



Project Sparrow Sub Committee  
For the meeting to be held on 9<sup>th</sup> April 2014  
In Room 505, 148 Old Street and by teleconference

Attendees: Alice Perkins, Paula Vennells, Richard Callard, Alasdair Marnoch, Chris Day, Angela Van-Den-Bogerd, Chris Aujard, Belinda Crowe, Gill Catcheside

Time	Item	Presenter
09.00	Terms of Reference for the Sub Committee	Chris Aujard
	Various Options for the future of the Scheme	Chris Aujard
	Update on Horizon assurance work, being undertaken by Deloitte	Chris Aujard
	AOB	
10.00	Close	

Teleconference details:

UK Freefone:	<b>GRO</b>	
UK Primary:	<b>GRO</b>	
Chairperson passcode:	<b>GRO</b>	then # (c/o Chris Aujard)
Participant passcode:	<b>GRO</b>	then #

POST OFFICE LIMITED  
BOARD SUBCOMMITTEE –PROJECT SPARROW  
TERMS OF REFERENCE

PURPOSE

The purpose of the Committee is to make recommendations to the Board in respect of Project Sparrow and provide strategic oversight of the delivery of the project and the development of the Initial Complaints Review and Mediation Scheme (the Scheme).

A. COMPOSITION AND GOVERNANCE

1. The Committee is constituted as a sub-committee of the Board.
2. The Chairman and members of the Committee shall be appointed by the Board.
3. The Committee shall be made up of three members, including at least one independent non-executive director and the Chairman.
4. In the absence of the Chairman of the Committee at any meeting, the Committee members present shall determine who shall chair the meeting.
5. Only members of the committee have the right to attend Committee meetings. The Post Office General Counsel and the nominated member of the Project Sparrow Team shall be informed of the date of each meeting and may be invited by the Committee Chairman to attend all or part of any meeting, as and when appropriate.
6. The Company Secretary shall not be a member of the Committee but shall act as Secretary to the Committee (or shall nominate an appropriate substitute) and shall keep minutes and records of each meeting and ensure regular reporting by the Committee to the full Board.
7. Minutes of each meeting will be circulated to all members of the Committee and, once agreed, to members of the Board.
8. Members of the Committee shall conduct an annual review of the Committee's performance.

B. MEETINGS

1. The Committee shall meet as often as required. The Committee may meet in person, by telephone or by other electronic means, so long as each member can contribute to the business of the meeting simultaneously.
2. The quorum necessary for the transaction of business shall be 2 members.
3. Meetings may be convened by the Secretary to the Committee, at the request of the Committee Chairman, or by any member of the Committee, at any time.
4. Notice of each meeting shall be given to all members of the Committee and any other person required to attend, at least 3 working days before each meeting.

#### C. DUTIES AND RESPONSIBILITIES

The main duties and responsibilities of the Committee are to:

1. Keep under review the progress of Project Sparrow, in particular the development of plans to restructure the Scheme.
2. Undertake any other oversight function delegated to the Committee by the full Board.

#### D. QUARTERLY REVIEW

The Committee will undertake a quarterly review of the Terms of Reference and recommend to the Board any necessary changes.



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# Initial Complaint Review and Mediation Scheme

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**Options for the future of the Scheme**

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**Sparrow sub-committee**

**9<sup>th</sup> April 2014**



# Background

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The purpose of this document is to inform discussion and to allow the sub-committee to make a directional decision about the future of the Initial Complaint Review and Mediation Scheme ('the Scheme').

The Scheme was established in August 2013 to resolve complaints in respect of the Horizon system, on the basis that ***there were no systemic problems with Horizon.***

The Scheme provides a formal process to resolve matters with a challenging stakeholder group, and allows Post Office the opportunity to demonstrate that "it is doing the right thing".

In preparing this document it has been assumed that the sub-committee will want to address the following concerns:

- The cost of administering the Scheme;
- The time it is likely to take to conclude the mediation process, due to:
  - Second Sight's lack of capacity to prepare and deliver reports on time;
  - Case investigations being more complex and time consuming than originally anticipated;
- The so-called "expectation gap"; and
- The distraction to BAU caused by a significant proportion of senior management time being spent on Scheme business.



# Shaping the future of the Scheme

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Against the above background, the project team were tasked with formulating options for the future of the Scheme. This involved extensive discussion with internal stakeholders, including ExCo members, and taking advice from our external legal advisers.

Regard was also had to :

- The Linklaters advice produced for the Board which has clarified our legal liability and the contractual position;
- The fact that Deloitte are undertaking a further piece of assurance on Horizon; and
- The branch support programme (now underway) which is building lessons learned into our future way of working.

In formulating options we have assumed that:

- The overarching objective is to resolve matters as quickly as possible whilst limiting adverse publicity; and
- Any adverse publicity can be contained by the development of an appropriate communications strategy.



# Broad options for consideration (1)

We have explored a spectrum of potential options for the Scheme, which can broadly be described as follows:

Option	Commentary
1. Maintain the status quo	This option should not be progressed due to the clear concerns in relation to timeliness, cost and effectiveness and Second Sight's delivery.
2. Close the Scheme	This option is worth further consideration, despite the potential PR impact.
3. Significantly amend the Scheme as published whilst undertaking mitigating activities.	This option is worth further consideration, despite the potential PR impact.
4. Restructure the Scheme whilst maintaining the spirit of the existing Scheme	This option is worth further consideration, despite the potential PR impact.
5. Devise a new alternative disputes resolution structure	Extensive discussions with Linklaters considered ADR structures and their implications. It was concluded that these processes would be resource intensive and costly to deliver. ADR would add to or maintain current complexity and add to the level of uncertainty as to the outcome. Consequently this option is not being progressed..

From this exercise we concluded that three of these options were worth further consideration. These options are set out in Appendix A.



