~~that is legal, realistic and enforceable. Post Office is keeping an open mind to all possibilities for resolution.

~~\*Compensation is one possible solution that could be agreed by the parties but this will depend on what happened in your case.\*~~

If a resolution is reached by the parties, then this is likely to be drawn up into a formal settlement agreement for you to sign.

### Will I receive compensation through the Mediation Scheme?

~~\*Compensation is one possible solution that could be agreed by the parties but this will depend on what happened in your case.\*~~

### What if my case is not resolved at mediation?

If your case is not resolved at mediation, you are free to pursue any other method of resolution, including through the Courts.

**Information about my case****Will Second Sight share my information with Post Office?**

Yes – Second Sight need to share your information with Post Office in order to investigate your case.

**Why are details of my case being shared with JFSA and ~~MPs~~my MP?**

JFSA are part of ~~the w~~Working ~~g~~Group, alongside Second Sight and Post Office, who will be monitoring the Mediation Scheme.

The Mediation Scheme is also being kept under review by a group of MPs led by the Rt Hon James Arbuthnot MP. ~~It is therefore necessary to pass details about cases~~**Your MP may therefore request details of your case. However, details of your case will only be communicated to your MP and not to other MPs.**

**Will my case be kept confidential?**

Both you and Post Office must endeavour to keep details of your case confidential however details of your case may be discussed with:

- Second Sight
- ~~MPs who are monitoring the Mediation Scheme~~
- Your MP
- JFSA
- Professional advisors
- **The media where a case comes under public scrutiny. With other appropriate persons where you have already made public statements about your case.**

However, all matters discussed in the actual mediation will be strictly confidential and subject to "without prejudice" privilege. This means that the matters discussed during a mediation cannot be disclosed to any third party or to any Civil Court.

This protection allows both parties to speak freely in the mediation room, without risk of their words being repeated back to them in public or in Court. Under this protection, the parties can then accept responsibility for their actions and make concessions in order to move towards a resolution.

**In relation to criminal matters, the issues discussed at mediation can be used in subsequent criminal proceedings. Indeed, Post Office\* has a duty to disclose to you and your defence counsel, any new information which comes to light that might reasonably be considered capable of undermining the case for \*a\* prosecution or of assisting the case for \*the defence.**

**Can Second Sight's pre-mediation findings be used in subsequent Court proceedings?**

Yes. A Subpostmaster may use Second Sight's findings against Post Office in later Court proceedings.

However, the investigation into your case may reveal that you owe a debt or loss to Post Office. In that circumstance, Post Office will be entitled to act on this information and seek to recover this loss from you.

Likewise, should the investigation reveal any criminal wrongdoing, Post Office may pass this information to the Police, the **Criminal Crown** Prosecution Service or seek to prosecute directly.

The matters discussed at the actual mediation cannot be later used in later Civil Court proceedings but might be disclosable in the Criminal Courts.

### Other questions

#### What is the Working Group?

The Scheme is being supervised by a Working Group comprising representatives from Post Office, Second Sight and JFSA. The Working Group's role is to ensure the Scheme is run in a fair and efficient manner. It will also be involved in making decisions on how particular cases should be managed through the Scheme.

#### Is it possible that the structure of the Scheme may change over time?

Yes – the Working Group is tasked with making sure that the Mediation Scheme is operating effectively. It may therefore be necessary to revise the Scheme as appropriate.

### Your legal position

#### **What is the effect of the Mediation Scheme on my legal position?**

You are not waiving any of your legal rights by submitting information to Second Sight or attending a mediation.

Your legal rights will only be affected if you settle your case against Post Office in a written agreement.

The Funding Agreements and the Mediation Agreement may contain some obligations on you such as duties to keep information confidential.

#### **Am I obliged to mediate my case?**

No – the Mediation Scheme is voluntary.

Post Office will not use the fact that you have not mediated your case (or may have pulled out part way through the Scheme) against you in any future Court proceedings.

#### **Can I pull out part way through the Mediation Scheme?**

Yes – at any time you may send a letter or email to JFSA confirming that you no longer wish to be part of the Mediation Scheme. Should you pull out of the Scheme, you may not be able to re-join the Scheme at a later date.



### **What happens if I pull out?**

Second Sight will stop their investigation into your case.

