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Richmond House  
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10 September 1998

**BENEFITS AGENCY/POST OFFICE COUNTERS AUTOMATION  
PROJECT**

When we met yesterday with Jack Cunningham, Peter Mandelson and Ian McCartney to discuss this subject, I undertook to write setting out in more detail how the recommended option in the Treasury/Policy Unit might be carried forward, and the remit for the proposed “troubleshooter”.

2. I envisage three streams of work.
3. First, there must be a negotiation between the parties to the contract to establish whether there is a commercial basis for proceeding which we can accept, and to resolve outstanding differences on project implementation and timetable. I would propose to write to ICL in the terms attached at Annex A to set the framework for these negotiations. This framework must protect the position of the public sector parties by clearly asserting that Pathway are in breach of contract.

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4. As agreed, we will need to appoint a troubleshooter to facilitate the process. I attach at Annex B proposed terms of reference for the troubleshooter. I am considering who might be a suitable appointment to this important position.

5. Second, I would look to Peter to take forward with the Post Office:

- plans to strengthen POCL's management of the project;
- plans to give the management of POCL a much stronger commercial focus;
- exploration of possible partnerships between POCL and the private sector;
- a strategy for more transparent funding for POCL so we can be much more rigorous in defining what social value added is being bought;
- consider possibilities for further development of the system to support social banking and broader account-like services. (The Post Office would need to involve CITU and consult BA on this last point.)

6. We would need to see sufficient results within the next month to be assured that each of these elements can be delivered.

7. Third, we need to prepare fall-back options based on cancelling the card, and cancelling the whole project. We will need sufficient analysis of these options to allow us to judge whether the outcome of the negotiations offers the best value for

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money for the public sector as a whole. I think we will need to engage consultants to advise on this point, looking at the data provided by POCL and BA.

8. This will involve intensive work over the next month or so. To make sure the threads are properly tied together, I suggest an Interdepartmental Working Group including the Policy Unit should be established.

9. I must look to you and to Peter to ensure that BA and POCL respectively cooperate fully with this process and enter the negotiations constructively and in good faith. They must also accept that if at the end of the process Ministers decide to proceed with the project they must commit themselves wholeheartedly to its success; equally if the vfm picture suggests an alternative route forward there will be a similar commitment from both BA and POCL.

10. When we have reports from these three streams of work we will clearly need to meet again to agree the way forward.

11. I would be grateful to know urgently from you and from copy recipients whether you are content to proceed on this basis.

12. Copies go to the Prime Minister, Jack Cunningham, Peter Mandelson, Ian McCartney and Sir Richard Wilson.

**STEPHEN BYERS**

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**DRAFT LETTER FROM CHIEF SECRETARY TO KEITH TODD, CHIEF EXECUTIVE, ICL**

**BENEFITS AGENCY/POST OFFICE COUNTERS AUTOMATION PROJECT**

As you know, Ministers have been reviewing the future of this project in view of the serious delays to the implementation timetable, and ICL Pathway's failure to deliver a key contractual milestone for which ICL Pathway has been placed in breach of contract.

We remain seriously concerned by the slow rate of progress on this project which was originally scheduled to be fully operational by October 1998. However, we have decided to allow a period of one month for discussion between the parties to see whether satisfactory commercial terms can be agreed for continuing the project, outstanding differences on the timetable can be resolved, and a credible programme for full implementation can be agreed.

To facilitate this process, I am proposing to appoint an adviser to work with the parties towards finding a solution. He will report direct to me, and I expect him to be given full co-operation by all the parties. His terms of reference are attached.

To provide a satisfactory outcome, the conclusion of the discussions must meet a number of basic criteria which include:

- any adjustment to the contracts must of course be compatible with procurement law;

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- the contract must provide a firm date after which the Benefits Agency will have no further commitment to using the benefit payment card.

There is one general point I must make to avoid any misunderstanding. ICL Pathway entered into these contracts on PFI terms which entail accepting significant risks. It should be clear at the outset, therefore, that the discussions are not posited on an outcome which would ensure ICL Pathway a positive return on the project.

A condition for opening discussion must be agreement that:

- no party will issue legal proceedings against any other party while these discussions are being conducted;
- discussions will be conducted in strictest confidence and without prejudice; and
- work on the project will continue in accordance with the existing contracts while discussions are continuing .

I would be grateful if you would confirm by return that you are prepared to proceed on the basis set out in this letter.

I am copying this letter to Alistair Darling and Peter Mandelson; and to John Roberts and Peter Mathison.

**STEPHEN BYERS**

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**DRAFT TERMS OF REFERENCE FOR “TROUBLESHOOTER”**

**General**

The Government wishes to appoint an independent adviser to facilitate discussions between the parties to the Benefits Agency/Post Office Counters automation project (Benefits Agency (BA), Post Office Counters Limited (POCL) and ICL Pathway (ICL)).

The adviser will report to Ministers via the Chief Secretary to the Treasury, Stephen Byers.

The immediate objective will be to report to Ministers within one month on:

- whether there is a commercial basis for proceeding with the project which is acceptable to the parties;
- whether there is in place a satisfactory implementation plan with a detailed timetable for completing the project;
- any further action which would need to be taken to ensure successful delivery of the project

The role of the adviser will be to:

- convene and chair discussions between the parties;
- commission papers and proposals from the parties;

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- independently appraise the parties' claims and contributions;
- produce compromise proposals to assist the parties to identify common ground;
- take such other action as he thinks fit to establish an acceptable basis for continuation;
- ensure the parties provide information necessary for the analysis of alternative options

The adviser will have no power to bind the parties, who will retain full authority to agree or not agree any proposals made by the adviser or any other party.

If the project continues there is likely to be a continuing role for the adviser in facilitating progress.