



Post Office Limited  
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Confidential

**Second Sight**  
By email only

**5 September 2014**

Ref: M039

Dear Sirs

**Post Office's Response to Second Sight's Draft Case Review Report on case M039**

This letter sets out Post Office's response to Second Sight's draft Case Review Report dated 27 August 2014 for application M039 (the **CRR**).

Post Office agrees with the overall content of the CRR. However, there are a number of points that we would ask Second Sight to consider when drafting the final report which are set out below and in the attached appendix.

**The Applicant's Criminal Conviction**

The Applicant has been convicted of false accounting and is therefore responsible for the losses in his branch as explained below.

The Applicant has previously pleaded guilty to a charge of false accounting. A plea of guilty to a charge entails a complete admission to the offence.

The plea was voluntarily entered after the Applicant had the opportunity to take legal advice. Post Office is not responsible for any advice that the Applicant may or may not have received. If the Applicant considers that they were wrongly advised, then that is a matter between them and their lawyer.

Post Office does not consider that there are any new circumstances in this case that would justify a change of plea and therefore maintains that the Applicant's guilty plea is good evidence that he submitted false accounts.

As stated in the original Scheme Documentation, Post Office has no power to overturn a conviction. The proper forum for this is an appeal through the Courts. Neither the draft CRR nor the Post Office investigation identifies any information or evidence which Post Office considers would make the applicant's conviction unsafe. However, it remains open to the applicant to appeal their conviction through the Courts.

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**False accounting**

Due to the false accounting, any small operational losses were not shown in the branch's accounts.

As daily cash declarations were made falsely (by declaring that there was more cash in the branch than there actually was) then it was impossible for Post Office, and will have been very difficult if not impossible for the Applicant, to have:

- Known if cash was missing;
- Identified the days on which cash went missing;
- Identified which member of staff may have been the source of errors; or
- Located the erroneous transactions that were the cause of the loss.

Daily accurate cash declarations are the most critical aspect of branch accounting, without which losses of cash go unchecked.

The false accounting in this case means that it was not possible at the time of these events, and it remains impossible now, to precisely identify all the errors in branch which have caused a shortfall. Post Office primarily relies on reviewing the branch accounts to help subpostmasters identify errors but because the accounts in this case have been falsified, it is not possible to distinguish between genuine errors and intentionally false entries.

Notwithstanding that this is a criminal offence, operationally Post Office insists on daily accurate cash declarations. The Applicant's negligence is why he is liable (under the terms of his Contract) for any losses hidden or caused by his inaccurate record keeping. It is also an established principle of the Law of Agency, that agents like Subpostmasters are liable to pay to Post Office (as principal) any cash sum declared in their accounts even if that declaration is false.

Post Office therefore considers that the Applicant is liable for the losses in the branch due to his false accounting

**Consequential Losses**

Paragraph 1.5(i) of the CRR notes that the Applicant has raised consequential losses "*which may be raised if the case progresses to mediation*". As stated in the CRR, it is outside the scope of the Scheme and Second Sight's role for it to assess or comment on any consequential losses claimed by an Applicant.

However, in the interests of transparency, Post Office notes that it does not consider the losses claimed by the Applicant to be recoverable. The relationship between Subpostmasters and Post Office is governed by a contract which makes it clear that the relationship between parties is one of agent and principal, permitting Post Office to recover branch losses from the Subpostmaster.

Post Office has considered the circumstances of this case very carefully and, on the basis of the information provided by the applicant, in its own investigation and in the draft CRR, does not consider that it has in acted in breach of contract or caused the Applicant the harm now claimed as consequential loss.

