



## Overview of the Initial Complaint Review and Mediation Scheme

### Initial Complaint Review and Mediation Scheme

The Initial Complaint Review and Mediation Scheme have been established to help resolve the concerns of Subpostmasters regarding the Horizon system and other associated issues.

Post Office is determined to ensure that Horizon and its associated processes are fair, effective and reliable, and that Subpostmasters can have confidence in the system.

In some instances, however, Subpostmasters allege that Post Office and Horizon have not met these standards. To address these concerns, Post Office appointed independent forensic accountants, Second Sight, to investigate this situation.

In collaboration with the Justice for Subpostmasters Alliance (JFSA) and a group of MPs led by the Rt Hon James Arbuthnot MP, Post Office established an Inquiry into Horizon. Second Sight was appointed to lead this Inquiry and has been working with a number of Subpostmasters for over 12 months. A copy of Second Sight's interim report is available at <http://www.postoffice.co.uk/post-office-statement-horizon>

Post Office now wishes to offer a Scheme to Subpostmasters so that individual Subpostmasters have an opportunity to raise their concerns directly with Post Office. In partnership with Subpostmasters, the JFSA, Second Sight and interested MPs, all sides can then work towards resolving those concerns.

This Scheme has been developed by Post Office, Second Sight and the JFSA.

### Mediation

In essence, mediation is a face-to-face discussion between two parties. The discussion is chaired by a neutral and independent mediator.

The purpose of mediation is to give each side the opportunity to explain their position. The mediator will then discuss matters with both parties, sometimes together in the same room, sometimes privately with each party.

The mediator's role is to help the parties find common ground. Where common ground cannot be reached, the mediator will help the parties identify their differences and then try to find a resolution to those differences.

The mediator cannot impose a solution on any party (unlike a judge in a courtroom). He can recommend possible solutions to any disagreements. The parties are then free to accept or reject any recommendation. A solution is only binding on the parties where they both agree to that solution and that agreement is captured in writing and signed by both parties.

### Eligibility

The Scheme applies to both current and former Subpostmasters as well as counter clerks employed by Post Office.

Where we refer to "Subpostmasters" this includes Subpostmistresses, nominee Subpostmasters of multiple branches and counter clerks.

The Scheme is open to any Subpostmaster who believes they have suffered a loss or been treated unfairly as a result of the Horizon system or any associated issues.

If a serving Subpostmaster wants to use the Scheme, he or she must have already raised their case with Post Office and have completed all Post Office's internal complaint processes. For example, a

Subpostmaster who wishes to dispute a transaction or series of transactions in their branch should first raise this matter with NBSC and assist with any subsequent Post Office enquires. If a currently serving Subpostmaster needs advice how to raise a matter internally with Post Office they should email [branch.support.team@gro](mailto:branch.support.team@gro)

## **The Scheme**

The Scheme is being supervised by a Working Group comprising of representatives from Post Office, Second Sight and the JFSA. The Working Group's role is to ensure the Scheme is run in a fair and efficient manner. It will also be involved in making decisions on how particular cases should be managed through the Scheme. To ensure its impartiality, the Working Group is seeking to appoint an Independent Chairperson.

