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Draft for comment 11 March 2014

## **The Post Office Limited**

### **Initial Complaint Review and Mediation Scheme**

#### **Proposed outline of report for the Board**

#### **1 Background to the report**

- 1.1 The report is being commissioned by the Board of Post Office following concerns over the level of claims and costs, and the level of the potential legal and financial exposure, associated with the Initial Complaint Review and Mediation Scheme (the “**Scheme**”).
- 1.2 We understand that the Scheme was set up in August last year with a view to bringing closure to the various allegations that had been brought about the Horizon system (“Horizon”); at that time the working assumption was that:
  - 1.2.1 there were no systemic problems with Horizon; and
  - 1.2.2 the training and support for SPMRs with respect to Horizon could be improved upon in certain areas;
- 1.3 It is intended that the report will be presented to the Board on 26 March 2014.

#### **2 Key matters to be addressed**

- 2.1 The report will consider:
  - 2.1.1 Whether and to what extent Post Office has any legal liability with respect to (a) complaints made by applicants to the Scheme and (b) any other matters identified as part of the investigatory work carried out by Post Office in the process of responding to applicants.
  - 2.1.2 The nature and extent of the risks arising from and associated with the Scheme in its current form.
  - 2.1.3 Whether and to what extent the Scheme, as currently structured, can be sensibly modified in order to improve the efficiency and effectiveness of its operation, and mitigate any of the risks identified in the above.
  - 2.1.4 The nature of any dispute resolution (or similar) mechanisms that could be established either in order to replace the Scheme or augment its operation. In particular, the mechanisms considered will include adjudication, arbitration and the use of ombudsman services.
  - 2.1.5 In the event that a decision is made by the Board to discontinue the Scheme what steps Post Office could take to minimise any existing legal exposure
- 2.2 In addressing the issues set out in paragraphs 2.1.3 to 2.1.5 above we will have regard to administrative convenience, cost, complexity, relative merits and viability of the alternative structures.

#### **3 Policy Factors**

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- 3.1** It is expected that as part of the Board's decision making process it will wish to have regard to the following factors, which will be reflected to the extent appropriate in the report, particularly with respect to the relative merits or demerits of alternative structures:
- 3.1.1** Whether Post Office wishes to consider paying compensation by reference to principles other than legal entitlement? If so, how will it articulate and apply those principles?
  - 3.1.2** Whether or not the Post Office now wishes to conduct a separate full scale and detailed audit of Horizon to establish, with unquestionable finality, that it functions as it should.
  - 3.1.3** How important is it to Post Office to determine the facts of each individual claim? In any claim is Post Office's stance to be more conciliatory than adversarial? What are the limits of this approach?
  - 3.1.4** To what extent does Post Office need to invest in resolving past issues to enable it to put relationships with Subpostmasters now on a sound footing?
  - 3.1.5** How and to what extent does Post Office wish to strike a balance between the matters above and achieving a satisfactory political outcome, including with regard to what has been said in Parliament about the Scheme and Horizon?

#### **4 The basis on which the report has been prepared**

- 4.1** The report will consider the issues primarily from the perspective of the general law, but we will highlight where we think appropriate, associated public relations issues and/or political implications which might arise.
- 4.2** The report will not consider certain matters which are expressly "out of scope". These currently include PI and D&O insurance, which it is understood will be the subject of a separate report to the Board.