

## Post Office Limited Postmaster Litigation Subcommittee Agenda



<b>Date:</b>	<b>03 March 2020</b>	<b>Time:</b>	<b>11.00 – 12.00 hrs</b>	<b>Location:</b>	<b>UKGI, 1 Victoria Street, London, SW1H 0ET - Room UG - H / Microsoft Teams Meeting</b>
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<b>Present:</b>		<b>Other Attendees:</b>		
<ul style="list-style-type: none"> <li>• Tim Parker (Chairman)</li> <li>• Ken McCall (by phone) (Senior Independent Director)</li> </ul>		<ul style="list-style-type: none"> <li>• Tom Cooper (Non-Executive Director)</li> <li>• Nick Read (Group Chief Executive Officer)</li> <li>• Ben Foat (General Counsel)</li> <li>• Rodric Williams (Head of Legal - Dispute Resolution &amp; Brand)</li> <li>• Kate Emanuel (Herbert Smith Freehills)</li> <li>• Alisdair Cameron (Group Chief Financial Officer)</li> <li>• Veronica Branton (Company Secretary)</li> <li>• Richard Watson (General Counsel – UKGI)</li> </ul>		
<b>Agenda Item</b>	<b>Input needed/ Status</b>	<b>Lead</b>	<b>Timings</b>	
<b>1. Welcome and Conflicts of Interest</b>	Noting	Chairman	11.00 – 11.05 hrs	
<b>2. Minutes and Matters Arising</b> - 22 January 2020 - 04 February 2020	Approval	Chairman		
<b>3. GLO Post-Settlement - Historic Shortfall Claims Scheme</b>	Discussion	Ben Foat	11.05 – 11.50 hrs	
<b>4. Any Other Business</b> 4.1 Herbert Smith Freehills fees 4.2 Governance	Noting	Ben Foat	11.50 – 12.00 hrs	
<b>5. Date of Next Meeting:</b> TBC.	Noting	Chairman		

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### MINUTES OF A MEETING OF THE POSTMASTER LITIGATION SUBCOMMITTEE OF POST OFFICE LIMITED HELD ON WEDNESDAY 22 JANUARY 2020 AT 20 FINSBURY STREET, LONDON EC2Y 9AQ AT 16.00 HRS

<b>Present:</b>	Tim Parker	Chairman <b>(TP)</b>
	Ken McCall	Senior Independent Director <b>(KM)</b> (by phone)
	Tom Cooper	Non-Executive Director <b>(TC)</b>
<b>In attendance:</b>	Veronica Branton	Company Secretary <b>(VB)</b>
	Nick Read	Group Chief Executive Officer <b>(NR)</b>
	Alisdair Cameron	Group Chief Financial Officer <b>(AC)</b>
	Ben Foat	General Counsel <b>(BF)</b>
	Andrew Parsons	Womble Bond Dickinson <b>(AP)</b>
	Rodric Williams	Head of Legal – Dispute Resolution & Brand <b>(RW)</b>
	Richard Watson	General Counsel – UKGI <b>(RWa)</b>
	Alan Watts	Herbert Smith Freehills <b>(AW)</b>
	Catherine Emanuel	Herbert Smith Freehills <b>(CE)</b>

Agenda Item	Action
<b>1. Welcome and Conflicts of Interest</b>	
A quorum being present, the Chairman opened the meeting. The Directors declared that they had no conflicts of interest in the matters to be considered at the meeting in accordance with the requirements of section 177 of the Companies Act 2006 and the Company's Articles of Association.	
<b>2. Minutes and Matters Arising</b>	
The Postmaster Litigation Subcommittee <b>APPROVED</b> the minutes of the meeting held on 10 December 2019.	
<b>3. Group Litigation Order: Post-settlement Report</b>	
Ben Foat introduced the report which set out the broad approach to the post settlement stage of the litigation, the structure of programme, the actions required and the decisions sought.  <b>Disclosure obligations in relation to convicted claimants</b>  BF noted that the team was working through the disclosure obligations in relation to convicted claimants.  A number of points were raised, including: <ul style="list-style-type: none"> <li>• Brian Altman QC had provided advice for Post Office Limited on the Group Litigation in 2013. We wanted to demonstrate a fresh approach and using a QC previously engaged was therefore unhelpful. It was noted that Brian Altman had been giving advice based on the position known at the time, that the claimants and their solicitors knew about his appointment and were comfortable with this. BF noted that he had received advice on the appointment from the legal team as he had raised the potential conflict of interest but had been advised that Brian Altman's ability to provide objective and independent advice was not tainted. Notwithstanding these points, Subcommittee Members thought that the use of any QC previously involved in the litigation to advise on the process for disclosure review might not appear satisfactory to an outside observer</li> <li>• What would Herbert Smith Freehills (HSF) and Peters &amp; Peters approach be on this work? It was noted that HSF were not experts in criminal law and so experts in this field needed</li> </ul>	

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<p>to be engaged. Other elements of the post settlement programme, such as commercial work on contracts would be supported by HSF</p> <ul style="list-style-type: none"> <li>• Taking a “narrow” approach to disclosure in which standardised disclosure was provided to all defendants without a review of each case or “wide” approach in which each case was reviewed individually was discussed. TC thought it would be helpful to work through some examples of actual cases (e.g. how would we deal with balances?) to understand how taking a “wide” approach would translate into disclosure in real life. AW would run through three different cases that had been looked at with TC</li> <li>• That it would be important to understand the number of cases that we thought could end up being overturned on appeal and the characteristics of those. It was noted that the position was unlikely to be clear cut</li> <li>• When would we have completed the review of the 34 cases we had identified for close review? It was reported that we were targeting the end of February 2020 for completion but it could take longer because of the appointment of a new QC</li> <li>• How we ensured that we were taking the right approach in respect of the claimants given that the robustness of the historic Horizon system had been cast into doubt was discussed. It was felt that we needed to look at each case in the light of the disclosures we needed to make to the CCRC following the Horizon judgment and gain a good understanding of those cases while recognising that the Court of Appeal was the arbiter of whether or not convictions had been unsafe. It was noted that the Crown Prosecution Service would consider all the facts and the background to a case, reading the material through a disclosure lens (i.e. the information you would have provided had you known about it at the time of the conviction) and if they supported leave to appeal out of time would explain why.</li> </ul> <p><b>Historic Shortfall Scheme</b></p> <p>BF noted that the Historic Shortfall Scheme was being set up to deal with future claims. There would be a mechanism for all claims to come through an internal process and then go through a mediation/ arbitration service. It was proposed that this scheme should start on 2<sup>nd</sup> March 2020.</p> <p>There were already about 140 potential claims that could go through the Scheme. This was a major programme of work that needed to be done properly. We had agreed at the settlement that it was likely to take a few months to set up the Scheme. It was noted that most claims were usually received in the first month and we needed to take a pragmatic approach and see what those claims looked like.</p> <p>A number of points were raised, including:</p> <ul style="list-style-type: none"> <li>• That it would be helpful to go through some examples on balances. It was noted that there might be instances where there had been a shortfall which the Postmaster had paid back to the Post Officer but the position would more difficult where the Postmaster said they had paid the money back but this could not be verified</li> <li>• That we would have to look carefully at what the Judge had said about the Horizon system, its bugs and the extent to which that could be used to undermine convictions. We needed to get a feel for how many people might be innocent or guilty, recognising that there were many factors playing into this. Some prosecutions might have taken place with inadequate information and we needed to put things right where we had got things wrong. The only way to do that was to consider individual cases starting with the 34. It was noted that Brian Altman had reviewed the Horizon judgment and did not think that anything in it would lead to a conviction being overturned</li> </ul>	<p>AW</p>
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<ul style="list-style-type: none"> <li>It was recognised that there were broader ramifications for Post Office than the financial ones and our communication plan needed to be clear.</li> </ul> <p><b>Application of a Fee</b></p> <p>It was noted that we did not know how many claims would come through the Historic Claims Scheme and it was possible that we could end up having to take a more formal approach in a particular instance and consider charging a fee. The Subcommittee thought that the optics of charging a fee in the current circumstances would be negative even though not doing so removed a deterrent to claims without merit being submitted. A pragmatic approach would be taken to accepting claims after the official closing date. The Team was working out the Scheme criteria and it was suggested that consideration be given to publishing the criteria.</p> <p><b>Operation of the Scheme</b></p> <p>The operation of the Scheme was discussed and the team would respond to the questions raised on:</p> <ul style="list-style-type: none"> <li>What the criteria for payment would be and how and when this would be communicated to Postmasters</li> <li>How the Scheme itself would be communicated to Postmasters past and present (e.g. would this include writing to last know addresses as well as advertising the Scheme?)</li> <li>How much time Postmasters would be given to respond (which linked to how we were going to advertise the Scheme).</li> </ul> <p>The overarching concern was that the Scheme should operate fairly, been seen to do so and that the Subcommittee had assurance on this point (e.g. from the mediator appointed).</p> <p><b>Next steps</b></p> <p>The work streams and the purpose of each was <b>NOTED</b>. The operational work stream would be a significant piece of work, especially issuing new contracts.</p> <p>The Subcommittee <b>RESOLVED</b>:</p> <ul style="list-style-type: none"> <li>To <b>APPROVE</b> the engagement of Wandsworth Mediation Services as the Historic Claims Scheme's chosen mediation provider</li> <li>That applicants to the scheme should not be required to make a nominal contribution towards the costs of mediation should a claim proceed that far through the scheme</li> <li>That an extra month should be allowed to set up the full programme, with a target date of 2 March 2020 for the Historic Claims Scheme to go live.</li> </ul> <p>It was <b>AGREED</b> that another meeting of the Subcommittee should be arranged to understand the facts of a sample of the 34 cases, including some which had received publicity, once that work had taken place.</p> <p>BF would consider TC's challenge on whether Womble Bond Dickinson should be supporting Post Office on Starling.</p>	<p>HSC team</p> <p>HSC team to respond on these points</p> <p>VB</p> <p>BF</p>
<p>5. <b>Date of next meeting:</b> 10.00 hrs, 18 February 2020.</p>	

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### MINUTES OF AN ADDITIONAL MEETING OF THE POSTMASTER LITIGATION SUBCOMMITTEE OF POST OFFICE LIMITED HELD ON TUESDAY 04 FEBRUARY 2020 AT 20 FINSBURY STREET, LONDON EC2Y 9AQ AT 12.00 HRS

#### Present:

Tim Parker	Chairman (TP)
Tom Cooper	Non-Executive Director (TC)

#### In attendance:

Nick Read	Group Chief Executive (NR)
Alisdair Cameron	Group Chief Financial Officer (AC)
Veronica Branton	Company Secretary (VB)
Rodric Williams	Head of Legal – Dispute Resolution & Brand (RW)
Catherine Emanuel	Herbert Smith Freehills (CE)
Richard Watson	General Counsel – UKGI (RW)
Alan Watts	Herbert Smith Freehills (AW)

#### Apologies:

Ken McCall	Senior Independent Director (KM)
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#### Agenda Item

#### Action

#### 1. Welcome and Conflicts of Interest

The Directors declared that they had no conflicts of interest in the matters to be considered at the meeting in accordance with the requirements of section 177 of the Companies Act 2006 and the Company's Articles of Association.

#### 2. Appointment of QC

Alan Watts summarised the issues set out in the email circulated on 31 January 2020 and the decisions sought. The Subcommittee had decided at its meeting on 22 January 2020 that a new QC should be appointed to advise on the disclosure review process for the criminally convicted cases because Brian Altman QC had provided advice on an aspect of the Group Litigation in 2013.

Appointing a new QC made it more difficult to progress work on the disclosure review quickly because it would take them time to get up to speed with the facts of the case. To avoid delay, Herbert Smith Freehills had consulted with Peters and Peters and the criminal team to pull together a list of potential candidates. A number of QCs and two retired judges had been considered but it was recognised that highly qualified QCs able to start straight away were hard to find. Retired judges had built a reputation and would want to do more than sign off another's work but on the other hand would not get involved in the granular detail.

The appointment of Sir David Calvert-Smith, a retired judge, was recommended. He had not had any prior involvement with the convicted claimants' cases or the Group Litigation. In the meantime, the team were continuing to work through the issues but we wanted the QC or retired judge appointed to approve the process.

A number of points were raised, including:

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- The Subcommittee needed to be assured that they were getting the best advice and there had been concern about being seen to “mark our own homework” because Brian Altman had provided advice on the litigation in 2013. Brian Altman’s expertise and independence were not in doubt but it was sensible, if only optically, that he should not lead on the disclosure review
- That we needed to check any potential conflicts of interest thoroughly before appointing a new QC or retired judge to lead on the disclosure review
- The Subcommittee needed a session to review the criminally convicted cases which were likely to fall into different categories in terms of risk profile etc; we needed to form a view on these cases, ideally in advance of cases being referred to the Court of Appeal. It was reported that we were targeting the end of February 2020 for feedback on the 34 cases we had identified for close review
- Our view on what we should say on the right to appeal given the Judge’s comments on the historic Horizon system was discussed. It was noted that we were in a potentially invidious position because where cases went to appeal we had been the prosecutor in the first instance and would need to take a view on whether we should defend a particular appeal case depending on its facts. We would need to consider this issue further as we considered the individual cases and had advice on how to look at the cases from a criminal lawyer. It was noted that Post Office Limited could not resolve the criminally convicted cases, which had to go through the Court of Appeal. The Court of Appeal might choose to distinguish between cases where claimants had pleaded guilty and those who had not. Even on the lesser charge of false accounting a claimant would need to show why they had pleaded guilty originally.

The Postmaster Litigation Subcommittee **RESOLVED** that:

- As agreed at the Subcommittee meeting on 22 January 2020, Brian Altman QC should not lead on the disclosure review cases; however, there was merit in retaining him for advice, at least until the point at which it is decided which of the criminally convicted cases were to be referred to the Court of Appeal (after March 2020)
- Tim Parker and Tom Cooper would speak with Sir David Calvert-Smith on 5 February 2020 before confirming his appointment
- We should inform Freeths of our decision to appoint Sir David Calvert-Smith, once confirmed.

The following actions were **AGREED**:

- The Court of Appeal process should be set out, including likely costs and timelines depending on the number of cases referred. The worst case scenario should be included (e.g. we chose not to defend any of the cases appealed and we faced claims for stigma as well as malicious prosecution) **Legal team**
- We needed to understand our position in relation to the wider group of potential claimants so this should be set out **Legal team**
- The meeting scheduled for 19<sup>th</sup> February 2020 would probably not go ahead because we are unlikely to be in a position to review the criminally convicted cases at that point; confirmation of this would be provided by 14<sup>th</sup> February 2020 and a date sought to run through the cases. **Rodric Williams/  
Veronica Branton**

4. **Date of Next Meeting:**  
18 February 2020 (subject to confirmation).

