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Initial Complaint Review and Mediation Scheme

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1. No table of contents entries found.

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2. Executive Summary [and rationale for actions now being taken]

2.1. The headlines- MD/Mel to draft

2.2. Do we also add a section here specifically about allegations leveled at POL and our response to them? referencing the dossier and our supplementary evidence to the select committee

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3. Background - this section tells the story

What Horizon is, who uses it etc.

3.1. Horizon is the electronic point of sale system, which together with associated back office functions is used across all Post Office branches to process and record a wide range of transaction types. The term "Horizon" is used throughout this report to refer to both the original Horizon system, which dates back to 1995, and the current version of Horizon, introduced in 2010, known as Horizon On Line.

3.2. The Horizon system used in Post Offices up and down the UK processes 6 million transactions every working day. Nearly 500,000 users have used Horizon since it was introduced, serving millions of customers.

Second Sight's Initial Investigation

3.3. In June 2012, in order to address these concerns and in collaboration with the Justice for Subpostmasters Alliance (JFSA) and a group of MPs led by the Rt Hon James Arbuthnot MP, Post Office appointed independent forensic accountants, Second Sight Support Services Limited (Second Sight), to investigate.

3.4. During the course of that year long investigation, during which time Second Sight worked with a number of Subpostmasters, Post Office provided Second Sight with a considerable amount of information relating to the Horizon system – how transactions were processed in branches; what the reconciliation process was with POL's clients via the Finance Service Centre (FSC) and how FSC reconciled transactional errors with the individual branches. Where SS raised questions about the Horizon System especially in relation to claims/issues put forward by former and current Spmrs, POL provided responses by way of a "spot review" and one of the second Sight Directors visited Post Office to look at the Horizon system and how it worked???

3.5. In relation to the specific cases selected by Second Sight for investigation, Post Office provided them with ??10 Spot Review reports (although Second Sight only used ??? in their Interim Report which they published an Interim Report on 13 July 2013, a copy of which may be found at (better also to have as appendix?): <http://www.postoffice.co.uk/post-office-statement-horizon>.

3.6. The report set out six preliminary conclusions, the first of which was that they had found no evidence of system wide problems with the Horizon software, but they did identify a small number of areas where individual Subpostmasters may have encountered difficulties, around training and support.

The [Establishment of the] Scheme

3.7. To address the unresolved issues and the questions left open in that report, Post Office established the Scheme in order to provide an avenue for any Subpostmasters to raise their specific concerns directly with Post Office. The Scheme, developed jointly by Post Office, Second Sight and the JFSA as the way of continuing investigations that Second Sight had already begun into individual cases, also provided any other Subpostmasters with a relevant complaint to make an application to the Scheme with a view to resolution.

Page 4 Comments

- AV1** I'm not sure if SS received Horizon training? I'll check this out?
Angela Van-Den-Bogerd, 25/02/2015 09:36 AM
- AV2** Andy Parsons is best placed to provide this info.
Angela Van-Den-Bogerd, 25/02/2015 09:36 AM

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3.8. The Scheme was open to both serving and former Subpostmasters as well as to counter clerks employed by Post Office. It was announced on 27 August 2013 by Post Office in a press release (Annex X). Applications were invited through the Post Office's internal communications channels as well as through the JFSA Website. The Scheme was open for 12 weeks until 18 November 2013. The Scheme documentation as published can be found at Appendix xx

3.9. One of the key components of the Scheme was that Post Office would make a financial contribution towards the reasonable costs of a professional advisor (such as a lawyer or an accountant) to support a Subpostmaster through the Scheme.

3.10. Although Applicants were free to engage an advisor of their choosing, it was decided by the Working Group to invite potential advisors to a workshop, run jointly with Post Office, Second Sight and JFSA to provide them with information about the Scheme and Horizon after which they could, if they wished be on a panel of advisors who had an understanding of the Scheme and Horizon, Names of potential advisors invited to the workshop were provided by JFSA and Second Sight. Following the workshop those advisors who so wished, had their names added to the list of panel members. When an Applicant was accepted onto the Scheme they were invited to apply for a funding contribution from the Post Office and appoint an advisor, either from the panel any other advisor which met the criteria set out in the Scheme documentation (Appendix ??? para ???).

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The Working Group

3.11. The Scheme was overseen and supervised by a Working Group comprising Post Office, JFSA and Second Sight and had an independent Chair. To accommodate the desire to begin the Scheme as quickly as possible following its announcement, the Working Group was established immediately ??? and the first initial application was received on ??????

3.12. The Working Group had a independent Chair, Sir Anthony Hooper, who was appointed on ?????? Ref press release at Appendix

3.13. The Working Group conducted its business at monthly face to face meetings, with conference calls each week between those face to face meetings. Generally the conference calls, which became less frequent towards the end as the majority of cases had been investigated, was to discuss case progress, with more substantial business, such as correspondence and discussions on whether cases should be recommended for mediation, reserved for the face to face meetings.

3.14. The Working Group was supported by a secretariat, provided and funded by Post Office whose role was to provide the Working Group with information relating to case progress and other information to inform its decisions and to prepare and dispatch investigation reports to Applicants and deal with correspondence relating to the Scheme on the instruction of the Working Group.

3.15. The Working Group set its own Terms of Reference, attached at Appendix ???. Part of its remit was to agree any changes to the Scheme process as it saw fit within the broad arrangements set out in the Scheme documentation.

3.16.

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How the Scheme worked

3.17. As the cases progressed, and in light of experience, the Working Group made some adjustments to the process which broadly worked as follows: ??? Set out the process/ebbs and flows of the Scheme

- (i) Application form submitted to Second Sight
- (ii) Post Office checked eligibility
- (iii) If eligible, Working Group accepted into the Scheme ???Footnote about exhausting POL internal processes??
- (iv) Secretariat issued funding documents and case Questionnaire (prepared by Second sight
- (v) etc.