If you pull out before signing a **MediationFunding** Agreement, you will be responsible for any professional advisor's costs you have incurred. ~~\*If you pull out after signing a \*Mediation\* Agreement, Post Office will still make its contribution towards your professional advisors' reasonable costs\*.~~

~~\*If you pull out after signing a \*Funding\* Agreement, Post Office will still make its contribution towards your professional advisors' reasonable costs\* **as described in that Funding Agreement.**~~

### **What is a Funding Agreement?**

**A Funding Agreement is a contract between you and Post Office under which Post Office commits to provide you with financial support.**

**A first Funding Agreement will be sent to you if your Application is accepted. This will provide £1,500 + VAT towards the costs of you engaging a professional advisor during Second Sight's investigation.**

**A second Funding Agreement will be sent to you if the Working Group decides that your case is suitable for mediation. This will provide either £XXX + VAT or £XXX + VAT (depending on the length of the mediation) towards the costs of a professional advisor attending mediation on your behalf**

**Until you sign a Funding Agreement, Post Office is not responsible for any costs that you may incur.**

**Post Office is also not responsible for any costs you may incur outside the scope of the Funding Agreement or in excess of the above funding commitments.**

### **What if I need more financial support?**

**It is for you to manage your professional advisor's costs.**

**In exceptional circumstances, you may make a written request to the Working Group for additional financial support.**

### **\*What is a Mediation Agreement?\***

~~\*A Mediation Agreement outlines the basic principles of the mediation process\* **and confirms the appointment of the mediator\***. It also contains the obligation on the parties to keep the Mediation discussions confidential. \*~~

~~\*You will be sent a Mediation Agreement after Second Sight's investigation is complete and your case is considered suitable for mediation.\*~~



DRAFT

**[1D: APPLICATION FORM]****[TO BE POST OFFICE BRANDED]****Post Office Mediation Scheme****Application Form**

For Second Sight use only

Case ref:

<b>Your Details</b>	
Surname:	Forenames:
Your address:	
Postcode:	
Telephone number <u>1</u> : <b><u>Telephone number 2:</u></b>	Email address:
My <u>current</u> Member of Parliament is:	

<b>Your Branch</b> <i>Please insert the details of the branch where you worked. If you worked at more than one branch, please provide details on an extra sheet of paper.</i>	
Name of branch:	FAD Code of branch:
Address of branch:	
Postcode:	
Your role at the branch (ie. Subpostmaster, Subpostmistress, clerk, etc):	
When did you begin in this role:	Are you still in this role? <input type="checkbox"/> YES <input type="checkbox"/> NO

	If no, when did you leave this role:
--	--------------------------------------

### Case Overview

Is your case (or any part of it) currently subject to on-going criminal proceedings (including the issue of a summons, sentencing hearings or a confiscation order)?

☐ YES – you may still submit your case, but Second Sight may not be able investigate it whilst criminal proceedings are on-going.

☐ NO

**SECOND SIGHT TO INSERT DESCRIPTION OF INFORMATION REQUIRED FROM SPMR FOR CASE OVERVIEW**

DRAFT

## Declaration

I acknowledge that:

- As part of the Mediation Scheme, I must promptly provide information about my case to Second Sight. If I do not provide full information in a timely manner, I accept that it may not be possible to investigate or mediate my case.
- ~~If my case is over 7 years old, it may not be possible to investigate or mediate it.~~
- Information I provide about my case or the findings of Second Sight's investigation may help reach a resolution with Post Office but that it may also reveal further claims against me.
- I am not only entitled to ~~any~~ financial support from Post Office ~~unless my case proceeds to mediation and~~ if I have signed a Mediation Funding Agreement. [TO BE DISCUSSED]

I confirm that:

- My case relates to the Horizon system, ~~Post Office's branch operating procedures in relation to Horizon or Post Office's training in relation to Horizon, or an associated issue.~~
- Post Office may communicate details of my case to Second Sight, JFSA, ~~Members~~ my Member of Parliament, and/or its professional advisors ~~and, as necessary, the media.~~
- The facts and matters set out in this Application are true and accurate to the best of my knowledge and belief.

I confirm that I am:

- ☐ Currently serving as a Subpostmaster and have already raised my case with Post Office and have completed all Post Office's internal complaint processes.
- ☐ Not currently serving as a Subpostmaster.

*(Please tick one box)*

If you are unable to give all the above acknowledgements and confirmations, your case may not be eligible for the Scheme. In that circumstance, please contact the Justice for Subpostmasters Alliance for assistance.

This Application Form and your involvement in the Mediation Scheme do not create any legally binding contract or obligations between Post Office and you.

**Signed** .....

**Name** .....

**Date** .....

DRAFT



[2A: Letter to SPMR – Eligible]

[TO GO ON SECOND SIGHT LETTERHEAD]

[SPMR NAME]  
[SPMR ADDRESS]

[DATE]

Ref [INSERT CASE REFERENCE NUMBER]

Dear [Mr / Mrs / Ms / Miss NAME]

**Post Office Initial Mediation Scheme**

Thank you for your Application to the Post Office Initial Mediation Scheme. I am pleased to confirm that your Application has been accepted.

**Case Questionnaire**

Please find enclosed a Case Questionnaire **and guidance on how to complete it.**

This Questionnaire will set the foundation for our investigation and so I should be grateful if you could complete ~~this Questionnaire~~ in as much detail as possible. The more information you provide, the deeper and more useful our investigation will be.

Please also provide supporting documentation where possible. Written evidence is a powerful tool in our investigation and allows us to explore your case in more detail.

