

RW COMMENTS ON MC DRAFT SENT SUNDAY 25.01.15 @ 1300

Draft: In strictest confidence and legally privileged.

BIS Select Committee: Post Office mediation scheme explored: Business, Innovation and Skills Committee explore alleged issues with Horizon IT system on 3 February

The Line Up (if Paula does not attend)

Given the gravity of the situation involving potential miscarriages of justice because of Post Office actions, why is Paula Vennells not sitting in front of us today?

The Post Office is addressing the allegations about Horizon through the Complaint Review and Mediation Scheme – as agreed with the JFSA, Second Sight and the MPs involved. The Scheme is supervised by a Working Group that is Chaired by Sir Anthony Hooper to ensure impartiality. The Chief Executive has been determined about that impartiality and she is not part of the Working Group. [She wanted to ensure that the Committee could directly question the people who are accountable to her for Post Office's representation within the Scheme.

The Scheme

It has been more than 2 years since the inquiry started and you have hardly managed to resolve a single case – postmasters have been endlessly waiting for the findings in their cases, meaning some of them might be too late to enter an appeal against their conviction. How can it take so long to get to the bottom of this?

We have resolved cases. The majority of the cases have been brought by former SPMs who have left the network. Some are very old, which has made investigation difficult, but even then we have done so diligently.

The Scheme is entirely **voluntary**. It does not prevent a SPM from exercising any of their rights – they have always been able to go to court if they wanted. Where an applicant has a criminal conviction, it has always been possible to ask the court for permission to appeal, even after a deadline has passed.

[Around a third of the cases] are now resolved. Some were resolved at early stages and others have been resolved at other points in the Scheme, either before or during mediation.

[Latest figures to be inserted if SAH approves this]

But the inquiry and investigation has taken longer than we or the other parties would like.

This is for a number of reasons, which Sir Anthony Hooper set out in a letter to the Minister of Postal Affairs in December and which is in the House Library: The progress of cases at every stage of the Scheme has taken longer than the Working Group would have wanted,

including submissions by applicants or their professional advisors, Post Office's investigations, Second Sight' reviews and applicant responses to draft case reviews.

It was also very important to ensure that there was significant opportunity for people to put forward complaints once the Scheme was agreed. We actively encouraged people – as did the JFSA - to come forward during a period of three months, advertising twice through [all] our communications channels including our web channels for postmasters and counter clerks. [[RW: we also asked for submission in late 2011/early 2013 through the "Raising Concerns with Horizon document.]] The allegations are very serious – if there was a problem with the integrity of our computer system, which is being used by our postmasters to process six million transactions every day for our customers throughout the whole country we would want to find out and act.

A rigorous approach is essential. The allegations are extremely serious.

Every applicant submits a detailed case questionnaire for investigation, together with any evidence they may have. We have a 20 strong team dedicated to investigating every case in full, people who are employed full-time for retrieving and analysing documents and evidence including interview transcripts, telephone logs, and Horizon transaction data. [[RW: The steps we have taken have been transparent to the Working Group throughout. There have been weekly calls with the Working Group to monitor agreed timetables for receiving applications and delivering reports, along with monthly face to face meetings.]] In a little over one year, We have produced [130] investigation reports on individual cases, typically - for each case - running to more than 20 pages, together with up to 80 separate pieces of evidences. For example, in one case, just one piece of evidence, telephone logs, was 18,000 pages [[RW: just for this one branch? This looks like a lot!]]. All of this is provided to Second Sight for their own independent analysis and review, so that they can see what we have done.

The Scheme does not affect anyone's legal rights. Applicants have of course always had a right to take legal action if they think their case has merit. [See later in document for Q about time bar on cases]

If the Scheme is working why are there so many complaints about it – it is being called a sham, there are claims you are preventing postmasters from actually using it in the way agreed and 140 MPs have withdrawn their support for it - what is your answer to all those people?

It is not clear to us what it is about the Scheme, or what Post Office has done in it, that is supposed to be a "sham". This is especially so given that the Scheme was set up with the stakeholders who comprise the Scheme's Working Group, and all steps have taken in connection with it have been transparent to the members of the Working Group, who have had ample opportunity to raise concerns in the numerous telephone conference calls and

face to face meetings held over the past 18 months. It is only now that Post Office has completed its investigations that these unsubstantiated allegations are being raised.

Claims of the Scheme being a 'sham' do not bear scrutiny. At the outset, we asked potential applicants to come forward and explain to us their complaints. This was important given Second Sights' finding – made after a year's investigation – that it had not found any systemic issues with the Horizon system, but only issues with support etc which could only be resolved on a case-by-case basis.

We could not know what the inquiry and investigations would find, given that we did not know the true substance of the complaints. The integrity of the computer system that thousands of postmasters and employees are using every day to provide vital services to customers throughout the country has been questioned ~~[[RW but we did not limit our investigations to the computer system]]~~. It was essential to get to the bottom of it and, if a problem was found, to put it right ~~and restore confidence~~. We established the inquiry with an entirely open mind and a determination to address any problems that were found.

There could be no pre-determined outcomes. We have gone to great lengths to ensure impartiality and transparency. We designed the Scheme jointly with the JFSA and Second Sight and with the involvement of MPs and we agreed it with them. The Scheme is supervised by a Working Group with an independent Chair, Sir Anthony Hooper. We have provided funding to support each applicant in obtaining independent professional advice to build their case (£1500 for each applicant for the first stages of the Scheme and an addition [x] to prepare for and support mediation if this takes place].

Some of the allegations are extremely emotive. The public criticism of the Scheme that has taken place has been mainly in the context of some individual cases that have also been publicly discussed and that are progressing through the Scheme. We have, for example, been criticised for not compensating particular people or for not helping to overturn alleged wrongful convictions in particular cases, whilst these cases are still ~~in fact being reinvestigated and independently reviewed~~ progressing through the Scheme.

Even in the face of criticism and unsubstantiated allegations, we have been very firm that we will not breach the confidentiality of applicants. We have a responsibility to all applicants in the Scheme, not only to those who have chosen to speak to the media. Our position has been described publicly as one of "secrecy" but it is adherence to confidentiality and it is for good reason, but in any event, as noted above the steps we have taken have been completely transparent to stakeholders in the Working Group (who are also bound by confidentiality). It was agreed with the JFSA that an assurance of confidentiality was paramount to encourage people to come forward. It protects sensitive personal information of individual applicants, which might include for example details of ill-health or criminal convictions which the law requires to be treated with extra care.

In addition, mediation itself –all mediations not just those resulting from this particular Scheme – is a confidential process. The courts are the forum if a dispute is to be played out in public. Mediation is very consciously an alternative dispute resolution method to court litigation. Confidentiality in mediation allows a full and frank exchange which makes resolution more likely, which is a major reason why it is actively promoted and encouraged by the courts themselves. It could not possibly be right for mediation to be conducted publicly and, in any case, confidentiality is required by the independent mediator, CEDR.

The confidentiality arrangements are in line with their own Code of Conduct and with the European Code of Conduct for Mediators which the Civil Mediation Council requires all UK providers to observe to maintain accreditation. When Sir Anthony wrote to the Minister for Postal Affairs about Scheme progress in December he attached a letter from CEDR outlining confidentiality arrangements and this is also in the House Library.

Every case is different and we cannot allow publicity or other pressures to influence outcomes. Each case must be fairly assessed on its facts and substance and that is what is being done. It would have been wholly wrong for us to fail to address the allegations of flaws in Horizon but, equally, it would also be wrong to ask us ~~for us to be asked~~ to ignore what we find through our investigations ~~clear evidence which shows the opposite.~~

The Scheme comprises several stages ~~is a two-stage process.~~ Each and every case is subject to thorough investigation - progress of which was monitored by the Scheme's Working Group - and then independent review ~~and is~~ by Second Sight. Both the Post Office investigation report and Second Sight's report are shared with the applicant and their professional advisor, along with the supporting documentation ~~all the evidence retrieved.~~ Applicants have opportunities to comment on the draft final ~~report~~ report by Second Sight, producing further evidence of their own to Second Sight if they wish - they can produce further evidence at any stage of the Scheme. Second Sight's final report of its findings in each case includes a recommendation about whether or not that case should be mediated.

