

Message

From: Rob King [REDACTED] GRO
on behalf of Rob King [REDACTED] GRO
Sent: 27/08/2014 11:14:59
To: Andy Hayward [REDACTED] GRO
CC: Dave Posnett [REDACTED] GRO
Subject: RE: Second Sight Part Two [BD-4A.FID20472253]

Thanks for your comment Andy

See below my initial comment from which the response has been prepared. I think the approach as suggested is the right one, SS are not qualified to comment on POL investigations therefore, our response should be minimal. Speak soon

Page 4 para 2.4 refers to Section 19, para 12

- In respect of interviews, Security Managers investigating allegations follow the process of the Police and Criminal Evidence Act [PACE] Code D. Unless the person requires an appropriate adult, PACE does not require any person other than a legal representative to be present if requested by the subject of the interview. The invitation to have a friend present is an additional element which forms part of Post Office policy for investigations.*

Page 4, para 2.8

- Security Managers do not as a general rule support Subpostmasters investigating their staff. However, there have been instances where a Subpostmaster suspects a member of staff and reports the matter, the Security Manager will support them; the installation of overt or covert CCTV is an example of this. If evidence is uncovered in such circumstances, it is generally investigated by police with the Investigation team providing liaison. There have also been instances where the Subpostmaster has dismissed a member of staff for gross misconduct following an alleged theft and the Security Manager or as in a recent case Royal Mail investigators provided evidence for the subpostmaster when the case has gone to the Employment Tribunal.*
- The Investigation Team is no longer called the Post Office Investigations Division. This is an outmoded term; Investigators are Security Managers who form part of the Security team and primarily act on behalf of the Post Office*

Page 5, para 2.9

- The subject of a PACE interview is entitled to legal representation during the interview and this is offered prior to it taking place and this right is retained during the process. On being informed of their right to legal advice the subject is served with a form and invited to sign it acknowledging that they were informed of legal advice and whether or not they wish to receive it.*

Page 13, para 8.5 Helen Rose comments

- I presume these comments refer to the fact that evidence of illicit transactional activity can be compromised by staff sharing their user ID's. This continues to be challenging where the burden of proof for criminal prosecution is beyond all reasonable doubt. Although detailed analysis and or interrogation of the persons financial affairs under the Proceeds of Crime Act will uncover significant evidence.*

Page 14, para 12.1

- Having recently discussed this point with Jarnail, our policy going forward is likely to be six years retention from the date the investigation was completed, regardless of whether any action was taken as a result.*

Page 19, Post Office Investigations

Para 17.1

- *With regard to shortfalls investigations, identifying the source of the loss is a key component where theft is to be proved. Despite assertions being made, it is my belief that Security Managers will always endeavour to identify the root cause of the loss as it is fundamental in establishing a strong case against the subject under investigation. It is important to note however that establishing the root cause of the loss can be compounded by the actions of the Subpostmaster in masking the theft through dishonest activity such as falsifying their accounts.*

Para 17.2

- *The decision to suspend is taken by the Contracts Advisor*

Para 17.4

- *This is not correct in my view, Security Managers will seek to obtain all the evidence they can to establish loss and prove or disprove whether a theft has taken place. Conducting an open and balanced enquiry is a basic principle of investigation. Investigations are not to my knowledge focused merely towards obtaining evidence of False Accounting. Having gathered the available evidence the case is presented to the Post Office legal team for comment and advice will be given should further evidence be required. The file is then sent to external lawyers for a decision on how best to progress. A test similar to the Crown Prosecution Service is applied to consider whether criminal prosecution is likely to be successful and whether or not the case is in the public interest. In the case of the former, having considered the burden of proof, a charge of False Accounting is usually more likely to be advised than a Theft as it satisfies the evidential element of the test.*

