

## **MINUTE**

### **Working Group for the Initial Complaint Review and Case Mediation Scheme**

**14 November 2014**

### **MATRIX CHAMBERS**

#### **Attendees**

Sir Anthony Hooper (Chair)  
Alan Bates (JFSA)  
Kay Linnell (JFSA)  
Ron Warmington (Second Sight)  
Ian Henderson (Second Sight)  
Chris Holyoak (Second Sight)  
Chris Aujard (Post Office)  
Belinda Crowe (Post Office)  
Angela Van Den Bogerd (Post Office)  
Tom Wechsler (Post Office)  
Andy Parsons (Bond Dickinson)

#### **Agenda**

1. Minutes of 17 October meeting
2. Letter from JFSA
3. Progress on Part Two Report
4. Standing case agenda:
  - 4.1 Priority Cases
  - 4.2 Bankruptcy cases
  - 4.3 Post Office investigation progress
  - 4.4 Cases with Second Sight to review PO investigation reports
  - 4.5 Cases Second Sight have reported on
    - (a) Proposal for Deferred mediation (Second Sight)
    - (b) Updating applicants where there is a delay in reaching Working Group decision
  - 4.6 Cases that have been passed to CEDR
  - 4.7 Queries from applicants/advisors
  - 4.8 AOB

5. Cases for decision:

Second Sight recommend mediation:

M003, M005, M013, M018, M021, M039, M063, M078, M126

## 1. Minutes of 17 October

The minutes of the last meeting were agreed.

## 2. Letter from JFSA

Alan Bates said that he had written to the Chair to set out JFSA's concerns about the Scheme and the Working Group. He had done so for the record. The following points were made in discussion:

- it remained JFSA's view that it was not the role of the Working Group to decide whether a case was suitable for mediation or not;
- JFSA considered that no further CRRs should be released in draft until Second Sight had completed their Part Two report;
- although a number of cases made reference to the Part Two report, it was important that progress continued be made in those cases where Part Two was not relevant;
- Post Office confirmed that it fulfilled all its duties relating to prosecutions;
- JFSA felt that insufficient weight was given to wider issues relative to the cause of losses in branch and where the money went. There were cases in the Scheme where there was no loss and issues beyond the cause of losses had caused applicants significant concern;
- mediation would allow for a discussion of those wider issues and concerns, especially in cases where the data available was limited;
- Post Office had addressed all claims raised by applicants in their investigation reports;
- Second Sight's most recent reports had sought to cover the range of issues raised by applicants and their Part Two report would address a significant number of the issues raised too; and
- the assessment of cases had highlighted some very common misconceptions on the part of applicants.

JFSA reported that one applicant had withdrawn from the Scheme owing to Post Office's approach to mediation. Post Office said that they could not share details of any mediation but that no applicant whose case had been recommended for mediation had (thus far) withdrawn from the process prior to mediation taking place. The Chair said that it was not possible to evaluate the utility of the mediation process until feedback was received. This would not be until after 25 cases had passed to mediation and even then, feedback would be highly generalised.

**Action: It was agreed that Second Sight should continue produce draft CRRs and seek comments within the existing timescales. However, if the final CRR is likely to make reference to the Part Two report, the CRR should not be released until the completion of the Part Two report. Second Sight should inform the Secretariat so that they may inform the applicant of progress with their case.**

## 3. Progress on the Part Two Report

Ian Henderson updated the Working Group on progress with finalising the Part Two Report. Following a discussion with the Secretariat a plan had been drawn up to facilitate the completion of the report. This contained 3 broad stages:

- The identification of questions that remain to be answered in a more granular form – by 9 December.
- Post Office to respond - by 6 January.

- A face to face meeting, facilitated by the Secretariat at the beginning of January, where any necessary clarification of Post Office's response can be sought.

This was likely to be a complex exercise and there may be further questions that arise during the process. However, the aim was to produce an evidence based document that facilitated mediation and closure for applicants. The plan was based on providing a draft version of the report to the Working Group by the end of February and completion of the report by the end of March 2015. Belinda Crowe circulated a hard copy of the plan to members of the Working Group and said that the Secretariat had offered on-going support to Second Sight in order to meet the timetable set out in the plan.

