

Private & Confidential: Subject to Legal Privilege

### Treatment of Debt: Postmaster Litigation Steering Group Paper – 7 June 2016

#### **Background and Input Sought**

1. A number of the litigation claimants have outstanding debt due to POL from their time as a Postmaster / Counter Clerk. Other non-claimant Postmasters are now using the Freeths litigation to challenge POL debt recovery action.
2. The Steering Group is invited to agree a principle for the treatment of debt owed by Postmasters as follows:
  - a) Claimant – Deal with through litigation:
    - If time barred, plead Limitation Act defence; and
    - File protective proceedings if time period is nearing expiry.
  - b) Non-Claimant – Deal with through BAU processes:
    - This may push some more Postmasters to join the Freeths litigation (e.g. Dr Climo); and
    - New letters of claim and claim forms need to be developed to pre-empt “Horizon” challenges.

#### **History**

3. A decision was taken, in the early stages of the Complaint Review & Mediation Scheme (“the Scheme”), not to pursue Applicants for their debt whilst their case in the Scheme remained ‘live’.
4. As the Scheme came towards a close<sup>1</sup>, a process by which to recover debt, varied according to the route an Applicant’s case took, was agreed. This is set out as Annex 7.
5. However, as this process was being implemented, legal proceedings were issued against POL by Freeths on behalf of 91 claimants, 70 of whom were Applicants to the Scheme. The FSC considers that the potentially recoverable debts from these claimants total £680,000.
6. The Freeths litigation (and “Horizon” more generally) is also being raised by Postmasters in response to BAU agent debt collection action.
7. Including Agents and Former Agents who are not one of the 91 named claimants, 6 categories of debtor exist, as set in the following table.

---

<sup>1</sup> The Scheme formally closed on 29 February 2016.

Private &amp; Confidential: Subject to Legal Privilege

Cat	Category	Claimants / Applicants	Annex No.	
1	Claimant & Scheme Applicant	Claimant's claim against POL <u>WAS</u> Time Barred prior to 11 April 2016 <sup>2</sup>	6	1
2		Claimant's claim against POL <u>WAS NOT</u> Time Barred prior to 11 April 2016	10	2
3	Claimant but <u>non</u> Scheme Applicant	Claimant's claim against POL <u>WAS</u> Time Barred prior to 11 April 2016	6	3
4		Claimant's claim against POL <u>WAS NOT</u> Time Barred prior to 11 April 2016	15	4
5	<u>Non</u> Claimant but <u>was</u> a Scheme Applicant		12	5
6	<u>Non</u> Claimant & <u>non</u> Scheme Applicant		NA	6

Post Office Limited  
6 June 2016

---

<sup>2</sup> Based on Last Day of Service.

Private & Confidential: Subject to Legal Privilege

Annex 1 - Category 1 Debtors:

**Claimant & Scheme Applicant – Claimant’s claim against POL WAS Time Barred prior to 11 April 2016**

8. 70 of the 91 named claimants were Applicants to the scheme.
9. Of this 70, 16 have ‘live’ debt<sup>3</sup> – one of which is Ms O’Dell. POL had until 5 May to ‘serve’ its claim on Ms O’Dell.
10. On 4 May, it was agreed that the claim issued in relation to the debt owed to POL by Ms O’Dell would not be ‘served’ on her. This decision was taken, principally, because the advice from Bond Dickinson was that by doing so may, despite her claim now being ‘Time Barred, entitle Ms O’Dell to bring a Counterclaim in the same terms as the Group Claim.
11. In effect, POL effectively took the decision that being able to argue Ms O’Dell could not form part of the class action against it, was worth surrendering the chance of being able to pursue the debt she owed to it - £9,600.
12. 5 of the remaining 15 claims against POL, like Ms O’Dell’s, also became time barred prior to the 11 April 2016 (when the claim against POL was issued at the High Court). These cases are set out in the following table.

Case	Scheme Route	Name	LDOS	Debt	Conviction	Notes	Possible Next steps
M006	Not Resolved: Though Mediated	Terence Walters	29.11.07	£11,846	No	Litigation ongoing. The time limit to bring a claim (six years from audit) was due to expire and a claim was issued (via Bond Dickinson) to preserve the possibility of recovering the outstanding debt. The claim is currently on hold. it became clear through	<b>None - Statute of Limitation to be used as a defence a mechanism for removing as a claimant.</b>  <b>BD to advise how, if at all, the claim issued in 2013 alters this</b>

<sup>3</sup> e.g. potentially recoverable; as according to FSC’s most recent Spread sheet shared with Mark Underwood on Monday 9 May.