In particular, we should be grateful if you would provide information about:

- [INSERT LIST OF ISSUES / SPECIFIC QUESTIONS]

In order to investigate your case, we do need to be able to fully understanding your concerns. We may therefore contact you (by phone, email or letter) to discuss your case.

If you are unable to provide sufficient information or information is not provided in a timely manner, **we may decide not to investigate your case. your case may not be investigated.**

As a reminder, in order to be eligible for investigation, your case must relate to a financial loss or unfair treatment that you believe you have suffered as a result of: **the Horizon system or an associated issue.**

- ~~The Horizon system~~ **Case Questionnaire can also be downloaded from [INSERT WEBSITE]**
- ~~Post Office's branch operating processes in relation to the Horizon system~~

**Please return your Case Questionnaire to Second Sight (at the above address) by [INSERT DATE - 4 weeks].**

**Funding Agreement**

Please find enclosed an Investigation Funding Agreement. This Agreement describes the financial support being offered by Post Office so that you may engage a professional advisor to assist you during our investigation into your case.

● Post Office's training on the Horizon system. Also enclosed is a list of possible professional advisors who are on the Scheme Advisors Panel. These advisors have been selected by the Working Group and have received introductory training on the Horizon system and its associated processes. Discounted hourly rates have also been agreed with these advisors.

You are not obliged to submit your case through the Mediation Scheme and you may leave the Scheme at any time. do not need to select an advisor from the Scheme Advisors Panel. You may engage any other professional advisor of your choosing.

Please return your Case Questionnaire by [date] [using the Freepost Envelope. More information on selecting an advisor and Post Office's financial support can be found in the enclosed] FAQs.

If you would like to complete your Questionnaire using a computer, please email us at [INSERT ADDRESS] and we will send you a WORD version of the Questionnaire. wish to take up Post Office's offer of financial support, please sign the Investigation Funding Agreement and return it to Second Sight at the above address. We recommend that you take a copy of the signed Agreement for your own records.

Please note that you are not entitled to any financial support until you have signed and returned the enclosed Investigation Funding Agreement. You are solely responsible for any costs incurred before signing the Investigation Funding Agreement.

Yours faithfully

[INSERT NAME OF SENDER]

**Enclosures**

- 1 Case Questionnaire + Guidance
- 2 Investigation Funding Agreement + FAQs
- 3 List of advisors on Scheme Panel

[2B: Letter to SPMR – Ineligible]

[TO GO ON SECOND SIGHT LETTERHEAD]

[SPMR NAME]  
[SPMR ADDRESS]

[DATE]

Ref [INSERT CASE REFERENCE NUMBER]

Dear [Mr / Mrs / Ms / Miss NAME]

**Post Office Initial Mediation Scheme**

Thank you for your Application to the Post Office Mediation Scheme.

Having reviewed your Application, ~~we do~~ **the Working Group does** not believe that your case is eligible to take part in the Mediation Scheme because [INSERT REASON].

~~Before coming to this decision, we have discussed your Application with the~~ \*Justice for Subpostmasters Alliance\*. ~~If you have any questions about our~~ **this** decision, please contact the **JFSA**\*Justice for Subpostmasters Alliance\* [INSERT CONTACT DETAILS]

Yours faithfully

[INSERT NAME OF SENDER]

[2C: CASE QUESTIONNAIRE]

[TO BE PREPARED BY SECOND SIGHT]

DRAFT



**[2D: CASE QUESTIONNAIRE GUIDANCE]**

**[TO BE PREPARED BY SECOND SIGHT]**

DRAFT

**[2E: FUNDING AGREEMENT – INVESTIGATION PHASE]**

**INVESTIGATION FUNDING AGREEMENT**

**Date: [INSERT DATE ON SIGNING]**

**Parties**

**1 [NAME OF SUBPOSTMASTER] (the Subpostmaster)**

**2 Post Office Limited (Post Office)**

**Together the Parties**

**1 Background**

**1.1 The Post Office has established a mediation scheme whereby the concerns of subpostmasters and counter clerks employed by Post Office in relation to Post Office's Horizon IT system (and associated issues) can be investigated and mediated (the Scheme)**

**1.2 The Subpostmaster's application to be a part of the Scheme has been accepted. The Subpostmaster is now required to investigate and present his concerns to Second Sight Support Limited (Second Sight).**

**1.3 Post Office has agreed to make certain financial support available to the Subpostmaster in relation investigating the Subpostmasters' concerns as part of the Scheme.**

**2 Investigation Support**

**2.1 Subject to clause 1.3, Post Office will pay the reasonable costs (including fees, expenses and disbursements) of a Professional Advisor assisting the Subpostmaster in investigating and presenting his concerns as part of the Scheme up to a maximum of £1,500 + VAT (the Contribution).**

**2.2 A Professional Advisor means:**

**2.2.1 A qualified solicitor or barrister holding a current practising certificate;**

**2.2.2 A qualified accountant; or**

**2.2.3 Such other suitably qualified person that Post Office has (in its sole discretion) approved in writing before the Mediation.**

**2.3 Post Office will only be liable to make the Contribution:**

**2.3.1 in respect of costs incurred whilst this Agreement is in effect;**

**2.3.2 on production of a proper VAT invoice from the Professional Advisor in the name of the Subpostmaster but marked as payable by Post Office Limited and for a sum no greater than the Contribution; and**

2.3.3 after the services of the Professional Advisor have been rendered, which for the avoidance of doubt means that Post Office has no obligation to make any advance payment, payment on account or similar such payment.

