

**Project Sparrow – Options*****Assumptions and Constants***

- Increasing the pace of the process is beneficial to POL in order to minimise costs and long term reputational damage.
- Mediations are currently proceeding at an approximate rate of 1 every 3 weeks. Under any option this will need to increase and be resourced.
- If a decision is taken to change the Scheme we will need to implement a comprehensive media and Parliamentary strategy (e.g . briefings, interviews WMS, third party advocates etc).
- Under all options Post Office should anticipate public criticism – the variables are when and how long it lasts.
- We should expect Second Sight's Part Two Report to be critical (however unjustified); and plan on the basis that it will leak if Post Office seek to mitigate that criticism or block the report.
- Post Office do not anticipate the need to pay very large sums in compensation – thus far the average is £10k per case with merit that has been settled whether through mediation or outside of the Scheme process. This is contrary to many applicants' expectations.
- Thus far just under half of the cases that have gone to mediation have been resolved through that process. The more cases that are put through to mediation, the more likely it is that that proportion will fall.
- 16 cases have been resolved outside of mediation (usually prior to Working Group consideration). We continue to look for opportunities to settle cases with merit early but there are unlikely to be many more capable of resolution in this way.
- It is highly likely that JFSA will pursue litigation against the Post Office under all options.
- The risk of a successful Judicial Review is considered low on all options.

**Indicative rating of options for Post Office (1 poor – 5 good)**

Option	Cost	Time	Impact	Risk profile over time
1) Mediate all cases	1	2	2	Amber moving Red
2) Mediate all non-criminal cases	2	3	3	Amber/Red moving Amber
3) Payout or pay to litigate	3	3	1	Red remaining Red
4) Mediate cases with merit	3	4	3	Red moving Amber
5) Status Quo	1	1	2	Amber/Red moving Red

Key: Detrimental to POL, Neutral to POL, Favourable to POL

### 1) Mediate all Cases

Costs	Timing	Impact			
		Legal	Media	Network	Political
<p>Very significant:</p> <p>109 further mediations</p> <p>c.£6m spent to date + c.1.5m external mediation costs + Scheme monthly operating costs of c.100k per month * 27 = 2.7m</p> <p><b>Total = c.£9.3m</b></p> <p>Small offset by closing the Working Group and its supporting apparatus c £7k pcm.</p>	<p>Very Slow – would require the mediation of 109 cases. May take well into until 2016 or beyond depending on resources</p> <p>1 mediation per week = 27 months i.e. mid 2017</p> <p>2 mediations per week = 13.5 months i.e. Q1 2016</p>	<p>This would involve mediating criminal cases. We have strong advice not to do so and the chances of resolution at mediation are very low if non-existent.</p> <p>Delays probable litigation against POL but still remains likely.</p> <p>We could end up mediating twice – especially if as a result of errors in mediation a person successfully overturns a conviction – we may end up mediating for compensation.</p>	<p>Will be seen as a victory for those campaigning against POL and can expect continued BBC and trade coverage. POL may be cast as weak and in having accepted their wrongdoing or being forced to move by Second Sight's Part Two report.</p> <p>Pick up in other media outlets likely to remain limited</p> <p>Longer term, the failure to resolve some of the highest profile cases may reignite the existing campaign.</p>	<p>Decision likely to be seen as weak and /or an admission of wrongdoing.</p> <p>Unlikely to attract NFSP support and may increase traction by JFSA and CWU</p>	<p>Likely to push any significant Parliamentary activity well beyond the Election as broadly follows public demands of MPs.</p>

**2) Mediate all Non-Criminal Cases**

Costs	Timing	Impact			
		Legal	Media	Network	Political
<p>Significant:</p> <p>Same costs as option 1 but reduced by numbers in Scheme</p> <p>71 further mediations</p> <p>c.£6m spent to date + c.980k external mediation costs + Scheme monthly operating costs of c.100k per month * 18 = c.1.8m</p> <p><b>Total = c.£8.8m</b></p> <p>Small offset by closing the Working Group and its supporting apparatus c.£7k pcm.</p>	<p>Slow - 1 mediation per week = 18 months i.e. mid 2016</p> <p>2 mediations per week = 9 months i.e. end of 2015</p>	<p>Removes the risk that mediation of a criminal case results in overturn of conviction.</p> <p>Still leaves threat of litigation in cases without merit as we are unlikely to resolve especially where expectations are very high</p>	<p>Short-term media coverage likely, with many of the same risks as option 1 around POL's weakness and position being forced.</p> <p>Has the benefit of coming closest to honouring the stated objectives of the Scheme.</p>	<p>Could carry a number of the same risks as option 1 above but the risk is mitigated to a considerable extent by the exclusion of criminal cases.</p>	<p>Criticism likely as cases with highest profile in Parliament are criminal.</p>

