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PAPER FOR THE WORKING GROUP ON DELAYS IN INVESTIGATING CASES

Background

At the Working Group call on 20th March 2014 there was a short discussion concerning the length of investigation, repeated deadline extensions and the need to communicate substantial delays in investigating a case to applicants. The Post Office agreed to give the topic some thought and bring a paper to the next face-to-face Working Group meeting on 1st April.

Age of Case

Analysis of the Post Office investigation caseload has raised a number of issues concerning the age of the cases being investigated. A small number of cases are now over 80 working days old (calculated from the date that the CQR was accepted by the Working Group). The age of these cases does not correlate sensibly to the deadlines that have been currently set.

Across 15 cases that have already been forwarded to Second Sight for their review, the average time taken to investigate a case was 64 working days. This demonstrates that the Post Office investigation is running at approximately 12 weeks. The impact of this is a requirement for repeat extensions to the original 4 week deadline. The result has been a series of deadlines that do not correlate appropriately to the run-rate of the individual cases.

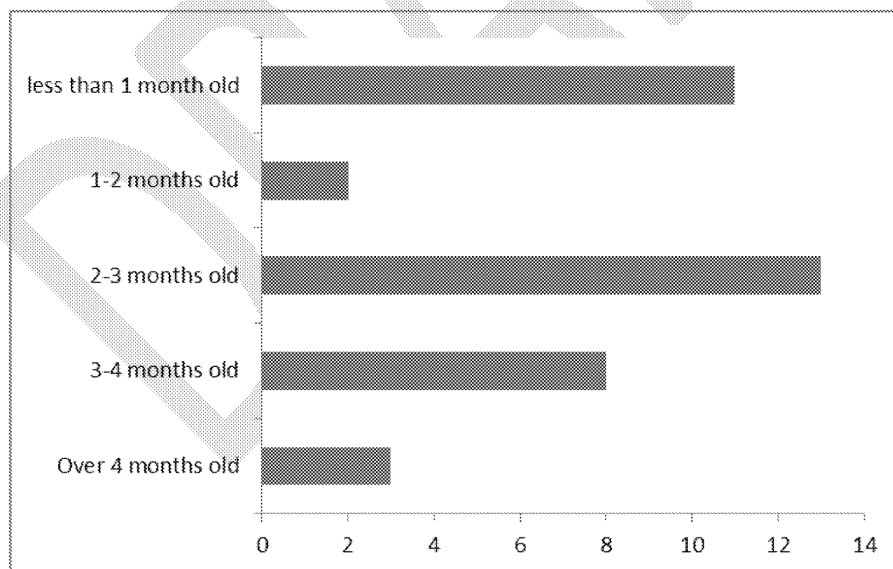


Figure 1: Post Office investigation caseload – by age of case in working days (figures taken from tracker on 27 March 2014).

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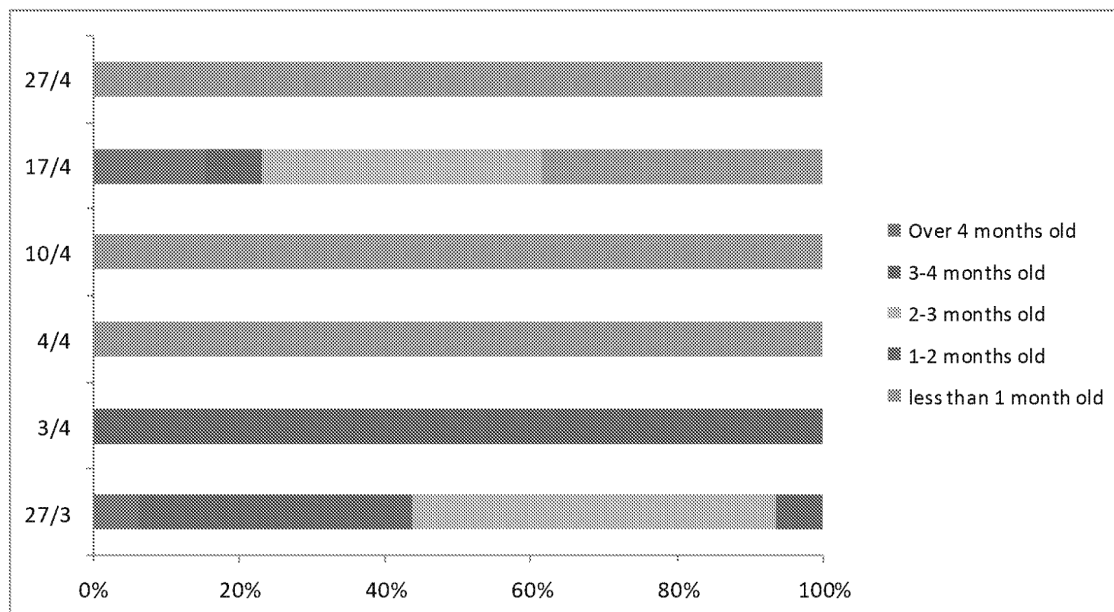


Figure 2: Age of case – in working days – against accepted deadlines (figures taken from tracker on 27 March 2014).