2.4 Post Office shall pay the Contribution direct to the Professional Advisor within 60 days of receipt of the above VAT invoice.

### 3 Termination

3.1 If the Subpostmaster gives written notice to Second Sight that he/she no longer wishes to be part of the Scheme, this Agreement will immediately terminate.

3.2 If this Agreement is terminated Post Office will, subject to the other conditions of this Agreement being met, still be liable to pay any already accrued and properly due part of the Contribution.

### 4 Post Office's responsibilities

4.1 This Agreement creates no binding or enforceable obligations between Post Office and a Professional Advisor in any way whatsoever.

4.2 Other than the Contribution, Post Office shall not be liable for any other costs or expenses incurred by the Subpostmaster including without limitation:

4.2.1 The costs (including expenses and disbursements) of a Professional Advisor in excess of the Contribution;

4.2.2 Those costs of a Professional Advisor which are not reasonable; or

4.2.3 \*The costs of any other advisor who is not a Professional Advisor.\*

4.3 \*Post Office shall not be liable to the Subpostmaster in any way whatsoever in relation to the recommendation, selection and/or performance of the Subpostmaster's Professional Advisor.

### 5 General

5.1 This Agreement is subject to English Law and the Courts of England and Wales shall have exclusive jurisdiction to hear and determine all claims, disputes and differences that may arise out of or in connection with this Agreement.

5.2 This Agreement constitutes the entire understanding and agreement between the parties in relation to the subject matter of this Agreement. Each party acknowledges that it has not entered into this Agreement in reliance wholly or partly on any warranties, assurances, statements, undertakings representations or misrepresentations made by or on behalf of the other party (whether orally or in writing) other than as expressly set out in this Agreement. Nothing in this clause 5.2 shall limit or exclude any liability for fraud.

5.3 The terms of this Agreement are confidential to the Parties who shall not disclose them to any other person other than:

5.3.1 to the parties' respective auditors, insurers and lawyers on terms which preserve confidentiality;

5.3.2 pursuant to an order of a court of competent jurisdiction or to a proper demand made by any competent authority;

5.3.3 to Post Office's shareholders and ultimate beneficiaries;

5.3.4 to Second Sight Support Limited;

5.3.5 to senior representatives of and professional advisors to the Justice for Subpostmaster Alliance;

5.3.6 the Subpostmaster's Member of Parliament; or

5.3.7 where such information has already been put in the public domain by the other Party in breach of this clause.

5.4 Any variation of this Agreement shall be in writing and signed under hand by or on behalf of each party.

Signed:

Subpostmaster

Name:

Date:

Signed:

For and on behalf of Post Office Limited

Name:

Date:



**[2E: FUNDING AGREEMENT – FAQ]**

**[TO BE PREPARED BY BD]**

DRAFT

[3A: Letter to SPMR – Suitable for Mediation]

[TO GO ON SECOND SIGHT LETTERHEAD]

[SPMR NAME]  
[SPMR ADDRESS]

[DATE]

Ref [INSERT CASE REFERENCE NUMBER]

Dear [Mr / Mrs / Ms / Miss NAME]

**Post Office Initial Mediation Scheme**

We are pleased to enclose our Case Review which sets out our findings following our investigation into your case.

In summary, our findings are:

- [INSERT FINDINGS]

On the basis of these findings, ~~we believe~~**the Working Group believes** that your case is suitable for mediation. We have therefore passed your case to ~~[INSERT NAME OF MEDIATION CHAMBERS]~~**the Mediation Administrator. Details of the Mediation Administrator are enclosed.** They will be in contact with you shortly with information on the mediation process and a Mediation Agreement for your ~~review and~~ signature.

~~The Mediation Agreement will contain details of the financial support that will be offered by Post Office to you in order that you may engage a professional advisor to attend the mediation as your representative. \*Post Office may also contact you directly to discuss our Case Review and to seek a resolution without needing to attend mediation.\*~~

We remind you that you are not obliged to attend mediation and may leave the Mediation Scheme at any time. ~~\*Post Office may also contact you directly to discuss our Case Review and to seek a resolution without needing to attend mediation.\*~~**To leave the Scheme, please confirm this in writing to the Mediation Administrator.**

**Funding Agreement**

**Please find enclosed a Mediation Funding Agreement. This Agreement describes the financial support being offered by Post Office so that you may engage a professional advisor to assist you at the mediation.**

**Also enclosed is a list of possible professional advisors who are on the Scheme Advisors Panel. These advisors have been selected by the Working Group and have received introductory training on the Horizon system and its associated processes. Discounted hourly rates have also been agreed with these advisors.**

**You do not need to select an advisor from the Scheme Advisors Panel. You may engage any other professional advisor of your choosing. If you have already engaged a professional advisor to**

support you during Second Sight's investigation, you may continue to use that person as your representative at mediation.

