

PRE BRIEF CALL AHEAD OF MEETING WITH TONY HOOPER

Background

You are meeting Tony Hooper on Thursday at 1630 for one hour with Chris Aujard.

The meeting is an opportunity to follow up on your meeting of 24 February (file note annexed). At that meeting Tony counseled against early action and advised waiting for Second Sight to produce their first five reports and the thematic report. He commented that Second Sight were trying to be objective but were struggling to make decisions on cases.

We suggest you use the meeting to take Tony's view on progress since you last spoke, set out Post Office's continuing concerns and outline the options Post Office is considering for accelerating progress with the Scheme.

We know that Tony is 'embarrassed' at the slow progress of the Scheme and it is important to him.

Post Office Concerns

1. **Scheme Timeliness** In February Tony asked you to delay any change to allow Second Sight to deliver. Three Second Sight reports were due the following week. The Working Group asked for further work to be done on those reports. We have only now received the first Second Sight.
2. **Scheme Cost** projected cost for the Scheme to run as designed is £7.5M. with a run rate of close to £200K per month in external advice.
3. **Scheme overhead** – the Scheme is still requiring large amounts of senior management time without delivering outcomes. This distracts attention away from core business.
4. **Report Quality** is still poor from Second Sight in our view. The Working Group has gone through a processes to improve the report quality of Post Office and Second Sight reports. We understand that Tony is broadly content with our reports but we remain concerned at the quality of Second Sight's. (Chris' comments annexed). This now raises the likelihood of Post Office having to 'publicly' rebut the reports from its own paid 'experts'.
5. **General delays** - although Post Office has requested extensions for investigations, there are other delays in the Scheme by advisors and Second Sight and we are now concerned that the flow of cases coming into the Scheme, some held up by Second Sight as they check the work of advisors before submitting the case for investigation, is too slow.
6. **Expectations gap** - we are concerned that many applicants are seeking compensation at levels which vastly exceed anything recoverable in Court,

both in terms of the type of loss and actual amounts claimed. This coupled with the fact applicants may (according to Alan Bates' letter) be incurring liability for disproportionate professional advisor costs in the hope that they will be met as part of any settlement (e.g. through a conditional or contingency fee arrangement), may create a significant barrier to the resolution of a complaint.

7. **Working Group Confidentiality** – has been breached by Alan Bates and his letters. This makes it difficult to have an appropriately frank and challenging discussion.

Post Office current preferred solution (Continue with the Scheme but bring it within Post Office control)

Proposed changes and Benefits

1. No new cases accepted into the Scheme.
2. Introduce a final deadline for submission of outstanding CQRs from applicants/advisors or the application will not proceed.
3. Post Office will investigate all CQRs. Any clarification will be sought by the investigation team as part of the process.
4. Working Group disbanded in its entirety. All cases will be subject to a triage approach. Settlement decision will be based on investigation report findings and advice from legal advisers.
5. Post Office will decide on settlement and liaise with applicant. Cases will be mediated by exception where appropriate to do so. This gives Post Office full control of process and the ability to drive rapid case settlement. The Independent Chair would remain, providing independent oversight, review and challenge.

SUGGESTED DISCUSSION TOPICS FOR TONY HOOPER

- How do you feel the Scheme is going?
- You asked me to be patient when considering change in February and wait for five reports and the thematic report. What would you advise now in light of our continued concerns?
- What changes do you think we might make to the scheme to make it operate more efficiently
- If we were to change the Scheme would you be prepared to continue your involvement in some way?

FILE NOTE: MEETING WITH TONY HOOPER
MONDAY 24TH FEBRUARY AT 2:30PM

How was it?

IN ATTENANCE: PAULA VENELLS (PV)
TONY HOOPER (TH)
CHRIS AUJARD (CA)

1. The meeting was held at PV's request in order to discuss the progress of the mediation scheme with TH. It was agreed that the meeting would be held "off the record".
2. PV opened by explaining that she had just finished a meeting with Second Sight (SS), convened for a similar purpose, (the timing of which was in part coincidental) and it was agreed that it would be beneficial to relay to Tony the contents of that meeting. It was also explained that the cost of the scheme was currently running at around £5m, and that that SS had estimated the compensation costs could be up to £50m. The scheme had therefore moved a long way from its initial positioning as something the outcome of which in many cases might be an apology and/or a small gratuitous payment.
3. The meeting with SS had in large measure turned on whether, and how, SS could manage the volume of reports that were in the process of being prepared and which would be with shortly be passed to SS. Overall, some 35 cases were in the pipeline, and PV and the POL team were very concerned that SS would not be able to process these cases, and produce reports on them, in a meaningful timeframe. SS had seemed unable to provide any assurance that they could complete their work by October 2014, the current projected end date of the scheme, with the impression being left that it could carry on much longer than that.
4. TH agreed that SS were very resource challenged, and it would be difficult for them to meet the current timetable. That said, TH's view was that SS were trying to be objective and that they had a difficult path to tread, in that in order to their job properly (in his view) they would need to express an opinion on the merits of each claim. In TH's view, this was something that they found hard to do. Some concern was expressed by PV and CA that SS were had not in their correspondence come across as independent, and may be unduly influenced by the need to satisfy certain MPs.
5. The various ways forward were discussed. These included a) terminating the scheme entirely and allowing SPMR's to pursue their legal remedies through the courts and/or paying out compensation to applicants in a formulaic manner (as per the email that PV had received from the A member of the Board earlier in the day) ; b) restructuring the scheme such that it is looked more like a more like a mediation scheme (with nothing