# Postmaster Litigation Subcommittee Board

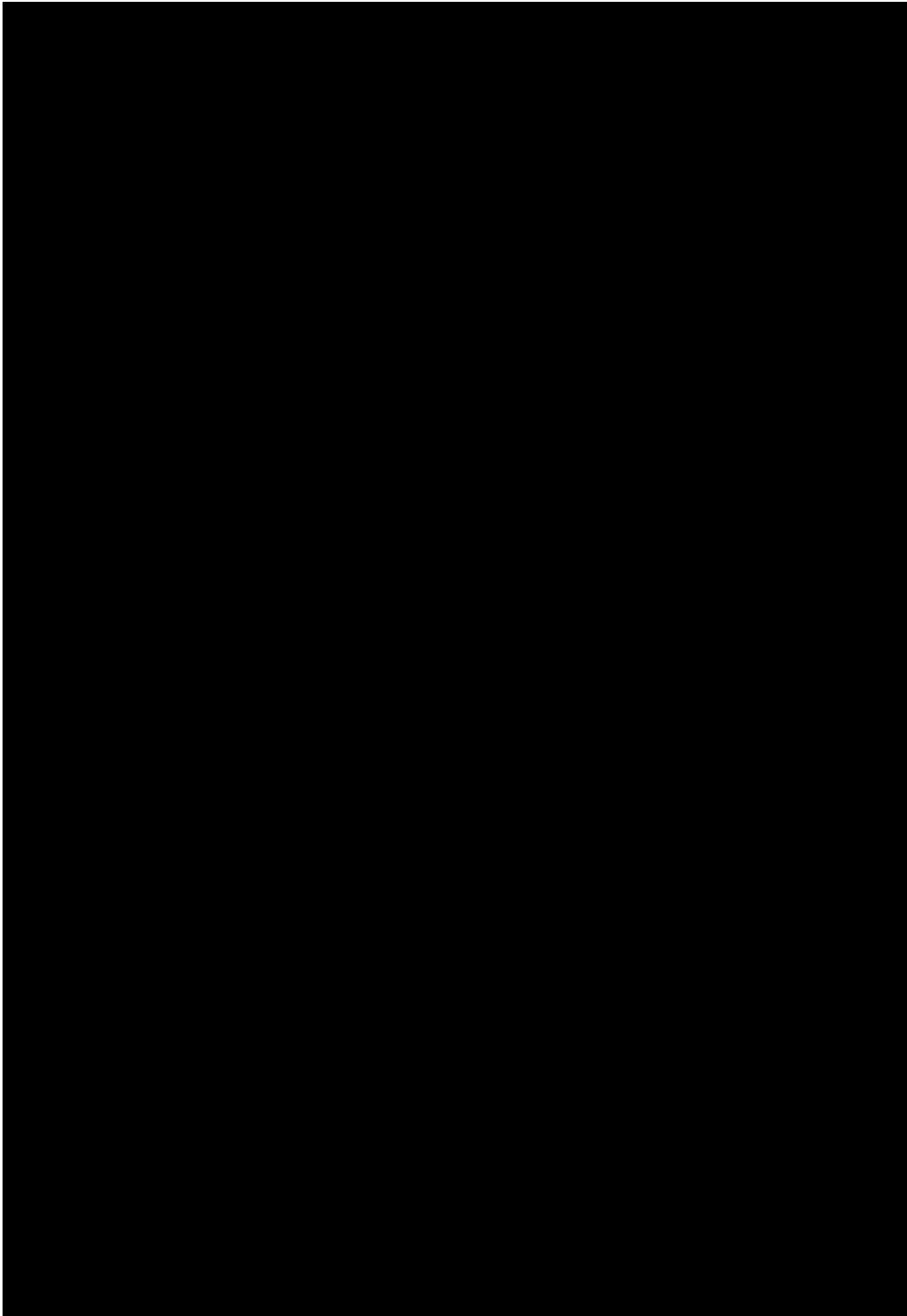


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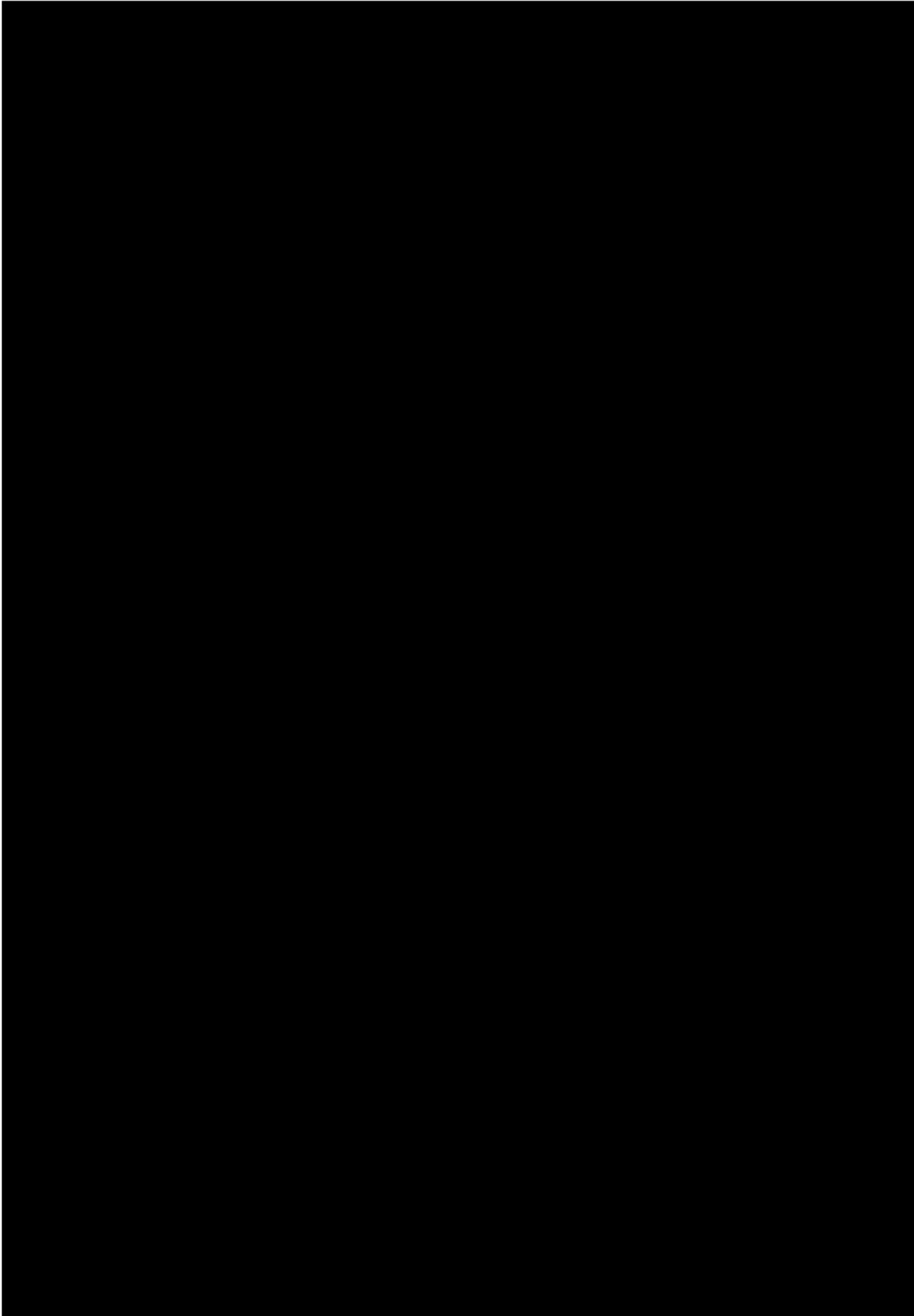
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Chairman

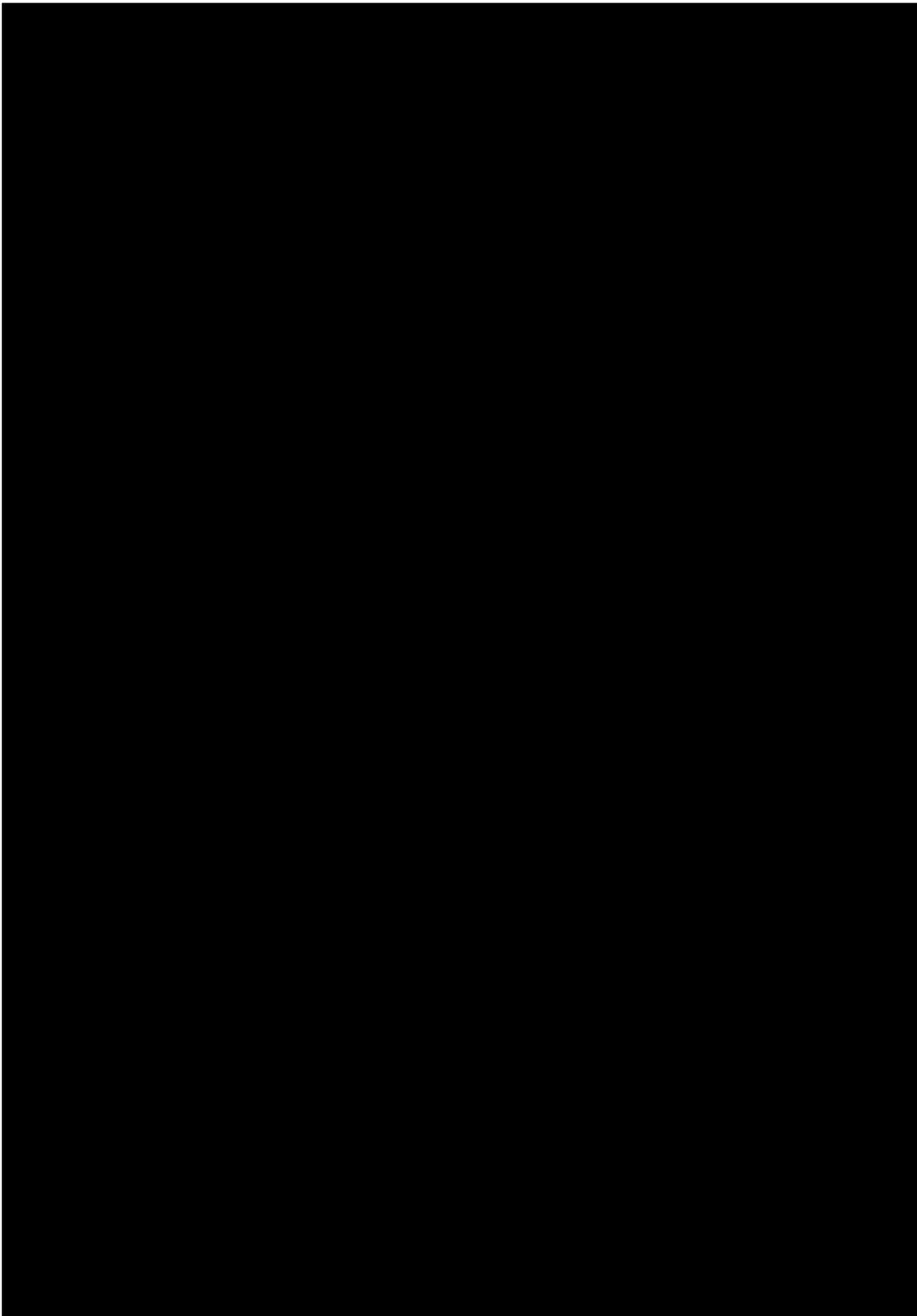
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Date



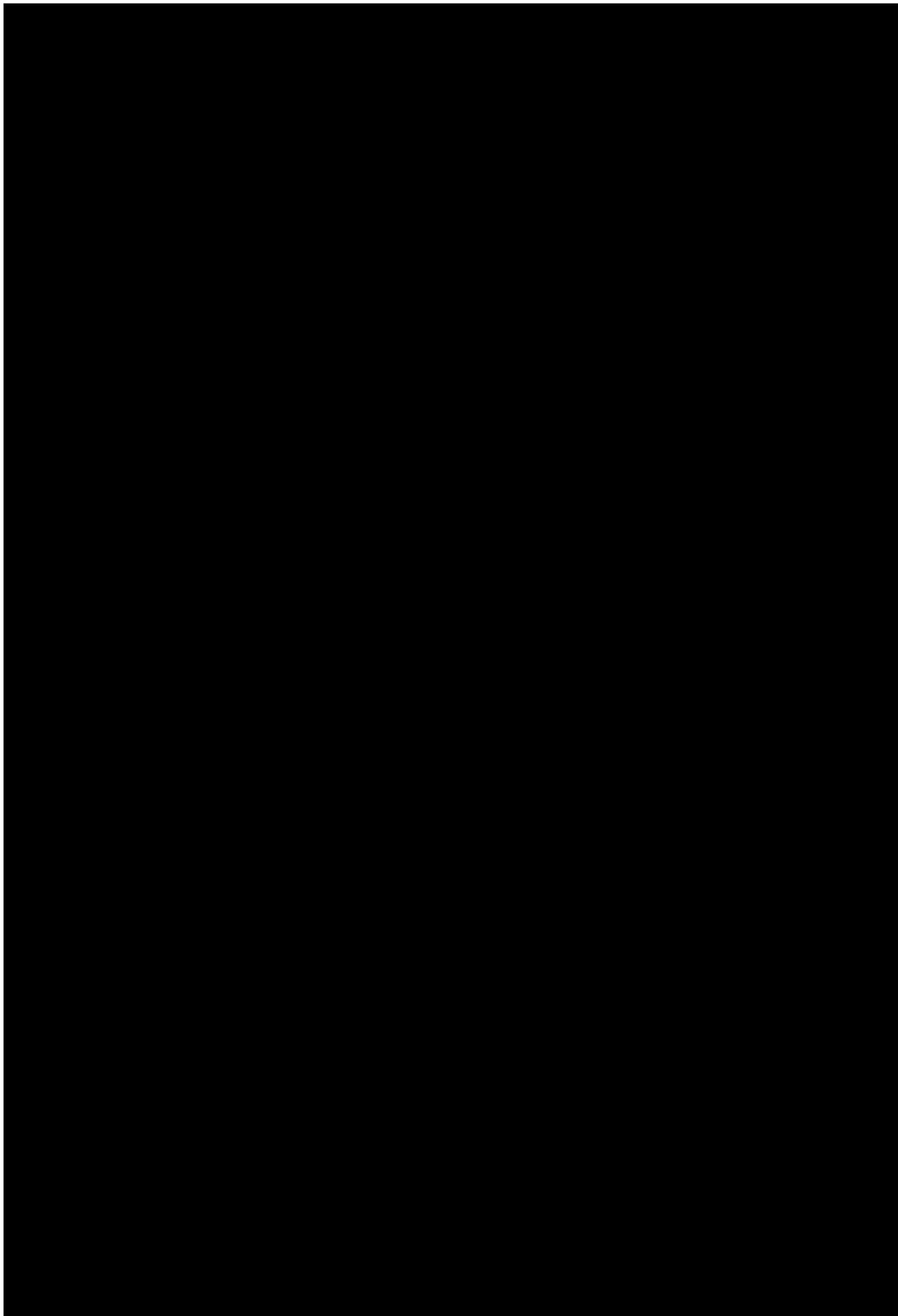
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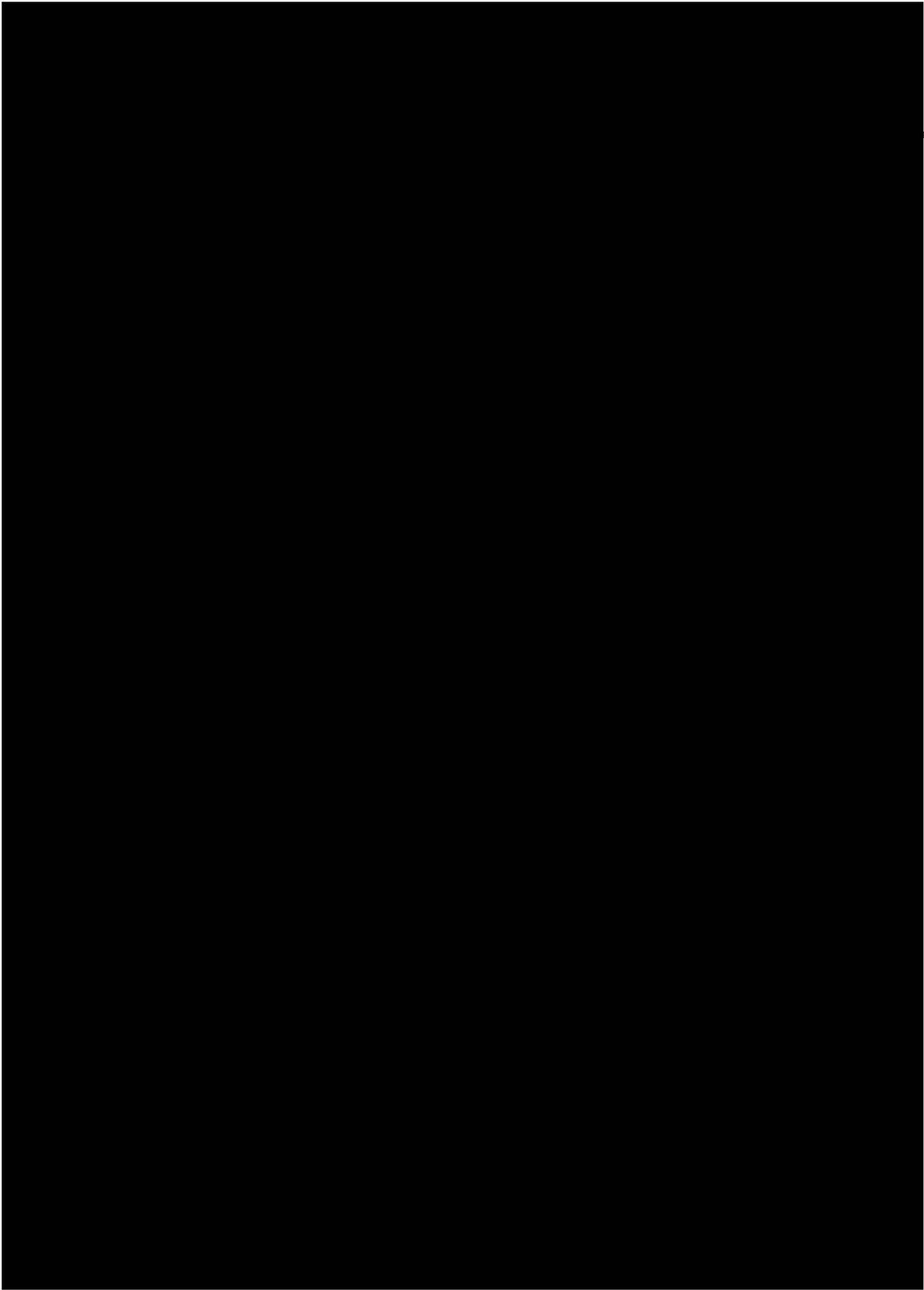


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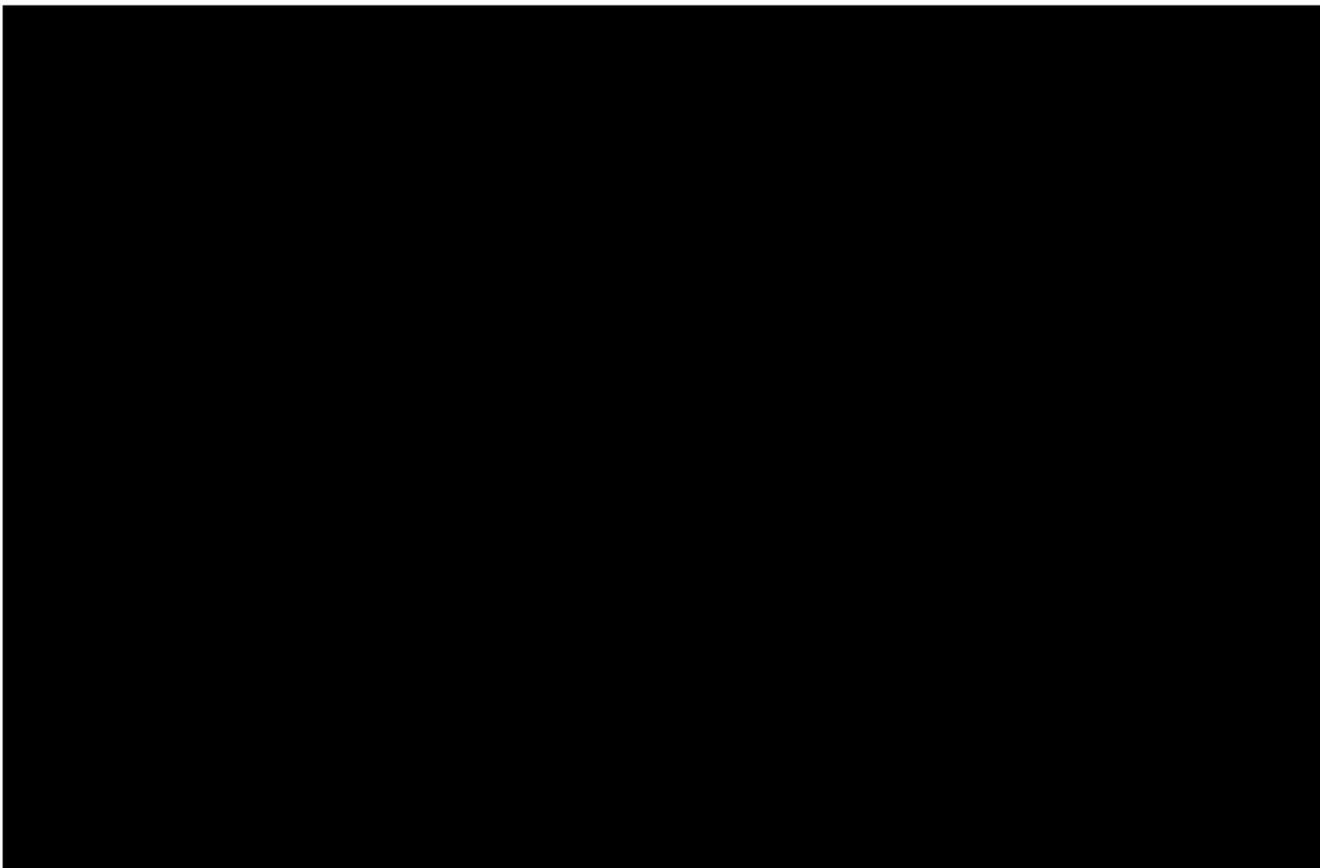


personnel or wellbeing professionals. and/or wellbeing support from Post Office

<sup>2</sup> <https://www.herbertsmithfreehills.com/our-expertise/services/alternative-legal-services>  
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# Appendix 1