More information on selecting an advisor and Post Office's financial support can be found in the enclosed FAQs.

If you wish to take up Post Office's offer of financial support, please sign the Funding Agreement and return it to the Mediation Administrator. We recommend that you take a copy of the Funding Agreement for your own records.

Please note that you are not entitled to any financial support until you have signed and returned the enclosed Funding Agreement. You are solely responsible for any costs incurred before signing the Funding Agreement.

Thank you for your time and support in assisting our investigation into your case.

Yours faithfully

[INSERT NAME OF SENDER]

**Enclosure**

- 1 Case Review
- 2 Details of the Mediation Administrator
- 3 Mediation Funding Agreement + FAQs

**[3B: Letter to SPMR – Unsuitable for Mediation]**

**[TO GO ON SECOND SIGHT LETTERHEAD]**

[SPMR NAME]  
[SPMR ADDRESS]

[DATE]

Ref [INSERT CASE REFERENCE NUMBER]

Dear [Mr / Mrs / Ms / Miss NAME]

**Post Office Mediation Scheme**

We are pleased to enclose our Case Review which sets out our findings following our investigation into your case.

In summary, our findings are:

- [INSERT FINDINGS]

On the basis of these findings, ~~we do~~ **the Working Group does** not believe that your case is suitable for mediation because [INSERT DETAILS].

~~Before coming to this decision, we have discussed your Application with the Justice for Subpostmasters Alliance~~  
**Your case will not therefore be mediated under Scheme. You may still look to pursue your case through other methods of resolution such as bringing a claim through the courts.**

If you have any questions about ~~our~~ **this** decision, please contact the JFSA [INSERT CONTACT DETAILS]

Thank you for your time and support in assisting our investigation into your case.

Yours faithfully

[INSERT NAME OF SENDER]

**Enclosure**

1 Case Review



[3C: MEDIATION FUNDING AGREEMENT]

MEDIATION FUNDING AGREEMENT

Date: [INSERT DATE ON SIGNING]

Parties

1 [NAME OF SUBPOSTMASTER] (the Subpostmaster)

2 Post Office Limited (Post Office)

Together the Parties

1 Background

1.1 A dispute has arisen between the Parties as set out in the Case Review of Second Sight dated [INSERT DATE] with case reference number [INSERT REF]

1.2 The Parties have agreed to try to resolve their dispute by way of mediation (Mediation) and have entered or will shortly enter into a separate agreement to govern that Mediation (the Mediation Agreement).

1.3 Post Office has agreed to make certain financial support available to the Subpostmaster in relation to the Mediation.

2 Mediation Support

2.1 Subject to clause 1.3, Post Office will pay the reasonable costs (including fees, expenses and disbursements) of a Professional Advisor advising on, preparing for and attending the Mediation on behalf of the Subpostmaster up to a maximum of £XXX + VAT (the Contribution).

2.2 A Professional Advisor means:

2.2.1 A qualified solicitor or barrister holding a current practising certificate;

2.2.2 A qualified accountant; or

2.2.3 Such other suitably qualified person that Post Office has (in its sole discretion) approved in writing before the Mediation.

2.3 Post Office will only be liable to make the Contribution:

2.3.1 in respect of costs incurred whilst this Agreement is in effect;

2.3.2 in respect of costs incurred after the date of this Agreement and whilst the Parties are still subject to a live Mediation Agreement;

2.3.3 on production of a proper VAT invoice from the Professional Advisor in the name of the Subpostmaster but marked as payable by Post Office Limited and for a sum no greater than the Contribution; and

2.3.4 after the services of the Professional Advisor have been rendered, which for the avoidance of doubt means that Post Office has no obligation to make any advance payment, payment on account or similar such payment.

2.4 Post Office shall pay the Contribution direct to the Professional Advisor within 60 days of receipt of the above VAT invoice.

### 3 Travel expenses

3.1 Post Office will\* pay the Reasonable Travel Expenses of the Subpostmaster and up to 2 representatives (which may include a Professional Advisor) in travelling to and from the Mediation up to an aggregated maximum of £XXX + VAT.\*

3.2 \*\*Reasonable Travel Expenses means:\*

3.2.1 \*\*The cost of a standard class train ticket; \*

3.2.2 \*\*£XXX per mile if travelling by car plus the costs of parking; or\*

3.2.3 \*\*Such other method of travel that Post Office has (in its sole discretion) approved in writing before the Mediation;\*

\*but always subject to the Subpostmaster \*and his representatives using their\* reasonable endeavours to travel by the most cost-efficient method possible (eg. sharing cars, etc.).\*

3.3 \*\*The Subpostmaster must use his best endeavours to provide Post Office with receipts for any Reasonable Travel Expenses.\*

3.4 \*\*Post Office shall pay any Reasonable Travel Expenses \*to the Subpostmaster within 60\* days of the Subpostmaster making a properly documented expenses claim\* **in the form prescribed by Post Office.**

### 4 Termination

4.1 If the Subpostmaster gives written notice to the Mediation Administrator that he/she no longer wishes to be part of the Scheme or the Mediation Agreement is terminated, this Agreement will immediately terminate.

