

Working Group for the Initial Complaint Review and Case Mediation Scheme
Minute of the Working Group Call 17 July 2014

Attendees

Sir Anthony Hooper (Chair)
Alan Bates (JFSA)
Kay Linnell (JFSA)
Ian Henderson (Second Sight)
Ron Warmington (Second Sight)
Chris Holyoak (Second Sight)
Belinda Crowe (Post Office)
Chris Aujard (Post Office)
David Oliver (Post Office)
Andy Parsons (Bond Dickinson)

Apologies

Angela Van Den Bogerd (Post Office)

Agenda

WG discussions

1. Sending applicants the Post Office investigation report
2. Chair's mediation test
3. Notifying M054
4. M076

Standing agenda items

5. Status of accepted applications awaiting a Case Questionnaire Response
6. New Questionnaire Responses
7. Priority cases
8. Bankruptcy cases
9. Post Office Investigation Progress
10. Cases with Second Sight to review PO investigation reports
11. Cases that Second Sight have reported on
12. Any other queries raised by Applicants / Advisors
13. Issues with resourcing / timings
14. AOB

WG discussions

1. Sending applicants the Post Office investigation report

The Working Group discussed whether to provide the applicant with the PO investigation report at the time it is passed to SS (a suggestion raised at the previous face to face meeting which PO had agreed to consider). This would allow the applicants/ advisors more time to consider it and be better placed to comment on SS's draft CRR within the 7 day deadline. The Working Group agreed that the PO investigation report should be issued to applicants subject to rigorous safeguards aimed at preventing both disclosure of the information contained in the report and applicants/advisors seeking to influence SS's draft CRR by engaging in discussions with SS prior to its completion. To this end the Working Group agreed that the PO investigation reports should be issued to the applicant/advisor with a covering letter from the Chair which makes the following points:

- The content of the PO reports are confidential
- No attempt should be made to contact SS about the investigation report before they release their draft CRR, and any such contact will be will be ignored.
- Due to the early release of the Post Office investigation report, the current 7 day limit for responses to draft CRRs will be rigorously enforced.
- There will be no entitlement to fees or disbursements for work conducted by advisors on behalf of their applicants between the release of the Post Office investigation report and the release of the draft CRR.
- SS's expected delivery date for the draft CRR will be referenced.

ACTION: All Post Office investigation reports – and associated evidence – currently on Huddle to be sent to applicant – with covering letter from the Chair. DO to draft a letter for SAH and the WG to consider.

2. Chair's mediation test

The Working Group again discussed whether to change the Chair's mediation test from one which determines if there is a reasonable prospect of resolution to one to one that determines whether mediation is an appropriate way of offering the applicant their "day in Court". In discussion the following issues were considered:

- Whether mediation was the only method by which applicants would be able to resolve their dispute in line with the Scheme's original purpose
- Whether there was an expectation from applicants that their cases would be mediated so that they could have their "day in Court".
- Whether the current test remained the most appropriate.
- Whether mediation was a sensible course of action if there was not a reasonable likelihood of resolving differences.
- Whether it had ever been the intention of the Scheme to mediate all cases.

As the Working Group did not reach an agreed position the Chair asked JFSA to put forward a submission by COP Tuesday 22 July setting out why they believed the Chair's test should change. The PO would then have two days to respond to this submission (by COP Thursday 24 July. JFSA would have an opportunity to make a further submission in response to the PO's submission by COP on 25 July. The Chair would then consider the submissions and come to a decision.

ACTION: Both parties to make submissions in accordance with the deadlines agreed by the WG.

3. Notifying M054

The Working Group agreed to defer a decision on notifying M054 until a decision has been made on the Chair's mediation test.

4. M076

The Working Group agreed to defer a decision on whether M076 should be mediated until a decision has been made on the Chair's mediation test.

5. Status of accepted applications awaiting a Case Questionnaire Response

Advisor	Number of cases with Advisor	Number of CQRs overdue	Status	Working Group Decision
Aver	16	0	Letter from Chair sent 20 June to set final deadlines – letter acknowledged by Bill Cleghorn.	N/A
Howe & Co	9	7	<ul style="list-style-type: none"> • M055, M084, M129 due 11 July. • M080, M085, M088, M096 due 15 July. • No extension requests received to date 	Extensions granted. SAH to send letter confirming the extensions but communicating that these are final deadlines (similar to the recent letter to Robert Holland.)
James Cowper	1	0	CQR deadline is 31 August 2014.	N/A

ACTION: Chair to write to Howe & Co confirming final deadlines.

6. New Case Questionnaire Responses

Case No.	Status
M010	Accepted by WG – deadline is 16 October.*
M105	Accepted by WG – deadline is 2 October.*
M113	Accepted by WG – deadline is 25 September.*

*Please note, timelines submitted by AVDB by email on Huddle on the 18 July.

- All timelines submitted by AVDB by email for those cases accepted on 10 July were approved.

ACTION: Secretariat to update records with agreed timelines.

7. Priority cases

Case No.	Status
M006	SS draft report completed 30 June, deadline for comments 25 July. Final CRR from SS due 1 August.
M073	CQR accepted by WG 26 June. Investigation on-going. PO Report due 24 July. AVDB to update if changed.
M143	PO Report passed to SS on 5 June. Original planned scheduled delivery date for the CRR was 11 July. SS revised delivery date 18 July (see agenda item 6).

- The WG agreed to prioritise M052 at the applicant's request.

ACTION: Secretariat to amend agenda and records ahead of next WG call on 24 July.

