

Business, Innovation and Skills Committee: Inquiry into Post Office Mediation

Supplementary evidence of Post Office Limited

1. Horizon system

The integrity of the Horizon system was called into question over 2.5 years ago and suggestions that it suffered from systemic flaws triggered both Second Sight's initial investigation and the Scheme, both of which were instigated by Post Office itself to get to the bottom of the issue so that immediate action could be taken if that proved necessary.

Whilst Post Office is not complacent, it is now evident that the Horizon system is robust, works as it should and does not suffer from system-wide flaws. This conclusion is supported by Second Sight's own conclusions, the complete absence of any such flaws arising from Post Office's comprehensive re-investigation of all cases in the Scheme and, moreover, reflects the broad consensus expressed by witnesses before the Committee in answer to direct questions on 3 February 2015.

The system, which has been used by 500,000 people since it was brought into service and is used by 68,000 people daily to perform millions of transaction for Post Office customers across the country, is both effective and resilient. This is welcome news.

Post Office understands that, faced with problems they appear to have been unable to explain, a number of Applicants will have come into the Scheme on the assumption that Horizon is or was flawed. However, the evidence, simply does not support that assumption, with human error (except for fraud cases where it involves deliberate actions) appearing to be the cause of discrepancies in a majority of cases.

It is also important to note that the 150 applicants to the Scheme represent less than 0.0001% of the total users.

1.1. Multiple Applications on the System

During the course of the evidence session, one witness criticized Horizon as being "chaotic" in IT terms. Post Office categorically disputes this.

The suggestion that the addition of functions to Horizon over time since its introduction in 2000 was unplanned is wrong. In fact, it was always Post Office's intention to explore and to build on the commercial capabilities Horizon provided. Far from being chaotic, the IT architecture is robust and well-organised.

Moreover, in response to the suggestion that third party interfaces cause problems, again Post Office disputes this. We have provided a considerable amount of information to Second

Sight which supports this position. In both of the examples provided to the Committee by Second Sight (ATMs and Lottery), the root cause of errors has been shown to be human error. For example, it has been shown that Subpostmasters were entering (accidentally in the majority of cases) incorrect figures into their accounts for Lottery transactions. The root cause of the problems in these cases has, therefore, been shown to be human error by Subpostmasters and their staff, rather than the product of failings in the IT systems they were using.

1.2. Recovery process

The Committee was told that that power cuts or telecommunications interruptions have caused errors in branches' accounts. This is inaccurate.

There are standard recovery processes built into Horizon to ensure that no data is lost or corrupted. This recovery process was reviewed in detail by Second Sight in their Interim Report in 2013 and found by them to work.

Furthermore, Second Sight acknowledge that, even when they have been provided with dates of power or telecommunications failures by Applicants to the Scheme, there is no evidence of any causal link between those interruptions and specific deficiencies in their branch accounts.

Interruptions in power supplies and telecommunication lines are a risk faced by all IT systems. With this in mind, and as noted above, Horizon has robust recovery protocols in place:

- Following a failure to contact the Data Centre and complete a transaction, the system automatically carries out a retry and attempt to save the basket to the Data Centre again.
- Following a failure at this second attempt, a message displays to the User (the Subpostmaster) informing them of the failure to make contact with the Data Centre and asking them if they wish to Retry or Cancel. Post Office recommends that Subpostmasters only "Retry" a maximum of twice.
- When the User selects "Cancel" this results in a Forced Log Out. This means:
 - Horizon cancels those transactions that can be cancelled
 - Horizon then prints out 3 copies of a Disconnected Session Receipt (one for the customer, one for branch records and one to attach to the till to aid with recovery)

- The receipt shows all transactions that were either recovered or cancelled. Those which are considered recoverable must be settled by the Subpostmaster with the customer in accordance with the instructions contained Disconnection Receipt.
- If a transaction is cancellable then stock should be retained by the branch.
- Horizon would then log out the Subpostmaster.
- The Subpostmaster should then make sure that, in accordance with the Disconnect Receipt, the Customer is provided with any funds due to be returned to them
- The system would then display the Log On screen. The User may then attempt to Log On again.
- As part of this Log On process, the system checks the last group of transactions successfully saved at the Data Centre and compares it with the last group successfully processed by the counter. In the event of a difference between the two (which will only reflect a higher figure at the Data Centre, requires the Subpostmaster to repeat the process that the counter was carrying out at the point of failure.
- A Recovery receipt is printed by Horizon reflecting these transactions.

In short, this recovery process ensures that what happens physically in the branch mirrors what is recorded in the branch's accounts regardless of at what point in the customer transaction a communications failure may occur.

The recovery systems built into Horizon work. Whatever discrepancies then arise are the product of a failure by the Subpostmaster to follow the appropriate operating protocols thereafter.

1.3. Review, improvement and audit

The Committee was told that Post Office has failed to review and improve Horizon since its introduction. This is not correct.

Post Office has a number of processes in place for regularly reviewing and improving Horizon. These include:

- Incident and Problem Management processes - both of these processes ensure that where a branch reports an issue it is investigated and resolved. Where several instances of the same issue occur, then a problem record is created and the root cause of the issue is identified and fixed. The resolution of problems can sometimes be minor amendments to processes or can result in a change to the software code via the next release of upgraded software;

- Operational reviews with Fujitsu - these take place on a monthly basis across a number of different specialist teams in both Post Office and Fujitsu. The purpose is to monitor and review past performance, addressing any issues as required, and to prepare for known changes or upcoming events;
- Operational reviews with the National Federation of Subpostmasters (NFSP) - these have been in place for over 10 years and have operated on either a monthly or quarterly basis across this entire period. NFSP Executives meet with senior representatives from Post Office's IT Service, the Network and Financial Services Centre (FSC) teams. Operational issues are raised via these meetings and action is then taken to resolve and improve either Horizon or associated processes. Other systems are also discussed as and when relevant, for instance in relation to other equipment such as Automatic Teller Machines (ATMs); and
- Continuous Service Improvement this is a standard process that Post Office's IT Services operates with all of its suppliers. Post Office considers that Fujitsu have a particularly strong record in this area and have over a number of years developed and introduced a number of improvements with NFSP's input.