4.2 If this Agreement is terminated Post Office will, subject to the other conditions of this Agreement being met, still be liable to pay any already accrued and properly due part of the Contribution.

### 5 Post Office's responsibilities

5.1 This Agreement creates no binding or enforceable obligations between Post Office and a Professional Advisor in any way whatsoever.

5.2 Other than the Contribution and Reasonable Travel Expenses, Post Office shall not be liable for any other costs or expenses incurred by the Subpostmaster including without limitation:

5.2.1 The costs (including expenses and disbursements) of a Professional Advisor in excess of the Contribution;

5.2.2 Those costs of a Professional Advisor which are not reasonable;

5.2.3 The costs of any other advisor who is not a Professional Advisor; or

5.2.4 Any expenses in excess of the amounts prescribed above.

5.3 Post Office shall not be liable to the Subpostmaster in any way whatsoever in relation to the recommendation, selection and/or performance of the Subpostmaster's Professional Advisor.

## 6 General

6.1 This Agreement is subject to English Law and the Courts of England and Wales shall have exclusive jurisdiction to hear and determine all claims, disputes and differences that may arise out of or in connection with this Agreement.

6.2 This Agreement constitutes the entire understanding and agreement between the parties in relation to the subject matter of this Agreement. Each party acknowledges that it has not entered into this Agreement in reliance wholly or partly on any warranties, assurances, statements, undertakings representations or misrepresentations made by or on behalf of the other party (whether orally or in writing) other than as expressly set out in this Agreement. Nothing in this clause 4.4 shall limit or exclude any liability for fraud.

6.3 The terms of this Agreement are confidential to the Parties who shall not disclose them to any other person other than:

6.3.1 to the parties' respective auditors, insurers and lawyers on terms which preserve confidentiality;

6.3.2 pursuant to an order of a court of competent jurisdiction or to a proper demand made by any competent authority;

6.3.3 to Post Office's shareholders and ultimate beneficiaries;

6.3.4 to Second Sight Support Limited;

6.3.5 to senior representatives of and professional advisors to the Justice for Subpostmaster Alliance;

6.3.6 the Subpostmaster's Member of Parliament; or

6.3.7 where such information has already been put in the public domain by the other Party in breach of this clause.

6.4 Any variation of this Agreement shall be in writing and signed under hand by or on behalf of each party.

Signed:

Subpostmaster

Name:

Date:

Signed:

For and on behalf of Post Office Limited

Name:

Date:



**[3C: FUNDING AGREEMENT / MEDIATION – FAQ]**

**[TO BE PREPARED BY BD]**

DRAFT



**[4A: Letter to SPMR – enclosing Mediation Agreement]**

**[TO BE PREPARED IN COLLABORATION WITH SELECTED MEDIATOR]**

DRAFT

**[4B: Mediation Agreement]**

**[TO BE PREPARED IN COLLABORATION WITH SELECTED MEDIATOR – EXAMPLE BELOW]**

**Mediation Agreement**

Date: [INSERT DATE ON SIGNING]

**Parties**

3      4-[NAME OF SUBPOSTMASTER] (the Subpostmaster)

4      2-Post Office Limited (Post Office)

Together the Parties

5      [INSERT NAME OF MEDIATION CHAMBERS] (the Mediation Administrator)

**1 Dispute**

A dispute has arisen between the Parties as set out in the Case Review of Second Sight dated [INSERT DATE] with case reference number [INSERT REF]

1.1      The Parties have agreed to try to resolve\* their dispute at a meeting (the Mediation).\*

**Appointment of Establishing the Mediation**

1.2      The administration of the Mediation shall be managed by the Mediation Administrator.

1.3      The Mediation Administrator will provide the Parties will list of possible mediators along with their CVs, locations and dates of availability (the Mediation Panel)

1.4      The Parties will attempt to jointly select a mediator within 14 days of receiving details of the Mediation Panel.

1.5      2.1 The Mediator will be appointed by [INSERT NAME OF MEDIATION CHAMBERS] based on the suitability, location and availability of the parties and the Mediator. Where the Parties cannot agree on mediator within this time, the Mediator will be selected by the Mediation Administrator from the Mediation Panel based on the suitability, location and availability of the parties and the Mediator.