# Broad options for consideration (2)

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Unless a decision is taken to close the Scheme (Option 2), it is, in any event, proposed that we:

- Continue to investigate all claims despite the cost of doing so. This is in our best interests because:
  - We would want to uncover and deal with any underlying issues arising;
  - The results would add to the evidence base that there are no systemic problems with Horizon;
  - It would be consistent with our objective of “doing the right thing”; and
  - It would enable us to make a proper assessment of settlement options.
- Investigate Criminal Cases - but not mediate them;
- Change Second Sight’s role;
- Base any settlement on a clearly defined, structured process and decision framework, using criteria along the lines of those discussed with FOS (see Appendix B);
- Introduce monthly checkpoint reviews as a clear understanding of the caseload develops, to ensure the Scheme continues to operate in the best interests of all parties: and
- Change the current balance of power between Post Office and other stakeholders to enable effective, fair and balanced decision making by re-working the terms of reference of the Working Group.



# Recommendations

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Having considered the options available in some detail, the project team have concluded that there is no obvious “right answer”. Any change to the status quo will have potentially adverse PR implications and all will be challenging to implement.

On balance we believe that the most appropriate option for the business is one which “does the right thing” by SPMRs whilst managing down the cost, risk exposure and senior management overhead.

In arriving at our recommendation we have considered the pros, cons and risks of each option. This initial appraisal is set out in Appendix A.

Subject to a satisfactory outcome from the Deloitte assurance assessment, it is recommended that:

- the sub-committee authorises in principle (and in principle only, at this stage) Option 3 – i.e. significant amendment to the Scheme as published, whilst undertaking mitigating activities. The actions necessary to take this forward are set out in Appendix A.
- before any final decision is taken, the project team develop a more detailed action plan, informed by the sub-committee’s views of this options paper, to be presented to the Board / sub-committee for approval.

This recommendation is based on assumptions made in respect of the relative importance to Post Office of cost savings versus the ability to manage - in so far as is possible - the PR implications. It is also worth noting that the majority of costs arise from supporting the investigation process, therefore a decision to investigate all claims is unlikely to result in a significant reduction in the current cost run rate.

Given the relative importance of the Deloitte Assurance work it is proposed that no option be implemented until the appropriate analysis has been completed. An outcome is expected by late April.

It is acknowledged that as part of the detailed planning process the project team may identify unforeseen difficulties or encounter resistance which may impact on the deliverability of this option.



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# Appendix A

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## **Options under consideration**

**(initial analysis which will form the basis of a more detailed options paper for the Board)**



# Options Analysis

## 2 Close scheme

The Scheme is closed down as quickly as possible. This includes ensuring that no applicant is out of pocket with regard to fees payable to professional advisers. All work underway to investigate claims is halted with immediate effect. Unilateral action is taken to disband the working group and Second Sight's role is terminated. Rationale for this decision would be developed based on conclusions from investigations to date, and the Deloitte report which suggests that there is *no case to answer*. All applicants are informed of the decision and their right to pursue matters through the courts.

### Key assumptions:

- The assurance review by Deloitte concludes that Horizon system is operating as it should

### Pros

- Quick and simple
- Limits operating costs and financial liabilities in the short term
- Court system is a more appropriate forum for these cases to be discussed.

### Cons

- Does not fulfil current commitment to Minister
- May damage relationships with SPMRs impacted
- Impacts negatively on strategy to be a trusted financial services provider
- Damaged relationship with Working Group chair
- Professional Advisers' fees could be significant

### Risks

- Risk of court proceedings, believed by Linklaters to be limited. Can be mitigated by re-calibrating expectations
- Minimal risk of class action (as advised by Linklaters)

### Key actions required

- Prepare a detailed comms plan ahead of decision being implemented
- Conclude Deloitte assurance review
- Secure Ministerial approval
- Notify Working Group Chair
- Take appropriate steps to realign expectations of interested MPs
- Engage with key stakeholders
- Formally disband the scheme, including working group and Second Sight engagement
- Write to all applicants
- Settle financial advisers costs



# Options Analysis

## 3 Significant amendment to the Scheme as published, undertaking mitigating activities

The Scheme is closed down as quickly as possible. This includes ensuring that no applicant is out of pocket with regard to fees payable to professional advisers. All applicants are informed of the decision to close the scheme. The working group is disbanded and Second Sight's role is terminated. All work underway to investigate claims by Post Office continues, but use of external advisers is minimised. Mitigating activities may comprise the production and publication of reports into any improvements identified as a result of the scheme, discussing conclusions with each applicant, offers of payment of convenience fees. Ongoing engagement with JFSA will continue to ensure transparency around organisational learning etc, compensation for taking time and trouble for participation. Where it is deemed that the Post Office did not treat the applicant fairly, then a settlement offer based on an agreed decision framework will be made, with individual mediation if necessary. The working group chairman is retained to provide independent oversight of investigation process.

### Key assumptions:

- The assurance review underway by Deloitte concludes that Horizon system is operating as it should

### Pros

- Quick and simple
- Limits operating costs and financial liabilities in the short term
- Meets part of commitment to Minister as all claims are investigated
- Post Office retains control of the process
- No organisational learning needed to implement

### Cons

- Will lead to conflict with JFSA and Second Sight
- May alienate working group chair
- Likely to lead to increased parliamentary scrutiny
- May damage relationships with SPMRs impacted
- Could lead to accusations of a Post Office whitewash
- Post Office are still committing substantial resource to the investigation phase

### Risks

- Risk of court proceedings, believed by Linklaters to be limited. Can be mitigated by re-calibrating expectations
- Minimal risk of class action (as advised by Linklaters)

### Key actions required

- Conclude Deloitte assurance review
- Secure Ministerial approval
- Secure Working Chair's agreement and on-going involvement
- Engage with key stakeholders
- Formally disband the scheme, including working group and Second Sight appointments
- Revise investigations process to retain in-house as much as possible
- Write to all applicants
- Settle financial advisers costs
- Investigate all cases
- Review findings across entire caseload
- Categorise cases to allow appropriate approach to be applied consistently, e.g. criminal cases, civil court judgments, cases past statute of limitations etc.
- Further engagement and or mediation on a case by case basis if deemed appropriate



# Options Analysis

## 3. Modify the scheme to streamline process, adopting changes to governance

Introduce key modifications to the scheme which would include revised governance and decision making arrangements, including a Post Office veto on all working group decisions. JFSA membership continues as a challenge on process. Second Sight to act as an expert adviser to Working Group, but will not be involved in the investigations process. A more nuanced approach (along the lines of those discussed with the Financial Ombudsmen Service) to settlement be adopted, which outlines eligibility criteria based on "fairness" principles. All applicants to be thoroughly assessed against eligibility framework, which would be shared with applicants and their advisers. Classes of settlement value to be defined. Forensic accountant to be retained by Post Office to validate the extent of any losses, as required.