Moreover, Horizon is audited and accredited in the following ways:

- Ernst & Young produce an ISAE3402 service auditor report over the Horizon processing environment;
- Bureau Veritas perform ISO27001 certification – this is the industry standard security accreditation;
- Information Risk Management (IRM) who accredit Horizon to Payment Card Industry Data Security Standards;
- Fujitsu, who designed, built and now operate Horizon, undertake regular industry standard testing on the system; and
- Internal Post Office audit team who perform risk based reviews on a regular basis.

In summary, and contrary to statements made to the Committee, Horizon is regularly subjected to comprehensive and independent reviews, testing and audit procedures as one might expect given the critical infrastructure it represents for the delivery of Post Office services.

Lastly under this heading, there were questions raised about Post Office's plans to change to a new system when the Post Office's current contract with Fujitsu in respect of Horizon comes to an end in March 2017. That it is Post Office's intention is to move to a new system at that point in time and has put out to tender the procurement of a new IT platform is not

reflective of any dissatisfaction or lack of confidence in the system but merely that current contractual arrangements expire in the same way that all contracts do.

2. Training and support

A number of questions were raised in the relation to the training and support offered to Subpostmasters by Post Office, the majority of which attempted to suggest that it is somehow inadequate as a whole. Post Office does not accept this.

While Post Office has already acknowledged that, in a very small number of specific instances, the training and support provided to Applicants was, for whatever reason, not as comprehensive as it ought to have been. In those cases, Post Office is acknowledging this as part of the Scheme.

However, scale is important in this context. With over 500,000 users since its introduction and 68,000 users daily, the number of complaints in this regard.

2.1. Training

The Committee heard evidence on the training available to Subpostmasters at the time of Horizon's introduction. This evidence focused on the pack of training materials provided to Subpostmasters at the relevant time and questioned whether this had been sufficient. Although this pack was indeed provided, it formed only part of a whole package of training provided to Subpostmasters which included a range of other training and support during the implementation of Horizon.

As presented to the Committee, one might be left with the impression that the training and support ended there. On the contrary, on the introduction of Horizon, two different training courses were then provided by ICL Pathway. The first course was for Subpostmasters and the second was for Subpostmasters' staff (of 2 and 1 days' duration respectively). This training was delivered prior to the branch migrating to Horizon. All Subpostmasters left the course with a Horizon user guide and they were also subsequently provided with quick reference guides. It was also a pass/fail course (so if they weren't up to scratch they weren't allowed to work with Horizon, it wasn't a case of 'going through the motions' – see associated witness statement which may provide more ammunition).

The next phase of training and support took effect as branches went live on Horizon when they were assigned a Horizon field support officer (HFSO) who physically attended the branch to assist with the migration onto Horizon. The number of HFSOs attending would depend on the branch size. This migration process consisted of:

- The branch completing a paper balance, showing any losses or gains of cash and stock;
- The HFSO would check the calculations of the paper balance; and
- Once the HFSO was happy the paper balance was calculated correctly they would transfer the information onto the Horizon system and receive confirmation from that system the entries made as part of the migration balanced.

The HFSO then stayed with the branch for a further two days helping with issues including:

- Navigation of the system to transaction buttons;
- Instilling good practice, for example, always clearing the transaction before serving the next customer;
- End of day reporting for the daily despatch;
- If one of the 2 days covered the scheduled weekly balance then the HFSO would support this as part of the 2 days cover; and
- If the 2 days cover did not include a scheduled balance day then an HFSO would be scheduled to attend an hour before the closure time of the branch on that scheduled balance day to support the manager in the weekly branch balance.

Additional support was also provided to some Subpostmasters where Area Managers felt it was needed. In some instances, Subpostmasters attended a Preview Event, prior to attending the standard training. The Preview Event was to help familiarise the Subpostmaster with the Horizon System before their formal training.

If branches were found to be struggling with Horizon following migration, Area Managers and their teams or HFSOs would work with the relevant Subpostmaster to assist them to identify and correct where they were completing activity incorrectly.

Moving forward, and contrary to the assertions of some witnesses, continuing back-up training has always been provided after the initial Horizon migration. Post Office has a full and effective training regime for new Subpostmasters coming into branches which are already Horizon enabled.

Post Office will typically provide new Subpostmasters with training both prior to and after taking up their position in branch. Training can cover matters such as how to transact new products and services; reconcile the day's transactions; "remming" in and out cash and stock management; and despatching cheques to processing centres.

Subpostmasters are also advised on how to balance the branch on a weekly basis, roll over into the next weekly balancing period and how to balance at the end of the monthly trading period, a central requirement of their duties. As part of this training, Subpostmasters are shown how to verify transactions and the cash and stock on hand if discrepancies arise; how to accept or to challenge Transaction Corrections; how to make good any losses; and how to raise issues about errors/discrepancies.

As one might expect from any sensible, learning, organisation, this training has evolved over time.

2001 – 2002

Classroom training was offered to new Subpostmasters followed by ten or eleven days of onsite training and support. This was followed by one day of follow-up support on how to carry out balancing at the end of the trading period, referred to as “balance support”.

2005 – 2007

Between five and ten days of classroom training was offered to new Subpostmasters (the training being optional) and five to ten days of onsite training and support was then given depending on whether the classroom training was attended. This was followed by a further day of follow-up balance support.

