

Message

From: Parsons, Andrew [GRO]
Sent: 19/08/2013 18:34:28
To: Susan Crichton [GRO]
CC: Andy Holt [GRO]; Matthews, Gavin [GRO]
Subject: RE: Horizon review workflow [BD-4A.FID20472253]

Susan

Draft response to Peter below for your review.

The over-the-top heading is to minimise the risk of this email being caught by an FOI request.

Kind regards
Andy

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Peter

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Thanks for your comments. The answers to your questions are below.. [I'd be happy to talk this through in more detail on Wednesday. I can meet you at [INSERT TIME] if that works for you?]

1. Will 31 October be enough time for SPMs/ex-SPMs to apply? Has this date been discussed and agreed with the JFSA?

The deadline of 31 October has been agreed with JFSA. All parties (including SS and JFSA) are in favour of some form of application deadline in order to make sure that applications are received promptly.

The initial application form is very simple for SPMs to complete so 31 October should allow them plenty of time. We will be promoting the scheme through JFSA and through POL press releases to make sure that SPMs are aware of it.

2. Why is this described an 'initial' scheme? Suggests that there will be a follow up scheme at some point.

POL is reviewing its long term approach to resolving disagreements with SPMs. If successful, the scheme (or a version of it) may be extended into a longer term / permanent process. We therefore labelled the scheme as "initial" to differentiate it from any longer term plans.

3. On the workflow, what happens if the agreement is not reached?

Following mediation, there is still the possibility of a resolution being agreed. It may be that POL and the SPM continue their own dialogue. In appropriate cases, the mediation could be reconvened if a deal is close.

Even if an agreement is not reached, the SPMs will, by the end of the process, have had the benefit of SS' independent investigation, access to POL's records disclosed during that investigation, received SS' Case Review and will have had an opportunity to directly explore and challenge POL's views. The SPM may then use all this additional information to form the basis of court proceedings against POL if they think that is appropriate.

4. Is there a limit on the number of applications to the scheme a SPM can make?

SPMs should only make one application that addresses all their concerns. However, if special circumstances exist, the Working Group could authorise a second application.

5. Is there an approved list of advisers, or will SPMs be free to choose their advisers?

SPMs will be free to choose their own advisers. However, in conjunction with JFSA and SS, we are putting together a panel of advisers. These advisers will have been given training on Horizon and the POL-SPM relationship so that they

have this background knowledge. We will be encouraging SPMs to engage advisors from the panel – JFSA are very much in favour of the panel approach as it allows us to ensure the quality and consistency of advice.

6. Will the Mediation Working Group be required to make unanimous decisions, or majority? Who carries deciding vote?

This matter is still under discussion with SS and JFSA, though its likely to be a majority vote with the Independent Chair having a casting vote. In practice, we've been holding Working Group meetings on a regular basis for the last 6 weeks and nearly all decisions are being made unanimously or through sensible compromise.

7. What is the definition of 'settled' in the FAQ?

Settlement happens when a SPM signs a settlement agreement. It is a standard principle of mediation that a dispute is not settled until it is captured in writing and signed by each party.

8. Is POL dropping all current live cases?

No – POL is taking a risk based decision on each case depending on the nature of allegations made by a SPM.

[SUSAN – IS THIS CORRECT? I'M NOT SURE IF THIS QUESTION IS ABOUT CRIMINAL OR CIVIL CASES?]

9. What kind of claim are you imagining SPMs might make? i.e. a civil claim for lost earnings, or reputational damage, etc

Generally, we expect SPMs to make claims for civil compensation, with loss of earnings and repayment of monies received by POL being the two main heads of loss. Some SPMs may look to claim distress or reputation damages. From a legal perspective, these claims should (if properly presented) be cast in terms of a breach by POL of a SPM's contract.

Where the SPM has been subject to a criminal prosecution, this may (in very limited circumstances) give rise to a claim connected to that prosecution if the SPM can show that the prosecution was wrongful.

From SS' experiences to date, a number of SPMs may only be looking for an apology or a commitment that POL will improve its performance in the future.

10. Has the NFSP been involved/informed about any of the engagement with JFSA / SS?

I DON'T KNOW THE ANSWER TO THIS ONE.