### Pros

- Fairness and transparency
- Continued engagement with all stakeholders
- Thorough process, consistently applied
- Minimises short term conflict

### Cons

- Operating costs remain high
- Time to settle remains lengthy
- High senior management overhead
- Investigation costs remain high
- Potential substantial mediation costs given size of caseload
- Post Office likely to be pressed for adviser costs at mediation
- Second Sight have not demonstrated impartiality, or expert knowledge to date

### Risks

- Changing remit of key stakeholders may result in accusations of cover-up
- Financial liability will be difficult to quantify but legal advice suggests strict liability is low

### Key actions required

- Conclude Deloitte assurance review
- Secure Ministerial approval
- Secure Working Chair's agreement and on-going involvement
- Engage with key stakeholders
- Revise terms of reference, including role of working group and Second Sight remit
- Revise governance and decision making processes
- Develop assessment criteria and share with applicants and their advisers
- Revise processes to reflect new arrangements
- Write to all applicants and their advisers, sharing details of new process and assessment criteria
- Investigate claims
- Assess and apply criteria
- Make settlement offer
- Further engagement and or mediation on a case by case basis if deemed appropriate



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# Appendix B

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## Settlement Criteria



# Settlement Criteria

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Following helpful discussions with the Financial Ombudsman Service, there would appear to be scope to develop a more nuanced approach to settlement assessment. This would be applied when all claims have been investigated, using a clearly defined, structured, decision framework, developed on the basis of an assessment of the full caseload. This will demonstrate “fairness” and “doing the right thing”.

Factors which could sit alongside our existing settlement policy criteria, and would go beyond recognised legal principles to incorporate principles of “fairness” might include:

- Whether there was evidence of heavy-handed treatment;
- Length of service and how far from retirement he/she was when terminated/suspended;
- Whether there had been any admission of guilt;
- Whether there had been any loss of value in the SPMRs non-post office business;
- Whether the Post Office was in possession of information which, if disclosed, would have been helpful to the SPMR;
- Any evidence that procedure manuals rolled out to SPMRs were opaque or difficult to implement; and
- Whether there is evidence to suggest that the SPMR has been subject to a fraud.

## Update on Horizon Assurance Work

### Background

Following the last Board meeting, discussions have been held with Deloitte with a view to commissioning a short, cost-effective, external 'assurance' assessment of Horizon. Although the precise scope of this assessment is still under review, currently it is proposed to undertake it in two parts, with a summary of **Part 1** (see below) being completed by the end of April in time for presentation to the Board.

A description of what is covered by **Part 1** and **Part 2** is set out below.

### **Part 1 (essential)**

This is primarily a desk-based exercise reviewing existing documentation.

As part of its business as usual activity Post Office and Fujitsu undertake a range of assessments and audits of Horizon's operating environment and processing and information security integrity. Deloitte will review all of the information available relating to those audits and assessments and provide:

- An independently produced 'Summary' based on a thorough assessment of these sources of assurance, supplemented by interviews with Post Office and Fujitsu personnel
- An assessment of the architecture and system controls which support transaction audit trails
- An assessment of any gap or risks relating to the assurance process
- Some limited testing of Horizon functionality and responses to one or two key themes identified by Second Sight.

### **Part 2 (non-essential at this stage)**

This involves more detailed forensic activity, consisting of 'deeper dives' to provide further assessment which may include, but is not limited to:

- Testing on data held within the system audit trails, to (for example) verify conclusions previously drawn by non-independent parties into the extent of known deficiencies
- Assessment and profiling of system audit trails, to look for characteristics of and trends in unusual behaviours in the system transactional core
- Enquiry into the nature and extent of testing of the 2010 Horizon system during its implementation
- Examination and testing of the integrity of dataflows to and from certain external / third party systems
- Comprehensive testing of Horizon functionality in response to all Second Sight themes.

## **PUBLIC STATEMENTS ON THE INITIAL COMPLAINT REVIEW AND MEDIATION SCHEME**

Below is a summary of key public statements made about the Initial Complaint Review and Mediation Scheme (the Scheme). The quotes below draw upon a small number of key public announcements/documents:

- The Post Office statement in response to the Second Sight interim report
- The Statement from Jo Swinson MP and the subsequent debate following the publication of the Second Sight Interim Report
- The Post Office statement announcing the creation of the Scheme
- The mediation pack published to help Subpostmasters apply to the Scheme
- The Post Office Statement announcing the appointment of Sir Anthony Hooper.

