POL00040145

Justice for Subpostmasters Alliance

Jo Swinson MP
Minister for Postal Affairs
Department for Business, Innovation & Skills
1 Victoria Street
LONDON
SW1H 0ET

Alan Bates
GRO

Tel: GRO
Email: alan.bates GRO

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Dear Minister

I have previously written to you with regard to the progress of the Initial Case Review & Mediation Scheme whenever matters have arisen that are of concern, and regrettably this is another letter to inform you that such is the current position with the Scheme.

You will probably be aware that the way the Scheme was meant to work was as follows:-

- Applications by ex and serving Subpostmasters (SPMRs) could be submitted during a 12 week window which ran from August 27th until 18th November 2013.

- Those Applicants suitable for the Scheme would then receive a detailed Case Review Questionnaire (CRQ), which had been tailored to that particular case by 2nd Sight, the independent forensic investigations firm appointed to the Scheme. The CRQ would be accompanied by a list of Professional Advisors (PAs) comprising of lawyers and forensic accountants, for which there would be £1,500 of funding available towards the cost of the Applicant's selected PA to assist with completing the form. A period of 4 weeks had been allowed for the CRQ to be completed and returned to 2nd Sight.

- Once 2nd Sight deemed the completed CRQ to contain adequate information for investigation, the CRQ would be accepted by the Working Group (WG) and a copy of the CRQ submitted to Post Office (POL), in order for POL to produce their own report of the case to submit to 2nd Sight at the end of the 4 week period that was allowed for this particular stage.

- 2nd Sight, upon receipt of POL's case report, would then have up to 8 weeks to complete their Case Review Report which would be based upon the Applicants CRQ, the POL report and the results of 2nd Sight's own investigation into the case.

- The completed 2nd Sight Case Review Report, together with their conclusion and recommendation about the case would then be returned to the WG for either approval of the case being sent to CEDR, the Case Resolution and Dispute Resolution organisation appointed to run the Mediation process, or for its outcome to be discussed further by the WG.

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- Once a case was sent to CEDR, they would take it over and make all further arrangements, and it is at this point that the case leaves the control of the WG. However, it was expected that any mediation meeting between POL and the Applicant accompanied by their PA would take place about 4 weeks later. In order to assist the Mediator to understand the context of the issues, earlier this year it was decided that a Mediator's briefing pack was also to be prepared. The pack would consist of not just the 2nd Sight Case Review Report, but also an explanation of Horizon and the computer system and how it was meant to work, a glossary of the terms and abbreviations to be found in the documentation, a copy of the Applicant's PA's report, the POL report of the case and a 2nd Sight report into what they refer to as the Thematic Issues.

The above structure was agreed and published online at the Scheme launch in August 2013 and the full documentation is still available for downloading from jfsa.org.uk/Documents.aspx.

Unfortunately the reality of where the Scheme is actually at, is very different. As of the date of writing, the position with the Scheme is:-

- During the time the Scheme was open for Applications, 150 cases were accepted, although it should be noted that since the Scheme has closed, there have been others who would have applied if they had been aware of its existence. JFSA's advice to these enquiries is to raise the matter through their MPs until such time as a permanent solution for dealing with on-going enquiries is established.

- Of the 150 cases, the earliest that POL became aware of the names of the individuals and the identity of the post offices that were to be involved in a case review, was:-
    - 20 cases during September 2013; a further
    - 40 cases during October 2013; and then
    - 60 cases during November 2013.
    - The majority of the 30 other cases that applied during the time the Scheme was open are still serving SPMRs. As POL became aware of serving SPMRs submitting application forms, POL requested these cases to be held back from fully entering the Scheme until such time as POL had had an opportunity to discuss those cases directly with the SMPRs. Some of these cases remain in that position.

- Once the criteria to enter the Scheme had been met, and the WG had approved the initial application, the personalized CQR was sent out to the relevant Applicant for completion with the assistance of their PA. So far the returned completed CQRs that have been accepted by 2nd Sight and the WG, number:-

    - 9 during October 2013
    - 8 - December
    - 17 - January 2014
    - 3 - February
    - 12 - March
    - 4 - April, so far

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Yet to date, POL has not finalized a single case report to the point where it is ready for the WG to consider its suitability for being sent to Mediation, and realistically that could still be a considerable time off.