ANDY PARSONS DRAFTING

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4. Scheme Facts and Figures

4.1. The following sets out the key facts and figures relation to the Scheme, correct at the time of going to print

??Applications received

- o Number ineligible
- o Number resolved prior to entry
- o Number resolved prior to mediation
- o Number SS recommended for mediation
- o Number WG approved for mediation
- o Number WG did not approve for mediation
- o Number mediated
- o Number where party declined to mediate
- o Number of 'criminal conviction' cases
- o Number of cases previously heard in the criminal courts
- o Number of convictions appealed on the basis of information
- o Number resolved at mediation
- o Number not resolved at mediation
- o Number of applicants with advisors
- o Number of unrepresented applicants
- o Number of different advisors

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5. Resources

5.1. Post Office, in establishing the Scheme, realised that it would need to be properly resourced but that this was essential to ensure that each and every allegation was thoroughly investigated to enable Post office to assure itself, its customers and those who work in the network that the Horizon system operates as it should.

5.2. Additionally, as this was a significant and unanticipated commitment Post Office was dependent on a number of external resources to fulfill the requirements of the Scheme.

5.3. To date the Scheme has cost Post Office £5.6m

5.4. The main components are:

- c.£1m* on Second Sight, the independent forensic accountants.
*c.200k pre scheme
- More than £300k for Applicants to obtain professional advice in preparing their claims against Post Office, including £31k for JFSA's advisor
- c.2.5m million on investigating cases and supporting the Scheme
- Post Office Professional fees of c.£1.7m^[MU3]

5.5. Professional advice for applicants based on a Post Office contribution of:

- up to £1,500 + VAT towards the reasonable costs of a professional advisor assisting a Subpostmaster during Second Sight's investigation (ie. gathering information, completing the Case Questionnaire, responding to Second Sight's questions, etc.)
- up to £750 + VAT towards costs of a professional advisor in preparing for and attending a half- day mediation or up to £1,250 + VAT for a full day mediation as well as reasonable expenses of travelling to and from the mediation for a Subpostmaster and up to two representatives.

Page 9 Comments

MU3 To be updated by finance
Mark Underwood1, 25/02/2015 01:51 PM

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Provision of Information to second Sight and JFSA

Here we need something factual which rebuts the allegation that we withheld information –

Source for this is the supplementary evidence provided to the Select Committee

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6. Post Office Investigations and Findings

6.1. Post Office Limited investigated all Applications except those which were not eligible or those which were resolved prior to the completion of the full investigation report. There were xx such cases. In all other instances a full investigation report was completed and passed to Second Sight and sent to the Applicant. Although each case varied, investigation reports totalled more than 2,000 pages in length and had up to 80 pieces of supporting evidence in each case.

6.2. Although the investigations took longer than we would have wanted, Post Office is satisfied, and generally Second Sight and JFSA agreed, that they were comprehensive and thorough. Although some cases were very old and outside the standard retention periods for keeping information, Post Office went to considerable lengths to search its records and provide as much evidence as possible.

6.3. The investigation team comprised of twenty people, primarily from across the business which the skills, experience and expertise to undertake this type of work. They were managed by one of Post Office's most experienced and long serving senior managers who personally signed off each investigation report before it was passed to Second Sight.

6.4. In some cases, where an applicant had been unable to identify a particular timeframe for the complaint, Post Office pulled thousands of pages of call logs [Angela, can you add anything to this].... In total what amounts to thousands if not tens of thousands of pages of information was recovered and made available to Applicants and Second Sight.

6.5. Second Sight identified seventeen 'thematic' issues arising from their initial investigation and subsequent assessment of the applications during the investigation process. Although it is the case that all applicants raised a number of issues which at a high level could be described as common themes, Post Office's assessment was that each case was sufficiently different to render the thematic issues unhelpful???? not quite right but what???

6.6. For example, [Angela can we give an example eg: P&A. Issues"]

6.7. As Post Office has investigated each of the 150 Applications to The Scheme, the findings and potential improvement opportunities have been cross referenced with SS "Thematic Issues" report.

6.8. Of the 17 "Thematic Issues" documented Post Office's conclusion is that:

- 9 were due to user error;
 - Transactions or Transaction Corrections not entered by the Sub-postmaster or staff
 - Transaction anomalies associated with CASH or STOCK Remittances
 - Transaction anomalies following telecommunication or power failures
 - Transaction anomalies associated with ATMs
 - Transaction anomalies associated with Lottery Terminal or Scratch Cards
 - Transaction anomalies associated with MVL
 - Transaction anomalies associated with Foreign Currency
 - Transaction anomalies associated with Bank / GIRO / Cheques

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- Transaction anomalies associated with Stamps, Postage Labels, Phone Cards or Premium Bonds
- 2 were due to fraud;
 - Process issues at the end of each Trading Period
 - Transaction anomalies associated with Pensions and Allowances
- 4 were due to lack of awareness of the postmaster and/or their staff;
 - Hardware issues e.g. printer problems, PIN pads, touch screens and PayStation
 - Failure to follow correct procedures or mis-advice by POL's HelpLine
 - Limitations in the Transaction Audit Trail available to Subpostmasters
 - The lack of an outreach investigations function
- there was no evidence to support the issue raised for 1 of the "Thematic Issues" raised.???
- The contract between the Post Office and Subpostmasters
- training and support issues were claimed by 130 Applicants to have been an issue and whilst our investigations have found that in the main training was adequate and was provided to the business standard at the time, we could have done better in some cases and in areas such as ATM and Lottery.

