

**Telecon IRH RJW and Chris Aujard Belinda Crowe
December 5 2013**

(Conference introduction)

RON WARMINGTON: Hello Ian.

IAN HENDERSON: (Unclear).

RON WARMINGTON: Yeah, yeah. Okay, yeah, yeah.

IAN HENDERSON: (Unclear).

RON WARMINGTON: Yeah, I think so. It's the one with
GRO as the participant code.

IAN HENDERSON: Yeah (unclear).

RON WARMINGTON: Yes, yes, and I'm doing what I said I'd
do. Okay?

IAN HENDERSON: Say that again.

RON WARMINGTON: I'm doing what I said I was going to do.
I record it.

IAN HENDERSON: Okay (unclear).

RON WARMINGTON: Okay, right.

(Chris Aujard joins call)

CHRIS AUJARD: Hello?

RON WARMINGTON: Yes, Ron speaking. I think Ian's on as
well.

IAN HENDERSON: Yes, Ian's on.

CHRIS AUJARD: Hi Ron, hi Ian. I take it from that
comment you're not geographically proximate. Is

that fair comment?

RON WARMINGTON: Yeah, the word "think" would be the clue, yes.

CHRIS AUJARD: Where are you at the moment?

RON WARMINGTON: Ian's in his office and I'm in mine. He's in north London and I'm out in the Cotswolds.

CHRIS AUJARD: Right. So neither of you are affected by the severe weather that's coming in at the moment?

RON WARMINGTON: No, doubt -- doubt it will be. No, we got -- we're in pretty good shape here.

CHRIS AUJARD: Okay, that's good. You probably heard on the news this morning there's severe storms forecast fro all areas, including down towards where I live, GRO, actually, which is going to be fun, but ...

RON WARMINGTON: Well, we're getting some really strong gusts of wind coming past my office here, so I can feel it coming.

CHRIS AUJARD: Yeah, okay.

Thanks very much for making the time to catch up. I thought it would be useful following on -- we've had lots of meetings on cases, but I thought it would be useful to just talk for a moment or two, hopefully it won't take that long, on the question of the -- the engagement and, to a lesser extent but to an important extent, the fee.

The sort of background is that I know there's been a series of emails around the costs you're incurring and the resources you're having to deploy in order to do your job properly, and at the same time there's been quite a lot of, I think, concern expressed by Tony around things like data protection and other matters, and it struck me that now, now that we've got past the first stage of getting -- getting the applications in, it would be a good time

to sit down and put in place a sort of -- well, I can say, a more formal engagement, but perhaps just a letter, really, just setting out on -- for your benefit, and for our benefit, just what confidentiality issues are around your engagement, what data protection issues are -- which, just by way of an aside, I'm particularly sensitive to, having been in a previous organisation caught out very badly by the information commissioner. And indeed, in that bundle, to include a bit more around how you are charging, which, to be honest, is a little bit opaque to me at the moment, and also to clarify for both sides' benefit, I think, just the scope of the work you're doing, which -- so basically those are the things I want to kick around with you.

I think in terms of most of -- and, sorry, I should add to that that Rod has very helpfully given me a copy of, I think, a confi(?) agreement that you've signed a while back, which -- I think it, sort of, gets us quite a lot of the way there but not all the way there. So what I was hoping to do is sort of pick up, you know, the provisions in that, whack it into a letter, pick up the standard consultants' Data Protection Act wording, which Bond Dickinson very helpfully provided to me, put that in a letter, and then attach a schedule -- two schedules, so one just dealing with your -- the scope of your work and then just dealing with the fee side of things.

So probably the letter itself is -- it's got not much substance, unless either of you have any particular issues with data protection or confidentiality. You know, I don't -- I don't think you would but, you know, (unclear) the question at this point.

IAN HENDERSON: Chris, it's Ian here. I think it is worth revisiting all of this because I'm conscious that the nature of the engagement has changed. I don't want to, sort of, go back over ground that, you know, was covered quite a long time ago but, you

know, this started off as a quick review by Second Sight looking at a handful of cases, probably a maximum of 15, but of course that all changed when the MPs got more actively involved and we're now, you know, looking at potentially 147 cases.

So the scope clearly sort of changed very sort of dramatically. But actually the detailed work has probably changed quite a lot as well because the first phase of work was based on the concept of what became known as spot reviews. We pretty well sort of parked those --

CHRIS AUJARD: I would agree. And I -- and I think your point is a very well made one, that the previous work -- in a sense, I sort of held off on doing any of this until now, because a lot of the work that was being done to this stage would have been, to my way of thinking, slightly hard to describe. You were doing quite a few different things. Indeed, one of the things you are doing is just dealing with people who were, no doubt, getting in touch with you via your website asking for information. So, you know, you had quite -- quite -- not a disparate, that's the wrong word, but quite a diverse range of activities that you're undertaking, and indeed historically you're doing the spot reviews. So it would have been a bit messy, I think, trying to wrap all of that up at that stage. That was my thinking.

So perhaps we could agree with you that the focus should be not on saying, "Here's what you have done", but "Here's what you are now doing and here's what you will do -- what you are planning to do", or what, you know, we are thinking to do for the future. So, the focus on the future is probably the right way round.

Ian, an issue for me was trying to come up with a nice, succinct way of describing it. So, being a very unimaginative person, when it comes to this sort of thing anyway -- don't take it the wrong way, I'm quite imaginative other ways -- but I nicked an email that was flying around. I don't know who

prepared it, it may have been Angela or Belinda when the first case review went over, I think, (unclear) -- yes, it went over to you, and it struck me that sort of encapsulated very nicely your role and I -- so can I read I out to you and then you can perhaps leap in and tell me where I've got it wrong or what it's not covering, but there are a few key things here but obviously independence, I think, a key feature, so we need to get that word into the terms of reference clearly as much for our benefit as your benefit, and also, you know, so that you can, if quizzed by MPs, turn round and say: yes -- no, no, we were acting -- you know, Post Office are paying but we had an independent brief to do things independently as we saw fit.

So that was one feature of it.

