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POST OFFICE LTD BOARD SUB COMMITTEE

**Initial Complaints Review and Mediation Scheme
Options for the closure/accelerated completion of the Scheme**

1. Purpose

- 1.1 This paper has been prepared following the initial meeting of the Board Sub Committee on the Initial Complaints Review and Mediation Scheme (the Scheme) on 9 April 2014 and considers both options for closure of the Scheme and for accelerating its completion. The paper summarises the options analysis that was tabled at the last Board Sub Committee.
- 1.2 This paper should be read in conjunction with the papers on the future role of Second Sight, Ex Gratia and Settlement payments and Dissemination of the Linklaters advice and Deloitte report as the implications of decisions made on those matters will have a bearing on the future of the Scheme.
- 1.3 The options in this paper are based on a theoretical analysis carried out by the programme team. The paper is intended to stimulate discussion and to provide a means for the Sub Committee's views to coalesce around a particular option.

2. Background

- 2.1 The background to the Scheme has been set out previously and is not rehearsed again here. It has been assumed that any proposed way forward should address the following points:
 - the cost of administering the Scheme;
 - the likely timescales for concluding the Scheme; and
 - the extent to which any changes to the Scheme are consistent with Ministerial or other public statements about the Scheme.

3. Options for the future of the Scheme

- 3.1 In considering the options for the future of the Scheme it has been assumed that continuing the Scheme as currently structured is not acceptable because it is not delivering its aims because of:
 - the delays by applicants' advisors submitting full details of their case (CQR);
 - the longer than anticipated Post Office investigation and legal clearance process ;
 - continued concerns about the role of Second Sight and the way they are fulfilling that role;
 - concerns about the costs of administering the Scheme;

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- the need to address the 'expectations gap' and the potential implications of doing so.
- 3.2 There are three broad options for accelerating the closure or completion of the Scheme:
- Closure of the Scheme with immediate effect;
 - Continue investigating cases but bring it within the full control of the Post Office; or
 - Redefine the Scheme and the role of the Working Group.
- 3.3 The options are not mutually exclusive, each could be varied slightly and would require the development of a detailed handling plan. All three options are likely to lead to media criticism from commentators who have previously engaged on the issue. It is envisaged that although this will be difficult it will be manageable. All three would also involve the publication of the Linklaters' advice and Deloitte's report which is dealt with in a separate paper.
- 3.4 Detailed pros and cons for each option are set out in Annex 1 together with the actions needed to deliver them. A summary analysis follows.

Option 1: Closure of the Scheme with immediate effect

- 3.5 Although this option would provide the quickest and most cost effective way of completing the Scheme, the fact that the Scheme is already underway, and some applicants would not have received a completed Post Office investigation make this option unappealing. Post Office could not be sure that the applications do not contain an issue which needs to be addressed making it difficult for Post Office to mount a robust defence of its approach.

Option 2: Continue investigating cases but bring it within the control of the Post Office

- 3.6 Under this option all cases would be investigated but Post Office would take control of all aspects of the Scheme, Second Sight's engagement would be ended and the Working Group disbanded. Post Office would take positive steps to manage expectations and would set and enforce timelines for all cases. There would be substantial time savings in the investigative process and significantly reduced the management overhead would be reduced by allowing the Scheme to transition into BAU.
- 3.7 Variations on this option, could include:
- Continued involvement of the Chair to provide challenge to the Post Office investigation (which he has already, helpfully, done in a few cases) to ensure it addresses the core issues raised in the case

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- Publication of a final report at the end of the Scheme setting out the approach, a high level assessment of case outcomes (for example x cases investigated, x cases mediated, x cases settled)
 - Engaging a professional services provider to undertake all investigations.
- 3.8 This option provides best value for money whilst also being seen to “do the right thing” for SPMRs. That said, it does not meet the Ministerial commitment about the continuing involvement of Second Sight, although it generally meets all others in terms of investigating cases and an element of independence through the Deloitte report and, if agreed, the continued involvement of the Chair. The independence of the process could be strengthened by engaging a professional services provider to investigate cases.
- 3.9 This option could result in savings of c£1.4m, depending on the number of cases reaching mediation. However that figure would be reduced should a professional services provider be engaged (taking account of savings from reduced Post Office investigative resource we envisage reducing the saving to c£0.5M). With this approach it should be possible to complete the Scheme by the autumn.

