

Thank you for sending through a draft of the Part Two Mediation Briefing Report for comment. You have asked for factual comments in the first instance but, having undertaken a quick, but thorough review Post Office considers it necessary, and more important at this stage, to set out in writing a number of substantive issues.

Many of the comments that follow are similar to ones we have made previously on a number of occasions in various discussions and exchanges about documents Second Sight has produced during the period of your engagement. However, as this report raises similar issues yet again, Post Office now considers it necessary to make these points formally in writing.

For the avoidance of doubt, the comments that follow are in no way aimed at fettering Second Sight's independence. The aim of these comments is to support the production of a high quality report which assists the Applicants and the success of the Scheme – an aim which I am sure we all share.

In summary, Post Office considers that the report as drafted falls well below the standard Post Office would expect from a firm of forensic accountants engaged to prepare independent evidence-based reports. The provisions set out in the letter of engagement between Post Office and Second Sight require, among other things, that:

- Although Post Office is engaging Second Sight, Second Sight is to act independently in providing the Services and any assessments or opinion given by Second Sight shall be without bias and based on the facts and evidence available. (Paragraph 4 of Schedule 1)
- In providing the Services, Second Sight shall act with the skill and care of qualified experienced accountants... (Paragraph 5.1 of Schedule 1)

For the reasons set out under the various headings below, Post Office does not consider that the report as drafted, or the approach taken by Second Sight in the report, meets those requirements. This is particularly concerning because Second Sight has been engaged continuously by Post Office since 2012, during which time Post Office has invested a considerable amount of valuable time and resource to provide Second Sight with a significant amount of information, in some instances on more than one occasion, to assist their investigation into Horizon.

Post Office does not consider it unreasonable therefore to take the view that Second Sight has had more than sufficient time, opportunity, information and evidence available to them to produce a comprehensive, balanced, evidence-based analysis of the issues they seek to address in the report.

Above all else, the key point Post Office wishes to make is that, as drafted, the report does nothing to advance the Applicants' position or assist with the satisfactory operation of the Scheme. It contains a considerable amount of speculative commentary, numerous inaccuracies and fails to draw conclusions on key issues, while also lacking useful information and analysis. This is likely to create unrealistic expectations for Applicants which is likely to confuse matters at mediation and make resolution of Applications more difficult.

Evidence, analysis and context

The report fails to set out facts and evidence but draws conclusions in many places, thus leaving unhelpful, ambiguous and speculative assertions on which readers are then left to draw their own conclusions. It lacks examples or statistics to substantiate speculative conclusions it does draw.

The Report also fails to describe the overarching methodology used by Second Sight to examine the issues presented. These are fundamental requirements for a report purporting to provide an investigative analysis.

The report in several instances refers to "Subpostmasters" generally rather than "Applicants" and contains no statistical data to explain the context – for example the number of Applicants compared to the number of subpostmasters generally who have not complained to the Scheme, the number of detailed cases Second Sight have reviewed and, importantly, when referring to 'a number' or 'many' subpostmasters having raised concerns, what that number is and whether or not the concerns have been investigated or whether they remain untested.

For the avoidance of doubt, Post Office accepts that Second Sight may challenge facts, information and evidence which Post Office has advanced. However Post Office considers that for the report to be independent and evidence-based, it must analyse and set out the evidence, facts and information it has identified which supports the matters it challenges and any conclusions it draws.

Scope

The scope of Second Sight's original investigation, and the matters which are in scope of the Scheme are matters related to Horizon and associated issues. That is made clear on the Application Form. Matters such as subpostmaster contracts and criminal, or indeed any other, legal matters are not reasonably related (or related at all) to issues "concerning Horizon and any associated issues". For the purpose of Second Sight's investigations, the matter of the contract is relevant only to the extent to that it provides the benchmark against which the actions of Post Office and Applicants should be assessed.

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

Second Sight qualifications and competence

Second Sight, as a firm of accountants, are not qualified to opine on legal matters, including matters relating to contracts or criminal investigations, nor has Second Sight been engaged under the Engagement Terms to do so. Neither Post Office nor the Working Group (nor, indeed, a mediator) can sensibly give much weight to Second Sight's commentary on legal matters in its report.

Post Office, therefore, believes that it is inappropriate for Second Sight to refer to such matters in the report. If Second Sight does, nevertheless, do so, it must make Post Office's position clear for the benefit of the Applicants and the mediator and if it fails to do so, Post Office will be compelled to make the point to Applicants independently.

Accurate information and analysis to support the Applicant and the mediator

Post Office originally agreed to Second Sight's suggestion that a comprehensive generic report being provided with individual case reports would assist Second Sight by avoiding the need to provide detailed assessment and analysis of issues raised in applications in every case. In agreeing to this approach, Post Office has always expected that the generic report would contain

that more detailed analysis to assist the Applicants to understand the issues they have raised and that may be discussed should their case proceed to mediation. As we say above, the report as drafted provides no such assistance and risks setting unrealistic expectations.

Post Office considers it imperative that the Report is significantly improved and brought up to the required standard. Further, Post Office cannot allow many of the un-evidenced assertions set out in the Report to go unchallenged. If not substantively amended, Post Office will be forced to set out the correct facts and provide its own analysis of the issues and present them when commenting on Second Sight's draft CRR so that they will be made available to Applicants. Post Office would prefer to avoid this outcome, as it would do little for the credibility of the Scheme, and would favour greater engagement by Second Sight on the issues so that they might be presented accurately and factually in a way that would truly benefit Applicants and the Scheme.

In conclusion, Post Office remains of the view and stresses that Second Sight's status as a credible independent investigator is key to the success of the Scheme. Post Office is not looking to fetter that independence. Nor is Post Office seeking to impede the success of the Scheme in any way (as is clear from the fact that Post Office continues to investigate Horizon and associated issues despite the fact that no systemic issues have been found after two years of Second Sight investigations). However, that position does not extend to approving a Report which contains material that is incorrect and unsupported by evidence or that lends greater weight to the anecdotal (and largely untested) evidence of Applicants whilst ignoring the factual information provided by Post Office. If they are not prepared to consider all sides' view equally, plainly, Second Sight risks losing the perception that it is impartial.

Annexed to this letter are some initial comments relating specifically to the detail of the report and, again, Post Office would urge Second Sight to meet with Post Office to go through the report to ensure that it properly reflects the facts [and relevant issues].