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Review of the first ten Final Case Review Reports (v1.0)**1. Introduction***Aim and method*

- 1.1 The aim of this document is to provide a short desktop review of the first ten Final Case Review Reports (CRRs) prepared by Second Sight.¹ Areas of enquiry include:
- What contents do the CRRs contain?
 - What methodology are the CRRs based on?
 - How have the CRRs been prepared?
- 1.2 The document is based on a review of the Draft and Final CRRs and the Post Office response letters to each Draft CRR (Annex B) along with other sources listed in Annex C. The estimation of the cost and timeliness of the production of the CRRs has involved a manual reconciliation of data which may contain errors and has not been externally validated (Annex A).²

Background

- 1.3 On 27 August 2013 Post Office launched The Initial Complaint Review and Mediation Scheme and a related Working Group. The Scheme is intended to help resolve the concerns of Subpostmasters regarding the Horizon system and other associated issues.³ Second Sight were commissioned to work with each Scheme Applicant and Post Office to gather information, investigate cases, and produce a Case Review summarising the findings and making a recommendation on whether the case is suitable for mediation.
- 1.4 According to the *Overview of the Initial Complaint Review and Mediation Scheme* the Case Review is intended to 'bring clarity to many cases' (p.2) and 'Second Sight will seek to determine whether there was a problem with Horizon (or any associated issue) that had an impact on [the Applicant]. If so, Second Sight will also try to determine the scale and scope of that impact on [the Applicant's] case' (p.7).
- 1.5 On 1 July 2014 Second Sight signed a letter of engagement.⁴ The scope of services includes:
- Investigating the specific complaints raised by each Subpostmaster who has been accepted into the Scheme...
 - Acting independently in providing the Services and any assessment or opinion given by Second Sight shall be without bias and based on the facts and evidence available
 - Acting with the skill and care expected of qualified and experienced accountants

¹ M006, M009, M022, M028, M048, M054, M057, M062, M076, and M127.

² Second Sight invoices (#86-#93) and Huddle upload data presented in the Excel Workbook entitled *Second Sight Activity, December 2013 - July 14 (v0.4)*.

³ Post Office (2014). *Scheme timeline*. p.9. This followed publication on 8 July 2013 of the Second Sight *Interim Report into alleged problems with the Horizon system*, with Second Sight work on Horizon related business having originally begun in June 2012.

⁴ Post Office (2014). *Second Sight Engagement Letter in relation to the Initial Complaint Review & Mediation Scheme*. 1 July. pp.6-7

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- Conducting the Services in an efficient manner and with a view to ensuring that the costs of the Scheme are reasonable
- Using its reasonable endeavours to comply with any deadlines or timeframes set by the Working Group

2. What contents do the CRRs contain?*Structure*

2.1 The ten Final CRRs all adopt a standard structure, using the following section headings:

- 1) Introduction
- 2) Points of common ground between the Post Office and the Subpostmaster
- 3) Points of disagreement between Post Office and the Subpostmaster
- 4) Where there is disagreement, a logical and fully evidenced opinion on the merits of that Subpostmaster's complaint where it is possible to do so
- 5) A summary of any points on which it is not possible to offer a fully evidenced opinion due to a lack of evidence/information
- 6) Is this case suitable for mediation?

These headings fall short of the requirements set out in the scope of services. Specifically, in Sections 2 and 3 to provide '*An assessment of...*' and in Section 6 to provide '*A view on...*'. Emphasis added.

Length

- 2.2 The ten Final CRRs are an average four and a half pages long, ranging from two and a half pages for M048 to ten pages for M022. Some of the content is standard across all the CRRs, reducing the bespoke content of each CRR by about a page. For example, each Introduction contains a standard description of Second Sight Support Services Limited and a Terms of Reference attributed to the Working Group (although the source for this is not mentioned).
- 2.3 Section 1 and Section 6 of each CRR are of consistent length, at about four paragraphs and one paragraph respectively. Section 2 to Section 5 vary greatly in length. For example, in M009 Section 4 is three paragraphs long whereas in M006 it is fourteen paragraphs (see Annex A i).