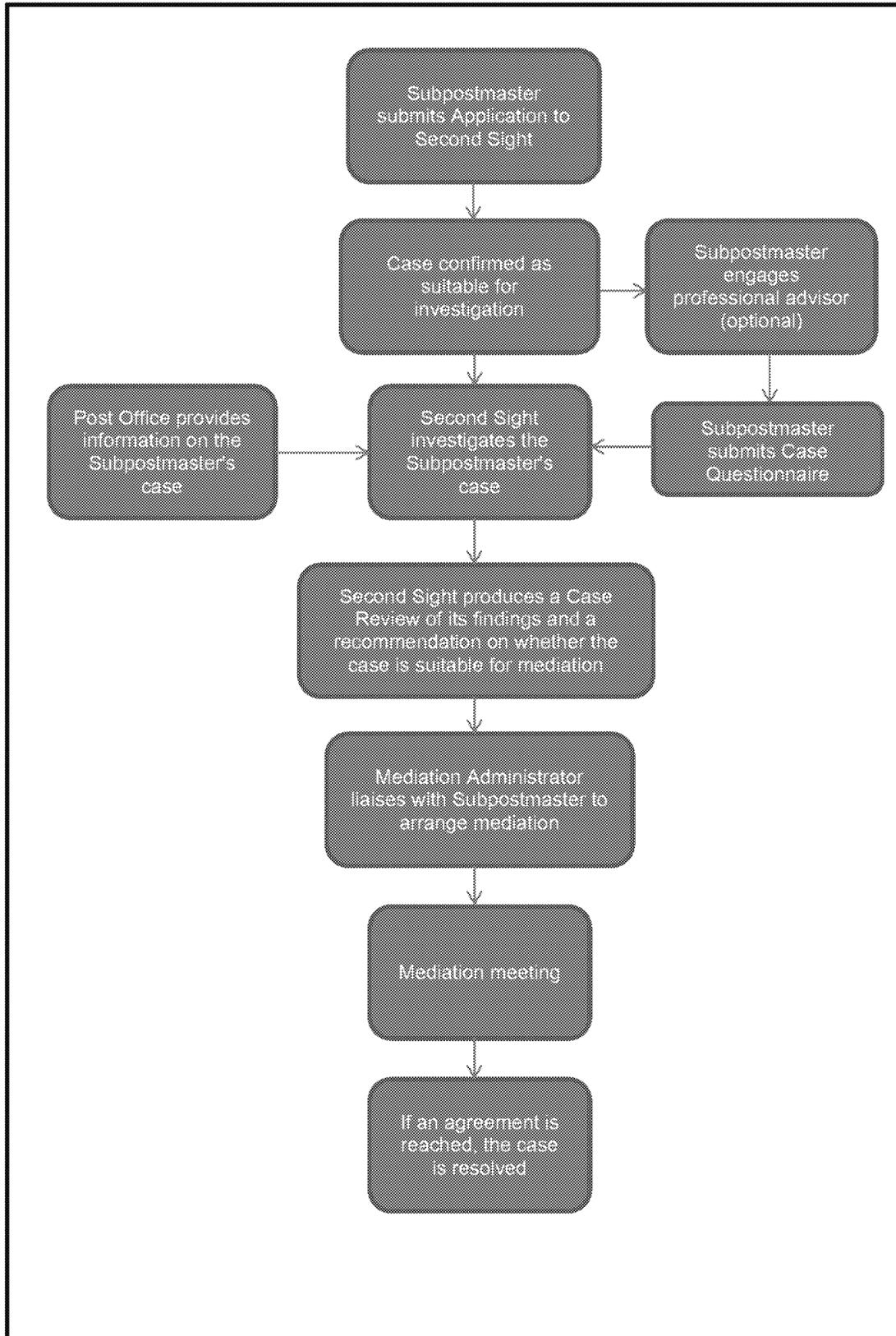
The starting point for the Scheme is for Subpostmasters to submit details of their case to Second Sight as part of an initial application process. Second Sight, in collaboration with the Working Group, will recommend whether the case should be investigated.

Second Sight will then work with each Subpostmaster and Post Office to gather information about and investigate that case. The Subpostmaster will be sent a Case Questionnaire setting out requests for more detailed information. Post Office will also provide additional information from its own records.

As a result of this investigation, Second Sight will produce a Case Review summarising its findings and a recommendation on whether the case is suitable for mediation. A copy of this Case Review will be provided to you. The Working Group will however take the final decision on any cases that may not be suitable for mediation.

The Case Review should bring clarity to many cases. Post Office may contact a Subpostmaster directly to discuss the Case Review and to seek closure of any outstanding issues. If a solution cannot be reached directly between Post Office and the Subpostmaster, both parties may then be invited to attend mediation.

The mediation process will be administered by an independent mediation body and the mediator will be selected by the parties from a panel of mediators. The mediation administrator and the panel of mediators will be nominated by the Working Group.



### **The Subpostmaster's role**

In order for mediation to work, it is important that each case is properly investigated by Second Sight before the mediation begins. It is therefore critical that each Subpostmaster provides complete and accurate information to Second Sight in a timely manner.

If an Application is accepted following Second Sight's recommendation, the Subpostmaster will be asked to submit a more detailed explanation of his/her case along with any supporting documents in the form of a Case Questionnaire. Subpostmasters will have four weeks after the Case Questionnaire is received to complete the Case Questionnaire and to submit relevant evidence. Subpostmasters will receive guidance on the information required and may use a professional advisor to help with this process. Second Sight may also contact a Subpostmaster (by phone, letter or email) to seek more information or to clarify some matters.

