

Update for Board/Alice

- the meeting with MPs was difficult and at times unpleasant. The behaviour of JA, Andrew Bridgen and Mike Wood was at times rude and certainly inappropriate. Oliver Letwin was more measured and constructive
- I was therefore particularly proud of Angela van den Board in particular. She had a good answer for every question and conducted herself in a way which befitted the values of the Post Office
- the fundamental question being asked of us at the meeting was whether we would agree to a "general assumption" that we would agree to mediate in every case where Second Sight recommended this course of action
- we were asked to respond in a manner which I found threatening: MPs said that if we did not respond quickly, they would not be able to hold off the media: this came across in a very unfortunate manner
- we agreed however to consider the point and get back to the MPs as soon as possible
- I know that you met Belinda, Mark, Patrick and Alwen last week to discuss this. Exco also had a full discussion on the issue last week.
- the team has considered the position, and has come to the conclusion that we should not agree to the "general assumption"
- there are several reasons for this. It would make the working group, which was set up with TOR agreed by the JFSA, redundant as it would simply be waving cases through. This would be outwith the balancing nature of the working group, which was set up with a central role to decide on whether any given case out to be mediated
- It would also undermine the Chair's stated position (in the decision on a specific case) that 'the decision as to whether a case should go forward to mediation is entrusted to the WG', with the necessary independence of the group achieved by giving the Chair the casting vote
- 'Pre-agreeing' would also force us to mediate in criminal cases where the legal processes have not been exhausted. We have strong legal advice suggesting we should not take this course.
- this will clearly be unwelcome for the MPs so we are preparing for every eventuality. We could expect media coverage, probably at a low level, but are well prepared for this. We are also proposing that our letter setting out our position to the MPs be drafted so that it can be released to the media, given the MPs point about media pressure. This gives us a chance to set out our position and meet the "Clapham Omnibus" test.
- the chair has previously expressed his discomfort at being deprived of JFSA's views on those cases where POL disagrees with the recommendation made by SS, since it leaves him as the dominant voice in all cases (thanks to his casting vote). Maintaining our line on existing position to review each case continues this discomfort, however we assess the risk of the Chair epising this publically to be very low (he is bound by a confidentially agreement and we believe he will want to minimise any adverse publicity associated with the working group)

- we are also making contact separately with Oliver Letwin to impress upon him the nature of our position. We have a number of channels open to us here.
- given the potential collapse of the working group, we have also taken the precaution of seeking further legal advice from a leading QC at Blackstone Chambers. While we know that as a public body, we are susceptible to judicial review, we wanted to test the position further around the nature of the Scheme and the cases submitted to it
- this is important since there have been significant developments since the summer, not least the refusal of JFSA to take part in the bulk of the Working Group's business. We are now in a situation where the Scheme could collapse through the actions of others, who might then seek JR
- the view is that withdrawing the Scheme in its current form does not expose POL to any significant JR risk. While POL is susceptible to JR when it acts in a public law capacity, the Scheme and the cases in it, together with any decisions associated with or taken during process, are private law in nature and are not, therefore, susceptible to JR
 - It is worth noting that Leading Counsel expressed this view robustly
- this is clearly important and good news. We are well positioned. The strategy we set out in the summer is working. We have a strong media position and public narrative, while the legal backstop suggests that our risk of JR is low (and certainly lower than we thought in the Summer)
- so the recommendation of the Exco is that we hold our nerve on this. We will complete all the investigations by Christmas and continue to work as part of the Working Group.