3. What methodology are the CRRs based on?*Method*

- 3.1 The introductions to the ten Final CRRs do not provide a description of the methodology by which investigations were conducted, only a reference to sources consulted and the Terms of Reference for the work. It is therefore hard to know how the CRRs have been prepared.

Sources

- 3.2 According to the *Overview of the Initial Complaint Review and Mediation Scheme*, Second Sight's investigation 'will be principally based on information provided by [the Applicant] and Post Office...' (p.8). Each CRR provides a list of sources that the report should be read in conjunction

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with (Paragraph 1.2) and a list of documents that Second Sight have been provided with (Paragraph 1.4). Detailed references for these documents are not given in either Paragraph. All of the CRRs mention the Applicant Initial Application, Case Questionnaire Response and Post Office's Investigation Report. Three of the CRRs (M022, M054 and 127) also mention the Applicant and/or Professional Advisor's response to further Second Sight questions.

Use of evidence

- 3.3 The CRRs contain reported speech from the Applicant although the source is not directly indicated. For example, CR127 states 'The Applicant remarks on "*numerous problems with the machine*"' (p.4). The CRRs also attribute comments from the Applicants that are not presented as reported speech and the source is again not indicated. For example, CR054 states 'The Applicant told us that...' (p.4). This can make it difficult to distinguish between what the applicant said and what is an interpretation of what the applicant said.
- 3.4 The CRRs make reference to Post Office evidence. For example, M048 mentions that 'Post Office records also show that...' (p.4), but further detail of these records is not provided. M127 states that 'Post Office has informed us...' and that 'Post Office has subsequently advised that...' (p.5), but no further details are given. M022 includes comments that are unattributed, stating 'we are advised that...' (p.5) and 'we were also told...' (p.8), but the source for these comments is not stated.
- 3.5 In Section 2 the CRRs present points of common ground between the Applicant and Post Office. For example, M006 states 'it is common ground that...' (p.3). In Section 3 the CRRs present Applicant and Post Office perspectives. For example M028 and M048 both use the phrases 'The Applicant states...' and 'Post Office believe...' (p.4). In Section 5 the CRRs allege that missing documents contribute to areas where an opinion is not given. For example, M054 states that '...key documents, available at the time were not preserved' (p.6) and M009 mentions 'the expiry of document retention' (p.5).

Assessment

- 3.6 Section 4 of the CRRs offer some opinion on the cases. For example, M022 states 'Taking all of these facts and circumstances into account, *we believe* that Post Office should bear a significant proportion of the responsibility for the losses that did occur' (p.10, emphasis added) and M009 states '*we do not find* the argument by Post Office... particularly compelling.' (p.4, emphasis added). M057 states '*we believe* on the balance of probabilities, that the applicant was responsible for the loss' (p.5, emphasis added) and M048 states 'On the balance of probabilities *we believe* that the losses were caused either by user error or theft...' (p.5, emphasis added). No explanation is given as to how the probabilities have been balanced.
- 3.7 M054 and M127 give the clearest presentation of the points of disagreement presented in Section 4. Both use bold subheadings to highlight the main points and introduce them with the phrase 'The following issues represent points of disagreement between Post Office and the Applicant' (p.4 and p.6 respectively). More than once, M054 states 'There is therefore a conflict of evidence on this point...' (p.4). No indication is given of how this 'conflict' should be resolved.

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3.8 For Section 6 all the CRRs recommend mediation. Limited (or no) reasoning is given and limited (or no) reference is made to the preceding content in the CRR. The fullest explanations are given in:

- M054, 'In our opinion, and recognising the conflicts of evidence reported in Section 3 above that remain unresolved, we believe that this case is suitable for Mediation...' (p.6). No indication is given as to how the 'conflicts' could be resolved.
- M009, 'In our opinion this case is a weak candidate for mediation... there are however, some matters such as the failure by Post Office to fully resolve the issues reported to it in 2005 and 2006 to the Applicant's satisfaction, that may benefit from mediation' (p.5). No explanation is given as to how the term 'weak' should be interpreted between cases.
- M062, 'In our opinion this case is a weak candidate for Mediation, primarily due to the fact that the Applicant accepted a Caution for false accounting. There are however, other matters such as the allegations of mis-advice and the difficulty in resolving the reported problems that may benefit from mediation.' (p.6)
- M057, 'In our opinion this case is a weak candidate for Mediation, primarily due to the fact that the key events occurred so long ago. However, some of the matters raised by the Applicant's Professional Advisor in commenting on our previously issued Draft Report, may benefit from mediation'. (p.6) The 'matters' are not specified.

The shortest explanations are given in M006, M022, M028, M048, M076, M127, which simply state 'We consider that...' or 'In our opinion this case is suitable for Mediation and the following issue should be considered'.

3.9 The Final CRRs have been used to: help inform the Working Group decision on whether to proceed to mediation; provide the Applicant with a third party analysis of the application; and support the mediation process or help the Applicant understand why their case has not progressed to mediation. The provision of a clearer and more detailed explanation as to why cases are (or are not) felt to be suitable for mediation could help reduce the need for plenary discussion of cases at Working Group.

4. How have the CRRs been prepared?

Timeliness and cost

4.1 The ten Final CRRs took an average of 11 weeks to produce, from the time the Post Office Investigation Reports were shared: seven weeks to reach Draft and an average four further weeks to reach Final. See Annex A ii). Work on the CRRs sometimes preceded receipt of the Post Office Investigation Report. For example, Invoice #86 attributes work to M009 in December 2013, although the Post Office Investigation Report wasn't shared until 30 April 2014.

4.2 The ten CRRs were subject to an average three weeks of slippage to reach Draft and two working days slippage to reach Final. Only one of the Draft CRRs was produced ahead of forecast (M022), whereas four of the Final CRRs were produced ahead of forecast (M022, M048, M054 and M076). This suggests the production of Draft CRRs was subject to more slippage than Final CRRs. See Annex A iii). A consequence of slippage has been to extend the time it takes to resolve cases

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and to hamper onward planning. Also, if multiple cases are delivered at once this also generates administrative challenges and delay.

- 4.3 The average cost attributed in the Second Sight invoices (#86-93) for the production of the ten Final CRRs is £4.5K per Report. This equates to an average of just under £1K per page and is likely to be an underestimate due to gaps in the invoice data. For example, M006 has only one hour of time attributed against it. The three cases with the highest attributed cost are M022, M127 and M009 (£12K, £11K and £8K respectively).

Revisions

The style of the CRRs has been subject to discussion at Working Group. In March 2013, the Chair prepared some tentative suggestions for Second Sight to consider as a way of approaching their work on the claims.⁵ On 1 May the Working Group discussed M022 - with a review to follow a week later to check how the comments had been taken on board.⁶ A range of concerns about quality were raised at this point by Post Office, including that:

- The Applicant would need the *Part One* report⁷
- The depth of analysis was not sufficient
- A clearer articulation was needed of the factual basis upon which conclusions were made
- Neutral language needed to be used
- The evidence used needed to be clearly balanced with any counterpoint brought forward
- Un-evidenced statements needed to be avoided
- Raising real or implied questions needed to be avoided
- It was going beyond Second Sight's areas of expertise

- 4.4 Upon receipt, each Draft CRR received a response letter from Post Office (Annex B). Each CRR was then subject to edits prior to delivery as a Final version.⁸ There is evidence from some of the CRRs (e.g. M028, M048 and M127) to suggest that the edits made tend to reflect the more minor points of detail raised by Post Office and do not always (fully) reflect or acknowledge the more major and substantive points raised by Post Office in their response letters.

- 4.5 For example, the Final CRR for M127 has edits which pick up comments made by Post Office on length of tenure (p.3) and the figure for total losses (p.5). It also has edits which provide a qualification that 'Although not accepted by Post Office...' (p.4) and a change from 'Both parties agree' to 'the Applicant has advised' (p.5). The frequency of power cuts is also reduced from 'a relatively large number' to 'a number' (p.6).