The other feature that I thought was -- this email says you were to look at points of common ground between Post Office -- so in relation to case questionnaires that are submitted, you're to look at points of common ground between Post Office and the department of the postmasters -- subpostmasters, look at points of disagreement and, where there is disagreement on, sort of, you know, a fact-based approach, try to form a view and then to make a recommendation as to whether the case is suitable for mediation. That struck me as being the essence -- I'm sure there's more than that, but that struck me as being the essence of the work that you -- the challenge that you're currently faced with.

So, yeah, I put that out as a way of describing your activities, but, you know, happy to look at it and think about it in other terms.

IAN HENDERSON: I think that is right and, of course, the key document in all of this was the document and the FAQs that have been sent to all applicants, including a flow chart describing the whole process.

I think that one additional issue that has

arisen is we've taken on perhaps more work than was anticipated originally relating, frankly, to almost the administration of the scheme, and what we are trying to do -- and we just got off a call with Tony, sort of, Hooper --

CHRIS AUJARD: No, no, I was in the call, I didn't say anything. I was actually in the call (unclear) --

IAN HENDERSON: Well, as you heard, what we're trying to do is actually push a lot of that back to the Post Office --

CHRIS AUJARD: Yes.

IAN HENDERSON: -- and we will sort of continue to do that so, sort of, our added value is more specifically, if not exclusively, related to the substance of the matters raised in the CQRs and obviously the corresponding reports from the Post Office.

CHRIS AUJARD: I think that's got to be right actually because, you know, Post Office has many (unclear) -- but what -- one of them is actually there are people here who can do the administrative work relatively -- well, one, entirely cost effectively and -- I think more to the point, my concern is that the two of you are going to be faced with an absolute mountain -- or are faced with a mountain of work and I don't want to have the -- in a sense, your time -- it sounds wrong but I'll say it anyway, I don't want you diverted away -- or by dealing with, as I think you said, lots of interruptions on the phone because people are picking up asking you for administrative matters when, frankly, you can do much more valuable things and possibly meet our timetable, bearing in mind that we are as under as much pressure as you are to get this out the way.

RON WARMINGTON: Chris, Ron here, I'm delighted to hear you say that because, you know, if you've ever done any investigation work, you probably have, you know it is pretty cerebral and, you know, getting into

the flow of some of this stuff, trying to get to the bottom of really quite complex matters, often badly expressed, really is "please wrap cold wet towel round head and call me later" stuff. So the interrupts are very damaging and costly in that context.

CHRIS AUJARD: No, no, I agree -- I can see that, because one of the -- you know, I guess one of my approaches in reviewing the -- some of the work that Angela has done is almost to ask the question: well, what would I say about this if I were Second Sight --

RON WARMINGTON: Good.

CHRIS AUJARD: -- you know, actually? And sometimes it's hard, you know. It's -- I'm not sure I necessarily have the answers because -- well, in fact, I don't have the answers because it's not my skill-set, not unless it's a question that I have to ask myself before things go over to you.

Sorry, I actually agree that point. Sorry, there's one thing I should say which is slightly on the admin side. I do think that you have a very valuable role to play in interacting I think probably principally with Angela but -- and Belinda as well, over format and structure of reports that I'd very much like to -- in other words, if you see things that are going to make life easier for you or you see things where you think, "This has got to be a better -- there's a better way of expressing this", then I'd want to include that as part of your terms of reference, as it were, to come back and say, "You know what, this format could be" -- I mean, I'm sure you do that anyway but, if you don't mind, I'd quite like to build that into --

RON WARMINGTON: Chris, Chris --

IAN HENDERSON: We've already started doing that because -- and this was experience of -- partly built up during some of the spot reviews. We identified quite early on the need to sort of

streamline the work flow, and what we've got in mind as far as the mediation reports are concerned, our report is going to sit on top of both the response from the applicant, the so-called sort of CQR, but also, sort of, Angela's, sort of, report. It's not our intention to duplicate material that is adequately contained within those reports but much more, as you have indicated, to, sort of, compare and contrast and really, sort of, pull the issues together.

That may mean, in some cases, our report is actually going to be sort of relatively short. You know, what we've got in mind is that in some cases it may be as short even just two or three pages.

RON WARMINGTON: Yes, yes.

IAN HENDERSON: I discussed this briefly with Tony Hooper. He's got some reservations about that and I think when we get to that point, and we're only a few weeks away from that, we probably will need to sort of sit down and you know and discuss collectively the best approach.

RON WARMINGTON: Yeah, I mean, Ian, I think you and I have been on the same page for months on this. I would envisage our reports being between 2 and 10 pages, unless there's real exceptional circumstances, more frequently about the number you described, and where we are going to refer -- first of all, you can be sure that the mediators will want to read that report but also the two other components that sit underneath it that Ian's described, and my input is that they will read all that stuff. So, you know, size isn't everything in these cases.

CHRIS AUJARD: I would absolutely agree with that. I think in some ways it's harder to come back with a two-page report.

RON WARMINGTON: Much, much.

CHRIS AUJARD: It's -- sorry, it's going to sound wrong, but for the right reasons, that -- because in a two-page report you might say: I've done a lot of work and I've reviewed this and I actually -- there are five points where we can agree, there are six points where we disagree. The most sensible way forward on this is a mediation and, you know, here's how I might steer that mediation, sort of, you know, debate.

And that sort of -- that -- but that -- I know myself, from having worked an industry where you sell your goods by the hour, actually people look at that and say, "What? You know, you've only done that and you going to charge all that number?" But actually there's as much work, if not more work, in writing, coming up to that conclusion, a short report than a long report, and that -- I think as you will appreciate.

RON WARMINGTON: Oh, there's plenty of jokes about that, aren't there? Sorry, you know --

CHRIS AUJARD: (unclear) one of course is the auditors, you know, a one-page sign off on your financial statement and that's all they do. You know, their deliverable is one page.

RON WARMINGTON: Yeah, the old joke is the vicar that, after a two-hour sermon, says, "I'm sorry I didn't give you the one-hour sermon but I didn't have time to prepare that."

