

In Strictest Confidence

POST OFFICE LTD BOARD

Initial Complaint Review and Mediation Scheme

1. Issue

- 1.1 This paper updates the Board on the challenges facing the Initial Complaint Review and Mediation Scheme (the Scheme) and the steps being taken to address them.

2. Summary

- 2.1 At the moment the Scheme faces a number of serious challenges that Post Office are working hard to manage and mitigate. This paper covers the following issues:

- Slower than expected Scheme performance
- An increasing expectation gap
- A high cost base
- An attempt by both the Working Group and Second Sight to broaden their scope
- General stakeholder management challenges
- A Second Sight generic report

3. Consideration

Scheme Performance

- 3.1 Out of an original 147 applications, 139 are still in the Scheme at various stages. Scheme performance is slower than expected due to a number of factors – higher than expected application numbers, more complicated legal assurance process (particularly in respect of risks around criminal prosecution) than originally envisaged, a need to reinforce the Fujitsu team providing data to the investigators and a learning curve for the new investigators around the style and approach required. Currently there are five reports with Second Sight (with four due on 27 February), 19 are undergoing legal assurance and 18 are currently under Post Office investigation. 64 applicants are still to submit their detailed case questionnaires, having had funding approved.
- 3.2 For Post Office there is a delicate balance to be struck in terms of the thoroughness of the quality assurance necessary to manage risk on individual cases and more broadly, learning the lessons from early cases and the speed of processing the reports. We have revised the initial QA process now that initial report quality has increased and learning has increased. This has reduced the steps required and will save a small amount time.

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- 3.3 The Working Group has also decided to add a “draft report” circulation stage to the overall process – which adds two weeks but gives Post office a right of reply to findings in Second Sight’s reports and could add additional steps as cases move through the process.

Increasing Expectation Gap

- 3.4 Our current estimate is that we will receive claims stated to be in the region of £100M. Applying the settlement policy, Bond Dickinson has estimated the claims to be valued at £6M. This figure comes with a significant health warning, as it is calculated from a sample of 33 cases and generalised to a likely population of 130. It is also not based on the merits of a claim, but instead on the likely value of a claim should it be fully successful.
- 3.5 The programme team has had limited opportunity to engage with advisors on the substance of the claims, as the advisors limit their engagement with Post Office to administrative matters. However, we have taken every opportunity to discuss levels of claims with Second Sight and the Working Group when opportunity arises. It is, however, likely that the gap will remain large due to high claims for consequential losses and potentially negotiation positioning by advisors in terms of the level of claim.

High Resource Demands

- 3.6 Currently there are 22 Post Office staff investigating cases, a programme team is occupied full time administering the Scheme and supporting the weekly Working Group case discussions and the monthly face to face meetings. Two sets of lawyers are engaged reviewing the cases (Bond Dickinson providing civil and general advice and Cartwright King reviewing from a criminal law perspective). This has led to costs to date of £1.1M and a projected cost of around £5M, excluding settlement costs.

Working Group and Second Sight Scope

- 3.7 Efforts have been ongoing to agree an engagement letter with Second Sight and Terms of Reference with the Working Group. Currently both are being disputed in terms of scope (with JFSA and Second Sight seeking wider scope than Post Office is comfortable with) and with Second Sight seeking to water down the clause restricting their ability to act against the Post Office in the future. It also appears that the Chair is amenable to a wider scope for the Working Group.
- 3.8 Both issues have been escalated to ExCo, and the Chief Executive is due to meet Second Sight and the Chair of the Working Group on Monday to discuss these issues. Post Office has alerted BIS, and are working through a number of scenarios to strengthen the resource available to the Scheme to ensure that Second Sight remain engaged in the Scheme and that the Scheme completes in a timely manner.

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General Stakeholder Management

- 3.9 The Post Office Chairman and Chief Executive have held a positive meeting with James Arbuthnot MP. James will be holding a follow up meeting with MPs on 24 March where Post Office will brief them on progress on the Scheme. The professional advisors are also proving difficult to manage and there are signs that at least some are attempting to act as a collective to challenge the timelines and fee levels imposed by the Scheme although we do not know whether that will materialise.
- 3.10 The programme team are working closely with the Communications Directorate to plan for the Arbuthnot meeting, and have engaged the Chair of the Working Group to deal with issues relating to the advisors.

Second Sight Reports

- 3.11 The Second Sight team are due to submit the first of their individual case reports to the Working Group on 27 February. They are also working on a generic report designed to travel with the individual reports, although it is unlikely that will be ready for 27 February. Our working assumption is that the reports will be critical of Post Office (whether evidenced or not) and from the time those reports are submitted there is the potential for them to become public, and will and this likelihood increases when the reports are presented to the applicants potentially a week later. We are working with the Communications team in preparation for that.

4. Conclusion

- 4.1 The programme currently carries a substantial level of risk which is being managed with support of colleagues across the business, including ExCo. It will be important to maintain this focus as we move into a critical delivery phase for the programme.
- 4.2 This paper is intended to inform a Board discussion of the latest developments, including an update from the Chief Executive following her meetings with the Chair of the Working Group and Second Sight, and the various options for managing the risks and issues set out above.

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