

SUMMARY OF CEDR'S OBSERVATIONS ON POST OFFICE MEDIATION SCHEME: AUGUST 2015

Outcomes

Of the 20 cases that have taken place to date:

- 8 cases (40%) have been resolved, meaning a settlement has been reached
- 5 cases (25%) have been progressed, meaning resolution has not been reached but both sides have left with a better understanding of the other's position
- 7 cases (35%) were left unresolved

The settlement rate of c.40% is less than CEDR's averages (of 65-75%, with a further 10-15% being progressed). However, the sample size is relatively small, and furthermore, Post Office are agreeing to mediate in almost all cases, even where the prospect of settlement is slim.

Applicants' expectations

CEDR have observed that a number of applicants seem to have not understood fully the nature of mediation, and have also been influenced by the wider campaign around the Horizon system.

Some have therefore attended with the expectation they are going into a compensation process, rather than a dialogue. Some also appear to have mistakenly inferred that the offer of mediation indicates an acceptance by Post Office that it is liable to them, but that is not the case.

Clarity of issues

CEDR have observed that a small number of applicants have not been clear on the issues to be discussed in mediation – for example, bringing new claims or complaints during the mediation that had not been raised previously. Mediation is more successful where applicants can bring specific claims and evidence, rather than general allegations about Horizon or Post Office.

Some applicants have also not been prepared to provide evidence to substantiate their claims (particularly claims for compensation), and CEDR observe this can make mediation less effective.

Representation

CEDR have observed that mediations can be more successful when the applicant has legal representation. In some circumstances applicants have been unrepresented, or their chosen representatives have been outside the legal profession.

CEDR noted that subpostmasters who have not had legal advice or representation can come away with a negative view of mediation, which they may feed back to other individuals.

CEDR recommend that applicants are strongly urged to seek legal advice, and if possible to have legal representation at meetings. (Note that Post Office will fund the cost of professional advice for applicants for the mediation meeting, as well as reasonable travel/expenses).