



Overtured Convictions

Terms of Reference for the Independent Pecuniary Compensation Assessment Panel

Contents:

- A. Introduction and purpose
- B. The Overriding Objective
- C. Definitions
- D. Role and remit of the Panel
- E. Composition and Governance
 - *Membership*
 - *Chair, Structure and Consensus*
- F. Communications with the Panel
- G. Referral and Procedure
- H. The Recommendation
- I. Confidentiality
- J. Fees and costs
- K. Target timescales

A. Introduction and Purpose

The Independent Pecuniary Compensation Assessment Panel has been constituted as an accessible and independent body whose objective is to facilitate the resolution of disputes regarding the amount of pecuniary compensation to be paid by Post Office to Claimants with overturned convictions, in the context of an Independent Pecuniary Compensation Assessment.

Prior to any referral to the Panel, Post Office will have made Claimants a without prejudice offer of compensation in accordance with the Principles pursuant to the Pecuniary Compensation Assessment Process. Where the amount of compensation to be paid to a Claimant cannot be settled by agreement between Post Office and the Claimant concerned, either party may refer the dispute to the Panel who will make a non-binding recommendation as to the appropriate amount of compensation to be paid.

To help facilitate the resolution of disputes, the Independent Assessment and all aspects of the Panel's role as set out in these Terms of Reference will operate on a without prejudice basis.

Although it is anticipated that the Panel's recommendation will facilitate the resolution of disputes by agreement, nothing in the Independent Assessment or the Panel's role is intended to deprive the parties of their right to resort to open litigation (or agree upon an alternative dispute resolution process) should they wish to do so.

B. The Overriding Objective

1. The Panel's overriding objective is to facilitate the fair and independent resolution of disputes which arise in the context of Eligible Claims by, amongst other things:
 - (a) Making recommendations as to pecuniary compensation which are fair and consistent as between Claimants, taking into account the facts of each case;
 - (b) Devising appropriate procedures to enable the Panel to make recommendations;
 - (c) Acting independently and treating all parties to the Independent Assessment impartially;
 - (d) Operating expeditiously and at a proportionate cost, taking into account the amount of money involved and the importance or complexity of the issue in each case.

C. Definitions

2. The following definitions shall have the following meanings:
 - (a) The 'Chairperson' or 'Chair' means Sir Gary Hickinbottom or, in his absence, his delegate.

- (b) 'Eligible Claim' means a claim for compensation in respect of pecuniary losses by a Claimant whose conviction has been overturned and in respect of which Post Office has made an offer of compensation which has not been accepted by the Claimant (in whole or in part).
- (c) 'Independent Assessment' means the Pecuniary Compensation Assessment, as set out in the Pecuniary Compensation Assessment Process.
- (d) The 'Panel' means the Independent Pecuniary Compensation Assessment Panel which shall be constituted as described in paragraph 7 below.
- (e) The 'parties' or a 'party' shall mean the Claimant making the pecuniary loss claim and/or Post Office, as the context requires.
- (f) The 'Principles' means the without prejudice principles underlying offers of pecuniary compensation, which have been the subject of consultation with Claimants. The Principles may be the subject of amendment from time to time, for example to reflect feedback from Claimants, recommendations made by the Panel or any new scenarios which present themselves.

D. Role and remit of the Panel

- 3. The Panel's role is to facilitate the resolution of disputes by making non-binding recommendations as to the amount of pecuniary compensation which should be paid to Claimants in respect of any disputed heads of loss, taking into account the total compensation package which has been made available to the Claimant concerned.
- 4. In arriving at its recommendations, the Panel will apply the Principles save that where the dispute concerns the fairness of any of the Principles themselves or raises an issue which is not covered by the Principles, the Panel may also recommend any amendments to the Principles which it considers appropriate (please see **Section H** for further reference).
- 5. The Panel shall be entitled to determine all procedural matters relevant to its role, including any objections to its jurisdiction or constitution and shall, in particular, have the ability to:
 - (a) Ask the parties to provide additional documents, information or other evidence which it considers are reasonably necessary to enable the Panel to make its recommendations;
 - (b) Set a procedural timetable for the provision of such information;
 - (c) Consider cases referred to it on the papers or, alternatively, convene an oral hearing if the Panel considers that it would be necessary or expedient to do so.
- 6. Should the Panel consider that the input of an expert is required to fairly resolve any disputed issue, it may ask the parties to produce expert evidence

on an identified issue or recommend that a single joint expert be instructed and/or instruct its own expert.

E. Composition and Governance

Membership

7. The Panel shall be constituted from one or more individual panel members who are either:
 - (a) Legal experts;
 - (b) Accountants; or
 - (c) Retail specialists.
8. All Panel members are required to be independent and must not have had any prior interest or involvement in any of the issues between Post Office and postmasters that are the subject of these disputes.

Chair, Structure and Consensus

9. Sir Gary Hickinbottom shall be the Chairperson of the Panel.
10. The Chairperson will be responsible for:
 - (a) Receiving referrals of cases to the Panel;
 - (b) Reviewing the issue(s) in dispute and deciding which member(s) of the Panel should constitute the Panel for that case, taking into account the issues arising and the expertise required;
 - (c) Communicating with the parties, including giving any procedural directions;
 - (d) Sharing the Panel's recommendation with the parties;
 - (e) Recommending any amendments to the Principles, if necessary after consultation with the Panel members who constituted the Panel for the relevant case.
11. The Panel member(s) nominated by the Chairperson pursuant to 10(b) above shall comprise the Panel for that case.
12. Where the Panel charged with considering a case is made up of more than one Panel member and the Panel members are not able to reach consensus on the recommendation to be made, the majority view will be treated as the recommendation of the Panel. If there is no majority, the Chairperson's view will be treated as the recommendation of the Panel.
13. The Chairperson may appoint additional Panel members who fulfil the

qualification requirements set out in these Terms of Reference to ensure that the Panel is adequately resourced and there is no undue delay to the consideration of cases. Any such appointments are subject to agreement with Post Office as to the terms of their retainer.