The information provided in the Case Questionnaire is likely to be shared with Post Office so that Post Office can make its own internal enquiries and provide further relevant information to Second Sight.

If the information provided by the Subpostmaster is insufficiently detailed or not clear, or information is not provided promptly, it may mean that a case is not investigated or mediated. It is also very important that the information provided is accurate and truthful.

### **Support for Subpostmasters**

Post Office recognises that mediation will be unfamiliar to many Subpostmasters. It is therefore prepared to make a financial contribution towards the reasonable costs of a professional advisor (such as a lawyer or an accountant) supporting a Subpostmaster through the Scheme.

Post Office will provide a financial 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.

Post Office will also pay the reasonable expenses of travelling to and from the mediation for a Subpostmaster and up to two representatives.

Subpostmasters will not be asked to contribute towards the costs of the mediator or the mediation venue.

Subpostmasters may engage a professional advisor to provide additional support in other areas or in excess of the above contribution levels however they will be responsible for these costs. In exceptional circumstances, a Subpostmaster may make a written request to the Working Group for additional financial support.

If an Application is accepted, the Subpostmaster will be sent a Funding Agreement that will explain how Post Office will provide this financial support.

### **Further information**

For further information, please see the enclosed Frequently Asked Questions.

## **Frequently Asked Questions for the Scheme**

### **What is the Working Group?**

The Scheme is being supervised by a Working Group comprising of representatives from Post Office, Second Sight and the JFSA. The Working Group's role is to ensure the Scheme is run in a fair and efficient manner. It will also be involved in making decisions on how particular cases should be managed through the Scheme. To ensure its impartiality, the Working Group is seeking to appoint an Independent Chairperson.

### **What are the eligibility criteria for the Scheme?**

You must meet both the following criteria.

First, your case must relate to a financial loss or unfair treatment that you believe you have suffered as a result of the Horizon system or any associated issues.

Secondly, if a serving Subpostmaster wants to use the Scheme, he or she must have already raised their case with Post Office and have completed all Post Office's internal complaint processes. For example, a Subpostmaster who wishes to dispute a transaction or series of transactions in their branch should first raise this matter with NBSC and assist with any subsequent Post Office enquires. If a currently serving Subpostmaster needs advice on how to raise a matter internally with Post Office they should email [branch.support.team@postoffice.gro](mailto:branch.support.team@postoffice.gro)

### **My case is very old. Can I still mediate it?**

Post Office's records only date back seven years and therefore it may be more difficult to investigate very old cases unless you are able to provide information and documents.

If your case is very old, you may still submit it to Second Sight for consideration. However it may be decided by the Working Group that your case is not suitable for investigation or mediation.

### **What if my case has already been settled by Post Office?**

You may put your case through the Scheme even if you have already entered into a settlement with Post Office.

### **What if my case has already been considered by the civil courts and they have given judgment against me?**

You may put your case through the Scheme even if the Courts have already given judgment against you.

### **What if my case involves a completed criminal prosecution or conviction?**

You may put your case through the Scheme even if you have already received a Police caution or have been subject to a criminal prosecution or conviction.

However, Post Office does not have the power to reverse or overturn any criminal conviction – only the Criminal Courts have this power.

If at any stage during the Scheme, new information comes to light that might reasonably be considered capable of undermining the case for a prosecution or of assisting the case for the defence, Post Office has a duty to notify you and your defence lawyers. You may then choose whether to use that new information to appeal your conviction or sentence.

**What if my case is subject to on-going court proceedings?**

You may still submit your case but it may not be eligible at this time.

**When is the deadline for Applications to the Scheme?**

Your application must be received by Monday 18 November 2013.

**Where should I send my Application?**

Please email your application to:

For any queries on submitting an application, please contact Second Sight on

**How should I complete my application?**

The Application Form can be downloaded from the JFSA website – [www.jfsa.org.uk](http://www.jfsa.org.uk)

If you would prefer to complete the Application in hardcopy, please contact Second Sight (details below) who will send you a paper version of the Application Form.

**If I'm not sure if my case is eligible, what should I do?**

If you need advice on the Scheme please contact the JFSA on:

<http://www.jfsa.org.uk/>

Email:

Telephone:

**What is the Justice for Subpostmasters Alliance?**

JFSA is an independent organization, established to raise awareness of the alleged problems within the Post Office Horizon system. The organisation mainly comprises of ex-Subpostmasters.

