





Post Office Mediation Scheme – DRAFT

Case Review Report

Applicant: Lee CASTLETON - GRO

Advisor: Emma Porter (Aver)

March 2014 ;

[Faint handwritten notes, possibly including the name 'Emma Porter' and other illegible text]

1. Introduction

1.1. This report should be read in conjunction with the following documents:

- a) The documents submitted by the applicant or their professional advisor;
- b) The Post Office Investigations Report prepared by Post Office Limited ("Post Office") including attachments;
- c) Second Sight's *"Thematic Issues Report"*; and
- d) Post Office's *"Glossary of Acronyms"*.

1.2. The Terms of Reference for Second Sight as set by the Mediation Working Group are as follows:

- a) To investigate the specific complaints raised by each Subpostmaster who has been accepted into the Scheme with the aim of providing:
 - i. an assessment of points of common ground between Post Office and that Subpostmaster;
 - ii. an assessment of points of disagreement between Post Office and that Subpostmaster;
 - iii. where there is disagreement, a logical and fully evidenced opinion on the merits of that Subpostmaster's complaint where it is possible to do so;
 - iv. a summary of any points on which it is not possible to offer a fully evidenced opinion due to a lack of evidence / information;
 - v. a view on whether a case is suitable for mediation; and
 - vi. assisting with any reasonable requests made by the Working Group and/or Post Office;

1.3. Second Sight has been provided with the following documents:

- a) The initial application to the mediation scheme submitted by the applicant;
- b) the Case Questionnaire Response submitted by Aver; the professional advisor to the applicant; and
- c) the Post Office Investigation Report, prepared in response to the above mentioned documents.

1.4. The following matters are the key issues raised by the applicant:

- a) Centrally generated transactions;

- b) user errors at POS;
- c) interfaces with third-party systems;
- d) hardware issues;
- e) training and support issues;
- f) limitations in the transaction audit trail;
- g) process issues at the end of each Trading Period;
- h) the contract between the Post Office and Subpostmasters;
- i) the lack of an outreach investigations function; and
- j) Post Office's disproportionate and punitive civil lawsuit.

1.5. The applicant was in post between July 2003 and his suspension in March 2004 as a result of the accumulation of a shortage of £27,115.83. Two months later, his contract was terminated by the Post Office with effect from March 2004.

1.6. It should be noted that the matters raised by the applicant occurred between 14th January and 23rd March 2004 and, while the applicant has retained a substantial quantity of his original documentation, that period falls outside the normal document retention period of the Post Office. This has severely limited the number of documents available for either the Post Office or Second Sight to review.

2. Points of common ground between the applicant and Post Office Limited

2.1. It is common ground that a shortfall of £27,115.83 appeared to have arisen in the branch's books as of 23rd March 2004.

2.2. The Post Office acknowledges that the applicant telephoned its Helpline on multiple occasions to report shortages; to voice his suspicions that they had been caused by 'Rem' errors and / or by the hardware or software faults that he was experiencing; and to complain that Audit Trail deficiencies were preventing him from identifying the root causes of the discrepancies that were arising.

2.3. In June 2005 the Post Office initiated a civil action, in the Scarborough County Court, to recover the £27,115.83 shortfall, plus interest.

2.4. In December 2006 the case was before the High Court in London. The Post Office revised claim was now £25,558.95 and the applicant, having run out of money to pay for legal representation, had to defend himself against the Post Office's legal team and Counsel. The High Court judge found against the applicant in January 2007, awarding the Post Office £25,858.95 plus costs of approximately £320,000. As a consequence of the costs claim, the applicant was declared bankrupt in May 2007.

3. Points of disagreement between Post Office and the Subpostmaster:

3.1. The following issues represent points of disagreement between Post Office and the applicant:

Centrally generated transactions

3.2. The applicant reports that transactions, including pension payments, were shown on the system in 2003 and 2004 when neither he nor any staff member was logged into the system.

User errors at POS

3.3. The applicant refers to problems in 2003 and 2004 with GIRO transactions (see notes under Interfaces with Third-Party systems below) and to repeated problems with Inward and Outward Remittances ("Rems").

Interfaces with third-party systems

3.4. The applicant has referred to a March 2004 Girobank transaction that he says he executed but could not find on the Horizon transaction reports, even though it did impact the customer's bank account.

3.5. The applicant also refers to reconciliation problems between the Camelot and Horizon data in respect of Scratch Cards.

Hardware issues

3.6. Whilst it is common ground that a number of hardware issues occurred, including frozen screens, a base unit replacement and telecommunications failures, the Post Office does not accept that these events gave rise to losses.

