

Confidential and legally privileged

Initial Complaint Review and Mediation Scheme

Managing expectations

Introduction

- Post Office is putting in place a Settlement Policy to control and ensure consistency in any settlements offered to Applicants.
- There is a concern that Applicant's expectations around the nature and frequency of when Settlements may be offered (in particular the amounts of compensation that may be paid out) is above the level envisaged by the Settlement Policy (**the Expectations Gap**).
- There is also a concern that the perceived expectation gap by the media and stakeholders (including MPs) is significant.
- This paper summarises Post Office's options for managing the Expectations Gap.

Options

A communication strategy could be employed to narrow the Expectations Gap. These communications could include (not exhaustive):

- Maintaining that there are no systemic issues with the Horizon system re-stating key facts and messages) and that Post Office does not consider itself as being at fault.
- Re-asserting that Post Office is looking for practical solutions (eg. apologies) rather than cash solutions (ie. compensation).
- Reasserting the need for value for money for the taxpayer.
- Asserting that Post Office does not envisage making significant compensation payments.

These communications could be deployed via:

- Media channels (particularly in response to media statements by, or prompted by, JFSA) and could include a pro-active statement by Post Office (should this be appropriate).
- Direct engagement with MPs in the context of routine engagement on this subject.
- Working with James Arbuthnot to manage expectations at the January update he wants to hold for MPs.
- Direct discussions with the JFSA (who can then communicate information to Applicants).
- Passing information to the Working Group (who will be making decisions on whether cases are suitable for mediation).
- Providing guidance to Applicants' professional advisors.
- Publishing Post Office's Settlement Policy.
- Once an Application has been accepted into the Scheme, engaging directly with an Applicant to manage their expectations.

Factors to consider

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- **Privilege** – the Settlement Policy is, and must remain, privileged. Disclosing all or part of the Policy is likely to cause privilege to be lost. There are therefore strict limits of what information can be disclosed.
- **The 'no-limit' nature of the Scheme** – having established a Scheme with no financial limits, and allowed people to apply on that basis, may attract criticisms of changing the goal-posts if we start suggesting limits publicly now.
- **Impact on Applicants** – A perception that Post Office is trying to limit an Applicant's freedom to raise whatever complaints they see fit could lead to criticism.
- **Impact on media / external stakeholders** – A perception that Post Office is trying to limit an Applicant's freedom to raise whatever complaints they see fit could lead to criticism.
- **Measuring the Expectations Gap** – at present, with limited information on Applicant's cases, the scale of any expectations gap is unknown. It is therefore difficult to determine a proportionate strategy at this stage.
- **Impact on the Working Group** -the Chair in particular may object to the Post Office seeking to manage expectations should this create tensions in the Working Group and effect his ability to maintain the collaborative nature of the Group. The Chair has already indicated that he wants to discuss relations with the media in light of JFSA's possible comment to Computer Weekly.
- **Evidence based decisions** – making public statements about Post Office's expected outcomes for the Scheme may appear to be pre-supposing or undermining:
 - the outcome of Second Sight's investigations into each case. This could result in Second Sight speaking out publicly against the Post Office and bring the carefully constructed Scheme into disrepute.
 - the mediation process.

Recommendation

When considering how best to proceed it is important to bear in mind that by its very nature, mediation is designed to support parties to find common ground and therefore is, in itself, a mechanism for managing expectations (and that process needs to be worked through without a preconceived decision seen to be made prior to the mediation day). In light of this, the recommended approach is:

- Do not disclose the Settlement Policy to anyone outside of Post Office in order to preserve legal privilege.
- Do not take any action at this stage, as such action would be seen as trying to manipulate the Scheme to achieve Post Office's purposes.
- It is suggested that the first step would be to engage with the Working Group and MPs / James Arbuthnot at the next available opportunity after we have investigated the first few Applications.
- In parallel, open a conversation with the Chair about expectations (when we have a suitable case to act as a trigger) to test his opinion on expectations. There is a possibility that he would, in any event, consider commenting on a potentially high value case, bearing in mind that he is likely to consider settlement through the lens of more established legal settlements.
- The media route will only be considered as a last resort and will be a consequence of cases going to the press or substantial, incorrect reporting