

Post Office Mediation Scheme

DRAFT

Second Sight - Case Review Report

Case Reference: M041

Applicant: Wendy BUFFREY

Advisor: Nicholas Alexander (WSP Solicitors)

13 November 2014

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 her 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 direct losses that total £26,256.63;
- b) transaction anomalies associated with:
 - I. Transactions seemingly not entered by, or Transaction Corrections seemingly not accepted by, the Subpostmaster or her staff
 - II. Cash or Stock Remittances (REMs)
 - III. Power Failures
 - IV. Stamps, Postage Labels, Phone Cards or Premium Bonds
- c) mis-advice by Post Office's Helpline;
- d) adequacy of training and support, including Helpline and Audit;
- e) limitations in the Audit Trail available to Subpostmasters;
- f) process issues at the end of each Trading Period;
- g) the contract between Post Office and its Subpostmasters;
- h) Post Office's Investigations and Prosecutions processes; and
- i) 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 net loss of £26,256.63. Other issues, not all of which are dealt with in detail in this report because we could not find a causative link to the financial loss, may however be relevant to the mediation process.

1.7. The Applicant commenced the role of Subpostmistress at the Up Hatherley branch on 25 March 1999 and remained in the role until her suspension on 11 December 2008. The Horizon system was installed at the branch shortly after her appointment.

1.8. An Audit of the branch, carried out on 11 December 2008, found that there was a shortfall of £26,256.63 in the branch accounts. According to the Audit report (Post Office Document 008), the Applicant advised the auditors that she had been experiencing shortfalls for the previous six to seven months, which she estimated totalled approximately £20,000, and that she had inflated the cash on hand figures to cover up these losses.

- 1.9. The Applicant was suspended as a result of the findings of the Audit. She was interviewed by Post Office investigators on 9 January 2009 and by a Contracts Manager on 21 January 2009, when she was asked to put forward reasons why her contract should not be terminated. The Applicant's contract with Post Office was terminated on 06 March 2009 by letter. She did not appeal the decision.
- 1.10. Post Office gained a Restraint Order over two of the Applicant's properties on 3 April 2009. The Restraint Order was partially lifted on 16 December 2009 to enable one of the properties to be sold. On 20 September 2010 the Applicant was charged with one count of Fraud contrary to Section 1 of the Fraud Act 2006. The Applicant initially pleaded not guilty to the charge, but changed her plea to guilty on the day of trial. She says that she changed her plea on advice from her legal counsel, hoping to avoid a custodial sentence.
- 1.11. The Applicant was ordered to repay £26,256.63 to Post Office, which she did on 29 September 2010 by cheque. The Restraint Order over her property was lifted upon receipt of the payment.
- 1.12. The Applicant now states that she never had any intention to defraud Post Office. She says that she inflated the cash on hand figures in order to continue trading, as she could not afford to make good the losses. In the 9 January 2009 interview, she said that her worries about her husband's health issues and the fact that she was on strong painkillers for kidney stones affected her judgement.

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

- 2.1. It is common ground that the Applicant concealed losses at the branch by inflating the cash on hand figure.
- 2.2. Both parties recognise that the losses at the branch total £26,256.63, as identified by the Audit on 11 December 2008.

3. Points of disagreement between Post Office and the Subpostmaster

- 3.1. The Applicant asserts that the Horizon system was responsible for the losses that the branch experienced and cites specific incidents which she says show that the system could have contributed to the losses, including:
 - a) the branch was, allegedly, forced to accept stock deliveries that were incomplete;
 - b) £5,000 that she claims was lost when she sent a cash remittance pouch to Post Office;
 - c) a Transaction Correction (TC) relating to MoneyGram services apparently received a year prior to MoneyGram services going live at the branch; and
 - d) possible discrepancies caused by power cuts at the branch.
- 3.2. Post Office denies that the Horizon system was in any way responsible for the losses and instead claims that they were caused by operational errors made by the Applicant and her staff.

- 3.3. The Applicant reports that, before and for some time after Horizon was introduced, she had access to a suspense account, but this feature was taken away. Post Office argues that a suspense account was always available for the Applicant to use.
- 3.4. The Applicant complains that she only received four hours' training on the Horizon system when it was introduced. Post Office notes that, at the time, the standard level of training delivered to Subpostmasters regarding the Horizon system was a three-day course followed by on-site support from a trainer.
- 3.5. There is disagreement on whether or not the support provided by Post Office to the Applicant, specifically in reference to the Helpline, was adequate.
- 3.6. The Applicant states that the Post Office Investigation Department (POID) officers who interviewed her on 9 January 2009 did not have sufficient knowledge of how the Horizon system works and that they operated on the assumption that the Applicant was guilty from the outset. Post Office asserts that the investigators who interviewed the Applicant were fully qualified and experienced in the functions of the Horizon system.