The ~~second~~ next stage of the Scheme is the Working Group's consideration of whether the case is suitable for mediation ~~[[RW DN: this is a bit of a fudge]] a decision about mediation and this, as set out in the original Scheme documentation, is part of the role of the Working Group.~~ There is a face to face discussion and a vote by all parties in the Working Group with the Chair having a casting vote. ~~[[RW DN: we need to be careful here – we have been refusing to follow WG recommendations for mediation.]]~~ Where the vote is in favour of mediation the cases pass to CEDR. [Sir Anthony referenced disagreements within the Working Group as to whether cases should proceed to mediation in his letter to the Minister and there have been different views on some of the cases. But Post Office does not decide which cases should proceed. It is an impartially Chaired Working Group and there is a vote.

It was never envisaged or agreed that every case would proceed to mediation and this is also clear in the original Scheme documentation. But where a case reveals genuine and

substantiated areas of dispute potentially capable of being resolved then we are taking part in mediation. From [24] cases so far recommended for mediation by the Working Group we have declined to mediate in [2]. It is of course also open to applicants to decline mediation.

In [November] last year a proposition was put forward to the Post Office Chief Executive in a meeting with MPs that there should be a “general presumption” that we will agree, except in a few, undefined exceptional cases, to mediate all cases where this is the recommendation of Second Sight, regardless of the merits or specific circumstances. This change to the way the Scheme was agreed to work – proposed by MPs who are not members of the Scheme Working Group - was carefully considered by POL ~~[[RW DN: I’d rather not call these out as it might lead to a waiver of legal privilege the Chief Executive and discussed with the Post Office Board]]~~. The conclusion was that it could not be agreed to.

To agree to a presumption that all cases should be mediated prior to any proper consideration of their merits would deprive the Working Group, carefully set up by Post Office, JFSA and Second Sight, of its most important role and it would therefore be difficult for it to continue. It would unfairly restrict our decisions about participating in a voluntary process, namely the mediation itself.

We established the Scheme in good faith; Second Sight and JFSA were principal drivers of its design, the establishment of the Working Group and the recommendation for the appointment of its independent Chair.

We committed to a comprehensive re-investigation of each and every case in the Scheme to better understand the complaints being made and not only provide funding for the administration of the Scheme as a whole but also to support applicants to enable them to engage professional advisers to build their cases.

Cases are progressing through the Scheme as it was designed, receiving, as a minimum the benefit of thorough investigation and independent review by Second Sight and a discussion at the Working Group about the resulting findings.

We see no reason to seek to change the process of the scheme retrospectively, and we do not understand how this could be considered a “sham” or POL seeking to undermine the Scheme.

But are you therefore suggesting that Second Sight’s recommendation to mediate is irrelevant? Surely Post Office has significant influence – and a rather large number of lawyers from what we are told – in the Working Group that it is of course financing?

~~[[RW DN: DELETE – disingenuous when we decide whether we’ll attend mediation: Post Office does not decide which cases proceed to the mediation stage.]]~~ Second Sight’s

conclusions and recommendations are discussed and the matter is then put to a vote, with the Chair having a casting vote. This is part of the agreed role of the Working Group.

The Working Group is comprised of representatives from Post Office, JFSA and Second Sight. Post Office's representation is led by our General Counsel, as you would expect given the nature and seriousness of some of the allegations.

Post Office has funded the review and the Scheme, including supporting applicants with funding to obtain independent professional advice, because of its determination to get to the bottom of the complaints. ~~[[RW DN: Necessary? It is difficult to see how else it might be funded, other than by us]].~~ But we have been very careful to make sure that impartiality and transparency is built-in. That is why JFSA and Second Sight were the principal drivers of the design of the Scheme and the appointment of the independent Chair of the Working Group.

You agreed to include cases where people have been convicted of crime and pleaded guilty – so why have you reneged on that and now excluding them?

We are not excluding cases involving criminal convictions. These are a minority of cases in the Scheme but whether there is a criminal conviction or not and whether or not the applicant pleaded guilty, each and every case is being investigated and independently reviewed in the same way. Each applicant and their professional advisor receives the Post Office's investigation report, Second Sight's draft and final reports and all the evidence that has been retrieved and examined.

We have made it very clear that if, during the course of investigations, any new information comes to light that might reasonably be considered capable of undermining the case for the prosecution or of assisting the case for the defence, ~~there is any evidence found which suggests that a conviction is unsafe or would help the defence,~~ our duty of disclosure to the applicant and their defence counsel will be immediately engaged. We take this extremely seriously. There has been no evidence found so far to suggest that any conviction is unsafe but we are not complacent about this. We write to anyone we are made aware of who has suggested they have or have seen evidence suggesting an unsafe conviction and ask that this be produced so that it can be acted upon. No such evidence has been produced so far. ~~[Who have we written to apart from BBC?] [[RW DN: Second Sight and Kay Linnell. We should also write to the QC interviewed on the One Show.]]~~

The Scheme is entirely voluntary and does not affect anyone's legal rights. Applicants can, if they feel their case has merits, use the reports and evidence they are receiving from the Scheme to follow a legal route if they wish to do so.

Both Post Office and JFSA made very clear when the Scheme was established that it does not have the power to overturn criminal convictions – that can only be done through the Court process.

The JFSA advised on their website that, if individuals have a court finding against them, the Scheme will “consider that to some degree” but:

“you should enter a parallel scheme with a firm of criminal lawyers who will look into your case with a view to consider using the appeals court to overturn the findings against you.”

But are you ruling out mediation for criminal cases?

No – every case is different and considered on its merits. Unless there is new evidence, it is difficult to see that there would be a prospect of resolution through mediation in cases that have already been decided through the Court process ~~with~~ where all of the evidence relevant to the prosecution, which may go beyond the issues raised by the applicant in the Scheme but includes ~~ing~~ evidence that might ~~help~~ assist the defence or ~~hurt~~ undermine the prosecution, has been disclosed to the defence. But we have kept an open mind and every case is considered individually.

RW DN – Is this disingenuous? Can we go further? We have completed our investigations, and haven’t seen anything that leads us believe a conviction is unsafe. Can we now say that mediation isn’t appropriate, we’ve shared out findings which can (as stated from the outset) be used to support an appeal if the applicant chooses? The Courts are the appropriate place to deal with this, with the CCRC as a back up once appeal rights have been exhausted.

It is surely pointless having a mediation Scheme when Post Office refuses to mediate some of the most worrying cases, even when this is recommended by everyone else in the scheme working group?

Of [24] cases so far recommended for mediation and been passed from the Scheme to CEDR, we have declined to mediate [2]. Mediation is a consensual process – either party can decline to take part.

It was never envisaged or agreed with JFSA and Second Sight that every case would be mediated. The Scheme was established as a multi-stage process, with the first stage providing applicants with a platform (and funding) to articulate their complaints. ~~I because it would be unrealistic to believe that every case would be suitable for mediation there will always be a prospect of resolution through this route~~ – especially when we didn’t know the details of the complaints. Every case is different and we consider them on their merits, but through establishing the Scheme we have provided support funding for each of the applicants to obtain professional advice to build their cases and they receive Second Sight’s report, the Post Office investigation report and all of the evidence relevant to their case, which they can use to appeal a conviction or sentence if so advised.

But James Arbuthnot MP says that you are objecting to mediation in 90 per cent of cases in the Working Group – even if they are proceeding to CEDR because you are out-voted.