being resolved until all the applicants CQRs had been received- this would have the effect of pushing out any settlement payments for many months); c) augmenting SS's resources with resources from one of the big accountancy firms, either by displacing them in their investigative role, or by placing resource alongside them; and d) reworking the process in the scheme and streamlining it.

6. TH's strong contention was that POL should take no precipitous action until such time as SS had produced, say, 5 reports, and until we had seen their thematic report. He noted the adverse PR consequences of terminating the scheme and also offered to make himself available to talk to the Board to explain why he considered this approach appropriate, should that be necessary or desirable.
7. The quantum of the compensation payments was discussed. TH noted that the applicant's CQRs often painted a very distressing picture, where there had been a loss of livelihood, and other losses. His view was that, should the evidence show that POL had not acted properly, then the amount of compensation payable could be quite material [NB this contradicts the legal advice obtained by POL from BD which categorically states that the maximum loss POL could expect to pay would be limited to 3 months "pay" under the SPMR's contract}. It was not entirely clear whether TH had in mind criminal cases only when he made these comments.

Chris Aujard

Feedback to Second Sight on case review [GRO]

Dear Ron and Ian,

Initial Complaint Review and Mediation Scheme ("the Scheme")

[GRO]

Thank you for circulating the revised draft of your report on case [GRO]. As you will recall we agreed at the last Working Group meeting that all members of the Working Group would have 24 hours to reflect on matters of style and presentation (rather than substance). This we have done and our comments, which we hope you will find helpful, are set out below.

By way of background it might be helpful for you to understand the way we have approached this exercise. In the main, this was by reference to your terms of reference which were to provide an expert analysis of any points in dispute between Post Office and each Subpostmaster and, where possible, to provide a logically reasoned and evidenced opinion on those points. The aim of your work was to narrow and inform the grounds of disagreement so that the parties may constructively discuss their differences in front of a mediator at a mediation session, with a view to reaching settlement. In addition we have had regard to the directions given to us by the Chair of the Working Group.

Our high level comments are as follows:

- We do not feel that the conclusions reached in your revised draft report logically flow from the analysis as set out in the text of the report. This is important because, unless the logical reasoning is set out in full, it will be more difficult for the mediator to support the parties in their efforts to reach an agreed outcome. It also appears that in a number of cases that you have made reference to facts beyond those which were disclosed in the Post Office investigative report and it is unclear whether these are facts which you have assumed on balance to be true or whether they are ones backed up by evidence.
- It would have been useful, somewhere in the report, to set out, and assess, both parties' views, so that each party could understand the other's position better and so that the mediator could consider Second Sight's findings in that full context. The absence of this text makes the job of the mediator more difficult as they will have to cover this ground in the mediation meeting itself.

- As a related point we had understood that you would set out more clearly and separately the points of common ground, points of dispute and Second Sight's conclusions. However, it seems to us, that in places these three sections have become muddled and, on balance, we believe this may cause confusion for the reader (and potentially the mediator).

As an overarching comment I should add that our expectation was, and remains, that Second Sight's reports would in look and feel be more akin to the "dispassionate" reports produced by expert witnesses in a Court proceeding, where the expert's primary role is to assist the Court in its understanding of a disputed issue of fact. Viewed through this lens a number of conclusions as they are set out in the report seem to us to give the appearance of not being fully supported. That said we are very supportive of this case going through to mediation and fully appreciate that your full work load means that it may not be possible to refine this report any further. However for future reports we would like to see your reports presented with a sharper analytical focus, on (as the Chair has previously mentioned) whether Post Office was responsible or not in any way for the SPMRs "loss".

As agreed at the Working Group, we will, as requested be preparing a response to GRO dealing with points of substance rather than style.

Please do feel free to phone if any of these points are unclear.

Yours sincerely

Chris

Chris Aujard | General Counsel