

Post Office Mediation Scheme

DRAFT

Second Sight - Case Review Report

Case Reference: M118

Applicant: Carl PAGE

Advisor: Tom Cleary (Frisby & Co Solicitors)

28 May 2015

This draft report and accompanying documents are confidential and are not to be disclosed to any person other than a person involved in the processing of the Applicant's claims through the Scheme.

1. Introduction

1.1. This report has been prepared by Second Sight, which is the trading name of Second Sight Support Services Limited, the company appointed to conduct an independent investigation of a number of matters raised by Subpostmasters, or former Subpostmasters.

1.2. This report should be read in conjunction with the following:

- a) the documents submitted by the Applicant and his Professional Advisor;
- b) Post Office's Investigation Report ('POIR') including attachments;
- c) Second Sight's Briefing Report - Part One; and
- d) Second Sight's Briefing Report - Part Two.

1.3. The Terms of Reference for Second Sight as set by the Mediation Working Group for this work are as follows:

- a) To investigate the specific complaints raised by each Subpostmaster who has been accepted into the Scheme with the aim of providing:
 - i. an assessment of points of common ground between Post Office and that Subpostmaster;
 - ii. an assessment of points of disagreement between Post Office and that Subpostmaster;
 - iii. 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;
 - iv. a summary of any points on which it is not possible to offer a fully evidenced opinion due to a lack of evidence/information;
 - v. a view on whether a case is suitable for mediation; and
 - vi. assisting with any reasonable requests made by the Working Group and/or Post Office.

1.4. Second Sight has been provided with the following documents:

- a) the Initial Application to the mediation scheme submitted by the Applicant;
- b) the Case Questionnaire Response ('CQR') submitted by the Applicant's Professional Advisor; and
- c) Post Office's Investigation Report ('POIR'), prepared in response to the above mentioned documents.

1.5. The following are the issues raised by the Applicant:

- a) responsibility for losses that total £282,000.00 (of which the Applicant pleaded guilty to stealing £94,000.00);
- b) mis-advice by Post Office's Helpline (including his having, he alleges, been told that he could sell currency at below-market rates "*as long as he showed a weekly profit*");
- c) adequacy of training and support, including Helpline and Audit;
- d) Post Office's Investigations and Prosecutions processes; and
- e) other consequential losses, not dealt with in this report, but which may be raised if the case progresses to mediation.

1.6. This report focuses on the results of our efforts to determine how a branch shortfall, that Post Office asserts to have comprised "*a shortage of foreign currency having a sterling equivalent of £282,000.00*", is likely to have arisen. We have focussed on this because the Applicant repeatedly denies, despite his guilty plea, that he ever stole anything at all. We have therefore also focussed on the Applicant's prosecution and conviction for the theft of £94,000.00, the basis of his plea having been that "*the remaining £188,000 may have been the result of incompetent accounting or possibly theft by other person(s)*". Other issues, not all of which are dealt with in detail in this report, may however be relevant to the mediation process in the unlikely event that this case does proceed to mediation.

1.7. The main drivers of the losses are alleged by the Applicant to be mis-advice by Post Office, including his assertion that his Post Office Line Manager, Mr Geraty, had not only given him permission, when he had first asked whether he was allowed to sell foreign currency at preferential rates, but that, throughout the ensuing years, neither Mr Geraty, nor anyone else in Post Office, so much as suggested that he was doing anything wrong until both he and his customer were arrested in January 2003. The Applicant criticises Post Office's training and support, as well as its audit and investigation processes, asserting that its two prosecutions of him were largely baseless in that, although he concedes that the branch audit did disclose a large apparent currency shortfall (with a sterling equivalent of £282,000.00), there was never any evidence as to where the missing money had gone. He says that no evidence was offered to show that he had stolen anything nor, for that matter, was there any evidence to show that any branch funds had been stolen by anyone else.

1.8. The Applicant was in post as Subpostmaster of the six-position Rugeley branch from 1 April 1997 until his Contract was terminated on 14 January 2003. The Applicant and his wife (now ex-wife) had bought from Post Office, at a cost of £102,496.00 including VAT, a ten year licence to run the branch. Classifies as a 'Modified Sub Post Office', it had formerly been a Crown Office and had an adjacent Royal Mail Sorting Office, but no Bureau de change until the Applicant, with Post Office's approval, created one in 1998. The branch won an award in 2000 for increasing its sales of foreign currency, receiving a certificate from Royal Mail.

- 1.9. The branch had established nine separate stock units: one for each of the six counter clerks plus one for the 'philatelic unit' (a stamp-vending machine mounted to the exterior wall of the building), one called the 'BU' for the Bureau de Change and one called the 'AM' (Assistant Manager's) stock unit which (where bulk cash, bulk foreign currency, bulk stamps and other stock was recorded in Horizon).
- 1.10. The Applicant was suspended, on 14 January 2003, after an Audit had discovered a shortfall that was initially stated as amounting to £645,345.18. The bulk of that shortage related to five cheques, aggregating to £638,675.65, that had been seized by the Police prior to the audit and that had therefore not been included in the cash on hand and stock figures counted by the auditors. The Audit also concluded that £282,000.00 worth of foreign currency, which Post Office asserts should have at that time been held at the branch, was not present. It remains unclear to us how, if the branch shortfall, once those cheques were taken into account, was only £6,669.53 (i.e. £645,345.18 minus £638,675.65) that figure could have included a currency shortfall with a sterling equivalent of £282,000.00.
- 1.11. The Applicant says that the foreign currency shortfall revealed by the Audit was illusory, and that, if it was real, then it may have been caused either through errors by branch staff, or the false starting point for the 'Audit', which he says was "*actually just a Stock Count*".
- 1.12. Post Office initiated a civil claim to recover the £282,000.00 but that was never concluded and instead it brought criminal charges against the Applicant and his customer for conspiracy to defraud and a separate charge of theft, in the amount of £282,000.00, against the Applicant alone. After a nine week trial, the conspiracy charge had resulted in an acquittal, whilst the theft trial resulted in a hung jury. Post Office then initiated a retrial on the theft charge, again in the amount of £282,000.00. The Applicant pleaded guilty to stealing £94,000.00 and was consequently convicted on the theft charge. He spent about three weeks in prison before being moved to an open prison. He was released on tag after about six months.
- 1.13. Post Office asserts, in its POIR, that the total losses that it suffered as a result of this branch's foreign currency dealings, exceeded £900,000. That figure includes the branch's currency shortfall of £282,000.00 and a further £630,000.00 in lost profits (i.e. profits that it claims it would have made if the currency had been sold at non-beneficial rates).

2. Points of common ground between the Applicant and Post Office

- 2.1. It is common ground that an Audit of the Applicant's branch on 14 January 2003 discovered a shortfall of £645,345.18¹, although the amount of the true shortfall was later much lower than that, once the five cheques referred to in paragraph 1.9. above, that had been seized by the Police on 13 January 2003, were taken into account. The Applicant continues to assert, however, that he has no idea how the branch's shortfall arose.
- 2.2. The Applicant does not dispute Post Office's assertion that it is now clear (though he consistently asserts that it was not clear to him at the time) that, by granting beneficial

exchange rates to his customer (referred to throughout this report as [GRO], that customer was able to make an estimated profit of £630,000 by routinely selling the notes that he bought from the Rugely branch to other Bureaux de Change (principally Thomas Cook).

- 2.3. It is also common ground that the Applicant was found not guilty following a trial on a charge of conspiracy to defraud. On the day of his retrial he pleaded guilty to theft on an agreed basis of plea where the amount stolen was recorded as £94,000.00, the jury at the original trial having been unable to reach a verdict.