## PUBLIC STATEMENTS IN RELATION TO THE SCHEME

<p><b>8th July 2013</b></p>	<p><b>POL Press Statement responding to the Interim Second Sight Report</b></p> <p>"...1. The creation of a working party to work collaboratively to complete the review of cases started by Second Sight last year. This would examine the themes identified by Second Sight and consider all cases brought forward by the JFSA and MPs, together with any new themes which emerge from these cases. The JFSA have been invited to join this working party..."</p>
<p><b>9th July 2013</b></p>	<p><b>Jo Swinson Statement to Parliament on the Second Sight Interim report</b></p> <p><b>Column 198 Jo Swinson</b> ".....It is also important to be clear that, contrary to misleading media reports, the review explicitly confirms that "we have so far found no evidence of system-wide problems with the Horizon software".</p> <p>The very small number of sub-postmasters who have experienced issues with the Horizon system are a minute proportion of the tens of thousands of people who have been successfully using the system across the network of 11,500 branches on a daily basis since 1995. Out of 68,000 users, only 47 cases have been put forward to the review."</p> <p><b>Column 198 Jo Swinson</b> "...The Post Office statement issued yesterday welcomed the broad thrust of the report's findings and outlined three initiatives to deal with the issues raised. First, it will set up a working party to complete the review of cases started by Second Sight, and will consider all 47 cases brought forward by the Justice for Subpostmasters Alliance—the JFSA—and MPs. The JFSA has been invited to join the working party. Secondly, an independent figure will chair a review to determine how best to adjudicate disputed cases in future. The JFSA and other stakeholders will also be invited to take part in this process..."</p> <p><b>Column 201 Jo Swinson</b> "..It is important that any further work is not only independent, but seen to be independent, and clearly the role of Second Sight in that is important, as is the role of the JFSA..."</p> <p><b>Column 202 Mike Wood</b> ".....Given that she has made a commitment on the need for independence, will she assure the House that if we are to move to a working party to continue the process, Second Sight, which has done such good work up to now, will be part of it?"</p> <p><b>Jo Swinson:</b> I shall happily give the hon. Gentleman that assurance.</p>

	<p>The continued input of Second Sight is incredibly important, given its familiarity with the case so far and the fact that it enjoys the confidence of many of those involved. .... but we need to ensure that the further work on cases where there are outstanding queries is independent</p> <p><b>Column 203 Jo Swinson:</b> The hon. Gentleman is right that it is imperative that these cases be looked at speedily, although I think he would also agree that that needs to be done comprehensively, and clearly when forensic accountancy work is going on, things can take time.</p> <p><b>Column 204 Jo Swinson</b> "...Yes, I am happy to give my hon. Friend an assurance that the working party will be independent. As I have already confirmed to the House, the continuing involvement of Second Sight, which is independent of the process, is crucial as part of that working group..."</p> <p><b>Column 205 Jo Swinson</b> ".....if there are other cases that need to come forward, we would not want to deny those people the opportunity for that to happen."</p> <p><b>Column 206 Jo Swinson</b> "....we have to be careful about going from the understandable sympathy for individuals in a difficult position to an assumption that all these issues [prosecutions] are therefore unsafe and the result of problems in a way that is not borne out by the evidence in the report. That is why it is important to have a continuing independent review process in which people can have confidence, but it is also important to go by the evidence found in the report."</p> <p><b>Column 207 Jo Swinson</b> "....The review is independent of the Government and of the Post Office, so it would not be appropriate for me or for the Post Office to put an arbitrary time limit on it. .... The independent working group ..... will help to ensure that that happens swiftly and without compromising the details that need to be gone into."</p>
<p><b>27th August 2013</b></p>	<p><b>POL Press Statement: Office announces independent mediation scheme for subpostmasters.</b></p> <p>"...the Post Office, JFSA (Justice for Subpostmasters Alliance), and Second Sight, the independent investigators, have formed a working group to collaboratively develop and monitor this scheme which is available to current and former subpostmasters from 27 August 2013..."</p>
<p><b>September 2013</b></p>	<p><b>The detail of the Scheme was set out in a document published on the JFSA website.</b> With apologies for the length, this document is attached in its entirety as it shows the level of detail about the Scheme that is in the Public .</p>
<p><b>29th</b></p>	<p><b>POL Press Statement announcing the appointment of Sir Anthony</b></p>

<b>October 2013</b>	<b>Hooper as independent chair of working group overseeing initial mediation scheme for Subpostmasters</b>  "..The Post Office, JFSA (Justice for Subpostmasters Alliance), and Second Sight, the independent investigators, have formed a Working Group to develop and monitor the scheme which is available to both current and former subpostmasters..."
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## Overview of the Initial Complaint Review and Mediation Scheme

### Initial Complaint Review and Mediation Scheme

The Initial Complaint Review and Mediation Scheme have been established to help resolve the concerns of Subpostmasters regarding the Horizon system and other associated issues.

Post Office is determined to ensure that Horizon and its associated processes are fair, effective and reliable, and that Subpostmasters can have confidence in the system.

In some instances, however, Subpostmasters allege that Post Office and Horizon have not met these standards. To address these concerns, Post Office appointed independent forensic accountants, Second Sight, to investigate this situation.

In collaboration with the Justice for Subpostmasters Alliance (JFSA) and a group of MPs led by the Rt Hon James Arbuthnot MP, Post Office established an Inquiry into Horizon. Second Sight was appointed to lead this Inquiry and has been working with a number of Subpostmasters for over 12 months. A copy of Second Sight's interim report is available at <http://www.postoffice.co.uk/post-office-statement-horizon>

Post Office now wishes to offer a Scheme to Subpostmasters so that individual Subpostmasters have an opportunity to raise their concerns directly with Post Office. In partnership with Subpostmasters, the JFSA, Second Sight and interested MPs, all sides can then work towards resolving those concerns.

This Scheme has been developed by Post Office, Second Sight and the JFSA.

### Mediation

In essence, mediation is a face-to-face discussion between two parties. The discussion is chaired by a neutral and independent mediator.

The purpose of mediation is to give each side the opportunity to explain their position. The mediator will then discuss matters with both parties, sometimes together in the same room, sometimes privately with each party.

The mediator's role is to help the parties find common ground. Where common ground cannot be reached, the mediator will help the parties identify their differences and then try to find a resolution to those differences.

The mediator cannot impose a solution on any party (unlike a judge in a courtroom). He can recommend possible solutions to any disagreements. The parties are then free to accept or reject any recommendation. A solution is only binding on the parties where they both agree to that solution and that agreement is captured in writing and signed by both parties.

### Eligibility

The Scheme applies to both current and former Subpostmasters as well as counter clerks employed by Post Office.

Where we refer to "Subpostmasters" this includes Subpostmistresses, nominee Subpostmasters of multiple branches and counter clerks.

The Scheme is open to any Subpostmaster who believes they have suffered a loss or been treated unfairly as a result of the Horizon system or any associated issues.