I mean -- but, Chris, just a quick interjection, which I hope is not tangential to the main discussion, the big challenge for POL, which I don't think is coming across in the first responses we're getting, is how you deal -- how you prevent me -- or Ian and I -- from saying something like this, to say: I don't know why you've bothered to try to get to the bottom of the individual transactional issues on 10-year old, 8-year old, 6-year old case now and why you've put in your text that you've been unable to defend yourselves, POL, in your report. Because

the data is no longer available, how that is going to avoid me saying, in response: Look, you've only got yourselves to blame. You know, the person flagged up these issues seven years ago, you didn't investigate them at the time and now, guess what, you find you can't investigate them now. How should that fall in terms of burden of proof on the shoulders of the appellant in this case?

That's the --

CHRIS AUJARD: Yeah, I know.

RON WARMINGTON: If you're not careful you'll be doing what they did in the spot reviews, which is, you know, you will get 600 pages of response to which my answer will be what I just said.

IAN HENDERSON: The other thing we will be saying is, if you look at the contractual relationship between the Post Office and subpostmasters and -- and together with that you look at what information was available to the SPMR, often it was impossible in reality --

RON WARMINGTON: Correct.

IAN HENDERSON: -- for the SPMR to resolve certain sort of issues if they arose, and what we are now finding is that POL failed to provide the level of support that was necessary that would enable the SPMR to resolve those issues. That, I think, is going to be a fairly common finding throughout many of these cases.

RON WARMINGTON: Yes. The most extreme examples of that are person raises issues concerning some of the issues that we know have -- have caused problems for many, or where people have experienced a lot of problems, let's say on scratchcards or power failures or whatever. They then get suspended without pay. They lose access to their own records, let alone any of POL's, and that's the end of it. So they are completely unable, both financially and in terms of resources and in terms of data

availability, unable to prove themselves innocent or to defend against a claim for funds under the contract, in many cases asserting that they didn't even see the contract until their lawyer contacted them, and -- and therefore unable to prove their own case and POL chose not to either. So --

CHRIS AUJARD: I think the challenge is a good one and I think that -- well, tending to recap, there's a challenge in terms of how can we, at this stage in the process, endeavour to structure things so that we get both the best possible result for all parties concerned and do it in the most time efficient manner or most effective manner. And I think, off the top of my head, I'm not sure I'd necessarily have an answer to -- to any of those challenges. I've had a few thoughts that have been (unclear) around there. So I suppose, I -- thinking it through logically there is an approach which could be taken in all cases along the lines of that, you know: there's been an assertion one way, there's been an assertion the other way, the evidence that you have seen supports either -- supports neither side nor does it disprove either side.

RON WARMINGTON: Yes.

CHRIS AUJARD: So it's one of those ones.

We, Second Sight, have conducted an evidence-based review of the facts put before us -- you can make, obviously, other comments about training or what have you, but -- and, you know, on the key things, actually, you know, the evidence there is neither supports nor affirms either way.

This then, and again I'm thinking out loud so correct if I get this wrong, is then is a case that should go through to mediation, absolutely, and the mediator should be made clearly aware of the limitations that arose on both sides in coming to a settlement on the facts concerned.

RON WARMINGTON: Yes. That's -- you know, that's -- so

in theory, and this is obviously what we're going to get to in this conversation, we ought to be able to say -- you would hope we would be able to say something like, look, provided we get -- in a typical case, if we get an incoming CQR from a combination of the efforts of the applicant and his or her adviser, and the second component being the POL report, we ought to -- you know, we ought to process that in three man-days, say, for argument, something like that, and therefore, the cost -- you know we can work it out. Bom, bom, bom, bom, bom.

Now at the moment, of course, it is -- somebody used the phrase in the meeting today -- quite difficult to forecast the future because if we get into that -- and I was alluding to this in what I said -- if we get into the sort debates we had and, frankly, mess that we had on some of the spot reviews -- you know, in some cases we were 200 pages into a document before we suddenly realised it was completely irrelevant. You know, that's terribly time-wasting and in fact it builds up a level anger that it's hard for us to dismiss from our minds and to come back to an objective state.

IAN HENDERSON: Chris, if I can just mention one further point which I think is causing unnecessary complication, and you may want to review this, sort of, internally within the Post Office anyway, is the whole question of suspension, which seems to happen pretty much automatically --

RON WARMINGTON: Yes.

IAN HENDERSON: -- on, you know, any case that has the potential to be sort of prosecuted. My concern is that whilst suspension is theoretically a neutral act designed to protect both the Post Office and the applicant, because of the way that the sub-post office is set up, it's anything but neutral. It usually results in, if they've got a lottery terminal, that being removed. It usually results in a loss of a viable sort of business. And what we are seeing is huge consequential loss

calculations being performed that are a consequence of the decision to suspend. And, you know, whilst this is probably outside the scope of what we are doing, I am quite concerned about the fact that suspension seems to be almost the default sort of position once a case is referred for investigation.

RON WARMINGTON: Yeah, Ian, on that point, you get this -- it's not even good use of English -- you get the investigators arriving and saying, "We're going to preventive suspend you." I think that's the term they use. And it just seems to be a natural way of carrying on, which then -- you know, you get to the motivation word, Chris. What happens then is the motivation of the investigation team to reach a quick conclusion vaporises, that they don't have any commercial --

CHRIS AUJARD: I can sort of see -- from the way you've described it I can see the (unclear) that flows through of the order of events.

RON WARMINGTON: Well, I mean, I was global head of investigations for two of the world's biggest companies for two decades. I can count on the fingers of one hand the number of times we suspended without pay, and we were handling 3,000 cases a year or more. So it was unheard of. And to have an investigation that lasted, you know -- actually, you know, where a decision was not made in terms of the culpability of the principal suspect within three months was also unheard of, you know.

CHRIS AUJARD: I think in relation to those bigger macro issues, you know, I would -- I would -- you know, I'm new at the Post Office, but I've certainly -- the Post Office is cognisant of macro learnings from -- you know, from this exercise and, you know, I'm sure factors such as the one you've mentioned about -- you know, the analogy of suspension without pay is a good one actually to bear in our minds as -- well, as the Post Office goes through that exercise.