## Historic Shortfall Scheme: Eligibility and triage Eligibility criteria for entry into the Scheme

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### Eligibility Checklist for Triage Team

On receipt of a completed application form, the triage team will consider the following:

**NB: All criteria need to be fulfilled for an application to be eligible for the Scheme. The triage stage does not involve any assessment of the merits of the claim, merely whether the application is eligible to be assessed within the Scheme.**

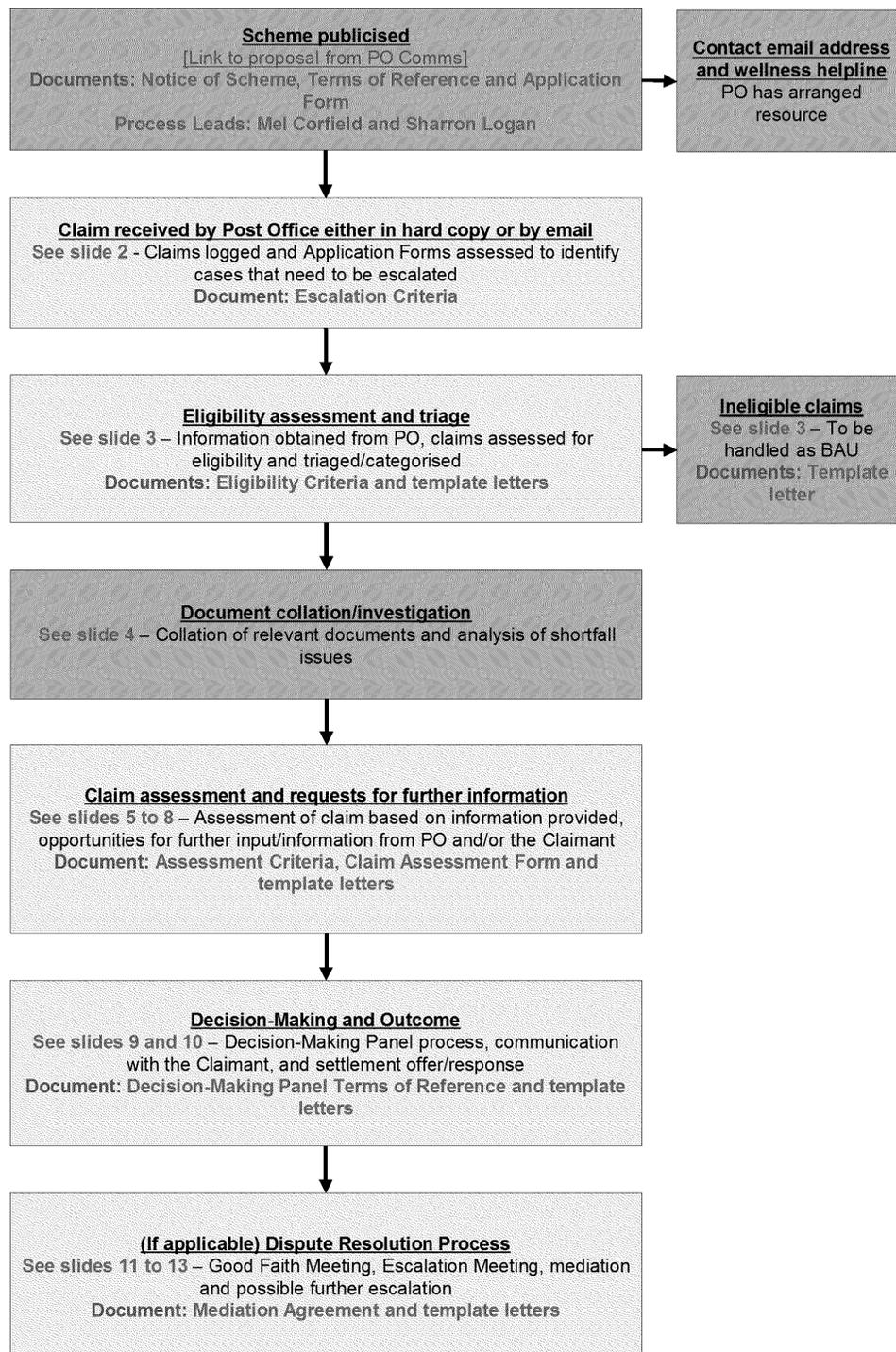
	Criteria	Fulfilled?	Notes for Triage Team
1	The applicant has agreed to be bound by the Terms of Reference for the Scheme		
2	The applicant (or person on whose behalf the application is being made – see point 3 below) has or has previously had a direct contract with Post Office		Guidance should be sought from HSF London where an application is made by an individual but the contracting party is a company, or vice versa. Applications from Assistants are NOT eligible for the Scheme.
3	If the application is being made on behalf of a postmaster, the applicant is (i) an assignee, or (ii) a legally-appointed personal representative, attorney or deputy, and proof of that relationship has been provided		Guidance should be sought from HSF London if it is not clear from the information provided.
4	The application does not involve a criminal conviction(s)		Applications involving the criminal conviction of the applicant or other person(s) associated with the Post Office (e.g. spouse, assistant, branch manager) are NOT eligible for the Scheme.
5	The applicant was not part of the Group Litigation Order		Applications from applicants who have previously been involved in civil proceedings related to their claim will be eligible if they meet all criteria. Applications from applicants who have previously settled their claim through the Initial Complaint Review and Mediation scheme commenced in 2013, Network Transformation, or other settlement will be eligible if they meet all criteria. Applications from claimants in the Starling litigation will be eligible if they meet all criteria.
6	All or part of the claim relates to shortfalls which arose on either Legacy Horizon (sometimes referred to as "Horizon Online") or HNG-X (but not on HNG-A) between 1 January 2000 and 13 December 2019, i.e. <ul style="list-style-type: none"> <li>Shortfalls that the applicant is asking to be paid, repaid or written off;</li> <li>Loss of earnings during suspension arising from shortfalls;</li> </ul>		Applications relating <b>solely</b> to the current version of Horizon (HNG-A) will not be eligible to enter the scheme. Applications relating to <b>both</b> previous versions and the current version of Horizon (HNG-A) will be eligible to enter the scheme and such cases will be assessed taking this distinction into account. Please note that HNG-A was rolled out on a branch-by-branch basis (and in some cases terminal-by-terminal within

	Criteria	Fulfilled?	Notes for Triage Team
	<ul style="list-style-type: none"> <li>• Loss of earnings for POL's failure to give notice of termination arising from shortfalls; or</li> <li>• Other losses arising from shortfalls. These may be wide-ranging in nature and might include:               <ul style="list-style-type: none"> <li>• Stigma damages (e.g. losses arising from the applicant's unemployability on being terminated);</li> <li>• Loss of investment (including loss of applicant's initial investment into the branch, diminution in the capital value of the branch and its attached business, and the diminution in the capital value of the applicant's residence linked to the branch);</li> <li>• Personal injury (e.g. injury to feelings/mental distress, psychiatric harm, physical harm); and/or</li> <li>• Harassment by POL to explain/settle outstanding shortfalls.</li> </ul> </li> </ul>		<p>the branch) so some caution should be exercised with shortfalls arising in 2018/2019.</p> <p>Applications relating to breach of good faith obligations that are not related to shortfalls are not eligible.</p> <p>Applications relating to very old losses that may appear to be time-barred will be eligible if they meet all criteria.</p> <p>Applications that are not financial (requesting, for example, an apology or reinstatement of position) will be eligible if they meet all criteria.</p>
<p><b>Eligible? [Yes/No]</b></p> <p><b>Triage category? [Category 1, 2, 3]</b></p>			

# Historic Shortfall Scheme – Process Maps

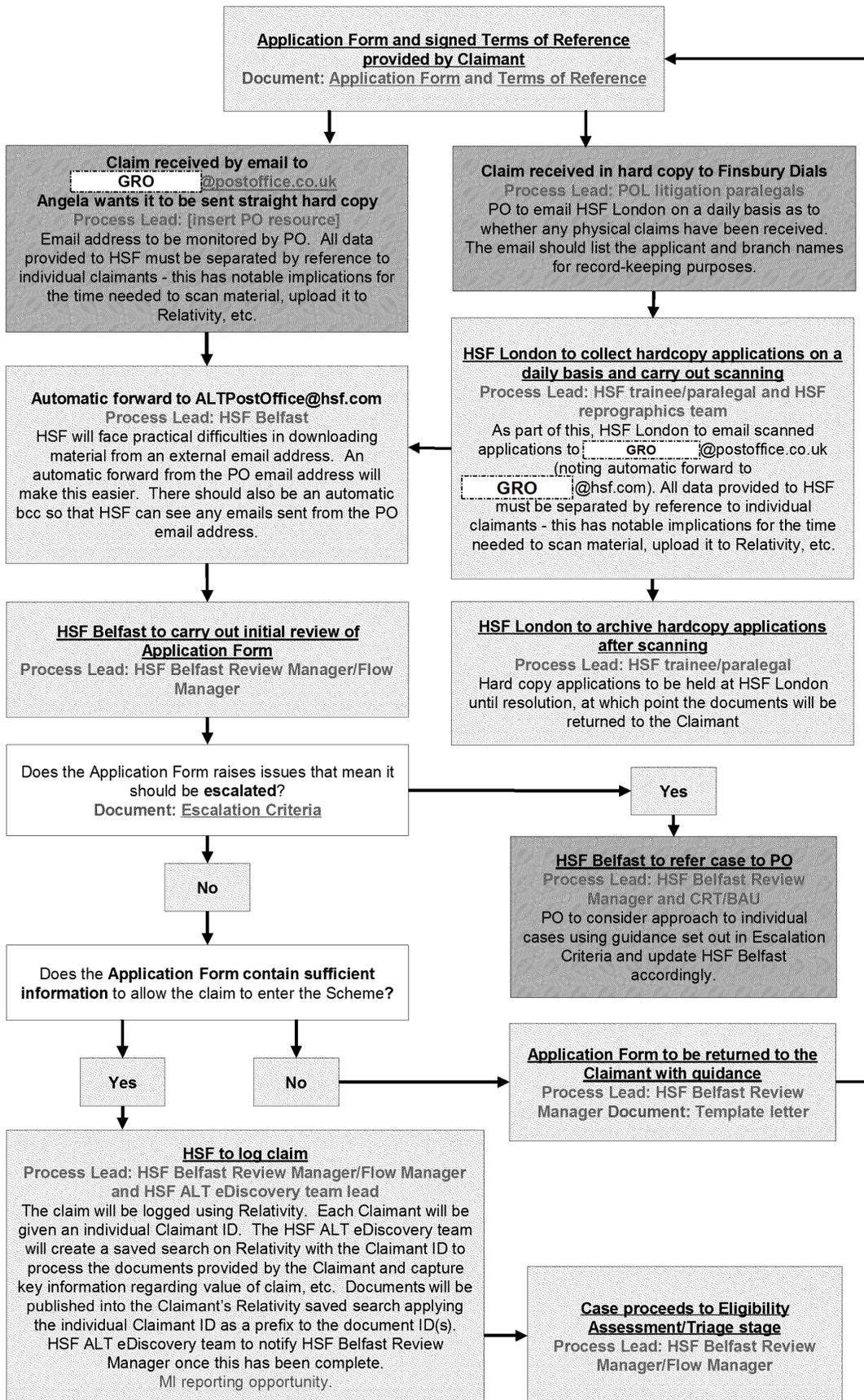
Version 2 – 27 February 2020

## Appendix 2

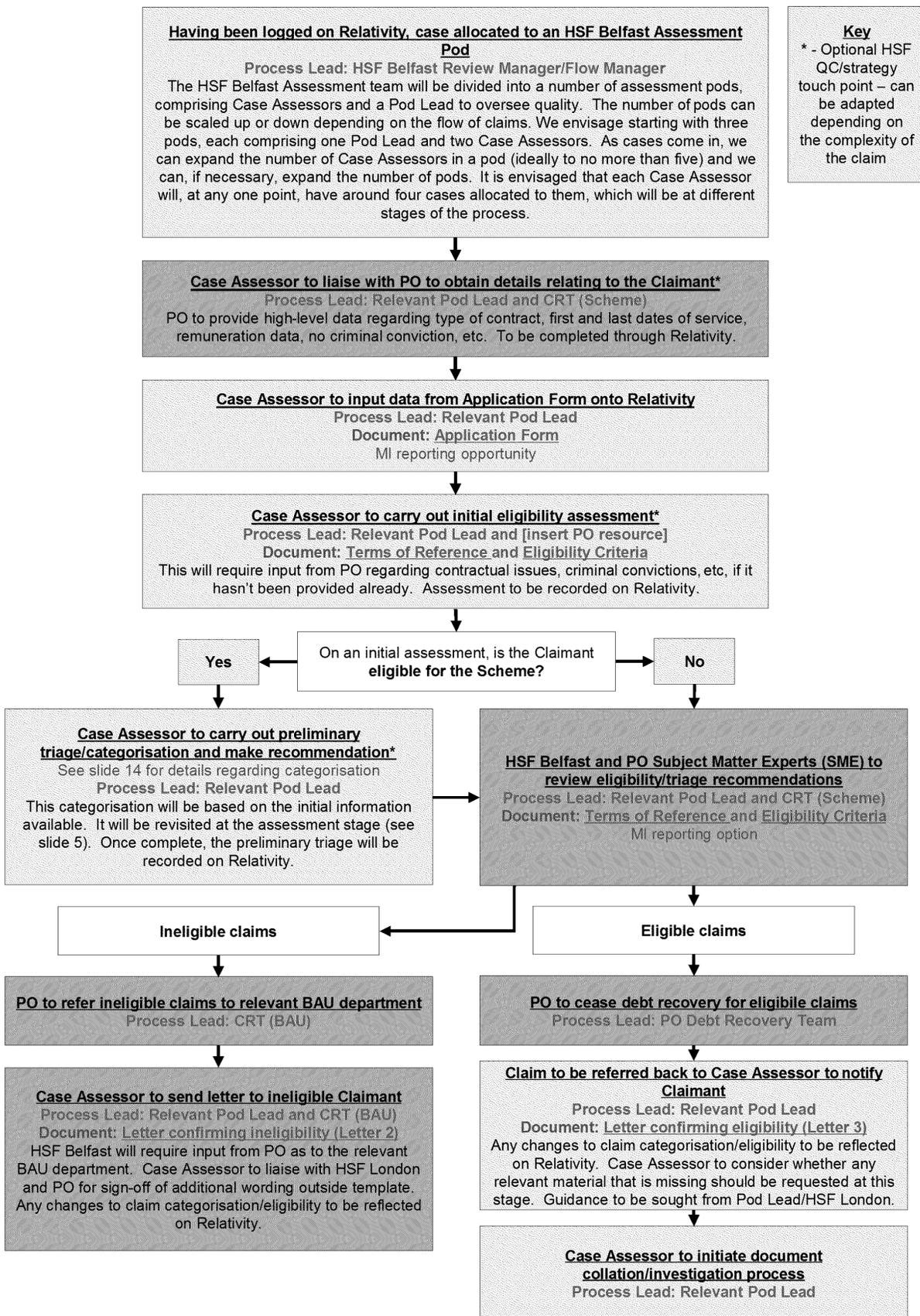


### Claims Received Stage

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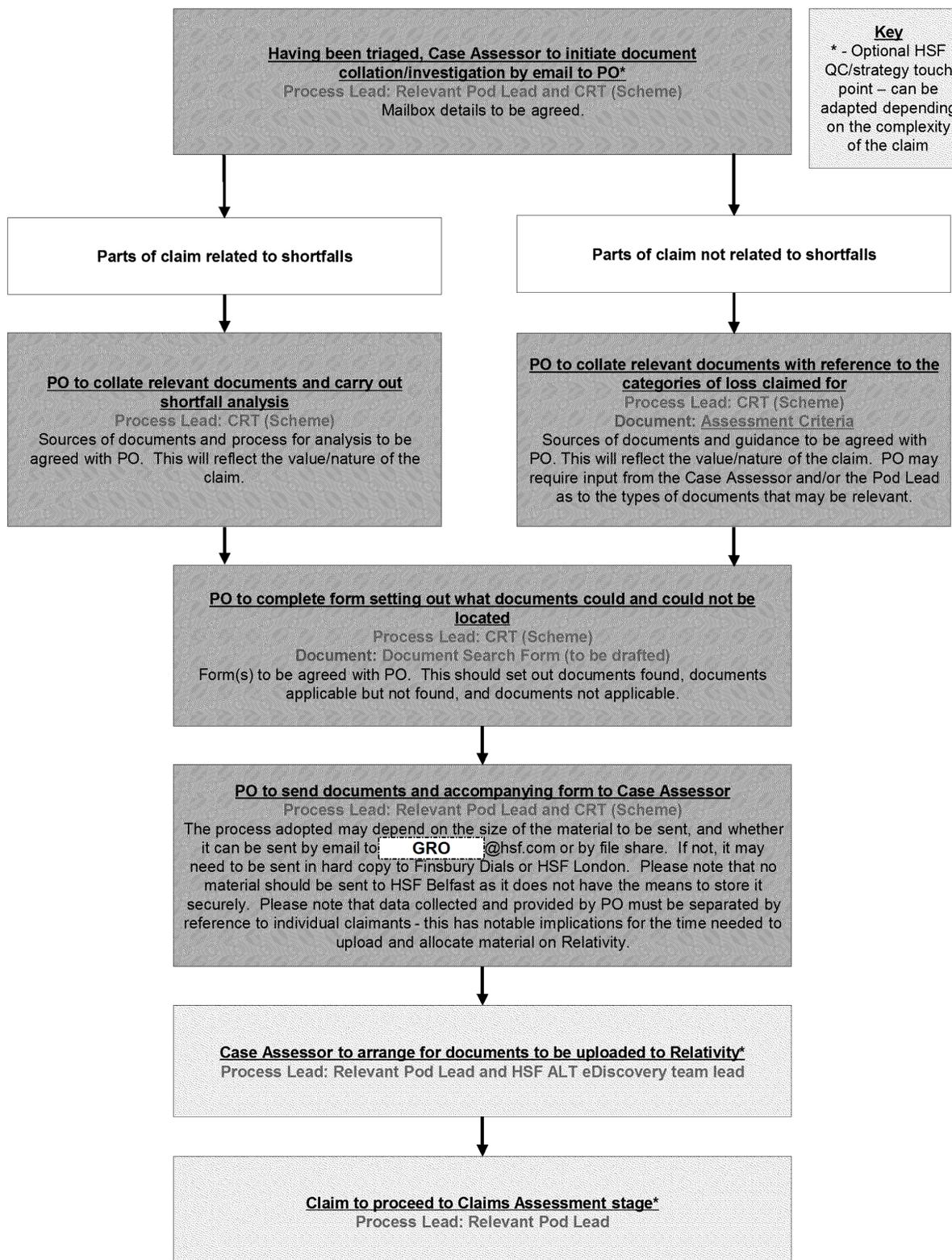
## Eligibility Assessment and Triage Stage