Private &amp; Confidential: Subject to Legal Privilege

						mediation that the Applicant does not have any assets	
M045	Not Resolved: Though Mediated	Nirmala Fatania	03.12.09	£13,073	No		<b>None - Statute of Limitation to be used as a defence a mechanism for removing as a claimant.</b>
M046	Not Resolved: Recommended for Deferred Mediation but POL Refused	Siobhan Sayer	19.01.08	£13,283	Yes	Litigation ongoing. The time limit to bring a claim (six years from audit) was due to expire and a claim was issued to preserve the possibility of recovering the outstanding debt.	<b>None - Statute of Limitation to be used as a defence a mechanism for removing as a claimant.</b>  <b>BD to advise how, if at all, the claim issued alters this</b>
M064	Failed to engage with CEDR before 4/09/2015	Mohammed Saleem	28.02.08	£55,579	No	Debtor currently paying £125 per month	<b>None - continue to receive payments. Statute of Limitation to be used as a defence a mechanism for removing as a claimant.</b>
M105	NOT RESOLVED: Though Mediated	Katherine Mcalmerney	19.01.07	£10,587	No	POL issued a civil claim which was settled for £5,000 and POL was given a charge against the Applicant's properties.	<b>None - Statute of Limitation to be used as a defence a mechanism for removing as a claimant.</b>  <b>BD to advise whether charge should be enforced and whether, if at all, it alters the above</b>

Private & Confidential: Subject to Legal Privilege

Annex 2: Category 2 Debtors:

**Claimant & Scheme Applicant – Claimant's claim against POL WAS NOT Time Barred prior to 11 April 2016**

13. 10 of the 16 claimant's claims against POL, who were Applicants to the Scheme, were not Time Barred prior to 11 April 2016. These are included in the following table.

Case	Scheme Route	Name	LDOS	Outstanding Debt	Conviction	Notes	Possible Next steps
M025	Cases referred to CEDR for mediation who withdrew from the Scheme	Darren King	01.03.13	£30,619	No	Becomes Time Barred: 28.02.2019  Restraint Order dated 10 June 2013 granted to prevent Applicant selling his home. Discharged 19 March 2014 – decision taken not to prosecute.	<b>Review this case following the outcome of Class action?</b>
M028	NOT RESOLVED: Though Mediated	Pamela Stubbs	08.06.10	£33,519	No	Becomes Time Barred: 06.06.2016	<b>Advice sought from SG</b>  <b>Protective proceedings issued. POL has 4 months to 'serve' if it wishes to pursue</b>
M037	Cases referred to CEDR for mediation who withdrew from the Scheme	Steve Phillips	Current	£17,969	No	Becomes Time Barred: 28.11.2020  the Applicant's branch has converted into a Main branch and the agreement included a full and final settlement clause relating to claims against POL.	<b>Review this case following the outcome of Class action?</b>  <b>(Current agent – changes approach?)</b>
M050	NEW SCHEME: NOT RESOLVED. PO no to mediation	Della Robinson	24.01.12	£17,587	Yes (WITH CCRC)	WITH CCRC  Becomes Time Barred: 22.01.2018	<b>Review this case following the outcome of its review by the CCRC &amp; Class action ?</b>
M056	NOT RESOLVED: Though Mediated	Kym Wyllie	10.09.10	£38,518	No	Becomes Time Barred: 08.09.2016	<b>Advice sought from SG</b>

## Private &amp; Confidential: Subject to Legal Privilege

M060	NEW SCHEME: NOT RESOLVED. PO no to mediation	Graham Howard	28.05.10	£45,850	Yes	Becomes Time Barred: <b>26.05.2016</b>  the Applicant has signed a letter of undertaking promising to repay it out of the proceeds of a sale of her business premises	<b>Advice sought from SG.</b>  Protective proceedings issued. POL has 4 months to 'serve' if it wishes to pursue
M073	NEW SCHEME: NOT RESOLVED. PO no to mediation	John Dickson	14.10.11	£22,312	Yes	Becomes Time Barred: 12.10.2017	<b>Advice sought from SG</b>
M102	Applicant MISSING. Closed unless Applicant is Found	Haji Abbas Choudry	19.04.13	£73,118	No	Becomes Time Barred: 18.04.2019	<b>Review this case following the outcome of Class action?</b>
M119	NEW SCHEME: NOT RESOLVED. PO no to mediation	Marion Drydale	22.09.11	£42,954	No	Becomes Time Barred: 20.09.2017  Son sentenced to eight months in prison suspended for two years along with 200 hours of unpaid work. POL awarded £5k in compensation and £1k in costs to be paid at £120 per week	<b>Advice sought from SG</b>
M141	Cases referred to CEDR for mediation who withdrew from the Scheme	Mansell Rees	27.09.13	£2,239	No	Becomes Time Barred: 26.09.2019  Deteriorating Health	<b>Review this case following the outcome of Class action?</b>

