



Horizon Compensation Advisory Board

Report of thirteenth meeting held on 25 March 2024

Members present: Prof. Christopher Hodges (Chair); Lord Arbuthnot; Prof. Richard Moorhead.

Also present: Rob Brightwell, Charlotte Heyes, Eleri Wones (all Department for Business and Trade – “DBT”).

Apologies: Kevan Jones MP; Carl Creswell.

Redress for people whose convictions are overturned by the Post Office (Horizon System) Offences Bill

1. DBT updated the Board on its initial thinking about the redress scheme which would apply to those whose convictions were overturned. DBT had discussed this with claimants’ representatives the previous week.
2. The Board welcomed the decision that DBT, rather than the Post Office, should deliver the scheme. It was keen that there should be a “case manager” function for the new scheme akin to that performed by Sir Gary Hickenbottom in the scheme for those whose convictions were overturned by the Courts. The meeting discussed options for how this role might integrate with the roles of Reviewer, Independent Panel chair and claims facilitator.
3. The Board noted that pecuniary and non-pecuniary losses were being handled separately for those whose convictions were overturned by the Courts. In their view it would be better to deal with them together in the new scheme. Larger interim payments might strengthen the case for this.
4. DBT reported early thinking about the formulation of a “statement of truth” which those with overturned convictions would have to sign in order to access redress. All agreed that whilst it was important to discourage redress applications from those guilty of genuine wrong-doing, it was essential that this statement should not dissuade any innocent postmaster from applying. DBT appreciated that many convicted postmasters would be very sensitive to anything which appeared to be a legal threat. Those present explored various suggestions about how a statement might be formulated. DBT agreed to circulate some further options.
5. DBT were discussing with claimants’ lawyers the amount of Post Office evidence which would be needed to support claims, especially for those accepting the £600,000 fixed offer. This was important to ensure that claims were dealt with as quickly as possible.

Discussion with claimants’ legal representatives

6. The meeting was joined by James Hartley of Freeths; Neil Hudgell of Hudgells Solicitors; Kieran O’Rourke and David Enright of Howe and Co; and Tim Moloney KC and Paul Marshall of Counsel, all of whom represent postmasters in various contexts.
7. The Board asked claimants’ representatives for their views of the details of the Post Office (Horizon System) Offences Bill.
 - a. There was concern at clause 3 of the Bill, which excluded cases already upheld by the Court of Appeal or denied leave to appeal. When considering such cases the Court had not had the benefit of the evidence which had subsequently been presented to the Williams Inquiry about the widespread improper practice of the Post Office’s investigation and prosecution functions. Board members and postmasters’ lawyers took the view that many or all of these convictions were likely to be unsafe. Some had been decided before the *Hamilton* judgment.

- b. There was a potential interaction between clause 3(2) and rule 36.13 of the Criminal Procedure Rules, which might be read as preventing about 20 cases which had been abandoned on appeal to the Court of Appeal from being overturned by the Bill. DBT agreed to discuss with MoJ colleagues. [Secretariat post-meeting note: Paragraph 48 of the Explanatory Notes to the Bill ([here](#)) already addresses this point. Rule 36.13(4)(c) would not prevent these cases from being overturned. The rule requires the Registrar to treat the application or appeal *as if it had been* refused or dismissed. But clause 3 is concerned with what has *actually happened* to the application or appeal.]
 - c. Representatives were also concerned about the exclusion from the Bill of convictions of postmasters in Scotland and Northern Ireland. DBT repeated the explanation of this decision which Ministers had given to Parliament.
8. The Board also sought representatives' views about the proposed redress scheme.
- a. Most favoured adopting a tariff for legal fees along the lines of that for the GLO scheme but were concerned about any tariff's operation in respect of the most complex cases. When the tariff had been agreed both DBT and claimants' representatives had had limited knowledge of the nature of the cases and the work which they were likely to involve.
 - b. It was important that the role of the claim facilitators should be an active one. Few GLO claims had yet reached the claim facilitation stage: most of the hundred-plus cases had been settled bilaterally. DBT confirmed that they were discussing with the GLO claim facilitators the learning from the initial group of cases. They would engage claimants' lawyers about this.
 - c. The Board emphasised the importance of transparency in the principles used as the basis for redress, including those established by Lord Dyson through his Early Neutral Evaluation in relation to non-pecuniary heads of loss arising from malicious prosecution. They regretted that the Dyson principles could not be published – or even shared with them – without the consent of all the postmasters involved, which had not been given. Postmasters' representatives explained that many of their clients wanted to keep the amounts of settlements private. However, given the Board's concern they would revisit the issue with their clients.
9. The meeting discussed the constraints affecting the pace of compensation more generally.
- a. The Minister had agreed at his meeting with the Board in February to commission monthly reports on the progress of each scheme. These would come from independent case managers where these were in place. DBT reported that the first round of such reports would be published in April. They would help DBT and stakeholders to consider effective ways to accelerate the provision of redress.
 - b. Claimants' lawyers said that their own resources were adequate because they were able to plan for the work and recruit or redeploy staff appropriately.
 - c. DBT noted that expert evidence – especially from forensic accountants – was proving to be a constraint on the pace of the GLO scheme. DBT and Freeths were currently piloting an approach under which less detailed evidence would be sought by claimants' lawyers with DBT making corresponding changes to its evidential requirements.
 - d. DBT also noted that in the light of previous feedback from claimants' lawyers, they were reconsidering their approach to facilitated discussions to ensure that these were as productive as possible. They were encouraging the claims facilitators to take an active approach to bringing both sides together to achieve an early resolution.
 - e. Claimants' lawyers noted that the fixed offers had provided prompt and ample compensation for many individuals. It was clearly not meant for those with larger claims – but media comments in that context about the figures being “derisory” led some of

those with smaller claims to have expectations which were unrealistic given the actual scale of their losses. Claimants' lawyers sometimes found it challenging to help their clients to understand this.

- f. The meeting welcomed the very large number of additional HSS claims submitted since the broadcast of *Mr Bates vs the Post Office*. Although the new £75,000 fixed offer would provide some of these with rapid redress, it would take some time to get through the remainder – not least because the requirements of the independent panel were quite prescriptive. DBT agreed to ask the Post Office to consider what could be done to address this.
10. Claimants' lawyers believed that it was important to provide redress to those members of postmasters' immediate families who had been affected by the scandal. It was suggested that redress should be provided to members of a postmaster's immediate family who had experienced a recognised medical condition (often mental illness) as a result of the impact of the scandal on the postmaster. It would be difficult to allow family members themselves to claim – but claims on their behalf by the postmaster raised the difficulty of cases where families had become estranged. Some suggested that a tariff would be appropriate. The Board encouraged agreement of mechanisms that delivered fair remuneration for intermediaries balanced with protection of taxpayers' funds and fair sharing of uncertainty.
 11. The Board thanked the lawyers present for their work, information and ideas, and emphasised the value of ensuring that important issues were brought to the Board's attention.