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POST OFFICE LTD BOARD SUB COMMITTEE

**Initial Complaint Review and Mediation Scheme
The role of Second Sight in supporting the Scheme**

1. Purpose

- 1.1. As requested by the Board Sub Committee on the Initial Complaints Review and Mediation Scheme (the Scheme) on 9th April 2014 this paper considers options to support Second Sight or reduce their role. Likely stakeholder views are reflected to inform the analysis.
- 1.2. This paper should be read in conjunction with the paper on options for closure/accelerated completion of the Scheme.

2. Background and current position

- 2.1. The background to this issue, and the concerns about Second Sight, has been set out a number of times in the past and is not, therefore, rehearsed again here.
- 2.2. Even were there no concerns about the manner in which Second Sight are performing their role, their resource is limited to three people and it is unlikely that they could process the c140 cases in the Scheme within a reasonable timeframe.
- 2.3. It is acknowledged that there is no right option and this paper represents the theoretical analysis carried out by the project team. It is intended to provide a basis for discussion as the Sub Committee consider the future of the Scheme more broadly.

3. Analysis and Options

- 3.1. Second Sight appear to enjoy the support of JFSA and a number of MPs, in particular the Rt Hon James Arbuthnot MP. Further, the Minister has committed to Second Sight's ongoing involvement, albeit before the actual Scheme was announced. That commitment should therefore be seen in the light of how the Scheme has operated and Second Sight's performance within it.
- 3.2. However, it is appears increasingly evident that Second Sight's ongoing involvement in the Scheme (at least in terms of fulfilling their role as the providers of expert advice to assist the parties resolve their disputes) is unsatisfactory.
- 3.3. Three alternative options (with the high level pros and cons set out in more detail in Annex 1) have been considered:
 - i. Provide additional support to work alongside Second Sight to enable them to fulfil their role as it is presently defined.

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- ii. Limit Second Sight's role to a place on the Working Group, removing their involvement in investigating cases.
- iii. Terminate Second Sight's engagement.

(i) Provide additional support

3.4. Discussions with a possible alternative and international professional services provider have highlighted that the commercial issues arising in respect of liability and professional indemnity make this an unworkable solution. In essence, no professional services provider would work alongside Second Sight in this way.

(ii) Limit Second Sight's role to a place on the Working Group

3.5. There are variations on this option depending on the extent to which it would be desirable to allow Second Sight to have a more active role:

- i. Second Sight continue to be members of the Working Group and provide a general challenge function to the findings of the investigation reports; and
- ii. As above but also allowing Second Sight to compile a report, possibly their so-called 'thematic report', at the conclusion of the Scheme.

3.6. Neither of these options is likely to work effectively. Based on the evidence of their approach to date it is unlikely that Second Sight would engage objectively with the results of investigations undertaken by others. This could result in both JFSA and Second Sight continuing to ask further otiose questions thus limiting the benefits of removing them from the investigation process. Moreover, allowing Second Sight to produce a further report at the end of the Scheme allows them to look more at the wider issues beyond Horizon and risks reopening matters that the investigation of individual cases may have closed down.

3.7. In relation to this option, and option (iii) below, consideration would need to be given to how Second Sight's investigation role" is performed. The options include removing the Second Sight investigation stage from the process, and limiting the investigation stage to that undertaken by Post Office, or engaging an alternative professional services provider to fulfil the role. A very initial assessment of the cost of the latter option is that it would be of the order of £1m, depending on the exact scope of the task but further consideration of that option is dependent on a decision about the future shape of the Scheme.

(iii) Terminate Second Sight's engagement

3.8. Second Sight have been working for the Post Office on Horizon and associated issues since 2012, they have been working specifically on the Scheme since its launch in August 2013. Their track record thus far has not demonstrated that they will be able to deliver the Scheme's requirements in a timely manner.

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3.9. Although it is acknowledged that a theoretical analysis of this situation would lead to the conclusion that Second Sight's engagement should be terminated, there are wider political and stakeholder considerations in play which may obstruct delivery of this solution.

4. Conclusion and recommendation

4.1. As stated in 3.1 above, Second Sight appear to enjoy the support of a number of key stakeholders, and any change to their role would require careful handling and is likely to be opposed. Moreover, it is almost certain that, particularly because of JFSA's support for Second Sight, any decision which affects Second Sight's involvement in the Scheme may result in the JFSA leaving the Working Group.

4.2. This paper deals solely with the role of Second Sight, but the decision about Second Sight's future engagement in the Scheme is a multifaceted one and should not be considered in isolation but in the broader context of the future of the Scheme. Accordingly, this paper should be considered as background to the paper on options for closure/accelerated completion of the Scheme.

Chris Aujard

28 April 2014

Strictly Confidential – NOT FOR ONWARD DISTRIBUTION**Annex 1****Option 1: Provide additional support for Second Sight to enable them to fulfil their role as it is presently**

Pros	Cons
• Would address capacity and capability issues, and potentially speed up the time taken to complete the Scheme • Continues Second Sight involvement therefore staying true to the Ministerial commitments • Subject to Second Sight's reaction, would satisfy stakeholders who consider only Second Sight have the knowledge and independence to investigate claims.	• Commercial/liability issues for alternative providers makes it unlikely that another professional service provider would be willing to engage. • Would significantly increase the cost of delivering the Scheme – paying two investigation teams instead of one • Any change to current arrangements will be considered to be Post Office interference. • Second Sight are unlikely to be satisfied with results which do not accord with their own assessment.

1.1. Option 2: Limit Second Sight's role to a place on the Working Group

Pros	Cons
• Allows Post Office to take control of the "flow" of cases through the Scheme. • Continued involvement of Second Sight remains consistent with Ministerial commitments. • Limits Second Sight direct engagement (and therefore influence) with applicants and their advisors. • Creates opportunity (if desirable) to bring in a professional services provider.	• Inconsistent with Post Office public commitments and agreements made with JFSA and Second Sight when designing the Scheme. • Could be viewed as Post Office interference/fettering Second Sight's independence. • Second Sight may adopt an adversarial role on the Working Group • There will still be cost for Second Sight's engagement and the management overhead in managing the relationship will remain (albeit to a lesser extent).

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Pros	Cons
• Significantly streamlines the process to allow faster resolution • Enables Post Office to manage engagement with applicants and their professional advisers • Will enable completion of the Scheme to be accelerated, reducing operating costs and senior management overheads • Creates opportunity (if desirable) to bring in a professional services provider.	• Inconsistent with Ministerial commitments about Second Sight's involvement. • Any change to current arrangements will be considered to be Post Office interference/whitewash. • Will attract adverse publicity. • Will lead to conflict with JFSA and Second Sight, may alienate the Working Group Chair (if not properly handled) • May result in parliamentary activity (e.g debate/PQs therefore involving the Minister).