

Written evidence submitted by Second Sight Support Services Ltd (POH0005)

Q&A with Second Sight

1. What did your work on Horizon tell you about Post Office Ltd.'s relationship with sub-postmasters and the institutional culture within Post Office Ltd?

- 1.1. Our first report in 2013 identified evidence of flaws and bugs in Horizon. We had already formed the view that system defects, including software bugs that had already been fixed, as well as other defects and bugs that were yet to be discovered, could be the cause of some of the unexplained discrepancies reported by so many sub-postmasters.
- 1.2. We also heard compelling evidence of Post Office or Fujitsu employees altering branch accounts without the knowledge or permission of sub-postmasters. Regrettably, Post Office repeatedly rejected our evidence that this was occurring and refused to supply Second Sight with documents that would have enabled us to quickly investigate the incidents reported to us.
- 1.3. Post Office's repeated refusal to consider faults with the Horizon system was consistent with reports from sub-postmasters' of being 'stonewalled' by Post Office whenever they reported evidence of possible faults with Horizon. Post Office's determination, as early as 2013, to always refuse to acknowledge that defects in its Horizon system, or in its own processes, or in the processes of its many clients, could be causing branch shortfalls, was of considerable concern both to us and to many sub-postmasters.
- 1.4. In 2015 we said Post Office was suffering from "*institutional blindness*" - a refusal to accept clear evidence of problems with Horizon. The Honourable Mr Justice Fraser has said much the same thing in his recent judgements.
- 1.5. Post Office routinely failed to investigate suspicions of problems with Horizon and other process defects reported by its sub-postmasters. It also repeatedly failed to provide sub-postmasters with the information they needed to conduct their own investigations. This meant that the underlying root causes of unexplained discrepancies were hardly ever discovered. In practical terms that meant that those underlying defects were almost certain to be repeated not only in the first branch impacted, but potentially in many other branches.
- 1.6. Well run companies normally welcome opportunities to find and correct deficiencies in their processes and systems. We saw no appetite for that in Post Office. We attributed that lack of appetite to Post Office's unique ability to transfer operational risk to its sub-postmasters. We said that the contract between Post Office and sub-postmasters was fundamentally flawed in this respect.
- 1.7. The relationship between Post Office and its sub-postmasters was very much one of 'master and servant'. The attitude towards reported suspicions of defects was dismissive and arrogant. We came across few examples of empathetic responses to sub-postmasters' calls for help.

2. What did you find was the response of Post Office Ltd when presented with evidence of Horizon errors by sub-postmasters and postal workers?

2.1. The default position of Post Office was to refuse to accept that Horizon could ever be at fault. Evidence of potential faults in Horizon, or of other process defects, were routinely ignored and not investigated. Post Office frequently attributed shortfalls to “*errors made at the counter*” without finding the root cause of the resultant discrepancies.

3. Was Post Office Ltd collecting systematic data on error reporting by sub-postmasters and postal staff?

If so, how did it use this data?

3.1. As far as we are aware there was no centralised database of errors reported by sub-postmasters. There was therefore no analysis of patterns of failure. It was up to individual sub-postmasters to put pressure on Post Office to resolve problems that they identified. Post Office’s position, generally, was that every case was un-connected with every other case and that almost all shortfalls were attributable to: “*errors made at the counter*”. This was often described as where: “*sub-postmasters or their assistants had failed to adhere to laid down procedures*” or where: “*they’d had their hands in the till*”.

3.2. Our investigations quickly showed that there were many commonly encountered problems and that reports about those problems were remarkably similar right across the network of branches. This put us at odds with Post Office. We identified 19 ‘thematic issues’ that were commonly reported by sub-postmasters in the 136 cases that we investigated.

4. What was the reaction of Post Office Ltd when presented with evidence that Horizon terminals across the Post office network could be accessed centrally and records altered?

What evidence did you uncover that branch terminals may have been altered centrally?

4.1. Post Office consistently refused to accept that this was either possible or that it had occurred. When presented with Michael Rudkin’s allegations about this, they refused to provide us with the contemporaneous emails and the other documents that we repeatedly asked for, even though they would have allowed us to quickly establish the truth.