6.9.

6.10. The specific themes identified were: **Need to get the list right????**

1. Transactions or Transaction Corrections not entered by the Sub-postmaster or staff
2. Transaction anomalies associated with CASH or STOCK Remittances
3. Transaction anomalies associated with Pensions and Allowances
4. Transaction anomalies following telecommunication or power failures
5. Transaction anomalies associated with ATMs
6. Transaction anomalies associated with Lottery Terminal or Scratch Cards
7. Transaction anomalies associated with MVL
8. Transaction anomalies associated with Foreign Currency
9. Transaction anomalies associated with Bank / GIRO / Cheques
10. Transaction anomalies associated with Stamps, Postage Labels, Phone Cards or Premium Bonds
11. Hardware issues e.g. printer problems, PIN pads, touch screens and PayStation
12. Failure to follow correct procedures or mis-advice by POL's HelpLine

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13. Training and Support issues including HelpLine and Audit
14. Limitations in the Transaction Audit Trail available to Subpostmasters
15. Process issues at the end of each Trading Period
16. The contract between the Post Office and Subpostmasters
17. The lack of an outreach investigations function

6.11. Through the work of the Branch Support Programme and the outputs of the Mediation Scheme Investigation team the “Thematic Issues” raised have all been addressed by Post Office. Post Office’s detailed responses to the specific issues raised at the time of writing are dealt with in Section ?/Appendix??

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7. Mediations

7.1. The Centre for Effective Dispute Resolution (CEDR) was engaged to provide mediations for the Scheme. The arrangements put in place by CEDR, and agreed by the Working Group, are in line with CEDR's own Code of Conduct and the European Code of Conduct for Mediators which the Civil Mediation Council requires all UK providers to observe in order to maintain accreditation.

7.2. The reason independent, well established and reputable mediation experts were appointed to conduct the mediations was specifically to ensure that the mediations are undertaken in line with best practice. The process and procedure agreed by the Working Group is at Appendix ???.

7.3. Every mediation is conducted by an experienced and entirely independent mediator appointed by CEDR, and Applicants typically attend mediation with their own professional advisor. When a case is passed to mediation the Applicant and their advisor are contacted by CEDR to arrange a date for mediation and provided with information about mediation (Appendix ??)

7.4. In deciding who attends individual mediations Post Office considers the particulars of the case and selects a team which it considers best able to contribute to a successful mediation, drawing from a pool of experienced lawyers who are familiar with the Scheme and case investigations and a pool of senior Post Office staff with long experience working within the Post Office network.

7.5. As is standard mediation practice, parties sign a confidentiality agreement prior to a mediation session. Under those confidentiality arrangements, no-one other than the parties are entitled to know the outcome of individual mediations. This included the Working Group. However, to enable to Working Group to monitor how mediations were proceeding CEDR agreed to provide regular updates

7.6. The approach adopted by the Working Group was that once Second Sight submitted their final report and recommendation on mediation, the case would be discussed by the Working Group to consider the recommendation to mediate. However, it was agreed that Post Office would, on receipt of a final report from Second Sight, consider whether it was prepared to mediate based on Second Sight's report or whether it wanted to discuss a case and get the Working Group's recommendation.

7.7. It was accepted by the Working Group that the final decision on whether or not to mediate a case rested with the parties. It was never envisaged that all cases would automatically proceed to mediation between Post Office and Applicants. Mediation is, by its very nature, a voluntary process designed to help reach a consensual resolution. The Working Group agreed that it could not compel either party to participate in mediation. At the time of writing Post Office has declined to mediate ?? of the cases where the Working Group recommended mediation. These are not decisions which Post Office takes lightly and in doing so takes full account of the view of the Working Group.

7.8. Post Office considers every case on its merits, but mediation is unlikely to be successful where no evidence has emerged through the process to suggest that Post Office is responsible for the issues complained or has acted improperly.

7.9. It is the case that Post Office has entered into mediations in some cases following a Working Group, recommendation where, on the face of it, there appears to be little prospect of resolution, in particular where Second Sight conclude that

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the case is weak but nonetheless recommended mediation. However, Post Office took the view that it should adopt a general default position in favour of mediation, at least for the initial cases and await feedback from CEDR. However, in all cases where Post Office has attended mediation it has made every effort to resolve the complaint.

8. CEDR provided its first report to the Working Group after 11 cases had been mediated. Copy at appendix 1. The report states that it is early days as the number of cases having been mediated is small but makes recommendations about how success rates might be improved. Post Office considering is how best to achieve this this with CEDR.

Confidential**Branch Improvement**^{MU4}**Business User Forum**

8.1. One of the three initiatives Post Office put in place to address those issues raised in Second Sight's Interim report, was a new Business User Forum.

8.2. The Branch User Forum enables Subpostmasters and Crown colleagues to raise issues and insights about business processes. The forum is made up of Subpostmasters, crown colleagues and senior leaders and looks to address the day to day issues and frustrations faced by branch teams. It provides a link between the decision makers in the business and the teams serving Post Office's customers each day.

8.3. The forum meets around six times a year and has included visits to NBSC and Financial Service Centre (FSC) to gain a better understanding of how they operate and the issues they and branches experience.

8.4. The Branch User Forum is already making an impact on how things are done in branches by instigating a number of changes to transactions, including travel money and the Health Lottery. Further, the information shared and the ideas generated at the Business User Forum inform the Business Support Programme.

