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INITIAL COMPLAINT REVIEW AND MEDIATION SCHEME

WORKING GROUP

14 January 2015

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FACE TO FACE WORKING GROUP
14 January 2015
Matrix Chambers

Agenda

1. Minutes of 08 December meeting
2. Email from Alan Bates
3. Scheduling of proposed face to face meetings in 2015
4. Structured Discussion
5. Standing case agenda:
 - 5.1 Priority Cases
 - 5.2 Bankruptcy Cases
 - 5.3 Post Office Investigation Progress
 - 5.4 Cases with Second Sight to review PO investigation reports
 - 5.5 Cases Second Sight have reported on
 - 5.6 Cases where the Working Group has made mediation recommendation
 - 5.7 Queries from applicants/advisors
 - 5.8 Cases for decision.
6. ROB
 - a) Second Sight do not recommend mediation:

M017, M116
 - b) Second Sight recommend mediation and POL does not agree:
M001, M041, M046, M090, M120
 - c) Second Sight recommend deferred mediation:

N/A
 - d) Second Sight recommend mediation and POL agree:

M008, M025, M032, M036, M067, M121, M132, M135
 - e) Second Sight recommend mediation, POL agree, but Second Sight recommend that mediation is deferred pending their Part Two Report:

M024, M034, M051, M059, M133

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AGENDA ITEM 1

Minutes of the Last Meeting

Kay Linnell has commented on the minutes in advance:

"Just one comment re the minutes at 6a) I altered the current 10 days (2 weeks) to a longer period of up to 4 weeks dependent on the volume of cases being reviewed at any one time for discussion where Second Sight had NOT recommended Mediation. This was not a "requirement" just a possibility - does this need amending in the minute?"

We can accept an amendment to the minutes.

The wider point is that JFSA are finding multiple and cumulative reasons not to discuss any cases preventing Scheme progression. This point is probably best tackled under agenda item 2.

CHRIS – (YOU MAY WANT TO ADDRESS THIS IN THE MARGINS AHEAD OF THE MEETING OR IF NOT RAISED)

At the last Working Group, Tony asked Post Office to look again at its approach to mediating criminal cases. Lines to take:

- I have looked at this issue again and will write to you shortly.

If needed / pressed

- POL looks at every case on its merits, including criminal cases.
- In fact, POL has agreed to mediation in the case of M021 and M051 which do involve a criminal conviction.
- There are some cases that POL does not believe should be mediated but our approach to M021 and M051 respectively demonstrates that each case is treated on its own merits.
- However, POL is unlikely to agree to mediation where the facts of the complaint fall entirely within the matrix of facts which formed the basis of a prosecution.

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AGENDA ITEM 2

Message from Alan Bates

Alan Bates sent the following email to the Secretariat:

With regard to the two cases that you want to discuss at next week's meeting, we are somewhat reluctant to do so at this time. Reason being, that at the Adjournment Debate in Westminster Hall on 17th December (if you have not yet had a chance to see it, you can access it via the Media page of the jfsa.org.uk website) many concerns and queries were raised by MPs to your Minister with regard to cases being discussed at the Working Group meetings. Until such time your Minister has responded to the MPs on those points and others put to her in a letter from JFSA after that debate, it might be prudent for the Working Group not to discuss cases which involve decisions being taken at the Working Group meeting while the whole process is currently under consideration by the Minister.

Realistically, until the views of the Minister are known and conveyed to the MPs for their comment, I don't think it is advisable for the Working Group to be making any decisions affecting cases.

I would be obliged if you would circulate our views to the others for consideration.

Post Office Position:

- **We do not agree with Alan's suggestion.**
- **One of the principal complaints expressed by MPs and others is the length of time it is taking for cases to progress through the Scheme.**
- **We recognise that this has all taken longer than anyone anticipated - this proposal simply adds further delay which is not fair to applicants.**
- **The Working Group was specifically set up to be independent and free from potential intervention by eg Government.**
- **We do not know how (or if) the Minister will choose to respond but it is hard to imagine anything she says will be material to the discussion of the suitability of cases for mediation.**

However, there is a wider point:

[Rod – to insert lines]

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AGENDA ITEM 3

Scheduling of proposed face to face meetings in 2015

We have suggested the following dates for face to face meetings:

13th February 2015

20th March 2015

16th April 2015

14th May 2015

18th June 2015

They were sent to Tony Hooper but he has not responded as yet. There is some flexibility if these dates cannot be accommodated by other members of the Working Group.

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AGENDA ITEM 4

Structured Discussion

Following the Discussion at the last Working Group, the Secretariat drafted the paper under discussion as an attempt to articulate how the proposition of a “structured discussion” might work in cases where e.g. the case for mediation was described by Second Sight as “weak” but that the applicant might benefit from a face to face explanation of their case.

Second Sight were consulted on the draft paper and were content for the paper to be tabled.

Key elements of the proposal are:

- A structured discussion would take the form of a bilateral conversation between the applicant and a representative of the Post Office.
- It would typically last no more than half a day.
- The aim would be to achieve a greater understanding of the events that led to the difficulties that the applicant found themselves rather than any other resolution.
- There would be no conditions attached to either party entering a structured discussion.
- There would be no facilitator.
- Should the applicant choose to bring their professional advisor normal funding arrangements would apply.

JFSA’s likely position:

- JFSA oppose this proposition.
- They favour mediation in all cases.

Second Sight’s likely position:

- Second Sight believe that JFSA’s support for the proposition is essential (and unlikely).
- Suggest that as proposed there is no incentive on POL to compromise or find resolution.
- To provide the “appropriate checks and balances” they may suggest that there is a right for the applicant to have their case referred back to the Working Group for a decision on mediation – including after a structured discussion has taken place.