F. Communications with the Panel

14. Communications with the Panel shall be by email and shall be sent to the Chairperson's clerk who will act as an 'Independent Facilitator' at the following address: [POPanelEnquiries](#) [GRO](#), copied to the other party. The clerk's role will be purely administrative in nature and include receiving communications and submissions from Claimants and Post Office and sharing them with the Chairperson and/or Panel, arranging Panel meetings and/or hearings as required and issuing correspondence on behalf of the Chairperson/Panel as required.

15. Any communications with Post Office should be sent to [OC_RUlegal](#) [GRO](#)

G. Referral and Procedure

16. Should a party wish to refer an issue in dispute to the Panel, they shall provide **7 working days'** notice of their intention to do so by email to the Panel and the other party.

17. A party should refer disputed issue(s) to the Panel by completing the application form supplied and sending a copy by email to the Chairperson's Clerk, copied to the other party.

18. The application form should include:

- (a) A copy of the without prejudice offer(s) made to the Claimant;
- (b) A concise summary of the referring party's position on the disputed issue(s);
- (c) Relevant correspondence between the parties; and
- (d) Any relevant supporting evidence.

19. The other party should within **10 working days** of receipt of the referral (or such other period as the Chairperson may allow) share a similar concise summary of their position, together with any additional correspondence and supporting documents, by email with the Chairperson and the other party.

20. If, following receipt of a party's submissions, either party wishes to make a revised proposal to the other party, that party must inform the Chairperson and the other party immediately and in any event within **10 working days**, setting out the date by which any revised proposal will be shared with the other party and the Panel.

21. Within **14 working days** of receipt of the documents referred to at paragraphs **17** to **19** above or, where a revised proposal is made, confirmation from either

the Claimant or Post Office that the revised proposal has not resolved the dispute, the Chairperson will write to the parties to inform them which Panel members will constitute the Panel for that case and discuss with the parties the further steps (if any) that will be required to enable the Panel to make a recommendation.

22. In deciding the appropriate procedure to adopt, the Chairperson will take account of the Overriding Objective of achieving swift and fair resolutions at proportionate cost.

H. The Recommendation

23. Once the Panel has considered the parties submissions and any such additional information which it considers reasonably necessary to enable it to make a recommendation, the Panel will prepare its recommendation and share a copy by email simultaneously to both the Claimant and Post Office.
24. The recommendation should be made on a **without prejudice** basis and should be supported by brief written reasons.
25. The recommendation will not be legally binding on either party but the expectation is that it will allow the parties to reach agreement in respect of the disputed head(s) of loss.
26. If the Chairperson considers that the Principles require amendment in light of the recommendation made in the context of an offer to a specific dispute, the Chairperson will make this recommendation at the same time as making a recommendation on the disputed head of loss.
27. The Chairperson shall recommend a proposed amendment of the Principles to the parties, taking into account any requirement to preserve the confidentiality of information relating to the individual case, including as to the amount of the compensation offered and/or recommended to be paid.
28. Any recommendation to amend a Principle will be **non-binding** and will be supported by a short written summary as to the reasoning.
29. All parties will use best endeavours to agree the text of any amendment to the Principles recommended by the Chairperson. The agreed text, or if the text is not agreed, the parties' respective positions on the proposed text of the amendment, shall be shared with the Chairperson within **14 working days**.
30. The Chairperson will then consider all comments received and shall issue the final text of the amendment to the Principle within **14 working days**.

31. Once issued and if agreed by the parties, The Chairperson's clerk thereafter shall share an amended version of the Principles with all Claimant firms incorporating the final text of the amendment.

I. Confidentiality

32. Unless agreed otherwise in writing between the parties or required by law, these Terms of Reference and all other information, whether written or oral, which is shared between the Panel and the parties as part of the Independent Assessment is confidential to the parties and shall not be disclosed by any member of the Panel to any third party or used for any other purpose other than the Independent Assessment, save that Panel members may share such information as may be necessary to enable them to carry out their functions under these Terms of Reference with:

- (a) Any third party experts retained by the Panel to assist them in making recommendations under the Independent Assessment; and
- (b) Panel members' own employees, companies or agents, insurers and professional advisors, accountants and auditors

provided that any such party to whom such information is disclosed also agrees to maintain its confidential status in accordance with the same terms and subject to the same exceptions as set out in this clause.

J. Fees and Costs

33. The Panel's fees and any disbursements are to be paid by Post Office.

34. The reasonable costs of a Claimant's participation in the Independent Assessment will be paid by Post Office on the standard basis, to be assessed if not agreed.

K. Target timescales

35. The target timescales for the Independent Assessment are set out below.

Action	Timescale
Notice of intention to refer an issue to the Panel to be provided to the Chair and the other party	7 working days in advance of lodging referral
Party to provide a copy of the referral application and evidence to the Chair and the other party	7 working days from the date of notice of intention to refer
Other party to provide concise summary of their position to Chair and other side	10 working days from receipt of referral application
Chair to notify parties of Panel composition and propose timetable for further information required to enable it to make recommendation	Within 14 working days of receipt of the parties' submissions and any further proposals pursuant to clause 21
Panel to issue its Recommendation for determination on a disputed issue and/or a Principle adjustment recommendation	No more than 21 working days from the conclusion of the Panel's assessment