3. Points of disagreement between Post Office and the Subpostmaster

- 3.1. The Applicant says that he was misadvised by his Retail Line Manager, in that he says he was given authority to provide special foreign currency exchange rates to the customer [GRO] with whom he was later accused of conspiring to steal from Post Office. He says that Post Office was fully aware of all the transactions relating to [GRO] and that they were never queried, which gave support to his conclusion that he was doing nothing wrong.
- 3.2. In relation to training and support, the Applicant says that despite being aware of the high number of Transaction Corrections (TCs) issued to the branch, no further training was provided to him by Post Office. In his court testimony, he also says that he only had two hours training in operating his new Bureau de change.
- 3.3. The Applicant also says that the prosecution was based on an Audit, which was not verified against source documents, or critically examined, and that Post Office could not say when the money was stolen, where from, or by what means. He says that the prosecution against him should therefore never have ensued.
- 3.4. It is Post Office's conclusion that the Applicant's conviction was correct and that the Applicant stole at least the £94,000.00, as reflected by his plea of guilty.

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

- 4.1. In relation to his complaint of misadvice, the Applicant says that his Retail Line Manager, and main point of contact with Post Office, was Steve Geraty. He says that Mr. Geraty, who had who had worked in the Post Office for many years, had encouraged him and his ex-wife to try new ventures. He says that Mr. Geraty helped them to introduce the Bureau de change and National Lottery. The Applicant also says that Mr. Geraty suggested to him that he could provide favourable exchange rates for his customer, [GRO] who wanted to purchase large quantities of foreign currency, *"provided those rates were attractive enough"*. The Applicant says that Geraty told him that he could sell currency at a any level *"as long as the rates ensured that everyone gained"*, noting that would be the case *"as long as the rates he used were always higher than the retail buyback rate so that Post Office would still make a profit"*. It would appear, however, that, if that advice was given, then, despite it being followed by the Applicant and his staff for many years, it was never criticised by anyone in Post Office. Equally, it never

resulted in the establishment of a properly authorised contractual 'Corporate Customer' relationship between [GRO] company, RPX Recycled Plastics Ltd, and Post Office. Indeed, we have found no evidence that any properly-authorised Corporate Customer relationships were ever established at this branch, nor any evidence that Post Office ever noticed that fact, despite the branch's substantial, award-winning, currency sales volumes; several branch audits; the fact that Post Office had, at that time, fewer than 40 registered 'Corporate Customers' in the whole of the UK; and despite the Applicant having personally contacted, in December 2002, Post Office's specialist foreign currency unit in Hemel Hempstead when he tried to find a more efficient and less expensive (to Post Office) arrangement for sending those frequent and large quantities of Euros to his branch (this is referred on page 47 of 86 in File 7 part 2 of the Court documents).

- 4.2. The Applicant says that, as a result of Mr. Geraty's suggestion and assurances, he and his staff sold foreign currency to [GRO] at favourable rates that were slightly higher than the daily 'sell rate' faxed each day to his branch by Post Office. The Applicant said that he *"assumed that Mr Geraty had cleared this arrangement with others in Post Office"*, and that, *"since all the transactions showed the rate at which the currency was being sold"* (but see our observations on this matter in paragraph 4.6. below), and *"because none of those had resulted in any queries, he had no reason to suspect that Post Office had any issues with the sales"*. The Applicant asserts that, at the first trial, Post Office confirmed that, whilst it had a policy that any branch ordering a substantial quantity of foreign currency should be telephoned first, no such calls were ever made to his branch. We have seen no evidence that supports that assertion, although we do note that the Court documents (all of which have been supplied by the Applicant's Professional Advisor and none at all by Post Office) are incomplete.
- 4.3. We have examined the two Witness Statements, dated 14 February 2003 and 15 May 2003 provided by Mr Steve Geraty (see document entitled 'Geraty Statements') but they provide virtually no useful information, the first merely stating that Geraty had worked for the Royal Mail Group for 31 years and that he had indeed been a Retail Network Manager with responsibilities that included the Rugely branch but stating, rather unhelpfully in our view: *"when I began covering this office as Retail Network Manager the office did not conduct bureau de change transactions, and it is my belief that Carl Page began doing these transactions at a later date. As this happened some four years ago I cannot recall too many other details"*. The later Witness Statement added very little, comprising only three sentences, and including the remarks: *"I can state that I as a Retail Network Manager for Post Office Ltd do not have the authority nor would I sanction an agent or Subpostmaster to sell products or provide services for less than the specified monetary value either as stipulated by Post Office Ltd or its clients for whom products are sold by Post Office Ltd on their behalf. This includes the Bureau de Change product for which our joint partner First Rate Travel stipulates the selling and buying exchange rates for all currencies and travellers cheques sold at Post Office outlets"*. We note that Mr Geraty does not deny here that he gave the Applicant the permission that the Applicant asserts he did, merely that he (Geraty) *did not have the authority to give such permission*, that being a somewhat self-evident fact. The Applicant's Professional Advisor, who attended the trial, has verbally reported to us his *"clear recollection"* that, under oath as a Witness for the Crown, Geraty, when cross-examined, have seen uncorroborated references to the effect that Mr

Geraty stated that he "*could not remember approving the sales of foreign currency to AW at special rates*". Unfortunately, we have been unable to reach any better evidenced conclusions on the critical issue of whether the Applicant was telling the truth about Mr Geraty having 'approved' the offering of beneficial rates to [GRO] and whether Mr. Geraty's memory lapse was real or feigned. That key issue was raised in the cross-examination of the Applicant during the first trial (see transcript at page 92 of 106 of File 7 part 3 of the Court documents). Pages 38 and 39 of 62 of File 7 part 4 also repeat the Applicant's testimony as to Mr Geraty's approval of preferential rates being made available to [GRO] even though that was, in the words of the Crown's QC, "*dead against the rules*". Post Office says that "*Mr Geraty is no longer in the business and so Post Office has been unable to obtain his comments. However, there is no evidence to support that Mr Geraty knew of or sanctioned such a practice*". It is interesting that there is no testimony on this matter from the Applicant's ex-wife, she having been, according to the Applicant, present when the matter was discussed with Mr Geraty.

- 4.4. We have, however, noted (from the Court transcript shown on page 32 of 86 in file 7 part 2 of the Legal File documents) that the Applicant, while giving evidence under oath, describes a situation where he used to routinely (i.e. several times a week) take car tax discs out to a Used Car Dealership and issue large numbers of them at the Dealership. This would, of course, have been a serious breach of Post Office's security rules. The Applicant, asked in Court what Mr Geraty had said, when he heard what he (the Applicant) had been doing, testified that Mr Geraty had said "*As long as there's no comebacks and the Post Office don't know. If they do know, I don't know anything about it*". Once again, in the absence of any evidence to inform us whether this alleged statement by Mr Geraty was addressed by the Court in its questioning of him, and without therefore knowing whether Mr Geraty admitted or denied that alleged 'wilful blindness', we have been unable to assess whether Mr Geraty's alleged statement (that he could not remember approving the request, made both by the Applicant and his ex-wife, to offer [GRO] preferential foreign exchange dealing rates), can be relied upon (see pages 34 and 35 of 86 of the Court transcript). We note that Post Office's QC refers to this matter, at that point in the trial, as being "*central*" to the case, which is why we have asked Post Office to reveal to us how Mr Geraty responded, under oath, when his alleged 'approvals' (of practices that were meant to be unacceptable to Post Office) were put to him in Court. We invite Post Office to clarify this important matter when it responds to this Draft Case Review Report.
- 4.5. It is not clear to us why, if Post Office had no intention of allowing Subpostmasters to over-ride the rates that were faxed to them each day, the system would have allowed that to happen. In other words, why would Post Office's Standard Operating Procedures be designed in a manner that required every Subpostmaster (running a Bureau de Change) in the country to have to key in all the FX rates every day. It seems obvious to us that such a process could have been expected to result in errors being made but also, as in this case, it introduced a substantial exposure to material financial loss to Post Office. This risk not having been *prevented* (i.e. by being designed out of the system), there also seems to us to have been no after-the-event control designed to *detect* accidental keying errors or inappropriately generous (loss-generating) rate over-rides. We regard those as control deficiencies (in our parlance "*deficiencies in error and fraud repellency*") for which Post Office itself must accept responsibility. We regard it as germane to note that the Applicant says that he had been

granting preferential rates to customers (as well as extraordinarily favourable rates to [GRO] when he visited the branch, at a frequency of up to four, or even five, times a week, for nearly four years, and on very large transactions for over eleven months) before the fact that those transactions produced a net loss for Post Office was discovered. Even then, it was Customs and Excise, not Post Office, that 'discovered' the problem and only then after Euros having a sterling equivalent of over £11 million had been sold to [GRO]. This provides, in our view, compelling evidence that Post Office had no proper system of control to prevent, or even to detect after-the-event, materially off-market Foreign Exchange deals, nor any process to detect and investigate the propriety of very large transactions that ought to have been flagged up as indicative of potential money laundering and that in any event were, in every instance, generating material financial losses for it.

