

Thanks for your email.

On your first point, you say:

"I am afraid I do not agree that there is nothing new in the story that we are covering. In the past few months there have been a number of significant developments. Among them are the release of Second Sight's final report that includes criticism of the Post Office by its own investigators, the acceptance of twenty cases for consideration by the Criminal Cases Review Commission and the information obtained as a result of our investigation. I think we are scrutinising new evidence that raises important questions about the way the Post Office has behaved."

Most of the points raised above have been covered by the BBC, most recently on the Today programme and BBC Breakfast, but also at length by your colleagues at Inside Out and the One Show. The CCRC point has also been covered by other media.

Insofar as the CCRC is concerned, your email suggests the fact that cases have been referred to the CCRC constitutes "new evidence" of wrongdoing on the Post Office's part. Anyone who has been convicted of a criminal offence in England, Wales or Northern Ireland can apply to the CCRC, so such applications are not actually evidence of any wrongdoing or of any miscarriage of justice. Similarly, any criticism of POL by Second Sight does not constitute actual evidence of wrongdoing unless, of course, such criticism is substantiated.

As we said in our response to Second Sight's "Part Two" report, provided by us to the BBC in April, we will properly engage with the appropriate independent bodies in the review of any alleged miscarriage of justice. It is however clearly inappropriate for us to comment on those cases being reviewed by the CCRC until those reviews have been completed.

In respect of your suggestion that the "new evidence" also comprises "information obtained as a result of our investigation", we would again request that you provide us with details of such evidence so that we may be given a fair and reasonable opportunity to consider and respond to the evidence which is being used in support of some very serious allegations.

Turning to your other three substantive points, I quote below your comments and our response.

1. 'We have read extracts of minutes of a joint Fujitsu/Post Office meeting at which a bug was discussed. We obtained these extracts from the Second Sight final report and we understand that this meeting took place in autumn 2010. The minutes of the meeting state that this bug could impact "ongoing legal cases where branches are disputing the integrity of Horizon Data."

As you say, this is in the Second Sight report which we shared with media who had shown an interest in the story. This is not a new point, nor does it constitute "new evidence". Indeed, it is exactly this point which we disclosed ourselves to Second Sight, which was considered in their 2013 report and which has been covered in detail by the BBC in the past. We would refer you to the following link: <http://www.bbc.co.uk/news/uk-23233573> As you acknowledged yourself, no computer system is infallible. This issue does not change the underlying position: Horizon works as it should to record branch transactions accurately and no-one, including Second Sight, has provided any actual evidence that suggests it did not in the cases examined.

2. 'We have interviewed a former employee at Fujitsu, who worked in "third line support" for the Horizon system. He says it was possible to remotely access data held on branch terminals and to amend that data. He also alleges that system errors were more widespread than has previously been reported.'

We explained in detail the circumstances whereby a balancing transaction can be added. It has happened once since Horizon OnLine, during its pilot, and with the full knowledge of the postmaster. In relation to system errors, as stated before, no system is infallible. However, you have not provided any actual evidence to demonstrate that any system error has resulted in a miscarriage of justice. To the extent that you believe that you have any actual evidence to substantiate this serious allegation, we would ask that you disclose it. If you are proposing to make this allegation, please consider that some 70,000 people have continued to use this system every day throughout the period of Second Sight's investigation without major incident, processing six million transactions everyday: if there were systemic problems with branch accounting, it is reasonable to expect them to have been more widely experienced across the Post Office network than the 136 individual complaints considered by Second Sight, which arose over a more than 10 year period during which there were some 500,000 Horizon users (i.e. the complaints come from 0.0003% of users). However, if you have actual evidence of the Horizon system causing losses, it is very important that you produce it: the system is relied upon by millions of customers and thousands of small businesses. Any unsubstantiated allegation that the system is deficient is a serious allegation that would be extremely harmful to our business.

3. "We have also obtained extracts from Jo Hamilton's prosecution files. One extract includes comments made on 16th November 2007 by the Principal Lawyer of the Criminal Law Division of Royal Mail working on Jo Hamilton's case. The lawyer wrote that when it comes to asset recovery, "the theft charge makes life so much easier". Another extract is from the Post Office investigator's report into Ms Hamilton's case. On 17 May 2006 the Post Office Investigator reported "I was unable to find any evidence of theft or that the cash figures had been deliberately inflated"."

You are selectively quoting from a partial record of a prosecution file over which Post Office continues to assert legal professional privilege. You will appreciate that it can be seriously misleading to take a quote out of context. Further, you should be aware that Ms Hamilton has asked the CCRC to review her case, and it is therefore clearly inappropriate for us to comment on those cases being reviewed by the CCRC until that review has been completed.

I would also like to cover with you the information that you asked for in the briefing last week that we did not have immediately to hand.