The Chair said that the plan and final report needed to cover questions that had arisen in the Working Group's discussions, specifically:

- the position in Crown Offices
- suspense accounts; and
- where there was a loss, who were the most likely beneficiaries.

The Chair asked Second Sight to ensure that their questions were put simply and that their reports allowed applicants to know where losses were most likely to have gone.

Post Office said that it would be helpful if questions could be categorised by subject and prioritised to allow cases to proceed through the Scheme. In addition, if Second Sight would like to work in Post Office's headquarters for a period of time to aid completion of the report this could be arranged.

**Action: Second Sight to finalise their Part Two report in line with the plan and timetable circulated to the Working Group; and to address the points made by the Chair in discussion.**

#### **4. Standing Case Agenda**

##### **4.1 Priority cases**

<b>Case No.</b>	<b>Status</b>
M052	Final report originally received 18 September, revised version received 23 September. Second Sight awaiting further information from POL.
M073	Final CRR received 21 October. Awaiting mediation decision.
M086	Investigation has been prioritised – PO report due by 17 November.
M119	Investigation has been prioritised – PO report due by 24 November.

Post Office said that they were working through the necessary files on M052 and would respond as soon as possible. They also said that they hoped to report on M119 ahead of schedule.

**4.2 Bankruptcy cases**

<b>Case No.</b>	<b>Status</b>
M001	SS Final report received 18 September. Awaiting mediation decision.
M029	SS Final report received 18 September. Awaiting mediation decision.
M032	Draft CRR received 16 October. Final due 04 November.
M036	Passed to SS 11 September. Draft CRR due 14 November.
M069	PO investigation on-going, report due by 10 November.
M081	PO investigation on-going, report due by 8 December.
M089	PO investigation on-going, report due by 10 November.
M100	PO investigation received 17 October. Draft CRR due 12 December.
M118	PO investigation received 16 October. Draft CRR due 28 November.
M122	PO investigation received 16 October. Draft CRR due 28 November.
M128	PO investigation on-going, report due by 22 December
M150	PO investigation on-going, report due by 8 December.

Second Sight reported that reports had been uploaded on M032, M036 and M069 respectively.

Kay Linnell raised a concern about reported delays in appointing Moore Stephens as trustees in a number of bankruptcy cases. Belinda Crowe agreed to look into whether there was any issue.

**Action: Belinda Crowe to clarify the position on the appointment of trustees in bankruptcy cases.**

**4.3 Post Office Investigation Progress****i) New scheduling to note**

No new scheduling to note

**ii) Overdue cases**

No cases overdue

**4.4 Cases with Second Sight to review Post Office Investigation Reports****i) New scheduling to note**

Case No.	Date passed to SS	SS planned scheduled delivery date
M012	04 November	16 January 2015
M026	04 November	23 January 2015
M033	29 October	16 January 2015
M050	29 October	9 January 2015
M056	28 October	19 December
M075	04 November	16 January 2015
M101	29 October	9 January 2015
M109	29 October	9 January 2015

ii) Overdue cases

Case No.	Date passed to SS	SS planned scheduled delivery date	SS revised scheduled delivery date
M024	15 September	07 November 2014	
M025	03 October	07 November 2014	
M034	08 September	07 November 2014	
M040	05 September	31 October 2014	
M095	08 August	31 October 2014	

Second Sight reported that reports had been uploaded on M024, M025, M034 and M095 respectively. Further information on M040 was pending from Post Office.