If a serving Subpostmaster wants to use the Scheme, he or she must have already raised their case with Post Office and have completed all Post Office's internal complaint processes. For example, a

Subpostmaster who wishes to dispute a transaction or series of transactions in their branch should first raise this matter with NBSC and assist with any subsequent Post Office enquires. If a currently serving Subpostmaster needs advice how to raise a matter internally with Post Office they should email [branch.support.team@postoffice.co.uk](mailto:branch.support.team@postoffice.co.uk).

### **The Scheme**

The Scheme is being supervised by a Working Group comprising of representatives from Post Office, Second Sight and the JFSA. The Working Group's role is to ensure the Scheme is run in a fair and efficient manner. It will also be involved in making decisions on how particular cases should be managed through the Scheme. To ensure its impartiality, the Working Group is seeking to appoint an Independent Chairperson.

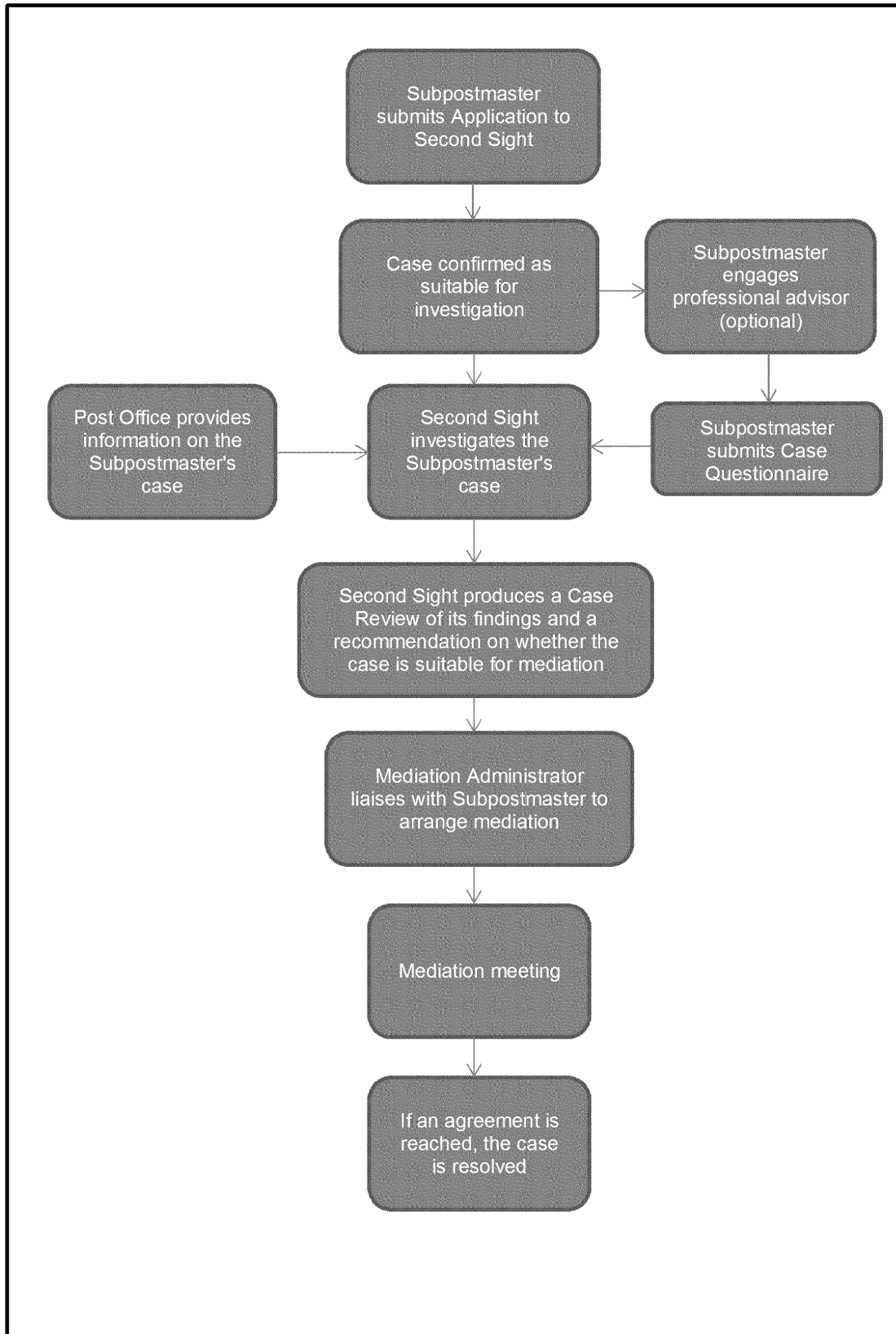
The starting point for the Scheme is for Subpostmasters to submit details of their case to Second Sight as part of an initial application process. Second Sight, in collaboration with the Working Group, will recommend whether the case should be investigated.

Second Sight will then work with each Subpostmaster and Post Office to gather information about and investigate that case. The Subpostmaster will be sent a Case Questionnaire setting out requests for more detailed information. Post Office will also provide additional information from its own records.

As a result of this investigation, Second Sight will produce a Case Review summarising its findings and a recommendation on whether the case is suitable for mediation. A copy of this Case Review will be provided to you. The Working Group will however take the final decision on any cases that may not be suitable for mediation.

The Case Review should bring clarity to many cases. Post Office may contact a Subpostmaster directly to discuss the Case Review and to seek closure of any outstanding issues. If a solution cannot be reached directly between Post Office and the Subpostmaster, both parties may then be invited to attend mediation.

The mediation process will be administered by an independent mediation body and the mediator will be selected by the parties from a panel of mediators. The mediation administrator and the panel of mediators will be nominated by the Working Group.



### **The Subpostmaster's role**

In order for mediation to work, it is important that each case is properly investigated by Second Sight before the mediation begins. It is therefore critical that each Subpostmaster provides complete and accurate information to Second Sight in a timely manner.

If an Application is accepted following Second Sight's recommendation, the Subpostmaster will be asked to submit a more detailed explanation of his/her case along with any supporting documents in the form of a Case Questionnaire. Subpostmasters will have four weeks after the Case Questionnaire is received to complete the Case Questionnaire and to submit relevant evidence. Subpostmasters will receive guidance on the information required and may use a professional advisor to help with this process. Second Sight may also contact a Subpostmaster (by phone, letter or email) to seek more information or to clarify some matters.