**Second Sight Investigation**

**What is Second Sight?**

Second Sight is a firm of independent forensic accountants and investigators which have been engaged to investigate and report on the Horizon system.

[www.2ndsight.eu](http://www.2ndsight.eu)

Email:

Tel:

**What is Second Sight's role?**

Second Sight was appointed by the Rt Hon James Arbuthnot MP and Post Office to independently review and report on the Horizon system and any associated issues.

As a part of the Mediation Scheme, Second Sight will work with you to investigate your case. It will then liaise with Post Office to obtain further information before giving an assessment of your case.

Some cases will be very complex. You should not therefore expect Second Sight to come up with definitive answers to all questions. It will however provide its best, impartial and reasoned assessment based on the evidence available.

### **What information do I need to provide to Second Sight?**

At this stage, you just need to provide preliminary details of your case in your Application Form.

If your case is accepted for the Scheme, Second Sight will send you a full Case Questionnaire to complete. You need to provide as much detail about your case as possible in the Case Questionnaire along with any supporting documents and other evidence. You will receive guidance on the information required.

### **Can I use a professional advisor to help prepare my written submissions to Second Sight?**

Yes – you may engage a professional advisor, such as a lawyer or an accountant, to help with this.

JFSA may be able to assist you with selecting an advisor and the Working Group will be looking to establish a panel of professional advisors that could be engaged by Subpostmasters.

Post Office will pay up to £1,500 + VAT towards the reasonable costs of a professional advisor assisting you during Second Sight's investigation (i.e. gathering information, completing the Case Questionnaire, responding to Second Sight's questions, etc.).

You will be sent an Investigation Funding Agreement for this financial support if your Application is accepted.

You are solely responsible for any costs incurred before the Investigation Funding Agreement is signed or for costs that are outside the scope of the Investigation Funding Agreement.

### **Will my case definitely get investigated by Second Sight?**

The depth of Second Sight's investigation is very much dependent on the quality of the information provided by you. The more specific and comprehensive you can be, the better the chance of Second Sight providing good answers.

If there is insufficient information for Second Sight to investigate a case, the case may not be investigated or may not proceed to mediation.

### **How will Second Sight investigate my case?**

Second Sight's investigation will be principally based on information provided by you and Post Office. In some cases, Second Sight may contact you or Post Office (by phone, email or letter) to discuss your case or to request more information.

Second Sight will seek to determine whether there was a problem with Horizon (or any associated issue) that had an impact on you. If so, Second Sight will also try to determine the scale and scope of that impact on your case.

### **How long will it take for Second Sight to investigate my case?**

It is estimated that it will take between one to three months from receipt of a properly completed Case Questionnaire to investigate a case depending on its complexity.

### **What will Second Sight's findings reveal?**

This very much depends on the nature of your case but Second Sight will provide the best assessment possible based on the available information. This assessment will be provided to you in writing.

However, you should bear in mind that Second Sight is independent of both Post Office and you. Its investigation may therefore reveal information that could assist either you or Post Office.

In particular, the investigation into your case could reveal that you owe a debt or loss to Post Office. In that circumstance, Post Office will be entitled to act on this information and seek to recover this loss from you.

Should Second Sight discover evidence of any criminal wrongdoing, Post Office may pass this information to the Police, the Crown Prosecution Service or seek to prosecute directly.

Likewise, the investigation could disclose information that may assist you in a claim against Post Office.

If you have been previously involved in criminal proceedings, Post Office also has a duty to disclose to you and your defence counsel, any new information which comes to light that might reasonably be considered capable of undermining the case for the prosecution or of assisting the case for your defence.

### **Will my case definitely be referred to mediation?**

If your case is suitable and you provide accurate, detailed information to Second Sight, then this is likely in most circumstances.

However, the Working Group may consider that some cases are not suitable for mediation. For example, if there is insufficient information about a case or the case is not one requiring resolution.

Also, once Second Sight has submitted its findings, Post Office may contact you to discuss your case and to seek a resolution without needing to attend mediation.

If your case is not referred to mediation, then you may still pursue other methods of resolution such as by bringing a claim through the Courts.

## **Mediation**

### **What is mediation?**

In essence, mediation is a face-to-face discussion between two parties. The discussion is chaired by a neutral and independent mediator.

The purpose of mediation is to give each side the opportunity to explain their position. The mediator will then discuss matters with both parties, sometimes together in the same room, sometimes privately with each party.