**3) Payout or Pay to Litigate**

Costs	Timing	Impact			
		Legal	Media	Network	Political
Cannot predict whether any settlement offer would be accepted but unlikely in many cases where expectations are high and growing in the face of MP/Select Committee and media involvement – spurred on by Second Sight	Quick in terms of closing Scheme.  However, timing risks associated with litigation risks ongoing and probably increased	Legal advice from linklaters against ex gratia payment unless linked to the Scheme.  Significant risk of applicants aggregating payment to support a “group action”.	Media coverage likely – and will continue, in bursts, re the vocal applicants continuing “campaign”  Presentation likely to be that of POL wrongdoing (probably fuelled by SS & P2) and “paying out” to attempt to shut issue down (even payment for litigation likely to be presented as calling bluff e.g. applicants out of time, too distressed for court process again, won’t be enough money	Potentially unfair on the vast majority of spmrs in the network who have not complained. Suggests POL will payout if you complain loudly enough regardless of merit  May result in a Flurry of claims from other spmrs (existing and old) hoping that they can get money.  May make existing spmrs less inclined to repay loses under the terms of the contract	Criticism likely.  Possible group actions provides a focus for MPs to rally around.

## 4) Mediate Cases with Merit

Costs	Timing	Impact			
		Legal	Media	Network	Political
<p>The most cost-effective option although still significant:</p> <p>52 further mediations</p> <p>c.£6m spent to date + c.715k external mediation costs + Scheme monthly operating costs of c.100k per month *13 = c.1.3m</p> <p><b>Total = c.£8m</b></p>	<p>Fair:</p> <p>1 mediation per week = 13 months i.e. Q1 2016</p> <p>2 mediations per week = 6.5 months i.e. late 2015</p>	<p>Offers greatest opportunity of resolving cases through mediation.</p> <p>Potentially hastens litigation against POL.</p>	<p>Short-term negative media coverage on the move itself highly likely.</p> <p>SS will ally themselves firmly as “champions” of the “wronged”; JFSA and certain MPs will express outrage. Story will then continue, in bursts, re developments/ reactions such as SS reaction (and P2); calls for Govt/ CCRC action and any litigation.</p> <p>But POL demonstrates its confidence in its position.</p>	<p>Send the right message in terms of being willing to resolve where we are at fault but not where there is no evidence</p>	<p>Escalation of criticism very likely.</p>

## 5) Status Quo

Costs	Timing	Impact			
		Legal	Media	Network	Political
<p>The most costly option:</p> <p>Means maintaining the Working Group – and taking current approach, POL are agreeing to mediate nearly all non-criminal cases.</p> <p>71 further mediations</p> <p>c.£6m spent to date + c.1.5m external mediation costs + Scheme monthly operating costs of c.100k per month * 53 = c.5.3m</p> <p><b>Total = c.£12.8m</b></p>	<p>Currently stands at 1 mediation every 3 weeks therefore at the current rate -if we did a further 71 mediations, they would take 53 months to complete i.e. mid 2019</p> <p>Continued scope for prevarication by JFSA and Second Sight.</p>	<p>Continue to provide JFSA with information which could be used by Edwin Coe (and others) in litigation further down the line</p> <p>Likely to still result in litigation if cases are not resolved.</p>	<p>Continued flurries of negative media interest likely with a peak around Second Sight's Part Two Report.</p> <p>POL scope to respond hindered by confidentiality requirements of the Working Group.</p> <p>Honours our commitment set out at the start of the Scheme.</p>	<p>Lack of support from NFSP who are now back on side and ready to support. Unlikely to continue if we do not take some action given their views on the erosion of the brand by ongoing criticism.</p>	<p>Continuing in the face of criticism may fuel opposition.</p> <p>New Minister post-election could make containment difficult, particularly with 2<sup>nd</sup> SS report.</p> <p>MPs (led by Kevan Jones MP) continue to campaign.</p>