

Post Office Evidence to the Business, Skills and Innovation Select Committee

Complaint Review and Mediation Scheme

1. Post Office welcomes this inquiry by the BIS Select Committee as an opportunity to set out its approach to the Complaint Review and Mediation Scheme, established to help resolve the concerns of a number of subpostmasters about the Post Office's Horizon computer system.
2. Accompanying the summary below are:
 - a. Post Office response to a Westminster Hall Debate which took place on 17 December 2014.
 - b. Mediation Scheme application pack.
 - c. Letter from the Working Group Chair, Sir Anthony Hooper, dated 12 December 2014, to the Parliamentary Under-Secretary of State for Employment Relations, Consumer and Postal Affairs, Jo Swinson MP.

Background to the Complaints Review and Mediation Scheme

3. Horizon is used by 78,000 people to process six million transactions for customers every day. Post Office has been determined to ensure that Horizon, together with its associated processes, operates effectively, reliably and fairly so that all have confidence in the system.
4. The Complaint Review and Mediation Scheme was developed by Post Office, forensic accountants Second Sight and the Justice for Subpostmasters Alliance, which represents some of the subpostmasters involved, in 2013. It is supervised by a Working Group, independently chaired by Sir Anthony Hooper, a former Court of Appeal Judge.
5. The Scheme was established following Post Office's instigation of an independent inquiry into Horizon in 2012 to investigate allegations from some subpostmasters about the reliability of the Horizon system. Following a year's work with a number of subpostmasters, Second Sight produced a report in July 2013.
6. The report set out preliminary conclusions. No evidence of system wide problems was found with the Horizon software, but a small number of areas were identified where individual subpostmasters may have encountered difficulties in relation to issues such as training and support.
7. To address the unresolved issues and the questions left open in the report, and alongside the establishment of a new branch support programme, Post Office established the Scheme to provide an avenue for any Subpostmasters to raise their specific concerns directly with Post Office.

8. The Scheme was open to both serving and former Subpostmasters as well as to counter clerks employed by Post Office. Applications were invited through the Post Office's internal communications channels as well as through the JFSA.
9. The Scheme's application pack is attached, and can also be found at <http://www.jfsa.org.uk/Documents.aspx>
10. Every individual complaint in the Scheme is comprehensively investigated by Post Office and then submitted to Second Sight for independent review, following which there is a process for cases to be fairly considered for suitability for mediation. Every case is considered on its merits, including cases involving a criminal conviction, whether or not an individual has pleaded guilty.
11. Cases do not automatically pass to mediation, which is a voluntary process designed to help reach a consensual resolution. Where a case does reveal genuine and substantiated areas of dispute potentially capable of being resolved, Post Office will mediate and has done so in a number of cases. Each mediation is conducted by an experienced and entirely independent mediator appointed by the Centre for Effective Dispute Resolution (CEDR).
12. At the start of the Scheme, both Post Office and the Justice for Subpostmasters Alliance made clear that mediation cannot overturn a conviction. This can only be done through established Court procedures. Post Office is under an absolute duty to disclose any evidence that might undermine a prosecution case or support the case of a defendant. It takes its responsibilities in this regard very seriously and Post Office's investigations have been carried out with this important duty firmly in mind. Post Office writes to everyone who has suggested they have or have seen evidence that a conviction is unsafe and asked them to disclose this so that it can be acted on. To date no such evidence has been provided.
13. Confidentiality of the Working Group's considerations and applicants' cases is an essential part of the Scheme. This was agreed by all parties at the outset to encourage a full and frank assessment of the issues to take place. This confidentiality requirement is balanced by the fact that the Scheme was designed to be, and is, overseen by a Working Group with an independent Chair, which monitors and sees all of Post Office's work. Many cases involve sensitive, personal information which should not be made public. In addition, confidentiality is an integral part of all mediations, not just those in this specific Scheme. The requirement for confidentiality is in line with CEDR's own Code of Conduct and the European Code of Conduct for Mediators which the Civil Mediation Council requires all UK providers to observe in order to maintain accreditation.

14. At the time of the Westminster Hall debate on 17 December 2014, there were 110 cases remaining in the Scheme, from the original 150 applications. A breakdown showing the progress of cases was provided in a letter from Sir Anthony Hooper to Parliamentary Under-Secretary of State for Employment Relations, Consumer and Postal Affairs, Jo Swinson and was placed in the Library of the House in December 2014, and is also attached. Further progress in taking cases through the Scheme has since been made.
15. Post Office has now completed its investigations into all but one of the cases. Many thousands of pages of documentation have been retrieved, investigated and reviewed and each and every case continues to be considered on its facts.
16. A number of points in relation to the Scheme were made during the Westminster Hall debate. Post Office has submitted a response to those points alongside this evidence.
17. To date, and after two and a half years of investigation and independent review, Post Office has found no evidence, nor has any been advanced by either a Scheme applicant or independent forensic accountants Second Sight, which suggests that Horizon is not working as it should.
18. There has also been no evidence found to suggest that the criminal conviction of an applicant to the Scheme is unsafe, and to date no appeal has been made against a conviction. It should also be noted that the majority of Scheme applicants do not have criminal convictions.
19. If there are discrepancies in branch accounts for which they are responsible – either surpluses or losses – subpostmasters have clear choices to accept these or dispute them for investigation. Contrary to some reports, this does not affect their ability to continue trading.
20. Subpostmasters' contracts with Post Office do not make them responsible for all losses at their branches. The core principles of the contracts are broadly similar to those used in franchising arrangements across the UK and reflect well-established legal principles. This is the basis on which Post Office and thousands of subpostmasters have successfully conducted business for decades.
21. Subpostmasters are only responsible for the losses caused by those they employ or by their own negligence, carelessness, or error.
22. We hope this evidence is helpful in supporting the Committee's inquiry into this matter.

January 30 2015