

Title: Post Office (Horizon System) Offences Bill IA No: RPC Reference No: Lead department or agency: Department for Business and Trade (DBT) Other departments or agencies: Ministry of Justice (MoJ), HM Courts & Tribunals Service (HMCTS)	Impact Assessment (IA)		
	Date: 19/03/2024		
	Stage: Legislation		
	Source of intervention: Domestic		
	Type of measure: Primary Legislation		
	Contact for enquiries:		

Summary: Intervention and Options	RPC Opinion: Not Applicable
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Cost of Preferred (or more likely) Option (in 2023 prices)			
Total Net Present Social Value	Business Net Present Value	Net cost to business per year	Business Impact Target Status
-£0.72m	N/A	N/A	Non-Qualifying provision

What is the problem under consideration? Why is government action or intervention necessary?

From the mid-1990s, hundreds of postmasters and were wrongly convicted after shortfalls of money appeared in their branches, due to faults with Horizon software. To quash these wrongful convictions as quickly as possible the Government is introducing exceptional, new primary legislation. This will be followed by the provision of a route to rapid financial redress. Hundreds of postmasters have been waiting for justice for years, some for decades, and many postmasters have told us they do not want to engage with the justice system any longer. The judiciary and the courts have dealt swiftly with the cases before them, but the passage of time, lack of evidence and lack of trust in the wider system means that existing mechanisms will not provide the swift and complete righting of this miscarriage of justice. Government action, via primary legislation, is therefore necessary to provide a swift and certain resolution and avoid any more delays to financial redress, via a blanket quashing of convictions that meet the criteria.

What are the policy objectives of the action or intervention and the intended effects?

The policy objective is to bring prompt justice to anyone wrongfully convicted as a result of the Horizon scandal. The desired effect of the legislation is that any convictions which meet the criteria are quashed, that this is given practical effect swiftly and that rapid access to financial redress is facilitated. The indicator of success is that those who are eligible receive full and fair financial redress, and that wrongful convictions relating to the Post Office are removed from the record.

What policy options have been considered, including any alternatives to regulation? Please justify preferred option (further details in Evidence Base)

The following options are assessed in this Impact Assessment:

- **Option 0/Do nothing** – Continue to rely on individual appeals from the magistrates’ courts to the Crown Court, from individuals to the Court of Appeal or the CCRC referring cases to the Court of Appeal, where convictions are quashed on an individual, case-by-case basis.
- **Option 1** – Introduce legislative measures to immediately quash convictions of those wrongly prosecuted by the Post Office and Crown Prosecution Service.

As many convictions will not be quashed under Option 0, whether because individuals are no longer willing to engage with the criminal justice process, or because relevant evidence no longer exists having since been destroyed, Option 1 is the Government’s preferred option to best meet the policy objectives.

Will the policy be reviewed? It will be reviewed. If applicable, set review date: From 2027.				
Does implementation go beyond minimum EU requirements?		N/A		
Is this measure likely to impact on international trade and investment?		No		
Are any of these organisations in scope?		Micro No	Small No	Medium No
What is the CO ₂ equivalent change in greenhouse gas emissions? (Million tonnes CO ₂ equivalent)		Traded: N/A		Non-traded: N/A

This policy will be reviewed from 2027 as part of routine post legislative scrutiny, 3-5 years after enactment. As part of this, we will record the number of convictions quashed as a result of this legislation, as well monitor the eventual financial redress that individuals receive, as we do for those who have already had their convictions overturned prior to the introduction of this legislation.

I have read the Impact Assessment and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the leading options.

Signed by the responsible Minister

A handwritten signature in black ink, appearing to be 'Kevin', written over a horizontal dashed line.

Date:

19/03/2024

Summary: Analysis & Evidence

Policy Option 1

Description: Introduce legislative measures to immediately quash convictions of those prosecuted by the Post Office and Crown Prosecution Service

FULL ECONOMIC ASSESSMENT

Price Base Year 2023	PV Base Year 2024	Time Period Years 1	Net Benefit (Present Value (PV)) (£m)		
			Low: N/A	High: N/A	Best Estimate: -0.72

COSTS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	N/A	N/A	N/A
High	N/A	N/A	N/A
Best Estimate	0.72	0.72	0.72

Description and scale of key monetised costs by 'main affected groups'

It has not been possible to monetise the cost of all aspects of this policy. However, the MoJ would expect additional costs associated with setting up an administrative team to identify the individuals whose convictions are quashed, give practical effect to the quashing by ensuring court and police records etc are amended, contact the individuals having their convictions quashed and manage their cases internally. We estimate these costs to be approximately £750,000.