- 4.6. It appears to us that Post Office was 'blind' to those material financial losses because its single-currency Horizon accounting system aggregated together, into one weekly 'Sterling Equivalent' figure, so many transactions, across so many Bureaux de Change throughout the country, that this branch's aberrant transactions became subsumed among all the others... and therefore disappeared from its field of vision. The process designed by Post Office did not require individual FX transactions to be reported to it. Rather, the *net financial impact* of all of each branch's FX transactions were reported only as *one lump sum* in a weekly 'Revaluation' figure. This process was, in our view, deeply flawed and functionally inadequate in its initial design. This design flaw is, in our view, acknowledged in the comments made by and to Post Office's Investigator Manish Patel in the 14 January 2003 interview (see transcript at pages 196, 197, 199, 200 and 292 of the Court documents supplied by the Applicant's Professional Advisor). Indeed, on page 292 of the Court documents (to be found at page 20 of 85 in File 4 part 4 in those Court Documents), Patel acknowledges "*your revaluation figures should have been very high compared to what they were and granted maybe those should have been picked up by the Business earlier but they weren't*".
- 4.7. We question why the aggregation of so many branches' holdings of so many currencies, into one 'Sterling Equivalent' that was only accounted for at the end of each week, was ever determined by Post Office to be functionally adequate. By comparison, banks and other entities that deal in multiple Foreign Currencies, all have Multi-currency Accounting Systems, whereas Horizon is a Single-currency system that can only hold balances expressed in Pounds Sterling. This meant that, instead of being able to tell, at any point, how many notes of each currency was held in every one of its branches, Post Office only knew, once a week, what the Sterling Equivalent of the *aggregate* of each branch's holdings of all currencies was. Post Office was consequently unable to account for its many branches' holdings of multiple currencies in the way that any bank would be able to. In our view, consolidating so many branches' holdings of so many currencies into just one massive 'Sterling Equivalent' figure was guaranteed to result in the sort of serious and undetected problems that occurred in this branch.
- 4.8. The Applicant refers, in the 14 January 2003 interview, to "*always having had a positive revaluation*" figure at the end of each week. It is clear to us that his position is that those recurring and consistently positive revaluation figures led him to believe that, despite transacting at rates that were preferential to [GRO] Post Office was nonetheless making a profit

on all of them. It only later becomes apparent that, due to Post Office's practice of immediately materially devaluing all of the currency that it purchased through FRTS in the wholesale currency markets, those branch-level revaluations were showing that small profits were being made when, in truth, those small profits were nowhere near large enough to offset the large losses that Post Office had already (unknown to the Applicant) booked. It is, in our view, extraordinary that Post Office failed to detect the fact that it was making such substantial and recurring losses on this branch's FX transactions until the intervention by HM Customs and Excise.

- 4.9. In this context, the Applicant said that Post Office first reacted (to the issue of the foreign exchange rates he was offering [GRO]) in January 2003, after [GRO] was arrested. He says that prior to that, despite providing the information every week for a number of years, having undergone various Audits and having been lauded as running one of Post Office's highest volume foreign exchange dealing branches, no one ever voiced any concerns about those beneficial rate deals. He also refers to having asked, before Christmas 2002, the *"gentleman in Hemel Hempstead to get in touch with me after Christmas because it's ridiculous that the Post Office are sending special deliveries [i.e. bags containing amounts of foreign currency], 30 packs of special deliveries a day. Why can't he send me one big bulk on a Monday?"*. Post Office seems not to have challenged those statements by the Applicant so we have treated them as truthful. Similarly, during the recorded interview of the Applicant, conducted by Post Office's investigator Manish Patel on 14 January 2003, the Applicant refers to having, 18 months earlier, asked a local police officer (in the police station across the road from his branch) whether *"there was anything dodgy"* about [GRO] and that he had been advised by that officer that they (the police) had *"never heard of him"*. Given that none of these assertions have been challenged by Post Office, we have to question why, if the Applicant was aware, as Post Office asserted during the two criminal trials, that what he was doing was in any way improper, he would have drawn the police's, and Post Office's, attention to it.
- 4.10. Post Office says that Geraty is no longer an employee and so it has been unable to obtain his comments to investigate this claim. In his two Witness Statements submitted to the first theft trial, Geraty said: *"It is my belief that Carl Page began doing these transactions at a later date"...* and: *"As this happened some four years ago I cannot recall too many other details"...* and: *"I cannot now recall specific conversations or dealings I had with Mr Page, however I can state that I as a Retail Network Manager for Post Office Ltd do not have the authority nor would I sanction an agent or Subpostmaster to sell products or provide services for less than the specified monetary value either as stipulated by Post Office Ltd or it's (SIC) clients for whom products are sold by Post Office Ltd on their behalf. This includes the Bureau de Change product for which our joint partner First Rate Travel stipulates the selling and buying foreign exchange rates for all currencies and travellers cheques sold at Post Office Outlets"*.
- 4.11. We note that those statements do not constitute a firm denial that Geraty approved, or even suggested, the processing of special-rate deals with [GRO] as had been asserted by Mr Page.
- 4.12. Whilst Post Office says it is *"unlikely"* that Geraty would have given such advice, it accepts that preferential rates for larger foreign exchange transactions were available to customers. In

its POIR, Post Office appears to confirm that it was the Officer in Charge of a branch (the Subpostmaster or his manager), who was responsible for authorising a special commission rate for foreign currency transactions. We have borne in mind the fact that Geraty gave evidence for the prosecution when the Applicant and [GRO] were accused of conspiring to defraud Post Office. Having heard all the evidence, the jury found both [GRO] and the Applicant not guilty and we have no doubt that the Applicant's assertion that his use of special rates had been cleared with Geraty would have been an important element in its deliberations.

- 4.13. On the balance of probabilities, therefore, we consider that the Applicant *was* advised by Geraty that he could offer special rates and that it was not fully and properly explained at the time how in practice that rate should have been transacted. We do not find to be compelling Post Office's assertion that it is unlikely that the Applicant had been authorised by Geraty, though we do consider it plausible that he may have wrongly interpreted whatever Geraty had said to him, though Geraty (and others in Post Office) had ample opportunity to detect and correct the Applicant's misunderstanding and yet it signally failed to realise what was going on until January 2003. We cannot ignore the fact that many hundreds of transactions were never queried by Post Office, despite all of them having been fully and openly reported by the branch. We note in particular from the POIR that Mr. Geraty had stated, during a meeting to discuss the Applicant's performance, that *"his main focus was sales growth via customer service, and therefore transaction accuracy was not his main forte"*. That statement alone should have resulted in Post Office paying close attention to the exceptionally high volume of clearly non-retail foreign exchange transactions that the branch was routinely processing yet it seems that did not happen.
- 4.14. In that context, the Applicant says that his wife was more adept at the accounting side of running the branch than he was, and that, after she left the branch, he started to receive letters from Post Office regarding the branch's poor performance and high level of errors. He says that despite being fully aware of this, Post Office did not provide him with any further training. He says he received an initial two weeks' 'on the job' training on the ECCO computer system, and that when the Forde Money Changer ('FM') was installed in branch, he and his staff were given 3 hours' instruction and a manual. It should be noted that the Forde Money Changer system was totally 'standalone' having no electrical nor mechanical connection to the Horizon system. This meant that the branch's Bureau de Change position only became known to Horizon once a week (on a Wednesday evening), and only then based upon what the branch staff entered into Horizon when they keyed into Horizon the sterling values shown on the FM system's 'Command 10' print out (this also seems to have been referred to as the 'Print 10 Weekly Summary').
- 4.15. In his CQR, the Applicant says that, at the second trial, Post Office maintained that he had stolen the money *"by hiding it in the foreign exchange account"*. On page 16, paragraph 4 of his CQR, the Applicant's position is stated by his Professional Advisor as follows: *"If there were any errors in the figures, it is Mr. Page's position that these must have been due to erroneous inputting of figures by either him or members of the staff"*.
- 4.16. Post Office says that the Applicant's training records are no longer available, but that it is very likely that the Applicant received the standard training package in place in 1997, and that

he would have received training on the use of the FM in processing foreign currency transactions, adding that, in its view, this would have been adequate for the role of Subpostmaster. Post Office says that if the Applicant had felt that he needed additional training he could have requested it via his Retail Line Manager. Post Office says that there were no calls by the Applicant to the National Business Support Centre (NBSC) Helpline requesting further training, and that *"as it was the responsibility of the Applicant to access the support available to him Post Office reasonably expected the Applicant to do this"*.