Business Support Programme

8.5. The Business Support Programme was established to take on board learnings from the investigations and consider what more could be provided to improve the effectiveness of the support Post Office provides to Subpostmasters and operators in the running of their Post Offices from an operational and engagement perspective. This work is continuing and is being done through:

- reviewing the life cycle of the Subpostmaster and all touch points with the business;
- taking input from owners, users and recipients of Post Office policies and processes;
- designing policies and processes that deliver improved ways of working with the Subpostmaster network in a cost effective and engaging way;
- developing an implementation plan to move from existing to future state.

8.6. The focus of the Programme is predominately how the business supports the agency network and the policies and processes that impact on the Subpostmaster. However, where the touch-points/considerations are the same for Crown network then these are also included within the scope of this Programme. Improvements have been made to:

Training

8.7. The content of the classroom training provided to new postmasters has been refreshed with more focus on:

- balancing and how to look for discrepancies when they occur within branch;

Page 16 Comments

MU4 This section looks a bit out of place now as it is superseded by that in included in section 8 (thematic issues?)
Mark Underwood1, 25/02/2015 03:08 PM

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- contractual obligation regarding discrepancies that do occur and how to process discrepancies correctly;
- explanation of False Accounting and the potential consequences i.e. criminal offence.

8.8. A revised balancing guide has been introduced to help new postmasters balance their accounts correctly; this is a hand-out from the initial training provided to new postmasters and assistants where appropriate. A further best practice guide to identify discrepancies in branch has been introduced. This is a hand-out at on-site training for new postmasters and follow-up visits where branches are experiencing balancing difficulties.

8.9. A revised training offer that replaces approximately two thirds of the classroom training for new operators with online training to be completed prior to attending classroom training has been designed. Partnering with Capita Digital Learning, we have created multi-media online learning, including video, games and quizzes to ensure to appeal to the broad range of end users that will consume content. The on-line training for Postmasters, and their assistants went live on 5th February 2015.

- The learning material wraps in messaging around customer service and sales conversations, and has been developed with a cross-Post Office team including Crown, Network and Commercial teams. The first classroom training for the blended training offer takes place w/c 23rd February.

8.10. Compliance testing is a precursor to new postmaster training and is an annual regulatory requirement for all branch staff. This is now being provided on-line to the branch network replacing the traditional paper workbooks.

Balancing/Accounting Support Improvements

8.11. A refreshed approach to supporting branches with discrepancy issues was introduced in 2013. Where NBSC is unable to resolve a caller's query/issue this caller is referred to the Branch Support Team who can provide more in depth telephone support to the branch. This team also assesses whether on-site additional support or further training is required and will organise if appropriate. The learning from the Mediation Scheme investigations is that the recording of the support given needs to be consistently documented. A revised approach will be introduced in Q1 15/16. ^(MUS)

NBSC Improvements

8.12. The volume of calls from branches is now assessed by the Network Business Support Centre (NBSC) with the branches that have a higher than average call volume being proactively contacted by the Branch Support team to understand the reason for the high level of calls; establish what extra support can be offered and whether any changes need to be made to training etc.

8.13. A new approach has been developed to analyse the calls received by NBSC to identify the root cause of the issue; to identify the solution for the branch in the first instance and implement wider business changes if appropriate e.g. content of and method of delivering new product training.

Managing Postmaster Material Contract Breaches

Page 17 Comments

MU5 Angela – is this now in place?
Mark Underwood1, 25/02/2015 09:36 AM

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8.14. The suspended termination approach was launched in April 2014 to deal with postmasters where mitigating circumstances are such that it is inappropriate to terminate the contract. The Postmaster remains in post on the condition that if a further material breach of contract occurs in an agreed period (set by the nature of the first breach and typically a year) then the contract termination may be triggered. Postmaster suspensions are running at 33 at period 10. 112 postmasters have been kept in post that would probably have been suspended pre policy change. A condition of remaining in post is that the postmaster makes good the audit deficient. This has resulted in £552k being made good by period 10 which pre approach change would have transferred to agent debt. ^[MU6]

Horizon System Transaction Improvements

8.15. The transaction for customers paying by debit or credit card for bureau transactions was changed in Sept 2014. The transaction now includes an automatic re-print of the receipt which includes the card and identification details (last 4 digits only) of the customer, which needs to be presented in case of fraudulent use of the card. Previously, the branch would have to remember to request a reprint and would be liable for the loss if they failed to provide it to Finance Service Centre. Postmasters were held liable for £65k in 13/14 (average per branch £2.5k). Since introduction no chargebacks to Postmasters have been made. ^[MU7]

8.16. The end of day cheque remittance process has been reviewed and a new solution to drive out errors has been identified. This is scheduled for the next software release in May 2015 reducing calls into NBSC (650 per month) and the Transaction Corrections (c.570 pm periods 1-5 2014) issued by Finance Service Centre. Efficiencies in resource realised as a result are £86k pa ^[MU8]

HORIce

8.17. The HORIce information tool was commissioned from Fujitsu for £100k (as opposed to the £1.7m Detica alternative) in 2014 and has been in pilot for the last 4 months. The pilot has proved that HORIce is an effective and an efficient tool – and an improvement on anything we have had to date - for focusing on any one particular branch and extracting the information for a number of purposes including those below. Comprehensive list of benefits is at Appendix 1.

- investigating accounting anomalies whilst considering whether to precautionary suspend a postmaster.
- NBSC accessing branch data when assisting a branch with an accounting problem so that they establish exactly what the branch has done rather than relying on what they say they have done. This results in the branch being provided with the correct advice rather than advice based on the information from the branch.
- HORIce reports raising flags to support branches and identify branches for further checks by Grapevine team. This results in telephone calls being made to branch to establish whether there are any training needs. If fraud is expected an audit will be arranged.