2007 – 2011

New Subpostmasters received five, eight or ten days of training on foundation, sales and other specialised modules. Six days of onsite training and support was provided, again followed by one day of follow-up balance support. In 2007, after a pilot scheme, follow-up telephone calls were introduced at intervals of one month and six months after a branch was taken over by a new Subpostmaster, with a one-day site visit taking place three months after the branch was taken over.

A Subpostmaster may choose not to attend training, or only attend part of a training session if, for example, he or she has worked in a branch previously and therefore already knows how to operate Horizon and carry out transactions. Once initial training has been provided, it is the responsibility of the Subpostmaster to train his or her staff and ensure that updates or new procedures are followed and communicated to their staff. Equally, it is for the Subpostmaster to ask for further training and/or assistance if it is required.

2.2 Other support

The comprehensive nature of the support offered to Subpostmasters is reflected in these additional services they are offered by Post Office and set out below.

NBSC

The Network Business Support Centre (NBSC) was established in December 1999 to provide phone-based support to Subpostmasters and their staff.

The NBSC's primary function is to provide assistance to Subpostmasters with problems arising from the processing of transactions performed through Horizon, as well as how to deal with mistakes and issues arising out of the monthly branch trading processes.

Post Office currently employs approximately 70 people within the NBSC to receive calls, undertake second line support as required and carry out administrative roles, although the number of staff actually on duty at any one time to receive calls will vary. The NBSC receives on average approximately 1,700 calls a day. Potential peaks of call volumes to the NBSC have been addressed by spreading branches across four trading groups, so that required monthly submissions from branches with associated queries to the NBSC, do not all fall on the same Wednesday evening in each month.

The NBSC operates a two-tier escalation process so that if the NBSC adviser is unable to initially resolve the query/issue with the caller, the call is escalated to Tier 2 where more expert advice can be provided. If this still does not resolve the issue, the Branch Support Team will decide if further training or face to face branch support (which is outside of the NSBC's remit) is required. The performance of the NBSC staff is measured on the time advisors take to answer the phone and the target is to answer 70% of calls within 30 seconds and to have no more than 5% of abandoned calls (for instance where the caller hangs up before reaching an advisor). [DN: need stats showing performance against target]

Horizon Service Desk (HSD)

In addition to the NBSC, Subpostmasters can access Horizon On-Line Help and, during the relevant period for the purposes of the Scheme, they could contact the Horizon Service Desk (HSD), which was operated by Fujitsu. The technical helpdesk is now operated by Atos.

The HSD deals with technical issues concerning Horizon and in the event that a technical issue cannot be resolved in a telephone, call the HSD can arrange for an engineer to attend the branch to investigate the issue further.

Field Support

Post Office has a dedicated Field Support Team responsible for induction and on-going transactional training for all Subpostmasters. Although the structure of the team has changed over the years, it currently consists of 227 Field Support Advisors (FSAs) who, together with 18 Field Team Leaders (FTLs), provide training and support to branches. In addition, they deal with Subpostmaster queries and carry out Audits.

The Field Support Team is responsible for matters such as:

- Delivering classroom training to all new Subpostmasters;

- Training on site following a branch transfer;
- Requests from branches for additional or remedial training; and
- Undertaking Compliance and Financial Audits, which can also include providing further training to Subpostmasters on matters identified by such Audits.

In addition to the Field Support Team, there are others within Post Office who provide training and support, either on a face to face basis or remotely by telephone. These include Mail Development Managers (for branches which receive a high volume of mail) and the Branch Standards Team.

There are a number of other teams across Post Office who may also come into contact with Subpostmasters (such as product specific teams, for example the National Lottery team) and who may, in some cases, recommend additional training. The Subpostmaster can also request further visits and training from the Field Support Team.

FSC

As well as the support offered by the Helplines and the Field Support teams, help is provided via Post Office's Finance Service Centre (FSC) that is responsible for accounting issues.

FSC could become aware of issues either due to:

- A branch calling FSC directly or being referred to FSC via the Helpline;
- FSC identifying an anomaly in a branch from its accounting records; and
- A customer an enquiry to Post Office about a transaction in a branch.

FSC works with a branch to try to identify the cause of any erroneous transaction. This may include speaking to the branch about how they have conducted the transaction; asking the branch to provide missing customer details; checking the paper records held at the branch against the transaction data on Horizon, liaising with clients (whether customer banks, utility companies, and so on) to gather different data streams on a transaction and contacting customers to get their consent to remedy errors.

2.3 Helpline performance

One witness told the Committee that calls made to the helpline were not dealt with or were marked as low priority. This is inaccurate.

There is, in fact, no priority system in place for calls to the Post Office Helpline with the exception of matters relating to robbery or burglary. Whilst those calls are dealt with as a priority, other calls are answered and dealt with in the order they are received.

Call logs have been disclosed to Applicants as part of Post Office's investigations and Scheme procedures. Those logs may have included "low priority" flags which may have given rise to confusion. However this is a redundant data field automatically populated by the call logging software and it is not used in practice by Post Office.

In respect of the responsiveness of the helpline, the NBSC is measured against a number of service levels, including how quickly calls are answered. If for any reason there is an issue within the network, there can be a sudden high volume of calls and it can therefore be more difficult to get through. If the branch calling decides to hang up before being answered, this call is classed as having been abandoned. NBSC answer all calls if the caller does not hang up. As with all call-centres, where call levels increase above those forecast, this can increase the amount of time it takes to get through. It is common contact centre practice (not just within Post Office) not to have spare resource available to plug the gaps as it is impractical and costly.

