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POST OFFICE LTD BOARD

Update following the publication of the Interim Report on Horizon

1. Purpose

The purpose of this paper is to:

- 1.1 update the Board on latest events; and
- 1.2 seek input as to how the business moves forward with the three new initiatives outlined in the Post Office's press release of 8th July 2013 and explored further in this paper.

2. Background

2.1 As the Board are aware Second Sight (SS) have now published their interim report and this Board paper considers the options / proposes a course of conduct for Post Office.

2.2 Following publication and the MPs meeting a statement was made in the House of Commons by Jo Swinson. Various MPs have also raised issues, as have the Justice For Sub postmasters Association. The main concerns seem to focus on:

- The fact that people have gone to prison.
- The fact that there have been some bugs in the Horizon system (albeit that SS have found no systemic problems).
- The possibility that some criminal convictions may be unsafe.
- The possibility that some people may have compensation claims against the Post Office.
- The attitude of the Post Office in its dealings with sub postmasters.
- The degree of training and support the Post Office gives sub postmasters.

2.3 It is clear that in the multiple exchanges that have happened between the various interested parties that Post Office needs to consider undertaking the following:

- The Working Party & the conclusion of the SS review
- An independent safety net – for instance an adjudicator; the details as to how this would operate to be considered by the Working party
- The Business User Forum.

3. Current Activities already underway

3.1 **Press monitoring:** The Communication team are monitoring and collating all press coverage.

3.2 **Communications plan:** The updating and deployment of the Communication plan to take account of the relevant MPs who need to be engaged plus anticipating challenge posed from, for example, the TV and press media.

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3.3 Technical considerations review: the IT team are undertaking a review which will focus on key matters such as processes around communication and hardware failures as well as the possibility of introducing a Suspense account at Branch level.

3.4 A business process review: Which will focus on how we can improve the support we give sub postmasters and consolidate the various interactions across Post Office regarding all “problem cases” raised by the Second Sight review, the JFSA, MPs or the like.

3.5 A behaviours review: to focus on how we deal with sub postmasters in and how we can improve our process together with the training that we give them.

3.6 On-going / new prosecutions: we are reviewing these on a case by case basis as to whether or not they need to be adjourned or other action taken in the light of the publication of the SS interim report.

3.7 Criminal case review: On the advice of our external criminal lawyers we have immediately begun a review of our criminal cases conducted since Separation on 1st April 2012. More detail of this is set out in Annex 1.

4. Proposed Way Forward Actions:

4.1 The Working Party (& the conclusion of the SS investigation and report)

- **Overview:** We will establish a ‘working party (to include the JFSA) to complete the review process and look at the thematic issues which have emerged (particularly with regard to training and support);
- **Continued involvement of SS:** Following the meeting with JA and the MPs and the comments made in the House it is clear that SS will have to continue to be involved in this matter. We are currently considering how best to manage this and to use the work already completed by them, mindful of the need for their report to remain independent, a need for a cap on their costs. In addition following the statement in the House we will need an independent chair for this group.
- **Agreed Remit:** We will need to gain agreement from JA and JFSA as to how the Working Party is going to operate.
- **Which cases?** Post Office is obliged to continue working through cases which have been generated through MPs (and others may be added to that list) and to the JFSA cases. New cases may come through the JFSA or JA and we need to determine whether they should form part of the SS work.
- **Lack of evidence issue:** Some of the MPs cases (approximately half) have no evidence this has been highlighted to JA and his office are going to inform the relevant MPs.

4.2 An independent review to consider a “safety net” option

- To conduct a review as to how Post Office might set up an independent safety net to adjudicate in disputed cases in the future.

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4.3 The Branch User Forum

- to set up a 'Branch User Forum' involving sub-postmasters and other relevant stakeholders to provide feedback on our training and support processes on an continuing basis.

4.4 Commentary

- These actions have been broadly agreed with JA and JFSA although both of those parties were pushing for more specific undertaking especially with regard to cases where Post Office had brought a criminal prosecution and for the independent adjudicator to be an "ombudsman". We are continuing to explore other possibilities for instance the use of a mediator particularly with regard to the long standing intractable cases.

4.5 Cost & Budgeting

- The activity to deal with this matter will need to be properly funded and budgeted. To date this review has cost in the region of £300,000.
- Secondly there is the possibility the Post Office might have to consider paying out compensation, if such action was justified either because of a legal judgement or recommendation or business justification.

4.6 Next steps

A Pro-active approach – there are a number of areas where the Post Office wishes to take a pro-active approach for instance looking at processes for managing our relationship with our sub postmasters. Further details will be shared and the meeting.

A Reactive approach – in respect of the criminal cases the Post Office should wait for those to be overturned via the Court of Appeal and for claims for compensation to be made. We then decide whether to settle or fight these on a case by case basis.

5. Recommendations

The Board is asked to:

- note the update and actions set out above;
- decide whether the Audit and Risk Committee should consider the position of the Post Office as a Prosecuting Authority alongside its risk work in September.

Susan Crichton
12 July 2013

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ANNEX 1 – Details of the Criminal Cases Review

1. Post Office have been advised by our external criminal lawyers to undertake a review of all cases going back to the time of the migration from old Horizon to Horizon Online (aka HNGX) – 1st January 2010 - and this has already begun. They are essentially looking at whether or not anything in the SS interim report should be drawn to the attention of any defendants (current or past) and if so they will be writing to the relevant defendants providing them with a copy of the SS interim report. We have an continuing legal duty as the prosecutors to do this.
 - 1.1 It is important to note that we believe (precise records from RM are not available) that we will have undertaken circa 55 prosecutions a year for the last 10 years. Our external lawyers have advised us that they believe there will be around 5% where they need to disclose the additional evidence and then it will be up to the defence lawyers to consider the evidence and apply to the Court of Appeal.
 - 1.2 Each individual has to seek leave to appeal to the Court of Appeal if they want to seek to overturn a conviction. The Court of the Appeal will look at each case on its merits and will consider what evidence a person was convicted on: for example there may be Horizon evidence but also other paper trail evidence or even admissions of guilt. It is by no means certain that each appeal will be successful.
 - 1.3 We may also face civil suits for wrongful conviction. The consequences of this are:
 - Malicious Falsehood (recover financial losses plus damages)
 - Defamation (damages, undertakings and an apology)
 - Wrongful termination of their contracts (damages).
 - Harassment (if we have been over-zealous in recovering debts – again damages is the remedy)
 - 1.4 If we abandon prosecutions we may also face claims for e.g. malicious prosecution.