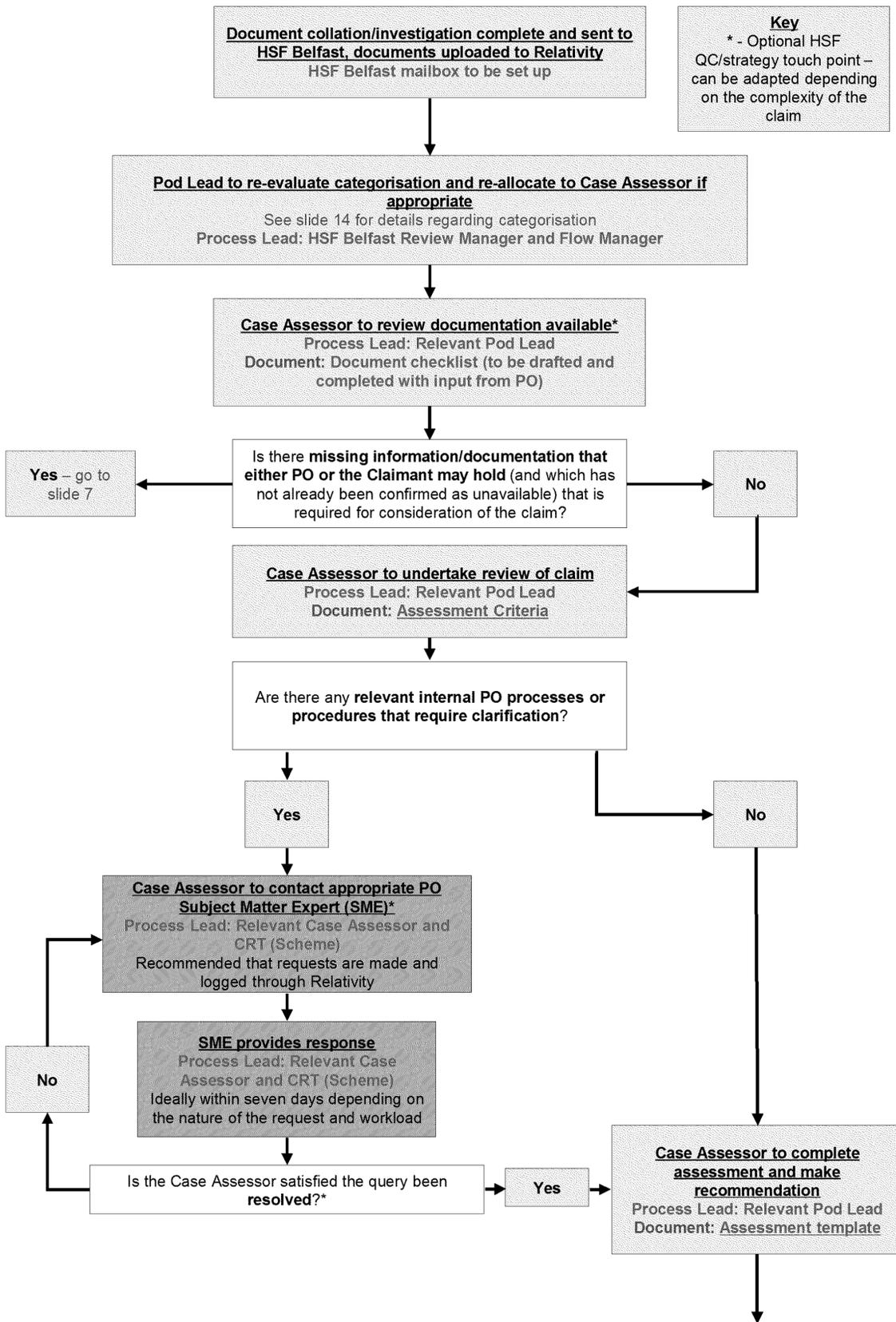
**Key**  
\* - Optional HSF QC/strategy touch point – can be adapted depending on the complexity of the claim

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## Document Collation/Investigation Stage



# Claims Assessment Stage (1)

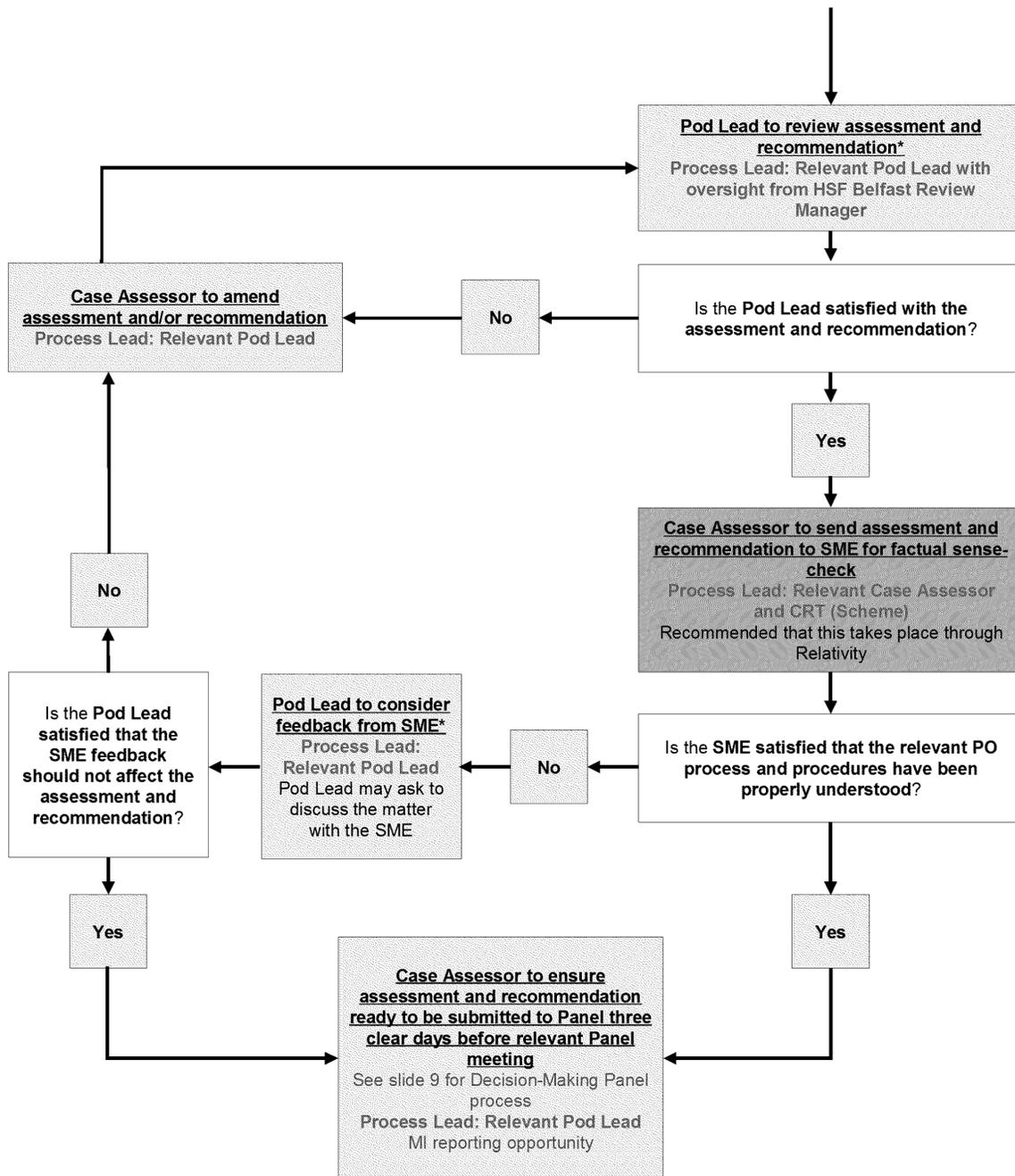


**Key**  
\* - Optional HSF QC/strategy touch point – can be adapted depending on the complexity of the claim

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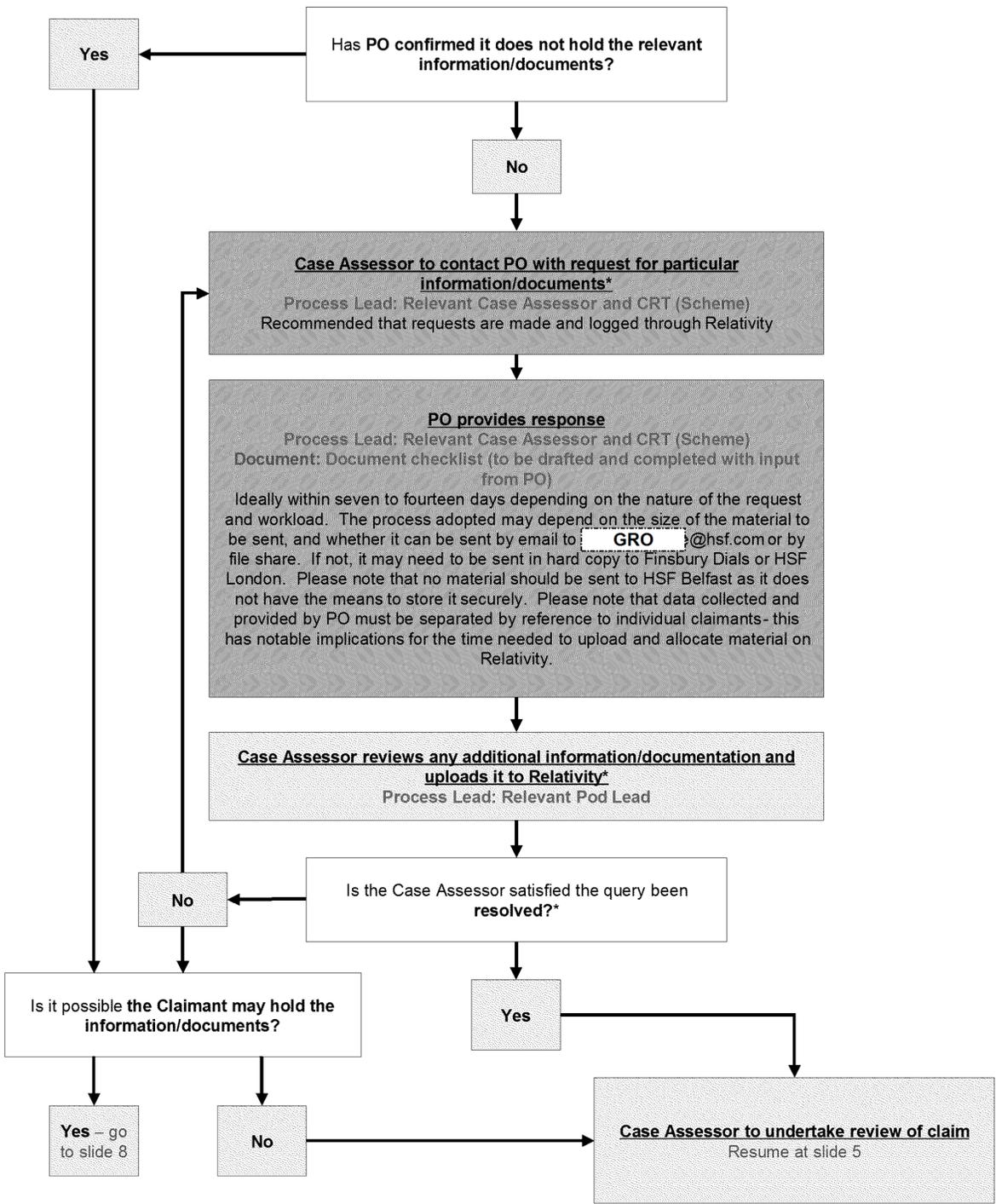
### Claims Assessment Stage (2)

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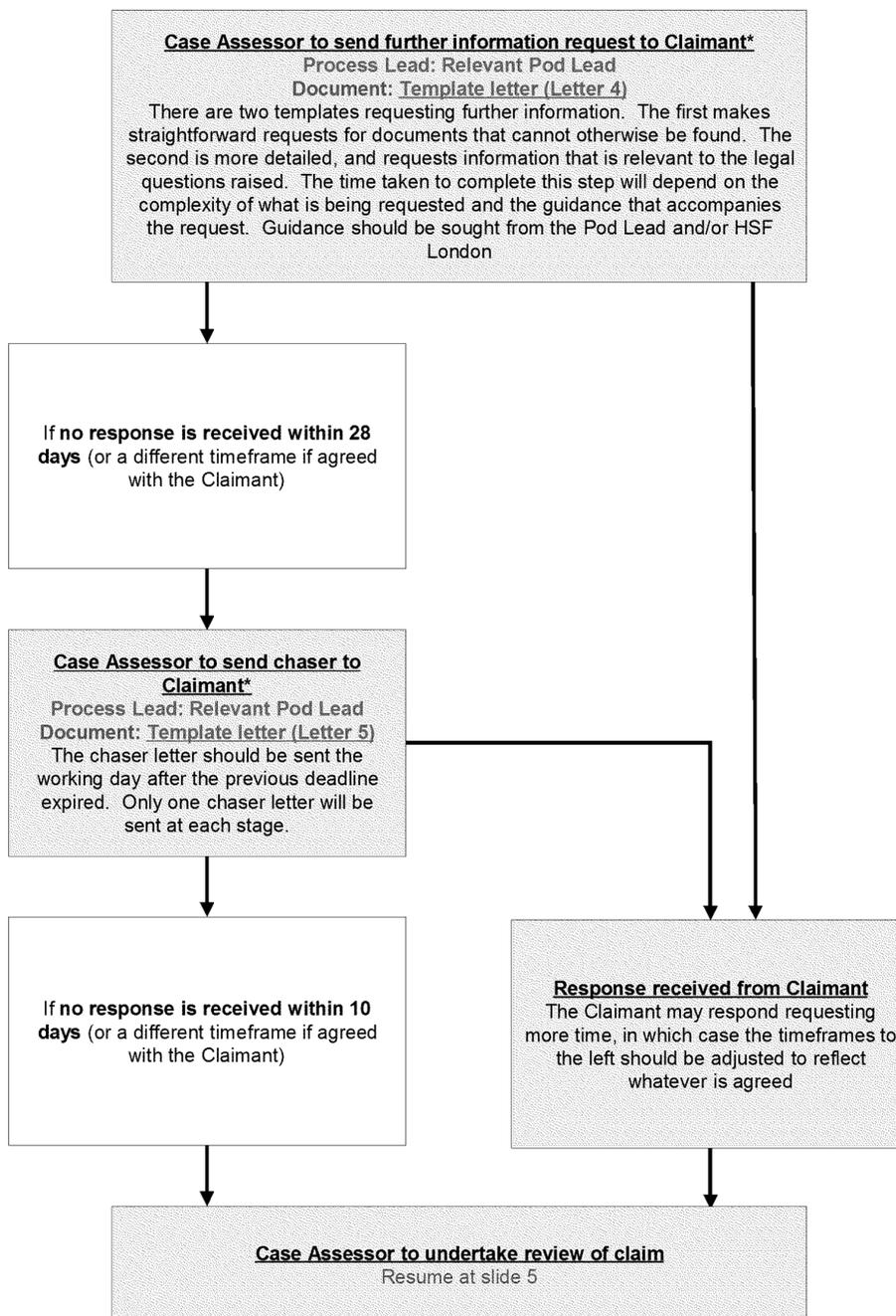