NBSC has a high proportion of staff with more than 12 years' experience. Staff also have access to a database with approximately 6000 types of incidents to support any query that may come into the Helpline. The use of manuals is necessary because NBSC staff are asked such a wide range of queries and this helps staff answer the questions raised by the branch swiftly, effectively and on the basis of tried and tested solutions.

[CALL ABANDONMENT STATS REQUESTED FROM KENDRA KICKINSON].

2.4 Outsourcing

One witness told the Committee that the Post Office has outsourced some support function and that this was having a detrimental impact on service levels to Subpostmasters. This is wrong.

An internal IT helpdesk facility for Subpostmasters and employees has been outsourced to the Philippines. Outsourcing back office functions is common practice across UK industry as a cost reduction measure provided quality is not compromised. Far from this having had a detrimental effect on service levels, feedback from staff surveys about the service is that it has improved as a result of this measure. To be clear, this particular helpdesk is for technical queries, not queries about financial or other transactions, all of which are serviced by staff based in the UK.

In relation to the Atos Manila desk, the key Quality of Service measures are all performing above target (Service Desk Availability, Speed to Answer, First Contact resolution and Call

Abandonment rate). In addition to these hard measures, Customer Satisfaction is at 98.34% for January 2015.

Measures from the latest report are listed below:-

- Service Desk Availability, target 100%, actual 100%
- Speed to Answer, target 80%, actual 80.73%
- First Contact resolution, target 90%, actual 94.19%
- Call Abandonment rate, target 5%, actual 2.05%

It is clear from these figures that any concerns about the outsourcing of this function having a detrimental impact on Subpostmasters are misplaced.

3. Handling discrepancies

A number of witnesses contended that Subpostmasters do not have access to information to enable them to identify reasons for discrepancies.

Post Office considers this to be incorrect and is not aware of any evidence put forward a single example of a transaction which could not be verified and explained by the paper records which should be held and retained in branch. **[DN: is there a rule about how long these data must be held in branch please ?]**

3.1. Information available to subpostmasters to investigate

Post Office considers that the propositions that information is not available to subpostmasters to enable them to investigate discrepancies are driven by a misunderstanding of the nature of the information needed by branches to undertake such an investigation. Each branch has access to all the necessary information and we have set out our position on this to Second Sight in detail but, summarise it below for the Committee's benefit..

The system, like all computer systems, relies on accurate inputs. If branches conduct transactions accurately when serving customers (for instance by taking the correct cash from the customer and recording the transaction accurately on Horizon), then there will self-evidently be no discrepancy between cash and stock on hand and the cash and stock levels registered on Horizon.

At the end of each day, every Subpostmaster is required to count and declare the amount of cash in the branch ... If at the end of a day, a branch makes a cash declaration that subsequently shows a discrepancy, then the branch will have access to a range of reports on different products and transactions to investigate the possible causes for the discrepancy (including a complete line by line listing of all transactions that day). This also applies at the end of the trading period as a trading period is either 4 or 5 weeks (28 or 35 days) and the above reports and data have always been available in branch since the introduction of Horizon for a minimum of 42 days (currently 60 days).

The other situation in which a branch may need to retrospectively review their trading records is where Post Office generates a Transaction Correction (TC).

A TC is an electronic message sent through Horizon to a branch notifying them that Post Office has detected a possible accounting error. Even if a branch's accounts are in balance (meaning that there is no discrepancy between cash and stock on hand and the cash and stock levels in Horizon), it may be that the branch has processed transactions erroneously or in a way that causes a third party to refuse to reconcile the transaction with Post Office, thereby causing a discrepancy. TCs can be issued to rectify accounting errors arising from a wide range of issues including errors or omissions in data entry such as mis-keying or not entering the transaction date.

Subpostmasters are required to accept or reject a Transaction Correction. There is no automaticity here – a positive action is required on the part of the Subpostmaster. Crucially, where a TC is sent to the branch, the information needed to verify it will not be the Horizon data (Post Office has this data and takes this into account when generating the Transaction Correction) but will, instead, be in the paper records held only at the branch. It follows that only the Subpostmaster can provide the missing information to verify the TC or prove that it is incorrect. It is for this very reason, among others, that paper records are required to be kept by branches for between 2 and 6 years.

For example if a Transaction Correction is sent to a branch claiming that the branch has under-recorded on Horizon the amount of cash dispensed from its ATM, the branch can verify or reject the Transaction Correction by producing the paper receipt from the ATM that shows the amount of cash dispensed.

Despite the extensive support provided to Subpostmasters, there are clearly some errors which cannot and could never be detected by Post Office because these take place in branch, for example, where a member of staff hands £10 change to a customer rather than £5 or a branch records a £100 cash deposit as a £1000 cash deposit. Only the Subpostmaster and their staff can monitor and prevent such errors. It is therefore unsurprising that, in some cases, the precise errors that have caused losses cannot now be identified some years after the events in question.

However, where a branch accurately counts and declares its cash every day (as required under the terms of their contract), this will flag on a daily basis any discrepancies. With the day's trading fresh in the mind, it is usually possible to identify and correct erroneous transactions. It is where Subpostmasters do not keep accurate records or fail to undertake daily checks in accordance with standard operating procedures and in compliance with their contract that errors can accumulate and then it can be difficult to disaggregate them into their root causes.

Post Office therefore does not accept that branch accounting is outside a Subpostmaster's control.

3.2 Retrieving data to investigate discrepancies

During the evidence session, a witness said there was extreme reluctance by the Post Office to investigate shortages due to Fujitsu charging for older data. That charges for older data are sometimes required under the terms of its contract with Fujitsu is not disputed by Post Office. However, the suggestion that it displays 'extreme reluctance' in doing so where necessary is incorrect.