4.2. We met with Fujitsu in 2013 and were told that remote access was possible and that it was happening. What was not clear at that point, was how frequently remote access was occurring and what changes were being made. Post Office refused to allow us to investigate this any further.

4.3. The question we repeatedly put to Post Office during Mediation Working Group Meetings, was:

“Has Post Office, or any of its sub-contractors, such as Fujitsu, ever altered any branch’s accounts without the knowledge or permission of the impacted sub-postmaster?”

4.4. Post Office’s response was:

“There is no functionality, in the Horizon system, to remotely access branch terminals”.

4.5. This statement was completely at odds with the evidence provided directly to us by Fujitsu. We made it very clear that this issue had considerable impact on both civil and criminal cases.

5. What evidence did you receive in relation to the Post Office Investigation Branch’s role in investigating shortfalls in Horizon?

What powers did they use and how did they treat sub-postmasters and postal staff when shortfalls appeared in Horizon?

- 5.1. Most of the evidence relating to the work of the Post Office Investigations Department ('POID') was contained in files held by the Legal Department. With a small number of exceptions, we were not provided with access to those files. We did come across transcripts of interviews carried out by POID investigators; some having been supplied by sub-postmasters themselves. Based on our examination of those documents, we were able to form a reliable view as to the way that POID investigators operated.
- 5.2. POID appeared to have quite wide-ranging powers, particularly in the period before Post Office separated from Royal Mail. They appeared to operate on a presumption of guilt, rather than a more open-minded approach. There was a clear objective of recovering money for Post Office, rather than seeking the truth as to the real underlying causes of discrepancies.
- 5.3. We saw no evidence of prosecutions by the Crown Prosecution Service ('CPS'). This was because, prior to 2012, Post Office and Royal Mail were prosecuting authorities and could bring prosecutions in the name of the Crown. After the privatisation of Royal Mail in 2012, Post Office brought Private Prosecutions without the involvement of the CPS, as it was entitled to do. There was no independent oversight of those prosecutions.
- 5.4. Post Office told us that its in-house legal team was competent to act in the place of the CPS. It was however, neither impartial nor independent and we came across evidence of failures to disclose evidence that may have undermined some of the prosecutions among the cases that we examined. In 2015 we said we were concerned about potential "*prosecutor misconduct*" due to the focus on debt recovery, rather than acting in the interests of justice.

6. What was the impact of Post Office Ltd replacing branch suspense accounts with the "settle centrally and dispute" process?

Did sub-postmasters know about this process and how it operated?

If they did not know about the new process, how did sub-postmasters deal with shortfalls in their accounts?

- 6.1. Soon after Horizon was introduced, Post Office removed the facility that had for years existed whereby each branch had a '*branch suspense account*' into which entries could be passed awaiting investigation and resolution, in effect carrying them over into the next Trading Period.
- 6.2. Post Office replaced that facility with the '*Settle centrally and dispute*' process. However, that new arrangement was not widely publicised to the branch community. It also had several limitations. That meant that sub-postmasters were left with few choices if the size of the apparent shortfall was beyond their ability to 'make good' straight away. This was often the case with apparent shortages relating to ATMs, cash or stock remittances or banking deposits.
- 6.3. Even if the sub-postmaster hoped that the situation would "*sort itself out*" as Post Office's Helpline so often promised. It could take weeks or months for an incoming Transaction Correction (a 'TC') to reverse the shortfall. What the sub-postmaster needed was time to establish the root cause of the shortfall. In such instances, the '*Settle centrally and dispute*' process was of little value. This was because Post Office would not allow any sub-postmaster to settle an amount centrally if it was larger than what it had determined was '*affordable*'.