## Further information sought from PO

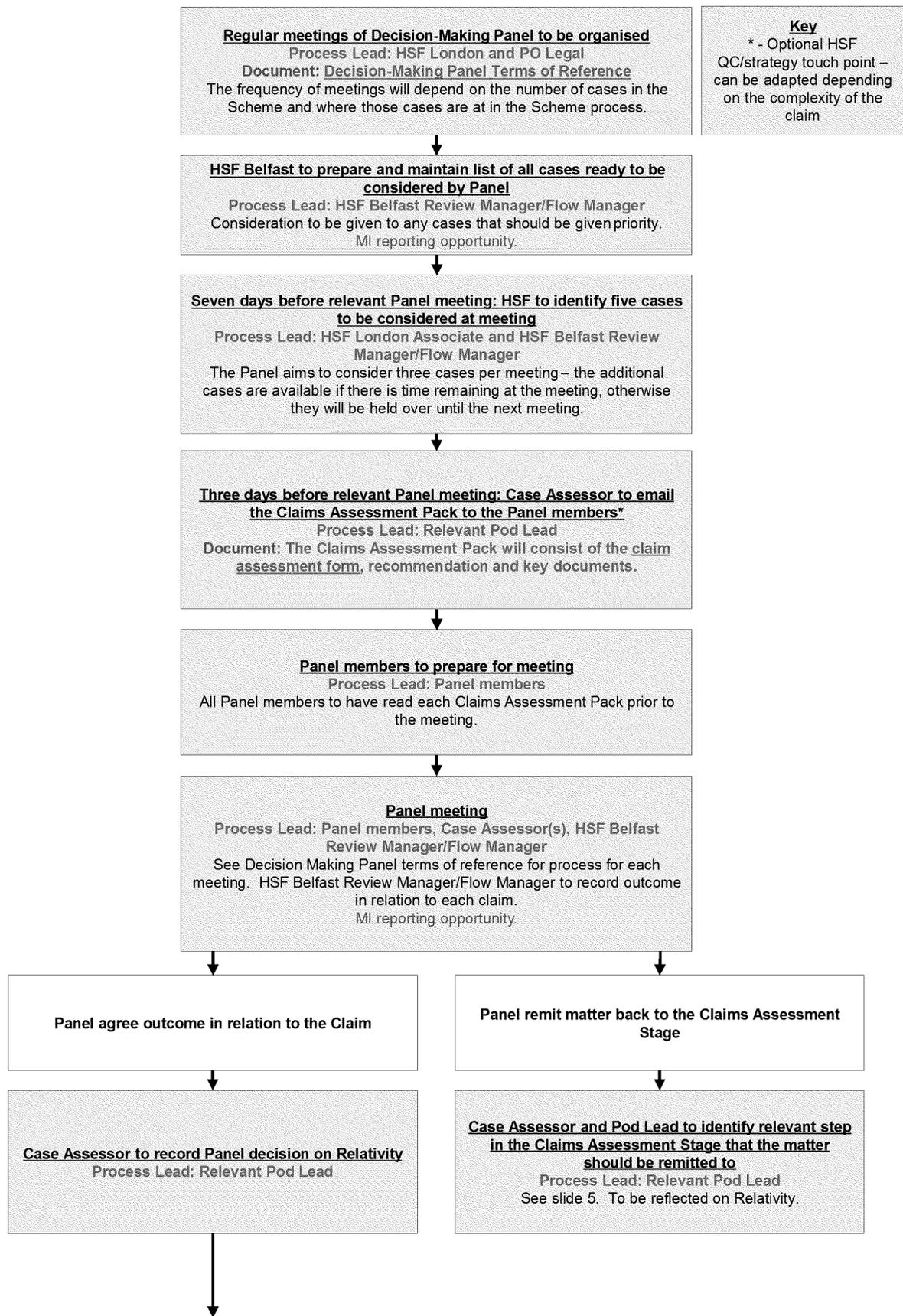
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## Further information sought from Claimant



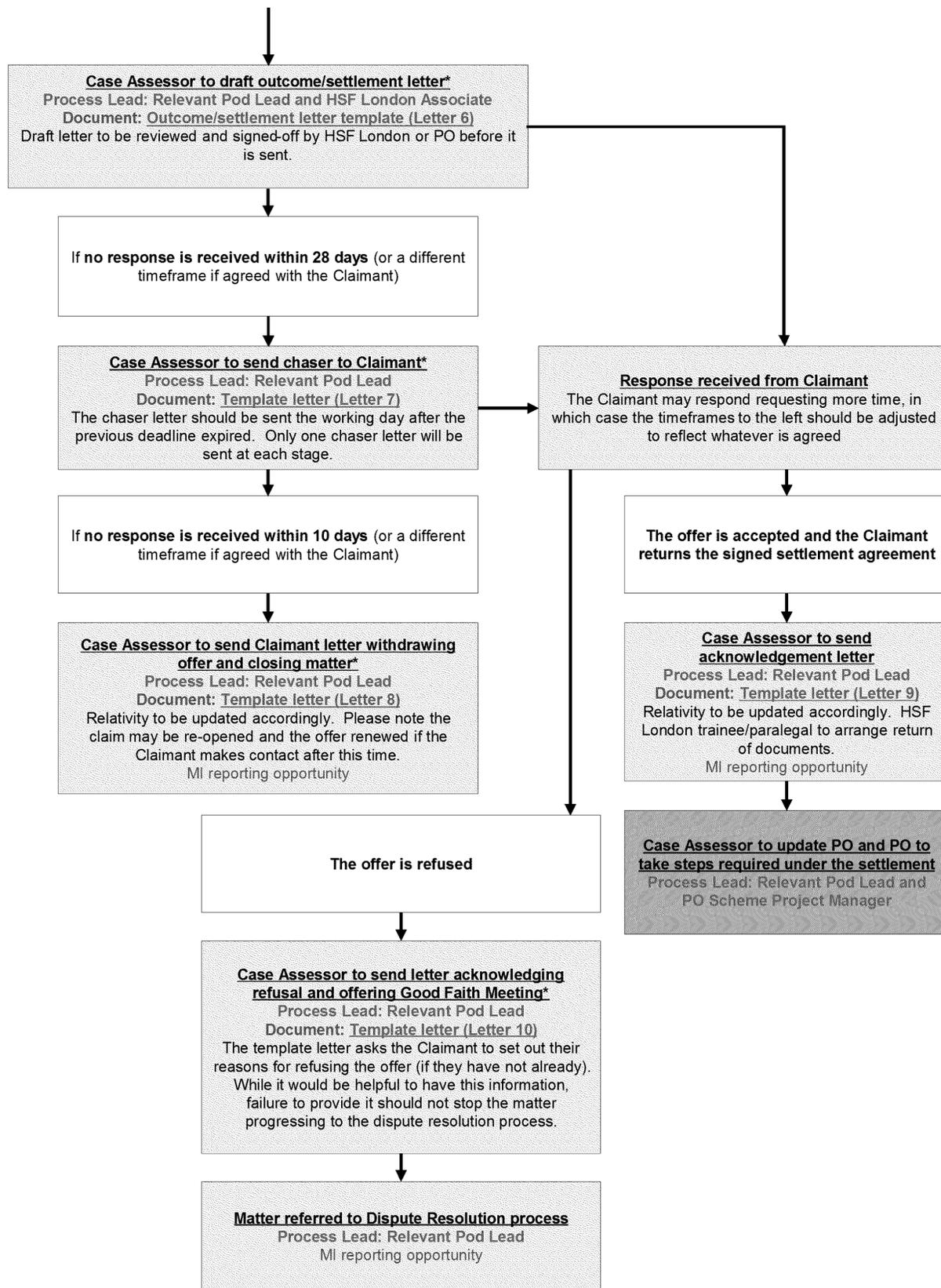
## Decision-making/Outcome Stage (1)



**Key**  
\* - Optional HSF QC/strategy touch point – can be adapted depending on the complexity of the claim

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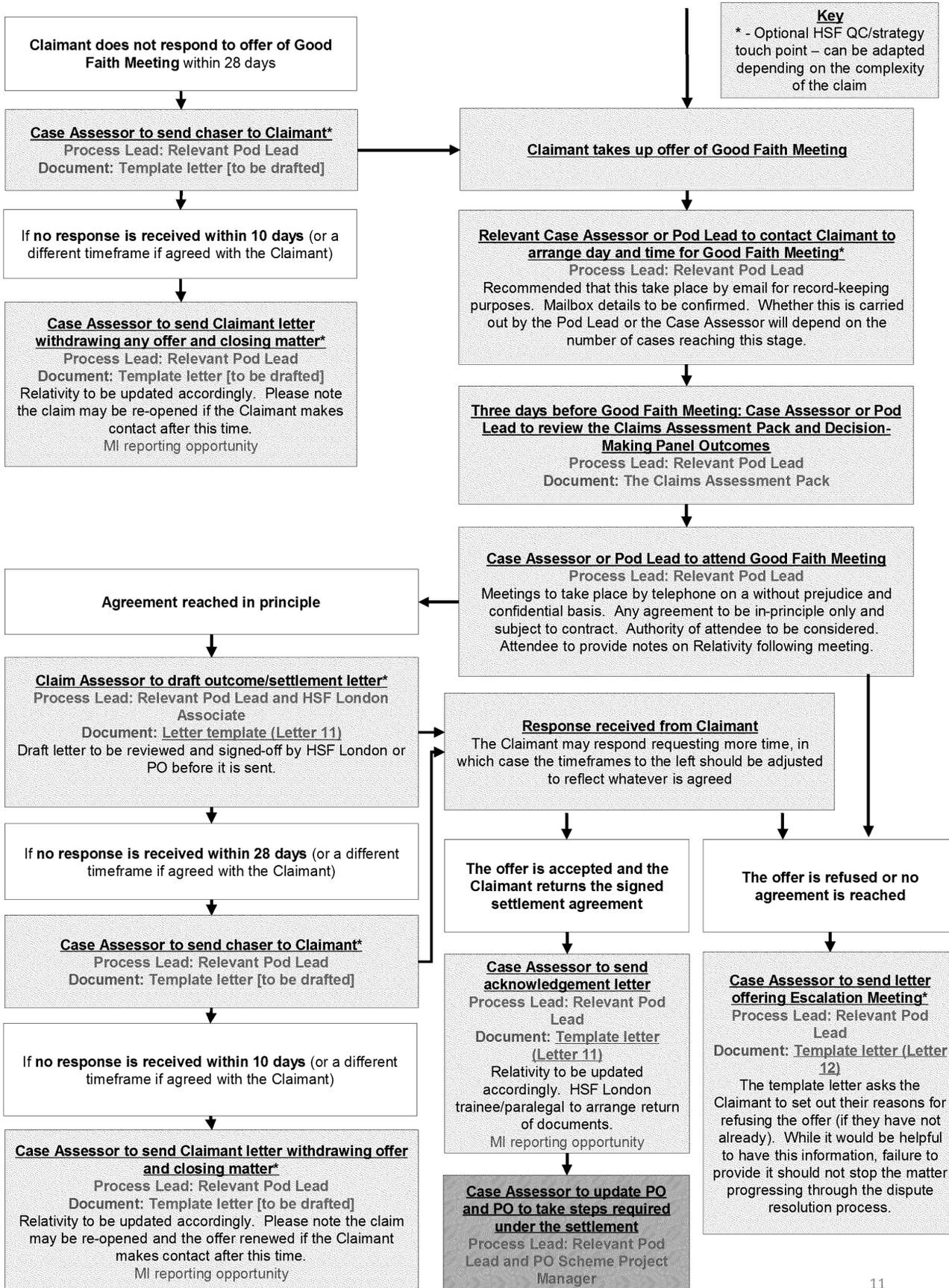
## Decision-making/Outcome Stage (2)



# Dispute Resolution Process – Good Faith Meeting

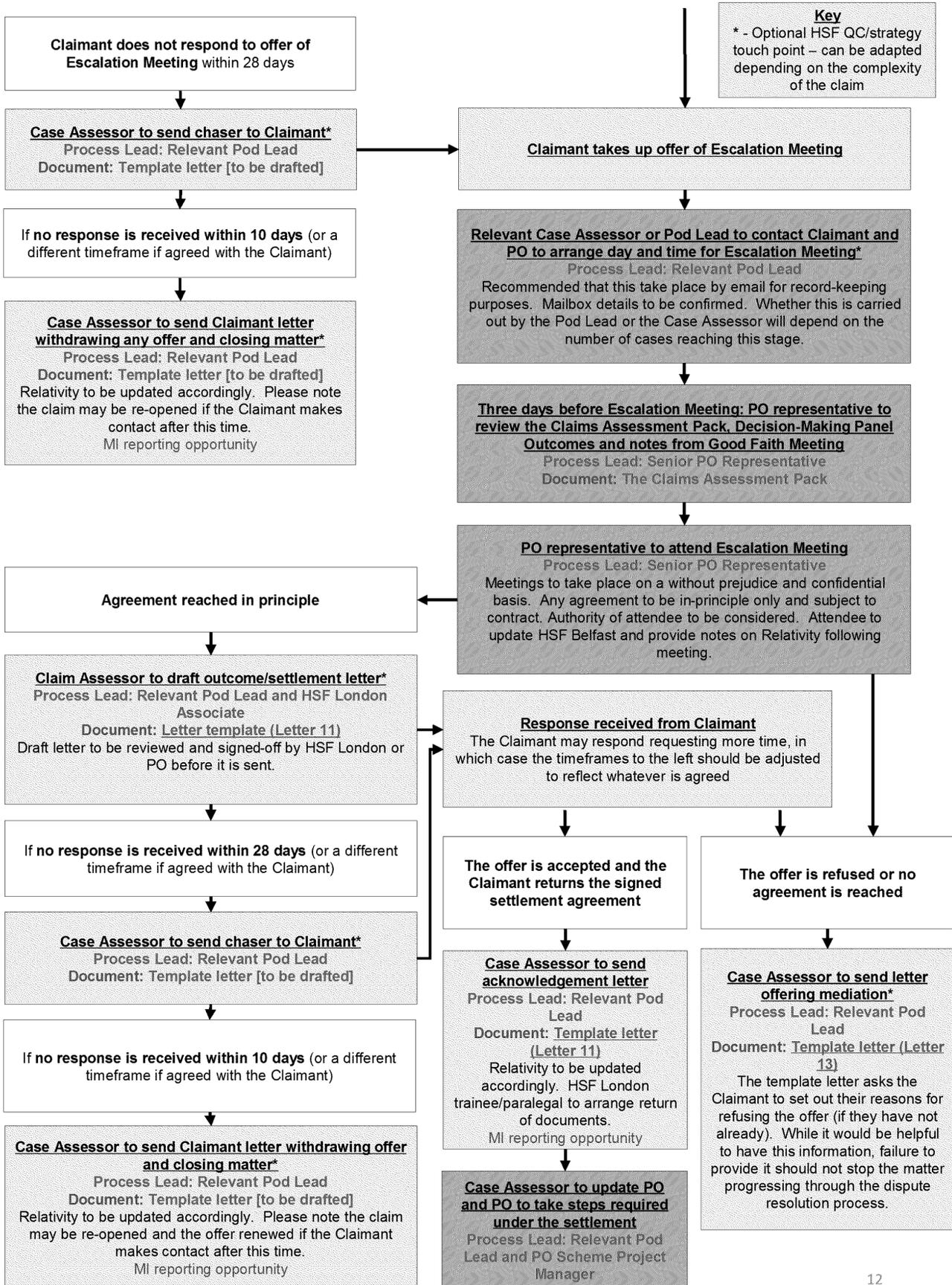
Please note this stage is not currently included in the HSF Belfast costs estimate.

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# Dispute Resolution Process – Escalation Meeting

Please note this stage is not currently included in the HSF Belfast costs estimate.

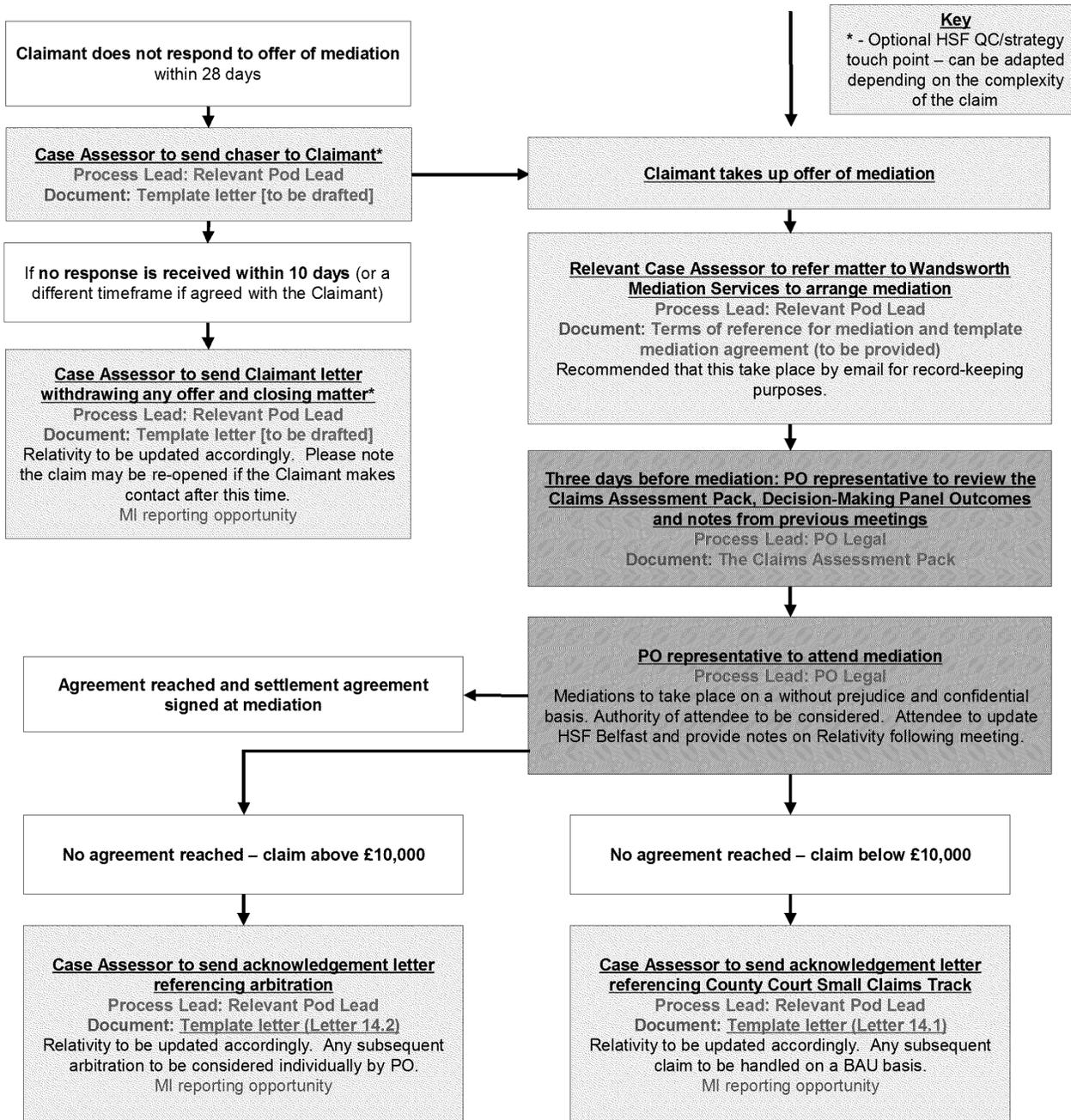


**Key**  
\* - Optional HSF QC/strategy touch point – can be adapted depending on the complexity of the claim

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## Dispute Resolution Process – Mediation

Please note this stage is not currently included in the HSF Belfast costs estimate.