So that's -- I don't -- I think you can -- I think they are useful observations. They're probably ones that affect, to my way of thinking (unclear) our way, it's just it's outside the scope of this project, because the project, as I understand it, having come into this -- into the -- very, very late in the day, now -- what -- is now very focused on a process, and the process is to make sure that those people who have put in applications and submitted their case questionnaires have the right thing done by them, which I think is going to take that through to the mediation stage, and therefore my -- my -- I'm very, very focused on taking -- making sure that people get through to mediation, that investigations are done to the right standard, and that you -- you collectively are placed in a position where you can actually do what is required to move it on to the next stage. And I don't -- sorry, that sounds like an unduly narrowly focused on --

RON WARMINGTON: No.

CHRIS AUJARD: I'm very conscious that for a lot of people time is important, so have entered this process so they (unclear) very little (unclear) and I don't want to be in a position where we end up in July next year and there's still people who are dangling around.

RON WARMINGTON: Well, Chris --

CHRIS AUJARD: My current focus is on moving it forward. But I think the points you have made are ones, you know, which actually I absolutely will relay on to the right people.

RON WARMINGTON: Yeah, I mean, to some degree the amount of -- you could think -- it could be easily thought that the amount of time we will take in responding to POL's reports will be somewhat directly proportional to the degree of defensiveness in POL's stance, which to date has been more defensive than any company I've ever come across in my life. It

has been totally -- total denial that there was anything wrong at any point, not just with the POL software but with any of the surrounding operational processes, people, practices or whatever.

By the way I used the term "preventive suspension", the term is "precautionary suspend". "We're going to precautionary suspend you." It's used multiply in language.

But coming back to the point, if POL is defensive to the point of, sort of, producing vast reams of paper without pointing out why any of these documents are submitted, I'm duty-bound to review them, which is going to chew up time, but at the end the degree of defensiveness is probably not going to have an effect. The quantity of paper is but, you know, would it make a difference if POL said something like: yeah, actually, although we never committed to carry out any investigations and it was never funded to do that, we can see that, you know, there have been investigation -- investigative work that perhaps should have been carried out wasn't. Had that happened we might have discovered system improvements, process improvements, found out the root route cause of some of the shortfalls, not actually taken people to court for the losses, and we -- you know, we could see that point.

Of course, the ramifications of that are enormous. The cost of that decision is enormous. But, on the other hand, fighting it if it's true will get us into a lot of cost -- get POL into a lot of cost, will drag things out, and actually might backfire much more seriously than would some early concessions.

You know --

CHRIS AUJARD: I'm not sure that -- I can understand what you're saying but for the fact that the standing instructions in the investigation team --

RON WARMINGTON: Yes.

CHRIS AUJARD: -- is to produce a document with facts in it.

RON WARMINGTON: Yes.

CHRIS AUJARD: And the reason it's done that way is, firstly, it was agreed by the working group that that's what they do, so that seems sensible. It's also to stress to them that they had to be independent in their approach, you know. You know, obviously they all have -- they have to be independent in their approach.

RON WARMINGTON: Are you talking about us? Are we talking about us, Chris, or the --

CHRIS AUJARD: No, I'm talking about our internal investigation team.

RON WARMINGTON: Oh, yeah, yeah, right, okay, yeah.

CHRIS AUJARD: That's the bare, very strong standing orders, if you like. Therefore, they are producing a document which has in it a series of facts. The reason it's done that way is that, as I've understood it anyway, and I think I've taken my leave really from what was here when I came in, the refrain, the next stage in the process is to say, on -- in these facts that have been produced -- by both sides, so both the subpostmaster and by the Post Office -- is there -- is it something which is amenable or suitable for the mediation process, bearing in mind this is not a court process where one party is arguing one way, the other party is arguing the other way. The purpose of the mediation process is to get an agreement between the parts and some form of closure or settlement or whatever you like to describe it.

So to your point about being defensive, in a sense that's a slightly -- that's not the -- that's not the -- it's the reason for which people are -- (unclear) that's neither -- you know, it just

represents the facts and that's, in a sense, defensive and offensive -- or defensive and whatever the opposite is in the --

RON WARMINGTON: Yeah, yeah, Chris, I'm absolutely on board with what you say, I don't have an issue with it, other than -- first off, one of the core -- there are some core issues here which have -- have infused everything.

The first of the two top core issues are -- the first is risk acceptance decisions have been made by POL where POL accrues the benefit but the risks fall on the shoulders of the SPMRs, and they don't even know they've got those risks. Okay? That is a -- that is a business model which is so deeply flawed it should have been picked up years ago, okay.

I can elaborate on that if you wish but when POL decides what controls and preventions it's going to put in place on foreign currency dealings, on ATMs, on various processes that are deployed, it can willy-nilly take the decision to roll something out which is going to put the SPMRs at risk in the safe knowledge that it will receive the benefits of the shortcut and the subpostmasters will carry the can on it. And that has happened.

Now, that itself has led to the situation where the investigation function, the POL security team or the audit team or whatever they were called, has never been held to respond -- it's never one of its triggers to respond to pleas for help from the subpostmasters. It's written out of the contract. The contract says the only time the investigation team will be deployed is where it suspects crime.

So unlike all big companies -- all other big companies in dealing with their staff, where the staff would have a call on the investigation function, that has not been the case.

Now, that has carried forward to when those first interviews take place in the branch and the

person saying, "Oh, I've been telling the Helpdesk for the last six months that I've got this bloody difference -- these differences arising, I think it's down to the scratchcard problem."

And all that's been happening is the investigation team has been saying, "So what did you do in that six months?"

"Well, I carried it forward because the Helpdesk said the problem would go away, it would sort itself out."

"Well, exactly how did you carry it forward?"

"Well, I pretended I'd got the cash in the till."

"Ah, so you've committed false accounting, right, thank you, closed."

Literally you can hear the book being slammed shut and that's the end of it.