The information provided in the Case Questionnaire is likely to be shared with Post Office so that Post Office can make its own internal enquiries and provide further relevant information to Second Sight.

If the information provided by the Subpostmaster is insufficiently detailed or not clear, or information is not provided promptly, it may mean that a case is not investigated or mediated. It is also very important that the information provided is accurate and truthful.

### **Support for Subpostmasters**

Post Office recognises that mediation will be unfamiliar to many Subpostmasters. It is therefore prepared to make a financial contribution towards the reasonable costs of a professional advisor (such as a lawyer or an accountant) supporting a Subpostmaster through the Scheme.

Post Office will provide a financial contribution of:

- up to £1,500 + VAT towards the reasonable costs of a professional advisor assisting a Subpostmaster during Second Sight's investigation (ie. gathering information, completing the Case Questionnaire, responding to Second Sight's questions, etc.)
- up to £750 + VAT towards costs of a professional advisor in preparing for and attending a half-day mediation or up to £1,250 + VAT for a full day mediation.

Post Office will also pay the reasonable expenses of travelling to and from the mediation for a Subpostmaster and up to two representatives.

Subpostmasters will not be asked to contribute towards the costs of the mediator or the mediation venue.

Subpostmasters may engage a professional advisor to provide additional support in other areas or in excess of the above contribution levels however they will be responsible for these costs. In exceptional circumstances, a Subpostmaster may make a written request to the Working Group for additional financial support.

If an Application is accepted, the Subpostmaster will be sent a Funding Agreement that will explain how Post Office will provide this financial support.

### **Further information**

For further information, please see the enclosed Frequently Asked Questions.

## **Frequently Asked Questions for the Scheme**

### **What is the Working Group?**

The Scheme is being supervised by a Working Group comprising of representatives from Post Office, Second Sight and the JFSA. The Working Group's role is to ensure the Scheme is run in a fair and efficient manner. It will also be involved in making decisions on how particular cases should be managed through the Scheme. To ensure its impartiality, the Working Group is seeking to appoint an Independent Chairperson.

### **What are the eligibility criteria for the Scheme?**

You must meet both the following criteria.

First, your case must relate to a financial loss or unfair treatment that you believe you have suffered as a result of the Horizon system or any associated issues.

Secondly, if a serving Subpostmaster wants to use the Scheme, he or she must have already raised their case with Post Office and have completed all Post Office's internal complaint processes. For example, a Subpostmaster who wishes to dispute a transaction or series of transactions in their branch should first raise this matter with NBSC and assist with any subsequent Post Office enquires. If a currently serving Subpostmaster needs advice on how to raise a matter internally with Post Office they should email [branch.support.team@postoffice.gro](mailto:branch.support.team@postoffice.gro)

### **My case is very old. Can I still mediate it?**

Post Office's records only date back seven years and therefore it may be more difficult to investigate very old cases unless you are able to provide information and documents.

If your case is very old, you may still submit it to Second Sight for consideration. However it may be decided by the Working Group that your case is not suitable for investigation or mediation.

### **What if my case has already been settled by Post Office?**

You may put your case through the Scheme even if you have already entered into a settlement with Post Office.

### **What if my case has already been considered by the civil courts and they have given judgment against me?**

You may put your case through the Scheme even if the Courts have already given judgment against you.

### **What if my case involves a completed criminal prosecution or conviction?**

You may put your case through the Scheme even if you have already received a Police caution or have been subject to a criminal prosecution or conviction.

However, Post Office does not have the power to reverse or overturn any criminal conviction – only the Criminal Courts have this power.

If at any stage during the Scheme, new information comes to light that might reasonably be considered capable of undermining the case for a prosecution or of assisting the case for the defence, Post Office has a duty to notify you and your defence lawyers. You may then choose whether to use that new information to appeal your conviction or sentence.

**What if my case is subject to on-going court proceedings?**

You may still submit your case but it may not be eligible at this time.

**When is the deadline for Applications to the Scheme?**

Your application must be received by Monday 18 November 2013.

**Where should I send my Application?**

Please email your application to: [mediation@GRO](mailto:mediation@GRO)

For any queries on submitting an application, please contact Second Sight on [GRO](tel:GRO)

**How should I complete my application?**

The Application Form can be downloaded from the JFSA website – [www.jfsa.org.uk](http://www.jfsa.org.uk)

If you would prefer to complete the Application in hardcopy, please contact Second Sight (details below) who will send you a paper version of the Application Form.

**If I'm not sure if my case is eligible, what should I do?**

If you need advice on the Scheme please contact the JFSA on:

<http://www.jfsa.org.uk/>

Email: [horizon@GRO](mailto:horizon@GRO)

Telephone: [GRO](tel:GRO)

**What is the Justice for Subpostmasters Alliance?**

JFSA is an independent organization, established to raise awareness of the alleged problems within the Post Office Horizon system. The organisation mainly comprises of ex-Subpostmasters.

**Second Sight Investigation**

**What is Second Sight?**

Second Sight is a firm of independent forensic accountants and investigators which have been engaged to investigate and report on the Horizon system.

[www.2ndsight.eu](http://www.2ndsight.eu)

Email: [mediation@GRO](mailto:mediation@GRO)

Tel: [GRO](tel:GRO)

**What is Second Sight's role?**

Second Sight was appointed by the Rt Hon James Arbuthnot MP and Post Office to independently review and report on the Horizon system and any associated issues.

As a part of the Mediation Scheme, Second Sight will work with you to investigate your case. It will then liaise with Post Office to obtain further information before giving an assessment of your case.

Some cases will be very complex. You should not therefore expect Second Sight to come up with definitive answers to all questions. It will however provide its best, impartial and reasoned assessment based on the evidence available.

### **What information do I need to provide to Second Sight?**

At this stage, you just need to provide preliminary details of your case in your Application Form.