Private & Confidential: Subject to Legal Privilege

Annex 3: Category 3 Debtors:

**Claimant but non Scheme Applicant** - *Claimant's claim against POL WAS Time Barred prior to 11 April 2016*

14. 21 of the 91 named claimants were not Applicants to the Scheme. 6 of these claimants' claims against POL are now Time Barred. These are detailed in the following table

Name	LDOS	Outstanding Debt	Conviction	Notes	Possible Next steps
Oyetu Adedayo	05.09.2005	£0	With CCRC so assumption is Yes		<b>None. Statute of Limitation to be used as a defence a mechanism for removing as a claimant.</b>
Ghazala Chisty	01.03.2003	TBC	No	Due to the time period Post Office no longer hold any records. The Applicant has however submitted a CQR type document	<b>None. Statute of Limitation to be used as a defence a mechanism for removing as a claimant.</b>
Harish Joshi	13.05.2006	TBC	Yes		<b>None. Statute of Limitation to be used as a defence a mechanism for removing as a claimant.</b>
Anish Kavi	01.07.2008	£0	TBC		<b>None. Statute of Limitation to be used as a defence a mechanism for removing as a claimant.</b>
Ralph Oliver	08.08.2005	£0	No	Report produced by Kath & Shirley	<b>None. Statute of Limitation to be used as a defence a mechanism for removing as a claimant.</b>
Mohammed Sabir	12.08.2009	£0	TBC		<b>None. Statute of Limitation to be used as a defence a mechanism for removing as a claimant.</b>

Private & Confidential: Subject to Legal Privilege

Annex 4: Category 4 Debtors:

**Claimant but non Scheme Applicant** - Claimant's claim against POL WAS NOT Time Barred prior to 11 April 2016

15. 21 of the 91 named claimants were not Applicants to the Scheme. Up to 15 of these claimants' claims against POL would not be Time Barred. These are detailed in the following table

Name	LDOS	Outstanding Debt	Conviction	Notes	Possible Next steps
Shazia Azam	Current	£15,425	No		Advice sought from SG
Jasvinder Barang	20.04.2012	£0	Yes		None – No outstanding debt
Sharon Brown	27.11.2012	£36,645	TBC	Suspended & then resigned to avoid termination	Advice sought from SG
Gary Brown	12.03.2014	£32,582	TBC	Resigned to avoid termination	Advice sought from SG
Pauline Coyle	Current	£0	TBC		None – No outstanding debt
Frank Holt	Current	£32,372	No	<p>Precautionary Suspended.</p> <p>The branch is operated by the agents daughter who had been increasing the overnight cash holdings to cover the shortage. Police have investigated and the case is sitting with the PF office awaiting a decision on whether to prosecute. Apparently there is evidence of money going into the daughters account.</p> <p>Report semi produced by Kath &amp; Shirley</p>	<p>Advice sought from SG</p> <p>BD to advise how the current case with the Procurator Fiscal is affected, if at all</p>
Gillian Howard (wife of M060)	02.02.2016	£0	TBC	Wife of M060	None – No outstanding debt

## Private &amp; Confidential: Subject to Legal Privilege

Karen Judd	19.03.2013	£0	No	Resigned to avoid termination.  Investigation carried out by Kath & Shirley	<b>None – No outstanding debt</b>
Antony Khan	TBC	TBC	TBC	No record of this claimant can be found	<b>Advice sought from SG</b>
Wendy Martin	Current	£0	No	Report produced by Kath & Shirley	<b>None – No outstanding debt</b>
<b>anonymity order</b>	25.06.2010	£0	TBC		<b>None – No outstanding debt</b>
Shahnaz Rashid	Current	£35,562	No	Currently suspended - case with appeal manager	<b>Advice sought from SG</b>
Carol Riddell (wife of M063)	12.10.2011	£0	TBC	Wife of M063	<b>None – No outstanding debt</b>
Elizabeth Stockdale	Current	£20,776	TBC		<b>Advice sought from SG</b>
Greg Suszenia	Current	£76,941	TBC	Currently suspended	<b>Advice sought from SG</b>

Private & Confidential: Subject to Legal Privilege

Annex 5: Category 5 Debtors:

**Non Claimant but was a Scheme Applicant**

16. 80 Applicants to the Scheme are not named claimants in the Group Claim.