The Scheme documentation says mediation is “likely” in most cases – but haven’t you in fact been trying to prevent it behind closed doors?

The numbers speak for themselves. Of [24] cases so far recommended for mediation and been passed from the Scheme to CEDR, we have declined to mediate [2]. Post Office does not know the origin of, and therefore cannot comment on how Mr Arbuthnot arrived at, the 90% figure.

On what basis are you refusing to mediate cases that are recommended for it?

No two cases are the same, and every case is considered on its own facts. However, the types of case which might not be suitable for mediation are those where a ruling on a legal point or a court order is necessary, or where it is clear that mediation has no realistic prospect of success, for example because the parties’ expectations from a resolution are too far apart.

[[RW DN: consider deleting: For mediation to be successful there must be a reasonable prospect of resolution. Where there is no evidence that Post Office is responsible for allegations in a complaint there is no reasonable prospect of resolution.]]

[General case example? Need to know the basis for the 2 declined so far but could say: Just to illustrate the point. I won’t break the confidentiality of individuals of course but there are cases where there has been detail given by applicants about precisely where the money has gone and they have also issued [public] apologies for their actions. With evidence, after thorough reinvestigation and independent review, that substantiates what these applicants have previously said, it is hard to see [[what mediation could deliver]] that there could be a prospect of resolution in mediation in such cases.

Are you deciding not to mediate some cases because, as has been reported you told the Chair of the Working Group, the compensation claims are simply too high?

Although this is not a compensation Scheme*, Post Office has not refused to mediate any cases because of the level of compensation being claimed. ~~There is no evidence that Horizon has not worked as it should.~~ Every case is different and assessed on its merits. Mediation is however unlikely to be successful where the parties’ expectations for resolution are too far apart or not considered to be realistic. Mediations are often brought to an end without resolution if this position becomes apparent.

[[RW DN: I did raise at a WG meeting that mediation is unlikely to be successful where the parties are miles apart. Kay Linnell threatened to walk out rather than address my concern, which has been borne out in a number of cases we have mediated, including the very first.]]

When cases are passed to CEDR from the Working Group, then Post Office – as a party to mediation – has to assess if there is a reasonable prospect of resolution, sometimes without a clear picture of why mediation has been recommended or on what issues. The applicant

can, of course, do the same. ~~[[RW DN: Can we say this? If an applicant has a very high expectation of some form of large financial pay out when there is no evidence of any fault on Post Office's part which vastly exceeds Post Office's assessment of the case, mediation is not likely to offer resolution.]]~~ But Post Office has only declined to take part in mediation in two cases of the 24 recommended for this stage of the process by the working group. So we are demonstrably ready and willing to take part in mediation in cases where this is justifiable.

* The Scheme is for the investigation and review of complaints. It recommends whether or not a case should be mediated but mediation is a consensual process and it is up to each of the parties involved – Post Office and the applicant – to decide whether to take part. There is a variety of ways that individual complaints might then be resolved, depending on the circumstances of the case. Compensation might be a potential outcome but no outcome can be pre-determined.

Isn't it true that even in cases you are mediating you are continuing to bully postmasters, refusing compensation and even claiming that some of them still owe you money?

~~Mediation takes place with an experienced and independent mediator~~ Post Office rejects any assertions that we are “bullying” applicants who take part. Mediation takes place with and is controlled by an experienced and independent mediator -The independent professional advisors of the applicants can and usually do attend – we extend funding to support this. It is entirely voluntary, can be stopped at any time, and does not affect legal rights and the purpose is of course to try to reach resolution, which often involves a discussion of the totality of the parties’ dealings with each other.

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.

Every case is different and we have to assess on the facts and substance, with a full and frank discussion with the applicant and their professional advisors about how and why particular conclusions have been reached. There are a variety of ways that individual complaints might be resolved. We cannot discuss the details of cases without breaching not only the confidentiality of applicants but also the confidentiality agreement with CEDR, which reflect standard practice ~~[[RW DN: I don't think this is a strong point who must adhere to this to comply with various Codes of Conduct to assure their accreditation]]~~.

But are you, in any cases, still chasing or going to chase alleged debts?

I am sorry I cannot answer in more detail for the reasons of confidentiality of mediation. I am unable to provide details of any outcomes of mediation. Mediation is a voluntary and

consensual process – it cannot force someone to do something, e.g. pay a debt, if they do not want to. Mediation typically looks at the totality of the parties' dealings, so it would be unusual for it not to consider both parties' claims against each other.

Why is there so much secrecy? Individuals' details can be protected but surely you should be open about the general work of the Scheme. Even other parties to the Scheme are not being told whether mediation is proving successful in any cases.

There is no secrecy about the Scheme – the steps taken in it have been transparent to other stakeholders - but there is confidentiality, rightly, to protect individuals' personal information and mediation itself is a confidential process. It was agreed by all parties – including JFSA and Second Sight – that confidentiality was paramount in order to encourage applicants to come forward. It is also necessary to protect applicants' sensitive personal information which might include, for example, details of ill-health or criminal convictions which the law requires to be treated with extra care. It is also necessary to ensure there can be a full and frank discussion about the resolution of individual complaints without the risk of being misrepresented publicly. In addition the confidentiality of mediations in the Scheme is not particular to this Scheme – it is inherent in all mediations and reflects best practice for this type of Alternative Dispute Resolution. CEDR, the independent organisation administering the mediations in the Scheme always requires mediating parties to sign a legally binding confidentiality agreement.

The original Scheme documentation made clear to applicants that they and the Post Office must endeavour to keep details of their case confidential and that all matters discussed in any actual mediation will be strictly confidential. As well as protecting personal information which should not be made public this is to permit a full and frank assessment and discussion of the issues to take place and it is in the interests of applicants. That requirement for confidentiality is, however, balanced by the fact that the Scheme and its Working Group was designed to be, and is, overseen by an independent Chair. The Working Group has had visibility over what has been done in the Scheme and over what time frame. It has done this through regular, typically weekly, meetings over the telephone and face to face since the Scheme was first conceived in July 2013. It is only now that cases are being considered for mediation that the allegations about misconduct in the Scheme are being raised.

The confidentiality arrangements which CEDR has put in place and which were 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 Authority requires all UK providers to observe in order to maintain accreditation.

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. As part of the mediation process offered by CEDR and accepted by the Working Group, all the parties – Post Office being only one – are required to sign a

mediation agreement which binds them to confidentiality so that the parties are free to explore fully the issues raised. There is a letter from CEDR that sets this out and that has been placed in the Library of the House by the Minister of Postal Affairs.

Is it not true that MPs, who were instrumental in establishing the Scheme, have simply been kept in the dark whilst you have broken all the commitments you made to them?

***** to here *****

We have not broken commitments at all. The Scheme is working as it was agreed. It was designed with the involvement of MPs and with the JFSA and Second Sight and we have been painstaking in ensuring that we have carried out our responsibilities as agreed. MPs are not represented in the Working Group – that was not part of the agreed design – but we are able to discuss, in confidence, individual cases involving their constituents with them, provided we have the constituent’s consent. When any MPs and applicants have wished to do this, we have of course taken part. The Scheme documentation at the start made it clear to applicants that they could involve their MP. The Chief Executive has attended [three?] meetings with James Arbuthnot MP and the group of MPs he was leading on the issue to discuss the progress of the Scheme. [There has also been – insert details of other significant meetings and correspondence.]

In [November] last year a proposition was put forward to the Post Office Chief Executive in a meeting with MPs that there should be a “general presumption” that we will agree, except in a few, undefined exceptional cases, to mediate all cases where this the recommendation of Second Sight, regardless of the merits or specific circumstances. This was carefully considered by the Chief Executive and discussed with the Post Office Board and the conclusion was that it could not be agreed to. To agree to a presumption that all cases should be mediated prior to any proper consideration of their merits would deprive the Working Group, set up by Post Office, JFSA and Second Sight, of its most important role and it would there be difficult for it to continue.