The mediator's role is to help the parties find common ground. Where common ground cannot be reached, the mediator will help the parties identify their differences and then try to find a resolution to those differences.

### **Who is the mediator?**

The mediator is a neutral individual who specialises in resolving disputes. Typically, mediators are independent professionals.

The Working Group will be nominating a panel of suitable mediators. A mediator from this panel will be jointly chosen by you and Post Office. If the parties cannot agree on a mediator then the mediator will be selected by the independent Mediation Administrator.

#### **Who is the Mediation Administrator?**

The Working Group will be nominating a Mediation Administrator. This will be an independent body specialising in providing mediation services.

The Mediation Administrator's role will be to organise the mediation process by helping the parties choose a mediator and by finding an appropriate location and time for the mediation.

Full details of the Mediation Administrator will be provided to you if your case proceeds to mediation.

#### **What powers does the mediator have?**

The mediator's role is to facilitate a discussion between you and Post Office. He/she is there to help the parties find a solution to their disagreement.

The mediator cannot order the parties to do anything or to impose an outcome on the parties.

#### **What will happen on the mediation day?**

The course of events at the mediation will be set by the mediator. The mediator will look to use the time available at the mediation in the most productive way possible.

A typical mediation will run as follows:

- The parties arrive at the venue and are each allocated separate private rooms.
- The mediator arrives and introduces himself to each party separately.
- The parties convene in a joint meeting. Each party or their representative makes a short opening statement (lasting just a few minutes) setting out their position.
- The mediator then chairs a discussion between the parties about the issues to be considered.
- The parties retire to their separate rooms. The mediator speaks separately to each party about their thoughts and opportunities for resolution.
- The mediator may assist negotiations between the parties in an attempt to agree a solution.
- Further face-to-face meetings may be held between various people at the mediation.
- If a deal is reached, the mediator may help the parties to draw up a settlement agreement.

#### **Who attends mediation?**

There are no strict rules on who can attend. However it is usual to have only two or three people representing each side. You may bring with you anyone you consider appropriate. However, Post Office will only pay reasonable travelling expenses for you and two representatives.

#### **Can I bring a professional advisor to the mediation?**

Yes – you may bring a professional advisor, such as a lawyer or accountant, to the mediation.

**Who will pay for my professional advisor to attend the mediation?**

Post Office will make a contribution towards the reasonable costs of a professional advisor in preparing for and attending mediation on your behalf.

For a half-day mediation, Post Office will contribute up to £750 + VAT.

For a full-day mediation, Post Office will contribute £1,250 + VAT.

You will be sent a Mediation Funding Agreement for this financial support if your case is deemed suitable for mediation by the Working Group. This decision will be made after Second Sight has produced its Case Review.

You are solely responsible for any costs incurred before the Mediation Funding Agreement is signed or for costs that are outside the scope of the Mediation Funding Agreement.

**Will Post Office pay my expenses of travelling to the mediation?**

Yes – Post Office will pay the reasonable expenses for you and up to two representatives to travel to the mediation. Full details of this support will be provided in your Mediation Funding Agreement.

**How long will the mediation last?**

In most cases, the mediation will last about half a day (4 hours). For complex cases, the mediation may last a full day (8 hours).

**Where will the mediation be held?**

The mediation will be held in a set of meeting rooms at an appropriate venue. The venue will be selected depending on the location of the mediator and the parties. Post Office will seek to find a venue within three hours travel of where you live, but this cannot be guaranteed in all situations.

**When will the mediation happen?**

The precise date depends on your availability and the availability of the mediator and Post Office. The aim is to hold most mediations within six months of receipt of your Application Form.

The Mediation is likely to happen on a weekday so you may need to take time off work.

**Will Post Office compensate me for taking time off work to attend mediation?**

No.

**How might my case be resolved?**

The advantage of mediation is that the parties can agree any solution that is legal, realistic and enforceable. Post Office is keeping an open mind to all possibilities for resolution.

Compensation is one possible solution that could be agreed by the parties but this will depend on what happened in your case.

If a resolution is reached by the parties, then this is likely to be drawn up into a formal settlement agreement for you to sign.

**What if my case is not resolved at mediation?**

If your case is not resolved at mediation, you are free to pursue any other method of resolution, including through the Courts.