Other key non-monetised costs by 'main affected groups'

HMCTS and the police would be required to update their records, and HMCTS would be required to repay fines which were imposed as part of a sentence. The financial redress paid to individuals would also be a cost to government. For all of these costs, where individuals would have had their conviction overturned via the Court of Appeals process, these costs are likely to be brought forward compared to the counterfactual. Where individuals would not have sought an appeal or their conviction would have been upheld, these are new costs.

BENEFITS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low	NM	NM	NM
High	NM	NM	NM
Best Estimate	NM	NM	NM

Description and scale of key monetised benefits by 'main affected groups'

It has not been possible to monetise any of the potential benefits of this legislation at this stage. This reflects a range of factors, including uncertainties around the values of specific benefits/costs and, the proportion of individuals who would have had their convictions overturned in the Option 0/Do Nothing scenario.

Other key non-monetised benefits by 'main affected groups'

Postmasters and others prosecuted by the Post Office would benefit from their convictions being quashed as quickly as possible and with limited complexity, to ensure that they are no longer identified as criminals. They will then become eligible for financial redress via the compensation scheme subject to confirming the information they have provided is true and accurate. They would also receive the repayment of fines that they would have paid as part of their sentence. Postmasters and others would benefit reputationally, regaining the ability to apply for undertake specific activities and/or apply for certain types of jobs. The CCRC, HMCTS and the LAA would benefit from a reduced caseload as the convictions are automatically quashed and are diverted away from the courts.

Key assumptions/sensitivities/risks

Discount rate (%)

3.5

Those who have their convictions quashed were wrongfully convicted. There is a risk that a blanket exoneration process, such as is proposed in the legislation, could lead to those that are in fact guilty having their conviction quashed. However, this possibility has been significantly reduced by the criteria put in place in legislation. There is a risk that some individuals wrongfully convicted are not captured by the criteria set out, these individuals could continue to pursue their case through the courts.

BUSINESS ASSESSMENT (Option 1)

Direct impact on business (Equivalent Annual) £m:			Score for Business Impact Target (qualifying provisions only) £m:
Costs:	Benefits:	Net:	

Evidence Base

A. Background

1. From 1996, hundreds of postmasters, and others were wrongly prosecuted after shortfalls of money appeared in their branches, due to faults with Horizon software. In 2017, a group of the affected sub-postmasters and sub-postmistresses were granted the right to have the Court of Appeal reconsider their cases, following years of campaigning and successful legal action taken against the Post Office. In April 2021, the Court of Appeal overturned the convictions of 39 postmasters whose cases had been referred by the Criminal Cases Review Commission (CCRC). To date 102 convictions have been overturned through the courts.
2. On 10 January 2024, the Prime Minister announced that the Government will introduce new primary legislation to make sure that those convicted as a result of the Horizon scandal, widely described as the biggest miscarriage of justice in our history, have their convictions swiftly quashed and can receive financial redress. The Government committed to making sure these convictions are quashed later this year (2024), meaning victims do not need to wait a considerable time for the justice they deserve.
3. A number of the cases are over 20 years old, with some of the victims having passed away, many others are in declining health or have lost faith in the system and do not wish to engage further with it. Currently, cases are being reviewed on an individual basis by the courts. This relies on postmasters choosing to lodge an appeal, which we know many will not want to do given their lack of trust in the system. It also relies on there being sufficient evidence that the conviction is unsafe and in many cases that evidence no longer exists. Continuing in this way therefore would not achieve the objective of ensuring all wrongful convictions are quashed.
4. To resolve this, the Government has introduced the Post Office (Horizon System) Offences Bill to quash all of the convictions in scope. The scope will be defined by a set of clear and objective criteria which are set out in the legislation, each of which will need to have been met to identify the convictions which have been quashed.
5. Recognising the constitutional sensitivity and unprecedented nature of this situation, this is an exceptional response. The Government is clear that given the factually exceptional nature of the Horizon scandal this legislation does not set a precedent for the future relationship between the executive, Parliament and the judiciary. The scale and circumstances of this prosecutorial misconduct means that to deliver long overdue justice, this rapid approach is needed whilst respecting, as far as possible, the separation of powers and delicate constitutional balance.