4.5 Cases that Second Sight have reported on

Case No.	SS draft report issued	Deadline for comments	SS final report due	SS Final Report completed	WG decision
M001	17 July 2014	04 September 2014	<i>Second Sight rewriting their CRR following WG meeting of 17/10</i>	Second Sight to resubmit	To be referred to Working Group when CRR re-drafted
M003	11 September 2014	19 September 2014	<i>Second Sight rewriting their CRR following WG meeting of 17/10</i>	Second Sight have resubmitted 07 November 2014	Working Group to review 14/11/2014
M005	25 September 2014	07 October 2014	<i>Second Sight rewriting their CRR following WG meeting of 17/10</i>	Second Sight have resubmitted 07 November 2014	Working Group to review 14/11/2014
M007	25 September 2014	23 October 2014	<i>30 October 2014</i>	Overdue	-

M008	21 October 2014	30 October 2014	<i>6 November 2014</i>	Overdue	-
M011	25 September 2014	07 October 2014	<i>24 October 2014</i>	23 October 2014	Second Sight reviewing Final CRR
M013	26 September 2014	07 October 2014	<i>24 October 2014</i>	23 October 2014	On agenda for 14/11/2014
M017	15 September 2014	25 September 2014	<i>02 October 2014</i>	05 October 2014	Applicant to be provided opportunity to comment on Second Sight decision.
M018	15 September 2014	10 October 2014	<i>17 October 2014</i>	24 October 2014	On agenda for 14/11/2014
M021	15 September	25 September 2014	<i>Second Sight rewriting their CRR following WG meeting of 17/10</i>	Second Sight have resubmitted 14/11/2014	Working Group to review 14/11/2014
M029	27 August 2014	10 September 2014	<i>17 September 2014</i>	Second Sight to re-advise Working Group on Part 2	Working Group to review
M031	27 October 2014	06 November 2014	<i>13 November 2014</i>	-	-
M032	16 October 2014	28 October 2014	<i>04 November 2014</i>	Overdue	-
M035	11 August 2014	04 September 2014	<i>11 September 2014</i>	Second Sight to re-advise Working Group on Part 2	Working Group to review
M039	27 August 2014	05 September 2014	<i>12 September 2014</i>	Handed back to SS for a revised report due TBC - Second Sight to re-submit	Working Group to review 14/11/2014
M042	14 October 2014	28 October 2014	<i>04 November 2014</i>	Overdue	-
M046	7 November 2014	-	-	-	-

M049	03 October 2014	23 October 2014	<i>30 October 2014</i>	29 October 2014	Second Sight reviewing Final CRR
M051	27 October 2014	06 November 2014	<i>13 November 2014</i>	-	-
M052	28 July 2014	04 September 2014	<i>18 September 2014</i>	Second Sight awaiting further info from POL	POL to update Working Group 14/11/2014
M053	10 October 2014	21 October 2014	<i>28 October 2014</i>	Overdue (POL response delayed)	-
M058	05 October 2014	14 October 2014	<i>21 October 2014</i>	28 October 2014	Second Sight reviewing Final CRR
M059	31 October 2014	14 November 2014	<i>21 November 2014</i>	-	-
M062	20 June 2014	22 July 2014	<i>31 July 2014</i> Revised version uploaded 23 September	Second Sight to advise following WG discussion 17/10	-
M063	08 October 2014	17 October 2014 - Applicant 27 October 2014	<i>17 October 2014</i>	03 November 2014	Working Group to review 14/11/2014
M065	23 September 2014	02 October 2014	<i>09 October 2014</i>	08 October 2014 -	Second Sight to advise following WG discussion 17/10
M067	19 October 2014	28 October 2014	<i>04 November 2014</i>	Overdue	-
M071	7 November 2014	19 November 2014	<i>26 November 2014</i>	-	-
M072	08 October 2014	17 October 2014	<i>24 October 2014</i>	Second Sight awaiting further info from POL	POL to update Working Group 14/11/2014
M073	24 September 2014	03 October 2014	<i>24 October 2014</i>	21 October 2014	Second Sight reviewing Final CRR
M078	14 October 2014	23 October 2014	<i>30 October 2014</i>	Overdue (POL response delayed)	Working Group to review

