

Monthly Monitoring Meeting Readout 06 July 2023

Attendees

- Carl Creswell (CC) – Director, Business Resilience, DBT
- Simon Recaldin (SR) – Director, Remediation Unit, POL

Post Office

- Andrew Higham (AH)
- David Firth (DF)
- Madeleine Dematteis (MD)
- Matthew Hilton (MH)
- Neil Davey (ND)
- Pamela Heap (PH)
- Richard Paddington (RP)
- Steve Barlow (SB)
- Stuart Lill (SL)

UKGI

- James Gourlay (JG)
- Rob Mackie (RM)
- Sisi Zhang (SZ)

DBT

- Ciara Lawrence (CL)
- Eleri Wones (EW)
- Emily Snow (ES)
- Harry Fallowfield (HF)
- Foysul Hoque (FH)
- Michael Morondiya (MM)
- Richard Howard (RH)

OC

Name change

Simon Recaldin (SR) provided an update on names changes. The team is now formally known as the Remediation Unit, the Historical Shortfall Scheme is now the 'Horizon' Shortfall Scheme and Overturned Historical Convictions is now Overturned Convictions.

Pecuniary Principles

SR mentioned POL have now delegated authority to make minor changes to the principles. SR discussed POL's timelines and next steps to finalise the principles and was well received by HRC.

AH said the substantive issues will be discussed at the roundtable with claimant representatives and is set to take place on 27 July.

CC raised POC's concerns around the current starting point of two years post overturn for future loss of earnings and asked POL to consider alternative wording. SR and Steve Barlow (SB) agreed and will consider softening the language.

ES mentioned POC also considered the point on not applying inflation to POL rem and would like to see the evidence base that motivated the decision.

Independent Assessor ToR

CC and RM suggested POL proactively provides a status update on the proposed process to the Advisory Board as well as seeking views on the Independent Assessor (IA) ToR, so they can be built in early to avoid delay and facilitate speed. SR agreed to send proposed written update to CC. CC agreed to consider the governance and sequencing of sharing the IA ToR with claimant representatives and the Advisory Board.

SR said POL are still waiting for the claimant advisers to put forward names for the IA panel. AH added that they also anticipate a few KC nominations.

PFA

SR said they had 4 responses to the concede letters and 2 received disclosures and 1 submitted their request and following up on another. 45 have been escalated to senior KC and waiting for advice from the KCs.

SR flagged there is momentum around communicating that POL will pay all (including independent) legal fees for possible OC claimants from HRC. SR said that the Select Committee volunteered to help with communication. Stuart Lill (SL) added by removing this burden it should encourage and give everybody the opportunity to get their case reviewed. They are currently working on a paper to HRC regarding this. CC said DBT would review the proposal when submitted but noted this is outside of the agreed funding.

SR said P&P estimates a top range of 155 which considers outcomes from the PFA triage. POL believes the figure is more like 161 and is concerned about understating this given the number of unknowns. POL may be challenged by Auditors on this matter. SR clarified that the projection figure (number of claimants) will not be published in the annual reports, however the provisional costs will be. The decreasing estimated cohort could be inferred through the accounts. Related to the decreasing estimated cohort, POL plans to seek clarification on Lord Dyson's exemplary damages recommendation and POL will remain transparent about the amount.

Full & Final Settlements

SR suggested presenting and communicating progress in a different may help minimise criticism regarding delays in reaching full & final settlements e.g. number of HoL that are being assessed and have settled X percentage of the cohort. SR added that the claimant lawyers are not coming forward with many of their cases. SB said they have 15 pecuniary claims and 10 are subject to RFIs which have been outstanding for months.

AH said there is working going on with the Inquiry Team on how the stats could be better represented in a more clear and transparent way. CC highlighted that DBT is also working on publishing data and key milestones on a Programme level covering all schemes.

HSS

Progress Update

SR provided an overview of progress on the Horizon Shortfall Scheme, noting that there are 13 cases with offers outstanding from the initial cohort and that Post Office expect to issue at least 4 offers in the following week to reduce this number to single figures.

Further to this, there are 37 cases involving insolvency or a dissolved company (or both) where a full and final offer is outstanding.

CC asked why these cases were not included in the 13 outstanding cases from the original cohort.

SR clarified that in these cases, draft offers had been made but further information was required from the claimant or third parties to make the full and final offer.

DRP

SR discussed the relationship with Hudgell's who have a significant number of HSS cases in the dispute process. The operational team are having weekly meetings with Hudgell's team and are building a good understanding. Most of the outstanding actions are sitting with Hudgell rather than with Post Office.

Pamela Heap (PH) added that around 57 of the Hudgell cases are waiting for impact statements on behalf of the claimant. Hudgell is in turn waiting for expert reports or medical certificates to write these statements.

SR noted that POL are conscious of funding timeframes but that Hudgell does not have an incentive to work to these and it is not productive to apply too much pressure. Interim payments are also reducing the incentive for claimants to engage with the DRP. There may need to be further discussions with DBT on funding.

Tax top-ups

SR noted that POL are currently undertaking work at risk until a funding agreement is in place for tax top-ups. SR asked whether it would be possible for Post Office to make payments ahead of legislation coming into force.

HF responded to note that legislation will be in place from the beginning of August and so should not present an issue to POL.

RP confirmed that POL's current expectation was that initial payments will be made in September. Good progress has been made with a calculator being developed in draft.

RP added that POL are keen to put funding agreement in place as soon as possible to cover tax top-ups, including POL's operational costs. Noted that the GLO contract took a long time to negotiate.

CC agreed that it would be sensible to avoid a protracted negotiation on the contract if possible.

Wrongful death

SR noted his view that there should be some flexibility in the approach taken to these cases given the sensitivity.

Legal Privilege

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CC noted that POL should follow what they think is the correct approach on top of the panel recommendation and not feel hamstrung by it. There will need to be appropriate checks and balances but there may be a case to pursuing a different award to what the panel is able to recommend.

SR added that he has asked DBT for clarification on whether the current funding arrangements allow for POL to make awards that are different to the panel recommendation.

Update on Policy Papers being prepared by POL

SR outlined that four papers are being taken to HRC, with a further wrap-up paper:

- Consequential loss;
- evidential bar;
- de minimis; and
- legal representation

There had been a discussion at HRC as to how to respond to criticisms/vulnerabilities in the scheme and whether any further intervention should be implemented ahead of phase 5 of the Inquiry or potentially alongside the tax top-ups. SR noted a concern that there would need to be funding in place to support any further actions.

RM added that the message was to make progress where we can and consider what can be done proactively to gather information rather than waiting for further reviews.

CC recounted that SteerCo had had a similar discussion and the emphasis was on ensuring that the problems were first understood before we move to implementation and handling. It is difficult to say at this stage whether the issues identified have had a material impact on outcomes from the scheme. It is important to have a shared evidence base before any action is taken.