There also appeared to be, at the same meeting, a suggestion that the scope of the Scheme should be broader. But the Scheme was established with the specific and targeted purpose of addressing each of the individual applicant’s complaints and dissatisfaction with Horizon and associated issues.

Our position on these points is that we established the Scheme in good faith; Second Sight and JFSA were principal drivers of its design, the establishment of the Working Group and the recommendation for the appointment of its independent Chair. We committed to a comprehensive re-investigation of each and every case in the Scheme and pay, not only for the administration of the Scheme as a whole but also provides applicants with funding to enable them to engage professional advisers to support them in all relevant stages of the

process. Cases are progressing through the Scheme as it was designed, receiving, as a minimum the benefit of thorough investigation and independent review by Second Sight and a discussion at the Working Group about the resulting findings.

Regarding broadening the Scope, we have now completed the comprehensive investigations of all the cases in the Scheme (at the time of the meeting we had completed 119) and no fault with Horizon has been identified in any of these. That is welcome reassurance for the [x] postmasters and counter clerks throughout the country and for all our customers. It does not suggest in any way that the Scheme is failing to meet the objectives that were set for it by all involved, not just Post Office. There was, therefore, simply no reason to seek to change the Scope of the scheme retrospectively.

Your own independent consultants claim that you are being obstructive and preventing them from gaining the information they need – isn't this clear evidence you are trying to cover up the truth about these cases?

We reject we are trying to cover anything up – the position is quite the opposite. If there were a problem we would want to identify it and correct it as quickly, fairly and effectively as we possibly could. The computer system is used by 78,000 people and, every day, processes six million transactions for our customers - it is in our interests that people have confidence in that system so if a problem was found we would want to be very transparent about putting it right.

We have provided a huge amount of information, not just about Horizon but about a wide range of business processes and other matters to Second Sight, where these have a bearing on the case investigations. This runs to [hundreds of thousands] of pages. For example we have produced over [130] investigation reports on the individual cases in the Scheme, each typically running to over 20 pages in length and with up to 80 pages pieces of supporting evidence. That evidence can also be a substantial amount of information – there is an example of 18,000 pages of telephone logs alone being supplied in one case.

From the [x] questions we have been asked – some of them about very complex issues –we are not providing answers to 2% because they are out of scope of the investigations. There are another 6% which will be answered if Second Sight identify a case in the Scheme to which the question applies. All of the remaining questions have either been answered or are in the process of being answered.

[Need information about the nature of the questions in the 2% and a robust line about why they are out of scope].

Second Sight say that you have changed their terms of engagement to narrow the scope of their investigations – is this true?

No. We have not narrowed the scope of investigations. This is a focussed inquiry about Horizon and associated issues, relating to specific complaints raised. The Scheme is operating as agreed between ourselves, JFSA and Second Sight with the involvement of MPs and this is set out in the original Scheme documentation.

We have now completed investigations into all the cases in the Scheme and no fault with Horizon has been identified, which is welcome reassurance for our people and our customers.

[Need line on contractual position].

We have a duty to ensure that this work is focussed on the complaints people have raised. It is not about areas of the business or processes which have not been complained about and which have no bearing on the complaints. This is not a review of Post Office's business model, nor is it an inquiry into every or any aspect and process of the business without there being a direct bearing on the complaints put forward. It would be reckless for Post Office to fail to ensure that the inquiry and investigations by consultants focus on the agreed purpose. No organisation can allow consultants to conduct open-ended inquiries into aspects of their business that have no bearing on the purpose for which they were hired. It is also worth underlining that Post Office is subject to scrutiny through legal regulatory, commercial and compliance requirements and employs other independent organisations, such as auditors, for that purpose.

There might have been miscarriages of justice so how can anything that could reveal that be out of scope in this inquiry?

Information that we hold that is relevant to any cases in the Scheme is provided. We have provided a huge amount of information to Second Sight, not just about Horizon but about a wide range of business processes and other matters where these have a potential bearing on the cases. This runs to [hundreds of thousands] of pages. For example we have produced over [130] investigation reports on the individual cases in the Scheme, each typically running to over 20 pages in length and with up to 80 pages pieces of supporting evidence. That evidence can also be a substantial amount of information – there is an example of 18,000 pages of telephone logs alone being supplied.

Post Office also writes to everyone who has suggested that they have or have seen evidence that a conviction is unsafe and asks them to disclose that evidence so that it can be acted on. To date no-one has provided any such evidence but if it were to come forward Post Office will address it.

[Consider inclusion of example that illustrates the nature of out of scope questions and why they are? Contracts?].

There are apparently hundreds more potential cases but you closed the Scheme last November so these postmasters have no opportunity to raise their complaint and get an independent review – surely that is wrong and unfair?

The claim that there is a large number of other cases is not borne out by the facts. Any postmaster or former postmaster can bring a complaint to us and we will investigate. But there has been only [x] cases that have been brought to us, outside of the Scheme, with concerns about Horizon being flawed during the past [x]. This is from a network of 11,500 Post Office branches. We investigate those cases and I am pleased to say this is generally welcomed.

None of these investigations have shown flaws in Horizon – the majority of cases have involved human or procedural errors. There is no reason for independent review.

How much money has actually gone missing and how much have postmasters had to pay you back from their own pockets?

Every case is different and amounts involved vary, as do the circumstances regarding any repayments. [Do we need to give a total figure for overall amount– would this breach confidentiality and if so, we need to explain why. Also check re FOI]

How much public money has been spent on this Scheme so far and how much is the whole inquiry and Scheme likely to cost by the time it ends?

Post Office has, so far, spent [£5 million] on the inquiry and the Scheme over the past 2.5 years. [Do we give projected spend?]

The allegations are of such a serious nature and the integrity of our computer system is so fundamental to our people in Post Office branches serving communities throughout the country that it was essential that responsible and appropriate action was taken to get to the bottom of it.

[If this line of questioning goes further]: There were allegations about the integrity of a system that is relied upon by our people and our customers in communities throughout the country. We would certainly have been, rightly, heavily criticised if we had not taken these allegations very seriously indeed and to do so – to instigate an independent inquiry and subsequently set up a Scheme to investigate and independently review cases individually – costs a significant amount of money.

When there was some public criticism of Post Office paying for Second Sight, at the start of the review in 2012, we were given credit for the fact that we were prepared to do so by James Arbuthnot MP who said that the Government would not have paid money from somewhere else for this.

For background reference: James Arbuthnot (on Nick Wallis blog): - But one thing I would challenge you on, namely the payment by the Post Office for the investigation by Second Sight. The very fact that they were prepared to do that suggested to me that they did want, perhaps against their own apparent interest, to resolve the matter for the good of everyone, themselves included. I thought that was creditable.

And someone had to pay for it. I wasn't going to, the Government wouldn't have forked out money from somewhere else to do so, and the Post Office offered to do so despite the risk involved to their reputation. That does contrast (well, IMHO) with the cover ups we've seen elsewhere in the public sector.

What's the breakdown of the £5 million spent – how much has gone on lawyers' fees?

I can't provide a breakdown because it would breach commercial confidentiality and compromise supplier procurement . But I can say that [the majority of?] of the spend has been for Second Sight's review, and the running costs of the Scheme itself.

[Need more detail]

You committed to making sure that there would be an independent way for postmasters to get disputes resolved in the future – will you still do that?

There could be no pre-determined outcomes from the review and investigations – we could not commit to a definitive future plan in this regard. We have taken action very quickly on findings as they have emerged, for example making further improvements to training and support which were raised as areas for concern in some cases in Second Sight's 2013 report.