Investigation Length

There are complexities within the individual cases that need to be carefully investigated and reviewed to ensure that the Post Office is abiding by our duties to the applicants, the Working Group, third parties and ultimately the Courts.

Criminal Cases

To date, we have classified 66 cases as “criminal”. Such cases have either involved a form of criminal prosecution according to our records or have an assertion from the applicant that they were prosecuted. The Post Office feels that the distinction between the two is limited and both types of case are being looked at in the same way to satisfy all parties involved.

The cases are spread across the entirety of the scheme. The majority are awaiting CQR’s from applicants and a large proportion falls within the Post Office’s current caseload.

It is the Post Office’s assertion that criminal cases are taking longer to review for the following reasons:

1. Jurisdiction
2. Increased due diligence duties
3. Practicalities

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Jurisdiction

There are elements within some of the cases where it would be inappropriate for the Post Office to comment. These are circumstances upon which a previous criminal conviction has turned. Such points are only subject to review by the criminal courts of appeal – and not within this scheme.

The Post Office is actively identifying where these issues arise and is working around them to ensure that these cases are amenable to mediation. However, this has made the cases more complicated to review.

Increased Due Diligence Duties

The Post Office is conscious of its ongoing duty of disclosure. In order to perform this duty to the highest standard, it is carefully monitoring all cases within the scheme and outside it in order to disclose any information that may be pertinent to applicants. With criminal cases in particular, the Post Office's additional duty as a prosecuting authority requires additional diligence to be attached to our reviews – which has proved time consuming.

Practicalities

Criminal cases contain more material and cover a wider range of issues in comparison with the civil caseload. Additionally, this material is not always held in the same location. The cases are simply more time consuming to review and investigate. The Post Office feels very strongly that the quality of this review should not be compromised, but that has consequently seen an increase in the time taken to review these cases.

General Caseload

The remainder of the caseload has not been isolated from the impact of the Post Office's investigation into criminal cases. They have not been prioritised or expedited through the process and so have been subject to same delays as the criminal cases.

All of the cases are subject to delays from information requests, complexities and review stages. The Post Office does not feel that the delay issues are solely attributable to criminal issues – but rather reflect natural complications that occur with any diligence investigative process.

Recommendations

Deadlines

The Post Office believes that the current method of monitoring progress against deadlines is insufficient for the purposes of the Working Group. Certainly the deadlines based on the investigation being a 4 week process bear no resemblance to the time taken to sufficiently investigate these cases.

The Post Office recommends that the allocated time for investigation should be amended to 10 weeks (calculated in working days) – with special dispensation for criminal cases.

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Reporting

Post Office's own analysis indicated that "age of case" is a more efficient and appropriate reporting tool for case performance than the deadline orientated method currently used. It provides clear rationale for prioritisation and would allow the Working Group to safeguard the applicant's position with greater diligence, keeping their concerns at the heart of the matter.

The Post Office recommends that information relating to the age of all cases within Post Office investigation stage should be presented to the Working Group each week, in addition to the current case tracker which will be maintained for continuity. Particular updates shall be provided on any case from the general caseload where the age of the case has exceeded 10 weeks.

The recommendation is that criminal cases should be handled separately – and for the moment, without a targeted timeframe. The Post Office has accordingly lowered the current average length of time taken to investigate a case down to 10 weeks. The Post Office believes that without the impediment of the criminal cases, progress on the remainder of the caseload will be easier and operating within a 10 week process will become manageable.

The Post Office has been producing a steady flow of reports for the last 3 weeks. This indicates pipeline movement in good faith of its investigative efforts. These outputs have consisted of an even mix of criminal and civil cases. We are seeing progress, but the recommended changes will allow that process to become more efficient and mutually beneficial to all involved.

Communication with Applicants

The Post Office recommends that the following actions are taken to improve communication with the applicants on the progress of their case:

1. A letter is sent to all applicants – where their cases are yet to be sent to Second Sight for review – to inform them of the changes to the scheme. In particular, to manage their expectations on when they can expect resolution of their case.
2. Standard letters to be sent to applicants when their cases have reached the following stages in the scheme:
 - At the point where their CQR is formally accepted by the Working Group.
 - If and when their case exceeds 10 weeks of investigation. Further update letters to be sent out every 4 weeks from this point.
 - At the point their case moves to Second Sight for review.