B. Policy Rationale and Objectives

Policy Rationale

6. The conventional economic approaches to Government intervention are based on efficiency or equity arguments. Governments may consider intervening if there are strong enough failures in the way markets operate (e.g., monopolies overcharging consumers) or there are strong enough failures in existing Government interventions (e.g. waste generated by misdirected rules), where the proposed new interventions avoid creating a further set of disproportionate costs and distortions. The Government may also intervene for equity (fairness) and distributional reasons (e.g., to reallocate goods and services to more vulnerable groups in society).
7. The primary rationale for intervention in this instance is equity: legislating to quash the convictions of those wrongly prosecuted by the Post Office and Crown Prosecution Service (CPS) will ensure that they are no longer convicted offenders, their records can be amended and they will be able to access the compensation scheme.

Policy Objectives

8. The associated policy objective is to bring prompt justice to those wrongfully convicted as a result of the Horizon scandal, through means of swift quashing of convictions, followed by rapid financial redress.

C. Affected Stakeholder Groups, Organisations and Sectors

9. Below is a list of the main parties who would be affected by the option considered in this IA:

- Those prosecuted for, and convicted of, relevant offences by the Post Office and Crown Prosecution Service (CPS) and their families;
- HM Court and Tribunal Service (HMCTS) – which administers the courts system;
 - Crown Court – which hears appeals from the magistrates' courts;
 - Court of Appeal (CoA) – who administer justice in appeals cases;
- The Legal Aid Agency (LAA) – who provide criminal legal aid and advice to defendants;
- Police and ACRO (Association of Chief Police Officers Criminal Records Office) – who will review and update criminal records
- Crown Prosecution Service – who would be involved in presenting some cases to the Crown Court or Court of Appeal in the counterfactual option.

D. Description of Options Considered

10. To address the policy objectives, the following options are assessed in this IA:

- **Option 0/Do nothing** – Continue to rely on individual appeals from the Magistrates Courts to the Crown Court, from individuals to the Court of Appeal or the CCRC referring cases to the Court of Appeal, where convictions are quashed on an individual, case-by-case basis.
- **Option 1** – Introduce legislative measures to immediately quash convictions of those prosecuted by the Post Office and Crown Prosecution Service.

11. Alternative approaches to enable convictions to be overturned in groups via the courts were considered but deemed not to be sufficiently different from option 0/Do nothing in meeting the policy objectives of overturning wrongful convictions in a timely manner.

12. **Option 1** is the preferred option as it best meets the policy objectives.

Option 0/Do nothing

13. Under this option, individuals who were wrongly prosecuted by the Post Office and CPS would have sought to appeal their convictions and taken their case through the Crown Court or Court of Appeal. This imposes costs across the criminal justice system, these include:

- a. HMCTS, which will facilitate cases in the Crown Court or Court of Appeal.
- b. The LAA, as a proportion of cases would require legal aid assistance.
- c. The CPS, which would present relevant cases to the Crown Court or Court of Appeal where individuals who have been wrongfully convicted seek to have their conviction quashed.
- d. After the convictions have been quashed, and the court record has been updated, the Police and ACRO would be required to amend their records accordingly.

14. Many of those wrongly convicted will never see their convictions quashed as they will never come forward. Of those who do, some may still not be able to have convictions quashed, because of gaps in specific evidence given the time that has elapsed since their convictions. This could further the unjust suffering that many have already experienced and delay financial redress they deserve to receive and does not provide the certainty that the Government wishes to provide.

Option 1

15. This option will ensure that those found guilty of a crime in relation to the Horizon scandal have their convictions quashed as swiftly and certainly as possible if the criteria are met. This option will also create a route to full, fair and rapid financial redress for quashed convictions. It is anticipated that this would be implemented as swiftly as possible. This legislation will apply to England and Wales only.

Scope

16. The legislation will quash all convictions in scope. That scope will be defined by a set of clear and objective criteria which are set out in the legislation each of which will need to have been met, to identify the convictions which have been quashed.

17. The criteria include:

18. *Prosecutor(s)*: The legislation specifies who the prosecutor was in the relevant case. The Horizon inquiry has heard evidence of the egregious behaviour of the Post Office's investigatory practices. It is therefore proportionate that the Government legislates to overturn these prosecutions where the prosecutor is, in effect, discredited. In addition, two cases have been overturned by the Court of Appeal which were prosecuted by the Crown Prosecution Service (CPS) but based on evidence provided by the Post Office. It is therefore reasonable to include CPS cases within the Bill's scope. No convictions prosecuted by the Department for Work and Pensions (DWP) have been overturned. These convictions are therefore not included in the Bill's scope. The existing and established Court of Appeal processes remain available to those cases.