Post Office can retrieve a certain amount of data under the terms of its contract with Fujitsu but there is a limit to the data that can be retrieved without triggering further payments. Like any organisation, in the first instance Post Office will look to resolve any investigation without the need to spend money unnecessarily. However, there has by no means been an "extreme reluctance" to investigate shortages or surpluses. Where there has been cause to request further information from Fujitsu, Post Office has taken this step.

3.3 Crown and agency processes

Some witnesses attributed a perceived difference in the experience of staff in Crown as compared to branch offices to the fact that different processes are employed by them. This is an incomplete picture.

Broadly speaking, staff in both office types follow the same operating protocols. Best practice on in-branch balancing is shared across the network.

One point of difference between Crown and agency branches is that Post Office must absorb all losses in Crown Post Office branches because they are operated by Post Office employees. By contrast, Subpostmasters are independent business people who run Post Office branches from their own premises,

We are accountable for the performance of the people we directly employ, just as Subpostmasters are for the people they employ. Therefore if any of our employees cause losses, Post Office has to absorb these and Subpostmasters have similar responsibilities in respect of the people that they employ.

Another point raised in evidence was the suggestion that there may be differences in the design and maintenance of Horizon and/or communications in Crown and agency branches. There is no difference in the design or maintenance of Horizon in a single counter branch or a Crown branch. The design of the communications for each branch is determined by the availability of services in the area. However, the processes for recovering transactions in the event of a local outage (whether power or communications) are consistent across the estate. In many cases, the communications design will be no different between a large branch (multi counter) and a Crown branch.

4. Mediation Scheme

A number of observations, assertions and criticisms were levelled at various aspects of the Mediation Scheme by certain witnesses. These painted an inaccurate and incomplete picture for the Committee.

4.1 Scheme design

It was suggested that all Scheme Applicants had been promised that their case would be mediated at the outset and that it was never the role of the Working Group which oversees the Scheme to express an opinion on which cases went to mediation. Indeed JFSA asserted that "it was never the role of the working group to decide which cases went to mediation or not. The Post Office have made it so. They [Post Office] have now decided that all cases should go to the working group for a decision on mediation or not." And that 'Post Office have managed to skew it that all cases have to come into the working group to be discussed'.

This is inaccurate.

¹The following public documents have made clear statements that the Working Group has a role in deciding which cases are passed to mediation:

Case Review Mediation Pack² - Page 2, The Scheme - paragraph 5

"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."

Case Review Mediation Pack - Page 5 - FAQs

"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.** [emphasis added]*

Case Review Mediation Pack – Page 8 – FAQs

² The Case Review Mediation Pack was and remains publicly available to download from the JFSA website and was the initial documentation sent to potential applicants about the Scheme.

"Will my case definitely be referred to mediation?"

[...] 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."

It is clear from this documentation that, despite evidence attempting to suggest the contrary, Applicants were not given any guarantee that their cases would, in fact, be mediated and that the Working Group's functions definitively does entail expressing an opinion as to whether a case is suitable for mediation

JFSA, along with Second Sight, were involved in the design of the Scheme and the Scheme documentation was posted on JFSA's website.

Post Office is simply a member of the Working Group which oversees the Scheme and sits alongside Second Sight and JFSA,. Perhaps most importantly, the Working Group has an independent Chair, a former Court of Appeal judge whose role is to decide, where appropriate matters of disagreement between the members of the Working Group. Under such arrangements it is not clear how Post Office could either decide the role of the Working group or skew the Scheme in the way it was suggested, even if it wished to do so (which it does not, and never has). Indeed it could be argued that it is JFSA who are undermining the Working group by declining to take part "in discussing cases other than those where Second Sight does not recommend that a case goes forward to mediation"

In relation to other points made about independence

, the committee will have noted that Applicants accepted into the Scheme have been supported with funding for independent professional advisors to help them build their cases and support them in mediation if this takes place.

Certain witnesses also sought to criticise the level of financial support provided by Post Office to Applicants to seek the services of professional advisers to assist them in the preparation of their complaints.

The level of financial support for Applicants was agreed with JFSA at the outset of the Scheme. The Committee is reminded that Post Office had no obligation to provide any funding. The fact that it volunteered this support demonstrates its commitment to ensuring that all Subpostmasters could access the Scheme and do so effectively.

JFSA also told the Committee that none of the Applicants were satisfied with the Scheme. However, the facts do not bear this out. The figures provided by the Chair of the Working Group should that ten cases out of the initial 150 applications were resolved prior to entry into the Scheme and in addition a further six cases were resolved during their progression

through the Scheme. In these cases the applicants subsequently withdrew from the Scheme and it can be assumed were therefore satisfied with the way their cases were resolved.

As regards the ten cases have been mediated, the detail of the mediations, in line with CEDR's requirements, are confidential to the parties. The the Committee were told, not even the Working Group has received information relating to the mediation outcomes. To maintain the confidentiality requirements CEDR is providing this to the Working group after 15 cases have been mediated. Given this, the basis for the witness' assertion is unclear.

As agreed by the Working Group, the details of each mediation are to remain confidential but the Working Group will be provided with data on the outcomes of mediations at various key milestones (the first being on completion of 15 mediations which is likely to be provided over the next few weeks

As a party, however, Post office is aware of how many of the cases mediated have been resolved. As it is bound by the confidentiality, it is unable to set out the position relating to the number of cases mediated which have been resolved but does feel able to say, without breaching confidentiality, that there have been cases resolved at mediation JESS IS CHECKING THIS WITH CEDR

4.2. Progress

Of the 136 Applications which were eventually admitted to the Scheme, 41 have been accepted for mediation, and Post Office has declined to mediate just 5 of these cases. A total of 10 cases have actually already been through mediation.