[insert wording re what we said about future disputes]

But we need to assess in context. 150 complaints were put forward into the Scheme. Around [a third] of these are resolved. We have completed comprehensive investigations into all the cases and no flaw with the computer system has been identified in any of them. There have been a very small number of concerns raised outside of the Scheme, which we have investigated separately, as we would always do as part of our responsibilities for a huge network. There have been no Horizon flaws found in any of these cases either.

All of this is in the context of nearly 500,000 users of Horizon since it was introduced in Post Office branches of all sizes all over the country, from small independent branches to those run in franchise partnerships with big retailers such as WH Smith, Tesco, McColls and Asda.

Postmasters can raise concerns about Horizon or any other area of Post Office business directly with us and there are processes in place for them to do so. We also, following Second Sight's report in 2013, continued to improve training and support and we set up a branch forum as a way for postmasters and others to raise issues and insights around business processes, training and support and to feed into the thinking of the organisation at the highest level.

Scheme Investigations and SS case reviews

You have clearly been trying to fetter the independence of Second Sight – you refused to endorse a much leaked confidential report designed to help people in the Scheme and are you not trying to prevent or at least heavily influence the final report they plan to publish in March?

We would not have taken the approach and the actions we have if we did not want and intend independence.

We have been very clear that an investigation should provide facts – good or bad - and we would take whatever action proved necessary .

Post Office did not endorse the confidential document because it was inaccurate and it omitted information that is important for applicants. The purpose of the document (known as the Part Two Report) was to describe and expand on common issues identified by Second Sight as being raised by multiple applicants. The aim was to provide general information that could then be applied in specific cases.

To correct inaccuracies and provide information that the report omitted, we produced a document setting out our detailed position on the issues raised and this is also sent to applicants.

We have not seen any other draft reports from Second Sight outside of those for each individual case.

[Advice needed about report in March if any and where we might want to go with this.....]

There is significant doubt that Post Office is truly revealing all the documents and evidence needed for these cases to be properly investigated and reviewed – is it true that documents have been and are still being destroyed?

We are certainly not destroying any documents we hold that are relevant to the cases in the Scheme. We have taken great care about this. [How does this apply to documents we are normally required to destroy by law? Presumably exempted?]

Some of the cases in the Scheme date back many years – and our document retention policy is, in most instances, seven years. However, some records are retrieved that do go back further than this. Each and every case is investigated in the same way - we search for the relevant available documents and we make the same searches in each case. We do not assume that we will not have certain records after seven years – we check each and every time.

For every case there is a check list of documents so that it can be clearly seen by Second Sight, the applicants and their professional advisors exactly which records have been searched for and which have been retrieved.

What safeguards are in place to ensure that Second Sight can be confident that they are receiving all available material for each case to allow them to properly review? Post Office will be biased in their investigations.

The investigation process has no bias. It was agreed with JFSA and Second Sight as part of the Scheme. For every case there is a check list of documents so that it can be clearly seen by Second Sight, the applicants and their professional advisors exactly which records have been searched for and retrieved. Our document retention policy for most documents is seven years but for cases older than this we do not assume we will not have documents – we check each and every time. Some records are held for longer than seven years.

It seems that in many of the cases the conclusion being reached is that it is not actually possible to know where the money has gone – so how can you possibly keep asserting that there is no problem with Horizon? The truth is that the investigations are not revealing the cause of these losses at all.

We have now completed our investigations and there are no cases – none at all – in which there is any evidence that suggests that Horizon has not worked as it should.

Whilst we cannot go into detail about individual cases – and they are all different - there is clear evidence about the most likely cause or causes of losses in many of the cases.

It can be more difficult to investigate very old cases but Post Office examines all the information that it can obtain in all cases and passes to Second Sight to review and make conclusions that are possible on the available evidence.

[Need to illustrate this and consider bringing to life with some human examples]

In almost every case you are challenging Second Sight's findings and conclusions in some way – do you have no confidence in the consultants you appointed?

Part of the process is for Post Office, as well as the applicant, to comment on Second Sight's draft report. But Second Sight are not obliged to accept the comments or reflect them in their final report. This is a necessary part of the process so that both Post Office and the applicant can challenge if they consider any information or conclusion is incorrect.

Cases/ harrowing stories

Is it true that not only have Post Office actions led to people losing their jobs, being bankrupted and some going to prison, they have also been the cause of tragic suicides?

This is, of course a very emotive subject and there are some harrowing stories – people who have experienced extremely difficult times in their lives. No-one could be without sympathy.

But, emotive though it is, it does not follow that Post Office is responsible for illness, bereavement or other tragic events that have, sadly, happened to some people.

[Suicides: need to be prepared on this – we have not been held responsible for suicides]

Do you accept that the Post Office has caused these postmasters rather more than "lifestyle" problems?

It is very difficult to find the right words when asked about some of the harrowing stories because of course no-one could be without sympathy. But it does not follow that Post Office bears responsibility for difficult, or tragic events that have, sadly happened to some people.

Whether or not Horizon is at fault in these or any other cases, you must surely accept that it has become clear that the Post Office has failed in its duty of care to postmasters, heartlessly pursuing people for money?

[Legal to provide guidance re "duty of care"]

What is your answer about at least 150 people, many of whom had worked for you for many years and had led unblemished lives, suddenly deciding to turn to crime?

There has never been any basis for this assertion. There is a minority of applicants with criminal convictions in the Scheme and the cases in the Scheme span more than a decade. Post Office prosecutions are rare - in an organisation of [x] people there is [an average of x] each year.

If there is insufficient evidence one way or the other in some of the cases is it not time to give those postmasters, who clearly did not take money for themselves and who have their lives ruined, the benefit of the doubt? You have spent millions on the investigations while some of these people have lost their businesses and their homes.

There is no evidence in any of the cases that Horizon has not worked as it should.

We have addressed the concerns raised in a fair and open-minded way and we have a responsibility to all our people, not just applicants in the Scheme. We have acted in good faith in instigating the inquiry and subsequently establishing the Scheme, supporting applicants with funding for professional advisors, employing 20 people full-time to investigate the cases and funding Second Sight for more than 2.5 years to independently review. We have to deal with the facts and the substance of each individual case – it would be wholly wrong for the outcome of cases to be decided in any other way. Where a case reveals genuine and substantiated areas of dispute potentially capable of resolution we will mediate and we have already done so in a number of cases.

Horizon system

On what basis can you possibly say there is no evidence that Horizon is not working as it should – it is established fact that there were serious glitches that caused losses. That time they were found and the position put right, but surely it is possible that there might be other undiscovered cases?

[answer to come - we have a previous statement from that time.]

You have to accept that Horizon does not always work as it should – there are known instances of problems – is that not a fact?

Like any computer system in a large company, there are incidents. No-one has ever denied that - we volunteered information to Second Sight as part of their inquiry.

[Need a line on Callendar Square as well as the anomalies at 76 branches in the SS interim report]

Many postmasters say they struggle to check discrepancies because there is no proper audit trail – why can you not give them a proper explanation when they query losses?

Subpostmasters are enabled with the information they need to run their accounts and the overwhelming majority do this successfully. Horizon tracks every transaction made in a Post Office branch and logs the levels of stock and cash held. Branches have always had access to line by line transaction data each day.

If at the end of a day, a branch produces a cash declaration that shows a discrepancy then the branch will have access to a range of reports on different products and transactions to investigate the possible causes, including a line by line listing of all transactions that day. This also applies at the end of a trading period.

An established process exists which provides an avenue for postmasters to dispute transactions by asking Post Office to settle the account centrally and, where appropriate,

trigger an investigation into the reasons for a discrepancy, enabling the postmaster to continue trading without interruption.

If Horizon is working so well, why are you replacing it?