19. *Offence dates*: A set timeframe will ensure convictions are only overturned where the alleged offence took place during the period that the flawed versions of the Horizon system (including its pilot) were in operation (between 23 September 1996 and 31 December 2018 inclusive).

20. *Offence types*: The legislation specifies which offences are in scope, ensuring these align with the offences known to have been prosecuted by the Post Office. This means that only relevant offences, including: theft; false accounting; fraud; handling stolen goods and money laundering; will be in scope. Non-related offences, such as offences against the person, will be excluded.

21. *Use of the Horizon system at the date of the alleged offence*: The convicted person will need to have been working (including working in a voluntary capacity) in a Post Office that was using the Horizon system software (including any relevant pilot schemes) at the time the behaviour constituting the alleged offence occurred.

22. *Offence committed in the course of Post Office business*: The convicted person will need to have committed the alleged offence in connection with running the business of that post office or working in that post office.

23. In addition, convictions will not be in scope where they have already been considered by the Court of Appeal, as defined in the Bill.

24. It is also intended that the convictions in scope of this legislation will be quashed at Royal Assent and steps will then be taken to give effect to practical consequences of the quashing of convictions, such as amending criminal records. This will also allow those whose convictions have been quashed to access financial redress.

E. Cost Benefit Analysis

25. This IA follows the procedures and criteria set out in the Impact Assessment Guidance and is consistent with HM Treasury Green Book guidance.

26. Where possible, IAs identify both monetised and non-monetised impacts on individuals, groups and businesses in Great Britain with the aim of understanding what the overall impact on society might be from the proposals under consideration. IAs place a strong focus on monetisation of costs and benefits. There are often, however, important impacts which cannot sensibly be monetised. Impacts in this IA are therefore interpreted broadly, to include both monetisable and non-monetisable costs and benefits, with due weight given to those that are not monetised.
27. The costs and benefits of each option are usually compared to the 'do nothing' or 'counterfactual' option, to demonstrate the potential impacts of reform. In this case the 'do nothing' option assumes that the individuals wrongly prosecuted by the Post Office and CPS would have either sought to appeal their conviction in the Crown Court or Court of Appeal or disengaged from the criminal justice system completely. As the counterfactual is compared to itself, its net costs and benefits are zero, as is its Net Present Value (NPV).
28. Non-monetised impacts have been explored in depth in this IA. It has not been possible to monetise all impacts of the options under consideration due to the degree of uncertainty around particular factors, such as the potential number of convictions that would otherwise have been overturned (under option 0/do nothing) or savings on court costs.

Option 1: Introduce legislative measures to immediately quash relevant convictions of those prosecuted by the Post Office and Crown Prosecution Service.

Costs of Option 1

Monetised Cost

MoJ

29. There will be costs to the MoJ to set up an administrative team to identify those convictions which meet the criteria as having been quashed, contact the courts and police re amending records, and contact the individuals in scope for having their convictions quashed, letting them know that their conviction has been identified as being in scope of the legislation. This team would continue to be the main point of contact until final confirmation is given that records have been amended accordingly.
30. Based on headcount required, salary expectations and additional other administrative costs we anticipate the total cost to be around £750,000 within the financial year 2024-2025 (in 2024 prices).

Non-Monetised Cost

Police

31. The police will be required to update their records in a similar way to the counterfactual option, though these costs are likely to be incurred sooner and in greater number in option 1 than under the counterfactual.

HMCTS

32. HMCTS will be required to update court records to reflect the fact that the convictions were quashed and be required to repay fines which were imposed on individuals as part of their sentence. Where individuals would have had their conviction overturned via the Court of Appeals in the counterfactual, under option 1 these costs are brought forward. For those who would not have otherwise sought an appeal or not been successful (e.g. due to lack of evidence), these would be additional costs under option 1 compared to the counterfactual. Since these would be a transfer to individuals, these would also count as benefits and therefore count as zero in the NPSV.

DBT

33. DBT will be responsible for administering financial redress to those with overturned convictions. As with the repayment of fines, these costs may be brought forward compared to the counterfactual or be new costs. Since this redress would be a transfer to individuals, these would also count as benefits and therefore count as zero in the NPSV.