In relation to the erroneous 90% statistic, Post Office agrees with the explanation provided by Second Sight at that 90% possibly reflects the number of cases that Post Office wished to discuss with the Working Group at one particular meeting. It does not reflect the number of cases which Post Office has declined to mediate – this is much lower at around only 10%.

4.3. Duration

As was made clear by Post Office in its evidence, it accepts that the process as a whole has taken considerably longer than anyone involved would have wished. However, to suggest that Post Office is solely responsible for delays is quite wrong – every stage of the process, whether conducted by Applicants, Second Sight and Post Office is taking longer – reflecting the complexity of the matters raised and the rigour and thoroughness being brought to bear by all those involved.

It should be noted that the Applicants themselves have also struggled in a number of cases with the complexity of issues. Applicants were asked to submit their complaints within 4 weeks of acceptance to the Scheme but the very last cases were not submitted until some 10 months after the Scheme closed.

Another key issue is that many Applicants have been unable to identify specific alleged problem incidents or transactions – sometimes being not able to even specify the year in which something occurred. This has required Post Office to then look over years of data to just identify the origin of any issue before it even begins its investigations.

Second Sight have also, on a number of occasions, asked for extensions to deadlines on the basis that their work has taken them longer than expected.

4.4. Late applications

JFSA told the Committee that a number of individuals – around 150 – would have wished to apply to the Scheme but have been unable to do so since it is now closed.

There were three late applications to the Scheme, all of which were accepted by the Working Group. Since then there have been a handful of additional cases that have come direct to Post Office and which are being investigated by Post Office in a way that mirrors the investigations conducted in the Scheme.

Post Office has made it clear to MPs and JFSA that it will investigate any complaint raised by a subpostmaster. If the cases are not referred to Post Office, not only cannot it not investigate them but it cannot accept the suggestion that there are 150 people wishing to have their cases investigated.

In addition, in designing the Scheme, JFSA agreed that the Scheme should be open for a finite period and the length of that period.

It is worth adding that there is a difference between the cases of Scheme applicants and current Subpostmasters.

Applicants' cases go back years, are complicated, raise multiple issues, recollections have faded and information is sometimes no longer available. Additional work is therefore required to investigate these cases. Any former Subpostmaster could have applied to the Scheme. The Scheme has therefore provided former Subpostmasters with an adequate forum for their complaints.

By contrast, current Subpostmasters are in post, have immediate and contemporaneous access to information and POL can go in branch and work with them at the coal face. It is more advantageous for Post Office to deal with current Subpostmasters directly than through the Scheme or any other process.

As Post Office has always done, it will investigate issues raised by Subpostmasters with a view to helping them get back on track. Or, to put it another way, there is simply no advantage to Post Office in ignoring Subpostmasters. A successful Post Office depends on successful Subpostmasters - so it is in its own interest to make sure that that relationship is managed professionally and fairly.

Post Office is willing to investigate any issue raised by a Subpostmaster if sufficient details are provided.

5. Contracts

The contract which Post Office has with Subpostmasters was referred to by a number of witnesses, with one suggesting that its terms are 'unfair'. Notwithstanding the fact that an examination or review of the contract between Post Office and Subpostmasters has never formed part of the exercise under consideration, Post Office considers this statement to be incorrect and paints a misleading picture for the Committee.

The current Subpostmaster contract dates back to 1994 and has been subject to a number of amendments since then. None of the matters raised by any of the Applicants date back to before this time.

The Subpostmaster Contract is, in effect, a franchise agreement between the parties recording the basis on which they agree to do business in their particular circumstances. As Second Sight are fully aware from previous exchanges with Post Office on the issue, it reflects the core principles and provisions contained in franchise agreements used throughout the United Kingdom.

Post Office refutes the suggestion that Subpostmaster contract is unfair and suggests that a lack of understanding and experience in legal matters would lead to the proposition that it is. This is why Post Office has asserted, on a number of occasions that Second Sight, as accountants rather than lawyers, are not qualified to comment on the contract.

For the avoidance of doubt, Subpostmasters are only responsible for losses caused through their "own negligence, carelessness or error" and for losses caused by their assistants. Thus, Subpostmasters are only liable for losses arising from those operations that are under their control and responsibility. On any objective assessment, this provision cannot be considered unfair and, as previously highlighted, is common to comparable franchise agreements in use in the United Kingdom.

Subpostmasters directly employ their assistants and are responsible for organising their staff and implementing controls to prevent opportunities for theft. They are therefore responsible for the actions of their employees, even if they are dishonest.

Moreover, the Subpostmasters Contract provides that Post Office may only require Subpostmasters to provide new products and services where it is 'reasonable' to do so. The

contention of one witness that the Subpostmasters Contract provides Post Office with a complete carte blanche to dictate to Subpostmasters is simply wrong, as is the entirely inaccurate and un-evidenced proposition that Post Office has been gradually transferring risk from itself to Subpostmasters over time, which is ultimately being reflected in the losses they are bearing.

Post Office discusses variations to the contract with the NFSP on behalf of Subpostmasters. Indeed, in a network of several thousand Subpostmasters, it would be impractical (and potentially unfair to certain Subpostmasters) for the contract to be negotiated on an individual basis by each Subpostmaster before they become a Subpostmaster

For clarity, Post Office denies that it has unfairly allocated risk between itself and Subpostmasters, who as noted above are only liable for losses caused by their own carelessness, negligence or error.

