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Monthly monitoring meeting – Overturned Convictions and Horizon Shortfall Scheme
04 April 2024

Attendees:

| Department for Business and Trade | Post Office Ltd |
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| Beth White (BW) Charlotte Heyes (CH) Ciara Lawrence (CL) Harry Fallowfield (HF) Liam Butler (LB) | Neil McDaid (NMc) Caroline Whitehall (CW) Catherine Connolly (CCo) David Firth (DF) Evelyn Hocking (EH) Jamie Tebbutt (JT) Ken Kyriacou (KK) Jacki Adams (JA) Olha Ellis (OE) |

Overturned Convictions:

Item 1 – Horizon Convictions Redress Scheme (HCRS) update

CH shared the work going on within HMG to prepare for scheme launch, including work with No.10 Delivery unit, MoJ and digital teams re: claimant interface with Gov.UK. CH explained DBT would be open to receiving reflections from POL colleagues on lessons learned.

CH said that DBT had met with claimant representatives and work was ongoing to revisit tariffs of fees, and how best to reduce adversarial elements of the process and amount of lawyer input.

Work is also ongoing on procurement processes and disclosure. For procurement, DBT will be going to tender for some of the services which GLO scheme have been using, but there are outstanding decisions as to whether to use all the services in the same way. On disclosure, DBT is working with POL colleagues to determine what work can be done now to proactively offer information, and similar work is ongoing with HMRC. It was noted that the number of people to be exonerated, the number of these who will claim redress, and the number of these who accept the £600k fixed sum.

CH noted that as the Bill progresses through Parliament, there are numerous stakeholders with views – for example, Liam Byrne who has submitted amendments on delivery targets and financial penalties. CH stated that consideration would be given to the idea of having targets, though this would have implications for existing redress schemes across government. On this, NMc gave a view that fines would not incentivise quicker movement.

KK asked what kind of disclosure might be required for claimants regarding the fraud measures in place for the HCRS. CH said the legislation will exonerate people, and they won't be asked to sign anything that says they are/aren't guilty – the statement will be regarding the content of what they submit as part of their claim and the eligibility for the scheme, to prevent fraudulent claims for compensation. This wouldn't necessarily need legal disclosure from P&P.

CH confirmed that PNC cases should continue to be processed through OC1.

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Item 2 - Flow of claims and any blockers

NMc asked whether claimant representatives had indicated whether they will continue to submit OC1 claims. CH said they had not yet asked directly, but could do. NMc said that removing impediments to people coming forward (e.g. £450k payment) should help, and there had been no clear steer that claimants do not want to apply. CL noted the positive process in putting CC-014 and CC-006 through governance. NMc noted two further claims have been received, but there are no others in train. NMc said that Sir Gary Hickinbottom would be meeting claimant representatives and they expected he would raise the lack of claims coming through during this meeting.

Item 3 – DBT update on £600k fixed sum offer policy

CL gave an update on the £600k policy, noting that advice would be going to the Minister and then HMT Ministers to determine whether the fixed sum offer should remain open after submission of a full pecuniary claim. CH noted that DBT would not necessarily have the same view as claimant representatives, but that all issues would be explored in advice. NMc stated that keeping the offer open would not encourage people to reach full and final settlement, but that this position is becoming more difficult to defend due to media coverage around the £600k fixed sum, with suggestions that it is too low.

Item 4 – Delegating authority on pecuniary claims

CL agreed to work with POL colleagues to agree exceptional case criteria for pecuniary claims to reduce the governance processes required to sign off claims.

Horizon Shortfall Scheme (HSS)

Item 1 - POL to update on preparations for implementing the £75k fixed sum award

PM explained that POL has identified the ~1650 cases that received <£75,000 and would need to have their settlements uplifted. The calculation methodology to ensure these claimants get the correct uplift is now in place and associated principles are with DBT for approval. Once approved POL will be ready to make offers to claimants subject to assurance, comms being approved, and a funding letter being agreed.

BW noted PM's update and queried whether calculations would take into account tax being exempt. PM confirmed that it did.

BW highlighted that HF was working through the funding agreement for the £75,000 payments, although extra care needed to be taken in drafting as DBT would be using different funding powers than it used other HSS funding. At the same time, DBT was trying to ensure consistency with previous letters as far as possible.

CC noted that POL had drafted a proposed letter to claimants on the £75,000 payment which is also intended to highlight a closure date for the scheme. DBT had been sighted on an early version of this, but the framing had since changed, and CC agreed to send a copy of the new proposed letter following the meeting. The next step on this would be approval from HMC, and subsequently DBT.

CW queried whether the funding for the £75,000 payment would need to be referred to the Subsidy Advice Unit (as was needed for previous funding). BW highlighted that DBT had received advice that this funding would not be considered a subsidy so this should not be the case.

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Item 2 - POL to provide views on SLAs for delivering new offers

KK outlined that POL were finding it difficult to suggest appropriate SLA's given that it was still working through the implications of operationalising the payments, as well as dealing with a high number of new HSS applications. KK confirmed that once papers were agreed on how the revised Shortfall Analysis (SFA's) would work in claims under £75,000, POL should be able to consider and begin forecasting.

HF highlighted that DBT would come under increasing pressure to set timelines for POL from the Select Committee, so although DBT could use the line that it is being worked through, this would not be accepted for too long, and that was partly driving the urgency to agree timelines. At the same time, HF outlined that DBT was keen to ensure that these are realistic. KK confirmed that POL would look to tie this up as quickly as possible.

Item 3 - POL to update on steps being taken to improve claims process in light of Select Committee hearings - e.g. simplifying claims form

KK explained that following the £75,000 payment announcement, POL had developed a couple of options for a revised application form that would be simpler for claimants who wish to take up that payment offer. Separately, POL was considering what requirements would be needed for shortfall assessments for £75,000 payments (i.e. at what point would POL be satisfied). POL was also considering what governance sign off would be needed in this regard, as well what would be needed for exceptional cases (e.g. cases with an insolvency element).

BW noted POL's proposal regarding a closing date of March 2025 for the HSS, highlighting that providing sufficient notice was important. In BW's view POL need to be thinking about communicating by June 2024. HF highlighted that DBT was writing to ministers on this so it would be good to have a formal proposal put forward by POL.

KK noted that this would need to be signed off by POL RC, and POL will be asked how this impacts funding. BW acknowledged this concern. BW queried POL Legal's view on the question of statute of limitations if POL were to receive claims beyond December 2025. KK highlighted that previous RC views were that the December 2025 should be the end date, but this was rebutted by DBT previously. BW highlighted that DBT was not uncomfortable with the March 2025 suggestion in the first instance but would like to finalise what happens to claims received after that time.

KK highlighted that his inclination from previous experience was that such claims would be assessed in the same way but would not get the benefit of external overview (that is set within the parameters of the HSS). It would essentially become an internal process, but it remains to be seen if HRC would be fully comfortable with that. KK noted that it would need to be considered whether this should be communicated to claimants. RP noted that if substantial cases came in POL would require funding, but the hope is that all potential claimants will be reached by this proposed closing date.

Items 4/5 - Update on Dispute Resolution Process Next steps on dispute principles and revising process

SL explained that there was a DRP paper going to HMC in April, which looked at ways of getting cases through the DRP more quickly and efficiently. SL also highlighted that POL were piloting face to face escalation meetings.

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On the £75,000 payment, POL was aware of around 90 cases in the DRP that would be likely to accept it. SL highlighted that Stephen Ruttle (mediator) had been positive to legal representatives about the £75,000 payment in that it evidenced that government was erring on the side of generosity to ensure a fair settlement.

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