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. The Applicant argues that discrepancies may have been caused by incomplete stock deliveries being made to the branch. She states that, when an incoming stock delivery arrived, she would scan the barcode to accept the delivery and the system would automatically update the stock figures with the items expected in the delivery. She says, however that, if items were later found to be missing from the delivery, she would have to notify the Helpline and they would issue a TC to the branch to correct the stock on the system. According to the Applicant's recollection of how stock deliveries were processed, if she failed to spot that items were missing from a delivery, a shortfall would occur.
- 4.2. Post Office reports that there was no requirement for the Applicant to accept a delivery in full if items were missing. It states that the correct procedure for processing incoming stock is for the branch to check the contents of the delivery against the enclosed advice note and report any discrepancies to the Network Business Support Centre (NBSC) Helpline. It says that branches are required to input deliveries by individual stock number and item onto Horizon manually.
- 4.3. It appears likely that, as has been reported to us by other Applicants, it was not always practical to verify the contents of incoming stock (or cash) pouches as soon as they arrived. Post Office's response infers that branch staff are expected to verify the contents of incoming Rem pouches immediately on arrival. Since those pouches would, by definition, arrive during the working day, a queue of customers might sometimes be present when the incoming delivery arrived. In the event that the incoming Rem was, as a result, immediately scanned into Horizon, but left for later verification, that would seem, in Post Office's view, to be a breach of its Standard

Operating Procedures. We believe that the Standard Operating Procedures need to better reflect the practical realities of branch operations.

- 4.4. The Applicant reports that "*a remittance pouch containing £5,000*" that she sent to Post Office was "*not received as it should have been*". She claims that she followed the correct procedure and the money was physically present in the pouch when she sent it to Post Office, but it had gone missing after leaving her possession.
- 4.5. Post Office states that a cash remittance pouch was put together by the Applicant on 24 September 2008 and sent the following day. The stated value of the pouch was £22,000. It says that, when the pouch was checked at Midway Cash Centre on 26 September 2008, it was found to contain only £17,000. It states that video footage was used to confirm that the pouch contained £5,000 less in £10 notes than what the Applicant had claimed.
- 4.6. Post Office reports that the Branch Trading statement produced on 8 October 2008 declared a surplus of £4,413.57, possibly the gain caused by the overstated remittance. It states that a TC was issued to the branch on 16 October 2008 and was accepted the following day. It says that the Applicant did not challenge this TC at the time.
- 4.7. In a statement made by the Applicant's National Federation of Subpostmasters (NFSP) representative, produced in evidence by the Applicant in her CQR (CQR Supporting Document 1), the representative states:

"Wendy explained that she knew she had lost from a Remittance pouch £5,000, she thought, due to her concerns she had for her husband's health that she had absent mindedly placed the cash into the mail system instead of into the pouch despatched with the Security team".

- 4.8. Post Office questions why the Applicant's version of events, in respect of that outgoing cash remittance, has changed from what she and her NFSP representative originally claimed.
- 4.9. The evidence presented by Post Office shows that the Applicant's recollection of the events surrounding the £5,000 discrepancy related to a cash pouch remittance is flawed. We do not have access to the video footage that Post Office says shows that the pouch arrived with money missing, but the Applicant's acceptance of the TC and subsequent statements made by her, and by her NFSP representative, show that she accepted that she had made a mistake at the time.
- 4.10. The Applicant, during her contractual interview on 21 January 2009, is quoted in the interview notes (Post Office Document 023) as saying:

"I had a phone call from the rem office after this saying I had remmed out £5k more than was in the bag. A couple of weeks before this I put my Bureau de Change money in a mail bag and sent it with the mail but I realised what I had done because it wasn't there and I managed to get through to Gloucester sorting office and luckily one of the guys had found it and I went over to fetch it. Because they said it was £5k short I had to believe them".