Page 18 Comments

- MU6** Do we want to share this info?
Mark Underwood1, 25/02/2015 09:36 AM
- MU7** Do we want to share this info?
Mark Underwood1, 25/02/2015 09:36 AM
- MU8** Do we ant to share this info?
Mark Underwood1, 25/02/2015 09:36 AM

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8.18. We are currently working with Fujitsu to refine the outputs of HORIce so that it highlights anomalies in branch performance across the whole network with a view to moving to risk based audits only which is a more targeted and efficient model.^(MUG)

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MU9 Do we want to share this info?
Mark Underwood1, 25/02/2015 09:36 AM

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9. “Thematic issues”

9.1.

Improvements to Date

9.2. As a result of our investigation process and in conjunction with the Branch Support Programme we have already introduced improvements to address the “Thematic Issues” and/or have identified further improvement opportunities. These are set out below:

- User error – to mitigate the risk of user error within branch we have for 6 of the “Thematic Issues” already introduced improvements. For 7 of the “Thematic Issues”, further improvement opportunities have been identified.
- Fraud – the 2 “Thematic Issues” detailed are False Accounting and Pension & Allowance reintroduction fraud. Improvements have already been introduced to raise awareness of False Accounting and to offer support to postmasters at the earliest opportunity. Pension and Allowances were replaced by POCA.
- Lack of awareness – in 3 of the 4 “Thematic Issues” improvements have already been made to raise awareness with and improve the understanding of the postmaster. Further improvement opportunities have been identified for all issues raised.
- No evidence to support – this is where postmasters have claimed they were not aware of the terms of the Spmr contract they entered into and/or had never received a copy of that contract. Although there is no evidence to support this claim, improvements to raise awareness of the terms of the contract have been implemented.
- Training and Support – improvements to the training offer have been introduced in recent years to reflect the new Mains and Local operating models. Further improvements have been made to classroom training content with online training going live 5th February.

DN: WE SHOULD LOSE THIS TABLE BUT INSERT THE DETAIL UNDER THE RELEVANT THEMATIC ISSUE - SEE MY NOTES IN THAT SECTION

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10. Specific issues raised by Second Sight and Post Office's response

10.1. Second Sight has, over the past two and a half years, raised a number of questions relating to their so called 'thematic issues'. These have been high level theses such as ATM's which Post Office, considers are simply headline titles for categorising complaints and that its investigation of each complaint has shown that each case is different and, individual cases categorised by Second Sight under these headings are, generally, different in nature. However, Post Office has used Second Sight's categorisation as a lens through which to consider whether improvements could be made to business practices

UNDER EACH THEMATIC ISSUE BELOW WE SHOULD:

Set out the issues raised as far as we understand it

Set out a summary of our findings relating to those issues

Set out our 'response to the 'allegation'

Summarise, from Angela's table, what additional improvements we are making where appropriate.

We should particularly include a lot of information on 'remote' transactions and investigations and prosecutions. We have set out chapter and verse on that in other documents which we can draw on.

I think we can make extensive use of Spot Review 5

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Transactions or Transaction Corrections not entered by the Sub-postmaster or staff

10.2. *Summary of questions asked, information provided – sources – SS Part 2 report, PO response to the P2 report, P2 questions and answers provided, Select Committee rebuttals & supplementary evidence provided, Response to Westminster debate (Long Dossier), Spot Reviews & individual bits i.e. letter re M103 on prosecutions to SS.*

No evidence of remote access. All claims of 'ghost' transactions have been explained in POIRs: enforced log out from Horizon; Operator error supported by receipts and recovery screens.

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Transaction anomalies associated with CASH or STOCK Remittances

10.3. *Summary of questions asked, information provided – sources – SS Part 2 report, PO response to the P2 report, P2 questions and answers provided, Select Committee rebuttals & supplementary evidence provided, Response to Westminster debate (Long Dossier), Spot Reviews & individual bits i.e. letter re M103 on prosecutions to SS.*

PO investigation has identified user error in all cases. Given that there is no reconciliation between Swindon and branches this could mean that discrepancies in remittances have gone unnoticed resulted in a loss or gain at branch.

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Transaction anomalies associated with Pensions and Allowances

10.4. *Summary of questions asked, information provided – sources – SS Part 2 report, PO response to the P2 report, P2 questions and answers provided, Select Committee rebuttals & supplementary evidence provided, Response to Westminster debate (Long Dossier), Spot Reviews & individual bits i.e. letter re M103 on prosecutions to SS.*

Scheme cases investigated have shown branch fraudulent activity.

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Transaction anomalies following telecommunication or power failures

10.5. *Summary of questions asked, information provided – sources – SS Part 2 report, PO response to the P2 report, P2 questions and answers provided, Select Committee rebuttals & supplementary evidence provided, Response to Westminster debate (Long Dossier), Spot Reviews & individual bits i.e. letter re M103 on prosecutions to SS.*

A loss of telecommunications or power in branch will not directly cause discrepancies. This is dependent on the postmaster correctly following the Horizon recovery process on the screen. A lack of understanding of the recovery process was found in the earlier cases in particular.

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Transaction anomalies associated with ATMs

10.6. *Summary of questions asked, information provided – sources – SS Part 2 report, PO response to the P2 report, P2 questions and answers provided, Select Committee rebuttals & supplementary evidence provided, Response to Westminster debate (Long Dossier), Spot Reviews & individual bits i.e. letter re M103 on prosecutions to SS.*

POIRs detail a number of postmasters did not follow PO procedures correctly. Not having individual ATM stock units exasperated the in-branch issues.