11. Is POL providing a secretariat function for the group?

Where needed, we've offered additional administration support to SS and can offer the same to the Working Group. At present though most of the administration will be managed by Second Sight and / or the approved mediation provider (who will probably be providing this service for free). I don't envisage the Working Group needing a significant secretariat function.

12. Has anyone been identified as an independent Chair for the working group?

We're currently drawing up a job specification for this role and a few preliminary enquiries have been made. We hope to have a short list of names in the near future.

13. There was one additional question in your mark-up of the mediation pack: Will there be any live cases by the time [the pack] is published? If so, how many?

There are currently no live court proceedings directly focused on Horizon. However, Horizon related issues are sometimes raised in other court proceedings (both criminal and civil). We will be dealing with these on a case-by-case basis.

Kind regards
Susan

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Andrew Parsons
Senior Associate
for and on behalf of Bond Dickinson LLP

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From: Susan Crichton; **GRO**
Sent: 19 August 2013 18:32
To: Parsons, Andrew
Cc: Andy Holt
Subject: Fw: Horizon review workflow

Hi Andy - can u pull together a response to Peter Batten?
Thanks
Susan

From: Batten Peter (ShEx); **GRO**
Sent: Monday, August 19, 2013 05:22 PM
To: Susan Crichton
Cc: Martin Edwards; Simon Baker; Gibson Will (ShEx); **GRO**; Whitehead Mike (ShEx)
GRO
Subject: FW: Horizon review workflow

Hi Susan, cc Simon,

Again, thanks for sharing this draft. Has it yet been formally agreed by JFSA and SS? It would be very useful from our perspective to understand a little more of the specifics of the proposed scheme, and to this end I've marked up some comments in the attached. These aren't drafting suggestions, but are a couple of areas where it would be helpful from our perspective to know more. I've copied the questions below:

- Will 31 October be enough time for SPMs/ex-SPMs to apply? Has this date been discussed and agreed with the JFSA?
- Why is this described an 'initial' scheme? Suggests that there will be a follow up scheme at some point.
- On the workflow, what happens if the agreement is not reached?
- Is there a limit on the number of applications to the scheme a SPM can make?
- Is there an approved list of advisers, or will SPMs be free to choose their advisers?
- Will the Mediation Working Group be required to make unanimous decisions, or majority? Who carries deciding vote?
- What is the definition of 'settled' in the FAQ?
- Is POL dropping all current live cases?

- What kind of claim are you imagining SPMs might make? i.e. a civil claim for lost earnings, or reputational damage, etc

Additionally:

- Has the NFSP been involved/informed about any of the engagement with JFSA / SS?
- Is POL providing a secretariat function for the group?
- Has anyone been identified as an independent Chair for the working group?

Mike and I are over in Old Street between 2.00-3.30 on Wednesday. Would it be possible to meet for thirty minutes either before or after this meeting for a quick chat on progress?

Many thanks
Peter

Peter Batten | Policy Adviser | Post Office Network Team | Shareholder Executive
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www.gov.uk/government/organisations/the-shareholder-executive

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From: Susan Crichton | **GRO**
Sent: 12 August 2013 16:20
To: Batten Peter (ShEx); Martin Edwards
Cc: Whitehead Mike (ShEx); Gibson Will (ShEx); Simon Baker
Subject: RE: Horizon review workflow

Peter - I have attached the latest draft to this email, this draft was created following two meetings with the JFSA and SS, and sets out the process we have agreed. We have sent it to them and are waiting for their feedback. The process map is near the front of the pack.

Can you let me know which are the sub postmasters and the MPs so we can check whether we already have them on the list.

Let me know if you need anything else.

Thanks

Susan Crichton | General Counsel

1st Floor, Central Wing, 148 Old Street, London, EC1V 9HQ

GRO



From: Batten Peter (ShEx) [GRO]
Sent: 12 August 2013 09:33
To: Susan Crichton; Martin Edwards
Cc: Whitehead Mike (ShEx); Gibson Will (ShEx)
Subject: Horizon review workflow

Dear Susan, cc Martin,

When we met at the end of last month you mentioned that there was now a process in place agreed with the JFSA to handle new cases relating to the Horizon system. We have received a few more letters from MPs that I need to reply to quickly - could you please send me details of the workflow?

Many thanks
Peter

Peter Batten | Policy Adviser | Post Office Network Team | Shareholder Executive
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