6. Prosecutions

The Committee also heard opinions being expressed over the appropriateness and practical operation of Post Office's prosecution policy. Moreover those comments were advanced by witnesses who lack legal qualifications and/or experience in criminal legal matters. This was clear from the contents of the opinions expressed. As such, aside from the seriousness of the allegations, which Post Office refute in the strongest possible terms, the making of such comments is, questionably, irresponsible in that they could cause an applicant to act on those comments thinking that they may be based on a legally correct assessment of the position

As noted in Post Office's written evidence to the Committee before the hearing, 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. The serious decision to prosecute a Subpostmaster or employee, in the small number of instances where this in fact occurs, is always taken following numerous checks and balances and Post Office is confident that its approach is proportionate and fully compliant with all legal requirements. When Post Office decides to prosecute a case, its conduct of the prosecution is scrutinised by defence lawyers and ultimately by the Courts themselves.

It was suggested in evidence that it is "more than likely" that a Subpostmaster will be "thrown out or even charged" after an audit. This is simply not the case. In fact, Post Office records show that in the financial years 2011-12 and 2012-13, for example, approximately 12% of all audits conducted led to the suspension of a Subpostmaster and approximately half of those Subpostmasters suspended saw their contracts terminated. Only 2.5% (approx.) of the audits during this period led to criminal prosecutions.

In deciding whether a case is suitable for prosecution, Post Office considers (among other factors) whether it meets the tests set out in the Code for Crown Prosecutors. That Code is issued by the Director of Public Prosecutions and followed by Crown Prosecutors. Post Office is not required to inform the CPS that a private prosecution has commenced, but the CPS can take over a private prosecution if circumstances warrant. Like the CPS, Post Office keeps cases under continuous review all the way up to and during any trial.

Once a decision has been made to prosecute and a defendant is charged, he is entitled to receive private and confidential legal advice. Post Office has a duty to disclose the evidence in the case to the defendant and his lawyers, including all evidence that would assist the defence or undermine the prosecution.

Post Office refutes, in the strongest possible terms, the allegation that it has put pressure on Defendants to plead guilty to criminal offences. This is completely untrue. Post Office is duty bound to communicate with a defendant's lawyers, and any decision by a defendant to plead guilty is made after he has had the opportunity to take private and confidential legal advice and consider, with his lawyers, all the evidence against him.

The evidential requirements for proving the offence of theft is a matter for qualified lawyers. What the evidence provided by Mr Henderson fails to take account of is that in certain circumstances it is possible to draw an inference from the fact that a person is the only person with access to money, takes steps to hide a loss and can offer no credible explanation for where the money has gone, which can be sufficient to prove theft.

In any event, there are only a handful of cases in the Scheme which appear to relate to the situation described by Mr Henderson (where someone is charged with both false accounting and theft and the theft charge was later dropped after the Applicant pleaded guilty to false accounting). This is therefore not a wide spread concern.

For the sake of absolute clarity, it is not part of Post Office's policy to bring charges for theft only as a tactical device to drive a guilty plea for false accounting.

It should also be made clear that Second Sight have found no evidence whatsoever to suggest that any person convicted of false accounting did not in fact falsify their accounts.

Post Office also wishes to correct a misunderstanding which appears to have taken hold in the minds of some involved in, or otherwise concerned with, the Scheme. The separate offences of theft and false accounting are an equal par as a matter of law: is not the case that false accounting is in any way a lesser charge than theft and both are crimes of dishonesty. (indeed, both attract a maximum sentence of 7 years imprisonment)

7. Access to information

Evidence given to the Committee that Post Office has been unwilling to provide information to assist in Second Sight's work or is otherwise seeking to frustrate that work through inappropriate control of information is rejected by Post Office.

In the 2 ½ years since Second Sight has been investigating Horizon, both in their initial broad investigation and subsequently in relation to their review of individual cases in the Scheme Post Office has provided the equivalent of thousands if not tens of thousands of pages of information including more than 130 investigation reports on each of the individual cases in the Scheme, totaling nearly 2000 pages in length and with up to 80 pages pieces of supporting evidence in each case. Each piece of evidence can run to many pages.

MARK ALL THE DETAILS ON THIS. INCLUDING MOST RECENTLY IN RESPONSE TO THEIR 109 QUESTIONS.

In some instances Second Sight has asked for information which it has already been provided with.

JFSA have access to the information provided to Second Sight in their capacity as Working Group members. If they have concerns about the willingness or ability of the Post Office to provide access to information, they can raise the matter at the Working Group.

7.1 Legal files

During the course of the evidence session, Post Office was asked whether it provided, or would provide, Second Sight access to legal files.

It may be helpful to provide some background before turning to the Committee's question.

For each prosecution conducted by Post Office, it prepares a file of relevant papers. These files contain factual information such as interview transcripts, schedules of charges, case summaries, witness statements and original documents. They also contain legally privileged material such as advice from Post Office's lawyers on how to conduct a prosecution.

When Second Sight began reviewing cases, they asked Post Office for access to a small number of legal files. Post Office's General Counsel responded in an email which explained his understanding that the processes established by the Working Group were that of a CQR POL produces a report (along with relevant supporting documentation) which is then sent to Second Sight for the purpose of providing a basis upon which to prepare a corresponding report for the Working Group. To the extent that there are ambiguities or omissions in the POL report Second Sight can either comment on this matter in their report (to the extent it is not material), or (to the extent that it is material) request clarification of issues raised. The point being that requests for further

information/calrification are specific and focussed on matters directly relevant to the report produced by Post office; they should therefore not be overly general in nature, and certainly not so broad as to require the release of an entire class of document, e.g. an entire legal file. Put another way the Working Group has not asked SS to conduct a trawl of the primary source documentation and records maintained by POL to ascertain what it relevant and what is not. The request for legal files did not explain why SS needed access to further information or what specific information SS is looking for.