4.17. Post Office accepts that, during an interview held on 3 July 2002, reference was made to the Applicant shadowing a *"good branch Manager"*, but that there are no records to indicate whether this ever took place. Post Office adds that there are no records of any calls made by the Applicant to follow up on this matter, and that, as the meeting was held six months before the Audit which led ultimately to the termination of the Applicant's contract, *"it is Post Office's view that had the Applicant been so minded he could have taken it upon himself to arrange a visit to another branch or contacted NBSC to request one. The fact that the Applicant states that this did not happen would indicate that he was not so minded"*.

4.18. In its POIR, Post Office says that the Applicant was contacted regarding performance issues 16 times in 2001 and 24 times in 2002. They add, in relation to Error Notices (later known as Transaction Corrections or TCs) that the purpose of TCs was to highlight errors made at the branch, and that, once highlighted, the expectation was that this would prevent future errors of this type. We have asked the question of Post Office as to what identified level of error, if any, triggered the requirement that Subpostmasters undergo further training. We have seen no evidence that there was any standard process by which that sort of identification did take place, and it is clear that to us, not only from this case but also from others that we have examined, that as far as Post Office was concerned it was entirely the *Subpostmaster's* responsibility to identify further training needs, and for him or her to request, arrange, and attend such further training.

4.19. We return to the issue of the branch's performance, and its contribution towards the Applicant's prosecution, later in our conclusion.

4.20. In relation to his prosecution and conviction, Post Office says, in its POIR, that the Applicant pleaded guilty to a single charge that between 1 March 2002 and 14 July 2003 he stole £282,000.00 from Post Office. It says that the agreed basis of plea was that *"the Defendant stole £94,000.00 from the Post Office having begun to do so on return from holiday in August 2002. The remaining deficit of £188,000 may have been the result of incompetent accounting or possibly theft by other person(s)"*. We note the use of the words *"may"* and *"possibly"* here and we return to this basis of plea in our conclusion. We also note that Post Office has offered no more evidence than that the Applicant pleaded guilty in the second trial in regard to the composition of its loss or of the Applicant's theft. Post Office does not seem to have critically re-examined, in the way that we now have, the evidence that, as the Prosecuting body, it submitted to the criminal trials.

4.21. The Applicant was first arrested and interviewed by Staffordshire Police on 13 January 2003, the day before the Audit. The arrest would appear to have occurred as the result of a Customs

and Excise investigation into suspicions of money laundering. Following an investigation, including enquiries into the Applicant's bank accounts and lifestyle, the Police decided to take no further action against either him or the other suspect, his customer [GRO]. However, Post Office instigated civil proceedings against the Applicant and, in December 2003, also criminal proceedings, charging the Applicant with stealing £282,000.00, and conspiring with [GRO] to defraud Post Office.

- 4.22. In June 2005, following a nine week trial, the Applicant and [GRO] were found not guilty of the conspiracy charge. However, there was a hung jury in relation to the theft charge and the decision was taken that the Applicant should be retried. The Applicant says that prior to the second trial taking place, an offer was made by the Prosecution to amend the amount that had allegedly been stolen from £282,000.00 to £94,000.00. We note that an Expert Witness, in his written evidence to the second trial quotes the Prosecution Counsel's Opening Note, dated 2 October 2005, as having stated that the amount stolen was £282,000 *in sterling* (see page 6 of 22 in Tab 5 of the Applicant's CQR). The supposition that the money was allegedly taken *in sterling* is also mentioned on page 55 of 86 in the Court transcript at File 7 part 2 of the Court documents.
- 4.23. The Applicant says that he was suffering with depression and, facing the prospect of another lengthy trial, and in light of another matter, of which both he and Post Office were aware, that might have impacted on any sentence, he considered the effect that this reduced theft charge would be likely to have on the inevitable custodial sentence and decided to plead guilty. His CQR records him as having said "*I didn't do this, but I just want it to go away*".
- 4.24. Whilst we have endeavoured to keep this report concise, in order to explain the relevance of this offer, it has been necessary to go into some detail, to explain how the monies alleged by the Prosecution to have been stolen by the Applicant were calculated and to reach a conclusion as to whether such a large amount, or any amount was actually stolen.
- 4.25. The bulk of the £645,000 shortfall found by the 14 January 2003 Audit related to cheques held at the branch, which were disallowed for the purposes of that Audit. It is not completely clear from the submitted evidence how many of, those cheques (all presented by [GRO]) were sent for processing and subsequently paid, though it appears that all of them were paid and that served to substantially reduce the apparent shortfall. In any event, the amount the Applicant was charged with stealing related to a balance snapshot produced for the AM stock unit, which stated that a sterling equivalent of £282,000.00 of foreign currency was held within that stock unit. Since, on the day of the Audit there was no foreign currency at all in that stock unit, Post Office concluded that all of it was missing, later concluding that it had been stolen. Post Office says that it was initially presumed that one of the cheques, (number 100148) for £278,181.82 was payment for this 'missing' foreign currency. This was later disregarded when it was found that the cheque had been presented to cover three previous cheque payments, made by [GRO] in December 2002, that had been returned 'refer to drawer' due to insufficient funds in the company's bank account. Post Office's auditors then drew the conclusion that the £282,000.00 was not only a real shortfall but that the money had been stolen, either in the form of foreign

currency, or of sterling, and it was, it seems, on the basis of that conclusion that the theft charge was brought against the Applicant.

- 4.26. While we have seen evidence that supports the auditors' conclusion that there was a real shortfall, we have as yet seen no evidence that convinces us that the shortfall was the result of theft. Rather, we consider it likely that the shortfall was merely an accumulation of the amounts that had been given to customers (predominately [GRO] by way of extra funds over and above what they would have received if they had dealt at 'Normal', rather than 'Special' FX Rates. This would have meant that, instead of that extra currency (that had been given to customers, principally to [GRO] being booked as an immediate financial loss, those losses might have later manifested themselves as currency shortfalls in the branch. We expand on this in the following paragraphs.
- 4.27. The Applicant, in his CQR asserts that Post Office *"could not say when the money was stolen, nor by what means, nor from what account or fund ... Essentially, the Prosecution case was the Computer says there is money missing so it must be theft"*. As far as we have been able to establish, the Applicant's recollection is correct: Post Office was unable to attest, during the two trials, to anything more than that the branch 'audit' had established that £282,000.00-worth of foreign currency was meant to be in the branch but was not there. This does not, in our view, constitute evidence that that amount of currency was stolen, let alone by whom.
- 4.28. At the first trial, the Prosecution alleged that the £282,000.00 was a shortage in the AM stock unit, which had been built up over a period of time. A Forensic Accountant instructed by the defence, Mr. Liddell, concluded that there was a potential for timing differences to have built up between the amounts of cash recorded on Horizon and the FM systems, which might explain the discrepancy. His report says *"I refer in particular to instances where [GRO] purchased a large quantity of Euros before the end of the cash account week, so the sale was entered in FM, but where [GRO] did not physically collect the cash until the beginning of the following cash account week. In these instances the Horizon figure would differ from FM by the amount of Euros sold to [GRO] and awaiting collection"*. Mr. Liddell notes there is no automatic link between FM and Horizon systems – it is necessary for the data to be transferred manually. He says *"Clearly this gives increased capacity for human error and for incorrect totals to be entered on the Horizon system"*.
- 4.29. Mr. Liddell also investigated whether the £282,000.00 actually existed, and concluded that a surplus of Euros of approximately £282,000.00 could not physically have been built up in the AM stock or elsewhere. All the Euros delivered to the branch were entered into the FM, and the Applicant says that his analysis of sales shows that they matched, or exceeded, the deliveries. (Post Office suggests that it was suspected that [GRO] was selling Euros back to the branch, which would account for any 'excess').
- 4.30. It is of note that this expert reported that he had been *"unable to identify a clear explanation or definition of the Revaluation Total from the Post Office Operators Manual – Bureau de Change on Demand, copies of which are provided to Subpostmasters"*, and that similarly he could find *"no explanation in the manual of the Wholesale Buy Rate, the Retail Buy*