Training and support issues

3.7. This applicant has not complained of inadequacies in his own training, but he does state that the Post Office's own staff, including those manning the Helpline and also his line supervisor had limited knowledge of how the Horizon system and its associated processes and inter-connected systems really operated and therefore consistently seemed unable either to understand the problems he was experiencing or to provide any worthwhile support when he needed it.

- 3.8. He also reports numerous occasions when his calls to the Helpline went unanswered, or promised return calls or follow-ups simply didn't happen. The real issue therefore appears to be the lack of effective support available to this relatively inexperienced Subpostmaster when he reported significant problems and shortfalls, rather than inadequate training for himself or his staff.

Limitations in the transaction Audit Trail

- 3.9. In the absence of meaningful assistance from the Post Office, the applicant was left to try and work out where the money had gone when he encountered the ten shortfalls referred to in his CQR. The Transactional Audit Trail was inadequate for this purpose.

Process issues at the end of each Trading Period

- 3.10. During the three-month period at the centre of this case, the applicant found himself with material shortfalls at the end of 10 of the 12 weekly balancing periods. The applicant reported these shortfalls to the Post Office but did not receive any meaningful assistance in dealing with them.

The contract between the Post Office and Subpostmasters

- 3.11. The applicant states that he did not see or sign a full subpostmasters contract until the Post Office commenced civil recovery action.

The lack of an outreach investigations function

- 3.12. The applicant reports that he made numerous requests to the Post Office for investigative work to be carried out in order to establish the underlying root causes of the ten shortages that occurred in the three month period between 13th January to 23rd March 2004. No investigative support was provided.

Post Office's disproportionate and punitive civil lawsuit

- 3.13. The action by the Post Office against the applicant was disproportionate and punitive. The Post Office knew that the applicant had limited means and was unable to repay the alleged losses let alone the costs order of over £320,000.

4. Where there is disagreement, a logical and fully evidenced opinion on the merits of that Subpostmaster's complaint where it is possible to do so;

- 4.1. The following sections represent the opinions reached by Second Sight as a result of the documents and other evidence provided to it.

Centrally generated transactions

- 4.2. The applicant reports that transactions, including pension payments, were shown on the system when neither he nor any staff member was logged into the system. The applicant also alleges that the Post Office had the ability to remotely make "corrections" to the Horizon data. The

Post Office has consistently denied that it has, or ever did have, the ability to make corrections to any branch data without the knowledge or permission of the 'owner' of that data, i.e. the Subpostmaster. We note that the Post Office Investigation Report makes reference to a "*client ledgering and settlement system*". This would appear to be some form of back office accounting system operated by Post Office that may have been used to adjust client i.e. Subpostmaster balances. Unfortunately Post Office has been unable to provide any further information about this system.

- 4.3. We are aware that other Subpostmasters have made similar claims about transactions being entered or altered without their knowledge or consent. Enquiries on this point are continuing.

Interfaces with third-party systems

- 4.4. The applicant has referred to a March 2004 Girobank transaction that he processed but could not find on the Horizon transaction reports, even though it did impact the customer's bank account. This period is outside of the Post Office document retention period and it has not been possible to investigate this allegation. The description provided matches that of a '*one-sided transaction*' that appears to occur in certain circumstances such as a following a power or telecommunication failure (see *Thematic Issues Report*). If these '*one-sided transactions*' did occur, this may account for some of the unexplained losses.
- 4.5. The applicant also refers to reconciliation problems between the Camelot and Horizon systems in respect of Scratch Cards. A number of Subpostmasters have reported similar problems (see *Thematic Issues Report*). We also dealt with this issue in our *Interim Report* dated 8 July 2013 which included the following statement by the Post Office:

"Further to the discovery of large Scratch Card losses at Post Office branches (for example £147,000 in aggregate losses were discovered following the audit of 20 branches in and around May 2009), a process change was rolled out during January and February 2012. This process change was designed to significantly reduce loss/waste associated with Scratch Cards".

- 4.6. One of the problems was the two separate systems (Horizon and Camelot) becoming '*out-of-sync*'. This commonly occurred in branches where the shop opening hours, as in this case, were very much longer than those of the Post Office Counter. Post Office recognised this as a problem and in February 2010 made changes to the standard operating procedures for Scratch Cards in order to reduce the frequently-occurring reconciliation problems. In February 2012, the Post Office made further system software changes that aimed to eliminate the '*out-of-sync*' problem between the two systems.
- 4.7. Of course, these process improvements were too late for this applicant and it is not clear as to whether or not the '*out-of-sync*' problem was a significant issue in the losses reported.