Now, that is ever so serious, because the investigation teams did not -- I have to tell you, I've listen to so many recordings and transcripts, I know that what I'm saying is truce. What that meant is that either POL proceeded to civil asset recovery or, worse, to criminal prosecution without the underlying factors having been investigated.

Now, that is bloody serious, because it would be a criminal offence to not yield up to the defence evidence that might undermine the prosecution. It is a moot point as to whether failing to investigate in the first place constitutes a similar offence.

And the fact that POL has carried out its own prosecutions meant that the safety net of having an independent body such as the CPS review the adequacy of the investigation that went into -- leading to the charge has meant that POL has acted basically in a way that -- where it could be accused of having

misled the courts.

It's as serious as that, Chris.

CHRIS AUJARD: There's a lot -- you've put forward a lot of --

RON WARMINGTON: Well, I've put all this in a report by the way. I don't know if Susan shared it with you, but she asked me --

CHRIS AUJARD: No, no, I'm sure you shared it with Susan Crichton in the past and -- you know, how it is. Those -- those issues, whatever they may be, and whether --

RON WARMINGTON: Well, it is fundamental to -- almost every case is impacted by that point.

Ian, you have come to this later than I have in the sense of -- I think I reached this position probably three or four months before you --

CHRIS AUJARD: In a sense, that's good for your purposes --

RON WARMINGTON: Yeah.

CHRIS AUJARD: -- that background knowledge that you may have formed in connection with other (unclear) --

RON WARMINGTON: Yeah.

CHRIS AUJARD: -- my focus, as I said about -- a few minutes ago, is really now on taking it --

RON WARMINGTON: Yeah.

CHRIS AUJARD: I'm dealing with the -- each case as it comes through.

RON WARMINGTON: Yeah.

CHRIS AUJARD: So the macro -- macro issues are another pot. They're not in my pot, they belong to other

parts of the organisation, and I can see through some of those spots on this call into that pot or pick up your thematics sheet and use that as a piece of -- you know, an input to it, maybe, but the pot I am charged with looking after, and I think the pot that the working group is charged with administering, collectively, is to deal with the proper processing of the applications as they come through.

So, in a sense -- you know, I don't want to sound rude, but maybe it does sound a bit rude, is actually I'm very, very focused on the -- on each individual case as it comes through and what each individual case is doing, and to make sure that -- to the extent possible, that the facts relating to each individual case are unearthed internally --

RON WARMINGTON: Yeah.

CHRIS AUJARD: -- and then -- in a -- what I hope is a sort of neutral manner, not, you know -- not (unclear) another side there, with a view to answering the principal question which I think needs to be answered, which is: is there stuff here that is going to take us -- it makes it suitable for mediation? And during that mediation process itself one suspects -- but I don't know for sure, one suspects -- that a lot of these other issues will follow up in the room, because people will, you know, have (unclear). And they might not have all the views that you have, by the way. They might have different views or different angles on things or what have you, but that's their -- that's the purpose of getting them together.

So I'm not -- don't get me wrong, I'm not (unclear) -- talking to you and hearing what your views are on various things, that is definitely -- you know, that's helps us to know that you have been through this process and that you have yourself formed views. What I'm saying is, for this purpose, I'm -- really want to make sure that we do -- we do justice by the people we're putting into the scheme

and make sure that we deal with the applications on the basis of the facts that they're putting forward.

RON WARMINGTON: Yeah, just one quick --

CHRIS AUJARD: (Unclear) actually (unclear) a last bit --

RON WARMINGTON: No, no, no, no, that's not -- I didn't -- look, we're big boys and tough boys, we've dealt with lots and lots of really tough situations over the years, so this isn't tough at all.

What I'm interested in Ian's comment on is the blue chart, the famous flow chart, says that what we're trying to do is to produce a case review and a recommendation of whether the case is suitable for mediation.

Now, what Tony Hooper was looking for -- Ian, correct me if I'm wrong, because you were quite keen to learn what his expectations were in respect of our reports -- he's indicated that what he's looking for, I think -- you fill in the gaps -- was something which was much more opinionated than we were expecting it to be in terms of who's got the better case here.

What did you get from the -- not today's meeting but the prior meeting where this came up?

IAN HENDERSON: Yeah, and Chris, just a bit of background, Tony Hooper, sort of, phoned me probably about ten days ago and spent probably 20 minutes explaining, you know, how he saw the mediation, sort of, scheme working, and emphasising the importance of Second Sight's report, and he described it as being akin to a judicial finding.

You know, clearly it's going to be evidence-based and so on but I think he wants us, within those reports, to very clearly, sort of, come down, you know, one way or the other, and that clearly has the potential to be very significant in terms of how the mediator then deals with that.

RON WARMINGTON: Yeah, otherwise, Ian, we would have a one --

CHRIS AUJARD: (Unclear) your work and the mediation effort, both process -- both parts of the process, isn't it, because clearly, you know, forming a view, an evidence-based view, whether it's suitable for mediation, identifying points of common ground, et cetera, it requires quite a lot of work actually, but to go and actually produce a judicial -- a quasi judicial opinion on something is -- well, there's a liability issue as well, obviously, you know, which is -- it he's (unclear) an expert witness, you know, he was standing up there saying, "I believe this to be the case." I wonder -- I hadn't picked that up, sorry, I picked that up from Tony, and I'll -- it may be that I should give him a call at some point in the next few days and say, "Tony, we're about to embark on a very substantive exercise" -- it's a very substantive exercise, let's not kid ourselves --

RON WARMINGTON: Yeah, yeah.

CHRIS AUJARD: -- "on both sides, and -- but we need to be really clear about the end game and have a separate specially called working group meeting if needs be."

IAN HENDERSON: Chris, what I've already suggested is, you know, rather than just deliver a Second Sight report to the working group, as we get close to that point we want to actually put our draft report probably for the working group or a sub-set of the working group and actually use that as very much a sort of a learning opportunity --

CHRIS AUJARD: Yeah, yeah.

IAN HENDERSON: You know, to -- is this addressing issues and expectations? You know, does it need more, sort of, detail? Is it helpful to the mediator? And so on.