Tony Hooper’s likely view:

- Not known. But unlikely to impose given JFSA’s opposition.

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Post Office Position:

- The paper represents an attempt to set out how the idea of a “structured discussion” might work in a way that is fair to both parties.
- Support the proposal as offering a possible suitable alternative in circumstances where cases are described as “weak” or where there is little doubt as to the applicant’s responsibility for the loss.

If needed:

- POL’s experience of mediation in cases described as “weak” is that there is a very limited chance of resolution given e.g. the lack of available information and / or the unrealistic expectation of applicants entering mediation – there simply is insufficient ground for compromise.
- Do not support the idea that cases should return to the Working Group after it has recommended a “structured discussion” – in doing so, the Working Group has agreed that the case is not suitable for mediation.
- Do not agree that POL needs an incentive to enter into any discussion positively – it is in our interests to resolve as many cases as possible as demonstrated by the number we have managed to resolve outside of mediation.
- There is no merit in having a structured discussion which then may come back to the Working Group for a decision on mediation – that simply prolongs the process and adds to the cost. It also removes any incentive from the applicant to resolve a case.

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AGENDA ITEM 5

Standing Case Agenda

5.1 Priority Cases

- To note - M119 – Second Sight uploaded the draft CRR to Huddle yesterday (13/1).

5.2 Bankruptcy Cases

ANGELA – We need to request an extension on case M118 in the light of “new information”.

5.3 Post Office Investigation Progress

To note:

- Post Office passed its investigation report on M141 to Second Sight yesterday (13/1)
- M128, M148, M149 should be completed by the end of this week.

5.4 Cases with Second Sight to review Post Office Investigation Reports

- Nothing to note

5.5 Cases that Second Sight have reported on

To note:

- The applicant in case M091 has withdrawn from the Scheme [GRO] [GRO]
- M027 – We have been unable to contact the applicant. Propose treating in the same way as M115 ie inform their advisor that we consider the case closed unless contact can be restored within lifetime of the Scheme.
- M059 – the reference here is incorrect and the case is actually listed under agenda item 6.e. for this meeting.

5.6 Cases where the Working Group has made a mediation recommendation

- To note – of the 4 cases where the applicant has been offered the choice to mediate now or wait for Part Two, only M042 has responded (with a preference to wait).

5.7 Any other queries raised by applicants / advisors

Tony has received two almost identical messages from Philip de Nahlik, chasing progress on M064 and M074. However, he has also made a number of criticisms of the Scheme and POL's approach more generally, ending *“I am now of the view that*

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the process is fundamentally flawed and that POL have probably been acting in bad faith from day one.”

Post Office Position:

- **Post Office has not predetermined its position in all cases; Mark Davies was clear that we look at each case on its merits. It is completely untrue to suggest he was lying (on the Today Programme).**
- **Mediation is undertaken by CEDR – POL has had no suggestion that it is not engaging appropriately – the fact that a case is not resolved does not necessarily mean that POL is not listening.**

5.8 AOB

- Nothing to note

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AGENDA ITEM 6

Cases for Decision

First POL wants to point out that it has agreed to mediate a number of cases. However, some are old, and some are classified by Second Sight as weak. Just for the record, and in light of experience to date, POL remains concerned about whether some of these cases are capable of being resolved at mediation. But we will enter into mediation with the same determination to resolve these cases as we have with the cases already mediated.

POL remains concerned that applicants are not looking for an opportunity to discuss their cases with POL – they are looking, in many cases, for significant sums in compensation and we are also concerned that the recent media and political activity will harm the chances of resolution if applicants consider that, notwithstanding the evidence in their case, there are wider issues which may yet be exposed which will strengthen their case.

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Cases for mediation
Working Group Meeting – 14 January 2015

| Case | Criminal Case? | Second Sight Position on Mediation | PO position re mediation |
|------|------------------------------------------------------------------------------------------|-------------------------------------------------------------------------|-------------------------------------------------------------------------------|
| M017 | No | No | No |
| M116 | Yes | No (but a meeting could be of 'significant value') | No |
| M001 | No | Yes | No |
| M041 | Yes | Yes ('weak case') | No |
| M046 | Yes | Yes ('weak case') | No |
| M090 | No (Applicant admitted false accounting but wasn't prosecuted) | Yes (but a face-to-face meeting outside mediation could enable closure) | No |
| M120 | Yes | Yes | No |
| M008 | No | Yes but meeting first could be more suitable | Yes |
| M025 | No (Applicant admitted false accounting but wasn't prosecuted) | Yes ('weak case') | Yes |
| M032 | No | Yes ('weak case') | Yes |
| M036 | No | Yes | Yes |
| M067 | No (Applicant admitted false accounting but wasn't prosecuted) | Yes ('weak case') | Yes |
| M121 | No | Yes | Yes on the basis that the Applicant could put forward proposals to repay debt |
| M132 | No (Applicant admitted his son, the manager, was false accounting but wasn't prosecuted) | Yes | Yes |
| M135 | No (Applicant admitted false accounting but wasn't prosecuted) | Yes | Yes |
| M024 | No | Yes, defer | Yes, defer |
| M034 | No | Yes, defer | Yes, defer |
| M051 | Applicant's wife pleaded guilty to theft and was prosecuted (he was not) | Yes, defer | Yes, defer |
| M059 | No | Yes, defer | Yes, defer |
| M133 | No (Applicant admitted false accounting but wasn't prosecuted) | Yes, defer | Yes, defer |

Note: Cases M025, M067, M090, M132, M133, and M135 are all cases where there is clear evidence of false accounting but there was no prosecution. These cases are difficult to mediate because:

If the false accounting is proven (and in most cases it is not even denied) the SPMRs are liable for the loss they covered up (on the same grounds as the Castleton case). There is therefore no legal risk on which to attach a settlement and, in general, no settlement should be offered in these cases.

