

INITIAL COMPLAINT REVIEW AND MEDIATION SCHEME

WORKING GROUP - MINUTES

30 JANUARY 2014

1. Terms of reference for the Working Group

The Working Group discussed the revised Terms of Reference revised and retabled after their initial discussion on 3 January.

In discussion the following points were made:

- The ToRs were currently drafted with an end date of end of March in Clause 1.1. Although this had been the initial timescale by which it had been hoped to have resolved the cases it was now apparent to all members that this was not going to be the case. It was explained that the intention was not to close the Working Group at this point but that the ToRs could be amended to make them open ended with a regular review. This suggestion was agreed.

ACTION Post Office to redraft Working Group timing clause to make the Working Groups existence open ended with regular reviews.

- Alan Bates raised the issue of the scope of the Working Group and whether the intention was that the Terms of Reference would replace existing documentation particularly but not limited to the “raising concerns about horizon” documentation.
- Discussion then turned to the purpose set out for the Working Group with the point being made that if the Terms of Reference superseded previous documentation then JFSA felt the Terms of Reference as drafted were insufficiently broad.
- Responding for Post Office Chris Aujard explained that the Terms of Reference accurately reflected the purpose of the Working Group as explained to him when he had taken over as General Counsel and that his understanding was that the Working Group’s purpose was narrower than Alan Bates had set out.
- It was agreed that Chris Aujard would review any documentation provided by Alan Bates and following wider consultation with Post Office Colleagues return to the next face to face Working Group with the Terms of Reference.

ACTION Alan Bates to provide Chris Aujard with documentation on the scope of the Working Group that he referenced in the meeting.

ACTION Chris Aujard to review the documentation provided and bring back the Terms of Reference to the next face to face Working Group.

- In discussion of the revised clause 4.9 it was agreed by the Working Group that it was not the role of the Working Group to offer an opinion on the merits of a particular case. These clauses were accepted in principle by the Working Group subject to redrafting to simplify.

ACTION Andrew Parsons to redraft clause 4.9

- Clause 4.10 was discussed by the Working Group and accepted subject to the Post Office commitment (which was reaffirmed in the meeting) that should they make any firm admission during the mediation on the basis of a newly discovered flaw or fault in Horizon or that there was a material change of fact then they would report this back to the Working Group.
- It was noted that it was unlikely that a new fact would come to light in mediation as that was not the point of mediation which was designed to reach a resolution of the issue. It was instead for Second Sight to report if there was a problem and how Post Office had dealt with it.
- The production of a final report was discussed with the Chair noting that he felt that there should be a final report produced on the Horizon process. There was a discussion of who should produce the report and under what auspices it would be published and agreed.

ACTION Post Office to consider the production of a final report on the scheme and report back to the Working Group at the next face to face meeting.

2. Mediation Process

The Working Group discussed the mediation process map which had been revised following their discussion on 3 January.

The following points were made in discussion:

- It was clarified that the document referred to on the mediation map as the "Second Sight report" would be the CQR, the POL investigation, the Second Sight generic report and the case specific Second Sight report.
- It is important that when the report is submitted to the Working Group for consideration it is submitted directly to the whole Working Group and not to Post Office preferentially.
- It is important that the Working Group has sight of all Second Sight reports not just those where there is a dispute as to whether or not Post Office should

mediate. It was noted that this was a change to the process discussed at the previous Working Group but the change was agreed.

- It was also agreed that the Working Group would fast track agreement to mediation for any reports where Post Office and Second Sight were in agreement.

ACTION Second Sight to submit all reports to the Working Group

- The generic report was discussed by the Working Group particularly how it related to the Post Office “factfile”. The factfile is designed to be a neutral background document setting out the facts around POL’s business.
- It was agreed that consideration should be given as to whether this could be included in Second Sight’s generic report. Although it was made clear that this could only be the case if Second Sight were content once they had seen the document.

ACTION Post Office to provide Second Sight with a copy of the Factfile at the earliest opportunity

- For the first set of reports it was agreed that the Working Group would consider them in a face to face meeting before they were submitted further. It was the Chair’s view that this was necessary to ensure that the reports are delivering on the objectives of the Scheme.
- The status of the Second Sight report was discussed further and it was agreed that the report should be submitted as a draft to both POL and the applicant.
- The draft report would be submitted simultaneously.
- Recipients would have a tightly defined period of time to comment on the report’s factual accuracy. The period of time would depend on the complexity of the report but it was suggested that a week for straightforward reports and two weeks for complex ones would be appropriate. It was agreed that if no comment was received within the timescale then it would be deemed that no comment would have been made.

ACTION Andrew Parsons to draft template letter for circulation to the Working Group

- It was noted that this stage might be costly however both the Chair and KL noted that POL had already set out their contribution to the applicant’s fees and that there was no need for POL to provide any extra funding for this stage as that was for the Professional Advisors to manage with the applicants.

- It was also noted that if substantially new information was provided by either POL or the applicant at the draft report stage then it might be necessary to give the other party a right of reply.
- Once the draft report had been considered and commented on by both parties it was agreed that the final report should simultaneously be distributed to the Working Group and the applicant.
- The role of the mediator was discussed in detail by the Working Group. It was felt that the current process maps did not currently represent the role of the mediator as some members of the Working Group felt it should.
- There was some disagreement about the exact role that the mediator would take including around administration and distribution of the papers.
- It was agreed that further discussions would take place with CEDR and the process would need to be updated in light of these conversations.

