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POST OFFICE EXECUTIVE COMMITTEE

Horizon - Initial Complaint Review and Mediation Scheme Settlement Policy

1. Purpose

The purpose of this paper is to

- 1.1. request approval for the Settlement Policy which sets the framework within which decisions for financial settlements will be made
- 1.2. to set out the strategy for managing the potential gap between Subpostmasters' expectations about the value of settlements and the amount that Post Office may be prepared to offer.

2. Background

- 2.1. Following the publication of the Second Sight Report, Post Office set out a number of steps it would take to address the issues raised in the Report. One step was to create an Initial Complaint Review and Mediation Scheme to help resolve the concerns of Subpostmasters regarding the Horizon system and other associated issues. Although the Scheme is primarily aimed at applicants who are no longer Subpostmasters, it is also open to existing Subpostmasters provided they have previously raised their complaint with us, and our investigation processes have been exhausted.
- 2.2. At the time of writing, we have received 86 applications. This already exceeds our original planning assumptions of 75 cases in total. The Scheme closes on 18 November.

3. The Scheme

- 3.1. The Scheme was designed, and is overseen by, a Working Group comprising members of Post Office, JFSA and Second Sight. Sir Anthony Hooper was appointed by the Post Office as the Independent Chair of the Working Group on 18 October.
- 3.2. The objectives of the Scheme are:
 - to try to achieve a mutual and final resolution of a Subpostmaster's concerns about Horizon and any associate issues
 - to provide a mechanism to proportionately and effectively investigate a Subpostmaster's concerns
 - where appropriate, offer a reasonable forum, by way of mediation or through direct discussions, for a Subpostmaster and Post Office to seek a solution to that sSubpostmaster's legitimate concerns.

- 3.3. The role of the Working Group is to:

Initial Complaint Review and Mediation Scheme Settlement Policy

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13 November 2013

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- monitor the efficacy^[SB1] of the Scheme in achieving its objectives
- ensure the cases progress through the scheme in a timely manner
- review Subpostmasters' cases which may not be suitable for the Scheme and decide whether and how those cases may proceed.

4. Ensuring the success of the Scheme

4.1. It is vital for the Post Office that, having invested time and money in the creation of the Scheme, and positioned it as the response to the Second Sight Report with the media, MPs and JFSA, that it not only achieves its objectives but is generally considered to having successfully resolved the concerns_[SB2] of Subpostmasters and is acknowledged as having been a success.

4.2. From the Post Office's perspective the Scheme will have been a success if, when it has completed:

- the JFSA, the media and politicians consider that the scheme was successful in its aim of addressing the concerns of SubPostmasters as identified in the Second Sight report
- the cost to the Post Office in terms of financial settlements is not excessive, is proportionate, and any financial settlements are consistent with the proper use of public money.
- SubPostmasters retain their confidence in the Horizon system

4.3. When the Scheme was designed Post Office was clear that it was unlikely that complaint resolution would result in excessive compensation payments and, for example, an apology may be an appropriate remedy. However, it is becoming apparent from some of the early cases coming into the Scheme, and comments made by JFSA (in the media and to SubPostmasters), that at least in some instances a gap is emerging between what applicants and JFSA may be expecting and the circumstances in which Post Office might consider a financial settlement appropriate and the amount those circumstances might deserve.

4.4. For the Scheme to provide a successful closure to the Horizon episode we need to both manage the costs and the expectations gap.

5. Managing costs

5.1. It will not be possible to assess the costs to the Post Office until all cases have been investigated and we have a clearer idea of the approach the Working Group will take on the suitability of applications for mediation. Some mediations are likely to take place before others have been fully investigated so we will keep the situation under review.

5.2. Whilst we have always envisaged that some cases will result in a financial settlement, it is important that such payments are justifiable, consistent and proportionate, and that we have an agreed policy in place before we begin considering financial settlements. This will provide a framework for agreeing a mandate for the Post Office mediation team *before* entering each

Page 2 Comments

- SB1** We say 'fair and efficient manner' in the pack initially sent out
Sophie Bialaszewski, 11/11/2013 04:03 PM
- SB2** The scheme has to be seen as legitimate / credible
Sophie Bialaszewski, 11/11/2013 04:04 PM

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mediation session as, once in the mediation session, the mediators will generally need to settle during the session without having the opportunity to leave to seek a mandate.