It would be unusual for any large organisation not to be making continual upgrades and improvements. We make continual phased improvements in our IT, along with many other improvements as we develop our business and these are a matter of public record.

Some postmasters appear to have panicked and just agreed with Horizon's figures to ensure they could trade the next day – isn't it the case that the system itself was pressuring some people to falsely account?

No. Subpostmasters have a clear choice to accept the discrepancy on the grounds that they are responsible for it or to dispute it for investigation. They do not have to accept the Horizon balance in order to continue trading.

Why have you refused, when you've been asked for this kind of information under FOI, to actually say how many complaints and calls you get about Horizon and how many corrections it has to make to transactions each year?

[FOI information and line to be inserted to substantiate the robust, legal FOI process regarding questions under FOI]

Horizon was introduced over a decade ago – even with upgrading it is surely no longer fit for purpose – but what incentive do you have for improving the situation when your postmasters take all the risk?

Postmasters do not take all the risk and are not responsible for all losses in their branches in their branches if these occur.

Postmasters are independent business people, with a similar position to franchisees in other sectors. Our postmasters are often running Post Offices within their other business, such as a local shop and a contract with us can help to bring footfall into these and benefit the local community.

There is a balance of risk and reward between Post Office and the postmaster. The contracts provide for postmasters to retain any surpluses and postmasters are only responsible for the losses caused by those they employ or by their own negligence, carelessness or error. But it is important to note that human errors can be and often are corrected and there are processes in place to enable postmasters to do this.

Postmasters are not liable for losses caused by, for example, external fraud or losses in other circumstances beyond their control, provided they have followed correct procedures. [what other circumstances can we quote?].

There are very concerning stories about remote access to Horizon that might have contributed or been the reason for unexplained changes being made to postmasters accounts – how do you explain changes to accounts at times when postmasters could not possibly have had access themselves?

There is very selective, misleading and incorrect information being put into the public domain about a number of cases. Some of this is not actually included in any allegations or complaints put to us by applicants and also appears to change in nature and detail. Post Office cannot breach the privacy and confidentiality of individual applicants by discussing their cases, even in the face of unsubstantiated, baseless or malicious allegations. To do so would lead to us being accused of breaching confidentiality and undermining the Scheme and mediation process. So we have been limited in the public comment we can make.

But there is no functionality in Horizon for either a branch, Post Office or Fujitsu to edit, manipulate or remove transaction data once it has been recorded in a branch's accounts. It is possible for Fujitsu to view branch data in order to provide support and conduct maintenance but this does not allow access to any functionality that could be used to edit recorded transaction data.

There is also no evidence at all of any malicious remote tampering.

Some of your more rural Post Offices have problems with telephone lines and power and find themselves having to try to run Horizon on mobile technology – how can this possibly be secure and is not the case that system crashes and interruptions could cause losses for postmasters?

Horizon is secure for all Post Office branches [and is subject to regulatory and compliance standards?].

The system is capable of handling power and telecommunications problems. Interruptions in power supplies and telecommunication lines are a risk faced by all IT systems. There are recovery systems built into Horizon to prevent any impact on branch accounts.

There is no evidence in any of the cases investigated that has suggested that Horizon did not accurately record transactions processed by applicants and Second Sight, who specifically looked into the recovery process in their 2013 report, found the recovery process worked, although questioned the speed of response from Horizon.

How old is some of the hardware? If postmasters need replacement hardware is it second hand?

Equipment is replaced as and when needed which is industry standard practice. There is nothing to suggest that the age of equipment has any impact on branch accounts. We accept that hardware problems can arise but there are recovery systems built into Horizon to prevent any impact on branch accounts.

There is no evidence in any of the cases investigated that has suggested that Horizon did not accurately record transactions processed by applicants.

[We have said in P2 that some of the Horizon equipment “may” be more than ten years old but there is nothing to show that the age of the equipment is a cause of any losses. We need an answer to the second-hand equipment question].

Is it not the case that there are still regular issues with Horizon, but many postmasters are understandably afraid to raise it?

Not at all - there is nothing to suggest postmasters are afraid to raise issues they might have with Horizon, which they and our counter clerks are using to process six million transactions for our customers every day. We deliver products and services, through Horizon, for Royal Mail, Bank of Ireland, all the high street banks – 95% of banking services are available through Horizon, DWP, DVLA, the Passport Agency and First Rate among others and we have major franchise partnerships with big retailers including WH Smith, Tesco, Asda and McColls. Horizon is used successfully in all these outlets.

Like all major businesses we do encounter problems from time to time. But we have arrangements in place to capture information and improve where necessary, with advice, support and assistance provided to colleagues across the largest retail network in the UK.

We receive regular feedback from colleagues through our internal channels, such as Subspace magazine and Subspace Online, which reach everyone in the network.

We also receive feedback on Horizon through our Network Business Support Centre, Horizon service desk and a branch user forum we established as a way for postmasters and others to raise issues and insights around business processes, training and support, to feed directly into the organisation’s thinking at the highest level. And there is feedback from contact with the Finance Service Centre and through discussion in the field with Contract Advisors and Field Support Agents.

That feedback is assessed and implemented as appropriate through regular system reviews and upgrades implemented by both Post Office and our suppliers and in product development (e.g. to streamline a new product’s transaction journey).

We have had information that there is a current issue involving mailing labels and that there is CCTV evidence about it. Do you know anything about that?

Since the MP debate we have had a very small number [can we quantify?] of individuals asserting problems. In order to investigate them we have asked for the detail so that we can do so. Where they provide that information we investigate. But we need to see evidence of something specific so that we can get to the bottom of it. If people refuse to provide it, aside from asking network colleagues (which we do) to see whether they have been made aware of any similar issue, we are unable to deal with the matter.

Training and Support

Your training and support for postmasters has obviously been pretty woeful – even if you have made improvements in recent times, you must surely take responsibility for the severe lack of it in the cases now in dispute?

We disagree that training, help and support for postmasters was inadequate. Thousands of postmasters, in receipt of the same training and support as applicants to the Scheme, have been operating the Horizon system successfully for years. We provide comprehensive training, both in the classroom and onsite, and follow-up support and visits are also offered to those who may benefit from them or who request them. In addition, our helpline is available to support postmasters in addressing any queries, alongside providing a service for technical queries. If these are not resolved quickly, further expertise is available, including visits to Post Offices as necessary.

Like any responsible organisation, Post Office always strives to improve its training and support and has undertaken further initiatives since the publication of Second Sight's report in 2013. Post Office created a new Branch User Forum as a way for postmasters and others to raise issues and insights around business processes, training and support, to feed directly into the organisation's thinking at the highest level.

Where, in what is a small number of individual cases, Post Office has found that the support provided in that case has fallen short of the appropriate standards, those issues are addressed as part of the investigation and review process.

Your own helpline was providing instructions and advice that simply made things worse for people – in some cases doubling their losses. It is not surprising that some of them gave up on it is it?

There is no evidence at all of this. The operators of the Helpline, many of whom are very experienced with Horizon, listen to the query and use a Knowledge Base where there are

articles relating to the category of call. They relay the information to the postmaster and if necessary enquiries can be escalated. All calls to the Helpline are recorded by the operators in call logs. These describe briefly the nature of the question and the answer given, if appropriate. If calls were not addressed appropriately then matters would be escalated – which would be noted – or there would be repeated calls about the issue that the postmasters was facing. There would be evidence that the advice had not resolved the problem or the applicant was not happy with the advice.

Postmasters were continually told that things would be put right by the system and it would correct itself, but this never happened - how could you then possibly justify the actions you took to punish these people?

It is likely that this is a reference by the Helpline to a transaction correction being generated following surplus or deficiency that would resolve the issue. We have found no evidence that suggests that the Helpline merely commented that matters would resolve themselves. But if matters could not be resolved they could be escalated to a higher level of support. Support can be requested by Field Support Advisors or other managerial support.