CHRIS AUJARD: Yeah, no, yeah, and I think that would be a useful -- a very, very useful exercise actually. I think -- there's no point at this stage -- we're frankly, you know, all up against it in terms of the sheer wall of work that's coming our way but we just can't afford to waste --

IAN HENDERSON: Can I just mention one other thing? I mean, the overall objective is to reach closure, you know, relating to as many cases as possible. However, so far, nobody has really identified the most significant risk factor that could well prevent closure occurring, and that is, when we get to mediation, and I think the majority of applications that have come in, you know, will head in that direction -- you know, there's clearly some that will be resolved before that and we've had some early successes, you know, with Angela's team and so on, and there may be some other, you know, small number items, you know, where the financial amounts, sort of, being claimed, you know, can be resolved in other ways, but the vast majority of cases I expect we will recommend that arbitration is appropriate.

What nobody can anticipate, however, is how, for want of a better word, generous or otherwise the Post Office will be during the mediation sort of process, and that, to my mind, is the biggest risk in all of this. There is a very clear expectation by many applicants for -- the outcome that they are looking for is financial compensation. What we haven't sort of highlighted so far are the magnitude of some of those numbers. But, you know, you have got the applications. I think the largest number that I've seen is in the order of £5 million. But I am very concerned at the potential expectation gap between the applicant and, at the end of the day, what Post Office may be prepared to do in order to achieve closure.

CHRIS AUJARD: I think that's a very helpful comment because that's -- I mean, that's clearly something that, you know, the Post Office -- the Post Office

itself has to look into. You know, at the end of the day it's our money and our risk but that does -- you know, it's useful that you'll pick that up as well.

IAN HENDERSON: I'd go even further than that, and this is not a discussion that we need to be sort of part of, but I would strongly suggest that Post Office maybe on a worst case scenario, you know, does look at the numbers involved and perhaps internally, you know, makes some sort of, you know, board level decision as to how it may respond, and if at the end of the day there is going to be a huge gap between what applicants are look for and what Post Office has got to offer, frankly we almost need to sort of question whether this whole process is the best way to move forward, bearing in mind the overall objective, which is to achieve closure.

You know, the worst outcome for everyone is for, you know, all of us to chew up a lot of time, cost and energy and effort and at the end of the day fail to reach a satisfactory conclusion by way of mediation. If we're not going to achieve that, you know, maybe the best thing is just to pack this all in and allow, you know, litigation, you know, to proceed, bearing in mind --

CHRIS AUJARD: I think I'm going to surprise you, as a lawyer I'm never in favour of litigation.

IAN HENDERSON: Very wise.

CHRIS AUJARD: Never in favour of litigation. My very strong sense, actually, is, you know -- I think what you're saying to me is proceed with care for some very tough discussions in the mediation process and also be prepared for the fact that actually you won't get there on some of them, and, you know, that's sort of useful.

RON WARMINGTON: Yeah. I mean, although he's far too astute to hold the pistol to anybody's head, Alan's made it pretty clear that he's got his finger

hovering over the big red button that says, you know, neutron bomb and, you know, if the first few mediation hearings after all this work turn out to be completely -- you know, they get stonewalled and nothing -- no satisfaction to, you know, the applicants or him, I think he will be -- find it very difficult to resist slamming his finger down on the button. And that would involve a walk-out and the whole process would evolve into an acrimonious mess, which POL would be -- wish it had never started. I suspect.

So, Ian -- I'm glad Ian's raised that point. It is the elephant in the room.

CHRIS AUJARD: It's useful to have those -- as you know, useful to have those discussions now rather than actually get halfway through the process and have them. So, you know, I think what you have flagged up to me, which again I -- I take it this is your -- as external consultants, you are looking at this, you're saying, "Chris, just be aware of the expectation gap and be aware that, you know, you get into those mediation sessions, when you're sitting around having the mediation, that there is a bigger -- a wider implication beyond each individual mediation", and that's, you know, that's actually -- you know, that's those thoughts.

I wouldn't have said -- and from where I sit there's absolutely every single reason, now, to go on and continue full steam ahead with the mediation. And, you know, one of the ways I think of dealing with some of the issues you have identified is -- is to make sure (a) we do our investigative report properly and thoroughly, and (b) we sort focus in on the facts.

Because my concern is around each individual case and to make sure -- I will consider the job well done if I can say in each individual case we gave it our best shot, you know? We did what we could, we reviewed it the best we could, we weren't agreed in all cases but that -- so we know that to

be the case, but -- and -- and as -- Second Sight can facilitate that process by making sure that, you know, when it gets in front of the mediation at least we can say -- give the facts -- you know, "Here are the facts, here are the (unclear), here is what the views of the various parties are"; at least that gets people into a room and gives the possibility of closure.

RON WARMINGTON: Yeah, I mean, Chris --

CHRIS AUJARD: You (unclear) points are really well taken --

RON WARMINGTON: Chris, what -- you know, at the risk of upsetting people of a certain origin, I used to use the expression, I'm not allowed to anymore but I'll use it now, you know, I used to say to my investigators, and there were 110 of them round the world, you say, you know, "I want this to be understandable in ten years' time by an Australian truck driver."

You know?

CHRIS AUJARD: Pretty much, I'm GRO --

RON WARMINGTON: And preferably after he's had ten pints of Fosters. In other words, a sort of judge or mediator that is going to be an audience for this stuff is really not going to be very generous, I think, to documentation which has them -- his or her dancing all over the shop saying, "Well, what the bloody hell is the relevance of that? I mean, I've just read through 100 pages and it's completely bloody irrelevant."

So our reports will be designed that way, as our interim report was. You know, we've had a lot of people say, "Gosh, this is the first investigation report we've ever seen coming out of Government that we can understand on one reading without going back over it again."

That's how the stuff has got to be, and some of the quality of the reports coming in from the external advisers, the professional advisers, are up to that standard, sadly not all of them, and if POL's stuff isn't, it's going to not be very helpful to POL's position.

