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POST OFFICE LTD BOARD

Initial Complaints Review and Mediation Scheme ("the Scheme"): Update Paper

1. Purpose

- 1.1. The purpose of this paper is to update the Board on progress on the Scheme. It supplements the updates the Board has had relating to the media reports surrounding Second Sight's Part Two report.

2. Overall position

- 2.1. Cases have continued to progress through the Scheme over the summer and, apart from the issue of the Part Two report there was little other significant activity relating to the Scheme over the holiday period. This was mainly due to the absence of the Chair and his desire to keep Working Group calls to a minimum and reduce possibility of contentious or substantive matters being raised until the Working Group could meet face to face, which it did on 16 September. Unsurprisingly, therefore, that meeting was significant in a number of ways as summarised in paragraph 4 below.

3. Case progress

- 3.1. In line with our undertaking to keep the Board updated on the 'mechanics' of case progression through the Scheme, the headline position is:
 - There are now 124 cases remaining in the Scheme.
 - 12 cases have been resolved outside of mediation.
 - All outstanding case questionnaires have now been received.
 - Post Office has completed its investigation of 73 cases, with a further 69 cases under active investigation.
 - 37 cases are with Second Sight to review and produce a case report.
 - Second Sight have produced 19 final case reports (which form the basis of a decision on whether the cases should be mediated).
 - Six cases are with CEDR to arrange mediation meetings.
 - Three cases have been mediated (one settled, two not).
- 3.2. This progress has put us in a strong position to be more directive and assertive in our approach with Second Sight, JFSA and at Working Group more generally. This has been helped by the fact that we have found nothing in the 73 cases investigated which has raised concerns about faults with the Horizon system, the safety of convictions or Post Office's liability for the losses being claimed by applicants.

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4. Face to face Working Group Meeting (16 September)

- 4.1. Overall the meeting was broadly successful as far as Post Office was concerned although it is clear that the Chair was doing all he could to avoid a situation which might cause the Working Group to fracture. To this end he closed down discussion of any matters that were not absolutely relevant to the matter in hand to avoid confrontation where possible.
- 4.2. The substantive discussions centred on the nine reports completed by Second Sight which required a decision of the Working Group on whether cases should be mediated. We used this opportunity to get on the record some key points relating to our approach to certain types of cases. In particular that:
 - Overturning a criminal conviction is a matter for the Courts and not mediation. Our approach to consequential loss claims will be informed by reference to legal principles.
 - We will agree, in relation to the two 'old' cases considered (i.e. cases where there is very little information available in our view to form the basis of a mediation discussion), to ½ day mediation but with a view to assessing the value of mediating such cases to inform decisions in the future.
- 4.3. Asserting our position on these points unsurprisingly provoked a response from other members of the Working Group and JFSA announced that they would leave the meeting at two points but, in the end, did not do so. However, notwithstanding JFSA's dissatisfaction with the positions we are adopting, we are confident that they are the right ones, they are in line with the steer agreed with the Board and are defensible should JFSA decide to make our position public. Indeed in asserting our position we are being transparent and taking reasonable steps to manage expectations.

5. Second Sight Engagement and Remuneration

- 5.1. As the Board is aware, a key issue we have been addressing is ensuring we regularise Post Office's engagement of Second Sight, which we did earlier in the year by agreeing and signing a letter of engagement. We have subsequently turned our attention to addressing with them our concerns about their productivity, costs, quality of work and general engagement with Post Office. We have already done this privately but we took the opportunity at the Working Group meeting to expose and express more publicly our concerns at Second Sight's unacceptably low productivity levels which, despite repeatedly assuring the Working Group has been three cases a week, has in fact been less than half that.
- 5.2. We are now following this up more formally with a letter setting out our concerns in detail and demanding a meeting to discuss the improvements we require. Second Sight has already responded positively to our attempts to manage costs with a

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proposal which links payment to productivity. We will discuss this with them when we meet.

6. Conclusion

- 6.1. The Board is invited to note this update and that we will provide a more detailed oral update on 25 September.

Chris Aujard

Belinda Crowe

17 September 2014