## Claim Categorisation – Categorises 1, 2 and 3

### CATEGORY 1

In addition to characteristics identified by Post Office, claims falling into this category will:

- Comprise of 1 claim for alleged repaid shortfalls only, with no more than 5 separate shortfalls identified as incurring that loss.
- Require the review of less than 50 documents (including the claimant's claim and internal Post Office documents). It is assumed each document will have on average 3 – 5 pages.
- Not require any further information from either Post Office or the Claimant at any stage in the process after the Post Office investigation report and file build is complete.
- Require no more than 1 Post Office panel for approval, which should take no longer than 1 hour to prepare, present and answer queries. Follow up work is not required.
- Require no more than 1 non-complex final outcome communication to the Claimant.
- Proceed through each stage of the claims process only once.
- Should the Claimant not accept the outcome of the assessment and proceed to a good faith meeting, mediation or litigation, any time incurred after the outcome is communicated will be billed at an hourly rate.

Individual claim categorisation will depend on the circumstances of the case and is subject to change. Any claim which falls outside category 1, at any stage of the claims process, will be assessed to determine if it shall move to category 2 or 3.

### CATEGORY 2

In addition to characteristics identified by Post Office, claims falling into this category will:

- Comprise of up to 2 categories of loss. If one of the categories of loss is for alleged shortfalls, it will have no more than 10 separate alleged shortfalls identified.
- Require the review of less than 100 documents (including the claimant's claim and internal Post Office documents). It is assumed each document will have on average 3 – 5 pages.
- Once the Post Office investigation report and file build are complete, require no more than: o1 further information request to the Post Office and the Claimant; and o1 follow up email to the Post Office and/or Claimant in relation to a response.
- Require no more than 1 Post Office panel for approval, which should take no longer than 1.5 hours to prepare, present and answer queries.
- Require no more than 1 non-complex final outcome communication to Claimant.
- Proceed through each stage of the claims process only once.
- Should the Claimant not accept the outcome of the assessment and proceed to a good faith meeting, mediation or litigation, any time incurred after the outcome is communicated will be billed at an hourly rate.

Individual claim categorisation will depend on the circumstances of the case and is subject to change. Any claim which falls outside category 2 will move to category 3.

### CATEGORY 3

In addition to characteristics identified by Post Office, the following cases will fall into category 3:

- Any claim which falls outside of the scope of category 1 and 2 (at any stage of the claims process) will be charged by hourly rate according to the fee earner grades provided below.
- Claims with complex facts and/or analysis.
- Cases which require input from the Post Office legal or technical teams or which require accounting support.
- The first 5 cases assessed by HSF.

Should a significant number of similar claims fall within this category, HSF will consider proposing an additional fixed fee for such claims.

If a claim falling within category 3 contains more than 2 categories of loss but can easily be assessed, in less time and at a lower cost than category 1 or 2 claims, they will be billed according to the time spent and will therefore represent a saving to the Post Office.

### Appendix 3



HERBERT  
SMITH  
FREEHILLS

# COST ESTIMATE FOR POST OFFICE HISTORIC SHORTFALL SCHEME

HERBERT SMITH FREEHILLS  
ALTERNATIVE LEGAL SERVICES

27 FEBRUARY 2020

Alan Watts, Partner,

GRO

Kate Emanuel, Senior Associate,

GRO

Neil Cahill, Head of Disputes (UK & EMEA), ALT,

GRO

# OUR PROPOSAL



## YOUR PROJECT

You require:

- ❖ A cost effective, flexible model for managing historical shortfall claims received from Post Masters in relation to the alleged bugs in the Horizon system.
- ❖ A review of a selection of Post Office held documentation and investigation reports, Post Master claims and supporting documentation provided by Claimants (which will vary from to claim to claim).
- ❖ Analysis of the merits and deficiencies of each claim accompanied with proposed outcomes.
- ❖ A team to work independently, reporting and escalating to you regularly.
- ❖ Flexibility in resourcing (both relating to numbers and seniority) – at this stage it envisaged that the majority of historical shortfall claims will be relatively simple but our model can adapt quickly to cater for variations in scale or complexity.
- ❖ The review of individual claims made by Post Masters under the Historic Shortfall Scheme. Examples of claims may include claims in respect of shortfalls, remuneration based claims (eg suspension, notice pay etc) and consequential losses (eg personal injury, stigma, capital losses, insolvency related losses, loss of opportunity, interest and penalties etc).



## OUR OFFERING

Our Alternative Legal Services (ALT) team will:

- ❖ Bring our experience of designing solutions for clients on claims assessment and complaints handling projects on high profile and sensitive matters. Our high profile clients choose to work with us because they trust that we will carry out reputationally sensitive and complex work whilst delivering cost and time savings.
- ❖ Provide a dedicated and knowledgeable team to ensure high quality output at competitive rates, which can be adapted to meet demand.
- ❖ Respond by scaling our team up and down as required based on case flow and the complexity of claims.
- ❖ Implement streamlined processes to promote efficiency and ensure all claims are dealt with promptly.
- ❖ Work as an extension of your in-house team to deliver a “one team” approach.
- ❖ Review claims using the HSF Relativity review platform to review the documents and prepare the assessment.

# HOW WE WORK

## INTEGRATED SERVICE

ALT is comprised of eDiscovery and legal review teams across 11 hubs around the world that work as one integrated global practice group and support the HSF Disputes Practice in each region across both local and multi-jurisdictional matters.

Alan Watts and Catherine Emanuel, based in the London HSF Disputes team, have worked on a number of matters with the global ALT practice and are experienced in providing their clients with the integrated ALT and Disputes offering, providing truly innovative legal service delivery to their clients.

Together with the HSF Disputes case team, we can ensure a seamless and integrated service which incorporates the entire claims assessment journey from initial claims assessment through to the presentation of outcomes.

We provide a risk-wrapped approach, with HSF having oversight of all stages of a matter thereby saving time and costs against using third party providers, where additional costs of supervision and knowledge gap bridging are likely.

Our ALT team works with the Disputes case team as one unit to ensure efficient and robust workflows are in place, removing the need for multiple providers and thereby:

- limiting risk;
- increasing efficiency in the traditional delivery of legal services; and
- realising overall cost savings for our clients by ensuring a robust legal process is in place to underpin complex claims assessment matters.

## VALUE PROPOSITION

We will design bespoke workflows according to the requirements of the exercise and we use all available technology and expertise to maximise efficiency.

It is our objective to save costs for clients. We have a strong track record of achieving cost and time efficiencies for clients.

## TECHNOLOGY

Herbert Smith Freehills (UK, US & EMEA) hosts a fully managed on premise Relativity instance in London.

We take the protection of client information very seriously. We know that data management and protection is key to our clients. As such, the firm is certified to ISO-27001 and has adopted best practice security controls.

# OUR CLAIMS ASSESSMENT EXPERIENCE

## CUSTOMER FILE ASSESSMENT

HSF advised a major bank on its risks and exposures in relation to certain lending as part of a time-critical and sensitive investigation.

ALT eDiscovery and legal review teams supported the legal team to deliver an end-to-end and fully integrated solution for the bank.

- ALT eDiscovery teams worked with the client to:
  - co-ordinate the retrieval of customer files, and
  - catalogue and process the files onto HSF's secure electronic document management system for the Belfast team's review.
- An ALT Belfast team of assessors reviewed the files securely and completed assessment forms and chronologies of key events.

The file assessment decisions made by the team fed directly into the frontline legal team's risk assessment and strategic advice for the client.

## REGULATORY CONSEQUENTIAL LOSS ASSESSMENT

A dedicated Belfast assessment team worked with the HSF London legal team to deliver consequential loss analysis for financial services client.

HSF's ALT Belfast team assessed over 600 files and completed detailed assessment forms.

- Seamless integration between HSF London, Belfast and the client's operations team was key to the successful delivery of the project.
- The review was managed by senior lawyers in Belfast leading assessment teams, working with the client to refine and improve processes.
- Secondments from our London and Belfast offices to the client's in-house team ensured consistency.
- We managed resource flexibly in response to work flow.
- We offered fixed and discounted pricing arrangements.

## INSOURCED CLAIMS ASSESSMENT

HSF supported a financial services client to undertake a high profile past business review.

An ALT Belfast team with sector experience was seconded to the Bank's project team to assist with case assessment and provide day-to-day legal support.

The ALT team supported the Bank's in-house team by:

- preparing detailed assessments, including analysis of direct and consequential loss;
- acting as a quality control function on assessments prepared by the Bank's in-house team;
- presenting complaints outcome recommendations to the Bank's in-house approval panels; and
- preparing review outcome documentation and bespoke customer communications.

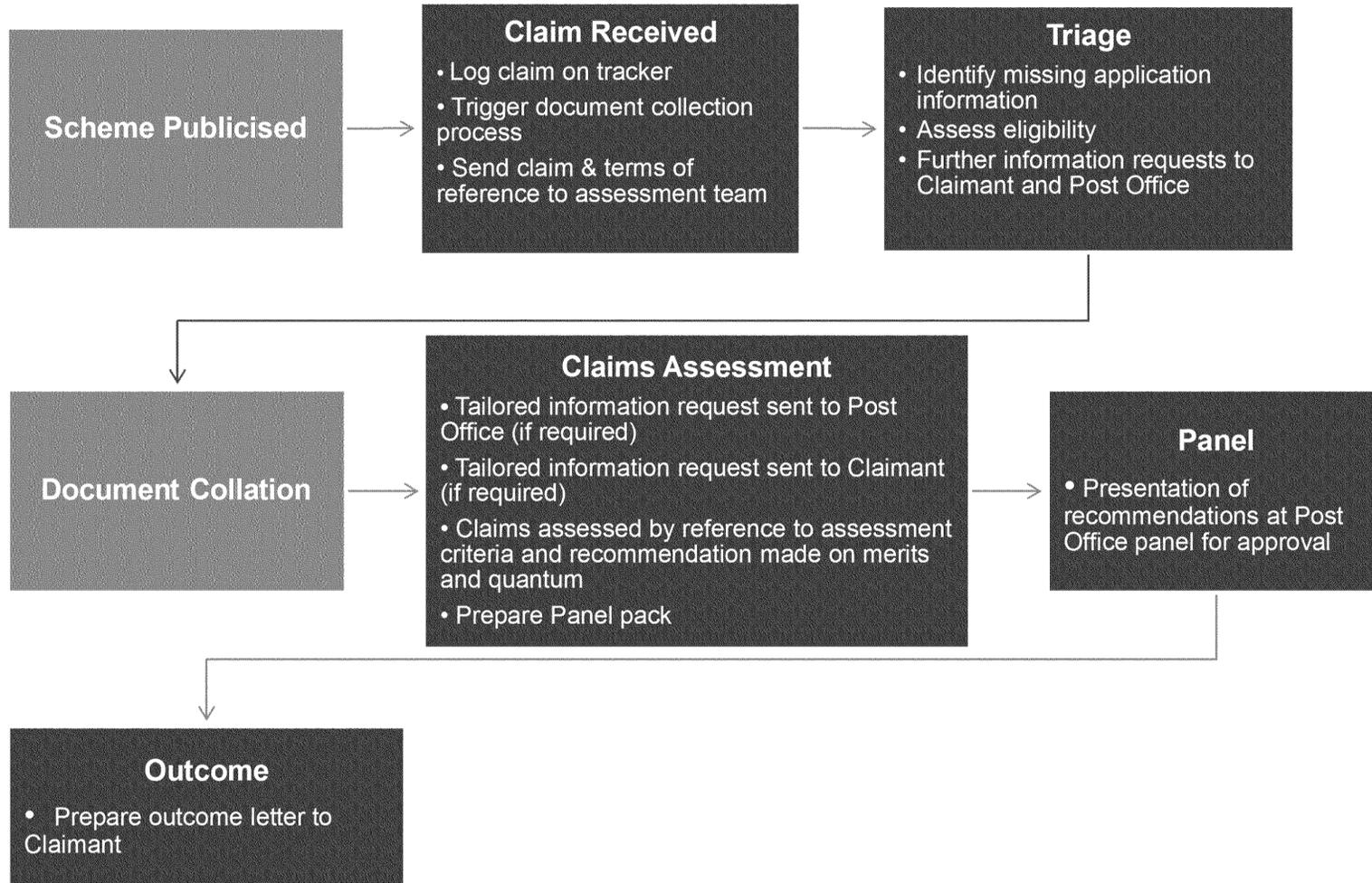
## CONSUMER CLAIMS

Our ALT Belfast team works with a UK telecommunications provider to deliver a collaborative, process-driven and cost-effective solution to consumer claims management.

- Our team delivers legal services related to volume claims management, resolving or defending claims as appropriate.
- We offer a dedicated team which flexes up and down in response to case flow, so the client does not pay for idle time.
- We worked with the client to devise efficient processes to ensure quality and consistency.
- The client has described the ALT service as slick and timely, and an entirely positive experience.

# PROJECT OVERVIEW

Key: **actioned by Post Office**   
**actioned by HSF/ALT** 



# CLAIMS ASSESSMENT & DECISION MAKING

<b>CLAIMS ASSESSMENT</b> <b>What we do</b>	<b>DECISION MAKING</b> <b>What we do</b>
<ul style="list-style-type: none"> <li>Review evidence provided by the Claimants and internal documents collected by Post Office by reference to the Assessment Criteria.</li> <li>Request additional information when required from the Claimant or the Post Office prior to completing assessment.</li> <li>Review additional information or evidence provided by Post Office and/or Claimant following a further information request.</li> <li>Engage with Post Office Technical or Legal teams and accounting support where necessary.</li> <li>Complete a Claims Assessment Pack to include recommendations on liability and quantum to be approved by an internal Post Office Historic Shortfalls Panel comprised of senior stakeholders with relevant technical knowledge.</li> </ul>	<ul style="list-style-type: none"> <li>Prepare Claims Assessment Pack and circulate in advance to those appointed to the internal Post Office Historic Shortfalls Panel.</li> <li>Present recommendations on liability and quantum to panel members.</li> <li>Offer panel opportunity to ask questions in relation to the recommendations made.</li> <li>Assist with any further discussions at panel meeting.</li> <li>Record panel decision and prepare outcome communication to Claimant.</li> </ul>

# HSF ALT COST ESTIMATE – END TO END PROCESS

## Case Specific Estimated Costs

ALT will allocate claims to one of 3 categories depending on the circumstances/complexity of the claim.

Estimated volume	100	200	500
Estimated Cost	£381,500	£763,000	£1,907,500

## Cost by claim category

Category 1	Category 2	Category 3
£2,300	£3,800	Cost per file based on time spent

## Case Specific Estimate Assumptions

- This estimate is for the end to end process, from receipt of the claim through to the outcome communication to the Claimant.
- Category 1 and 2 claims will be billed on a fixed fee basis.
- Based on the estimated volumes above and for the purposes of this estimate we have assumed:
  - An average split of cases by category based on 35% of claims within category 1, 35% in category 2 and 30% in category 3.
  - An estimated average cost of £5,600 for each category 3 claim.
  - Once the actual volume and complexity of claims is known, this estimate will be subject to revision.

