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Initial Complaint Review and Mediation Scheme

Mediation Briefing

Which cases are being mediated?

- Post Office will not mediate any cases involving a criminal offence save in exceptional circumstances.
- Post Office is trying to avoid mediating very old cases where there is a lack of information / evidence – at present where mediation does take place, these are likely to be listed for half day mediations.
- Post Office is trying to avoid mediating cases which lack any merit – but under pressure from the Working Group (**WG**) these cases may still go through to mediation.
- All other cases are expected to be mediated.

Objectives of mediation

- Try to reach a binding resolution to a complaint, this could include:
 - Payment of money to the applicant.
 - Writing off an Applicant's debt.
 - Issuing an apology to the Applicant.
 - Agreeing to further training and support (if the SPMR is still in post)
- Try to bring closure to the Applicant's complaint by making them understand POL's position.
- If nothing else, make sure the Applicant has had a fair chance to put their position to POL and to ensure POL has constructively responded.

Who is involved?

- CEDR are providing the mediators from a pre-approved list.
- The WG, JFSA and Second Sight have no role in the mediation process.
- POL Mediation Team will usually comprise:
 - 1 The case lawyer from BD; and
 - 2 A Scheme Representative - being someone on the POL side that has visibility of the wider Scheme. This will be one of 4 people:
 - Andy Parsons
 - Angela Van Den Bogerd, Head of Partnerships at POL (very senior member of the Network team at POL and sits on the Working Group)

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- Rodric Williams (in-house commercial litigator)
- Patrick Bourke – recently joined the project management team at POL / qualified as a lawyer but does not practice; and

3 A Post Office representative:

- a. The POL Rep is to be the "face of POL" at the mediations and is the lead decision maker of whether to accept any settlement.
 - b. There is a team of 12 POL Reps who are allocated cases at the mediation stage: (Craig Tuthill, Nick Beal, Mark Wright, Sally Buchanan, Tracy Marshall, John Breeden, Mark Lawrence, Tony Jones, Gayle Peacock, Anita Turner, Neil Corrick, Lin Norbury)
 - c. They are senior managers within the Network team at POL who have significant experience of POL's business and its subpostmasters.
 - d. They have no previous involvement in the cases so will need to be fully briefed.
 - e. They have all been trained on the Scheme and the mediation process but have no experience of mediation.
- Applicant attendees will be the Applicant and their professional advisor. They may also bring a friend or fellow subpostmaster.
 - Overall, Belinda Crowe (who is the overall Project Director for the Scheme) is the person empowered at POL to set the parameters for any settlement at mediation.
 - The Case Handlers will not be attending mediation but will be available to provide support before and during the mediation (they will be available by phone on the mediation day).
 - BD Support – for each mediation either Andy Parsons, Victoria Brooks or Ged Flanagan will be available to answer questions both before and during the mediation.

Process

1. POL agrees to mediate a case. The mediation should then happen within 3 - 6 weeks.
2. The case papers (eg. the reports and evidence) are passed by POL to CEDR who appoint a mediator and seek the parties' availability.
3. CEDR will liaise with Jess Barker at POL, who in turn will liaise with Amy, to arrange mediation logistics (dates, venues, timings, etc). Wherever possible, mediations will be held at BD offices.
4. POL selects the POL Rep and passes them the case papers so they can read in.
5. BD prepares a mediation statement – see below. A delivery deadline for this statement will be put in your diary by Jess / Amy – in most cases you should have at least a week to produce this.
6. Con call with POL (Belinda + Jess + Mediation Team) to discuss (i) approach to mediation (ii) mediation statement and (iii) settlement authority level. Again, this will be arranged and diarised by Jess and Amy.
7. POL (Belinda Crowe) sets settlement authority level using the settlement advice we have provided previously.

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8. BD finalises mediation statement in lights of above.
9. BD and Case Handler support the POL Rep in getting up to speed on the case.
10. Pre-mediation call with the mediator attended by the POL Mediation Team but not the Applicant (this will be arranged and diarised by Jess / Amy).
11. Mediation

Your role

- Be the person with a forensic understanding of the case.
- Prepare the mediation statement.
- Respond to any questions from the POL Rep about the case.
- Advise POL on setting the settlement authority level for the case.
- Draw up a settlement agreement.
- FINALLY... keep your diary on Outlook up to date so that Amy can setup appointments.

At the Mediation

At the mediation, your role is to:




- Possibly make a short opening statement though the POL Rep will do this in most cases.
- Advise the POL Rep on the merits of making or accepting any offer and the tactics of doing this.
- Engage with the Mediator, Applicant and their Professional Advisor to explain issues and negotiate a resolution.
- Draw up and finalise a settlement agreement.

Resources

- Case papers – these will be sent to CEDR and the Applicant by POL (we do not need to produce mediation bundles)
 - Application Form
 - CQR
 - POIR + complete pack of evidence
 - Draft CRR
 - Comments from POL and Applicant (if any)
 - Final CRR

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- Mediation statements (if any)
- Mediation Statement
 - A template statement can be found here:

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Mediation Statement
 - Once one of your cases has been put forward for mediation, you should start preparing the statement.
 - The statement will likely be submitted 7 days in advance of the mediation so a draft is needed at least 14 days before the mediation. Amy will place reminders in your diaries for delivery dates.
 - Please send the draft statement to Andy Parsons for approval before sending to POL.
 - The mediation statement needs to be approved by the POL Rep and Patrick Bourke at POL before submission to CEDR.
 - The final version needs to go to Jess Barker who will send to CEDR. CEDR will, in most cases, pass the mediation statement onto the Applicant or the Applicant's representatives.
 - We may or may not receive a mediation statement from the Applicant.
- Mediation Agreement
 - There is a standard pre-approved mediation agreement:

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POC8 Mediation Agre
 - No amendment is permitted to the agreement unless approved by Andy Parsons and Belinda Crowe.
 - The Applicant and the POL Rep needs to sign the Agreement at the start of the mediation.
 - CEDR will complete the parties details - you just need to check that the version presented at the start of the mediation reflects the above standard terms.
- Settlement Agreement
 - A template settlement agreement is available here:

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Template Settlement

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- Before the mediation, it is recommended that you fill out the party details and background information so that there is a version ready for use at the mediation.
- You may amend the agreement at mediation to reflect the terms agreed or reasonable requests from the other side (which means that its worth getting a laptop from IT as you will need one at the mediation).

Last updated: 14 October 2014