8. Bankruptcy cases

Case No.	Status
M001	PO report passed to SS on 30 May. Original scheduled delivery date for the CRR 11 July. SS revised scheduled delivery date 18 July (item 6).
M015	PO report passed to Second Sight 9 May. Original scheduled delivery date for CRR 8 August. SS revised scheduled delivery date 25 th July (item 6).
M019	PO report passed to SS on 8 May. Original scheduled delivery date for CRR was 18 July. SS revised scheduled delivery date 1 August (item 6).
M029	PO report passed to SS on 12 May. Original scheduled delivery date for CRR 11 July. SS revised scheduled delivery date 18 July (item 6).
M030	PO report passed to SS on 15 April. Original scheduled delivery date for the CRR 18 July. SS revised scheduled delivery date of 25 July (item 6).
M032	PO investigation on-going, report due on 7 August.
M036	PO investigation on-going, report due 7 August.
M069	CQR accepted by the WG on 10 July. Post Office investigation on-going. AVDB to provide expected date.
M081	CQR deadline 31 July. Applicant represented by Aver.
M089	PO investigation on-going, report due 21 August.
M100	PO investigation on-going, report due 23 July.
M118	PO investigation on-going, report due 7 August.
M122	PO investigation on-going, report due 23 July.
M128	CQR deadline 31 July. Applicant represented by Aver.
M150	CQR deadline 31 July. Applicant represented by Aver.

- KL informed the Working Group that some of the applicants would have problems with assignment where PO is the sole creditor and asked if PO would consider supporting the assignment.

ACTION: KL to provide detail of her proposal to AP to consider.

9. Post Office Investigation Progress

Case No.	Status	Working Group Decision
M068	Investigation on-going. Extension (not 1st) to 14 August required.	Extension granted to 14 August.

Case No.	Status	Working Group Decision
M087	Investigation complete. Finalising report. Extension (not 1 st) to 14 th August required.	Extension granted to 14 August.
M049	Investigation complete. Finalising report. Extension (not 1 st) to 14 th August required.	Extension granted to 14 August.
M109	Investigation on-going. Extension (not 1 st) to 14 August required.	Extension granted to 14 August.

- PO confirmed that M005, M013 and M042 had been uploaded to Huddle on 16 July.

10. Cases with Second Sight to review PO investigation reports

SS has submitted a revised schedule for Draft CRRs following recent guidance from the Working Group that – apart from priority cases – all other cases should be scheduled on a first in – first out basis.

SS have interpreted this as being the date of receipt – by SS – of an initial or amended / final CQR – depending on which came later.

Note: does not include all cases passed to SS uploaded to Huddle on 16 July.

Case No.	Date passed to SS	SS planned scheduled delivery date	SS revised scheduled delivery date
M001	30 May	11 July	18 July
M002	30 April	11 July	18 July
M003	8 July	22 August	1 August
M007	24 April	1 August	29 August
M009	30 April	25 July	25 July
M011	23 May	8 August	25 July
M014	30 April	25 July	25 July
M015	9 May	8 August	25 July
M017	12 May	8 August	22 nd August
M018	27 May	15 August	15 August
M019	8 May	18 July	1 August
M021	8 May	1 August	15 August
M029	12 May	25 July	15 August
M030	15 April	18 July	25 July
M035	14 May	15 August	8 August
M039	10 June	25 July	1 August
M045	9 July	6 August	29 August
M052	8 May	1 August	25 July
M053	19 May	15 August	22 August
M066	1 July	29 July	8 August
M072	27 May	8 August	22 August
M079	10 June	15 August	8 August
M126	6 June	18 July	29 August

M143	5 June	11 July	18 July
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- SS confirmed that the draft CRR for M001 had been uploaded to Huddle shortly before the call – and that M002 will be uploaded on 18 July.
- SS explained that they had been through a period of adjustment and learning and that this had resulted in some delays in their production of reports. The Working Group asked SS to review their output of 3 reports a week in light of their understanding and experience over the last few weeks and provide a paper for the Working Group on 24 July with a forecast for when they anticipate having completed all cases in the Scheme.
- The Working Group approved all SS's revised delivery dates.

ACTION: SS to report back to the Working Group on 24 July with an estimate of productivity and when they expect to have completed the reports on all cases in the Scheme.

ACTION: Secretariat to add item on SS's production to the agenda for the WG call on 24 July.

- SS confirmed that their Part Two report will be put to the Working Group by 27 July.
- SS explained that apart from M028, the case reports they are currently working on all refer – or will refer – to their Part Two report.
- The Working Group noted that apart from M028 no cases are likely to be mediated until Part Two is completed and has been considered by the Working Group.

11. Cases that Second Sight have reported on

Case No.	SS Draft Report issued	Deadline for comments	SS Final Report completed/ <i>due</i>	WG Decision	Sent to CEDR
M054	29 May	6 June	11 June	Not mediate	N/A
M048	6 June	17 June	20 June	Mediate	30 June
M076	6 June	17 June	20 June	To be discussed 17 July	-
M028	13 June	24 June	1 July	Mediate	15 July
M062	20 June	22 July	<i>1 August</i>	-	-
M006	30 June	25 July	<i>1 August</i>	-	-
M057	4 July	Extended to 22 nd July	<i>1 August</i>	-	-

- The PO confirmed that M127 and M022 had been mediated. Because of the wording of the mediation agreement the parties are unable to say at this stage whether a case has been resolved. PO is working with CEDR to amend the agreement for the future.

ACTION: AP to arrange for the confidentiality agreement to be modified and to follow up with cases M022 and M127.

12. Any other queries raised by Applicants / Advisors

N/A

13. Issues with resourcing / timings

N/A

14. AOB

- **Working Group decision on length of mediation** – Working Group agreed that all mediations are to be scheduled for a full day of mediation. If PO, SS or JFSA consider that a half day would be more appropriate on a case-by-case basis, this will be brought to the Working Group for consideration.