Rate and the differences arising between the two". Mr. Liddell says in his report that, in the majority of cases, Euros were sold to [GRO] at a rate just below the Retail Buy Rate at which they were booked into the FM. At 3.32 Mr. Liddell's report says "[the Applicant] states that he understood a positive revaluation total [...] to mean that income and profit was being generated for [Post Office]. He was not aware that an initial devaluation had occurred which, if taken into account, could turn a positive revaluation total into a loss to [Post Office]".

- 4.31. By his calculation, Mr. Liddell says that if [GRO] had paid the correct rate for the Euros that the prosecution schedule showed that he had purchased, the difference would have amounted to £592,802. He also said that in the majority of instances, the transactions generated a "small profit when measured against the Retail Buy Rate".
- 4.32. We have studied all of the evidence that the Applicant and his Professional Advisor have submitted in respect of the criminal trials (Post Office having submitted nothing) in order to fully understand how the Post Office accounted for Foreign Exchange ('FX') transactions.
- 4.33. Having done that, we have become deeply concerned about the evidence supplied by Post Office to the court in the first trial. Specifically, the way that its accounting for foreign currencies, including the 'Revaluation Total,' was explained to the court, in a Witness Statement submitted by Post Office's employee Hugh Stacey (see Attachment 1) is, in our view, incomplete and misleading. That Witness Statement was also quoted in the Expert Accountant's Report (see paragraphs 3.19 and 3.20 of Tab 4 to the Applicant's CQR). That particular paragraph, from Witness Stacey's Statement is, in our opinion, not only poorly and confusingly articulated, but in some aspects also materially incorrect and incomplete. It would, in our view, have potentially under-informed and misled the court. That Witness Statement (and the related diagram shown in it, as repeated in the Expert Accountant's Report), shows how there were two "Buy Rates". In the figures used in the diagram, one Buy Rate was £95, whereas the other was £101. The second rate (£101) was what the currency really had cost Post Office when it was purchased from First Rate Travel Services (FRTS) who had, in turn, purchased the currency (at a cost of £100) in the wholesale (i.e. Inter-bank) market. The other rate (£95) was a notional rate that was meant to represent the rate that the branch would be expected to use were it to buy back that same currency from a retail customer. The Applicant testified in Court (see page 86 of File 7 part 2 in the Legal File papers) that he had no knowledge of the rates at which the currency had been purchased by FRTS in the wholesale market and that he was unaware that Post Office 'devalued' currency by approximately 6% before supplying it to its branches. It has never been made clear, in any of the evidence that we have examined, why Post Office did that.
- 4.34. After careful examination of Post Office's Witness Statement, we have concluded that the description of the way that Post Office (and its business partner FRTS) accounted for FX transactions is incomplete, completely lacking in clarity and also, we strongly suspect, simply wrong. We also suspect that neither of the Forensic Accountants reached the level of understanding of Post Office's accounting processes or detected the errors that Post Office was making, as we now have.

4.35. As an example of the Witness Statement's propensity to confuse the jury, the sentence, that says: *"In terms of the illustration if we were to buy £100 from FRCS/FRTS, Post Office Limited would buy this for £101"* should, we suspect, have said: *"In terms of the illustration if we were to buy £100 worth of foreign currency from FRCS/FRTS, Post Office Limited would buy this from FRCS/FRTS for £101"*. Similarly, the next sentence, that says: *"Upon receipt of the Post Office Network (Cash Centre) the £101 would be converted to £95 which represents the retail buy rate, this devaluation loses (sic) the Post Office £6 in value which is held on its books at the central cash centre"* should, we suspect, have said: *"Upon receipt at the Post Office Network (Cash Centre) the sterling equivalent of the foreign currency that had been purchased for £101 would be revalued to £95 using the retail buy rate (that being the rate which the branch would be expected to use were it to buy back that currency across the counter). This would have the effect of reducing the apparent cost of that amount of foreign currency in Post Office's books, thereby generating an immediate book profit of £6. This profit would later be reduced when the currency was sold, normally at the Retail Sell Rate (£103) at which point a profit of £8 would be recorded (that being the difference between the sale proceeds at £103 less the 'revalued' (i.e. re-stated) cost figure of £95. It can be seen that this would result in a final profit figure, in Post Office's books, of £2 which is the difference between the sale proceeds of £103 less the true cost (to Post Office) of £101"*.

4.36. In our view, the Witness's reference to the "devaluation" "losing the Post Office £6" is completely wrong and serves to illustrate that not only was Post Office's accounting incorrect, but that, even when called upon to describe the accounting to the court, Post Office was completely muddled. It is our position that there would be no commercial or accounting reason for holding currency that had just been purchased at a value far lower than it could be re-sold for that day in the Inter-bank wholesale market. Indeed to account for the foreign currency asset holding in that way would contravene generally accepted accounting practice. As described in paragraph 4.26, by reducing the apparent cost of the currency that it had just purchased for £101 to £95, Post Office must have booked a PROFIT, rather than the LOSS described in Mr Stacey's Witness Statement. That profit ought to have been at once reduced whenever the currency was sold for less than the £101 'Wholesale Buy Rate'. It seems to us (using the figures quoted in the Witness Statement) to be clear that Post Office was not only routinely overstating its profits (whenever currency was sold for less than the retail sell rate) but that it had been telling its branch manager (the Applicant) that the currency had cost £95 whereas it had actually cost £101. That mis-communication goes a long way towards explaining why the Applicant (and also perhaps his Line Manager Mr Geraty) might have mistakenly concluded - and thereafter acted in the belief - that the real cost was only £95.

4.37. From our analysis of the Mr Stacey's Witness Statement we have concluded that Post Office and FRCS/FRTS were erroneously recognising substantial amounts of income that had not, in reality, been generated. In the example that Mr Stacey gives on pages 5 and 6 of his Statement, the overstatement was £8,317 on currency (Euros) that cost £96,649.00. That is a highly material profit overstatement (at a rate of 8.61% on cost). By overstating its profits so massively, it is plausible that the overstatement brought about by the Page GRO transactions could easily have exceeded, say, £688,000 on currency sales of Euros costing around £8 million (8.61% of £8 million equals £688,800). This leads us to conclude that this

massive income overstatement, in Post Office's and FRCS's/FRTS's books, as admitted in Mr Stacey's Statement, could only have arisen if the offsetting entries (to the £688,000 in Profit and Loss Account credits) had gone somewhere other than to the debit of the two companies' Profit and Loss Accounts. If there hadn't been offsetting debits, the companies' books simply wouldn't have balanced. It seems to us highly likely that those offsetting Debits, in Post Office's books, may have resided in the 'Currency Held' asset figures. The aggregate of those overstated assets was, in our view, the quantity of foreign currency that Post Office's books showed that it (actually its Rugely branch) still had in stock when in truth that quantity of foreign currency had been passed on to GRO

4.38. We have concluded that Post Office's books therefore showed a false (non-existent) asset after each transaction with GRO and that those entries may well have accumulated in the branch's books to create the massive asset overstatement that was (wrongly) ascribed by Post Office to theft by the Applicant. Mr Stacey's Witness Statement also fails to disclose why Post Office and FRTS did not detect those accumulating material accounting errors until Customs and Excise drew attention to the transactions as a result of its (as it turned out unfounded) suspicions of Money Laundering.

