

6 March 2013

Post Office Limited

Sub-post office Claims

Questions for Post Office

A. Post Office/Sub-post office relationship

1. Can we see any examples of the final form of the Post Office/Subpostmaster contract i.e. not the internal Post Office administrative version we have seen? Should we assume that all claimants would have a contract substantially in the form in which it has been provided to us and if not, how are they likely to differ?
2. Are there any other key documents which might govern the Post Office/Subpostmaster relationship (e.g. operating procedures or policies relating to Horizon, the sale of scratch cards or the preparation of accounts)?
3. Does the Post Office have a policy or practice for the termination of a Subpostmaster arrangement? How does the Post Office issue breach notices? What breaches (either a one off breach or a number of cumulative breaches) necessitate the termination of the Subpostmaster arrangement?
4. If and when the accounts presented by the Subpostmaster disclose a discrepancy, how does Post Office proceed to recover the outstanding money and what do those steps entail? Is there an internal written policy for recovery action?
5. How are variations to the contract a) effected; and b) brought to the notice of the Subpostmasters?
6. When Horizon was introduced in c. 2010, please describe the training which was provided to Subpostmasters? Are there records which evidence the Subpostmasters' attendance at Horizon training, if any, and their level of competency achieved?
7. Have any Horizon-related claims or related misconduct by Subpostmasters been dealt with under the appeals process in section 18 of the contract? How does that fit with the Scheme?

B. Mediation Scheme

8. What has happened to the 27 MP cases and 19 JFSA cases dealt with before the Mediation Scheme? Are they intended to be rolled into the Scheme? What was the outcome of the process set out in the December 2012 agreement between Post Office, JFSA and Second Sight? Are these the 27 MP and/or 19 JFSA cases?
9. What was the rationale for allowing claimants whose claims have been determined in Court or who have been convicted of crimes in respect of their claims, to claim in the Scheme? By what test will "miscarriages of justice" be measured, where they are said to justify settlements involving convicted complainants? What is the rationale/need for revisiting the judicially determined outcomes of cases?
10. Has the approach of accepting judicially determined cases been mandated by the Board or as a result of political pressure etc. i.e. is it now unavoidable/irreversible?
11. Is there a final version of the Scheme Settlement Policy?
12. How does the Settlement Policy sit alongside the Overview document for the Scheme? E.g., 3.8 of the Settlement Policy says that Second Sight will work with Post Office to investigate complaints, whereas the Overview (which presumably is sent to complainants?) indicates that Second Sight were engaged to independently review

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Horizon and "work with" complainants to investigate their case, albeit it also does say that Second Sight are an independent investigator?

13. It appears that complainants have been led to believe that if their case is suitable for mediation, it is likely that they will be referred for mediation (see p8 of the Overview). Why was that approach taken?
14. How much focus has there been (or will there likely be) on seeking to resolve disputes through direct engagement before mediation (see p 9 of the Settlement Policy), especially in light of the apparent tendency towards mediation?
15. There is reference in several documents to the object of the Scheme being to resolve claims concerning Horizon and "any associated issues". What are those associated issues?
16. Is there any plan for dealing with complaints which a) are not accepted into the Scheme b) are not sent for mediation (e.g. in this case, is the proposed expression of regret likely to be the extent of any response?) or c) are not satisfactorily resolved after mediation?
17. Are there monetary limits on settlements? If Bond Dickinson has estimated claims are worth £6 million, will Post Office only accept settlements closer to that overall figure rather than the £100 million estimated to be claimed?
18. Have there been any budgetary limits on the cost of the Scheme, including settlement payments, and if so what are they?
19. Can we see copies of the Bond Dickinson advice? What is the thrust of their advice?
20. Can we see copies of the Cartwright King advice? What is the thrust of their advice?
21. May we see a copy of any prosecution policy which may have been applicable at the time of any criminal proceedings?
22. Are records available of the disposals in the various criminal proceedings? In particular, may we have details of the sentences passed upon conviction, including details of ancillary orders such as costs, compensation and confiscation?
23. May we have details of any appeals, successful or unsuccessful, so far brought by those convicted?

C. Second Sight

24. Why were engagement terms not agreed with Second Sight at the outset? When are they likely to be?
25. How were Second Sight initially engaged and by whom? What basis do they have for seeking to widen the scope of their engagement? Are they not in effect meant to be an independent "expert"/adviser?
26. How did Second Sight demonstrate their capability/expertise for providing the services currently envisaged in the draft engagement letter? What was the Post Office rationale for appointing them? For example, they are tasked with providing recommendations on the merits of complaints accepted into the Scheme and their suitability for mediation, yet there may be issues involved in the cases which are not limited to technical issues with Horizon or other accounting issues, not least the suitability of mediation as a dispute resolution mechanism itself in each case?

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27. Having reported previously on Horizon, why were Second Sight engaged further to investigate complaints and “work with” complainants? Was their impartiality not questioned?
28. Are any examples of complaint-specific reports from Second Sight available that we could see?
29. Has any investigation or analysis of the alleged issues with Horizon been conducted by anyone other than Second Sight? What is Fujitsu’s position?

D. Working Group

30. Why were terms of reference with the Working Group not finalised at the outset? When are they likely to be?
31. Is it intended that decisions of the Working Group are binding on Post Office and the JFSA? The Terms of Reference on one hand say that majority decisions are binding but on the other that the terms do not create any legally binding rights or obligations between the members of the Working Group or third parties.
32. Further, 4.6.1 of the Settlement Policy indicates that Post Office might decide to refuse to mediate in a particular case, even if the Working Group votes in favour? Has or is that likely to happen? How does that reconcile with the draft statement in the Terms of Reference that says it is not the role of the Working Group to recommend or decide on the merits or settlement of any complaint i.e. it appears from the Terms of Reference that the Working Group has a purely administrative function with no merits-based role other than to consider the merits of any particular complaint from time to time for administrative purposes to ensure the complaint is progressing appropriately? Is it the role of the Working Group to decide whether each case goes for mediation?
33. How can there ever be a majority vote of the Working Group if there are only 2 votes to be cast (either its votes are unanimous or deadlocked, leaving aside the Chair’s casting vote)? Why was that voting structure put in place?
34. Was the JFSA included on the Working Group for transparency/ reputational reasons?
35. How many meetings of the Working Group have there been and what were the key outcomes, if any, of those meetings? Can we see copies of minutes of meetings?