The false accounting has covered up the cause of the loss and therefore there is no constructive discussion that can be held at mediation to bring clarity to this question.

These two factors make mediation largely pointless. However, there is also little additional risk to POL in mediating these cases so they could go forward if needs be.

Second Sight does not recommend mediation (M017, M116)

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| M017 | |
| Applicant | Baljit Singh Sethi |
| Advisor | Denning Solicitors |
| Branch loss | £17,874.51 (but Applicant claiming a surplus of £38,922.23) |
| Con loss claim | £40,000 |
| Non-Criminal | |
| Key SS issue | |
| <p>Second Sight conclude that this case is not suitable for mediation primarily due to the lack of evidence, the fact that key events occurred so long ago and because PO has written off the branch's debt:</p> <p>Para 5.2 CRR: "The Applicant has provided few instances of problems with Horizon or specific transactions and since only limited transactional data is now available to examine, Second Sight has been unable to reach an evidence-based conclusion on any of the issues listed in section 1.5 above"</p> <p>NB: SS originally recommended that this case was suitable for mediation (in the draft CRR) but revised that recommendation (following comments by PO) to conclude that the case is not suitable for mediation. They now state, in a briefing note to the WG:</p> <p>"We are however minded, subject to feedback from the Working Group, to include a recommendation that the parties might benefit from a face to face meeting to further explain to the Applicant why his claim that an amount is due to him following the closure of his branch is not valid"</p> | |
| Background | |
| <ul style="list-style-type: none"> The Applicant and his wife were both SPMRs, but neither the Applicant nor his wife managed the branches for which they held SPMR responsibility (they managed branches for which they were not SPMR) The Applicant claims that the final cash account showed a surplus of £38,922.24. The closure audit did identify that surplus but transaction error notices generated after the branch was closed resulted in branch accounts showing net loss of £17,874.51, which the Applicant was later notified of The Applicant claims that the system does not allow for a suspense account, but he had used this facility previously PO has no liability to the Applicant and there is nothing to suggest that PO's support or training received by the App and his wife (both v experienced SPMRs) was inadequate or that PO acted in any way inappropriately terminating her contract | |
| SS mediation position | No |
| PO mediation position | No |

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| M116 | |
| Applicant | Vipinchandra Patel |
| Advisor | Robert Holland (James Cowper) |
| Branch loss | £34,673.87 |
| Con loss claim | £281,032 |
| Criminal | Applicant was convicted of fraud following a guilty plea |
| Key SS issue Second Sight conclude that this case is not suitable for mediation "as the evidence submitted by the Applicant is not compelling enough to challenge the validity of his previous admissions and guilty plea to fraud" (para 6.1 CRR) | |
| Background <ul style="list-style-type: none"> • The Applicant used Horizon to make fraudulent cash deposits into his own bank account, recording a cash deposit on Horizon and then intentionally failing to transfer some or all of the cash from his personal / retail holdings into branch holdings. He then hid the resulting shortfall of cash by making false declarations so the branch accounts appeared to balance when there was in fact a shortage. He admitted this when questioned by PO investigators • The Applicant claims that he entered a £6000 cash remittance into Horizon which went undetected but he describes doing so in a way which is outside of procedures and he made no calls to the NBSC / did not raise the loss with PO in any way at the time. • The branch loss equates exactly with the sum which was the subject of the App's fraud • Applicant pleaded guilty to fraud • He made a public apology in The Oxford Mail | |
| SS mediation position | No (but a meeting could be of 'significant value') |
| PO mediation position | No |

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Second Sight recommend mediation and POL does not agree (M001, M041, M046, M090, M120)

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| M001 | |
| Applicant | Lee Castleton |
| Advisor | Aver (Emma Porter) |
| Branch loss | £25,748.75 |
| Con loss claim | £5,148,303.10 |
| Non-criminal: Civil proceedings | Claim issued by PO for recovery of loss; matter fully defended and Applicant issued Counterclaim for wrongful termination; judgement was given in PO's favour |
| Background | |
| <p>This case has been subject to lengthy legal proceedings. When PO pursued recovery of the losses via County Court, the Applicant issued a counterclaim for wrongful termination of his contract. This led to a five day High Court trial and full consideration of the evidence in which His Honour Judge Richard Havery QC conclusively determined that the Applicant was responsible for the loss and stated "the conclusion is inescapable that the Horizon system was working properly in all material respects, and that the shortfall of £22,963.34 is real".</p> <p>The CRR finds no error in the High Court judgment that Castleton was liable for the loss in his branch.</p> <p>Second Sight accepts that the most likely cause of the losses in this case were errors by the Applicant or his staff (5.24).</p> | |
| Key SS issue | |
| <p>The only issue that Second Sight raise as suitable for mediation is whether the Applicant was properly supported by Post Office, in particular they say that Post Office's advice was only given at the last minute and was therefore inadequate.</p> <p>The CRR says that Post Office has put forward no evidence to support its view that it adequately supported the Applicant (5.14)</p> <p>Incorrect – SS has been provided with witness statement of Cath Oglesby (the Applicant's line manager) that clearly describes the support provided (see extract below).</p> <p>SS have also seen the statement of Andy Dunks – who outlined each call by the Applicant to the POL helpline.</p> <p>The CRR says that Post Office's advice (to move to single stock units) was only given at the last minute and therefore there was no time to implement it (5.15).</p> <p>The events in question occurred from 14 Jan 2004 to 23 March 2004 (1.6)</p> <p>Advice was given on 28 Jan 2004 – see paragraph 15 of Oglesby statement (see extract below).</p> <p>Mr Castleton ignored the advice.</p> <p>The CRR suggests that this issue is suitable for mediation because it was not covered by the Court Judgment (4.2)</p> <p>This is incorrect - see paragraph 23 of the Judgment where the Court makes specific reference to Mr Castleton raising issues with the POL helpline.</p> <p>Paragraphs 6, 7 and 8 in Castleton's own statement outline his alleged frustrations with Post Office's support – these issues were therefore put to the Court.</p> <p>The Court also had sight of the witness statements of Oglesby and Dunks (see above).</p> | |
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| SS mediation position | Yes |
| PO mediation position | No |