CHRIS AUJARD: And we'll make sure that the, you know --

RON WARMINGTON: By the way, lest you consider that this is in any way undermining Angela, Angela is the best person that we've had to deal with at POL, bar none. She is truly knowledgeable about the process. She has a sense of what -- right and wrong, she deals with people very well, she's a good manager. I mean, she's a very class act. But, you know, she's POL through and through and has been brought up in the defence of the mothership and is bound to be -- particularly if she is being charged with being one of the principal defenders of the faith, she is going to be rather hampered in what she writes by her sense of loyalty to the corporation and her sense of trying to, kind of, fend off everything.

CHRIS AUJARD: My standing orders to her and the standing orders to the whole team are, you know, this has got to be independent and thorough. You know, you've got to get to the facts.

RON WARMINGTON: Good.

CHRIS AUJARD: There's no point in doing the exercise if you don't get to the facts and, you know, it's -- just put them out as you -- don't spin anything in one way, the other way, just put the facts down --

RON WARMINGTON: You see, when we get to -- I'll tell you a good case to look out for. When you Alison Hall case, which has got the indomitable, powerful Mike Wood MP behind it, firing on all cylinders, sharp as a tack that guy, GRO
GRO when that case comes in, the key question is going to be: why did the investigation team proceed to a prosecution for false accounting

when the underlying cause for that, without much doubt, was that she got in a complete mess over scratchcards, when POL knew that there was a huge problem with reconciliation of scratchcards, and yet it doesn't seem that either the investigation team and the prosecution team knew that, or if they knew about it they didn't cut her any slack because of it. That's what my report's going to have to address. And it's really serious because it's potentially an unsafe conviction.

IAN HENDERSON: Just building on that, Chris, the other feature that is going to be in a number of our reports, I expect, is the failure to identify the root cause of the various sort of deficiencies. We are consistently seeing prosecutions that are focused on the false accounting sort of issue with no regard for actually identifying what has caused the deficiency in the first place --

RON WARMINGTON: And often backed, Ian --

IAN HENDERSON: Just one further point -- and what we are seeing is the information that would enable an investigator to do that lies exclusively in many cases with POL, and the failure to do that at the appropriate time has actually, you know, made matters far worse than it should have been.

RON WARMINGTON: And Chris, just to pile on the agony, and this is unproven, but some of the stories that are coming in are unbelievable. I mean, hopefully they are unbelievable.

CHRIS AUJARD: No, no, it's undoubtedly the case that there is a lot of individual distress associated with --

RON WARMINGTON: Yes, in many --

CHRIS AUJARD: (unclear) because I don't know --

RON WARMINGTON: Well, in many cases there was the threat of a theft charge which was lifted as part of

a deal -- a sort of courtroom steps deal, where the condition was: we won't proceed with the theft charge (by the way, we wouldn't have had the information, the evidence to win anyway) as long as you plead guilty to the false accounting and as long as you refrain from saying anything in your defence, particularly anything to do with a criticism of Horizon.

Now, that -- and in one case a Legal Aid barrister that was -- completely fabricated a story and trotted it out in court that wasn't true, as to the woman stealing -- which she hadn't -- in order to support her cancer-stricken mother. So, you know, there are some -- potentially horrible stuff that will be coming out here. And, you know, our role in that -- don't for a moment think, Chris, we haven't -- you know, we're immersed in this, totally immersed in this. And, you know, the good news is that we have, now, encyclopaedic knowledge of all -- not only each of these cases but -- but all of the cases collectively, because each builds on -- many build on and some undermine the case of another, but it's a tough situation for crying out loud.

CHRIS AUJARD: Which brings me back, I think, to --

RON WARMINGTON: The main topic. Yes, I understand.
Sorry.

CHRIS AUJARD: The focus has got to be on the facts of each case and --

RON WARMINGTON: Yeah.

CHRIS AUJARD: -- there will be hard cases, there's no doubt that, but there are also -- you know, there will also be cases where actually they should be relatively quick and uncomplicated.

RON WARMINGTON: Yeah, we actually want --

CHRIS AUJARD: I sincerely hope that to be the case.
I know you are painting a very black picture --

RON WARMINGTON: No, no, but there are some chancers. We recognise some of those.

CHRIS AUJARD: You know, the key -- the key is that, you know, all you can do and all we can do is do our job professionally and make sure that we look at the facts as they are presented and then report on them and go into the mediation process with an open -- all sides -- mind --

RON WARMINGTON: But at the risk of you being really irritated with me, and I appreciate you would be, some of the facts are not going to be ascertainable. You know, if somebody has had a £30,000 shortfall that's built up over the case of a year and a half and they have no idea how it came about but they have, on reflection, sort of realised that they were having problems with some of the areas where others have had problems, you're not really dealing with facts now, you're dealing with an impossibility to distinguish between what might have been a theft by a member of staff, or even by the person that's pretending they didn't steal -- it's going to be very difficult to get to the underlying facts.

If somebody's wife dipped her hand into the till while he was having his sandwiches and took 30 grand out of it, that would be a mysterious difference that would look exactly the same as somebody having come in to draw money out on their debit card and it was processed as a credit instead of a debit.

CHRIS AUJARD: No, I agree, your point is --

RON WARMINGTON: So, you know, let's not kid ourselves that we're all --

CHRIS AUJARD: There will be -- in circumstances in which we -- on the known facts we can only say so much.

RON WARMINGTON: Exactly, exactly.

CHRIS AUJARD: I think that is right though, I think that

is the spirit of mediation, if I haven't misunderstood what's been explained to me painstakingly to me as if I was a 5-year old child, because I've had no experience of mediation in prior lives, that this is the point of mediation. The point of mediation that has been rammed into me, if you like, almost, is -- is you get kind of intimate(?) with the ascertainable facts.

RON WARMINGTON: Yes.

CHRIS AUJARD: There might be pressure on both sides -- on both sides -- in opposite directions, but the mediator's job is to keep on bringing them back down to the factual base, which -- I think it's more important for your work to keep that focus on the facts, though I do hear -- and it's been a very useful conversation to hear, you know, first-hand, if you like, the other issues that you think are swilling around out there, that somehow, you know, Post Office needs to accommodate and to address. I don't have -- I'm afraid I don't have an answer for you on any of those at the moment because my focus is very much just on this mediation and getting us through from where we are today to where we are at the end of it.