3. Data Protection

- This item was not discussed at the Working Group but was discussed bilaterally between Alan Bates and Andrew Parsons.

4. Post Office Administration of the Scheme

- David Oliver updated the Working Group on the detail in the paper setting out the improvements that had been made by POL.
- The Chair noted that this was good progress since the last face to face meeting and should continue.
- Alan Bates raised an issue with the Working Group correspondence issuing on Post Office headed paper. Alan explained that this was causing applicants distress and he asked if it would be possible to send on a plain Working Group header in future. This was agreed.

ACTION POL to replace Post Office header with a Working Group header on future Working Group correspondence

5. Second Sight draft terms of engagement

The Scope Section of the Second Sight Engagement letter was discussed by the Working Group.

In discussion the dependence of this document on the scope of the Working Group was raised by AB. It was pointed out that from his perspective this document needed to reflect the previous documents and appeared too narrow. It was agreed that this issue could not be resolved in the meeting but as with the Working Group Terms of Reference would be considered by Chris Aujard outside of the meeting.

Chris Aujard explained that the intention of this Scope was to only reflect Second Sight's work on the mediation Scheme and that other issues were not covered by it. Any other work would need to be covered by a separate engagement letter.

A number of drafting points were made in discussion in particular that clause 1.4.2 the word neutral should be replaced with objective and in Clause 1.5 the line "it ismatters" should be deleted.

Action Post Office to amend drafting and consider the impact of any changes to the Working Group Terms of Reference.

Status of current applications that have not yet been accepted	<p>AP updated WG on criminal cases:</p> <p>M141: Letters sent out stating that no further action would be taken by POL so the application can come into the Scheme.</p> <p>M102: POL has taken a decision not to prosecute so the application can come into the Scheme.</p>	<p>M102 is accepted into Scheme.</p> <p>AH will report back next Thursday on the outstanding criminal cases after discussing them with AP.</p>
Status of accepted applications awaiting a case questionnaire response		N/A
New case questionnaire responses		M005 and M013 accepted.
Post office investigation process	<p>Cases under investigation</p> <p>AVDB provided an update on POL's investigation processes. Various extensions of time were requested and agreed.</p> <p>Cases outside the Scheme</p> <p>AVDB provided any update on cases that were not yet accepted into the Scheme because POL was dealing</p>	<p>WG granted extension for the following applications:</p> <p>M007 – 13 Feb 2014 M058 – 13 Feb 2014 M076 – 6 Feb 2014 M079 – 13 Feb 2014</p> <p>The cases below should be with SS next week:</p> <p>M002</p>

<p>direct with the SPMR:</p> <p>M004 – AVDB met with the SPMR and a letter has been sent out confirming POL's investigation findings. POL awaiting confirmation that SPMR still wishes to proceed into Scheme before re issuing SL01 letter / CQ.</p> <p>M037 – AVDB met with SPMR and a letter is ready for sending setting out POL's investigation findings. Likely that this case will enter the Scheme in the coming weeks.</p> <p>SS raised a query in relation to information from POL about settled/withdrawn applications. The aim being to ensure that lessons learned are fed back into the Scheme.</p> <p>AVDB noted that POL has sent letters to SPMRs explaining the outcome of their investigations. These were on huddle and should provide the information needed by SS.</p> <p>Other updates</p> <p>M094 – AVBB updated WG last week. Due 6 Feb 2014 as granted last week.</p> <p>M114 – Extension until 6 Feb 2014 granted last week.</p> <p>M126 – Extension until 6 Feb 2014 granted last week.</p> <p>M144 – SPMR sent further info to</p>	<p>M011</p> <p>M017</p> <p>M019</p> <p>M022</p> <p>M028</p> <p>M029</p> <p>M030</p> <p>M031</p> <p>M038</p> <p>M054</p> <p>M048</p> <p>SS will examine the letters sent by POL on Huddle.</p>
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	<p>POL; AVDB is reviewing it and will revert to SPMR shortly.</p> <p>M117 – Withdrawn.</p>	
Second sight investigation process	<p>SS informed the WG that its generic report is taking longer than expected and that this is impacting on completing the individual case reports.</p> <p>SS requested a 3 week extension for the 4 individual reports and a 4 weeks extension for the generic report. :</p> <p>After discussion, the WG agreed that all SS' reports should be delivered by 27 February 2014 as the individual reports and the generic report should come through together. These reports should be provided in good time before the next WG face-to-face meeting.</p>	<p>Time extended for SS reports until 27 February 2014.</p> <p>These early SS reports are to go to WG before going to Applicants.</p>
Any other queries raised by Applicants/ Advisors		<p>M087: Enquiry from financial advisor re background training. SS will send the training materials to the financial advisor but no other training will be offered.</p>
Issues with resourcing / timings		<p>No other issues to raise.</p>
Outstanding actions	<p>DO ran through all other outstanding actions. These were either being progressed or had been discussed earlier.</p>	
AOB	<p>AB suggested his application be processed last by the WG.</p> <p>KL noted that her and AH's funding</p>	<p>WG agreed to defer AB's application to the end of the Scheme.</p>

	<p>from POL would shortly be coming to an end.</p> <p>WG discussed Scheme timings. Current estimate is that POL's reports will be finished by June/July with the last mediation in October.</p>	<p>POL will report back on future funding arrangements from KL and AH.</p> <p>Next meeting: 7 March 11.30am.</p>
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