5.3. The settlement policy attached at (Annex 1) sets out a framework, principles and process for considering cases where it is clear that the applicant is seeking a financial settlement. Applying this policy will allow us to:

- manage and control costs
- approach financial settlements consistently
- provide the Post Office mediation team with a clear mandate for settlement prior to entering mediation discussions

4 |

6. Managing the expectations gap

6.1. The way the scheme has been established should lend credibility to its outcomes. Specifically:

- It has been developed collaboratively with JFSA and Second Sight, who are also on the Working Group overseeing the scheme
- The Working Group has an independent Chair with considerable experience in dealing with complex cases
- Applicants are allowed £1,500 towards the fees of a professional advisor to help prepare their case
- By its very nature, mediation is designed to support parties to find common ground and therefore is, in itself, a mechanism for managing expectations within the confidentiality of a mediation discussion.

6.2. However, we should expect that although confidentiality will be a feature of any settlement agreement, some detail will find its way to into the public domain. Although the Post Office could, rightly, be criticised if the total settlement figure were seen to be high, public and political opinion is generally on the side of the Subpostmasters. To minimise the risk of Subpostmasters being dissatisfied having come through the process, we need to begin to manage expectations. As well as wishing to avoid adverse publicity, we have a responsibility to help ensure that Subpostmasters are not disappointed when they already feel they have been let down by the Post Office.

6.3. In considering how to manage the expectations gap it is important to ensure that we do not undermine the integrity of the Scheme. In particular we have to consider the following factors:

- Privilege – the Settlement Policy is, and must remain, privileged. Disclosing all or part of the Policy is likely to cause privilege to be lost. There are therefore strict limits of what information can be disclosed.

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- The 'no-limit' nature of the Scheme – having established a Scheme with no financial limits, and allowed people to apply on that basis, may attract criticisms of changing the goal-posts if we start publicly suggesting limits at this stage.
- Public impact on applicants, stakeholders and the media – a perception that Post Office is trying to limit an Applicant's freedom to raise whatever complaints they see fit could lead to criticism.
- Impact on the Working ~~Group~~ ~~Group~~ - the Chair in particular may object to the Post Office seeking to manage expectations should this create tensions in the Working Group and effect his ability to maintain the collaborative nature of the Group.
- Evidence based decisions – making public statements about Post Office's expected outcomes for the Scheme may appear to be pre-supposing or undermining the process:

5 |

6.4. It is clear that the Chair, with his judicial background, understands the nature of reasonable settlements based on properly evidenced facts. It is also in his interest to have presided over a successful Scheme. We propose:

- to open discussions with the Chair to take his views on how we might approach the task of managing expectations without undermining his authority, the working Group or the integrity of the Scheme
- to use opportunities presented in meetings with MPs and others, should the subject arise, to restate our original position in relation to resolutions not necessarily being financial.

7. Examples

7.1. As set out in para 5.1 above, we do not have sufficient information at this stage to assess the potential cost of financial settlements to the Post Office. Nor are we able to assess the expectations gap. However we have worked through two live examples to illustrate how the Settlement Policy might work in practice and how the Post Office approach to settlement might compare with the expectations of individual Subpostmasters. We cannot tell at this stage how typical these examples are but are provided to help bring the policy and proposals in this paper to life. The examples are set out at Annex 2.

8. Communications

8.1. At present we are avoiding giving regular public updates on the Scheme and our media position is reactive. We are avoiding giving regular updates on numbers of applications. We are developing a communications strategy to coincide with the first mediation decisions. We will agree our approach with the Chair of the Working Group, and possibly the Group itself. There is every indication that the Chair does not favour media attention and already has plans to try to restrict individual parties to the Working Group making comments about the scheme to the media.

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9. Conclusion

- 9.1. The Settlement Policy and an approach to managing expectations, agreed with the Chair of the Working Group, will help ensure the success of the Scheme.

10. Recommendations

The Executive Committee is asked to:

- 10.1. approve the Settlement Policy
10.2. note the arrangements for managing the expectations gap.

Chris Aujard
13 Novemeber 2013

Track Changes

1	Insert	<i>Sophie Bialaszewski, 11/11/2013 04:01 PM</i>
2	Insert	<i>Sophie Bialaszewski, 11/11/2013 04:05 PM</i>
3	Insert	<i>Sophie Bialaszewski, 11/11/2013 04:06 PM</i>
4	Delete	<i>Sophie Bialaszewski, 11/11/2013 04:07 PM</i>
5	Change	<i>Sophie Bialaszewski, 11/11/2013 04:08 PM</i>