If your case is accepted for the Scheme, Second Sight will send you a full Case Questionnaire to complete. You need to provide as much detail about your case as possible in the Case Questionnaire along with any supporting documents and other evidence. You will receive guidance on the information required.

### **Can I use a professional advisor to help prepare my written submissions to Second Sight?**

Yes – you may engage a professional advisor, such as a lawyer or an accountant, to help with this.

JFSA may be able to assist you with selecting an advisor and the Working Group will be looking to establish a panel of professional advisors that could be engaged by Subpostmasters.

Post Office will pay up to £1,500 + VAT towards the reasonable costs of a professional advisor assisting you during Second Sight's investigation (i.e. gathering information, completing the Case Questionnaire, responding to Second Sight's questions, etc.).

You will be sent an Investigation Funding Agreement for this financial support if your Application is accepted.

You are solely responsible for any costs incurred before the Investigation Funding Agreement is signed or for costs that are outside the scope of the Investigation Funding Agreement.

### **Will my case definitely get investigated by Second Sight?**

The depth of Second Sight's investigation is very much dependent on the quality of the information provided by you. The more specific and comprehensive you can be, the better the chance of Second Sight providing good answers.

If there is insufficient information for Second Sight to investigate a case, the case may not be investigated or may not proceed to mediation.

### **How will Second Sight investigate my case?**

Second Sight's investigation will be principally based on information provided by you and Post Office. In some cases, Second Sight may contact you or Post Office (by phone, email or letter) to discuss your case or to request more information.

Second Sight will seek to determine whether there was a problem with Horizon (or any associated issue) that had an impact on you. If so, Second Sight will also try to determine the scale and scope of that impact on your case.

### **How long will it take for Second Sight to investigate my case?**

It is estimated that it will take between one to three months from receipt of a properly completed Case Questionnaire to investigate a case depending on its complexity.

### **What will Second Sight's findings reveal?**

This very much depends on the nature of your case but Second Sight will provide the best assessment possible based on the available information. This assessment will be provided to you in writing.

However, you should bear in mind that Second Sight is independent of both Post Office and you. Its investigation may therefore reveal information that could assist either you or Post Office.

In particular, the investigation into your case could reveal that you owe a debt or loss to Post Office. In that circumstance, Post Office will be entitled to act on this information and seek to recover this loss from you.

Should Second Sight discover evidence of any criminal wrongdoing, Post Office may pass this information to the Police, the Crown Prosecution Service or seek to prosecute directly.

Likewise, the investigation could disclose information that may assist you in a claim against Post Office.

If you have been previously involved in criminal proceedings, Post Office also has a duty to disclose to you and your defence counsel, any new information which comes to light that might reasonably be considered capable of undermining the case for the prosecution or of assisting the case for your defence.

### **Will my case definitely be referred to mediation?**

If your case is suitable and you provide accurate, detailed information to Second Sight, then this is likely in most circumstances.

However, the Working Group may consider that some cases are not suitable for mediation. For example, if there is insufficient information about a case or the case is not one requiring resolution.

Also, once Second Sight has submitted its findings, Post Office may contact you to discuss your case and to seek a resolution without needing to attend mediation.

If your case is not referred to mediation, then you may still pursue other methods of resolution such as by bringing a claim through the Courts.

## **Mediation**

### **What is mediation?**

In essence, mediation is a face-to-face discussion between two parties. The discussion is chaired by a neutral and independent mediator.

The purpose of mediation is to give each side the opportunity to explain their position. The mediator will then discuss matters with both parties, sometimes together in the same room, sometimes privately with each party.

The mediator's role is to help the parties find common ground. Where common ground cannot be reached, the mediator will help the parties identify their differences and then try to find a resolution to those differences.

### **Who is the mediator?**

The mediator is a neutral individual who specialises in resolving disputes. Typically, mediators are independent professionals.

The Working Group will be nominating a panel of suitable mediators. A mediator from this panel will be jointly chosen by you and Post Office. If the parties cannot agree on a mediator then the mediator will be selected by the independent Mediation Administrator.

#### **Who is the Mediation Administrator?**

The Working Group will be nominating a Mediation Administrator. This will be an independent body specialising in providing mediation services.

The Mediation Administrator's role will be to organise the mediation process by helping the parties choose a mediator and by finding an appropriate location and time for the mediation.

Full details of the Mediation Administrator will be provided to you if your case proceeds to mediation.

#### **What powers does the mediator have?**

The mediator's role is to facilitate a discussion between you and Post Office. He/she is there to help the parties find a solution to their disagreement.

The mediator cannot order the parties to do anything or to impose an outcome on the parties.

#### **What will happen on the mediation day?**

The course of events at the mediation will be set by the mediator. The mediator will look to use the time available at the mediation in the most productive way possible.

A typical mediation will run as follows:

- The parties arrive at the venue and are each allocated separate private rooms.
- The mediator arrives and introduces himself to each party separately.
- The parties convene in a joint meeting. Each party or their representative makes a short opening statement (lasting just a few minutes) setting out their position.
- The mediator then chairs a discussion between the parties about the issues to be considered.
- The parties retire to their separate rooms. The mediator speaks separately to each party about their thoughts and opportunities for resolution.
- The mediator may assist negotiations between the parties in an attempt to agree a solution.
- Further face-to-face meetings may be held between various people at the mediation.
- If a deal is reached, the mediator may help the parties to draw up a settlement agreement.

#### **Who attends mediation?**

There are no strict rules on who can attend. However it is usual to have only two or three people representing each side. You may bring with you anyone you consider appropriate. However, Post Office will only pay reasonable travelling expenses for you and two representatives.

#### **Can I bring a professional advisor to the mediation?**

Yes – you may bring a professional advisor, such as a lawyer or accountant, to the mediation.

**Who will pay for my professional advisor to attend the mediation?**

Post Office will make a contribution towards the reasonable costs of a professional advisor in preparing for and attending mediation on your behalf.

For a half-day mediation, Post Office will contribute up to £750 + VAT.

For a full-day mediation, Post Office will contribute £1,250 + VAT.