Paragraph 15 of the witness statement of Cath Oglesby

"I contacted Mr Castleton by telephone on or around 28 January 2004 (Cash Account week 44). After he said he was a further £2,500 short, again, we had a lengthy discussion to discuss all the daily workings. A copy of the Cash Account for that week signed by Mr Castleton is at pages 246-255. I brought up in the taking the cash, but Mr Castleton discounted that possibility. I suggested that he carry out individual stock unit balancing. Small post offices such as the Marine Drive branch which has 2 cashier positions run a shared stock system: All the cash and stock is contained on 1 balance sheet. However, with individual stock balancing, each computer has its own separate stock and cash balance. Mr Castleton did not wish to do this, as he felt that Marine Drive branch did not lend itself to doing this sort of balancing. I was surprised that Mr Castleton did not take up my suggestion because although there is some work involved setting up individual stock balancing, it would have enable us to identify whether the losses were caused by any individual cashier."

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| M041 | |
| Applicant | Wendy Buffrey |
| Advisor | WSP Solicitors (Nicholas Alexander) |
| Branch loss | £26,256.63 |
| Con loss claim | None |
| Criminal | Fraud (false accounting) |
| <ul style="list-style-type: none"> CRR finds that the Applicant was the most likely cause of the loss <ul style="list-style-type: none"> Para 6.1 CRR: "We find that the most likely causes of the shortfalls experienced by the branch were operational errors made by the Applicant and her staff" Applicant committed false accounting – identifying the cause of the loss now is impossible. Post Office has no evidence that a loss of £15,000 occurred separately from the £65k loss referred to below Only other issue that SS raise for mediation is training: <ul style="list-style-type: none"> Complaint is focused on initial training rather than subsequent training support. Applicant was appointed in 1999 – no training records are available so this issue is impossible to advance through mediation. SS acknowledge this (in para 5.4 of the CRR) | |
| SS mediation position | Yes ('weak case') |
| PO mediation position | No |

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| M046 | |
| Applicant | Siobhan Sayer |
| Advisor | Howe & Co (John Walker) |
| Branch loss | £18,997.60 |
| Con loss claim | £204,980 plus legal costs and loss of salary (unquantified) |
| Criminal | Convicted of fraud (40 weeks' imprisonment, suspended for 18mths and 200 hrs community service) |
| <p>Background</p> <ul style="list-style-type: none"> False accounting and age of the case (before 2008) mean that determining now what happened is impossible – hence why SS have not been able to reach any views. SS suggest to issues for mediation but neither of these points can be constructively progressed through mediation: <ul style="list-style-type: none"> Mis-advice by the helpline: The Applicant cannot identify the specific advice so this cannot be investigated further. In any event, the effect of the advice cannot be determined as there are no transaction logs. Out of hours transactions – no transaction logs so impossible to investigate this. Applicant claims shortfalls in branch accounts consistently arose without explanation Applicant claims that communications with PO were unhelpful and ineffective when seeking to resolve problems, particularly where transactions had been processed in the Lottery stock unit and the Applicant sought assistance from the NBSC <ul style="list-style-type: none"> NBSC call logs show were assistance sought, advice given by NBSC was correct Call logs indicate only one shortage was reported to NBSC (which was in 2003); in fact the Applicant falsely declared a higher amount of cash in hand to conceal shortages (making it very difficult for PO to identify the cause of shortages) Evidence shows interviews and the investigation were carried out under proper guidelines and conducted sensitively according to [GRO] Applicant argues that training was inadequate, particularly at the commencement of her contract and upon the introduction of new products <ul style="list-style-type: none"> Her training records are no longer available but there is no evidence she requested training in calls logged by the NBSC; branch did not report any balancing issues between 2006-2008 suggesting proficiency with Horizon accounting procedures PO concludes there is no evidence Horizon caused discrepancies and is of the view that they were caused by human error and / or interaction | |
| SS mediation position | Yes ('weak case') |
| PO mediation position | No |

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| M090 | |
| Applicant | Ashwin Kapur |
| Advisor | MS Risk (Paul Keyton) |
| Branch loss | £6,260.97 |
| Con loss claim | £114,000 |
| Non-criminal | False accounting but not prosecuted. |
| <ul style="list-style-type: none"> • SS suggest that the only issue suitable for mediation is the cause of the losses • Applicant committed false accounting albeit not prosecuted. • Due to the FA, it is impossible to discuss at mediation the cause of the losses because these are unknown. • Also the case is very old (2004) so there is very limited information available. • Mediation is therefore pointless in this case. • Applicant claims shortfall caused by inadequate training, lack of support and attributable to the Lottery and Horizon accounting procedures <ul style="list-style-type: none"> ○ Applicant received initial training on transfer of the branch and records show Applicant had previous experience of operating the National Lottery ○ During initial interviews with Applicant and branch manager (his sister) they denied knowledge of how shortfall had occurred; during second interviews they admitted inflating the cash on hand figure and signing false 'cash account' declarations over 5 months; they indicated at least some of the errors had occurred because 'error notices' (now known as transaction corrections) were brought to account but cash was not put in to cover the value of the notice; the Applicant also confirmed he had received training and knew how to use Horizon | |
| SS mediation position | Yes (but a face-to-face meeting outside mediation could enable closure) |
| PO mediation position | No |