Para 17.5

- *As previous, Security Managers conducting investigations are influenced by advice and requests received from the Post Office in house legal team or external lawyers following the initial submission of the file. Security Managers will seek to obtain all the necessary evidence and have not in my view de-emphasised the need to establish the root cause. Again actions by the subject manipulating the system to mask their dishonest activity can make the loss difficult to understand. Regardless, Security Managers will seek to establish the cause of the loss as Theft is a far more substantial offence than False Accounting. Security Managers are primarily responsible for protecting public funds and investigating their loss.*

Para 17.6

- *Security Managers investigating allegations need to satisfy the criminal burden of proof which is beyond all reasonable doubt. Where there is prima facie evidence that a member of staff is concerned and not the subpostmaster, the matter will be pursued.. In circumstances where the burden of proof cannot be established to a criminal standard, then on the balance of probabilities the subpostmaster, who is ultimately responsible for the loss can deal with the member of staff for gross misconduct and recover the loss through civil action. Contractually as pointed out it is not the norm for Security Managers to support Subpostmasters in these circumstances, although it does happen. We have on occasions over the years supported Subpostmasters with the investigation of their employees and liaised with police. Although with reduced resource, our capacity to provide regular support with this has diminished.*

Para 17.8

- *Security Managers conducting investigations will always understand the relevance of Horizon as it creates a transactional audit of activity, a key element of the investigation. There may be occasions where the allegation does not concern Horizon such as a theft of mail liaison case, however in the majority of instances, Horizon and the data produced from it is a vital part of the case.*

Rob King I Senior Security Manager Operations

Security Team, 5th Floor Central Wing, 148 Old St, London, EC1V 9HQ



From: Andy Hayward
Sent: 27 August 2014 11:56
To: Rob King; Dave Posnett
Subject: RE: Second Sight Part Two [BD-4A.FID20472253]

My thoughts in red:

(Obviously there is the catch 22 scenario: i.e. by being 'dismissive/no comment' we may open ourselves to further criticism, versus replying and facing further challenges. However I do believe we should note some of the report and comment where applicable.

1. Second Sight at paragraphs 22.1 to 22.8 of the Report provide their opinion on the process that is undertaken by Post Office when it investigates criminal activity in branches.
2. This topic is outside the scope of the Scheme (which is to consider "Horizon and associated issues") and is also outside the scope of Second Sight's expertise. Second Sight, as forensic accountants and not criminal lawyers, are not qualified to comment on Post Office's prosecution processes and any opinion they offer is of little value.
3. This is highlighted by the fact that Second Sight say that the focus of Post Office investigators is to secure an admission of false accounting and not to consider the root cause of any losses. It should be noted that by falsifying the accounts (whether through the inflation of cash in hand or otherwise) subpostmasters or their assistants prevent Post Office from being able to identify the transactions that may have caused discrepancies and losses. The first step in identifying a genuine error is to determine the day's on which the cash position in the accounts is different from the cash on hand. Where the cash on hand figure has been falsely stated, this is not possible. The report focussed very much on false accounting as per the comment underlined above. I would refute this as the primary role of the security investigation is firstly to understand how the loss occurred (i.e. the M.O.). On this basis we obviously utilise M.I. (Horizon/Credence etc.), to identify this in the majority of cases. Thereafter only if criminality and or suspicion of is identified do we continue. 'False accounting' is but one charge levied at the suspect following the investigation, others being theft/money laundering. It could be argued that by understanding the main M.O.'s we could be criticised for not designing them out of the process/system, although the end result is that we are reliant on and expect a spmr to carry out transactions in a correct and honest manor!

Not sure whether we need to comment but the investigation usually arises via one of two main avenues: Audit and or remote monitoring of M.I.

4. The false accounting therefore hides any genuine errors from Post Office and the subpostmaster. It hides it at the time the losses occur and it remains the case now that Post Office is not able to identify which transactions may have caused the losses. Second Sight's view is therefore entirely incorrect which reflects the fact that this is an area in which it is not qualified to comment.
5. Given that this is topic on which Second Sight can offer no expert opinion, Post Office is refraining from commenting further save to confirm that it rejects all the Report's findings in this section.