Benefits of Option 1

Monetised Benefit

It has not been possible to monetise any of the potential benefits of this legislation at this stage. This reflects a range of factors, including uncertainties around the values of specific benefits/costs and the proportion of individuals who would have had their convictions overturned in the Option 0/Do Nothing scenario .

Non-Monetised Benefits

Postmasters and others prosecuted by the Post Office and CPS

34. Compared to Option 0, this option will allow those prosecuted by the Post Office and CPS and convicted of relevant offences to have those convictions quashed with certainty, ensuring they are no longer identified as criminals as quickly as possible and with limited complexity. It is estimated that approximately 800 Postmasters and others prosecuted by the Post Office and CPS are potentially in scope of this legislation.
35. The individuals having their convictions quashed will then become eligible for financial redress via the compensation scheme subject to confirming the information they have provided is true and accurate. This includes becoming eligible for a fixed sum compensation payment of £600k or potentially more if they choose to submit a full compensation claim. Upon overturn individuals become immediately eligible for payment of £163,000, which can be topped up to £450,000 (less any payments already received) available upon receipt of full claim, subject to light touch assessment.¹ They will also receive repayment of fines they were required to pay as part of their sentence. For those who would not have otherwise had their conviction overturned, these are new benefits. In other cases, these are benefits brought forward compared to the counterfactual. As noted above, these benefits would be transfers from government costs and therefore count as zero in the NPSV.
36. There are a range of non-monetised benefits to postmasters and others of having their convictions quashed more quickly than in the Option 0/Do nothing scenario. The quicker access to financial redress as a result of this legislation is likely to be of significant value to those affected due to potentially high discount rates, driven by factors such as age, with many of those whose convictions are quashed likely to place significant value on being awarded compensation as quickly as possible.
37. Other non-monetised benefits to postmasters of having convictions quashed more quickly include benefits to their own personal reputation, the ability to undertake certain activities and/or apply for certain types of jobs that require no prior convictions, and the ability to generally participate more fully in civil society. These benefits also apply to those Postmasters and others who, without this legislation, would not have otherwise had their convictions overturned due to factors such as lack of evidence.
38. *HMCTS (Crown Court and Court of Appeal)*
39. Compared to Option 0, cases will no longer go through the Court of Appeal but will have their conviction automatically quashed, resulting in a reduced caseload for HMCTS. This may also bring benefits to other wrongfully convicted individuals to have their appeals heard and convictions overturned more quickly due to this increased capacity, although given the overall scale of likely overturns compared with court volumes this impact may be marginal.

LAA

40. Compared to Option 0, a proportion of the cases will no longer require legal aid assistance. Therefore, there will be a reduced caseload for the LAA as these convictions are automatically revoked.

¹ <https://www.gov.uk/government/publications/post-office-horizon-system-offences-bill-supporting-documents/financial-redress-factsheet-post-office-horizon-system-offences-bill>

41. Compared to Option 0, the CPS would not present relevant cases to the Crown Court or Court of Appeal, which will reduce their caseload.

F. Risks and Assumptions

42. The impacts in this IA are based on the following assumptions. In this section we identify those assumptions and the risks that might emerge should they not prove to be accurate.
43. All those who have their convictions quashed through the courts were wrongfully convicted. There is a risk that including a blanket exoneration process could include those who were not wrongfully convicted having their conviction quashed. However, this possibility has been reduced by the criteria put in place in legislation. A proportion of the individuals wrongly prosecuted by the Post Office and CPS would not continue to engage with the criminal justice system. Consequently, the impacts described in Option 0 would be experienced by victims.
44. There is a risk that some individuals wrongfully convicted are not captured by the criteria set out, these individuals could continue to pursue their case through the Court of Appeal.

G. Wider Impacts

Equalities

45. An Equality Statement has been published alongside this IA.

Better Regulation

46. This proposal is not considered to be qualifying regulatory provisions and are out of scope of the Small Business Enterprise and Employment Act 2015.

Environmental Impact

47. We expect there to be no environmental impacts as a result of the options within this IA.

H. Monitoring and Evaluation

48. The policy will be reviewed in the normal way for post legislative scrutiny. This policy will be reviewed from 2027 as part of routine post legislative scrutiny, 3-5 years after enactment. As part of this, we will record the number of convictions quashed as a result of this legislation, as well monitor the eventual financial redress that individuals receive, like we do for those who have already had their convictions overturned prior to the introduction of this legislation.