- 6.4. Since those amounts had to be paid off by deduction from the sub-postmaster's monthly salary, the limit was set such that no amount greater than 25% of the sub-postmaster's annual salary could be settled centrally.
 - 6.5. It follows that, without the ability to settle centrally (i.e. to record a debt due to Post Office that had to be paid off by monthly salary deductions) the sub-postmaster had to somehow raise funds to make good ("*without delay*") the apparent shortfall. Where the amount was thousands or even tens of thousands of pounds, and the sub-postmaster was already up to his allowed limit on central settlements, and unable to borrow any more funds, he was left with only two ways out.
 - 6.6. One-way forward was to call Post Office and ask for help. But this was known to be extremely risky. Many sub-postmasters knew that asking for help and admitting to having a huge shortfall, that they neither understood nor could repay, risked dire consequences. Post Office's handling of the Lee Castleton case, in 2004, had showed sub-postmasters what was likely to happen to those who were honest enough, or naïve enough, to ask for help when faced with that situation.
 - 6.7. That left only one other option which was to inflate the cash in hand figures in order to balance the books and so be able to start the next Trading Period. This bought time, during which the cause of the shortfall would hopefully be found. However, it also meant running the risk of being charged with the criminal offence of False Accounting.
 - 6.8. It was this dilemma, that was brought about by Post Office's removal of branch suspense accounts, which drove many sub-postmasters to falsely inflate their branch's cash holdings.
7. **You mentioned Post Office Ltd.'s own centrally held suspense accounts, which held millions of pounds of unreconciled transactions, in your evidence.**

Did Post Office Ltd allow you to investigate the source of these funds and what happened to them?

Where do you suspect these funds came from and where do suspect they might have ended up?

- 7.1. All companies have suspense accounts, although Post Office told us at one point that it didn't have any. We established that Post Office has many suspense accounts including one for each of its client relationships such as Santander, Bank of Ireland, National Savings and Investments, HMRC, Camelot, etc. At the end of each day, where Post Office's record of what has taken place differs from its client's records, entries will be passed into a suspense account in order to reconcile the balances shown on each company's set of records.
- 7.2. Well run companies ensure that their suspense accounts are rigorously controlled and that entries are not allowed to remain un-investigated for more than a few days. We established that the centrally held suspense accounts of Post Office regularly held millions of pounds of unreconciled transactions for many months. Post Office prevented Second Sight from investigating those accounts, even though some of the funds eventually found their way into its own Profit and Loss Account.
- 7.3. In cases where Post Office has failed to determine the rightful owner of any amount in any of its suspense accounts, it is probable that it ought to have been reimbursed to a customer, to a client or to a sub-postmaster, rather than being swept into Post Office's Profit and Loss Account, which appears to have been its standard practice.
- 7.4. This was an issue of great concern to us and indeed to the Mediation Working Group because of the possibility that losses attributed to sub-postmasters could have been hidden within those

unreconciled balances. The balances written off, over the years, to the credit of Post Office's P&L Account were large and significant.

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8. What was your experience of Post Office Ltd.'s Complaints Review and Mediation Scheme?

What did it tell you about Post Office Ltd.'s commitment to transparency and its ability and willingness to deal with disputes?

Were you able to access the documents and information you needed to review cases?

- 8.1. The commencement of the Mediation process, in November 2013, was the point where Post Office moved the goal posts. We had started, back in 2012, with a shared commitment to "*seek the truth – irrespective of the consequences*" but quite quickly moved to a situation where every document passing from or to us was first reviewed by Post Office's lawyers.
- 8.2. In October 2013 Post Office appointed a new General Counsel to replace the one who had been involved in engaging Second Sight and who had then devised the Mediation Scheme. A complete change of attitude was immediately felt by us and by others in the Mediation Working Group. Cooperation and receptiveness became blockage, obfuscation and downright hostility. From that point onward, many documents were withheld. There was little real transparency.
- 8.3. The first Select Committee in 2015 asked Post Office to make various documents available to Second Sight. Post Office refused to do so. Rather than investigate genuine issues raised by sub-postmasters, we were having to fight with Post Office over access to documents that would have provided those answers.
- 8.4. A few weeks later Post Office unilaterally terminated the Mediation Scheme and Second Sight's appointment. This happened the day before Second Sight was due to report its findings to Sir Anthony Hooper, a former Judge in the Court of Appeal who had been appointed as the Chairman of the Mediation Working Group. Those two events triggered over four years of litigation that ended a few months ago.

As experienced corporate investigators, how would you have expected Post Office Ltd to have dealt with concerns about Horizon?

- 8.5. In short, professionally and objectively. With a commitment to seek the truth above everything else. What we saw in practice was very different. In virtually every case that we examined; no effective support was provided to sub-postmasters who were experiencing problems.
- 8.6. Post Office inevitably moved quickly to considering any apparent loss as a debt recovery problem without investigating the root cause of the loss or even whether a real loss had ever occurred. The Post Office mindset was: "*Horizon is always right*" and "*Sub-postmasters are, at best, error-prone and many of them have had their hands in the till*".
- 8.7. We'd have expected a far higher level of technical competence and professional investigative behaviour to be demonstrated by Post Office's investigators.