### **Information about my case**

#### **Will Second Sight share my information with Post Office?**

Yes – Second Sight will share your information with Post Office in order to investigate your case.

#### **Why are details of my case being shared with JFSA and my MP?**

JFSA are part of the Working Group, alongside Second Sight and Post Office, who will be monitoring the Scheme.

The Scheme is also being kept under review by a group of MPs led by the Rt Hon James Arbuthnot MP. Your MP may therefore request details of your case. However, details of your case will only be communicated to your MP and not to other MPs.

#### **Will my case be kept confidential?**

Both you and Post Office must endeavour to keep details of your case confidential however details of your case may be discussed with:

- Second Sight
- Your MP
- JFSA
- Professional advisors
- With other appropriate persons where you have already made or have chosen to make public statements about your case.

However, all matters discussed in the actual mediation will be strictly confidential and subject to "without prejudice" privilege. This means that the matters discussed during mediation cannot be disclosed to any third party or to any Civil Court.

This protection allows both parties to speak freely in the mediation room, without risk of their words being repeated back to them in public or in the Civil Courts. Under this protection, the parties can then accept responsibility for their actions and make concessions in order to move towards a resolution.

#### **Can Second Sight's pre-mediation findings be used in subsequent Court proceedings?**

Yes. A Subpostmaster will receive a copy of Second Sight's findings and may use them against Post Office in later Court proceedings.

However, the investigation into your case may reveal that you owe a debt or loss to Post Office. In that circumstance, Post Office will be entitled to act on this information and seek to recover this loss from you.

Likewise, should the investigation reveal any criminal wrongdoing, Post Office may pass this information to the Police, the Crown Prosecution Service or seek to prosecute directly.

The matters discussed at the actual mediation cannot be later used in later Civil Court proceedings but might be disclosable in the Criminal Courts.

### **Other questions**

#### **Is it possible that the structure of the Scheme may change over time?**

Yes – the Working Group is tasked with making sure that the Scheme is operating effectively. It may therefore be necessary to revise the Scheme as appropriate.

### **What is the effect of the Scheme on my legal position?**

You are not waiving any of your legal rights by submitting information to Second Sight or attending mediation.

Your legal rights will only be affected if you settle your case against Post Office in a written agreement.

The Funding Agreements and the Mediation Agreement may contain some obligations on you such as duties to keep information confidential.

### **Am I obliged to mediate my case?**

No – the Scheme is voluntary.

Post Office will not use the fact that you have not mediated your case (or may have pulled out part way through the Scheme) against you in any future Court proceedings.

### **Can I pull out part way through the Scheme?**

Yes – at any time you may confirm in writing (to either Second Sight or the Mediation Administrator as appropriate) that you no longer wish to be part of the Scheme. Should you pull out of the Scheme, you may not be able to re-join the Scheme at a later date.

### **What happens if I pull out?**

Second Sight will stop its investigation into your case.

If you pull out before signing a Funding Agreement, you will be responsible for any professional advisor's costs you have incurred.

If you pull out after signing a Funding Agreement, Post Office will still make its contribution towards your professional advisor's reasonable costs as described in that Funding Agreement.

### **What is a Funding Agreement?**

A Funding Agreement is a contract between you and Post Office under which Post Office commits to provide you with financial support.

An Investigation Funding Agreement will be sent to you if your Application is accepted. This will provide up to £1,500 + VAT towards the costs of you engaging a professional advisor during Second Sight's investigation.

A Mediation Funding Agreement will be sent to you if, after Second Sight's investigation, the Working Group decides that your case is suitable for mediation. This will provide up to £750 + VAT or £1,250 + VAT (depending on the length of the mediation) towards the costs of a professional advisor attending mediation on your behalf

Unless you sign a Funding Agreement, Post Office is not responsible for any costs that you may incur.

Post Office is also not responsible for any costs you may incur outside the scope of any Funding Agreement or in excess of the above funding commitments.

### **What if I need more financial support?**

It is for you to manage your professional advisor's costs.

In exceptional circumstances, you may make a written request to the Working Group for additional financial support. Each case will be treated on its merits with no guarantee of additional support being granted.

**What is a Mediation Agreement?**

A Mediation Agreement outlines the basic principles of the mediation process and confirms the appointment of the mediator. It also contains the obligation on the parties to keep the Mediation discussions confidential.

You will be sent a Mediation Agreement after Second Sight's investigation is complete and your case is considered suitable for mediation.