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| M120 | |
| Applicant | Pauline Thompson |
| Advisor | Howe & Co (Graham Cade) |
| Branch loss | £34,330.41 |
| Con loss claim | None quantified. However, the Applicant's CQR says she is claiming for loss of Post Office income and loss of income from an adjoining shop she says she had to close in January 2009. |
| Criminal | False accounting (pleaded guilty) |
| Key SS issue <ul style="list-style-type: none"> Impact of training inadequacies and falsification of accounts in increasing the impact of the Applicant's errors and magnitude of losses SS say no matter how well trained or experienced the Applicant was, serious mistakes could still have been made, e.g. in correcting previous errors, if staff had no experience of this (note the Applicant worked alone at Matfield). SS conclude she was inadequately trained and supported in regard to correction of errors, that there could be a connection between this and compounding or generating losses, and POL bears some responsibility (5.2) Negative impact on branch staff of inadequately printed records (5.5) – although Applicant responsible for maintaining adequate records Responsibility for loss of c.£34,000 (not repaid to POL) | |
| Background <ul style="list-style-type: none"> Pleaded guilty to false accounting and theft charge dropped – guilty plea admits all elements of the offence Applicant claims losses indirectly caused by inadequate training, misadvice from helpline, and inadequate investigative support Applicant admitted false accounting by inflating cash figures. As a result POL unable to investigate cause of losses. SS says Applicant must bear some responsibility (5.3) Applicant's forensic expert for criminal case acknowledged she had made errors and entered figures incorrectly and declared them as correct SS concludes POL not at fault in any of its actions re TCs for certain cheques and the Applicant's errors masked the true shortfall (para 4.4 CRR) POL considers errors caused the losses, and errors concealed by false accounting. No issues with Horizon. Applicant claimed at interview training was adequate and knew to contact someone if having problems but did not do so. No records of training remain. No additional training requested. NBSC used regularly. Applicant does not claim a lack of training caused losses in her CQR. No causal link between lack of training in 2004 and losses suffered in 2008 and branch operated successfully in the meantime until 2007 | |
| SS mediation position | Yes |
| PO mediation position | No |

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Second Sight recommends mediation and PO agrees (M008, M025, M032, M036, M067, M121, M132, M135)

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| M008 | |
| Applicant | Graham John Ward |
| Advisor | Howe & Co (Steve Darlington) |
| Branch loss | £10,952.12 (across two branches) |
| Con loss claim | £66,000 + unspecified compensation for having to enter into an IVA (Individual Voluntary Agreement) |
| Non-criminal | |
| <p>Key SS issue</p> <ul style="list-style-type: none"> SS have put this case through to mediation on one point – whether POL could have generated the "mysterious" cheque transactions flagged by the Applicant. <ul style="list-style-type: none"> POL is preparing a briefing note explaining its position. However, it is noted that this issue can never be conclusively resolved because a number of the alleged "mysterious" transactions occurred before 2008 and no transaction data is available for examination. It is therefore not understood how this matter could be advanced through mediation. <p>Background</p> <ul style="list-style-type: none"> Applicant claims discrepancies caused by figures appearing on cheques on hand and / or connectivity issues (which he describes as hardware problems) <ul style="list-style-type: none"> Correct procedures relating to cheques were not followed Providing correct recovery procedure is followed, connectivity issues do not cause branch discrepancies Applicant also seems to suggest figures may have been input remotely <ul style="list-style-type: none"> No evidence to support this Applicant is critical of training and support <ul style="list-style-type: none"> this is rejected by PO: he had four weeks onsite training on appointment and additional training following Sept 2005 audit PO does not accept that comms with App before, during and after the audit were unhelpful but acknowledges that further info and a more detailed explanation of transaction logs could have been presented to the App during his interviews PO concludes that shortages were caused by operator error or deliberate human action. Only one user ID was in use on Horizon; two assistants were registered to work at the branch and Applicant stated a friend covered one branch while he worked another | |
| SS mediation position | <p>Yes but meeting first could be more suitable</p> <p>NB CRR refers to Part Two but SS do not recommend deferring</p> |
| PO mediation position | Yes |

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| M025 | |
| Applicant | Darren King |
| Advisor | Howe & Co (Graham Cade) |
| Branch loss | £30,619.38 |
| Con loss claim | £63,500 plus loss of earnings (unquantified) |
| Non-criminal | False accounting but not prosecuted |
| <ul style="list-style-type: none"> • SS accept that there is insufficient evidence to now determine the cause of the losses <ul style="list-style-type: none"> ◦ There would have been insufficient evidence at the time due to false accounting. <p>SS only highlight the two following issues for mediation – neither are suitable.</p> <ul style="list-style-type: none"> • Insufficient training: <ul style="list-style-type: none"> ◦ No specific allegation or failure identified in the CRR ◦ CRR offers no view on the provision of training in this case – see 4.14 • Insufficient support to help detect errors <ul style="list-style-type: none"> ◦ Applicant submitted false accounts rather than notify POL of the losses. ◦ POL was not aware of losses until audit and therefore had no opportunity to investigate ◦ CRR does not identify any specific failing by POL in its support | |
| SS mediation position | Yes ('weak case') |
| PO mediation position | Yes |