- 4.11. Post Office, in noting the Applicant's admission of having made that mistake, says that this demonstrates that the Applicant was prone to making errors, which could have caused discrepancies.
- 4.12. The Applicant asserts that TCs issued to the branch were not always accurate. She specifically mentions a TC related to MoneyGram that she says the branch received a year prior to MoneyGram services being offered.
- 4.13. Post Office notes that MoneyGram went live at the branch on 7 May 2007. It says that no TCs were issued to the branch in relation to MoneyGram and that this issue was not reported to the NBSC. It states that one call was made to the NBSC in 2002 that mentions MoneyGram, but this call was to report receipt of the point of sale material for MoneyGram services despite these services not being offered at the branch at that time.
- 4.14. The TC records referenced by Post Office (Post Office Document 007) show no record of a TC relating to MoneyGram being received by the branch. In light of this evidence, we can only conclude that the Applicant must be mistaken in believing that a TC was incorrectly issued to the branch relating to MoneyGram.
- 4.15. The Applicant reports that there were "*five or six*" occasions where power cuts had occurred at the branch. She states that she believes that the power cuts might have had an effect on the operation of the Horizon system. She says that it was necessary to reboot the system after a power cut, but sometimes part of the system, such as pension card transactions, or one of the terminals, would fail with the rest of the system still in operation.
- 4.16. Post Office states that, in the event of a power cut, no part of Horizon would work until power was restored. It says that the problems the Applicant says she experienced, where only part of the system would fail, are likely to have been due to telecommunications interrupts. It notes that, following a power cut, the branch would have to enter onto Horizon any transactions completed manually whilst the power was out and obtain a report from Horizon to identify if any transactions that were taking place when the power failed had not been processed.
- 4.17. Post Office refers to the NBSC call logs, which show that the branch reported only one power cut during the Applicant's tenure and this occurred in 2003. It notes that no calls were made to the Horizon Service Desk (HSD) Helpline to report power cuts during April, May and June 2008; the period it examined.
- 4.18. In Section 18.4 and 18.5 our Briefing Report – Part Two, we describe how the recovery process after a power cut or telecommunications interrupt could cause discrepancies in branches. However, due to the fact that the power cuts described by the Applicant were infrequent and because power cuts only sometimes result in the loss of certain transactions, we find it unlikely that power cuts or telecommunication failures could have contributed in a significant way to this branch's shortfalls. There is no evidence to suggest that power cuts or telecommunication failures became a significant issue in early 2008, when the Applicant asserts

that the discrepancies first started to appear. If power cuts really had been causing significant discrepancies, then we would have expected them to have appeared throughout the Applicant's tenure.

- 4.19. Post Office disputes the Applicant's assertion that Horizon could have been responsible for causing discrepancies at the branch. It refers to the records of TCs issued to the branch. These show that the branch was issued with 39 TCs in 2006, 41 in 2007 and 36 in 2008. Post Office compares these figures with the TCs issued to the branch after the Applicant's departure. These show that 10 TCs were issued in 2009, 12 in 2010, 13 in 2011, 12 in 2012 and 16 in 2013. Post Office claims that the reduction in TCs issued to the branch after the Applicant was suspended shows that she was prone to making errors. It notes that all of the TCs issued in 2008 were due to incorrect information being inputted into Horizon and also refers to a £600 error and a £9,000 error that the Applicant made in the month prior to her suspension. Post Office suggests that operational errors made by the Applicant, such as incorrectly inputting information, could have been a significant cause of losses at the branch.
- 4.20. WE concur with Post Office's assessment that the evidence shows that the Applicant frequently made mistakes whilst operating the branch. TCs were often issued to correct these mistakes, but it is reasonable to assume that many errors would have gone undetected and caused the branch losses. Although it would be logical to expect errors made at the counter to 'balance out' over time (i.e. some errors would favour the branch whilst others would generate losses), we believe that customers are more likely to report mistakes that have short-changed them than those from which they have benefitted. It is our view that this results in more of those errors that would have benefitted the branch being corrected, whilst many of the errors that cause losses remain unidentified, thereby resulting in net shortfalls. The Applicant's performance at the branch was affected, in her own admission, by the distraction of her husband's deteriorating health and the fact that she was prescribed a high dose of painkillers for kidney stones.
- 4.21. The Applicant complains that she longer had the use of a suspense account, an account in which Subpostmasters could place funds whilst discrepancies were being investigated or whilst waiting for TCs to be issued. Post Office asserts that the Applicant had access to a suspense account throughout her tenure. It refers to the NBSC Helpline logs, which show that the Applicant requested authority to enter figures into the suspense account and await a TC. It says that this shows that the Applicant was aware that she had use of a suspense account.
- 4.22. Whilst Post Office is correct in stating that the Applicant had use of a suspense account throughout her tenure, we believe that the Applicant intended to refer to the loss of a suspense account that would allow balances to be carried across multiple Trading Periods. Before Horizon was introduced, and for a short while afterwards, Subpostmasters had access to a branch suspense account that could contain entries carried over at the end of a Trading Period. Post Office altered the rules with regard to branch suspense accounts, stipulating that the figure in the suspense account had to be cleared at the end of the Trading Period. Although it was possible to continue to trade in the just-ended Trading Period, it is not clear whether the Applicant was aware of that possibility. Rather, it seems to have been her understanding that

she had to make good any losses at once, or settle them centrally, at the end of each Trading Period in order to continue trading. If that really was her understanding, then we accept that this could have contributed to her decision to conceal losses.