Every case is different and complaints about the Helpline or our support processes are investigated as part of the Scheme.

You now appear to be running the risk of making things even worse for postmasters – have you not cut back severely on training and support and outsourced your helpline abroad?

We have continued to improve our training and support and we have undertaken further initiatives since the publication of Second Sight's report in 2013. We created a new Branch User Forum as a way for postmasters and others to raise issues and insights around business processes, training and support, to feed directly into the organisation's thinking at the highest level. One of the tasks for this forum is to review support processes and training to ensure they meet the standards expected of, and by, Post Office.

In addition, making better use of technology will enable us to enhance the effectiveness of the support we offer in a value for money way. The training of new postmasters is an area that we have recently reviewed and identified that by using modern technology a proportion of the existing classroom training could be delivered online. As a result new postmasters and their staff will be able to access online training at a time and from a location that is convenient for them. The duration of the onsite training remains unchanged.

An added benefit is that this online training will be accessible to the whole network and not just to new postmasters. Technology has also been used to reduce paperwork and

administration within the support team and the overall impact of these changes means that fewer people are needed to deliver an enhanced level of support to the network.

[Need response to Q re outsourcing abroad – we have this]

Criminal Investigations and Prosecutions

Postmasters claim that you act as judge and jury – if there are any losses found at audit you have no interest in finding the cause because they have to pay them, isn't that true?

This is not true. It is of course in our interests to find the cause of any losses of Post Office money and to ensure that our postmasters and employees are properly supported by the business to protect this money.

Postmasters are independent business people in a similar position to franchisees and our contracts with them represent a balance of risk and reward. Postmasters are not held responsible for all losses at their branches. The contracts provide for postmasters to retain any surpluses and postmasters are only responsible for the losses caused by those they employ or by their own negligence, carelessness or error. But it is important to note that human errors can be and often are corrected and there are processes in place to enable postmasters to do this.

Postmasters are not liable for losses caused by, for example, external fraud or losses in other circumstances beyond their control, provided they have followed correct procedures. [what other circumstances can we quote?].

Because, by definition, only a postmaster and his employees can know what happens in his branch day to day, in the first instance he is expected to investigate possible causes for any discrepancy when the branch produces a cash declaration at the end of each day. There is access to a range of reports on different products and transactions to do this, including a line by line listing of all transactions that day and also applies at the end of trading period.

Postmasters have a clear choice to accept discrepancies on the basis that they are responsible for them or, instead, dispute them for investigation - which Post Office undertakes - into the reasons for the discrepancy.

You send in your own investigations team if losses are found, with their powers to interview people under caution – how can this possibly be fair and without bias?

Post Office has no special powers and is not unique. Occasionally and regrettably it has to deal with criminal activity against it, as do all companies. Interviews related to suspected criminal activity are conducted in a Police and Criminal Evidence Act (PACE) compliant way. This includes the right of an individual to have legal representation present at the interview. 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 following review by specialist legal advisors.

Why do your investigators not allow people legal representatives to be present when people are questioned?

Individuals do have the right to have legal representation present when interviews related to suspected criminal activity are conducted under caution. Such interviews are compliant with the Police and Criminal Evidence Act (PACE) which includes this right. This is explained to an individual and they confirm the position in writing. 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 following review by specialist legal advisors.

You seem to rarely be able to prove theft so instead pressure people to admit to false accounting, which is much easier to do – do you not accept that some of your postmasters are simply not in a position to be able to refute that even though they have done nothing wrong?

We do not force anyone into admitting a criminal offence or prevent them in any way from refuting evidence.

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 following review by specialist legal advisors.

The serious decision to prosecute a postmaster or employee, in the small number of instances where this in fact occurs, is always taken following numerous checks and balances and is of course subject to the scrutiny of defence lawyers and ultimately the Courts themselves.

People are allowed legal representation in interviews under caution which are compliant with PACE. If an individual is charged and there is a subsequent prosecution his decision regarding his plea is a personal one and between him and his defence lawyers, with all the evidence, including any evidence that might help the defence or hurt the prosecution, disclosed.

False accounting is criminal conduct and it will always be wrong. If postmasters face accounting losses they have a clear choice to accept responsibility for them or, instead, dispute them for further investigation. Regardless of how any shortage occurred, falsifying the accounts to hide losses cannot be justified and, further, usually destroys the audit trail making investigation into losses difficult if not impossible. It is false accounting that prevents Post Office from investigating underlying losses.

[Need to say something about theft to answer this question and to address the point that might be made re false accounting does not of itself create losses]

There seems to be a 'one size fits all' attitude to prosecuting people with no account taken of the circumstances in which they have had to try to operate - is it not therefore highly likely that some postmasters will have found themselves victims of miscarriages of justice, either wrongfully prosecuted, wrongly convicted or put in a position where they plead guilty simply through fear?

That paints a completely inaccurate picture. Every case of potential criminal conduct is very carefully considered. The serious decision to prosecute a postmaster or employee, in the small number of instances where this in fact occurs, is always taken following numerous checks and balances and is of course subject to the scrutiny of defence lawyers and ultimately the Courts themselves.

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 following review by specialist legal advisors.

To date, and after two and half years of investigation and independent review, we have found no evidence, nor has any been advanced by either a Scheme applicant or Second Sight to suggest that criminal convictions of any applicant in the Scheme are unsafe. We have written to people we have been made aware of who have suggested that they have or have seen evidence suggesting miscarriages of justice and have asked them to produce this so that it can be acted on. To date no such evidence has been produced. We have not been asked to support any appeals and there have been no appeals in any of the cases involving criminal convictions that are in the Scheme.

Interviews under caution are conducted in compliance with PACE which includes the right to legal representation.

If an individual is charged, Post Office has no influence on whether they pleads guilty or not guilty and the evidence – all of which must be disclosed to the defence - could be tested in Court.

In deciding whether a case is suitable for prosecution, Post Office and specialist legal advisors consider, among other factors whether the case meets, as it must, the high standards relating to evidence and public policy set out in the Code for Crown Prosecutors, which is the code issued by the Director of Public Prosecutions and followed by the Crown Prosecution Service.

If a decision is made to prosecute and a defendant is charged, he is entitled to receive private and confidential legal advice and Post Office is duty bound to disclose to the

defendant and his lawyers all the evidence in the case, including evidence which assists the defence or undermines the prosecution. Any decision by a defendant regarding his defence is made after he has had the opportunity to consider and take legal advice on the evidence and plea. This is not a matter for Post Office, it is between a defendant and his lawyers with full knowledge of all the evidence on which the prosecution proposes to rely in Court.

Why do you not pass cases to CPS?

[legal to answer – we have said previously that we do not have to inform the CPS that a private prosecution has commenced but the CPS can take over a private prosecution if the circumstances warrant. Like the CPS, Post Office keeps cases under continuous review to ensure that it continues to meet the Code’s standards all the way up to and during any trial]

Why did you start dropping prosecutions when the scandal about Horizon started to surface?

Post Office always keeps cases under continuous review all the way up and during any trial, to ensure that it continues to meet the Code for Crown Prosecutors. [Can we say that, given we had instigated an inquiry into allegations about Horizon and associated issues this was a factor for consideration in some cases during the continuous review process, in the interests of fairness? But there was no policy decision to simply drop all prosecutions, case by case as usual?]

Is it not true that, because you go for false accounting and people are pressured to plead guilty because a lesser sentence is likely, that evidence about Horizon is actually therefore not tested much, if at all, in Court?

Nobody is pressured by Post Office regarding their plea which is entirely a matter for a defendant and his lawyers once they have had an opportunity to consider all the evidence.

Post Office has no influence whatsoever and the evidence – all of which must be disclosed to the defence - could be tested in Court.