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| M032 | |
| Applicant | Francis Maye |
| Advisor | Ark Aurora (Gee Ark) |
| Branch loss | £15,657.52 identified at audit (largely repaid); App claims further losses £58,500 made good (no evidence) |
| Con loss claim | £404,377 |
| Non-criminal | |
| <p>Key SS issue</p> <ul style="list-style-type: none"> The CQR is very generic and does not raise any specific issues at all: <ul style="list-style-type: none"> SS reach the view (5.3) that the most likely cause of the loss was user error. It is hard to see how any constructive discussions could be held at mediation given the lack of specific topics to discuss. <p>Background</p> <ul style="list-style-type: none"> No fault lies with the PO, in fact the PO has gone over and above its duty in the provision of weekly training & support. Lack of records and specifics from the Applicant – leading to generic claims – 3.3 of CRR Evident human errors and failure to follow PO policy & procedure. Subsequent SPMR experienced v. minor losses using the same equipment 4.3 of CRR admits hardware would not have caused losses | |
| SS mediation position | Yes ('weak case') |
| PO mediation position | <p>Yes</p> <ul style="list-style-type: none"> Very weak case but may be difficult to oppose mediating this at WG: The case is not old and there was not false accounting to hide the losses. Tony will therefore see no reason to block mediation. NB: PO response to draft CRR states <i>"Post Office does not consider that the case is suitable for mediation."</i> |

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| M036 | |
| Applicant | Barbara Atkins |
| Advisor | Howe & Co (Dipti Hirani) |
| Branch loss | Unknown – at least £65,889.99 |
| Con loss claim | £416,666 plus legal costs and compensation |
| Non-criminal | |
| <p>SS raise 2 issues for mediation:</p> <ul style="list-style-type: none">• Whether the Applicant made good a first loss of £15,000<ul style="list-style-type: none">◦ Post Office has no evidence that a loss of £15,000 occurred separately from the £65k loss referred to below.◦ The Applicant has presented no evidence that a loss of £15,000 occurred or that she repaid it.• Whether the Applicant or POL is responsible for the main loss of £65k<ul style="list-style-type: none">◦ POL wrote off this loss so this issue is irrelevant• This is also a very old case (2003) and there is very limited information available about what happened.<ul style="list-style-type: none">◦ Second Sight acknowledge this – para 5.15 | |
| SS mediation position | Yes |
| PO mediation position | Yes |

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| M067 | |
| Applicant | Guy Vinall |
| Advisor | MS Risk (Paul Keyton) |
| Branch loss | £27,991.21 |
| Con loss claim | Not fully quantified (listed as lost contract, POL remuneration, closure of PO and lost footfall for shop) |
| Non-criminal | False Accounting occurred but no prosecution |
| <p>Key SS issue</p> <p>No suggestion of any fault on POL:</p> <ul style="list-style-type: none"> • Applicant committed false accounting (although was not prosecuted). • SS' view is that losses were most likely caused by in branch errors or staff theft (4.23-4.25) • The only issue that SS highlight for mediation is the ATM but the Applicant admits, and records show, that the Applicant was consistently failed to properly account for his ATM <p>Background</p> <ul style="list-style-type: none"> • All members of staff shared the same stock unit and User ID; • The Applicant was not completing a cash breakdown at night; • He had instructed his staff to "just balance it" to save going through the "whole rigmarole"; and • He did not declare discrepancies he experienced and consequently falsified the branch accounts. | |
| SS mediation position | Yes ('weak case') |
| PO mediation position | Yes |

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| M121 | |
| Applicant | Seifudin Kutianawala |
| Advisor | Howe & Co (Graham Cade) |
| Branch loss | £129,733.04 (Applicant claims to have repaid) |
| Con loss claim | £174,000 plus legal costs and compensation for distress and inability to sell. |
| Non-criminal | False accounting but not prosecuted |
| <p>Key SS issue</p> <ul style="list-style-type: none"> POL's "decision not to allow a sale" of the Applicant's two branches including that the temp for Chorlton-cum-Hardy during the Applicant's suspension was allegedly rejected as a purchaser by POL at the time but since has been appointed (3.4 CRR) Responsibility for losses of c.£130k – NB POL obtained judgment in default for c.£160k in 2012, secured by a charge on the Applicant's home. POL has not yet forced a sale. POL noted in its response to CRR that mediation could present an opportunity for Applicant to put forward proposals for repayment of the debt. SS say POL bears responsibility to detect, acknowledge, repair any system/process flaw that allows errors to occur and ensure ongoing improvements to reduce frequency/seriousness of errors <p>Background</p> <ul style="list-style-type: none"> Applicant resigned from North Levenshulme in order to avoid termination, and Franchise Agreement re Chorlton-cum-Hardy terminated by POL shortly after (8 May 2009) Applicant did not defend civil proceedings and did not raise issues now raised (1.12) i.e. Horizon. He originally said he had placed cash in RM special delivery bags in error but did not mention this in his CQR (3.1, 4.3) POL's view is operator error caused entire shortfall and Applicant admits user errors (4.2 CRR) and that he inflated cash on hand to conceal losses (4.6). SS say given false accounting and admission of errors he must bear significant direct responsibility for losses (4.7). SS agree theft may also be a very real possibility (4.9) False accounting means how losses arose could not be identified (4.7) No evidence POL told Applicant to wait for TCs that did not arrive or made calls about balancing (4.11, 5.4) No records available about prospective purchasers following Applicant's suspension; no evidence POL blocked sale (2.3, 3.4). No interest to sell following termination. POL admits that debt could have been reduced (but not cleared) if sale had been permitted (4.12) SS agree RMG not POL responsible for compensation relating to refurbishment of branch (4.16) No specific evidence of power or telecommunications failures (5.1) No evidence Horizon at fault | |
| SS mediation position | Yes |
| PO mediation position | Yes (on the basis that the Applicant could put forward proposals to repay debt) |

