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Mediation proposal

Aim

To bring closure to the key / high profile SPMR cases in a way that:

- Draws a line under the Second Sight (**SS**) review.
- Mitigates the risk of negative media coverage of high profile SPMR cases continuing after the SS review is published.
- Satisfies MPs' expectations as to how SPMR cases will be resolved.

Challenges

At present, there is insufficient evidence to justify a blanket compensation scheme for SPMRs. Each case needs to be considered on its individual merits.

In a number of cases, the difference in views between SPMR and POL is significant. There will also be a number of cases where POL may maintain that the SPMR is a fault and as such no redress should be offered.

Proposed solution

The key SPMR cases could be mediated following publication of SS's final report.

Mediation is a facilitated discussion chaired by a neutral third party mediator. The mediator is likely to be a senior, independent lawyer. His/her role is to help the SPMR and POL find common ground and hopefully a resolution to the SPMR's complaint. The mediator does not have authority to impose a resolution on the parties.

Second Sight should be invited to attend each mediation so that their findings may be discussed with the SPMR. MPs and/or JFSA could also attend where appropriate.

The advantage of this approach is that:

- Each SPMR will be given the opportunity to discuss his/her complaint directly with POL.
- The presence of an independent mediator ensures that the SPMR will have a fair opportunity to explain their position.
- Second Sight will have the opportunity to feedback any specific findings relevant to a particular SPMR's case (without needing to include this level of detail in its thematic report).
- MP cases will be individually addressed by POL.
- POL can present the mediation process to the media as an independent way to address and hopefully resolve SPMR complaints.

If POL and the SPMR cannot reach a resolution, then the SPMR is free to escalate his/her complaint to an independent judge by bringing court proceedings.

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Scope of process

The estimated cost of mediation is likely to be around £5,000 - £10,000 per case.

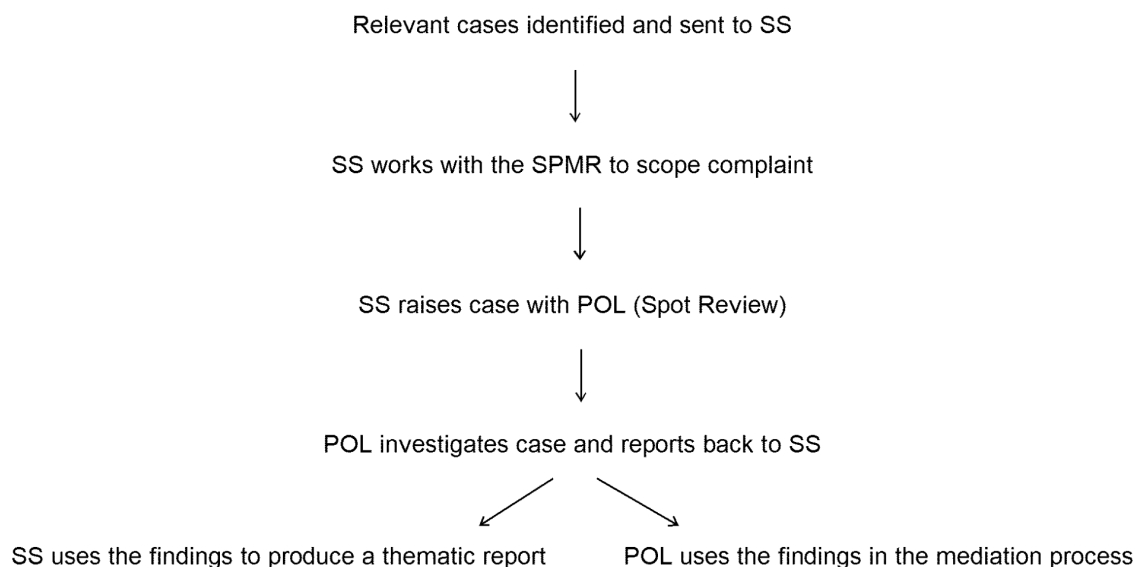
As such, mediation should only be used for those historic and critical SPMR cases. These are likely to include cases raised via MPs; cases currently being considered by SS and high profile cases in the media.

Opening up this process to a wider range of cases could lead to very high costs making this solution unviable.

Future / other cases could be subject to a separate process to be determined. This could possibly take the form of an adjudication where an independent third party reviews a SPMR's complaint and provides a non-binding opinion on whether the complaint has merit. This process is more complex to establish and requires a panel of adjudicators to be trained on the Horizon system and POL's operating practices. Adjudication is therefore not suitable in the short term.

Workflow

The cases to be mediated should be channelled through SS so that they are properly investigated prior to mediation. Without this workflow, POL may not understand the SPMR's complaint or may not have sufficient information to properly address the SPMR's questions at a mediation.



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