## Summary

In summary the key points in this case are:

- Paragraph 3.1 of the CRR states that "*few of those issues (i.e. raised by the Applicant) seem capable of generating losses amounting to over £28,000*";
- Paragraph 4.2 of the CRR states that "*we see no reason to challenge the judgement of that Panel*" in respect of the £304.26 which the Applicant was required to pay in respect of forged Inland Revenue Cashcheques;
- Paragraph 4.10 of the CRR states that "*Post Office has concluded that the overall loss of £28,551.98 is likely to have been caused by "human action (for example poor controls in branch and/or user errors)". **Based on the evidence made available to us, we agree with this conclusion***" [Emphasis added];
- Paragraph 5.9 of the CRR states that "*the adequacy or otherwise of the Post Office investigation process has little relevance in the light of the Applicant's guilty plea to the charge of false accounting, since the evidence was never considered by the Court*";
- The Applicant admitted falsifying accounts over a five year period;
- Post Office found no evidence to support the Applicant's claim that he did not receive sufficient training and support;
- First Rate has provided conflicting information to that provided by the Applicant in respect of his allegation regarding the issue of the £1,500 of US traveller cheques;

In light of all of the points above, Second Sight is asked to reconsider its recommendation that this case is suitable for mediation.

If you have any questions about this response, please do not hesitate to contact me.

Yours faithfully

The logo consists of the letters 'GRO' in a bold, black, sans-serif font, centered within a dashed rectangular border.

**Angela Van Den Bogerd**  
Head of Partnerships  
Post Office Limited

## Appendix

## Line-by-line comments

Paragraph in CRR	Post Office comment
2.1 (b)	<p>The CRR states as follows:</p> <p><i>"This is a case in which there seem to be very few issues on which both parties agree. Among those few issues on which there does exist some degree of agreement, the most salient are that:</i></p> <p><b><i><u>b) an error, in the amount of £240, had occurred on 7 August 2008, concerning the activation of three packs of Lottery Scratch Cards</u></i>" [Emphasis added]</b></p> <p>However, this issue is not agreed between Post Office and the Applicant. The Applicant claims in his CQR as follows:</p> <p><i>"These (i.e. out of date scratchcards) were remmed out on the Camelot till and I was told by Camelot that a transaction correction would come through, but it never did. As a result this cost me £250".</i></p> <p>In an additional request for further information, the Applicant claims that a Camelot representative removed one pack of £1,00 scratchcards which were out of date in July/August 2008. The Applicant claims that the representative booked this pack out of the lottery terminal and advised that the Applicant would receive a transaction correction to reduce the stock in the sum of £250. However, a pack of £1.00 scratch cards at the time in question was valued at £120 rather than £250 as claimed by the Applicant.</p> <p>In addition, Post Office's investigations revealed that on 7 August 2008, the branch activated three packs of scratch cards on the lottery terminal but only activated one of these packs on Horizon. This resulted in an error of £240 being issued to the branch (rather than £250 as claimed by the Applicant).</p>
3.5	<p>The CRR states as follows:</p> <p><i>"The Applicant claims that he lost £250 in July or August 2008 when a Camelot representative took a pack of out of date Scratch Cards".</i></p> <p>Please see response above in respect of paragraph 2.1(b) of the CRR.</p>
3.7	<p>The CRR states as follows:</p> <p><i>"The Applicant says that, on 9 May 2008, he lost £500 when, as a result of mis-</i></p>