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| M132 | |
| Applicant | Amir Hamza Khan |
| Advisor | MS Risk (Paul Keyton) |
| Branch loss | £23,301.28. Applicant also claiming repayment of losses made good of £22,000 – no evidence provided in support of these losses/payments |
| Con loss claim | None |
| Non-criminal | False accounting but not prosecuted |
| <p>Key SS issue</p> <ul style="list-style-type: none"> • Impact of TCs • Responsibility for losses of £45,000 (POL says direct losses £23,000, remaining £22,000 not evidenced) • Adequacy of training and support • Fairness of termination of contract <p>Background</p> <ul style="list-style-type: none"> • Applicant admitted that his son inflated cash figures to conceal shortage, although he said this was to enable him to investigate as he suspected theft (para 1.10 CRR). This means POL could not investigate the losses and the Applicant could not identify potentially remediable errors. • POL says operational errors and theft caused all losses (para 3.1 CRR). Applicant agrees these could be causes but also blames erroneous TCs, and hardware and software. POL says TCs explained by user error, failing to process them, and remitting an incoming cash delivery in multiple times. SS agrees TCs did not cause losses (para 4.5 CRR) and agrees that user errors were likely to be a significant cause of branch loss (para 4.8 CRR) whilst theft is unlikely to have caused a substantial loss (para 4.10 CRR) • SS finds equipment issues highly unlikely to be responsible for a large portion of the losses (para 4.6 CRR). • Applicant's son needed more training but unclear whether due to inadequacy of training or his unsuitability (para 5.3 CRR), although POL says additional training had already been provided for the son even though POL not responsible, and training was adequate • No evidence Horizon at fault, poor controls in branch | |
| SS mediation position | Yes |
| PO mediation position | Yes |

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| M135 | |
| Applicant | Jyotsna Vara |
| Advisor | James Cowper LLP (Robert Holland) |
| Branch loss | £35,636.86 |
| Con loss claim | £1,259,695.74 |
| Non-criminal | False accounting but not prosecuted |
| <p>Key SS issue</p> <ul style="list-style-type: none"> Resolution of possible losses caused by the polling issue Responsibility for losses made good by Applicant of c.£35,000 <p>Background</p> <ul style="list-style-type: none"> Admitted that the Applicant inflated cash on hand figure, which will mean errors could not be remedied/ identified (1.8) Polling issue occurred at the branch (2.3) but was either resolved or the Applicant did not follow it up or follow advice from NBSC, and advised her BDM it had been resolved. Applicant said this caused pence figures to be recorded as pounds. SS say no evidence to show a polling issue affecting the branch in this way although a cash declaration failure may have had an impact on the branch (5.4). POL says this failure had no impact. SS agree replacement of a terminal did not happen so could not have caused issues as claimed (4.2) Applicant says she has transaction records but has not provided copies and POL's attempts to meet her to review them or obtain relevant dates from her failed. SS has also offered to visit to review the records (5.5) All evidence shows losses caused by user error | |
| SS mediation position | Yes |
| PO mediation position | Yes |

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Second Sight recommends deferred mediation and PO agree (M024, M034, M051, M059, M133)

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| M024 | |
| Applicant | Julie Louvain Carter |
| Advisor | Howe & Co (Dipti Hirani) |
| Branch loss | £49,287.74 (plus approx. £20,000 already repaid by POL) |
| Con loss claim | <ul style="list-style-type: none"> • Salary from 24 May 2009 to date (5.5 years) at £43,000 per annum: approx. £236,500. • Unquantified compensation for distress and ill health. • Loss on sale of business: £49,287.74 plus interest. |
| Non-criminal | |
| <p>There is nothing in this case to suggest that PO was at fault in any way however there are a number of issues that could be usefully discussed with the Applicant (through mediation or another channel).</p> <p>The Applicant claims that discrepancies started a few weeks after a BOI ATM was installed in 2007, but the BOI ATM was not installed until 2009 and so clearly could not have been the cause of losses suffered from 2007</p> <p>Records show that the Applicant and her staff struggled with the accounting procedure required for both of the branches ATM, despite additional training sessions</p> <p>PO investigation report concludes discrepancies were result of human error / theft.</p> <p>PO understands a branch assistant was prosecuted for theft of c£20,000 during the App's tenure. Prosecution conducted by police after complaint by App to police.</p> | |
| SS mediation position | Yes, defer |
| PO mediation position | Yes, defer (but no settlement to be offered – discussion only). |

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| M034 | |
| Applicant | Megan Robinson |
| Advisor | Howe & Co (Dipti Hirani) |
| Branch loss | £10,550.79 |
| Con loss claim | Compensation for personal impact and legal costs (both unspecified). |
| Non-criminal | |
| SS have been unable to reach a view on the cause of losses. They suggest that a telecommunications upgrade could have been a cause but telecoms issues are still being considered in Part 2. Therefore it is recommended to wait for Part 2. | |
| SS mediation position | Yes, defer |
| PO mediation position | Yes, defer |

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| CONFIDENTIAL - POST OFFICE INTERNAL M051 | |
| Applicant | Michael Rudkin |
| Advisor | Bill Cleghorn (Aver) |
| Branch loss | £45,793.15 |
| Con loss claim | £3,618,903.89 |
| Non-criminal | The Applicant was not prosecuted but his wife was after pleading guilty to theft |
| Background <ul style="list-style-type: none"> • No evidence of failure in Horizon • PO's conclusion is that the majority of the losses was caused entirely or to a significant degree by theft carried out by the Applicant's wife. Other minor losses are likely to have been caused by human error on the part of the Applicant or his assistants. • The Applicant accepts that his wife committed theft Key SS issue | |
| SS mediation position | Yes, defer |
| PO mediation position | Yes, defer |