Evidence about Horizon has been tested in court on some occasions [think there is a Matt Prodger FOI on this so need to check against that. Lee Castleton case (civil action), Seema Misra case (criminal action)]

Some of the postmasters felt they were the only ones with problems with Horizon. Now it is clear that they are not – and there might in fact be hundreds more cases than we know about – should not every single criminal case be allowed an appeal? It is surely powerful new evidence that there are so many cases and that there have been serious glitches in the system, even if those glitches did not directly apply to these cases.

There is no evidence in these cases – none at all - that Horizon has not worked as it should and Post Office cannot be asked to ignore clear evidence that shows the opposite. [can we use some general information such as in a number of the cases there was high incidence of human and procedural errors, or significant security breaches e.g. shared passwords, money left unsecured]. Every case is different and is being assessed on its facts and substance.

Would you agree that there should be no time bar for these cases?

Limitation periods for bringing legal actions are a long and firmly established part of the law. The periods, currently established by the Limitation Act 1980, balance the interests of the claimant (who may need time to bring a claim) and the defendant (who must be protected from stale claims e.g. because relevant materials are no longer available. The limitation defence is available to all defendants, no matter how strong the claim they are asked to answer. Post Office should not be prevented from exercising this legal right.

The Scheme does not affect postmasters' legal rights, including the right to start Court proceedings if they believe their case has merit. Many of the complaints in the Scheme are very old, with the typical 6 year limitation period expiring well before the Scheme was established.

Would you welcome the Criminal Justice Review Commission examining these cases?

[What is our position?] Any person can apply to the Criminal Cases Review Commission to have their case reviewed.

To date there is no evidence identified by Post Office, nor advanced by Second Sight or an individual applicant to suggest that the conviction of any applicant to the Scheme is unsafe. Post Office writes to everyone we are made aware of who has suggested that they have or have ever seen evidence that a conviction is unsafe and asks them to disclose that evidence so that it can be acted upon. To date no one has provided any such evidence, but if it were to come forward, Post Office will address it – we take the duty of disclosure very seriously indeed as you would expect.

What is your reaction to the challenge that you should no longer have prosecution powers and investigations and prosecutions should be carried out by police and CPS?

Post Office has no special powers. It can exercise the statutory right to bring a private prosecution open to all persons in England and Wales under the Prosecution of Offences Act 1985 or by supplying evidence to the national prosecutors in Scotland and Northern Ireland, where a private prosecution cannot be brought. This is the same as for any other individual

or organisation and Post Office is not unique in bringing its own prosecutions. It is difficult to see why Post Office should not be allowed a statutory right that applies to every other person and organisation in England and Wales.

[Should we add in something here about – as well as being subject to Court scrutiny through cases – we externally review of the way that we conduct investigations and prosecutions i.e. bring in Brian Altman QC]

Contracts

Aren't the contract terms completely unfair, making subpostmasters pay back any losses out of their own pockets in a way that employees would not have to do?

The core principles of postmasters' contracts are broadly similar to those used in franchising arrangements across the UK and reflect well established legal principles.

The terms of the contract are negotiated with the National Federation of Subpostmasters which represents around 80% of postmasters.

Postmasters are independent business people, with a similar position to franchisees in other sectors. Our postmasters are often running Post Offices within their other business, such as a local shop and a contract with us can help to bring footfall into these.

The contracts represent a balance of risk and reward between Post Office and the postmaster. The contracts do not make postmasters responsible for all losses at their branches. They provide for postmasters to retain any surpluses and postmasters are only responsible for the losses caused by those they employ or by their own negligence, carelessness or error. But it is important to note that human errors can be and often are corrected and there are processes in place to enable postmasters to do this.

Postmasters are not liable for losses caused by, for example, external fraud or losses in other circumstances beyond their control, provided they have followed correct procedures. [what other circumstances can we quote?].

But the contract goes back decades and was in place before Horizon was introduced – how can your contracts still be fit for purpose?

The terms of the contract have been regularly reviewed, including with the NFSP (are they and have they ever changed?) but essentially the core principles remain and the overwhelming majority of postmasters operate effectively within these terms as they have done for many years.

The terms are broadly similar to principles used in franchising arrangements across the UK. Postmasters are responsible for providing services to our communities on behalf of Post Office and there is a balance of risk and reward between Post Office and the postmaster.

The contract ensures that postmasters, rightly, have responsibility for protecting Post Office money within the branch they control, by following proper procedures, many of which are required by law and compliance regulation.

Transactions and accounts are now computerised, as you would expect, but this does not impact on the contract, which is essentially about responsibility and management of individual branches by postmasters.

Postmasters might well be independent business people but a lot of them are running village shops, not large companies but you don't even provide them with legal advice before they sign up to the contract – or even advise them to get some. How do you make sure they really know what they are signing up to?

It is of course for a postmaster to choose whether they enter into a contract or not. The provisions of the contract are very clear and written in plain English. It is open to any postmaster to take legal advice on the contract at any time.

The contract that is entered into between Post Office and postmasters is done so freely and at arms length. Postmasters are not employees, they are agents who act on our behalf, usually running their own businesses, and they are free to take independent advice about any area of their business as they see fit.

The British Franchise Association recommends that independent legal advice should always be taken before signing a franchise agreement – why does Post Office not comply with this best-practice recommendation?

The BFA recommendation is directed to franchisees who are in a similar position to subpostmasters. It does not make a recommendation to franchisors, who are in a similar position to Post Office, to insist on legal advice being taken by franchisees.

Is it true you don't even show the contract to postmasters before they have started working for you and they are only asked to sign an acknowledgement document agreeing to its terms?

No this is not true. The contract is available to postmasters throughout negotiations when they are seeking appointment and it is issued with the offer of appointment when an individual is advised they have been successful at interview.

It is common practice for new subpostmasters to sign an "Acknowledgement of Appointment" document, rather than the full contract – but this is done after the contract

has been provided and people have had the opportunity to go through it and seek any advice they wish.

But was this always the case? Aren't there cases where postmasters have never seen the contract?

We have not found any evidence of it. It has been our practice since 2001 to send out the contract with the offer of appointment following successful interview.

How can it be fair for postmasters to be responsible under the contract for losses caused by their staff including when these have been caused by genuine and innocent mistakes?

A postmaster is responsible for running his branch and that includes the employment of his staff. He is responsible for hiring assistants and for their training. Postmasters' assistants are not employees of Post Office.

Postmasters assure themselves that assistants they employ are suitable for the role – they interview them and seek references and there are a number of checks that must be taken, such as right to work in the UK, proof of identity and five year work history. Assistants must be registered with Post Office so security checks, such as criminal record check, can be undertaken. There is an annual check of all assistants to ensure they have been cleared through the pre-employment checking system.

Because they are responsible for running their individual branches postmasters are accountable for the performance of the employees they manage.

But you don't make anyone you directly employ in your Crown branches pay money back and there are huge losses in those. Why is it different for postmasters?

We are accountable for the performance of the people we directly employee, just as postmasters are for the people they employ. Therefore if any of our employees cause losses we have to absorb those, and a postmaster has responsibility to do the same.

We investigate discrepancies in our Crown branches and we follow a performance and disciplinary process for our employees.

Financial

How much money is taken from all your subpostmasters each year under their contracts to pay back losses?

[need to check FOI on this]

How is this money treated as part of Post Office's profit and loss accounts?

[FOI?]

There has been nothing in your financial Report and Accounts about any of this. Does that not demonstrate that you have clearly made no provision for compensation because you decided you simply were not going to pay any?

Post Office Limited prepares its Financial Statements in accordance with international accounting standards, which set out a clear definition of what constitutes a liability. Any potential liabilities for the business are discussed with external auditors who agree whether they meet the definition and are required to be recognised in the Financial Statements for any particular year.

[Finance and FOI].