# HSF ALT COST ESTIMATE – LEGAL SUPPORT

## Legal Project Support and Management

End to End Process	One month secondment to Post Office Free of charge	Senior Management time Free of charge	<b>First month Capped at £50,000</b>
<b>Legal Project Support and Management</b>	<ul style="list-style-type: none"> <li>• ALT are experienced in providing legal project support and management.</li> <li>• To assist Post Office with the design and set up of the historical shortfall scheme, ALT will provide a qualified team member on secondment to Post Office for a period of one month. The estimated cost benefit of this, to Post Office, is approximately £40,000.</li> <li>• Legal project support and management is assistance with the project overall but not on individual cases (except for irregular bespoke reporting requests). For example, work completed on workflow set up; project management including triage, allocation and tracking of claims; communication with internal Post Office teams; ensuring guidance notes are regularly updated and shared with the teams; reporting and irregular bespoke tasks; attending Post Office project meetings; amongst other un-defined tasks.</li> </ul>		
<b>Legal Project Support and Management Estimate Assumptions</b>	<ul style="list-style-type: none"> <li>• Legal project support and management costs will vary over the lifetime of the project and will be dependant on the volume and categorisation of the claims received.</li> <li>• Costs in relation to some legal project support will be incurred over the course of the project, whilst other costs will be greater either at the beginning or end of the matter.</li> <li>• Legal project support and management costs will be charged at an hourly rate.</li> <li>• For the first month we will cap legal project support and management fees at £50,000 for the end to end process. This along with the value add of a qualified team member seconded to the Post Office, will support you in designing a process which will drive efficiencies and deliver the project at a lower cost overall.</li> <li>• Once the actual volume and complexity of claims is known, we will work with you to agree an appropriate fixed monthly retainer which will ensure certainty.</li> </ul>		

# HSF ALT COST ESTIMATE – EDISCOVERY SUPPORT

## eDiscovery Estimated Costs

**£123,550 to £186,300**

## eDiscovery Services

- The HSF eDiscovery team will consult on this matter and assist with establishing the most efficient workflow for the claims assessment on the Relativity platform.
- Support may include, but is not limited to:
  - Processing and hosting data
  - Database management
  - Designing a bespoke workflow
  - Advising on best practice; utilising structured and conceptual analytics; trouble shooting technical issues
  - Technical time creating bespoke reporting requirements, eg scripting template reports
  - Supporting/consulting on project queries
  - Providing reports on data (which do not fall within the weekly MI report)
  - Undefined tasks which may be required depending on how the project evolves

- eDiscovery fee earner time will be charged according to the fee earner grades below:

	GBP
Manager, eDiscovery (ALT)	300
Senior Executive (ALT)	235
Executive (ALT)	210
Analyst, eDiscovery (ALT)	165

- Data processing on the HSF instance of Relativity are provided below on a tiered basis, reducing as the volume of data increases.

Tier (GB)	GBP per GB
0-250	65
251-500	55
501-1000	45
1001+	35

- Data hosting on the HSF instance of Relativity is charged at £15 per GB per month.

# HSF ALT COST ESTIMATE – EDISCOVERY SUPPORT

<p><b>eDiscovery Value Proposition</b></p>	<p>HSF ALT does not charge any additional costs for the following, unlike some third party vendors:</p> <ul style="list-style-type: none"> <li>• Email threading</li> <li>• Near de-duplication</li> <li>• Predictive coding</li> <li>• OCR of documents</li> <li>• Promoting documents to review</li> <li>• Complex keyword searching</li> <li>• User licence fees</li> </ul>
<p><b>eDiscovery Assumptions</b></p>	<ul style="list-style-type: none"> <li>• This estimate was prepared based on assumptions regarding the level of support required on a monthly basis. We will revise the estimate when the volume and scope of the data and services required are known.</li> <li>• The monthly costs will vary as the project progresses, depending on the volume and frequency of data uploads, the number of Claimants and reporting requirements.</li> <li>• The lower estimate is based on a volume of 20GB and the upper estimate is based on 100GB.</li> <li>• eDiscovery costs to include technical time building the workflow/reporting scripts, database management and dealing with irregular bespoke requests will all be billed on an hourly rate.</li> <li>• eDiscovery technology fees to include Relativity hosting and processing fees will be charged per GB. Hosting fees are charged on a monthly basis.</li> </ul>



# HSF ALT COST ESTIMATE

## INDICATIVE OVERALL ESTIMATE

INDICATIVE OVERALL ESTIMATE	
eDiscovery (12 months)	£186,300
Legal Project Support and Management (12 months)	£600,000
Case Specific (500 claims)	£1,907,500
<b>Estimated Cost</b>	<b>£2,693,800</b>

### Case Specific Estimate Assumptions

- This estimate is prepared for the purposes of budgeting only. We will re-estimate should the assumptions in this estimate prove incorrect.
- As per page 8 of this estimate we have agreed a cap for the first month for legal support and management costs. We will cap these fees at £50,000 for the end to end process.
- For the purposes of this estimate only and until we have greater visibility of the level of support required, we have estimated the cost of legal support based on a monthly cost which is equivalent to the month 1 cap. However, these figures (post one month) are not capped. It would be our intention to provide a more accurate estimate after the first month.
- We have estimated the costs of the assessment of 500 Historic Shortfall claims as per the assumptions on pages 7 of this estimate.
- We have assumed eDiscovery costs at the upper end of the estimated range as per the assumptions on pages 9 and 10 of this estimate.

# HSF ALT PROPOSAL

## CATEGORY 1

### Claims falling into this category will:

- Comprise of 1 claim for alleged repaid shortfalls only, with no more than 5 separate shortfalls identified as incurring that loss.
- Require the review of less than 50 documents (including the claimant's claim and internal Post Office documents). It is assumed each document will have on average 3 – 5 pages.
- Not require any further information from either Post Office or the Claimant at any stage in the process after the Post Office investigation report and file build is complete.
- Require no more than 1 Post Office panel for approval, which should take no longer than 1 hour to prepare, present and answer queries. Follow up work is not required.
- Require no more than 1 non-complex final outcome communication to the Claimant.
- Proceed through each stage of the claims process only once.
- Should the Claimant not accept the outcome of the assessment and proceed to a good faith meeting, mediation or litigation, any time incurred after the outcome is communicated will be billed at an hourly rate.

Individual claim categorisation will depend on the circumstances of the case and is subject to change. Any claim which falls outside category 1, at any stage of the claims process, will be assessed to determine if it shall move to category 2 or 3.

## CATEGORY 2

### Claims falling into this category will:

- Comprise of up to 2 categories of loss. If one of the categories of loss is for alleged shortfalls, it will have no more than 10 separate alleged shortfalls identified.
- Require the review of less than 100 documents (including the claimant's claim and internal Post Office documents). It is assumed each document will have on average 3 – 5 pages.
- Once the Post Office investigation report and file build are complete, require no more than:
  - 1 further information request to the Post Office and the Claimant; and
  - 1 follow up email to the Post Office and/or Claimant in relation to a response.
- Require no more than 1 Post Office panel for approval, which should take no longer than 1.5 hours to prepare, present and answer queries.
- Require no more than 1 non-complex final outcome communication to Claimant.
- Proceed through each stage of the claims process only once.
- Should the Claimant not accept the outcome of the assessment and proceed to a good faith meeting, mediation or litigation, any time incurred after the outcome is communicated will be billed at an hourly rate.

Individual claim categorisation will depend on the circumstances of the case and is subject to change. Any claim which falls outside category 2 will move to category 3.

# HSF ALT PROPOSAL

## CATEGORY 3

### The following cases will fall into category 3:

- Any claim which falls outside of the scope of category 1 and 2 (at any stage of the claims process) will be charged by hourly rate according to the fee earner grades provided below.
- Claims with complex facts and/or analysis.
- Cases which require input from the Post Office legal or technical teams or which require accounting support.
- The first 5 cases assessed by HSF.

Should a significant number of similar claims fall within this category, we will consider proposing an additional fixed fee for such claims.

If a claim falling within category 3 contains more than 2 categories of loss but can easily be assessed, in less time and at a lower cost than category 1 or 2 claims, they will be billed according to the time spent and will therefore represent a saving to the Post Office.

# HSF ALT NOTES & EXCLUSIONS

## Notes

- This estimate is in GBP and is exclusive of VAT.
- Where work is undertaken on assessment or legal project support and management at an hourly rate the following will apply:

	GBP
Director	375
Head of Practice Areas	350
Senior Manager (ALT)	325
Manager (ALT)	300
Senior Associate / Solicitor (ALT)	235
Associate / Solicitor (ALT)	210
Senior Legal Analyst (ALT)	125
Graduate / Trainee (ALT)	100
Legal Analyst (ALT)	100

- Director, Head of Practice and Senior Manager time will be provided free of charge.
- Assumptions underpinning these cost estimates are set in each category of costs. As the project progresses, if any of the assumptions underpinning this estimate prove to be inaccurate, the cost estimate will be revised and we will discuss this with you prior to doing so.
- Once the actual volume and complexity of claims is known, this estimate will be subject to revision.
- This estimate is subject to review after the first 5 cases have completed the assessment phase to ensure that the assumptions underpinning the assessment are accurate.
- We will utilise the appropriate fee earner grade to drive efficiencies.

## Exclusions

- This estimate does not include a review for any additional coding which may be required for the purposes of litigation or anything outside of the scope of the claims assessment.
- This estimate does not include work carried out in relation to a master excel or additional investigatory or analytical tasks which may be required. These will be charged at our an hourly rate.

**HERBERTSMITHFREEHILLS.COM****BANGKOK**

Herbert Smith Freehills (Thailand) Ltd

**BEIJING**Herbert Smith Freehills LLP  
Beijing Representative Office (UK)**BELFAST**

Herbert Smith Freehills LLP

**BERLIN**

Herbert Smith Freehills Germany LLP

**BRISBANE**

Herbert Smith Freehills

**BRUSSELS**

Herbert Smith Freehills LLP

**DUBAI**

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Herbert Smith Freehills Germany LLP

**FRANKFURT**

Herbert Smith Freehills Germany LLP

**HONG KONG**

Herbert Smith Freehills

**JAKARTA**Hiswara Bunjamin and Tandjung  
Herbert Smith Freehills LLP associated firm**JOHANNESBURG**

Herbert Smith Freehills South Africa LLP

**KUALA LUMPUR**Herbert Smith Freehills LLP  
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Herbert Smith Freehills LLP

**MADRID**

Herbert Smith Freehills Spain LLP

**MELBOURNE**

Herbert Smith Freehills

**MILAN**Studio Legale Associato in association with  
Herbert Smith Freehills LLP**MOSCOW**

Herbert Smith Freehills CIS LLP

**NEW YORK**

Herbert Smith Freehills New York LLP

**PARIS**

Herbert Smith Freehills Paris LLP

**PERTH**

Herbert Smith Freehills

**RIYADH**The Law Office of Nasser Al-Hamdan  
Herbert Smith Freehills LLP associated firm**SEOUL**Herbert Smith Freehills LLP  
Foreign Legal Consultant Office**SHANGHAI**Herbert Smith Freehills LLP  
Shanghai Representative Office (UK)**SINGAPORE**

Herbert Smith Freehills LLP

**SYDNEY**

Herbert Smith Freehills

**TOKYO**

Herbert Smith Freehills

## Appendix 4

### Historic Shortfall Scheme: Eligibility and triage

#### Eligibility criteria for entry into the Scheme

3

Certain cases should be escalated for urgent and expedited investigation and/or early contact from Post Office (such as the postmaster's Area Manager / a multiple relationship manager) and/or welfare professionals. An external support telephone line will be provided so that individuals can seek assistance or be referred for professional support.

Judgement should be exercised in considering these cases, erring on the side of caution. Should there be any doubt whatsoever, guidance should be sought from HSF London and/or Post Office.

Examples for escalation include:

- Applications that suggest that the applicant, or someone close to them, is suffering or at risk of suffering imminent personal harm (including but not limited to stress, depression, mental health issues, insomnia, panic attacks, anxiety, eating disorders, self-harm, substance misuse, abuse, violence, overdose, suicide).
- Applicants who are terminally ill or suffering decreasing capacity.
- Applications that suggest that the applicant is at risk of significant current or imminent financial harm, such as default, insolvency, repossession or other extreme financial hardship, such as inability to pay basic living expenses.
- Applicants who are currently suspended and whose suspension pay is continuing.
- Applicants who are known to be active in the media.
- Applicants who are multiples (i.e. who operate multiple Post Office branches rather than being a pluralist).

#### **Routes for escalation**

On a case-by-case basis, routes for escalation may include:

- The application to be expedited through the scheme.
- The applicant to be contacted/visited by the relevant Area Manager.
- The applicant to be referred to, or directly contacted by, the welfare helpline.
- The applicant to be contacted personally by someone else within Post Office.
- In the case of multiples, the relevant multiple relationship manager to be alerted to the claim and the applicant to be contacted/visited by the relevant manager, if deemed appropriate.

## Appendix 5

### POST OFFICE LIMITED ("the Company") Terms of Reference of the Historic Shortfalls Claims Scheme Decision Making Panel

3

The Historic Shortfalls Claims Scheme ("the Scheme")<sup>1</sup> has been constituted to address past issues regarding Post Office's point-of-sale accounting system, Horizon. The Historic Shortfalls Claims Scheme Decision Making Panel ("the Panel") is a panel set up by the Group Litigation ("GLO") Sub-Committee from which it derives its authority. The Panel's authority is always subject to the powers and duties of the GLO Sub-Committee, as set out in the Sub-Committee's Terms of Reference.

#### A. PURPOSE

The purpose of the Panel is to determine outcomes for claims in the Scheme. The outcomes determined by the Panel shall be communicated to Scheme's applicants. If an outcome is accepted by an applicant, it shall be binding on both the Company and the applicant. If an outcome is not accepted by an applicant, the claim shall enter the Dispute Resolution Process contemplated in the Scheme's Terms of Reference.

#### B. DUTIES AND RESPONSIBILITIES

The Panel shall:

1. review Scheme claims that:
  - i. are eligible for the Scheme pursuant to the Scheme's Eligibility Criteria<sup>2</sup>;
  - ii. have been investigated through the Scheme; and
  - iii. are presented to the Panel;
2. determine outcomes (including financial settlement offers) for Scheme claims to be communicated to Scheme applicants;
3. determine financial settlement offers up to the amount of £100,000 per claim;
4. approve for recommendation to the GLO Sub-committee that financial settlement offers in excess of £100,000 be accepted and provide written reasons to support this;
5. refer Scheme claims back to the investigation stage to undergo further investigation where appropriate;
6. convene decision-making sub-panels as required, which shall derive their authority from this Panel; and
7. determine at least the first 25 Scheme claims presented to the Panel. Subject to the volume of Scheme claims received and the total monetary value of all claims, the Panel may thereafter direct claims to be determined

<sup>1</sup> The Scheme's Terms of Reference approved by the GLO Sub-Committee

<sup>2</sup> The Scheme's Eligibility Criteria approved by the GLO Sub-Committee

Post Office Limited

Terms of Reference of Historic Shortfalls Claims Scheme Decision Making Panel

by one or more sub-panels. The Panel shall review a sufficient sample of determinations reached by the sub-panel to its satisfaction, and will also hear any claims escalated to it by any sub-panel for reasons of complexity or sensitivity.

3

## **C. COMPOSITION AND GOVERNANCE**

### ***Membership***

8. The Panel's members shall comprise:
  - i. One representative from Post Office's Operations Department;
  - ii. One representative from Post Office's Finance Department; and
  - iii. One legal adviser from an external law firm.
9. Members of the Panel shall be appointed by the Group General Counsel from time to time. Members shall have the power to delegate their attendance and voting rights at Panel meetings to a colleague within their business unit, or law firm, subject to the approval of the Group General Counsel.

### ***Quorum & Voting***

10. A meeting will only be quorate when all three panel members or their delegates are present. Each Panel member shall have one vote each.
11. Decisions will be taken by a majority of two. Any member of the Panel may vote to escalate a proposed decision in any case to the GLO Board Sub-Committee.

### ***Meetings***

12. Panel meetings shall be convened by Herbert Smith Freehills LLP ("**HSF**"). HSF shall have responsibility for the administrative arrangements for convening Panel meetings, including sending meeting invitations and providing meeting room facilities as required.
13. Panel meetings shall be chaired by the legal adviser from the external law firm.
14. The Panel shall convene on a weekly basis following the commencement of the Scheme, with ad hoc or additional standing meetings to take place as required and subject to the agreement of the Panel members.
15. Notice of each Panel meeting shall be given to all those entitled to attend at least three working days before the meeting.

INTERNAL

2

## Post Office Limited

## Terms of Reference of Historic Shortfalls Claims Scheme Decision Making Panel

16. One or more representatives from HSF's Belfast office ("**HSF Belfast**") who have assessed the claims before the Panel (the "**Case Assessors**") will attend the Panel meeting to present their assessments and recommendations.
17. Meetings may be held in person or by telephone or other electronic means, so long as all participants can contribute to the meeting simultaneously.
18. In respect of each claim for determination before the Panel, the Panel will be emailed the supporting materials necessary to consider and determine the outcome for the claim ("**Claims Assessment Pack**") by the Case Assessor a minimum of three days prior to the Panel meeting.
19. The Case Assessors shall record the outcomes for each claim that is determined by the Panel at the meeting.
20. HSF Belfast shall maintain a tracker to produce management information for the Company on Panel determinations, the value of financial offers made to Scheme Applicants and the levels of acceptance. Such information will be reported to the GLO Sub-Committee from time to time.

**D. REVIEW AND APPROVAL**

21. The Terms of Reference shall be approved by the GLO Sub-Committee and shall be reviewed by the Panel no longer than six months after the commencement of the Scheme. Any amendments to the Terms of Reference shall be approved by the GLO Sub-Committee.