2.2      The Parties have appointed the Mediator to assist them in resolving\* their dispute at a meeting (the Mediation).\*

2.3      The administration of the Mediation shall be managed by [INSERT NAME OF MEDIATION CHAMBERS].

1.6      The Mediation Administrator will liaise with the Parties to select a time and venue for the Mediation\* based on availability, suitability, location and cost.\*

1.7      \*The parties will use their reasonable endeavours to assist the Mediation Administrator in establishing and managing the Mediation.

## 2      \*Mediation Preparation\*

- 2.1      \*\*Prior to the Mediation, the Mediator may communicate with the Parties, jointly or separately, as he thinks appropriate, for the purposes of ensuring a proper understanding of each Party's position, that appropriate arrangements have been made for the Mediation itself and generally to ensure that the best use of the Mediation day is made. \*
- 2.2      \*\*Prior to the Mediation, each Party may (but is not required to) prepare and send to **\*the Mediation Administrator, a concise summary of its position (called a Position Statement)\*** together with any supporting documents. \*
- 2.3      \*\*Each Party may also prepare a confidential note to be provided to the Mediator alone, or provide the Mediator with documents or other information not provided to the other Party. The Mediator will not disclose any such confidential note, document or other information to any other Party unless expressly authorised to do so. \*
- 2.4      **2.4 The Parties should contact [INSERT NAME OF MEDIATION CHAMBERS] should they have any questions about the Mediation process. Mediation Administrator\*** will inform the Parties of the timetable for provision of Position Statements and accompanying documents. \*
- 2.5      \*The Parties shall use their reasonable endeavours to follow such timetable. \*

## 3      3-Participants

- 3.1      3.1-There shall be at least one representative from each Party present at the Mediation who shall have authority to settle the Dispute.
- 3.2      3.2-Each Party shall notify **[INSERT NAME OF MEDIATION CHAMBERS]the Mediation Administrator at least 7 days before the Mediation** of every person attending on their behalf.
- 3.3      3.3-Every person attending the Mediation, whether an employee, partner or associate of a Party, expert witness, Professional Advisor or otherwise, shall be bound by the confidentiality provisions **of in this Agreement contained in paragraph 6.**

## 4      \*Mediation Preparation\*

- 4.1      \*Prior to the Mediation, the Mediator may communicate with the Parties, jointly or separately, as he thinks appropriate, for the purposes of ensuring a proper understanding of each Party's position, that appropriate arrangements have been made for the Mediation itself and generally to ensure that the best use of the Mediation day is made. \*
- 4.2      \*Prior to the Mediation, each Party may (but is not required to) prepare and send to **\*[INSERT NAME OF MEDIATION CHAMBERS], a concise summary of its position (hereafter referred to as a 'Position Statement')\*** together with any supporting documents. \*
- 4.3      \*Each Party may also prepare a confidential note to be provided to the Mediator alone, or provide the Mediator with documents or other information not provided to the other Party. The Mediator will not disclose any such confidential note, document or other information to any other Party unless expressly authorised to do so. \*
- 4.4      **[INSERT NAME OF MEDIATION CHAMBERS]\*** will inform the Parties of the timetable for provision of Position Statements and accompanying documents. \*
- 4.5      \*The Parties shall use their reasonable endeavours to follow such timetable. \*

## The Mediation

- ~~5.1~~ ~~The Mediation shall take place at a time and venue selected by [INSERT NAME OF MEDIATION CHAMBERS]\* based on availability, suitability, location and cost.\*~~
- ~~5.2~~ ~~[INSERT NAME OF MEDIATION CHAMBERS] will liaise with the Parties to select a time and venue for the Mediation.~~
- ~~3.4~~ ~~5.3~~ The Mediator shall chair the Mediation and suggest the procedure to be followed with the aim of providing the Parties with the best opportunity of reaching a resolution.
- ~~3.5~~ ~~5.4~~ The Mediator may meet with each Party or some or all of their representatives alone in private meetings, or together with the other Party or Parties (or some or all of its or their representatives) in joint meetings.
- ~~3.6~~ ~~5.5~~ No transcript or other recording of the Mediation shall be made.
- ~~5.6~~ ~~Any\* Party may terminate its involvement in the Mediation\* at any time by giving notice to every other Party and the Mediator.~~
- ~~3.7~~ ~~5.7~~ Should at any time the Mediator conclude that continuing the Mediation is unlikely to be beneficial he may, after consultation with each Party, bring it to an end.