9. As result of your work on Horizon, do you support an independent inquiry?

If, so what issues should it focus on and why?

- 9.1. The conduct of Post Office has been disgraceful. The 2015 Select Committee asked Post Office to make documents available to Second Sight. This had no effect. Post Office continued to refuse to do so. Post Office also refused to allow Second Sight to investigate multi-million-

pound balances in its various suspense accounts. These funds, or, at least part of them, may well belong to sub-postmasters, as outlined above.

- 9.2. By terminating, in 2015, both the Mediation Scheme and the appointment of Second Sight, Post Office avoided further independent scrutiny. As a direct consequence of this, sub-postmasters were left with little choice other than to commence long drawn out and expensive litigation.
- 9.3. This could have been avoided if Post Office had accepted Second Sight's findings in 2015. The Honourable Mr Justice Fraser has now confirmed virtually everything we said in our various reports (including the 136 individual case reports) about flaws in Horizon; the contract between sub-postmasters and Post Office; Fujitsu's meddling with branch accounts; defects in Horizon and in Post Office Office's processes, inadequate training, support, audits and investigations; and so much more.
- 9.4. We discussed these failings, at length, in December 2015, with Post Office's then new Chairman but it would appear that Post Office was determined to reject almost all of our findings and recommendations and, instead, embarked on a course that led, four years later, to its humiliation in the High Court.
- 9.5. Despite Post Office's refusal to comply with the requests of the previous Select Committee, no sanctions against Post Office were exercised by Parliament. As we now know, Post Office fought the legal case on every possible point, irrespective of merit, and ran up huge legal costs. This has meant that approximately 80% of the recent settlement cannot go to the Claimant sub-postmasters. Many of the sub-postmasters will consequently not even recover the sums that they paid over to Post Office to 'make good' their apparent (but in some cases, it seems, not even real) branch shortfalls. Parliament should, in our view, bear some of the responsibility for this outcome and consider making good the full losses of sub-postmasters.
- 9.6. This is a national scandal. By settling with Claimants in a last-minute Mediation, Post Office has once again avoided being held accountable, just as it had in 2015 when it unilaterally terminated the first Mediation scheme. This must change. There has been no scrutiny of the decisions made by the Board of Post Office relating to the conduct of the litigation and the vast amount of public money spent "*defending the indefensible*".
- 9.7. Post Office is 100% owned by the Government. Government has the power to appoint and remove the directors of Post Office.
- 9.8. Where was the oversight by BEIS during this period?

What legal advice was provided to the Board?

Was that ignored?

Why did three Post Office General Counsel leave during the last seven years?
- 9.9. In our view, the BEIS Select Committee must take great care to ensure that it receives truthful answers to these and other questions
- 9.10. How can we be confident about decisions being made going forward, without understanding why and how so many disastrous decisions have been made by the Board of Post Office in the past.
- 9.11. Whilst Select Committees do not have the power to compel witnesses to answer questions, they can report any failures to do so to the House of Commons, which does have the

power (albeit not exercised in decades) to summon someone to the Bar of the House of Commons.

9.12. Notwithstanding that, Select Committees do offer a quick and relatively inexpensive way of finding out what has really happened. They also provide some protection to witnesses subject to gagging clauses and to Non-Disclosure Agreements, like those routinely demanded by Post Office.

9.13. However, the BEIS Select Committee will only be effective if enough time and resources are allocated for it to do its work. That does not seem to be happening now.

9.14. Realistically, no Select Committee will be able to achieve much more than to scratch the surface of a matter of this size and complexity. It follows that there must be a Judge-led public enquiry into the scandal at the Post Office. Perhaps the Honourable Mr Justice Fraser could be asked to take it on? He has an extraordinarily deep understanding of technical and IT matters, an encyclopaedic knowledge of every facet of this incredibly complicated case, and a knack for getting to the truth, however well it has been hidden. We can think of no one better placed to lead it.

Ronald J Warmington CFE FCA

Ian R Henderson CISA FCA

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