See Belinda's email of 7 January 2015 copied below:

From: Belinda Crowe [mailto: [GRO]

Sent: 07 January 2015 16:03

To: Melanie Corfield; Angela Van-Den-Bogerd; Parsons, Andrew; Patrick Bourke; Jarnail Singh

Cc: Belinda Crowe; Tom Wechsler; Chris Aujard; Georgia Barker

Subject: M051 - subject to privilege, prepared in relation to mediation

We now have a final CRR for this case (attached) and the recommendation is for mediation. I have discussed with Angela and Chris and think that Post Office should mediate this case. Although there was a criminal prosecution, it was the wife and not the applicant (who was the spmr) who was prosecuted. Moreover the applicant has raised a number of issues that are not pertinent to the prosecution. Whilst the fact that there was a prosecution, and nothing has been identified which calls into question the prosecution, would require this case to be dealt with very sensitively, I think there is merit in mediation.

I think a number of matters would need to be addressed as part of this process which are:

- Angela and Rodric should be the PO reps
- Angela and Rod will need a call with CK in advance
- The mediation statement should set out:
 - The parameters for the mediation discussion
 - PO's concerns that this case has been discussed publicly (and embellished? at every telling) therefore is concerned about the impact of that on the ability to reach a resolution.

There may be other things I have not included here but subject to any views to the contrary I would suggest we take the necessary steps to pass this to CEDR.

Best wishes
Belinda

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| M059 | |
| Applicant | Elizabeth Jane Nisbet Brown |
| Advisor | Philip de Nahlik |
| Branch loss | £42,643 |
| Con loss claim | £234,000 + loss of non-Post Office business profit (not quantified) |
| Non-criminal | |
| <p>Key SS issue</p> <ul style="list-style-type: none"> • SS do not identify any specific issues that could be discussed at mediation. • There is no scope in this case for any constructive discussion given the lack of information – mediation would be pointless • SS acknowledge that there is insufficient evidence to be able to resolve issues (para 6.1 CRR) <p>Background</p> <ul style="list-style-type: none"> • Case dates back to 2003 • Harassment accusation – though no evidence • POL not at fault • No evidence of Horizon causing losses • Few records because of time passed • Human error evident e.g. not clearing screen between customers | |
| SS mediation position | Yes, defer |
| PO mediation position | Yes, defer |

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| M133 | |
| Applicant | Kamaljit Kooner |
| Advisor | Aver (Bill Cleghorn) |
| Branch loss | £15,126.01 |
| Con loss claim | £5,989,362 plus legal costs, compensation for distress and inability to sell. |
| Non-criminal | False accounting but not prosecuted |

Reasons for opposing mediation:

- There is no evidence that Post Office was in any way at fault or that the shortfalls were caused by anything other than human action, deliberate or otherwise.
- The Applicant admitted that he was aware that there was a shortfall in the Lottery stock unit at the Rugeley branch which was being concealed by inflating the daily cash declarations (although he later claimed this was a misinterpretation of what he had said).
- As a result of the falsification of the accounts, Post Office was unable to investigate or identify the cause of the losses at the time they arose, or subsequently. SS acknowledges that he falsified the accounts (para 4.11 CRR) and that this means that Post Office could not see or react to the losses, and could have exacerbated an initial loss (para 4.12 CQR).
- There is no evidence that the shortfall at Rugeley was caused by the Lottery terminal or by Horizon.
- The Applicant admitted that he had not managed the Rugeley branch adequately, and proposed additional controls if he were to be reinstated.

Key SS issue

SS consider the case is suitable for mediation in relation to the following:

- The effects of the technical faults and power cuts reported by the Applicant (although SS conclude that that power cuts/surges did not have a material impact on the branch in terms of causing shortfalls – para 4.3 CRR – and that most of the technical faults raised by the Applicant in his CQR about 2008 could not have caused discrepancies – para 4.5 CRR);
- The impact of PIN pad malfunctions which SS conclude might be able to cause discrepancies – para 4.6 CRR (and since SS are updating their Briefing Report Part Two on this they suggesting deferring mediation until this is done);
- Responsibility for the losses of £15,126.01.

Background

- Applicant claims initial training inadequate and too basic and no extra training when appointed at second branch (Rugeley)
 - Rejected: in 2005 the Applicant had the then standard one week training package followed by a further one week's onsite training. Follow up calls to NBSC only covered non-standard transactions and no additional training requested
 - Applicant had 3 years' experience and Rugeley did not transact additional products, no records of additional training being requested
- Applicant claims NBSC advice inadequate and advisors not well trained
 - No evidence of failure to respond or dissatisfaction being raised
 - No specifics about advisors provided, but records show NBSC staff answered all queries
- Applicant unable to access transaction data
 - Incorrect: available in branch for 42 days
 - No records of Applicant seeking assistance to investigate shortages

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| <ul style="list-style-type: none">• Power cuts/surges created shortfalls in 2008<ul style="list-style-type: none">○ Rejected: Horizon only disconnected once in 2008, and no customer transactions were underway at the time, so no impact on balancing○ No connection between Lottery and Horizon and loss of power to the lottery would have no impact on Horizon• Lottery terminal never balanced<ul style="list-style-type: none">○ Applicant admitted hiding discrepancy by false accounting○ Applicant informed auditor there would be a £9,000-£10,000 shortfall○ All transactions on Lottery stock unit completed by Applicant's user ID | |
| SS mediation position | Yes, defer |
| PO mediation position | Yes, defer |