

**FACE TO FACE MEETING OF THE WORKING GROUP  
INITIAL COMPLAINT REVIEW AND MEDIATION SCHEME**

**7 March 2014**

**1130 – 430**

Attendees

Sir Anthony Hooper (Chair)

Chris Aujard

Belinda Crowe

Angela Van Den Bogerd

David Oliver

Alan Bates

Kay Linnell

Ron Warmington

Ian Henderson

Chris Holyoak

Andrew Parsons

Apologies

Claire Parmenter

**1. Terms Of Reference**

- A. The Working Group discussed the revised Terms of Reference. The reworked Clause 4.9 was agreed. Clause 4.10.1 was agreed subject to the addition of the phrase “and any associated issues” after Horizon. It was confirmed that the Terms of Reference allowed for different lengths of mediation. It was agreed that the Working Group should not have its own budget but would use the process set out in Section 8 where funding was required. The Terms of Reference were agreed.

**ACTION Post Office to post the Final agreed Terms of Reference on Huddle.**

**2. Letters from Howe and Co and Aver**

- B. The Working Group discussed the correspondence from Howe and Co and Aver. The Chair, as previously agreed with the Working Group, had written to the two firms to advise them that the Working Group would be discussing their correspondence at this meeting.

## Aver Letter

### C. It was agreed that:

- a. Paragraph 2 sub paragraphs 1, 2 and 3 were accurate
- b. bullet 1 of paragraph 3 was inaccurate, BC had authorisation from the Working Group to grant the two week extensions in the same way that RW had previously. This authority had transferred over at the same time as the general administration.
- c. there cannot be a situation where advisors do not ask for permission for an extension otherwise the delivery of the Scheme will slide and therefore a written request was both reasonable and necessary.
- d. BC would continue to have the Working Group's authority to grant extensions up to two weeks and that in general if a request was made the Working Group's expectation was that it would be granted. However this was not automatic and should be applied for in good time. It was also agreed that BC would turnaround such applications within 24 hours.
- g. Paragraph 3 bullet 2 - BC explained that that bullet related to case M014 and the action had been discussed previously with the Working Group. RW commented that he did not believe that Aver had incurred significant costs on this case. The Working Group agreed that an itemised breakdown of the costs incurred on this case should be requested.
- h. Sub bullet (ii) the draft response should make clear that the Working Group would be sympathetic to an extension.
- i. For sub bullet (iii) it was agreed that BC would discuss these cases with Aver and the point raised in sub bullet (v). It was noted that sub bullet (iv) was not the case.
- j. Bullet 3 - BC clarified that the invoices had been refused as they were above the level agreed in the Scheme documentation. This stage of the Scheme did not include travel expenses. It was decided that the Working Group would recommend to Post Office that these were paid but that in future prior authorisation for exceptional expenses should be sought.
- k. Page 3 - The draft response should be along the following lines:  
"Extensions have been applied for by Post Office and agreed by the Working Group"

- I. Page 4. The Working Group agreed that they would grant extensions save where the date had already passed, where it would agree a new date.

**ACTION Post Office to consider the recommendation of the Working Group that the Aver expenses be paid.**

**ACTION: BC and TH to draft a response to Aver taking account of the points agreed Draft letter responding to Aver to be circulated to the Working Group for comment.**

### **Howe and Co Letter**

- M. The Working Group did not agree with the suggestion of no time limit for the cases. As with Aver, Howe and Co should be required to apply for extensions.
- N. The point on "inequality of arms" was discussed. It was noted that it was not the role of Howe and Co to investigate the case and that they were not being funded to do so. With regard to expenses it was agreed that, as with Aver they should seek prior agreement from the Working Group before incurring any exceptional expenses. It was also noted in discussion that it had never been the intention for Post office to bear all the costs of the Scheme.