## 4 Termination

- ~~4.1~~ ~~Should a Party fail to comply with its obligations under this Agreement, the Mediation Administrator may give a written notice that Party requiring it to correct its failure within a stated period of time.~~
- ~~4.2~~ ~~Should a Party fail to comply with the above notice, the Mediation Administrator may terminate the mediation process and this Agreement.~~
- ~~4.3~~ ~~Either\* Party may terminate its involvement in the Mediation\* and this Mediation Agreement at any time by giving written notice to the other Party and the Mediation Administrator.~~

## 5 6 Confidentiality

- ~~5.1~~ ~~6.1~~ The Parties, the Mediator, ~~[INSERT NAME OF MEDIATION CHAMBERS]~~, the Mediation Administrator and anyone else attending or involved in the mediation will keep confidential and treat as privileged all information disclosed to them prior to and during the Mediation and shall not disclose such information to any other person.
- ~~5.2~~ ~~6.2~~ Information disclosed by one Party or on its behalf to the Mediator in the absence of any other Party, whether disclosed prior to the Mediation or at the Mediation, shall not be disclosed by the Mediator to any other Party or person without the specific consent of the Party disclosing the information.
- ~~5.3~~ ~~6.3~~ The obligations of confidentiality shall not apply to any Party or Mediator to the extent that disclosure of information is required to be made to the Court, professional advisors or is otherwise required by law.
- ~~5.4~~ ~~6.4~~ The obligations contained in this paragraph bind all those present at the Mediation and will continue to have effect even if this Agreement is terminated.



**[FUNDING STRUCTURE TO BE AGREED – EXAMPLE BELOW FOR DISCUSSION]**

**7 Subpostmaster Support**

**7.1** Subject to clause 7.3, Post Office will pay the reasonable costs (including fees, expenses and disbursements) of a Professional Advisor in preparing for and attending the Mediation on behalf of the Subpostmaster up to a maximum of £XXX + VAT (the Contribution).

**7.2** A Professional Advisor means:

**7.2.1** A qualified solicitor or barrister holding a current practising certificate;

**7.2.2** A qualified accountant; or

**7.2.3** Such other suitably qualified person that Post Office has (in its sole discretion) approved in writing before the Mediation.

**7.3** Post Office will only be liable to make the Contribution:

**7.3.1** on production of a proper VAT invoice from the Professional Advisor in the name of the Subpostmaster but marked as payable by Post Office Limited and for a sum no greater than the Contribution; and

**7.3.2** after the services of the Professional Advisor have been rendered, which for the avoidance of doubt means that Post Office has no obligation to make any advance payment, payment on account or similar such payment.

**7.4** Post Office shall pay the Contribution within 28 days of receipt of the above invoice.

**7.5** Post Office will also\* pay the Reasonable Travel Expenses of the Subpostmaster and up to 2 representatives (which may include a Professional Advisor) in travelling to and from the Mediation up to an aggregated maximum of £XXX + VAT.\*

**7.6** \*Reasonable Travel Expenses means:\*

**7.6.1** \*The cost of a standard class train ticket;\*

**7.6.2** \*£XXX per mile if travelling by car plus the costs of parking; or\*

**7.6.3** \*Such other method of travel that Post Office has (in its sole discretion) approved in writing before the Mediation;\*

\*but always subject to the Subpostmaster \*using his\* reasonable endeavours to travel by the most cost-efficient method possible (eg. sharing cars, etc.).\*

**7.7** \*The Subpostmaster must use his best endeavours to provide Post Office with receipts for any Reasonable Travel Expenses.\*

**7.8** \*Post Office shall pay any Reasonable Travel Expenses \*within 28\* days of the Subpostmaster making a properly documented expenses claim\*.

**7.9** Post Office shall not be liable for any other costs or expenses incurred by the Subpostmaster including without limitation:

**7.9.1** The costs (including expenses and disbursements) of a Professional Advisor in excess of the Contribution.

**7.9.2** Those costs of a Professional Advisor which are not reasonable.

~~7.9.3~~ \*The costs of any other advisor who is not a Professional Advisor.\*

## General

Each Party agrees that it will not call or take steps to call the Mediator as a witness in any judicial or arbitral proceedings in any way connected with the Dispute or Mediation, or seek disclosure at any time of any notes taken by the Mediator at or in connection with the Mediation.

No agreement reached at the mediation shall be binding on the Parties unless and until reduced to writing and signed by or on behalf of the Parties.

The Mediator shall not be liable to any of the Parties for any act or omission or default of the Mediator in connection with the Mediation and the services rendered to the Parties in connection therewith, unless the act or omission or default is shown to be fraudulent or in bad faith.

This Agreement shall be subject to English Law and the Courts of England and Wales shall have exclusive jurisdiction to hear and determine all claims, disputes and differences that may arise out of or in connection with this Agreement and the Mediation.

~~8.5 This Agreement shall be signed by the Parties and each Party's solicitors where retained.~~

5.5 ~~8.6~~ The Mediator and ~~[INSERT NAME OF MEDIATION CHAMBERS]~~ shall be entitled to enforce the terms of this Agreement under the Contracts (rights of third parties) Act 1999.

Signed:

Subpostmaster

Name:

Date:

Signed:

For and on behalf of Post Office Limited

Name:

Date:

Signed:

For and on behalf of the Mediation  
Administrator

Name:

Date:

Document comparison by Workshare on 09 August 2013 20:00:47

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Format change	
Moved deletion	
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Deleted cell	
Moved cell	
Split/Merged cell	
Padding cell	

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