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Transaction anomalies associated with Lottery Terminal or Scratch Cards

10.7. *Summary of questions asked, information provided – sources – SS Part 2 report, PO response to the P2 report, P2 questions and answers provided, Select Committee rebuttals & supplementary evidence provided, Response to Westminster debate (Long Dossier), Spot Reviews & individual bits i.e. letter re M103 on prosecutions to SS.*

POIRs show that scratchcards activation and rem in process caused problems for branches. Branches would probably have benefitted from face to face training.

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Transaction anomalies associated with MVL

10.8. *Summary of questions asked, information provided – sources – SS Part 2 report, PO response to the P2 report, P2 questions and answers provided, Select Committee rebuttals & supplementary evidence provided, Response to Westminster debate (Long Dossier), Spot Reviews & individual bits i.e. letter re M103 on prosecutions to SS.*

Time expired as MVL discs no longer used.

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Transaction anomalies associated with Foreign Currency

10.9. *Summary of questions asked, information provided – sources – SS Part 2 report, PO response to the P2 report, P2 questions and answers provided, Select Committee rebuttals & supplementary evidence provided, Response to Westminster debate (Long Dossier), Spot Reviews & individual bits i.e. letter re M103 on prosecutions to SS.*

Other than for one case in the Scheme that involved postmaster selling at unauthorised exchange rates, POIRs evidence user error.

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Transaction anomalies associated with Bank / GIRO / Cheques

10.10. *Summary of questions asked, information provided – sources – SS Part 2 report, PO response to the P2 report, P2 questions and answers provided, Select Committee rebuttals & supplementary evidence provided, Response to Westminster debate (Long Dossier), Spot Reviews & individual bits i.e. letter re M103 on prosecutions to SS.*

Problems with Rem out cheque process were due to user error. Giro deposit errors were due to mis-key errors by users.

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***Transaction anomalies associated with Stamps, Postage Labels, Phone Cards
or Premium Bonds***

10.11. *Summary of questions asked, information provided – sources – SS Part 2 report, PO response to the P2 report, P2 questions and answers provided, Select Committee rebuttals & supplementary evidence provided, Response to Westminster debate (Long Dossier), Spot Reviews & individual bits i.e. letter re M103 on prosecutions to SS.*

Stamps Philatelic/definitive move from one to other. Postage labels - rejects/spoilt lack of understanding difference. Phonecards not an issue isolated user error.

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***Hardware issues e.g. printer problems, PIN pads, touch screens and
PayStation***

10.12. *Summary of questions asked, information provided – sources – SS Part 2 report, PO response to the P2 report, P2 questions and answers provided, Select Committee rebuttals & supplementary evidence provided, Response to Westminster debate (Long Dossier), Spot Reviews & individual bits i.e. letter re M103 on prosecutions to SS.*

Lack of understanding of what hardware functionality/capability.

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Failure to follow correct procedures or mis-advice by POL's HelpLine

10.13. *Summary of questions asked, information provided – sources – SS Part 2 report, PO response to the P2 report, P2 questions and answers provided, Select Committee rebuttals & supplementary evidence provided, Response to Westminster debate (Long Dossier), Spot Reviews & individual bits i.e. letter re M103 on prosecutions to SS.*

Whilst some Applicants have claimed wrong advice from the NBSC there is no evidence of this in the call logs. That said the Operator can only respond to the caller's explanation of the problem and where the explanation offered by postmaster is poor this could lead to inaccurate advice being given by NBSC.

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Training and Support issues including HelpLine and Audit

10.14. *Summary of questions asked, information provided – sources – SS Part 2 report, PO response to the P2 report, P2 questions and answers provided, Select Committee rebuttals & supplementary evidence provided, Response to Westminster debate (Long Dossier), Spot Reviews & individual bits i.e. letter re M103 on prosecutions to SS.*

Claims of lack of training at various stages. PO investigations have found little evidence of lack of training across the 150 cases rather that Applicants were adequately trained at appointment but that some chose not to be hands on choosing instead to rely on their staff.

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Limitations in the Transaction Audit Trail available to Subpostmasters

10.15. *Summary of questions asked, information provided – sources – SS Part 2 report, PO response to the P2 report, P2 questions and answers provided, Select Committee rebuttals & supplementary evidence provided, Response to Westminster debate (Long Dossier), Spot Reviews & individual bits i.e. letter re M103 on prosecutions to SS.*

Postmasters claim of lack of paper trail however since the introduction of Horizon postmasters have had access to in-branch reports for up to 42 days after the transaction. This was extended to 60 days on the introduction of Horizon on-line.

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Process issues at the end of each Trading Period

10.16. *Summary of questions asked, information provided – sources – SS Part 2 report, PO response to the P2 report, P2 questions and answers provided, Select Committee rebuttals & supplementary evidence provided, Response to Westminster debate (Long Dossier), Spot Reviews & individual bits i.e. letter re M103 on prosecutions to SS.*

Applicant's claim of having to falsify account in order to trade the next day is incorrect. Some Applicants appear to have been or claim to have been not aware of the in-branch reports available to them to search for discrepancies. PO investigations have evidenced that some Applicants chose not to seek help from NBSC or any other PO facility.

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The contract between the Post Office and Subpostmasters

Scheme applicants claim they didn't realise the terms of the contract. PO investigations conclude that applicants did receive contract and in all probability understood the terms as they had worked within those terms for a considerable time before claiming lack of awareness.

10.17. Post Office has maintained consistently that matters relating to the Subpostmaster's contract are outside of the scope of the Scheme (it being to consider complaints about Horizon and associated issues, that matters of contract are legal issues and Second Sight has neither the expertise or qualifications to opine on such matters, a point which has been evidenced by the nature of a number of Second Sight's comments and questions. However post office has responded to the various points advance by Second Sight in the interests of the applicants who may consider it appropriate to rely in some way on an opinion or conclusion advanced by Second Sight thinking that such an opinion, expressed in the context of the Scheme, might be accepted as an expert opinion in some way. Below is a summary of the information Post Office has provided to Second Sight and others in response to questions about the SPMR contract:

10.18. Subpostmasters are not employees of Post Office. They are independent business people who choose to enter into a contract with Post Office, like they may do with any other commercial arrangement they may have.