**ACTION BC and TH to draft letter to Howe and Co to be circulated to the Working Group for comment.**

### **3. Bankruptcy**

- O. BC tabled the list of cases where the applicants were thought to be bankrupt ( "Case Tracker: Bankruptcy"). It was not necessarily an accurate list, compiled from information obtained from applications and CQRs. AB had checked with the firm of insolvency practitioners that JFSA had used and also with all of the professional advisors. Two firms of advisors had not responded but these enquiries showed that M069 and M001 could be added to the list.
- P. The Working Group discussed the need to check that the applicant has bought back the rights to the action against the Post Office and that the applicant would need to produce a document that proves that they have the right to bring the action and that this would need to be produced in advance of mediation. This only applied if they were made bankrupt after the losses were incurred.

**ACTION AP to obtain advice and then provide a draft letter to all applicants setting out the steps they would need to take if they had been made bankrupt after their claimed losses.**

**ACTION KL to review the bankruptcy letter prior to issue.**

#### 4. Late Applications

- Q. AB introduced the three late applications that had been received. The first two applicants, from a mother and son applicant, had completed the wrong form and submitted it to the wrong place. They had completed the incorrect forms on 11/11/13 and 30/10/13. Both applicants had now completed the correct forms. The Working Group agreed that they should be accepted onto the Scheme subject to the usual procedures. The third late applicant had contacted AB and Second Sight in October (29/10/13) informing them that they would apply for the Scheme when their bankruptcy was discharged. This had not been brought to the Working Group's attention at the time. It was agreed that the third case should also be admitted into the Scheme subject to the usual procedures. Both Second Sight and JFSA confirmed that there were no further outstanding cases.

**ACTION all three late applications to be admitted into the Scheme subject to the usual procedures.**

#### 5. Criminal Cases

- R. The Chair updated the Working Group on the criminal cases. He explained that he could assure the Working Group that the cases were being considered at the right level within Post Office and undertook to report back further to the Working Group at their next conference call.

#### 6. Second Sight Reports

- S. The Working Group had agreed, as a temporary procedure for the first three or four Second Sight reports, that it would review the reports, alongside the Post Office investigation reports, to satisfy itself that that the package of information would provide the mediator with what was necessary for a successful mediation. Second Sight reports for M001 and M014 were discussed in detail. As a result of that discussion the Working Group agreed that the Second Sight reports needed to be revisited to:

- a. where appropriate reflect the position in relation to losses and surpluses.
- b. record the value of the claim and consequential losses claimed whilst making it clear in the scope of its report that:

"It is not for Second Sight to examine the propriety of any consequential loss"

- c. make clear the central case in their report.
- d. include both the applicant and the Post Office position
- e. include a clear treatment of any judgement that has been handed down in a case making clear if Second Sight agree with the judgement or not and providing clear evidenced reasons.
- f. ensure conclusions are reasoned and supported by evidence

- T. There was a discussion of the Second Sight generic/thematic report. It was noted that this would not cover the factual position of what Horizon did and how it acted. The Working Group agreed that a document that clearly documented the role of Horizon and the Post Office was key to successful mediation and that this document could not be produced by one of the parties to mediation. Therefore the Working Group agreed that Second Sight would produce the factual Part One briefing document. It was agreed that case report work should be paused to allow Second Sight to focus solely on the production of the Part 1 and the Thematic Report (referred to as part 2).
- U. It was agreed that the Working Group would return to reviewing the individual reports after they had looked at Part One and Part Two reports which would be circulated by close of business 26 March at the latest. The next Working Group meeting will take place on 1 April at 1130 at Bond Dickinson's offices. This means the projected timeline is that the first case should be released to CEDR by the end of May.