Approved by:	Date:	Version:	Effective from:
Post Office GLO Sub-Committee		1.0	

# Appendix 6

Day	Messages	Audience	Channel	Comms Lead	Working With
03-Mar	Sub Committee Meeting	n/a	n/a	n/a	n/a
04-Mar	Prebriefing to postmaster facing teams	Nick Beal, Amanda Jones, Pam Heap, Julie Thomas, Andy King	Presentation	HSF	n/a
04-Mar	Communicate scheme details and launch date	Postmasters/ NFSP (Nick Beal)	One website	Lisa	Rina
04-Mar	Communicate scheme details and launch date	Colleagues	10 at 10	Lisa	Charlotte
04-Mar	Communicate scheme details and launch date	PDL Board	TBC	Mel	Richard
04-Mar	Communicate scheme details and launch date	BETS/JVG	TBC	Mel	Richard
04-Mar	Communicate scheme details and launch date	Senior Leadership Council	TBC	Lisa	Richard
06-Mar	Scheme brief to get ready for launch	Social Media Team	Email/Call	Mel/Laura	Darren
06-Mar	Scheme brief to get ready for launch	NFSP	Email/Call	Lisa	Nick Beal
06-Mar	Scheme brief to get ready for launch/details of how to apply, timescales, FAQ	Branch Facing Teams/BSC	Email/Call	Lisa	Pam Heap/Amanda Jones/Julie Thomas
06-Mar	Scheme brief to get ready for launch/details of how to apply, timescales, FAQ	Retail Commercial Partner Team	Email/Call	Lisa	Amanda Jones
09-Mar	Launch scheme with details of how to apply, timescales, FAQ	Postmasters/former postmasters	Corporate website	Mel/Laura	JK
09-Mar	Launch scheme with details of how to apply, timescales	Postmasters/former postmasters	Press/Retail Trade	Mel	Karim
09-Mar	Launch scheme with details of how to apply, timescales	Postmasters/former postmasters	Paid for advertising	Mel	Emma Springham
09-Mar	Launch scheme with details of how to apply, timescales	Social Media (not paid)	Twitter/Facebook	Mel/Laura	Darren
09-Mar	Launch scheme with details of how to apply, timescales, FAQ	NFSP	Email/121 briefing/ B/c	Mel/Laura	Alice
09-Mar	Launch scheme with details of how to apply, timescales, FAQ	Postmasters	One website	Lisa	Rina
09-Mar	Launch scheme with details of how to apply, timescales, FAQ	Postmasters	Letter to branch	Lisa	Rina
11-Mar	Launch scheme with details of how to apply, timescales, FAQ	Colleagues	10 at 10	Lisa	Marlene
09-Mar	Launch scheme with details of how to apply, timescales, FAQ	Colleagues	Intranet	Lisa	Marlene
09-Mar	Launch scheme with details of how to apply, timescales, FAQ	NFSP	Email/121 briefing	Lisa	Nick Beal
09-Mar	Launch scheme with details of how to apply, timescales, FAQ	CWU	Email	Lisa	Lee Kelly
09-Mar	Launch scheme with details of how to apply, timescales, FAQ	Retail Commercial Partners	Email/121 briefing	Lisa	Amanda Jones
09-Mar	Launch scheme with details of how to apply, timescales, FAQ	Unité	Email	Lisa	Lee Kelly
09-Mar	Launch scheme with details of how to apply, timescales, FAQ	JFSA	Link to Corp website/Press release	Mel/Laura	Mark Underwood tbc
09-Mar	Launch scheme	Client Teams/suppliers	Email	Lisa	POL teams
09-Mar	Launch scheme with details of how to apply, timescales, FAQ	Citizens Advice, FSB, Chamber of Commerce	Email	Mel/Laura	Kenneth
09-Mar	Launch scheme with details of how to apply, timescales, FAQ	Former postmasters	Letter tbc	Lisa	Rina
45	Reminder of scheme with details of how to apply, timescales, FAQ	Press	Press	Mel	Karim
		Postmasters/former postmasters	Paid for advertising	Mel	Emma Springham
		Social	Twitter/Facebook	Mel/Laura	Darren
		Postmasters	One website	Lisa	Rina
		NFSP	Email	Lisa	Nick Beal
		Retail Commercial Partners	Email	Lisa	Amanda Jones
		Branch Facing Teams	Email	Lisa	Pam Heap/Amanda Jones/Julie Thomas
80	Reminder that closing date is 1 week away, details of scheme and how to apply	Press	Press	Mel	Karim
		Postmasters/former postmasters	Paid for advertising	Mel	Emma Springham
		Social	Twitter/Facebook	Mel/Laura	Darren
		Postmasters	One website	Lisa	Rina
		NFSP	Email	Lisa	Marlene
		NFSP	Email	Lisa	Nick Beal
		Retail Commercial Partners	Email	Lisa	Amanda Jones
		Branch Facing Teams	Email	Lisa	Pam Heap/Amanda Jones/Julie Thomas
Citizens Advice, FSB, Chamber of Commerce	Email	Mel	Kenneth		
tbc	Scheme doses	Social (reactive)	Twitter/Facebook	Mel/Laura	Darren
		Postmasters	One website	Lisa	Rina
		NFSP	Email	Lisa	Nick Beal
		CWU	Email	Lisa	Lee Kelly
		Retail Commercial Partners	Email	Lisa	Amanda Jones
		Branch Facing Teams/BSC	Email	Lisa	Pam Heap/Amanda Jones/Julie Thomas
		External	Corporate website	Mel/Laura	JK

Draft for legal clearance




## Appendix 7

DRAFT: IN STRICTEST CONFIDENCE AND SUBJECT TO LEGAL PRIVILEGE

25-02-2020

HISTORIC SHORTFALL SCHEME – PRESS NOTICE

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### POST OFFICE ANNOUNCES HISTORIC SHORTFALL SCHEME FOR POSTMASTERS

The Post Office today [date] announced the launch of a scheme to resolve past issues for postmasters who encountered shortfalls in their branch accounts that they believe may have been caused by computer system errors.

The Historic Shortfall Scheme follows the agreed settlement last year of group litigation between Post Office and 555 mainly former postmasters.

During the court proceedings the current version of Horizon, the Post Office’s electronic point of sale system, was found to be robust relative to comparable systems, but the Court highlighted issues regarding previous versions which had the potential to affect branch accounting.

[Post Office XXXXX] said: “We are sorry for past events where we got things wrong and we are committed to fairly resolving these. The scheme is an important step in re-setting our relationship with postmasters and is designed to provide the opportunity for postmasters who were not part of the group litigation to resolve issues they may have experienced.”

The scheme is open from today to both current and former postmasters. Full information for potential applicants, including the eligibility criteria and application form, is available at [website link] or by emailing [contact] or by writing to [details]. Applications should be received by midnight on [insert date three months after first communication of the scheme] to be eligible.

Every eligible application will be investigated and assessed. A dispute resolution procedure is available for applicants not satisfied with the assessment outcome, providing further review stages and independent mediation.

The independent mediation provider will be Wandsworth Mediation Services [link], a not-for-profit community mediation service led by Stephen Ruttle QC who mediated the resolution of the group litigation. Profits from the service are used for charitable purposes.

NOTE TO EDITORS:

#### ***Post Office Historic Shortfall Scheme***

Full details of the scheme including eligibility criteria and the terms of reference which apply can be found at [web link] or by emailing [xxxxx] or by request in writing to [xxxxx]. Applications must be made on the official scheme’s application form, obtainable at these same addresses, to be eligible. Applicants should follow the advice provided regarding information to accompany their application.

The scheme relates to shortfalls allegedly caused by the historic versions of Horizon (HNG-X or prior) systems. The Scheme will not deal with issues arising with the current version of Horizon (HNG-A)..

If, following all stages of the scheme, including independent mediation, agreed resolution is not achieved, applicants may have recourse to the small claims civil courts process or to arbitration, depending on the value of the claim.

The principles and scope of the scheme have been endorsed by the mediators who helped to negotiate the settlement of the group litigation.

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### ***Group Litigation***

The group litigation between Post Office and 555 mainly former postmasters concluded following successful mediation and agreed settlement in December 2019.

As part of the proceedings, the Court determined [15] technical matters concerning historic Horizon systems used since around 2000. The most recent judgment relates to generic issues regarding Horizon and its operation. It did not consider or determine individual cases.

A joint press statement was issued on 11 December 2019 by both parties involved in the litigation. [\[link\]](#)

## Appendix 8

### HISTORIC SHORTFALL SCHEME TERMS OF REFERENCE

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1. Post Office intends to establish the Historic Shortfall Scheme (the "**Scheme**") to address past issues regarding its point-of-sale accounting system, Horizon.
2. The purpose of the Scheme is to bring finality to current and former postmasters who, in good faith, believe they may have been affected by shortfalls arising after 1 January 2000 and allegedly caused by the historic versions of Horizon (HNG-X or prior) ("**Historic Shortfalls**"). The Scheme will not deal with issues arising with the current version of Horizon (HNG-A).
3. All applications to join the Scheme must be received by Post Office by midnight on [insert date three months after Post Office first publicly communicates the existence of the Scheme]. If they are not, Applicants will not be eligible to join the Scheme unless Post Office agrees otherwise.
4. Applications and other communications should be sent either:
  - 4.1 to the Office of the General Counsel at Post Office, Finsbury Dials, 20 Finsbury Street, London EC2Y 9AQ by post or hand delivery; or
  - 4.2 by email to casereviewteam@GRO
5. Applicants to the Scheme are required to agree to these Terms of Reference. Applicants who do not agree to the Terms of Reference will not be eligible to participate in the Scheme.
6. Once an application has been made, either party may write to the other to request relevant information. The parties shall co-operate with one another in providing any information which the other party may reasonably request. Information obtained and provided in relation to each application should be proportionate to the circumstances of that application.
7. Every application made under the Scheme will be individually investigated and assessed by a panel of at least three individuals. Following assessment of the claim, Post Office will write to the Applicant setting out the outcome of their application.
8. In the event the Applicant is dissatisfied with the outcome of their Application, the following Dispute Resolution Procedure shall apply:
  - 8.1 The Applicant must notify Post Office in writing within 28 days that he or she wishes to engage the dispute resolution procedure.
  - 8.2 As soon as is practicable, at least one Post Office representative shall meet with the Applicant, either face-to-face or by telephone, and endeavour to resolve all issues regarding any outstanding shortfalls in good faith and in a manner that takes into account the legitimate interests of Post Office and the Applicant (the "**HSG Good Faith Meeting**").
  - 8.3 If the dispute is not resolved as a result of the HSG Good Faith Meeting, either party may within 28 days escalate the dispute to a member of Post Office's senior management (the "**HSG Escalation Meeting**") in writing.
  - 8.4 If the dispute is not resolved as a result of the HSG Escalation Meeting, either party may refer the matter to Wandsworth Mediation Service ("**WMS**") within 28 days. WMS is a charitable organisation run by Stephen Ruttle QC, one of the two independent mediators who assisted the parties to reach agreement between Post Office and the claimants in the group litigation. Profit made by WMS out of the fees paid for mediations is not for gain but is rather deployed charitably in the

- community. WMS will carry out the mediation in accordance with its standard terms. The Applicant will not be required to contribute towards the costs of mediation but the mediation will be limited to four hours in duration.
- 8.5 All HSG Good Faith Meetings, HSG Escalation Meetings and mediations shall be carried out on a confidential and "without prejudice" basis, to ensure each party is able to engage in an open and meaningful fashion.
  - 8.6 Any settlements reached shall be on a full and final basis and shall not be capable of being re-opened save in the event of fraud. The terms of each settlement will be recorded in writing and signed by both parties.
  - 8.7 In relation to disputes which are not resolved at, or as a result of any mediation:
    - 8.7.1 disputes for sums totalling not more than £10,000 shall be resolved by recourse to civil proceedings in the County Court pursuant to the Small Claims Track and shall be subject to the fee scale applicable thereto. The parties agree not to seek reallocation of the proceedings to the Fast Track or the Multi Track; and
    - 8.7.2 disputes for sums totalling in excess of £10,000 shall be referred to and finally determined by arbitration under the Arbitration Act 1996. The appointing authority shall be either Charles Flint QC or Stephen Ruttle QC, the number of arbitrators shall be one, the seat of arbitration shall be London, England and the language of the arbitration shall be English.
  9. These dispute resolution procedures may be varied by agreement between Post Office and the Applicant or, if it becomes apparent that amendments to these terms would allow the Scheme to operate more effectively without causing any material disadvantage to the Applicants, by agreement between Post Office and Charles Flint QC or Stephen Ruttle QC.
  10. Post Office will deal with all Applicants in good faith and in light of the lessons learned from Mr Justice Fraser's two judgments in the group litigation. However:
    - 10.1 entry into the Scheme does not guarantee that a relevant shortfall will be repaid or written off; and
    - 10.2 By creating Scheme, Post Office does not waive any of its own legal rights. The duty of good faith is reciprocal and, if it appears from the investigation of any application made that the Applicant has not acted consistently with his or her own duties of good faith, Post Office shall not be precluded from taking such steps as may be open to it as a matter of law.

## Appendix 9

Postmaster letter

DRAFT: IN STRICTEST CONFIDENCE AND SUBJECT TO LEGAL PRIVILEGE

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For the attention of the postmaster

Name

Address

Address

Address

Dear Postmaster,

### Launch of Historic Shortfall Scheme

Following the agreed settlement of the group litigation in the High Court in December 2019, I wanted to share some important information with you about a scheme we have launched that aims to resolve past issues for current and former postmasters who believe they have experienced shortfalls that were related to previous versions of Horizon (HNG-X or prior).

As you will have heard, our Group Chief Executive Officer Nick Read has stated that we are fully committed to resolving past events fairly where we got things wrong, and I hope this scheme reassures you about the importance to us of working in genuine partnership with postmasters.

I sincerely want to ensure that we continue to put postmasters at the heart of our business and do all we can to help you to thrive. There is still a great deal more work to do to continue to drive a new culture at Post Office and I hope this scheme is a step forward in building a more open and transparent relationship with postmasters.

More information about the scheme is included in this letter and on our website at xxxxx. If you have any further questions please do not hesitate to contact your area manager.

Yours sincerely

Amanda Jones

### **More details about the scheme**

#### **When does the scheme launch?**

The scheme opened on 9 March 2020 and applications can be submitted until XX June 2020.

#### **Why has the scheme been launched?**

The launch of the Historic Shortfall Scheme follows the agreed settlement in December 2019 of the group litigation between Post Office and a group of mainly former postmasters.

As part of that litigation, the Court found the current version of Horizon to be robust compared to similar systems. However, the Court identified some issues with previous versions of Horizon, in use since around 2000, which had the potential to affect branch accounting.

We are committed to applying lessons learned from the litigation, to address past issues and to reset our relationship with postmasters. Some current and former postmasters who were not part of the group litigation may have encountered past shortfalls they believe were linked to previous versions of Horizon, so we have launched this scheme to resolve any such cases fairly.

#### **What to do if you think you may be eligible**

The scheme is open to current and former postmasters.

You can find full information about the scheme at [website address]. This includes the criteria to find out if you may be eligible, the application form and questions and answers. If you would like to apply, please use the official scheme application form and follow the guidance given on the above website about the information to include with your application.

Alternatively, you can email [contact email address] to ask for this information and the application form to be sent to you, or write to [address].

Please note **all applications must be received by midnight on [insert date]** to be eligible for consideration, as the scheme will then close to new applications.

#### **What will happen next if you apply?**

Every eligible application will be investigated and assessed and you will be notified of the outcome as soon as practicable (keeping in mind that it will take some time to investigate and assess the various claims). A dispute resolution process is available if you are not satisfied with the outcome of your claim, offering further review stages and independent mediation.

You can find more details about the process on the above website.

#### **Questions and support**

You can find questions and answers and full details of the scheme at the website above – potential applicants should read these carefully. If you have further questions following this, please speak to your area manager.

## GLO Post Settlement Programme – Placeholder Forecast for 20/21 Appendix 10

	Historic Claims	Contract Reform	Ops Modernisation	Convicted Claimants & CCRC	Total
Ex Gratia Payments					
Legal Fees	£6,152,176	£1,569,976	£108,576	£1,826,760	£9,657,488
Implementation Costs (technical, operational, Resource and Process)	£0	£2,500,000	£2,500,000	£0	£5,000,000
Other Professional Services	£1,543,750	£0	£0	£231,250	£1,775,000
Project Team	£235,680	£235,680	£235,680	£80,160	£787,200
Assurance	£0	£500,000	£250,000	£0	£750,000
Internal Investigations Team	£493,656	£0	£0	£98,731	£592,387
QC Panel Member	£300,000	£0	£0	£0	£300,000
External PR	£200,000	£0	£0	£50,000	£250,000
Legal Team Back Fill	£120,000	£120,000	£120,000	£120,000	£480,000
Comms Resources	£132,768	£0	£0	£44,256	£177,024
Secondes	£77,622	£0	£0	£77,622	£155,244
DSARs	£150,000	£0	£0	£0	£150,000
<b>Total</b>					

**Postmaster Litigation Subcommittee meeting 3 March 2020****Agenda item 4.1 – Herbert Smith Freehills Fees****From:** Watts, Alan [mailto: **GRO**]**Sent:** 25 February 2020 16:17**To:** Ben Foat < **GRO**>**Cc:** Rodric Williams < **GRO**>**Subject:** Costs - KPIs**4.1**

Ben

I am hoping this is a suitable juncture to assess how HSF's performance has measured up to the agreed key performance indicators (KPIs) since last October.

You will recall that, under our engagement letter, 15% of our time costs for phase three is deducted from our bills and only becomes payable if and to the extent that the GLO Board Subcommittee considers we have met the agreed KPIs (including partner involvement, actual versus quoted lead time for delivery of work product, quality of advice, cost efficiency and responsiveness (including in relation to any complaints or issues)). So Post Office has the discretion to agree anything between 0 and 15% based on its view of our performance.

The key points we would draw to Post Office's attention are:

The key role we were instructed on during this period was the mediation and settlement of the dispute. Against the odds, the mediation was successful. This was a very positive result for Post Office both in terms of timing (in that it allowed Post Office to manage the effects of the adverse Horizon judgment and eliminate legal spend on the litigation going forward) and in terms of its value.

1. We were able to reach a settlement that was within (and indeed fell towards the lower end) of our suggested settlement range (a net payment of £52.75m against a projected payment of £45 - £65m).
2. Three factors were instrumental in achieving settlement: (a) our quantum analysis which enabled us to negotiate credibly about the true value of the claims; (b) our strategy which took account of our knowledge of the individual claims as well as the diffuse factors driving both funders and the individual claimants; and (c) the suggestion to appoint Stephen Ruttle QC alongside Charles Flint QC who was instrumental in helping to manage the expectations of a volatile claimant group.
3. Key "concessions", such as the shortfall scheme (which were instrumental in satisfying individual claimant expectations) have allowed Post Office to move forward with credibility while also minimising the risk of future class actions.
4. We are continuing to carefully manage the difficult issues associated with the convicted claimants.

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5. I have been directly involved in all key matters relating to the case, including on shareholder engagement and engagement with the CCRC.
6. We have leveraged off HSF's Belfast office with their lower charge out-rates and ability to upscale quickly where required to deliver volume work (such as the quantum review, individual case analysis and shortfall scheme) in a cost effective way without affecting the quality of the output.

**4.1**

Do let me know if this email is sufficient for your purposes or whether you need anything more.

Regards

Alan

Strictly Confidential Page 2 of 2