What has emerged about the process and the timescale is the underestimation of how much work is involved with many of the cases. At the outset of the Scheme it was thought that the amount of work that would be required for a PA to prepare a case for an Applicant might be in the order of 15 hours, and based upon a Legal Assistance Fee rate, that equated to £2000, but this was cut to £1,500 which only allowed for 11 ½ hours of a PA's time. However the amount of work the PA has to undertake in many of the cases has proved to be significantly more. We have heard figures of 30 hours of work for a case or Applicants delivering 10 boxes of documentation as not being unusual; then at the other extreme, there are the Applicants having almost no documentation as POL retained it all at the time of the contact termination.

Regardless of how it has come about, the significant extra work and time required for each case has resulted in the majority of Applicants agreeing to a supplementary Conditional Fee Arrangement (CFA) with their PAs and their PAs requesting time extensions, which in many cases is an extra 2-4 weeks, just in order to complete all the work. But even then, this is still not managing to move the cases through the process.

To me, and trying to be objective, the main hold up is with POL. At the time of writing, not one case report by them has been completed and submitted to 2nd Sight in a way that 2nd Sight can complete its own Case Review Report. As I mentioned earlier, POL first became aware of the details of the Applicants to be involved with the Scheme from September 2013, but POL are constantly seeking extension after extension to further investigate the cases, which in some instances has been going on for months.

At the meeting held in Portcullis House on 24th March 2014 to provide an update of the Scheme to the MPs who have constituents taking part, Paula Vennells, CEO Post Office, informed MPs that
POL had 22 trained investigators working on these cases. But still nothing is appearing.

The point about the 22 trained investigators is highly relevant in light of one of the major systemic failures of POL that is being exposed during the course of the Scheme. At a recent WG meeting chaired by Sir Anthony Hooper, 2 case reports that POL were preparing for submission to 2nd Sight, were analysed in order to examine whether the format of the report met the requirements of the WG. During the in-depth discussion and analysis of the data and evidence, it was abundantly clear to me, and I think to many others at the table, that if any investigation had taken part at the actual time of the incidents then the outcome would have been very different in certainly one, if not both cases.

Despite POL having a contractual obligation to investigate where they believe crime has taken place, they did not do so in these cases, and on the surface, it seems that they did not do so in any of the 150 cases involved with this Scheme. POL in these two cases, as they have done with so many others, went straight to prosecution using a fall-back contractual clause that the SPMR is liable for all losses regardless of how they occurred, without ever bothering to investigate the cause behind the incidents.

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Furthermore, the current investigations they are meant to be undertaking as part of the Scheme, seem to be little more than a listing of what is already known, and finding the truth is the last thing they are interested in.

I am sure that you are aware of the direct results of POL's actions upon many of the SMPRs who have applied to this Scheme. In many of the cases there have been instances of suicides, attempted suicides, numerous serious medical conditions brought about, imprisonments, bankruptcies, destroyed family lives and businesses. These are just a few of the outcomes that can be directly attributed to POL's failure to address Horizon associated issues since it was introduced.

Regardless of what it says publicly, POL in practice seems not only to be hardening its corporate defence, but now seems to be prepared to invoke the protection of the public purse as their last line of justification for not righting the wrongs they have inflicted on so many. It appears that whatever POL can block, it does; for some reason POL is the only one that doesn't seem to be able to recognize what everybody else can see so clearly.

Many observers to the process now believe that the only way we are really going to resolve this matter is through the media and the courts as fortunately so much more has come to light during the course of this Scheme. But whilst JFSA will stay engaged and support the Scheme for the present we have had to begin considering other options for the future.

I have tried to address these concerns in not only a balanced manner but also as a realist who has been dealing with POL for many years. 2nd Sight are probably the only company presently able to offer an independent professional and reasoned insight into what has been going wrong within POL and Horizon over the years. Otherwise I fear you are reliant upon POL for information that we believe is based upon reports and assurances given from the lower and medium ranks of POL who for whatever reason, are telling the upper management what they want to hear rather than the truth. But one way or another, the truth will come out, far too many people have seen it now, the only one refusing to accept it, is POL.

I would like to believe I am wrong, but from what I can see, I doubt POL will ever change its stance on this issue until it has had to answer to a select committee *or* a full independent inquiry is held. However if there is anything you or your department can do to head off the impasse I believe we are now heading towards, there are many people who would be very grateful.

Yours sincerely

Alan Bates
Chairman, Justice for Subpostmasters Alliance