

## **Initial Complaint Review and Mediation Scheme ("the Scheme")**

### **Terms of Reference for the Working Group**

#### **1 Scope of these Terms of Reference**

- 1.1 These Terms of Reference will apply until 31 March 2014.
- 1.2 The Working Group may unanimously decide to extend these Terms of Reference for an additional period if this is necessary to complete the Scheme.
- 1.3 The Working Group will review these Terms of Reference every 2 months to determine if they are still fit for purpose.
- 1.4 In these Terms of Reference, the word "Applicant" means any person eligible to take part in the Scheme.

#### **2 Members, representatives and reporting**

- 2.1 The initial members of the Working Group shall be:
  - 2.1.1 Independent Chair (**Chair**)
  - 2.1.2 Post Office
  - 2.1.3 Second Sight
  - 2.1.4 Justice for Applicants Alliance (**JFSA**)
- 2.2 Membership of the Working Group may change over time by decision of the Working Group.
- 2.3 Each Member may nominate any number of suitable representatives to attend Working Group meetings and to act on its behalf subject to any direction given by the Chair.
- 2.4 In conducting Working Group business, Post Office may act in a manner that promotes its own interests. Likewise, JFSA may act in a manner that promotes the interest of Applicants.
- 2.5 Second Sight shall be a member of the Working Group and hold the role of independent investigator and advisor to the Working Group.

#### **3 Objectives of the Scheme**

- 3.1 The Scheme's overall objective is to try to achieve the mutual and final resolution of an Applicant's concerns about Horizon and any associated issues (including any related monetary claims).
- 3.2 The Scheme must provide a mechanism to investigate proportionately and effectively an Applicant's concerns.
- 3.3 Where appropriate, the Scheme must offer a reasonable forum, by way of mediation or through direct discussions, for an Applicant and Post Office to seek a resolution of that Applicant's legitimate concerns.

3.4 The Scheme must be accessible for Applicants, recognising that its success is dependent on Applicants being prepared to commit their own time, knowledge and resources to the Scheme.

3.5 The Scheme must ensure that input and information from Second Sight and Post Office is provided in a timely and constructive manner.

3.6 The Scheme must recognise that Applicants may lack financial resources and/or experience of mediation.

3.7 The Scheme will be funded predominantly by Post Office and must therefore ensure value for money for taxpayers.

#### **4 Role of the Working Group**

4.1 To establish and, where appropriate, revise the Scheme's operational and working practices.

4.2 To monitor the efficacy of the Scheme in achieving the Scheme Objectives.

4.3 To ensure that Applicants' cases progress through the Scheme in a timely manner.

4.4 To review at each stage Applicants' cases that may not be suitable for the Scheme and to decide whether and/or how those cases may proceed. For clarity, the Working Group shall have no role in deciding the suitability or process for cases subject to live criminal investigations or proceedings – such authority being retained solely by Post Office as the investigating and prosecuting authority.

4.5 To ensure, as far as possible, that the Scheme treats all cases consistently.

4.6 To manage the administration of the Scheme so as to ensure that the Scheme's processes and procedures are offering value for money for taxpayers (which for clarity does not extend to any assessment of the merits / value of any settlement proposed or reached between Post Office and any SPMR).

4.7 To consider and determine any request by an Applicant for special financial support.

4.8 To maintain a record of the administration of the Scheme.

4.9 The Scheme is designed to assist Post Office and an Applicant to find a joint resolution to the Applicant's complaint. It is not therefore the role of the Working Group to collectively render any view, opinion, recommendation or decision on the merits and/or settlement of any Applicant's complaint (save that the Working Group may where necessary consider the merits of any Applicant's complaint in order to properly administer the progress of that complaint through the Scheme).

4.10 The matters discussed at mediation or the terms of any settlement reached shall be confidential to Post Office and each respective Applicant. The Working Group shall however be informed of whether a settlement has been reached between Post Office and an Applicant and, if not, the next steps agreed by Post Office and the Applicant to try to reach a settlement (if any).

#### **5 Independent Chair**

- 5.1 The initial Chair shall be Sir Anthony Hooper.
- 5.2 The Members of the Working Group (other than the Chair) may unanimously decide to replace the Chair at any time.
- 5.3 The Chair shall be independent of the other Members or shall have declared any conflicts of interest to the Working Group.
- 5.4 Any replacement Chair shall be suitably qualified and, ideally, have experience of schemes of this nature and/or of mediation.

## **6 Working process**

- 6.1 The practices of the Working Group will be determined by the Chair.
- 6.2 The Working Group will meet at least once a month (in person or by phone) to discuss and action any steps required to fulfil its role.
- 6.3 Ad hoc meetings (in person or by phone) may be arranged as required subject to reasonable notice being given.
- 6.4 Meetings will be chaired by the Chair or other person nominated by the Working Group.
- 6.5 The meetings and other actions of the Working Group will be confidential to the Members of the Working Group (and their professional advisors) unless the Working Group decides that information may be disclosed outside the Working Group.
- 6.6 The meetings and other actions of the Working Group will be subject to without prejudice privilege.
- 6.7 Minutes will be kept of the meetings of the Working Group.

## **7 Decision making**

- 7.1 Members shall attempt to agree all decisions unanimously.
- 7.2 If a unanimous decision cannot be reached, the Chair may define the point of disagreement and call a vote.
- 7.3 If a vote is called:
  - 7.3.1 Second Sight shall have an opportunity to put forward its view and a recommendation to the Working Group, both of which shall be reasoned and evidence based;
  - 7.3.2 Post Office and JFSA shall then vote on the matter, each having one vote (regardless of the number of representatives in attendance), which may be exercised in favour, against or in abstention;
  - 7.3.3 A majority decision will be binding so long as the Working Group is quorate meaning at least one representative for each Member is in attendance;
  - 7.3.4 If there is no majority decision, the Chair will have a casting vote. The Chair may exercise his casting vote at the meeting or after the meeting and shall support his decision with either verbal reasons given at any meeting or by subsequent written reasons.

## **8 Funding**

8.1 The Working Group may make requests to Post Office for reasonable additional funding in the following areas:

8.1.1 Special financial support to Applicants;

8.1.2 Professional advice for the Working Group;

8.1.3 Additional work by any appointed mediators;

8.1.4 But, for the sake of clarity, funding shall not be requested or used to compensate or settle any complaint raised by an Applicant.

8.2 Post Office shall have discretion as to whether to make such funding available but shall consider all such requests promptly and in good faith.

*Other than confidentiality obligations, these Terms of Reference do not create any legally binding rights or obligations between the Members of the Working Group or with any third party.*