4.39. In our view, there can only be three plausible reasons for that Witness Statement's lack of clarity; its failure to disclose the accounting errors made by Post Office and FRTS; the reasons why those accounting errors were not detected by Post Office or FRTS; and the possibility that the apparent 'losses' were the result of Post Office's overstatements of profit rather than the result of theft of funds by the Applicant. These are:

1. Mr Stacey did not himself understand how the accounting and revaluation process worked; or
2. Mr Stacey did understand how the accounting and revaluation process worked but was unable to explain it properly; or
3. Mr Stacey did understand how the accounting and revaluation process worked and for some reason allowed a description, that he knew or suspected might cause confusion, to be presented to the court.

4.40. We have concluded that not only was the description of its accounting processes that Post Office presented to the court confusing and incorrect but that the fact that it was so muddled supports our view that the Applicant is likely to have thought that the 'Retail Buy Rate', which is also referred to as the 'Retail Buy Back Rate' (i.e. £95 in the example quoted in the court evidence) was the rate below which he should not sell, whereas the real rate below which he should not have sold was the 'Wholesale Buy Rate' (£101). The Applicant was typically selling Euros (particularly to GRO) at a rate (using the above example rates) of approximately £95.50, which would generate a real loss to Post Office of £5,500 on a sale of Euros 150,000, whereas it appears the Applicant thought that a sale at that price would generate for Post Office a small profit of £500 (i.e. the sale proceeds of £95,500 minus the £95,000 that he (wrongly) thought was the real cost of that amount of currency). The Applicant testified, in the first trial, to this effect, as shown on pages 38, 45 and 46 of 86 in File 7 part 2 of the Court documents supplied by the Applicant's Professional Advisor).

- 4.41. In our view, if the evidence submitted to the court was representative of the information and advice that had earlier been given by Post Office to the Applicant, then we see it as highly likely that the Applicant (and his staff) really did misunderstand the true price that had been paid for the currency that they were selling and that, throughout (from 1999 onwards) the Applicant was under the (false) impression that, as long as he showed a profit each week when he produced the 'Command 10' printout from his branch's Forde Money Changer, then Post Office really had made a profit on his branch's foreign currency dealings.
- 4.42. In his CQR, the Applicant says that at the second trial, Post Office said the theft had nothing to do with AM Stock, but that the money had been stolen by the Applicant from somewhere else in the office and "*hidden in the foreign exchange account using Horizon*". The Applicant says that, if there were any errors in the figures, they must have been due to erroneous inputting of figures by either him or members of his staff. In our view, both Post Office and the Applicant were wrong here.
- 4.43. The Applicant's CQR reports that a second forensic expert accountant, Mr. Timothy Taylor, who was appointed by the Defence team for the second theft trial, concluded that it was extremely unlikely that any money was concealed by hiding it by some means in the foreign exchange account using Horizon. According to Mr. Taylor's report, the Prosecution's opening note stated that the indictment period for the alleged theft of the £282,000.00 was between March 2002 and January 2003 and that from the week ended 28 August 2002 (Week 22), the Applicant concealed the cash by routinely inflating the foreign currency held on Horizon in the AM stock unit. He says that the opening note also alleged that, some time prior to the end of Week 22, the Applicant concealed the theft by overstating the amount of Overnight Cash Holdings (ONCH), as opposed to the foreign currency sterling equivalent figure in Horizon.
- 4.44. Mr. Taylor explained that the schedule prepared by the witness, Post Office's employee, Mr. Patel, for the purposes of illustrating how the alleged deficiency, or 'inflation' of the £282,000.00 occurred over time, is simply the difference between the foreign currency on hand figure as recorded in Horizon, and the sterling equivalent foreign currency on hand figure, as identified from the weekly FM printouts referred to as the 'Command 10' Reports. The weekly Command 10 Reports showed the sterling value of all the foreign currencies in the branch's stock as well as the commission earned by the branch in that week.
- 4.45. Mr. Taylor also noted that, for weeks 14 and 16 in 2002, the apparent inflation figure was negative. One of the negative figures was explained as being the result of typing an incorrect revaluation figure into Horizon, demonstrating that, since Horizon and the FM were not integrated, differences could arise as a result of manual inputting errors.
- 4.46. Mr. Taylor's report concludes with an agreement that, from the week ended 28 August 2002, the Horizon foreign currency sterling equivalent figure was inflated, initially by £138,000 and increasing to £282,000.00 by the date of the 14 January 2002 Audit. However, he adds that the alleged deficiency of £282,000.00 in the AM stock unit does not necessarily indicate theft by the Applicant – he says that the shortfall could in practice be the result of other unidentified errors or differences in Horizon.

- 4.47. He continues that it is implicit in the Prosecution's case that, by simply stating that the £282,000.00 shortfall in the AM stock unit equated to a theft of the same amount, all other figures in Horizon were correct. Mr. Taylor said he had seen no evidence that was the case, and that he also noted the high incidence of errors occurring at the branch.
- 4.48. He said that it was not possible to establish whether the declared ONCH figures were correctly recorded, as they were not independently checked at the time other than at the two branch audits. We note here that one of the matters under consideration during the interview held with the Applicant on 3 July 2002, to discuss his performance, was that during an Audit of the branch on 27 June, it was found that Bureau transactions were not being entered onto the system on a daily basis, resulting in the ONCH declarations being inaccurate.
- 4.49. He ends by saying that, if it is alleged that by Week 18 the theft had reached £177,500 and that it was being concealed either by overstating the true foreign currency balance or the ONCH figure, then, in his opinion, there was an unexplained inconsistency in the Prosecution case. That was because in Weeks 20 and 21, the inflation figures as stated by Mr. Patel in the schedule were nil, and the recorded ONCH figures were only £79,810.00 and £91,249.69 respectively, and therefore they could not have been overstated by £177,500.
- 4.50. Both experts' reports raised the question as to whether the 'audits' actually constituted an audit in the sense that data was not verified back to source documentation nor critically examined before conclusions were drawn. Both concluded that they were more akin to a stock take at a particular time and that it was dangerous to draw the conclusions the Post Office had drawn from them. The Applicant suggests in his CQR that it is a significant feature of the case that in the middle of the indictment period, an Audit of the branch concluded that the office was not well run but did not find evidence of theft or fraud.
- 4.51. In answer to the Applicant's suggestion that the audit conducted at the branch on 14 January 2003 was not verified against source documents or critically examined, Post Office says that records of the Audit are no longer available. The POIR explains that an audit is "*conducted to reflect the current trading position of a branch at the moment the audit is undertaken. This is completed by comparing the cash and stock physically on hand to that stated as on hand by Horizon*". We consider this explanation does sound very much like a 'stock take', rather than what is normally understood to be an 'audit'.
- 4.52. In answer to the Applicant's question as to how the alleged shortfall built up in the AM stock unit, or how the shortfall was "*hidden in the foreign exchange stock unit*", Post Office says that it no longer holds any audit or investigation records for this case, and is therefore unable to comment on this particular issue, other than adding that it should be noted that the Applicant pleaded guilty to the charge of theft.
- 4.53. Post Office says, that whilst it is unable to determine with certainty the most likely cause of the discrepancy and having reviewed the limited data now available, it has formed the view that, just as had been reported by the auditors on 14 January 2003, the shortfall was the result of foreign currency being 'missing' from the AM stock unit. Post Office says that the theft

charge was reduced from £282,000.00 to £94,000.00, as it was *“willing to accept that a smaller amount of the loss had been caused by theft”*, however, it adds that, in its view, *“had a trial been required then the case would have been found in the prosecution's favour”*.