- 4.6 However, no edits were made to M127 to reflect or acknowledge that 'Post Office does not agree that the Applicant's approach to managing the ATM might indicate a failure on Post Office's part to offer access to appropriate training.' (Post Office Response Letter, p.8, and summarised on p.1). The Final CRR still reads 'The subsequent problems and failure to follow

⁵ SAH. (2014). *Note from SAH*. March

⁶ Working Group. (2014). *Initial Complaint Review and Mediation Scheme, Minute*. 1 May. pp.2-3

⁷ Second Sight (2014). *Mediation Briefing Report: Part One. Draft*. 16 May

⁸ Final CRRs with Track Changes displayed were reviewed for this exercise.

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procedures by the Applicant provides further confirmation that the training provided was inadequate in the circumstances.’ (M127, p.8).

- 4.7 Another instance is where Post Office comment that ‘...no evidence of theft or any other criminal wrong-doing has been found.’ (Post Office Response Letter, p.10). The text of the Final CRR remains unchanged stating ‘It is entirely possible that these two branches were subjected to such attacks, and Post Office’s failure to investigate either of the two substantial shortfalls... means that these types of external theft may have contributed to the losses.’ (M127, p.9). Although reference is made to ‘elegant techniques’, how such theft might work and why it could reasonably be expected to have occurred is not explained.
- 4.8 For case M028, the Final CRR has edits which change ‘the losses are... exceptionally large’ to ‘the losses are... significant’ (p.4). This follows a comment that ‘Post Office considers it would be helpful if supporting evidence were provided to show why the losses are considered to be exceptionally large in relation to the turnover of the branch’ (Post Office Response Letter, p.1). The requested supporting evidence is not provided in the Final CRR.
- 4.9 The text of the Final CRR for M028 states ‘It is unfortunate that further steps were not taken at the time to conclusively establish the cause of the losses. This appears to demonstrate a weakness in the support framework available to the Applicant’ (M028, p.5). This does not acknowledge or reflect the point made by Post Office that ‘The CRR does not explain what additional steps could have been taken to establish the cause of the losses conclusively. In fact Post Office went to significant lengths to investigate the cause of the shortfalls...’ (Post Office Response Letter, p.10).
- 4.10 With M048 Post Office state that it ‘has not seen any evidence of theft and, on balance, considers that user error was the more likely cause of the losses’ (Post Office Response Letter, p.1). This is not acknowledged in the Final CRR which states ‘On the balance of probabilities we believe that the reported losses were caused either by user error or theft’ (M048, p.5).

5. Findings and recommendations

Findings

- 5.1 This short review has found that the first ten Final CRRs:
- Use a standard structure of sub-headings (which elide ‘assessment of’ and ‘view on’)
 - Vary (sometimes greatly) in overall length and in the length of individual Sections
 - Provide no methodology, only mentioning major source documents and a Terms of Reference
 - Do not provide detailed referencing for the sources cited
 - Present Applicant and Post Office perspectives and in places offer opinion on the cases, particularly in Section 4
 - Do not always provide supporting evidence or reasoning to substantiate the points made
 - (for some CRRs) tend to reflect the more minor points of detail raised by Post Office and do not always (fully) reflect or acknowledge the more major and substantive points raised by Post Office in their response letters.

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- Provide limited (or no) explanation (or evidence) for why the case is suitable for mediation
- Took an average seven week to Draft plus a further average four weeks to Final
- Were subject to an average three weeks slippage to Draft and two days slippage to Final
- Have an attributed cost of £4.5K per Report or just under £1K per page of content, which is likely to be an underestimate due to gaps in the invoice data
- Have been subject to minuted Working Group concerns over their style and quality

Recommendations

5.2 Based on this short review of the first ten Final Reports, and in order for the CRRs to deliver against what is required from the Terms of Reference and Scheme documentation , it is recommended that:

- The production of remaining Final CRRs are subject to cost, quality and timeliness control
- The level of assessment offered in the CRRs is increased, with the reasoning made clear and links provided to the relevant evidence
- More detailed explanation is given as to why cases are (or are not) suitable for mediation - with reference to the findings in the report
- Explanation of alternative views is provided and an opinion given as to which is to be preferred and why
- The precision of the referencing and citations is improved
- Delivery is regularly measured against the Scope of Services and Scheme objectives
- The level of case specific detail in the supporting invoices is increased

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Annexes

A. Data

- i) Cost, timeliness and content data for the 10 Final CRRs (Source: Second Sight Invoices).