Number of criminal cases: There were 150 applications to the scheme, of which 37 involve the conviction of a postmaster. As we stressed, each and every one of such cases is considered on all the available facts and circumstances before a decision is taken regarding whether or not it should be put forward to mediation (which, it must be remembered, cannot reverse or overturn any criminal conviction - only the Criminal Courts have that power).

Evidence required to bring false accounting and/ or theft charges:

Whether there is sufficient evidence to bring a charge is, naturally, determined by the particular facts in issue in each specific case. In deciding whether a specific case is suitable for prosecution, the Post Office considers (among other factors) whether it meets the tests set out in the Code for Crown Prosecutors. The Code requires prosecutors to be satisfied that there is sufficient evidence for a realistic prospect of conviction and that the prosecution is in the public interest. The Code is issued by the Director of Public Prosecutions and followed by Crown Prosecutors. Like the Crown Prosecution Service (CPS), the Post Office keeps cases under continuous review all the way up to and during any trial.

A charge will not therefore be brought if the prosecutor does not believe there is sufficient evidence for a realistic prospect of conviction on that charge. In cases where an audit discloses a loss in circumstances where there is evidence of false accounting, the fact of the loss together with the false entries will often be regarded as sufficient evidence on which to base a charge of theft.

The sufficiency of the evidence to support a charge is also scrutinised by the defendant's lawyers.

Once a decision has been made to prosecute - i.e. the Post Office is satisfied as a prosecutor that there is sufficient evidence for a realistic prospect of conviction on each charge and that the prosecution is in the public interest - and a defendant is charged, he or she is entitled to receive private and confidential legal advice. Should the defendant wish to dispute the charges, the Post Office has a duty to disclose to the defendant and his or her lawyers, any material that could assist the defence or undermine the prosecution. The defendant's lawyers can also ask the Post Office to produce any material which they believe the Post Office may hold which could assist the defence or undermine the prosecution

The 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 or she has had the opportunity to consider the evidence and take private and confidential legal advice from lawyers.

Every person charged with a criminal offence is entitled to independent legal advice and representation. Further, Legal Aid may be available to any defendant where the offence carries a risk of imprisonment (as do the charges typically levelled by the Post Office):

- Any decision to plead guilty is always one for the defendant only, having taken advice from his or her own lawyer.

- When deciding to plead guilty, the defendant will have been advised by his or her own lawyer that a guilty plea represents a complete admission to having committed the offence (which the defendant can qualify by a written 'basis of plea') and, where the offence is one of dishonesty (theft, false accounting, fraud), to that dishonest act. This is advice a defence lawyer is duty bound to give.

- The initial suggestion that a defendant pleads guilty will come from the defendant's lawyers, usually motivated by the defendant's instructions that they are guilty of that offence.

Finally, it is the duty of a defence lawyer to identify to the Court where there is insufficient evidence to sustain a charge, or to seek further information from the Post Office which might assist a defendant's case.

Review of criminal cases:

The Post Office takes seriously its continuing duty of disclosure in criminal law proceedings. Accordingly, material generated by Second Sight and through the Mediation Scheme has been (and continues to be) provided to an external firm of specialist criminal law solicitors to review to enable the Post Office to continue to comply with that duty.

'Issues' log:

As you would expect for any large computer system, there are logs for Horizon that monitor, track and capture issues for the entire system. These are part of many ways of ensuring the robustness of the Horizon system and that it meets or exceeds the standards necessary for industry accreditations and independent audits.

The Horizon system, and the Core Audit Process in particular, is designed to capture transaction data and store it in a secure audit database, with a unique reference identifier, so that it provides a master record of what transactions occurred. It is this master record that is used to definitively determine whether an issue with the system has arisen. It is these processes, alongside the Issues logs, that are used to closely monitor and record any issues with the system. This all then ensures that Horizon works as it should to accurately record all branch transactions, as it has been found to do in the cases examined through the mediation scheme.

Mediation numbers and outcomes: I understand that Mel has sent you the letter from CEDR that we published as part of our March 2015 report. As we explained, we cannot discuss outcomes because these are subject to confidentiality, which is a core principle common to all mediations.

I would again make the point that the allegations you are putting to us have been repeatedly made previously and, where we have been able to do so without breaching the confidentiality of people, we have answered them extensively. We have also, throughout, offered individual meetings, in confidence, with any person in the mediation scheme and their MP to discuss their cases with them. This has not been widely taken up, whilst unsubstantiated claims continue to be made to the media.

You have referred in your email to other contributors to the programme but without giving further details which, for fairness and balance, I would expect you to do so that we understand the views that will be represented in a programme to which we are significantly contributing. I would therefore ask that you let me know precisely who is taking part or contributing, what their expertise is and the opinions or views they are providing. In particular, who is the "computer expert" to whom you refer, what is his/her experience of the Horizon system and what is the substance of the opinion he/she is providing? Similarly, who is the "forensic accountant" to whom you refer, what is his/her area of expertise and what is the substance of his/her contribution?

I hope this helps.

Best wishes

Mark

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