- 4.54. We do not support that view. Earlier in this report, we referred to the wording of the prepared basis of plea, agreed between the Prosecution and Defence as to the explanation for the remainder of the cash that the Applicant was alleged to have stolen. That statement said: *“The remaining deficit of £188,000 may have been the result of incompetent accounting or possibly theft by other person(s)”*. While noting the words *“may”* and *“possibly”* here, we believe that basis of plea statement completely undermines Post Office's original hypothesis which was that the Applicant stole all of the missing £282,000.00. From the evidence that we have examined, we consider it to be possible or even likely that, if the greater part of the missing money really had been caused by incompetent accounting or by theft (by persons other than the Applicant), then it has to be accepted that it is perfectly plausible that the entire amount could have been attributable to those causes. As to *“incompetent accounting”*, we have found no better evidence to attribute that to the Applicant than we have found to attribute it to Post Office and to its FM and Horizon systems.
- 4.55. It is our view that, had the jury (in that first theft trial) been informed by Post Office that the shortfall was the result of its own accounting errors, rather than being the result of money having been stolen, it is entirely possible - or even likely - that it would have acquitted Mr Page, rather than being equally divided in its verdict (that trial resulted in a hung jury). Obviously, had that first jury acquitted Mr Page there would have been no second trial at all.
- 4.56. As we see it, had the evidence of Post Office's mistaken conclusion as to where the money had gone been submitted at the second theft trial... and had the Applicant not felt compelled, as described above, to plead guilty, the case would not have been found in the Prosecution's favour. We have reached that conclusion on the basis that the Prosecutor, Post Office would, in our assessment, have been unable to prove the Applicant's guilt, due to flaws in its own Audit and Investigation processes and in its Witness Statements to both trials. These flaws included Post Office's failure to properly explain how the FM and Horizon systems accounted for Special Rate Currency Deals; its failure to disclose its own massive and repeated profit overstatements; the fact that those profit overstatements created the apparent losses at the branch; the fact that those apparent losses (that Post Office had throughout ascribed to theft by Mr Page) manifested themselves (in Post Office's submissions to the three trials) as currency shortfalls in Mr Page's branch whereas they were purely an accumulation of Post Office's own profit overstatements and there was no currency - or sterling - *“missing”* from the branch.
- 4.57. Our close examination of the Court documents, submitted by the Applicant and his Professional Advisor, has revealed to us that Post Office's investigator, Manish Patel, suspected that [GRO] routinely shared some of the profits, that he was making as a result of the off-market FX deals, with the Applicant. Specifically, page 309 of the evidence pack (which is a page from the transcript of the 23 April 2003 interview) refers to £58,000-worth of currency 'Buy backs', processed by the Applicant. The inference here was that, before he left the branch after each transaction, [GRO] had given some of the Euros (that he had purchased with post-dated cheques)

back to the Applicant as a 'thank you'. The pattern established by the investigator was that the Applicant would then buy back those Euros into his branch, thereby freeing up Sterling cash that he then kept for himself. It is not clear to us why this seemingly suspicious activity was not deeply explored during the criminal trials.

- 4.58. It is Post Office's position that its post-Audit security investigation, and its criminal proceedings, were all conducted fairly and in accordance with the strict rules and procedures in place, and that there is no indication that the Applicant was treated unfairly. We find ourselves unable to support that position. We also ask why, if our own examination of the evidence submitted by the Applicant (there having been very little evidence submitted to us by Post Office) has enabled us to so seriously question the evidence that Post Office submitted to the three trials, Post Office's own recent investigation did not also reveal those serious deficiencies.

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

- 5.1. We have concluded that the bulk of the shortfall (or possibly even all of that shortfall) ascribed by Post Office to theft by the Applicant was not stolen, and also was never "missing" from the branch at all, save in the sense that the branch's customers (principally GRO) had been routinely given more currency than Horizon "thought" they had been given. As a consequence, we strongly suspect that the Horizon system accumulated a massive shortfall that was not a currency shortfall at all. Rather, it was an accumulation of amounts that Post Office had wrongly taken to its own Profit and Loss Account as a result of its own erroneous accounting practices.

- 5.2. Post Office now asserts, in its POIR, that "*these two prosecutions relate to two entirely separate losses. The first related to the loss of profit suffered by Post Office as a result of selling foreign currency at preferential rates. The second related to the physical theft of foreign currency notes from the branch*". This statement does not seem to be correct. It is our understanding that, in December 2003, Post Office instigated criminal proceedings against both the Applicant and GRO. Specifically, the Applicant was charged with two offences: the first being that, jointly with GRO, he had conspired to defraud Post Office in relation to GRO's purchases of foreign currency, and the second that he alone had stolen foreign currency having a sterling equivalent of £282,000.00. Eighteen months later, in June 2005, following a 9-week trial during which all of the charges had been denied by both men, both were found not guilty of the conspiracy charge. There was, however, a hung jury in relation to the theft charge against the Applicant. Post Office then decided that the Applicant should be retried in relation to the theft charge, this time asserting that the Applicant had taken money from somewhere else in the office and then, in some unspecified way, somehow hidden the theft in the foreign exchange account. That second trial did not accuse the Applicant of stealing foreign currency notes to the value of £282,000.00 as it had in the first trial, but rather in stealing something else and somehow *converting the loss into a foreign exchange shortfall*. The Applicant's Professional Advisor, asserts, in the Applicant's CQR, that in January 2006, during the preparation for the retrial: "*Post Office could not say when the money was stolen, nor by what means, nor from what account or fund within the sub post office. Mr. Page's*

defence teams were incredulous that a prosecution would proceed on that basis. Essentially, the Prosecution case was "the Computer" says there is money missing so it must be theft".

- 5.3. It follows that, at the first trial, the Crown had been unsuccessful in persuading the Court that the Applicant and his customer had conspired to deprive it of profits that it asserted that it would, but for those beneficial exchange rates, have made, and it had also been unsuccessful in asserting that the Applicant had stolen foreign currency to the value of £282,000.00. In the second trial it had again brought a charge of theft, asserting that the Applicant had stolen £282,000.00 in an unspecified way. Given the Applicant's guilty plea, prior to the second trial commencing, any further evidence of theft that Post Office may by then have gathered (i.e. beyond the evidence that was presented, unsuccessfully, at the first trial) was never tested in Court and indeed we have seen no such evidence among all of the documents that we have examined.
- 5.4. In this context, in its POIR, Post Office says that *"Following the submission of the original POIR in October 2014, Second Sight formed the view that Post Office had prosecuted the Applicant for theft of £282,000 but the £282,000 actually formed part of the loss of profit claim Post Office had made against the Applicant but was unsuccessful in obtaining a guilty verdict for. Post Office does not consider that there is any merit in this"*. It continues: *"Essentially, the audit in January 2003 revealed a shortage of £645,345.18 which included £282,000 worth of foreign currency that was declared as being present in the branch in the accounts but was not physically present in the branch when the audit was undertaken. Prior to the audit, the Police had seized cheques to the value of £638,675.65 from the branch. Once these cheques were correctly accounted for and other minor adjustments were made, this left a real shortage in the branch of £282,000. This sum had been falsely declared by the Applicant as being held in branch as foreign currency. In reality there was not an additional £282,000 of foreign currency in the branch and the Applicant had gradually been falsely inflating the amount of foreign currency alleged to be in branch to disguise the actual loss from Post Office. This shortage led to Post Office's second prosecution of the Applicant (which was successful following a guilty plea)"*. Finally, Post Office says: *"Put another way, the missing £282,000 of foreign currency could not have been caused by selling currency at preferential rates"*.
- 5.5. In analysing whether the Applicant really had been *"falsely inflating the amount of foreign currency"* and, if so, why, we have studied the 'Foreign Currency Discrepancies Schedule', a copy of which is shown at pages 24 - 26 of File 3 part 3 in the Court documents). That Schedule does show that, from Week 18 in 2002 (that was the week ending 31 July 2002 in which a visiting Post Office manager remitted back to Post Office, from the branch, £160,000.00) until week 41 (that was the week ending 3 January 2003) the 'Foreign Currency on hand' figures (these are sterling equivalents) rise substantially higher than any figures previously declared and that all of those declared numbers are materially higher than the 'Forde Money Changer' numbers shown on that Schedule. The effect of those very large currency on hand declarations was that the difference between the figures that had been declared (by the Applicant) as being on hand in the branch grew substantially from a starting difference of £177,500.00 to a closing difference (as discovered by the Audit) of £282,000.00. During the trial, under cross-examination, the Applicant seems to have found difficulty in explaining why he had declared such large currency

on hand figures (see pages 24 - 27 of 106 of File 7 part 3 of the Court documents) or why, prior to the foreign currency notes on hand figures increasing so substantially after £160,000 in sterling cash had been remmed out in week 18 by a senior Post Office employee who had gone to the branch to find out why it had such an inappropriately large sterling cash on hand balance (see page 42 of 106 of File 7 part 3 of the Court documents). Post Office asserts that the Applicant had been inflating the sterling cash on hand figures prior to week 18, and the foreign currency cash on hand figures after week 18, because he had been routinely stealing money from the branch and had been balancing his branch's books by inflating the amount of sterling (and later foreign currency) that his branch was meant to have on hand.