In any event, with our investigation reports, we have already provided you with any relevant source material found in any Post Office prosecution files (ie. transcripts of interviews, witness statements, etc.). This material is of course used by Post Office's security and prosecution teams to consider, and if appropriate conduct, prosecutions however the resulting internal documents are legally privileged. It is outside your scope of work to review Post Office's prosecution practices and decisions and so I see no need to disclose this documentation (which, just to be clear, has also not been released to Tony). Nevertheless, the underlying source material provides you with the factual information arising from any previous Post Office investigation and so you should have what you need to undertake your review.

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In October 2014, Second Sight asked the Working Group to confirm whether it may have access Post Office's full prosecution files. The Chair, Sir Anthony Hooper, provided the following guidelines:

- *"prosecution files were likely to contain privileged documents that Second Sight were not entitled to see;*
- *however, they could see witness statements and exhibits. It was possible but unlikely, that the Post Office may also hold a memorandum of conviction;*
- *it was highly unlikely that Post Office would have a trial transcript and in older cases that the Court would still have it;*
- *if documents held by the Court were required, these should be sought by the applicant; and*
- *that there was no such thing as a "written judgement" in a criminal case (as opposed to civil litigation)."*

In accordance with these instructions, Post Office has and continues to provide access for Second Sight to the

agreed documents relating to prosecutions. Indeed Post Office had provided Second Sight with an update on the provision of the relevant material shortly before the Committee hearing and also had, in a conversation with the person in Post Office who had been tracking Second Sight's request for prosecution documents and the provision of those documents by

Post office (the search, collation and provision of which has been a large exercise in itself as Second Sight's original list of cases has grown over the weeks) said that (with no disrespect to anyone) the issue of how to handle the provision of information from legal files had not been properly thought through and warranted a further discussion. It is, in Post Office's view, surprising and disappointing that, in his evidence to the Select committee Ian Henderson made no reference to these points.

In any event, access to Post Office's legal advice would not assist Second Sight. This is a legal assessment of whether and, if so, how to conduct a prosecution. Second Sight is not engaged to review any legal prosecutions nor are they, as accountants and not lawyers, in a position to do so. Indeed, Second Sight's signed terms of engagement state:

"it is acknowledged that matters relating to criminal law and procedures are outside Second Sight's scope of expertise and accordingly [they] shall not be required to give an opinion in relation to such matters"

The allegation that Post Office has been withholding information from Second Sight, against both the spirit and the terms of the Scheme, is therefore strongly denied by Post Office. Post Office can reassure that Committee that it is and will continue to provide all applicable prosecution documents to Second Sight.

7.2 Emails

Note: This section to be updated once further investigations have been conducted.

During the evidence session, it was alleged that Post Office was denying Second Sight access to the email accounts of certain Post Office employees.

It is correct that Second Sight asked for email accounts for a number of Post Office employees dating from 2008. Post Office explained at the time that it may be difficult to provide such information in view of its age, the fact that some employees no longer worked in the business and the fact that Post office did not establish a formal email archiving system until 2011. That proved to be the case and Post Office provided what information it could in response to Second Sight's request.

Post Office's understanding is that Second Sight wanted access to these emails in order to address an allegation relating to whether the Horizon test environment in Fujitsu's office in Bracknell could have been used to edit live branch data. Post Office has repeatedly denied this allegation in the strongest terms possible. It has provided Second Sight with a witness statement from a key member of staff at Bracknell who has categorically confirmed that the test facilities have no way at all of accessing live branch data – they are not even physically connected to the live Horizon system.

In light of this, Post Office has asked Second Sight to clarify why it needs access to employee's emails given that it will be impossible for those emails to "prove the negative" that the test environment does not change live data. Unfortunately, Second Sight has not explained either exactly what they would be looking for in the emails were it possible or practical to provide them or the exact question Second Sight is looking to answer, Post Office repeated this request again was repeated in a discussion with Second Sight two weeks before the Select Committee session.

Post Office appreciates the need for the mediation scheme to proceed as quickly as possible. Post Office does not consider that at this stage of the process, the further transfer of bulk data without any clarity as to what analysis of this data will produce, will add anything to an already comprehensive answer on this point. Nevertheless, Post Office is continuing to engage with Second Sight to decide what information can sensibly be provided to answer Second Sight's specific questions.

7.3 Suspense account

Post Office has also been accused of denying Second Sight access to information about its suspense account. Again, this is an accusation we strongly deny.

In June 2014, Second Sight asked Post Office to explain the operation of its suspense account. Post Office replied to that request in a written paper in July 2014.

In response, Second Sight asked for some data on the accounting entries being posted to its suspense account. It was not clear why Second Sight needed this information given that the suspense account relates to the movement of monies between Post Office and its clients and does not hold data relating to specific Subpostmasters.

The Working Group asked Second Sight to clarify why they needed this data which they did in October 2014. This explanation was still unclear so Post Office sent a further written paper to Second Sight explaining the operation of its suspense account in more detail and invited Second Sight to meet with Post Office's CFO to discuss the issue.

Following a meeting in January 2015, it is now understood that some of the information being requested by Second Sight is not in fact in relation to the suspense account but in relation to other accounting functions at Post Office. As agreed with Second Sight at that meeting, Post Office will be providing this information in stages to Second Sight with direct access to its finance team to explain each batch of data and refine any further requests for more data.

Post Office does not accept that it has withheld access to information about its suspense account but rather it is working with Second Sight to ensure that it receives the information needed to answer the actual questions put by Subpostmasters through the Scheme.

Provision of information generally and the answers given to the Select Committee by Post Office

Post office acknowledges that it was not able to fully answer the questions about the provision of information at the hearing and regrets that. However, considering the range of matters which could potentially be covered by the Committee, the fact that Post Office received no indication from the committee that it wished to pursue this issue and the fact that Post Office were, as agreed with Second Sight, working through the information they needed to complete their work, were unaware that these matters were problematic and that they would have been raised with the Committee.