10.19. The terms of the spmr contract are balanced. It refelcets the 'principle' 'agent' relation which is a relationship well established in common law.

10.20. The Subpostmaster Contract is, in effect, a franchise agreement between the parties recording the basis on which they agree to do business in their particular circumstances.

10.21. The risk sharing arrangements in the contract other franchise agreements in use in the United Kingdom.

10.22. It is open to spmrs to take legal advice in relation to the contract

10.23. The current Subpostmaster Contract dates back to 1994 and has been subject to a number of amendments since then. Post Office discusses variations to the contract with the NFSP on behalf of Subpostmasters. In a network of several thousand Subpostmasters, it is sensible for the contract to be negotiated collectively on behalf of Subpostmasters.

10.24. Whether an spmr signs the contract itself or a letter acknowledging the acceptance of its terms is a question relating to the formation and enforceability of

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contracts, the response to which will be informed by the particular circumstances of each individual contract and their application to the relevant legal principles. Though it is not therefore capable of giving rise to a general response it is worth noting that the "Acknowledgment of Appointment" document, whilst not the main contract itself, states that the Subpostmaster has been given and has accepted the terms of the standard Subpostmaster's contract. In summary, it is normal practice, across a whole range of business circumstances, not just in relation to the spmr contract for party to a contract to sign a document acknowledging acceptance of its terms rather than the contract itself.

10.25. The contract document is issued with the offer of appointment when an individual is advised they have been successful at interview. This has been the process since 2001.

10.26. Subpostmasters are only responsible for losses caused through their "own negligence, carelessness or error" and for losses caused by their assistants. Thus, Subpostmasters are only liable for losses arising from those operations that are under their control and responsibility.

10.27. Subpostmasters employ their assistants directly and are responsible for organising their staff and implementing controls to prevent opportunities for theft. They are therefore responsible for the actions of their employees, even if those employees act dishonestly.

10.28. Post Office may only require Subpostmasters to offer new products and services where it is 'reasonable' to do so.

10.29. Subpostmasters are only responsible for losses caused through their "own negligence, carelessness or error" and for losses caused by their assistants. Thus, Subpostmasters are only liable for losses arising from those operations that are under their control and responsibility. Subpostmasters employ their assistants directly and are responsible for organising their staff and implementing controls to prevent opportunities for theft. They are therefore responsible for the actions of their employees, even if those employees act dishonestly.

10.30. Staff members/Subpostmasters' assistants are employees of the Subpostmaster and not Post Office Ltd. It is the Subpostmaster who performance manages the staff members including any disciplinary action as appropriate. It is also a Subpostmaster who needs to assure themselves that any assistants are suitable for the role by conducting interviews, seeking references, etc.

10.31. When a Subpostmaster recruits a new member of staff there are a number of checks that have to be undertaken (e.g. right to work in the UK, proof of identity and proof of address along with their five year work history).

10.32. In addition, the individual must be registered with Post Office Ltd so the security checks can be undertaken (e.g. criminal record check). There is an annual check of all assistants to ensure they have been cleared through the pre-

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employment checking system. A recruitment file has to be established and maintained holding the basic paperwork for each assistant (please see section 15 of the Subpostmaster contract for services, paragraph 4, for further information).

10.33. Under their contract for services with Post Office, every Subpostmaster must establish, maintain and adhere to a formal disciplinary policy in respect of any assistants who fail to comply with the Subpostmaster obligations as detailed in the contract. The disciplinary policy must include the content as defined in the contract and records must be retained (please see Section 15, paragraph 9, of the Subpostmaster contract for services paragraph 9 for further information).

SUB HEADING – ASSESSMENT OF POTENTIAL SPMR SKILLS

- a. Prior to appointment Post Office requires the potential spmr to provide:
 2. a business plan to support an individual's application; and
 3. attend a competency based interview of the individual which is undertaken by trained assessors.

- a. At interview, applicants are assessed on their ability to explain their business proposition, answer any questions raised and provide examples to demonstrate their understanding of what is required across a number of competency areas. The business plan is also assessed financially by the Finance team.

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The lack of an outreach investigations function

SS claim that some Applicants had an expectation beyond Post Office contractual obligation in that they expected someone to go to branch and find their discrepancy or tell them where the money had gone.

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Investigations and prosecutions

1. Here we can draw on the 'dossier' of what why and how we prosecute

???????

2. All cases of potentially criminal conduct are thoroughly investigated and decisions about appropriate courses of action are taken on the basis of the available facts and evidence.

3. It not the case that it is more than likely that a Subpostmaster will be "thrown out or even charged" after an audit. Post Office records show that in the financial years 2011-12 and 2012-13, for example, approximately 12% of all audits conducted led to the suspension of a Subpostmaster and approximately half of those Subpostmasters suspended saw their contracts terminated. Only 2.5% (approx.) of the audits during this period led to criminal prosecutions

4. The decision to prosecute a Subpostmaster or employee, in the small number of instances where this occurs, is always taken following numerous checks and balances. Post Office is confident that its approach is fully compliant with all legal requirements. When Post Office decides to prosecute a case, its conduct of the prosecution is scrutinised by defence lawyers and ultimately by the Courts themselves.