- 5.6. At a later point in his cross-examination (see pages 76 to 78 of 106 of File 7 part 3 of the Court documents), the Applicant provides a more compelling explanation as to why there were large and, after week 18 ever-increasing, differences (culminating in the £282,000.00 Audit-date shortfall) between what the Forde Money Changer's 'Command 10' print out said should be in stock (by way of foreign currency notes) and what was actually shown in the branch's Horizon records as being in stock (shown as columns 5 and 4 of the above-referenced 'Foreign Currency Discrepancies Schedule' - see pages 24 - 26 of File 3 part 3 in the Court documents). The explanation that he gave is that, where he had booked sales of large quantities of Euros to [GRO] based upon telephone calls from [GRO] (but where [GRO] had yet to arrive at the branch to collect them), those large quantities of Euros would not therefore be included in the Forde Money Changer's running total (since they had already been sold through it) but the notes instead would be held in the main safe, allocated to the AM stock unit. Those notes needed to be shown as branch stock because no money had, at that point, been received from [GRO] in payment for them. In simple terms, the Applicant's practice of selling currency as it were in telephone deals with [GRO] meant that the Forde Money Changer's weekly 'Command 10' print out would materially understate the branch's true currency notes on hand figure, and those sold-but-not-paid-for notes would need to be added back into the branch's stock when carrying out the weekly branch balancing. Even in the face of that albeit convoluted explanation, the fact remains that, at the date of the Audit, the £282,000.00 shortfall could not be accounted for in that way.
- 5.7. Later still in the cross-examination, the Applicant refers to his normal practice, when he received foreign currency notes that he had, in effect 'pre-sold' to [GRO] of entering the sterling equivalent into both the AM stock unit as well as the BU stock unit and also into the Forde Money Changer. The correct practice would be to only book the currency into the BU stock unit and the Forde Money Changer. Booking the incoming currency into both stock units would, of course, duplicate the stock value on Horizon and that ought to have generated enormous (false) surpluses in the branch's books. This practice is referred to on pages 4 to 8 of 62 of File 7 part 4 of the Court documents and we have been unable to establish whether it led to the £282,000.00 overstatement of currency. Either way, it certainly won't have made balancing the branch's books a simple process.
- 5.8. Despite carefully examining all of the detailed and, frankly complicated and confusing, evidence, neither the jury nor we ourselves have been able to determine with certainty that the £282,000.00 shortfall really was caused by the Applicant's theft. The doubt persists that it

might simply have arisen because Euros of that sterling equivalent had been sold to [GRO] but not paid for by him as of January 13 2003.

- 5.9. In our view, the fundamental difficulty, in establishing exactly how that shortfall arose, is that Horizon's was unable to handle multiple currencies other than by recording, just once a week, a revaluation figure expressed as a sterling equivalent of the currency notes that each branch was meant to have in hand. Establishing, and clearly explaining, exactly what happened proved (as evidenced by its failure to secure a conviction against either Defendant at the first trial) beyond the combined skills of Post Office's investigation and legal teams and the Crown's prosecuting QC. It seems now also to have proved beyond the skills of those who prepared the POIR.
- 5.10. By way of illustration, Post Office asserts, in its POIR, that *"the Applicant had gradually been falsely inflating the amount of foreign currency alleged to be in branch to disguise the actual loss from Post Office"* and *"he deliberately inflated foreign currency holdings to disguise the removal of money from the branch"*. Those assertions are made in the POIR regardless of the fact that none of the evidence submitted to the court, during the first trial, managed to convince the jury of their truth.
- 5.11. Post Office says, in that POIR, *"there has been no evidence presented to Post Office that questions the validity of the prosecution or the Applicant's guilty plea"*. Second Sight is a firm with technology, accounting and investigative skills that claims no particular expertise in regard to criminal law matters. Indeed, Post Office has made this point quite clear in its communications to Applicants, their Professional Advisors and in its Press Releases. It follows that any views that we have expressed, in this report, in respect of the criminal trials, are based upon our examination of the evidence in our capacity as professional accountants and fraud investigation specialists. We are not aware of Post Office having commissioned any other firm to review the two criminal prosecutions and indeed, as far as we are aware, Post Office did not have the documents that were supplied by the Applicant's Professional Advisor, until it prepared its revised POIR. We are consequently unsure whether, or how, Post Office has reassured itself that both prosecutions were properly carried out. Should the Applicant wish to pursue his expressed desire to have his case re-examined, then there are avenues available to him to do so.
- 5.12. Having heavily criticised, in this CRR, Post Office's conduct, including its failure to detect the huge volume and value of this branch's off-market foreign exchange deals prior to being alerted to them by HM Customs and Excise, and its subsequent failure to offer adequate evidence of theft at the first trial, we must also here criticise the Applicant. It seems to us quite remarkable that, if his consistently repeated testimony is to be believed, he failed ever to realise that the beneficial foreign exchange sales rates that he was, over the years, granting to [GRO] were so wildly different from those offered by other Bureaux de Change that [GRO] was able to make massive profits simply by buying from his branch and selling to other local Bureaux de Change. It is also clear that the Applicant realised that he was taking substantial credit risks, way beyond the losses that he could afford to sustain (indeed he acknowledged that during the first trial, as shown on page 69 of 86 of the Court transcript shown in File 7 part 2 of the Court documents). He took those risks for no reward (other than the tiny £1.10 in fee income that he received for

every foreign currency transaction, regardless of its value, that he processed), by routinely accepting [GRO] high-value, post-dated, cheques, in exchange for foreign currency cash. The inference here is that, if he was doing all that *without sharing in* [GRO] massive profits, then he must have been extraordinarily dense. That said, Post Office failed ever to notice what he was doing and it was for Post Office, through the Crown, to prove that his motivation was personal gain and theft and, as stated above, but subject to our remarks in paragraph 5.11. above, we have seen no compelling evidence that supports those assertions and charges.

- 5.13. Post Office concedes, in its POIR, that *"It is regrettable that Post Office did not take action before the events of January 2003. Post Office appears to have been slow to react in questioning the levels of currency being sold, particularly Euros and the high value of cheques. A possible reason for this is that as the two Post Office departments responsible for foreign currency and cheque processing are independent of each (cash centre and the cheque processing centre respectively) and may not have communicated any concerns with one another regarding the branch. Alternatively, it is possible that both of these departments may have attributed the high foreign currency and large cheque amounts to a corporate customer of the branch"*.

6. Is this case suitable for mediation?

- 6.1. In our opinion this case is suitable for mediation, not least because it will offer both parties the opportunity to achieve resolution on the matter of whether there ever was adequate evidence of theft to bring a prosecution for theft.
- 6.2. If the case does proceed to mediation, then the following issues should also be considered:
- a) Whether the inadequate training and support in respect of FX transaction processing, and the misadvice that the Applicant says he received from his Contract Manager and from others in Post Office, including the alleged failure to notice and respond to the off-market FX rates that he was openly offering to [GRO] are likely to have caused of some or all of this branch's losses.
 - b) whether Post Office or the Applicant is responsible in part or in whole for the £282,000.00 in losses, that we assume have been written off by, Post Office in addition to the losses that Post Office booked centrally when the small weekly profits booked by the branch failed to extinguish the losses that it had already booked when it devalued all of the currency that it sent to the branch.