You will be sent a Mediation Funding Agreement for this financial support if your case is deemed suitable for mediation by the Working Group. This decision will be made after Second Sight has produced its Case Review.

You are solely responsible for any costs incurred before the Mediation Funding Agreement is signed or for costs that are outside the scope of the Mediation Funding Agreement.

**Will Post Office pay my expenses of travelling to the mediation?**

Yes – Post Office will pay the reasonable expenses for you and up to two representatives to travel to the mediation. Full details of this support will be provided in your Mediation Funding Agreement.

**How long will the mediation last?**

In most cases, the mediation will last about half a day (4 hours). For complex cases, the mediation may last a full day (8 hours).

**Where will the mediation be held?**

The mediation will be held in a set of meeting rooms at an appropriate venue. The venue will be selected depending on the location of the mediator and the parties. Post Office will seek to find a venue within three hours travel of where you live, but this cannot be guaranteed in all situations.

**When will the mediation happen?**

The precise date depends on your availability and the availability of the mediator and Post Office. The aim is to hold most mediations within six months of receipt of your Application Form.

The Mediation is likely to happen on a weekday so you may need to take time off work.

**Will Post Office compensate me for taking time off work to attend mediation?**

No.

**How might my case be resolved?**

The advantage of mediation is that the parties can agree any solution that is legal, realistic and enforceable. Post Office is keeping an open mind to all possibilities for resolution.

Compensation is one possible solution that could be agreed by the parties but this will depend on what happened in your case.

If a resolution is reached by the parties, then this is likely to be drawn up into a formal settlement agreement for you to sign.

**What if my case is not resolved at mediation?**

If your case is not resolved at mediation, you are free to pursue any other method of resolution, including through the Courts.

### **Information about my case**

#### **Will Second Sight share my information with Post Office?**

Yes – Second Sight will share your information with Post Office in order to investigate your case.

#### **Why are details of my case being shared with JFSA and my MP?**

JFSA are part of the Working Group, alongside Second Sight and Post Office, who will be monitoring the Scheme.

The Scheme is also being kept under review by a group of MPs led by the Rt Hon James Arbuthnot MP. Your MP may therefore request details of your case. However, details of your case will only be communicated to your MP and not to other MPs.

#### **Will my case be kept confidential?**

Both you and Post Office must endeavour to keep details of your case confidential however details of your case may be discussed with:

- Second Sight
- Your MP
- JFSA
- Professional advisors
- With other appropriate persons where you have already made or have chosen to make public statements about your case.

However, all matters discussed in the actual mediation will be strictly confidential and subject to "without prejudice" privilege. This means that the matters discussed during mediation cannot be disclosed to any third party or to any Civil Court.

This protection allows both parties to speak freely in the mediation room, without risk of their words being repeated back to them in public or in the Civil Courts. Under this protection, the parties can then accept responsibility for their actions and make concessions in order to move towards a resolution.

#### **Can Second Sight's pre-mediation findings be used in subsequent Court proceedings?**

Yes. A Subpostmaster will receive a copy of Second Sight's findings and may use them against Post Office in later Court proceedings.

However, the investigation into your case may reveal that you owe a debt or loss to Post Office. In that circumstance, Post Office will be entitled to act on this information and seek to recover this loss from you.

Likewise, should the investigation reveal any criminal wrongdoing, Post Office may pass this information to the Police, the Crown Prosecution Service or seek to prosecute directly.

The matters discussed at the actual mediation cannot be later used in later Civil Court proceedings but might be disclosable in the Criminal Courts.

### **Other questions**

#### **Is it possible that the structure of the Scheme may change over time?**

Yes – the Working Group is tasked with making sure that the Scheme is operating effectively. It may therefore be necessary to revise the Scheme as appropriate.

### **What is the effect of the Scheme on my legal position?**

You are not waiving any of your legal rights by submitting information to Second Sight or attending mediation.

Your legal rights will only be affected if you settle your case against Post Office in a written agreement.

The Funding Agreements and the Mediation Agreement may contain some obligations on you such as duties to keep information confidential.

### **Am I obliged to mediate my case?**

No – the Scheme is voluntary.

Post Office will not use the fact that you have not mediated your case (or may have pulled out part way through the Scheme) against you in any future Court proceedings.

### **Can I pull out part way through the Scheme?**

Yes – at any time you may confirm in writing (to either Second Sight or the Mediation Administrator as appropriate) that you no longer wish to be part of the Scheme. Should you pull out of the Scheme, you may not be able to re-join the Scheme at a later date.

### **What happens if I pull out?**

Second Sight will stop its investigation into your case.

If you pull out before signing a Funding Agreement, you will be responsible for any professional advisor's costs you have incurred.

If you pull out after signing a Funding Agreement, Post Office will still make its contribution towards your professional advisor's reasonable costs as described in that Funding Agreement.

### **What is a Funding Agreement?**

A Funding Agreement is a contract between you and Post Office under which Post Office commits to provide you with financial support.

An Investigation Funding Agreement will be sent to you if your Application is accepted. This will provide up to £1,500 + VAT towards the costs of you engaging a professional advisor during Second Sight's investigation.

A Mediation Funding Agreement will be sent to you if, after Second Sight's investigation, the Working Group decides that your case is suitable for mediation. This will provide up to £750 + VAT or £1,250 + VAT (depending on the length of the mediation) towards the costs of a professional advisor attending mediation on your behalf

Unless you sign a Funding Agreement, Post Office is not responsible for any costs that you may incur.

Post Office is also not responsible for any costs you may incur outside the scope of any Funding Agreement or in excess of the above funding commitments.

### **What if I need more financial support?**

It is for you to manage your professional advisor's costs.

In exceptional circumstances, you may make a written request to the Working Group for additional financial support. Each case will be treated on its merits with no guarantee of additional support being granted.

**What is a Mediation Agreement?**

A Mediation Agreement outlines the basic principles of the mediation process and confirms the appointment of the mediator. It also contains the obligation on the parties to keep the Mediation discussions confidential.

You will be sent a Mediation Agreement after Second Sight's investigation is complete and your case is considered suitable for mediation.