5. In deciding whether a case is suitable for prosecution, Post Office considers (among other factors) whether it meets the tests set out in the Code for Crown Prosecutors. The Code requires prosecutors to be satisfied that there is sufficient evidence for a realistic prospect of conviction and that the prosecution is in the public interest. The Code is issued by the Director of Public Prosecutions and followed by Crown Prosecutors. Post Office is not required to inform the CPS that a private prosecution has commenced but the CPS can take over a private prosecution if circumstances warrant. Like the CPS, Post Office keeps cases under continuous review all the way up to and during any trial.

6. Once a decision has been made to prosecute and a defendant is charged, he/she is entitled to receive private and confidential legal advice. As with all criminal prosecutions Post Office has a duty to disclose the evidence in the case to the defendant and his/her lawyers, including all evidence that would assist the defence or undermine the prosecution.

7. Post Office does not put pressure on defendants to plead guilty to criminal offences. Post Office is duty bound to communicate with a defendant's

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lawyers, and any decision by a defendant to plead guilty is made after he or she has had the opportunity to take private and confidential legal advice and consider, with their lawyers, all the available evidence.

8. The evidential requirements for proving the offence of theft is a matter of law.

9. Post Office does not bring charges for theft as a tactical device to drive a guilty plea for false accounting. It is possible to bring a charge for theft where someone with access to money, takes steps to hide a loss and can offer no credible explanation for where the money has gone.

- The suggestion that the offence of false accounting is a less serious offence to that of theft is incorrect. Both offences are equal in law: both are offences of dishonesty and both carry the same maximum sentence (7 years imprisonment).
-
- The suggestion that Post Office has encouraged a defendant into pleading guilty in order to avoid prison or to achieve a lesser sentence. This suggestion is based on a misunderstanding of the criminal law process:
 - Post Office has no role in advising a defendant: every person charged with a criminal offence is entitled to representation by independent solicitors (and in the Crown Court, a barrister).
 - Legal Aid is available to any defendant where the offence carries a risk of imprisonment (as do all of the charges levelled by Post Office).
 - The decision to plead guilty is always one for the defendant only, having taken advice from their own lawyers.
 - When deciding to plead guilty, the defendant will have been advised by their own lawyer that a guilty plea represents a complete admission to having committed the offence and, where the offence is one of dishonesty (theft; false accounting; fraud), to that dishonest act. This is advice a defence lawyer must give.
- The suggestion that a guilty plea to false accounting rather than theft was accepted by Post Office because "...there was no evidence of theft" is based on a lack of understanding of criminal law and the criminal law processes:
 - Where an audit discloses a loss in circumstances where there is evidence of false accounting, the fact of the loss together with the false entries is sufficient evidence upon which to base a charge of theft. Simply put, the fact that money is missing and the

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defendant has adjusted the figures is sufficient evidence (in accordance with the Code for Crown Prosecutors) to found a theft charge.

- Post Office has always been prepared to accept a guilty plea to false accounting where theft is charged, not least because it has a duty to protect public (and its own) funds and, given that both charges are equal in the eyes of the law, the added expense of going to trial where a guilty plea to an offence of dishonesty is offered would often (but not always) jeopardise that duty.
 - In any event the initial suggestion that a defendant pleads guilty will come from the defendant's lawyers, usually motivated by the defendant's instructions that they are guilty of that offence.
 - Finally, it is the duty of the defence lawyers to identify to the court where there is insufficient evidence to sustain a charge. If the court agrees then the Judge must dismiss that charge. Thus a charge upon which there is no evidence will inevitably fail.
- The suggestion that the Crown Prosecution Service (CPS) would have acted differently to Post Office as a prosecutor, perhaps by not prosecuting at all, or by accepting a different outcome, is misplaced:
 - Both Post Office and the CPS are bound by the Code for Crown Prosecutors; both are overseen by the courts and both must act in accordance with the principles of fairness.
 - Post Office is not unique in prosecuting its own cases; many organisations conduct prosecutions within their own sphere of interest, including for example the Driver and Vehicle Standards Agency, Transport for London, the Environmental Agency, and many Local Authorities.
 - Post Office prosecutors are all experienced criminal lawyers, many of whom have wide experience of prosecuting both for Post Office and the CPS. These lawyers advise Post Office in full, including by reference to the Code for Crown Prosecutors and its application in the courts, before a prosecution is commenced and continued. The CPS does not have any role in this process.
 - Neither does the CPS 'review', 'oversee' or otherwise regulate non-CPS prosecutions - that function is reserved to the courts.
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11. Appendices

1. Press notice announcing the Inquiry (which led to the publication of the SS Interim Report)
2. Raising concerns with Horizon (doc explaining how SPMRS could become part of the initial inquiry)
3. Press notice subsequent to the release of the SS Interim report
4. Press release announcing the Scheme
5. Scheme letter
6. Mediation pack application form
7. Mediation pack
8. Press release announcing the appt of SAH
9. WG TOR
10. Fact File ^{MU10}
11. Press release issued after the Part 2 report
12. PO response to the Part 2 report ^{MU11}
13. Letter from SAH to Jo Swinson
14. PO Response to the Westminster Hall debate (long Dossier)
15. Letter from SAH to Adrian Bailey
16. PO Supplementary evidence submitted to the Select Committee
17. CEDR report on mediations

CEDR docs as provided to /agreed with the Working Group (Jess to provide and at the appropriate time get CEDR agreement to use and also on what we say about CEDR)

Page 44 Comments

MU10 This was only ever draft. It needs to be signed off.

Further, we are able to publish this as it was our own document.

We cannot include in the annex any of SS's reports as that would breach the confidentiality

Mark Underwood1, 26/02/2015 10:11 AM

MU11 Is this confidential? Are we able to publish???

Mark Underwood1, 26/02/2015 10:29 AM