Attributed cost likely an underestimate for some cases (e.g. M006).

Case	Work started	Final shared	Working Days	Weeks	Attributed hrs	Attributed cost	Page Count	Cost / Page	Paragraph Count (Total and by Section)						
									Total	1	2	3	4	5	6
M006	30-Jun	04-Aug	26	5	1.0	£ 150	6	£ 25	32	7	1	8	14	1	1
M009	22-Dec	20-Aug	173	35	55.6	£ 8,336	3	£ 2,779	18	8	1	3	3	2	1
M022	02-Apr	13-Jun	53	11	82.2	£ 12,336	10	£ 1,234	69	8	12	28	11	9	1
M028	12-Jun	01-Jul	14	3	12.2	£ 1,825	3	£ 608	22	11	1	3	5	1	1
M048	05-Jun	20-Jun	12	2	12.5	£ 1,869	2.5	£ 747	23	9	1	3	6	3	1
M054	14-Apr	11-Jun	43	9	29.3	£ 4,390	4	£ 1,097	29	10	3	6	7	2	1
M057	28-Jul	08-Aug	10	2	10.3	£ 1,550	3.5	£ 443	21	11	1	2	5	1	1
M062	20-Jun	31-Jul	30	6	15.3	£ 2,289	3	£ 763	20	10	1	2	4	2	1
M076	07-Jun	20-Jun	10	2	8.1	£ 1,219	3	£ 406	21	8	1	2	6	3	1
M127	09-Apr	13-Jun	48	10	75.1	£ 11,261	8	£ 1,408	53	16	14	10	5	7	1
			42	8	30.1	£ 4,522	4.6	£ 983	30.8	10	4	7	7	3	1
Average															

- ii) Timeliness of production for the 10 CRRs to Draft and Final (Source: Huddle data).

Case	POIR shared	Draft shared	POIR to Draft		Final shared	Draft to Final		POIR to Final	
			Work Days	Weeks		Work Days	Weeks	Work Days	Weeks
M006	06-Jun	01-Jul	18	4	04-Aug	25	5	43	9
M009	30-Apr	28-Jul	64	13	20-Aug	18	4	82	16
M022	24-Apr	16-May	17	3	13-Jun	21	4	38	8
M028	02-May	13-Jun	31	6	01-Jul	13	3	44	9
M048	15-Apr	06-Jun	39	8	20-Jun	11	2	50	10
M054	10-Apr	29-May	36	7	11-Jun	10	2	46	9
M057	08-May	04-Jul	42	8	08-Aug	26	5	68	14
M062	30-Apr	20-Jun	38	8	31-Jul	30	6	68	14
M076	17-Apr	06-Jun	37	7	20-Jun	11	2	48	10
M127	24-Apr	23-May	22	4	13-Jun	16	3	38	8
			34	7		18	4	53	11
Average						Average			

- iii) Change in Draft and Final due date for the 10 Final CRRs (Source: Huddle data).