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. In her CQR, the Applicant states that her training consisted of four hours at a remote venue "*in front of a false keyboard*". She says that the training was focused on how to process transactions using the new system, but did cover how to troubleshoot errors when they occurred.
- 5.2. Post Office states that records are no longer available to verify the exact dates and level of training that the Applicant received. It notes that the standard level of training Subpostmasters received at the time was a three-day course followed by two and a half days on-site training plus assistance with the first balance. It says that it is unlikely that the Applicant would have received just four hours training on Horizon, given that the standard training was much more comprehensive.
- 5.3. Post Office refers to the NBSC Helpline call logs, which show that the Applicant made three calls in relation to accessing transaction logs, the earliest being made in 2003. It asserts that these calls indicate that the Applicant knew of the ability to use the transaction logs to investigate discrepancies, suggesting that this must have been covered in her training.
- 5.4. As records are no longer available, we are unable to reach an evidenced conclusion as to the adequacy of the Applicant's training. We do not accept Post Office's suggestion that the fact that the Applicant knew about transaction logs shows that her training covered investigating discrepancies, as it is entirely possible that she could have gained this knowledge from self-study or from other sources.
- 5.5. The Applicant complains that, on occasions when she contacted the Helpline, she was told either that the problems she was experiencing could not happen or that she should reboot the system. She says that "*the advice given did not resolve the matters*" and that "*where any complicated request for assistance was made, the assistance would not be forthcoming*".
- 5.6. Post Office reports that, on examination of the NBSC Helpline call logs, it could not find any evidence of the Applicant being told that the problem she was experiencing could not happen. It also refers to the HSD Helpline call logs, which show that the Applicant made four calls between 1 March 2008 and 30 June 2008 (when, according to the Applicant, the discrepancies supposedly arose). The calls related to a printer malfunction, which was fixed by an engineer; a desktop that failed to initialise, when she was advised to reboot; and issues with a PINpad, which an engineer was sent to replace. Post Office says that the NBSC and HSD call logs show that the Applicant received nothing but correct advice.

- 5.7. Due to the limited nature of the NBSC and HSD call logs, it is difficult to assess whether the advice given to the Applicant sufficiently resolved, from the Applicant's point of view, the problems that she reported. We were unable to find instances in the NBSC call logs where the Applicant had been advised that the problem she was reporting was not possible. As we have only been provided with records of four calls from the HSD call logs, we are unable to verify whether or not the Applicant was often advised to reboot the system, although it is noted that she was told to reboot the system in one of the four calls.
- 5.8. The Applicant reports that she believes that the POID officers who interviewed her on 9 January 2009 were "*not fully expert in computer systems they were discussing*". She says that they gave her the impression that "*they would be seeking further expert advice and would then contact her again having investigated the system*", but says that "*no further contact was received*". She states that Post Office did not seem interested in investigating errors that may have been generated by the system and that the investigators assumed she had acted fraudulently from the outset.
- 5.9. Post Office argues that the investigators who interviewed the Applicant were both fully qualified and had 12 years' experience as security managers and both had previously been Crown Office branch managers. It does not comment on the Applicant's allegations of prematurely presuming her guilty or of not being interested in investigating the possibility that Horizon could have caused errors.
- 5.10. Without records of what was said in the interview referenced by the Applicant, we are not able, at this time, to judge whether or not the investigators were biased in their line of questioning or what level of expertise they had regarding the Horizon system.

6. Is this case suitable for mediation?

- 6.1. In our opinion this is a weak case for mediation. We find that the most likely causes of the shortfalls experienced by the branch were operational errors made by the Applicant and her staff. However, it is possible that the level of training and support provided by Post Office to the Applicant could have exacerbated her and her staff's tendency to make mistakes.
- 6.2. We believe that, on balance, mediation could be beneficial in providing closure to the Applicant and clearing up any misconceptions she has concerning the events surrounding her suspension and prosecution. The following issue should also be considered:
- a) whether Post Office or the Applicant is responsible in part or in whole for the losses made good by the Applicant of approximately £77,000.