RON WARMINGTON: Well, we -- you raised resources --

CHRIS AUJARD: We agree -- don't get it the wrong way round, actually, even though you -- you've raised some -- I think more to the point you've alerted me to one or two potential bear traps, which is always much appreciated.

RON WARMINGTON: Yeah, well, you know, on --

IAN HENDERSON: At the beginning, Chris, you said that you wanted to discuss some other matters with us. You know, data protection, confidentiality --

CHRIS AUJARD: I think, Ian, you know, it's just the standard data protection wording which I've whipped from a document that's been sent to me by my good friend at Bond Dickinson, and also some -- which is just standard wording. The only other thing that is

of -- I think it's relatively straightforward -- I'll tart it up and send it over to you or get it tarted up and send it over to you. The only thing that I think is sort of material is your workload. So my challenge to you is, you know, we are relying on you -- everybody is relying on you to process cases as expeditiously as possible, and -- that's the first point.

The second point is actually the charging structure. And I've got to say, I wasn't a party to any discussions you had, obviously, with Susan Crichton, but I believe that you put an hourly rate to her. My challenge, certainly at this stage, is for you to think about how you can best start this up internally and best come up with a fee structure that's going to mean that we don't spend, you know, £400,000 on getting reports prepared, which frankly would be, you know, I think, just a waste of time, actually. It -- I would rather, as I said -- so -- so my challenge to you currently is I haven't myself come to a landing on -- on what the best way to do it is, because I'm not close to it. You will have done that. I think -- you know, I did hear a suggestion that you are thinking of putting in someone who is more junior that could be charged out -- charged at a lower rate. Can I leave that with you and I will therefore leave that schedule of the --

RON WARMINGTON: Sure. I mean, as it happens --

CHRIS AUJARD: I do want it done properly but I do want it done as cost effectively as we possibly can in all the circumstances.

RON WARMINGTON: Well, just a quick coverage of a couple of those points, we'll deal with them in more detail.

Ian and I., our normal charge-out rate is much higher than we've charged POL, because we recognise that this is a big slug of work. So we actually reduced our fee rate in order to kind of share the

pain, but we are charging £150 an hour. Now that's the same -- that's the rate of a junior lawyer and it's the rate that we're paying the -- pretty well the rate that we're paying these professional advisers. I have been turning down not only a full-time senior assignment but much higher paid fee rates. I'm an ex-trader, ex-investigator accountant who is an ex-derivatives trader, so you won't be surprised that I was approached to do one or two of the big current trading-related investigations at very fat fee rates. Obviously we're turning down everything in order to stick to this case. So I'm not going to be reducing my fee rate any more on an hourly basis. As it happens, both Ian and I cap the amount that we charge in a day, even though on this, covering admin of the scheme, several days we were working, like, 12-hour days. I've never, ever charged that much. We don't charge for travel time or charge half rate if we're working on travel. I've got this guy called Pandit, who's will cost me all of £25 an hour and to whom I'm going to delegate some of the work. He came recommended by Alan, he's a competent guy. Angela thought it wasn't necessary because she's got her own people, but I do need somebody independent and I think it's wise to get him involved and take work load off Ian and I at, you know, a much lower fee rate.

We've also got another investigator, another top, top guy, available in our company, but -- and we're prepared to have him read in to the file, but more in the nature of backup to us. It literally is going to take too long to get anybody else up the curve to help on this exercise but he could help us with the report writing and so on. It's a guy called Chris Holyoak, he's on our website, he's an ex main board director of European Bank, qualified accountant, absolutely top notch guy. But I would be -- I mean, he'd be charged out at the same rate as Ian and myself, so it would only displace time. But I would be prepared to get him to read in to the files, if you give permission for us to allow him access, free. I wouldn't charge for any of that

time.

CHRIS AUJARD: Why don't you ping me over your thoughts on how you can most effectively do that, so rather than do it over the phone. That's probably the way to go, I think.

RON WARMINGTON: Yeah.

CHRIS AUJARD: I appreciate this will take time. I also know I am - as you'd expect from every organisation, every big organisation, I'm constantly pressed on time, when am I going to deliver, and I'm constantly pressed on budget. That's just the way it goes. You know, I've got no -- you know -- but that said, I know how much work this takes, so -- I don't want rush you, I'd rather you thought about things sensibly and you came up with a structure (unclear) --

RON WARMINGTON: Yeah.

CHRIS AUJARD: -- and that work is split out sensibly to the, you know, cheapest person and what have you, rather than rushing into it. So perhaps I shall just leave that with you for the moment and, you know, then either pick up the phone or ping me an email --

RON WARMINGTON: Yeah, the sad news is that we've been through that big admin bubble where Ian and I have not really been doing work as investigators, but --

CHRIS AUJARD: I'm very keen that your time is not distracted, you're not distracted.

RON WARMINGTON: Well, it has been, but on the other hand it's hard to see how that would be done very much differently, but it could have been done more cheaply.

CHRIS AUJARD: There we are, you know, I can't --

RON WARMINGTON: Okay.

CHRIS AUJARD: Thank you very much. I'm, as you might expect, rather overdue for a --

RON WARMINGTON: Yes, I got that.

CHRIS AUJARD: But that -- I think that was a useful discussion. For my part, as I say, you know, I'm keen on getting this process through to the end. I will take an action at some point, certainly pick up the phone to Tony to -- just to clarify that, because, you know, people soon start to matter quite a lot, what his expectations are as regards the report, and it's good I think we ought to be aligned sooner rather than later as to what that is.

My -- and I think I made a note of all the other things you said as well. So that's a very fulsome discussion.

RON WARMINGTON: Well done, Chris, thank you very much, sir.

CHRIS AUJARD: Okay, thank you. I'll catch up in due course, no doubt.

RON WARMINGTON: Very good.

IAN HENDERSON: Thanks, Chris.

CHRIS AUJARD: Okay, bye.

(Recording ends)