IS POL HAPPY WITH THIS DISMISSIVE APPROACH OR WOULD YOU PREFER A MORE DETAILED LINE BY LINE COMMENTARY ON SECTION 22?

From: Rob King
Sent: 27 August 2014 10:31
To: Dave Posnett
Cc: Andy Hayward
Subject: Fw: Second Sight Part Two [BD-4A.FID20472253]

Dave,
 Also please page 25, response to section 22. I have previously commented on this section, but would be grateful for any comment. Cheers
 Rob

From: Rob King
Sent: Wednesday, August 27, 2014 10:24 AM
To: Dave Posnett
Cc: Andy Hayward
Subject: Fw: Second Sight Part Two [BD-4A.FID20472253]

Dave,
 Can you scan through para 27 down comments concerning fraud. Seems ok to me, but I'm not a practitioner
 Cheers
 Rob

From: Pheasant, Andrew [<mailto:andrew.pheasant@postoffice.co.uk>] **GRO**
Sent: Tuesday, August 26, 2014 07:10 PM
To: Belinda Crowe; Dave Hulbert; Andy Garner; Paul Inwood; Rod Ismay; Rob King; Sally Smith
Cc: Andy Holt; David Oliver; Angela Van-Den-Bogerd; Rodric Williams; John M Scott; Parsons, Andrew
Subject: RE: Second Sight Part Two [BD-4A.FID20472253]

Dear all,

Further to Belinda's email please find attached the first part of the working draft of the response to the Second Sight Part 2 Report.

We have segmented the response into sections to correspond with SS's Report. The draft to sections 14 - 22 are attached. Sections 4 - 13 will follow shortly. At this stage it is possible that POL may submit only the relevant sections of the response to applicants according to the issues raised within their cases. In addition, we will submit a covering

note/letter highlighting our general concerns about the Report (such as the lack of evidence to support the thematic issues and speculation on issues outside of the scope of their instructions and expertise). There are certain parts of the report where we have asked for more detail about the processes and procedures and I would be grateful if those details could be provided.

Please can you respond with comments on any relevant sections. If do not have any comments please just confirm it is a nil response. We will collate the responses and circulate final draft before submission.

If it would be easier to discuss any issues please feel free to call.

Best regards

Andy

Andrew Pheasant

Associate

for and on behalf of Bond Dickinson LLP

Bond Dickinson

Direct:
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Office:

GRO

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From: Belinda Crowe [mailto:**GRO**]

Sent: 22 August 2014 16:41

To: Dave Hulbert; Andy Garner; Paul Inwood; Rod Ismay; Rob King; Sally Smith

Cc: Andy Holt; David Oliver; Angela Van-Den-Bogerd; Rodric Williams; John M Scott; Parsons, Andrew; Pheasant, Andrew; Belinda Crowe

Subject: Second Sight Part Two

Hi all,

I think I have now spoken to most of you and very many thanks for your assistance with this. I attach, again for some of you, a copy of the Second Sight Part Two report. We will need to get a response out on this next week and Andy Parsons is holding the pen. Although we have a lot of the information we need, we still have some gaps and I think the easiest way to deal with this is to have a core team of experts from the business who can fill the gaps and also clear the final document. I hope it will not be too onerous, indeed we do not have time for it to be.

I also hope I've got every area covered but we will soon find out if not. Those of you that already provided some information for me, I can confirm that I have passed that on to Andy.

The aim is not to produce a critique of the report but a document which would stand alone but which deals with the themes and sets out the facts related to each one, making sure we address each point. I just wanted to join everyone up to get us started. Andy will pick it up from here.

Best wishes and thanks again

Belinda

Belinda Crowe

148 Old Street, LONDON, EC1V 9HQ

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