					14/11/2014
M090	16 October 2014	28 October 2014	04 November 2014	POL yet to respond to Draft CRR	-
M091	31 October 2014	19 November 2014	25 November 2014	-	On agenda 14/11/2014
M093	31 October 2014	14 November 2014	21 November 2014	-	-
M095	7 November 2014	-	-	-	-
M097	10 October 2014	23 October 2014	30 October 2014	Second Sight awaiting further info from POL	POL to update Working Group 14/11/2014
M115	05 October 2014	Case Closed – Applicant's whereabouts unknown.			
M116	12 October 2014	POL - 23 October 2014 Applicant requested extension - 19 <sup>th</sup> November 2014	26 November 2014	-	On agenda 14/11/2014
M126	03 October 2014	14 October 2014	21 October 2014	03 November 2014	On agenda 14/11/2014
M132	16 October 2014	28 October 2014	04 November 2014	Overdue	-
M135	29 October 2014	13 November 2014	23 November 2014	-	-

The Secretariat said that there were a growing number of cases that had been considered by the Working Group but where decisions on suitability had not been reached pending further information. They recommended that a standard letter be sent to applicants affected to provide an update on progress. This was agreed.

**Action: Secretariat to draft a letter for the Chair to provide an update to applicants where consideration of their case has been delayed or further information has been sought.**

#### **4.6 Cases where the Working Group has made mediation recommendation**

Cases with CEDR awaiting mediation:

M002, M006, M014, M019, M048, M054, M143

Cases where either party have declined to mediate:

M015, M030 (both Post Office)

Cases where WG did not approve mediation:

M057, M076

Cases mediated:

M009, M022, M028, M079, M127, M066

#### **4.7 Any other queries raised by Applicants / Advisors**

##### *Requests for extensions*

Extensions had been requested for comments on draft CRRs on M091 and M116 respectively owing to illness. This was agreed.

**Action: Secretariat to inform the applicants that their request had been agreed and to agree a new deadline for comments in each case.**

##### *Conditional Leavers Payment*

The Chair had received a letter from the applicant's advisor in case M114 objecting to the condition that they leave the Scheme in order to receive a conditional leavers payment.

Post Office explained that this was in line standard practice and they had modified their approach to allow the applicant to transfer their branch immediately but have sufficient time to have their case fully investigated and to make an informed decision on whether they wished to stay in the stay in the Scheme or take the conditional leavers payment.

The Chair suggested that the two processes ought to be separated, allowing the applicant to receive their payment and stay in the Scheme. Post Office agreed to this approach.

**Action: Post Office to amend their offer to the applicant in case M114.**

#### **4.8 AOB**

##### *Frequency of Working Group Calls*

At the last Working Group call, it had been suggested that calls be moved on to a fortnightly basis now that the focus has moved on from scheduling. This was agreed.

**Action: Secretariat to schedule calls on a fortnightly basis going forward.**

##### *M061 & M149*

Post Office reported that they had reflected further on the discussion at the last Working Group and decided that despite being ineligible for the Scheme, cases M061 and M149 may exceptionally proceed given the issues of eligibility were only spotted after the cases had made significant progress through the Scheme. The applicants and their advisors have been informed.

#### **5. Cases for Decision**

*M003, M005, M013, M018, M021, M039, M063, M078, M126*

Post Office reported that they were content to mediate case M126 and that the papers had been passed to CEDR.

Post Office were similarly content to mediate case M005. However, papers had not been sent to CEDR as Second Sight had recommended deferring mediation until the Part Two Report had been finalised. It was suggested that the applicant be informed that their case

was judged as suitable for mediation and that they be given the choice as to whether to mediate now or wait for the Part Two report. This was agreed.

Post Office were content to treat cases M021 and M078 in the same way as M005.

**Action: Secretariat to draft letters to the applicants in cases M005, M021 and M078 informing them that the Working Group had decided that their cases were suitable for mediation and offering them the choice of mediating now or when the Part Two Report had been finalised, in the knowledge that this was not likely to be before end March 2015.**

Second Sight asked to revisit the remaining cases in the light of the earlier discussions. This was agreed.

**Action: Second Sight to revisit the CRRs in cases M003, M013, M018, M039 and M063.**

**Date of Next Meeting**

Monday 8th December, Noon.