17. Of these 80, only 12 have 'live' debt. These are set out in the table below.

18. The debt owed to POL by these 12 Applicants to the Scheme should be progressed as detailed (and previously agreed) in the process map set out in Annex 7.

Case	Name	Scheme Route	Outstanding debt	Category in Process Map	Notes
M004	Keith Jones	NOT RESOLVED: Though Mediated	£24,214	2C	Current Agent
M020	Margaret Bateman	Cases referred to CEDR for mediation who withdrew from the Scheme	£18,940	2C	Settled by Consent Order. Post Office issued legal proceedings (via Bond Dickinson) to recover the losses and a settlement was reached whereby the Applicant would repay £10,000 plus £8,654.38 costs. The settlement agreement includes a clause that if the Applicant misses a payment then Post Office could sue for the full amount of £18k. Claim stayed by consent order
M054	Tracey Merrit	NOT RESOLVED: Though Mediated	£2,975	2C	Currently recovery via Security @ £1.00 a week
M065	Lynette Hutchings	NEW SCHEME: NOT RESOLVED. PO no to mediation	£10,814	2C	
M076	Pauline Coates	NOT RESOLVED: Not approved by WG for Mediation	£7,073	1C	Debtor currently paying £40.00 a month by DD
M080	Tracey Etheridge	NEW SCHEME: NOT RESOLVED. PO no to mediation	£8,923	2C	Judgment secured. Judgment was obtained and secured through a charging order over the Applicant's property. The wording of a charging order made against the Applicant's property states that the Judgment debt includes: <ul style="list-style-type: none"> <li>i. £11,209.81;</li> <li>ii. A further £264 of legal costs; and</li> <li>iii. "Any further interest becoming due".</li> </ul>
M109	Grant Allen	NEW SCHEME: NOT RESOLVED. PO no to mediation	£18,354	2C	

## Private &amp; Confidential: Subject to Legal Privilege

Case	Name	Scheme Route	Outstanding debt	Category in Process Map	Notes
M110	Rita Threlfall	Cases referred to CEDR for mediation who withdrew from the Scheme	£34,851	2C	
M115	Jane Roberts	Applicant MISSING. Closed unless Applicant is Found	£2,940	2C	
M121	Kutianawala	Resolved at mediation	£124,156	2A	Civil recovery proceedings were pursued in 2012 to recover the shortfall, which including interest and other costs totalled £156,128.05 as at 18/04/2012. The Applicant chose not to defend the civil claim and Post Office obtained a judgment in default which was enforced by securing a charge against the Applicant's marital home. No steps have as yet been taken to affect a sale of the Applicant's home. Repayment in exchange for a reduction in the debt due was agreed to by the Applicant in context of the mediation scheme but has not been honoured.
M138	John Moir	NEW SCHEME: NOT RESOLVED. PO no to mediation	£25,528	2C	Judgment secured. Judgment was secured following a summary judgment application. The judgment dated 20/03/2012 ordered the Applicant to pay £42,402.80 consisting of: <ul style="list-style-type: none"> <li>- The debt in the sum of £28,969.29;</li> <li>- Interest in sum of £3,649.41;</li> <li>- Plus costs of £9,784.10.</li> </ul> Enforcement action has previously been undertaken and a charging order has been secured against the Applicant's residential property. In addition enforcement through High Court Enforcement Officers (Court Bailiffs) has recovered £3,441.15.
M146	Ahmed El Kasaby	Resolved at mediation	£27,288	2A	Debtor is currently adhering to the terms of the Settlement Agreement

Private & Confidential: Subject to Legal Privilege

Annex 6: Category 6 Debtors:

**Non Claimant & non Scheme Applicant**

19. Pre-established BAU processes should be followed in respect of collecting monies due to Post office by debtors that fall into this category

Private & Confidential: Subject to Legal Privilege

Annex 7

**CASE DEBT RECOVERY UNDER SPARROW**

Note: Current planning states that all case mediations will be completed by 01 February 2016 at which point all cases would have been categorised as set out below with the exception of the one CCRC case under 2b. Indications are that the CCRC will report back on this case in early 2017.