Case	POIR shared	Draft CRR due date (1)	Draft CRR due date (2)	Draft CRR due date (3)	Draft CRR due date (4)	Draft shared	POIR to Draft slippage (work days)	Final CRR due date (1)	Final CRR due date (2)	Final CRR due date (3)	Final shared	Draft to Final slippage (work days)
M006	06-Jun	20-Jun	27-Jun	-	-	01-Jul	8	18-Jul	01-Aug	-	04-Aug	12
M009	30-Apr	28-May	27-Jun	11-Jul	25-Jul	28-Jul	44	13-Aug	-	-	13-Aug	1
M022	24-Apr	22-May	-	-	-	16-May	-5	18-Jun	13-Jun	-	13-Jun	-4
M028	02-May	30-May	13-Jun	-	-	13-Jun	11	01-Jul	-	-	01-Jul	1
M048	15-Apr	13-May	06-Jun	-	-	06-Jun	19	24-Jun	-	-	20-Jun	-3
M054	10-Apr	08-May	28-May	-	-	29-May	16	13-Jun	-	-	11-Jun	-3
M057	08-May	05-Jun	20-Jun	27-Jun	-	04-Jul	22	22-Jul	01-Aug	08-Aug	08-Aug	14
M062	30-Apr	28-May	13-Jun	20-Jun	-	20-Jun	18	29-Jul	01-Aug	-	31-Jul	3
M076	17-Apr	15-May	06-Jun	-	-	06-Jun	17	24-Jun	20-Jun	-	20-Jun	-3
M127	24-Apr	22-May	-	-	-	23-May	2	11-Jun	-	-	13-Jun	3
							15.2					2.1
Average								Average				

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B. Draft and Final Case Review Reports and Post Office Responses

Post Office (2014). Post Office's Response to Second Sight's CRR on case M006. 9 July

Post Office (2014). Post Office's Response to Second Sight's Draft CRR on case M009. 6 August

Post Office (2014). Post Office's Response to Second Sight's CRR on case M022. 5 June

Post Office (2014). Post Office's Response to Second Sight's Draft CRR on case M028. 24 June

Post Office (2014). Post Office's Response to Second Sight's Draft CRR on case M048. 17 June

Post Office (2014). Post Office's Response to Second Sight's CRR on case M054. 6 June

Post Office (2014). Post Office's Response to Second Sight's CRR on case M057. 15 July

Post Office (2014). Post Office's Response to Second Sight's CRR on case M062. 1 July

Post Office (2014). Post Office's Response to Second Sight's Draft CRR on case M076. 17 June

Post Office (2014). Post Office's Response to Second Sight's CRR on case M127. 4 June

Second Sight. (2014). *Case Review Report. Case Reference: M006.* 1 August

Second Sight. (2014). *Case Review Report. Case Reference: M006. DRAFT.* 30 June

Second Sight. (2014). *Case Review Report. Case Reference: M009.* 18 August

Second Sight. (2014). *Case Review Report. Case Reference: M009. DRAFT.* 25 July

Second Sight. (2014). *Case Review Report. Case Reference: M022.* 13 June

Second Sight. (2014). *Case Review Report. Case Reference: M022. DRAFT.* 13 May

Second Sight. (2014). *Case Review Report. Case Reference: M028.* 30 June

Second Sight. (2014). *Case Review Report. Case Reference: M028. DRAFT.* 13 June

Second Sight. (2014). *Case Review Report. Case Reference: M048.* 20 June

Second Sight. (2014). *Case Review Report. Case Reference: M048. DRAFT.* 6 June

Second Sight. (2014). *Case Review Report. Case Reference: M054.* 11 June

Second Sight. (2014). *Case Review Report. Case Reference: M054. DRAFT.* 28 May

Second Sight. (2014). *Case Review Report. Case Reference: M057.* 8 August

Second Sight. (2014). *Case Review Report. Case Reference: M057. DRAFT.* 4 July

Second Sight. (2014). *Case Review Report. Case Reference: M062.* 31 July

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Second Sight. (2014). *Case Review Report. Case Reference: M076*. 20 June

Second Sight. (2014). *Case Review Report. Case Reference: M076. DRAFT*. 7 June

Second Sight. (2014). *Case Review Report. Case Reference: M127*. 13 June

Second Sight. (2014). *Case Review Report. Case Reference: M127. DRAFT*. 23 May

C. Other sources

Post Office. (2014). *Scheme Timeline*

Post Office. (2014). *Second Sight Activity, December 2013 - July 14 (v0.4)*.

Post Office. (2014). *Second Sight Engagement Letter in relation to the Initial Complaint Review & Mediation Scheme*. 1 July

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