Hardware issues

- 4.8. Whilst it is common ground that a number of hardware issues occurred, including frozen screens, a base unit replacement and telecommunications failures, the Post Office does not accept that these events gave rise to losses and has stated that "*power failures cannot impact on the integrity of Horizon data*".
- 4.9. We note that the Post Office position is that power failures rather than telecommunications failures (our emphasis) cannot impact on the integrity of the Horizon data. Telecommunications failures are far less easily noticed than power failures. They can be both intermittent and localised in their impact, whereas power failures tend to impact all of the hardware at the same time.
- 4.10. We deal with this issue in the *Thematic Issues Report* where we note that discrepancies (i.e. shortages or surpluses) can be caused when Horizon fully processes a transaction but the related third-party system fails to process that transaction correctly (or vice versa). Depending on the exact circumstances of the underlying event, this can give rise to either shortages or surpluses.
- 4.11. Since the period in question is outside of the Post Office document retention period, it has not been possible to investigate this allegation in any more detail.

Training and support issues

- 4.12. The applicant has not complained of inadequacies in his own training, but he does assert that the Post Office's own staff, including those manning the Helpline and his line supervisor had limited knowledge of how the Horizon system and associated third-party systems really operated. This point has been made by other applicants and is dealt with in the Thematic Issues Report.
- 4.13. The applicant also reports numerous occasions when his calls to the Helpline went unanswered, or promised return or follow-up calls, simply didn't happen. The real issue here appears to be the lack of effective support to this relatively inexperienced Subpostmaster.

Limitations in the transaction audit trail

- 4.14. In the absence of effective assistance from the Post Office, the applicant was left to try and establish the reason for the ten shortfalls referred to in his Case Questionnaire Response. He attempted to use the Horizon Transactional Audit Trail in order to do this, which proved to be inadequate.
- 4.15. We note that in 2005 the Horizon Transactional Audit Trail incorporated 42 days of transaction data. Whilst this would normally be sufficient to enable the branch to identify any discrepancies in weekly and/or monthly balancing, the 42 day limitation was subsequently increased to 60 days. If this extended period had been available to the applicant, this may have been of assistance in resolving the reported discrepancies.

Process issues at the end of each Trading Period

4.16. During the three-month period at the centre of this case, the applicant found himself dealing with material shortfalls at the end of 10 out of the 12 weekly balancing periods. The applicant promptly reported these shortfalls to the Post Office but received little meaningful assistance in resolving them. The failure to treat the disputed transactions in a neutral manner was probably a factor in the decision by Post Office to almost immediately commence civil asset recovery action.

The contract between the Post Office and Subpostmasters

4.17. The applicant states that he was not provided with the 114 page standard contract until civil asset recovery action was commenced. This prevented the applicant from being aware of the risks and liabilities he was exposed to, or the ability to seek legal advice on this issue.

4.18. We have been told by Post Office that "*the process at the time of the applicant's appointment was that he would receive a copy of the contract along with the appointment letter and welcome pack*". We have seen no evidence that the applicant was provided with the 114 page standard contract at the time of his appointment.

The lack of an outreach investigations function

4.19. This issue is dealt with in the *Thematic Issues report*.

Post Office's disproportionate and punitive civil lawsuit

4.20. It remains unclear why the Post Office commenced civil recovery asset action against this applicant so quickly. The applicant was not only relatively inexperienced but had been open and transparent in his dealings with the Post Office.

4.21. In January 2004 the applicant was offered a 'Hardship' option (i.e. to pay losses over a number of months) but this facility was never implemented by the Post Office. He also, at various points between March 2004 and May 2007, made offers to pay by instalments. These offers were never accepted.

4.22. We note that this case became something of a "*test case*" within Post Office and this may in part explain the extraordinary costs of over £320,000 that were incurred, which resulted in the bankruptcy of the applicant. We are aware of at least one case where recovery of a loss of over £8,000 was written off with the comment:

"Not pursued because of possible counterclaim. Blamed Horizon for losses. Castleton was u..."

The reference to Castleton in this other case was incomplete and enquiries on this point are continuing.

4.23. The Applicant believes that the Post Office's real motive in this case was to use disproportionate resources against an unrepresented person in order to establish some form of precedent against anyone alleging problems with Horizon.

4.24. The facts of the case appear to provide some limited support for this allegation. There appears to be little commercial justification in Post Office incurring costs in excess of £320,000 where the underlying claim was approximately £26,000 and the person clearly had limited means. Furthermore, the applicant had offered to pay the losses in instalments. We also note that the Post Office did not seek any recovery from the applicant's Trustee in Bankruptcy, thereby writing off approximately £346,000. Because of the expiry of document retention periods it is no longer possible to investigate these matters any further.

5. A summary of any points on which it is not possible to offer a fully evidenced opinion due to a lack of evidence / information

5.1. The expiry of document retention periods has resulted in it no longer being possible to offer a fully evidence opinion on matters other than those covered in section 4 above.

Is this case suitable for mediation?

5.2. In our opinion the issues raised by the applicant are suitable for Mediation.

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