	<p><i>instruction by the Helpline, he mistakenly sent a Co-Op Bank cheque to the wrong processing centre."</i></p> <p>However, the Applicant states as follows in his CQR:</p> <p><i>"A new service was provided to cash Co-op business cheques and I received one over the counter for £500. I had not processed one before and so I called the Helpline and followed their instructions, which included sending it in the usual bag. <b><u>I had not appreciated, and was not told, that it had to be sent somewhere else. As a result the cheque was lost and I had to bear the £500 loss</u></b>". [Emphasis added]</i></p> <p>The Applicant is claiming that he "<i>had not appreciated, and was not told</i>" that the cheque had to be sent "<i>somewhere else</i>", rather than it being a case of "<i>mis-instruction by the Helpline</i>".</p>
4.3	<p>The CRR states as follows:</p> <p><i>"The Applicant claims that he lost £250 in July or August 2008 when a Camelot representative took a pack of out of date Scratch Cards and promised that a Transaction Correction would be issued to compensate the Applicant but that TC never arrived".</i></p> <p>Please see response above in respect of paragraph 2.1(b) of the CRR.</p>
4.6	<p>The CRR states as follows:</p> <p><i>"In regard to the mistake made, on 9 May 2008, by the Applicant when he sent a Co-Op Bank cheque to the wrong processing centre, <b><u>the Applicant's position is that he was wrongly instructed by the Helpline and that the cheque was, as a result, lost.</u></b>" [Emphasis added]</i></p> <p>Please see response in respect of paragraph 3.7 of the CRR.</p>
5.1	<p>The CRR states as follows:</p> <p><i>"The Applicant voiced his suspicion that somebody, somewhere, must have been tampering with his branch's data because "on several occasions the cash</i></p>

	<p><i>position shown by the cash declaration at the close of business on Saturday was different to that showing when I opened up on Monday, even though no transactions had been processed in the meantime". <b><u>The Applicant has not provided any evidence in support of his suspicions, nor has he named any specific dates on which this phenomenon occurred and it has not been possible to investigate this allegation.</u></b>"</i></p> <p>It is of note that not only has the Applicant not provided any evidence in support of his suspicions but Post Office also has no records of this alleged issue ever being reported by the Applicant.</p>
5.3	<p>The CRR states as follows:</p> <p><i>"Post Office's position on this is that it has seen no evidence to support the Applicant's claim that these issues really did cause losses in the branch. In the absence of further evidence, that would associate real losses with hardware and telecommunications failures, we are unable to offer a fully evidenced opinion. Suspicions of this nature have, however, been expressed by many other Applicants and the subject is addressed in our 'Part Two' Briefing Report."</i></p> <p>The Applicant claims in his CQR that "early in 2008 I experienced an issue with my hard drives" but Post Office has no evidence to support this claim from the Applicant nor to show that (if these issues did indeed occur) that they did cause losses in the branch.</p>
5.4	<p>The CRR states as follows:</p> <p><i>"The Applicant has referred to a £1,500 transaction involving US Dollar Travellers Cheques, stating that, following a mistake (which he concedes he made) the transaction had to be reversed and re-entered. The Applicant has not identified the date on which this error occurred but he does say that it resulted in him losing the £1,500 because a promised Transaction Correction never arrived. Without further details it has not been possible to investigate this matter."</i></p> <p>However, it is of note that in relation to the above alleged incident, the Applicant claims that his wife "received a call from Twickenham as they (i.e. First Rate) could see that the transaction was not processed correctly". However, First Rate does not have an office in Twickenham as claimed by the Applicant. Furthermore, First Rate have advised that they do not believe that their staff would give the advice the Applicant claims he received in his CQR as it is out with their remit and their teams have no knowledge of Post Office's processes, terms and language. In addition, First Rate does not have access to Post Office systems and would not know if the transaction had been completed correctly on Horizon.</p>

5.8	<p>The CRR states as follows:</p> <p><i>"Post Office does not accept that the Applicant's training was inadequate or that the branch experienced issues when new products were launched. It says that it <b><u>delivered its standard (at that time) five-day training course, followed not by six days' (as claimed by the Applicant) but by twelve days in-branch training and a subsequent support visit.</u></b> It has not been possible to form an evidenced based view on this issue in this case, but we deal with training and other issues in more detail in our Part Two Report." [Emphasis added]</i></p> <p>However, Post Office's Investigation Report states that its records show that the Applicant received:</p> <ul style="list-style-type: none"><li>• 2 days training (rather than five days as stated in the CRR) at Lionel Street CTO, Birmingham on 4 and 5 November 2002 (rather than 2 days training at Worcester Crown Post Office as claimed by the Applicant);</li><li>• 12 days onsite training at the branch; and</li><li>• A subsequent support visit on 27 November 2002.</li></ul>
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