Option 3: Redefine the Scheme and the role of the Working Group

- 3.10 As with Option 2, all cases would be investigated by Post Office but not by Second Sight. The Working Group would continue to oversee the Scheme and challenge the Post Office investigation results, but Post Office would have greater role in setting timescales and making the final decision on whether or not cases should be mediated, taking the views of the Working Group into account.
- 3.11 Variations on this option could include:
- Engaging a professional services provider to undertake all investigations.
 - Allowing Second Sight to complete a thematic report at the end of the Scheme.
- 3.12 Option 3 stays closest to Ministerial commitments and maintains the Working Group and Second Sight’s involvement. Whilst it should provide a more efficient administration of the Scheme, and a reduced role for Second Sight, the amount saved is estimated to be less than £500k depending on how many cases resulted in mediation. It should also be noted that option 3 would still require a considerable amount of senior engagement in order to manage Second Sight’s involvement.

4. Conclusion

- 4.1. Experience of the Working Group to date suggests that any changes to the Scheme are likely to be met with resistance and would potentially cause some members of the Working Group to “resign”. We are already aware that JFSA have reservations about the way the Scheme is working and their continued

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membership of the Working Group may not, in any event, survive the first decisions on whether cases should be advanced for mediation.

- 4.2. 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. Subject to a satisfactory outcome from the Deloitte assurance assessment, it is recommended that the sub-committee authorises in the programme team to develop an implementation plan coalesced around option 2 (or one of the other 2 options if the Sub Committee so decide).

Chris Aujard
28 April 2014

Strictly Confidential**Annex 1 Pros and Cons and Actions to Implement****Option 1 Closure of the Scheme**

Pros	Cons
<ul style="list-style-type: none"> • Quick and simple • Enables senior management attention to be focused on core business. • Limits operating costs and financial liabilities in the short term. • Could be argued that the court system is a more appropriate forum for these cases to be discussed. 	<ul style="list-style-type: none"> • Could be seen as failing to meet commitments made to SPMR community to properly investigate all issues, and to give them the opportunity to be heard. • Any underlying process issues may not be uncovered, which may not be in Post Office's best interests. • Will lead to conflict with JFSA and Second Sight and may alienate Working Group chair • Likely to lead to increased parliamentary scrutiny • Post Office are still committing substantial resource to the investigation phase

Key Actions to Implement

- i. Cease all investigations (or complete those where a detailed CQR has been received).
- ii. Notify all applicants and advise them of their right to pursue their complaint through the Courts.
- iii. Pay all fees incurred by applicants/advisors (in line with the Post Office published contribution).
- iv. Disband the Working Group.
- v. Terminate Second Sight's engagement (this would probably require giving them one month's notice).
- vi. Retrieve all information currently held by Second Sight and members of the Working Group.

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Option 2 Continue with the Scheme but bring it within Post Office control

Pros	Cons
<ul style="list-style-type: none"> • Fairness and transparency • Continued engagement with all stakeholders • Thorough process, consistently applied • Minimises short term conflict • Will enable completion of the Scheme to be accelerated • Reduces Scheme operating costs 	<ul style="list-style-type: none"> • 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

Key Actions to Implement

- i. Secure Ministerial approval
- ii. Secure Working Group Chair's agreement and on-going involvement
- iii. Disband the Working Group
- iv. Terminate Second Sight's engagement
- v. Appoint a professional services firm to act as independent investigator (if required)
- vi. Notify applicants/advisors to submit CQRs within a deadline or they will be excluded from the Scheme
- vii. Post Office continue to investigate all cases (combining investigations and triaging cases where possible)
- viii. Make no decisions on settlement/mediation until all cases have been investigated and assessment made of issues arising across the whole caseload.
- ix. Provide all applicants with the report of the investigation report including an assessment of the merits of the case and a proposal for next steps (e.g No further action on the part of Post Office, offer of settlement, offer of mediation).

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Option 3 Redefine the Scheme and the role of the Working Group

Pros	Cons
<ul style="list-style-type: none"> • Fairness and transparency • Continued engagement with all stakeholders • Thorough process, consistently applied • Minimises short term conflict 	<ul style="list-style-type: none"> • 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

Key Actions to Implement

- i. Amend the Terms of Reference of the Working Group
- ii. Revise Second Sight's letter of engagement
- iii. Notify applicants/advisors to submit CQRs within a deadline or they will be excluded from the Scheme
- iv. Post Office continue to investigate all cases (combining investigations and triaging cases where possible)
- v. Make no decisions on settlement/mediation until all cases have been investigated and assessment made of issues arising across the whole caseload.
- vi. Provide all applicants with the report of the investigation report including an assessment of the merits of the case and a proposal for next steps (e.g No further action on the part of Post Office, offer of settlement, offer of mediation).