

Dear Jo

**INITIAL COMPLAINT REVIEW AND MEDIATION SCHEME**

I am writing regarding the recent media attention relating to the Mediation Scheme. This followed the disclosure of a report in relation to the Scheme prepared by Second Sight. Although the media coverage was minimal, I thought you might find it helpful if I provided you with further background as well as brief update on the Scheme.

To that end, I attach a note prepared by Post Office's General Counsel, our lead member on the Working Group.

As you are aware, the Scheme is overseen by a working group with an independent Chair. Given the group's independence, Post Office has always maintained that the Scheme should be allowed to run its course and the business of the Working Group should remain confidential in line with its Terms of Reference. Indeed our ability to challenge other stakeholders who do not respect that confidentiality is undermined if we ourselves have not done so. The attached note has therefore been drafted with the confidentiality of the Working Group in mind.

You will see from the note that we face a number of challenges relating to the Scheme. Whilst we will continue to manage the impact on our stakeholders, it is inevitable that there will be some public 'noise' as the Scheme progresses. And as Chris highlights, after over two years' investigation Second Sight have not found a systemic problem with Horizon and we believe this will continue to be the case. We will need to stand behind the extensive work we and Second Sight have undertaken investigating every case and defend our approach on the basis that we have acted impartially throughout and in good faith. In particular, when deciding whether or not to mediate a case, we must continue to be mindful of the need to properly protect both taxpayers' and Post Office funds.

I am very happy to brief you when we meet in a few weeks' time and my team will continue to keep your office briefed when any significant issues arise.

Yours

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## **Update on the Mediation Scheme – Current and emerging issues**

### **Media interest**

The recent media interest in the Mediation Scheme stemmed from the disclosure of the so-called “Part Two Report” and Post Office’s response to it. The Report is a technical document, prepared by Second Sight as a streamlining measure in order to deal with (and describe) complaints, or themes, that are common to a number of cases. The idea was that the existence of such a document would enable their case-specific reports to be very brief.

In our view, the Report was inaccurate in a number of areas. It also contained no clear statement of the evidence upon which many of the opinions expressed in it were based, and a commentary on matters beyond the scope of the Scheme and/or Second Sight’s professional expertise as forensic accountants. As Second Sight failed to take on a number of our comments and corrections in the final Report, we wrote to the Report’s recipients to advise them that we did not endorse it. In our view to let the Report stand unchallenged had the potential to raise the expectations of applicants unduly and confuse matters at mediation. In relation to Horizon, Second Sight’s general conclusion is that the system appears to be fit for purpose for the vast majority of users. This is a positive conclusion and is consistent with Second Sight’s finding in their interim report. However the Report qualifies this by suggesting that Horizon could not be described fit for purpose for a limited number of users (for example, those who were technologically inexperienced) in some limited specific circumstances. Post Office has rebutted that qualification, as it is predicated on a number of factual inaccuracies in the Report, and we do not accept that the limited capability of a small number of users leads to a conclusion that the system itself is flawed.

It is disappointing that this report was disclosed to the media, breaking the confidentiality of the Working Group’s proceedings. However, coverage was limited and we have now issued our comprehensive response to the Second Sight report to those applicants who received Second Sight’s report. This has, so far, not been disclosed although as more applicants are issued with it the risk increases. We have a media handling plan in place.

### **Scheme progress**

Of the original 150 applications, 120 remain in the Scheme. Although Post Office has resolved 12 cases prior to mediation it is fair to say that progress has not been as fast as any of us would have liked. Thus far, only 14 cases have been passed for mediation of which three have been mediated.

Post Office has dedicated considerable resources to the Scheme and we have now completed our investigation into over half of the cases. So far we have found nothing in those cases which has raised concerns about faults with the Horizon system, the safety of convictions or Post Office’s liability for the losses being claimed by applicants.

We are also working closely with Second Sight to try to drive up their output. However, both their productivity and the quality of their work continue to cause us concerns.

### **Future challenges**

The fact that we have, as yet, found nothing to concern us about the Horizon system is good news. However, this creates a number of challenges in relation to the Scheme and applicants that, despite the confidentiality of the cases, will undoubtedly surface and attract some attention as cases are concluded. Specifically:

- of the cases resolved, we have settled with a de minimus impact on our accounts and it is likely that this will continue to be the case. This is at odds with the expectations of many of the applicants, some of whom clearly expect large sums in compensation. However, Post Office cannot and will not pay compensation where it bears no liability for losses claimed by applicants.
- we are investigating all cases thoroughly, and continue to consider each case on its merits. However, mediation is not the forum to overturn a criminal conviction. Post Office cannot mediate cases where the facts have already been determined by the Courts and where we have found nothing to cause us (or our criminal lawyers) concern about the safety of the conviction. It could therefore be the case that we decline to mediate any 'criminal' case, around a third of the total caseload.
- each mediation costs between £20-30k and it would be wrong to mediate cases where there is not, in our view, a reasonable prospect of resolution.

It is therefore inevitable that there will be a considerable number of applicants who remain dissatisfied at the end of the process. Post Office's position is that applicants will have the benefit of a full investigation and Second Sight review of their case and will hopefully leave the Scheme with a better understanding of the circumstances of their case than they had previously. It remains to be seen whether this is enough.

We are and will continue to manage the potential fallout from the issues highlighted above. It remains the case that Horizon is used by over 78,000 people across our 11,500 branches and successfully processes over 6 million transactions every day. After what now amounts to over two years' investigation, Second Sight have not found a systemic problem with Horizon. If this continues to be the case, and we have every reason to believe it will, then we will need to stand behind the evidence of the extensive work we and Second Sight have undertaken investigating every case and, whilst not being drawn on individual cases, defend our approach on the basis that we have throughout acted impartially and in good faith whilst being mindful of the need to properly protect both taxpayers' and Post Office funds.

**CHRIS AUJARD**

**POST OFFICE GENERAL COUNSEL**