**ACTION Post Office to provide Second Sight with a copy of the Factfile.**

**ACTION Second Sight to urgently review the factfile and consider using it as the basis for the production of the Part One report (the "mediator briefing").**

**ACTION Second Sight to discuss with AVDB any outstanding issues, areas of disagreement or queries before the circulation of the Part One and Part Two reports.**

**ACTION Second Sight to circulate their draft Part one and Part two reports as soon as possible to the Working Group.**

**ACTION Second Sight to urgently provide a list of all outstanding issues to AVDB and BC.**



## 7. Status of accepted applications awaiting a Case Questionnaire Response

Case No.	Status	WG action
M037	SL01 letter sent 26 February; awaiting a response.	Noted
M059	Missing funding agreement: 3 telephone conversations had with son of applicant (CC), late January, 28 February, 4 March and email sent as requested. Nothing received.	Letter to issue "unless we hear from you within 14D your application will be excluded from the Scheme" AB to follow up in parallel
M061	No contact from applicant since application form. Sensitive case - we are dealing with SPMRs widower. Second Sight asked him to provide evidence he was entitled to act on behalf of his late wife's estate. No response to letter received.	AB to follow up with applicant
M071	Funding agreement received 5 March. Awaiting professional advisor details. In contact with applicant (CC) - late submission due to personal circumstances.	Noted
M074	Funding agreement received 22 November. Awaiting professional advisor details. Attempted contact (CC) in January and February; no response to voicemail messages.	Letter to issue "unless we hear from you within 14D your application will be excluded from the Scheme" AB to follow up in parallel
M081	Applicant advised (CC) in January that they were unable to proceed at this time due to bankruptcy status.	Applicant to proceed.
M100	Missing funding agreement: telephone conversation had with applicant (BC) in January and message left with mother 28 February (CC). No response/no	Letter to issue "unless we hear from you within 14D your application will be excluded from the Scheme"

	funding agreement received.	AB to follow up in parallel
M126	SL01 letter sent 26 February; awaiting a response.	Noted
M128	Funding agreement received 1 December. Awaiting professional advisor details. Telephone conversation had (CC) with applicant 3 March and voicemail left 6 March; applicant still to confirm advisor.	Letter to issue "unless we hear from you within 14D your application will be excluded from the Scheme" AB to follow up in parallel
M140	Funding agreement received 5 March. Awaiting professional advisor details. Telephone conversation had (CC) 28 February – applicant waiting for meeting with Howe & Co (advised this would not be for 3 weeks) and will confirm after this has taken place.	Noted.
M141	SL01 letter sent 29 January; awaiting a response.	Letter to issue "unless we hear from you within 14D your application will be excluded from the Scheme" AB to follow up in parallel

## 8. New Case Questionnaire Responses

Case No.	Status
M090	Accepted onto Scheme
M132	Accepted onto Scheme

## 9.

## 9. Post Office / Second Sight investigation progress

Case No.	Status	WG Action

Case No.	Status	WG Action
M004	Meeting 20 January. Letter from POL sent to SPMR advising that confirmation was required so that the case could progress to the next stage of the Scheme. POL chased the applicant on 7 February; the applicant responded on 5 March – that he will provide an update by 12 March	Noted
M006	Further information required to complete the investigation. Extension (2nd) to 27 March required	Agreed
M007	Investigation complete. Finalising report. Extension (not 1 <sup>st</sup> ) to 20 March required	Agreed
M011	Investigation complete. Finalising report. Extension to 20 March required	Agreed
M019	Investigation complete. Finalising report. Extension (not 1 <sup>st</sup> ) to 20 March required	Agreed
M028	Investigation complete. Finalising report. Extension (not 1 <sup>st</sup> ) to 20 March required	Agreed
M035	Submitted to Second Sight 6 March	Noted
M048	Investigation complete. Finalising report. Extension (not 1 <sup>st</sup> ) to 20 March required	Agreed
M065	Investigation complete. Finalising report. Extension (not 1 <sup>st</sup> ) to 20 March required	Agreed



Case No.	Status	WG Action
M094	Further information required to complete investigation. POL to update WG 27 March	Agreed
M107	Investigation complete. Finalising report. Second extension to 20 March required	Agreed
M114	POL internal investigation complete. Findings to be discussed with SPMR. POL to update WG 20 March	Noted

10.

10. Any other queries raised by Applicants / Advisors

Case No.	Query	WG action
M054	Update requested from applicant	WG agreed that applicant could be updated on the stage her application was at
M130 M131	The Professional Advisor would like to amalgamate the two applications into a joint submission	Agreed