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Business & Trade**To:** Minister Thomas**Lead Official:** Harry
Fallowfield**Clearing SCS:** Carl Creswell – Director, Post
Office and Business Engagement.**Date:** 11 September 2024**FOR DECISION – HSS FIXED SUM INTERIM PAYMENTS**

Summary of the issue: Due to implementation challenges, officials have reconsidered the policy of offering £50k interim payments to postmasters unwilling to accept the £75k fixed sum on HSS and are seeking your approval to continue without this offer. We need to reach a position quickly in order to enable offers to issue to newer HSS claimants.

Recommendation:

- We recommend that you agree not to offer £50k interim payments to HSS claimants who do not wish to accept the fixed sum award.

Timing: Urgent. We would be grateful for a quick read-out as this is one of the issues that needs to be resolved prior to implementation of the fixed sum awards to new claims.

Context

1. You previously agreed to introduce £75k fixed sum awards for the Horizon Shortfall Scheme (HSS) and to top up claimants who had agreed settlements below this amount. As part of this decision, we recommended (and you agreed) to adopt £50k interim payments for those who wished to have their claim fully assessed rather than proceeding with the fixed sum award. This approach is consistent with the GLO scheme but has not yet been announced.
2. Good progress has been made on implementing the £75k top-up payments. Post Office's operational team expect to have made offers to all the settled claims below £75k in the next couple of weeks.
3. DBT officials have also been working with Post Office to prepare for the rollout of new £75k offers to claimants who have not yet settled a claim with the Post Office. Through these discussions, it has become clear that the implementation of £50k interim payments on the HSS will be more challenging than anticipated due to the tax treatment of these payments. This problem was not anticipated when we previously advised you about the interim payment proposal.
4. Compensation payments made through the HSS are ordinarily taxable. This is typical for commercial compensation schemes and was considered more

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straightforward than requesting tax information from postmasters. However, it proved problematic because some postmasters were losing out due to being taxed for the equivalent of several years' earnings in a single tax period. Subsequent schemes have benefitted from tax exemptions (GLO, OC, HCRS) and tax top-up payments were introduced for HSS to address the discrepancy. Whilst the £75k awards and top-ups are tax exempt under HMRC powers (until legislation is passed), HMRC have since advised that the £50k interim payments continue to be taxable. The result is an additional layer of complexity for both Post Office and the claimant that is likely to undermine the intended objectives and benefits of the policy. For example:

- Postmaster A rejects the offer of the £75k fixed sum and elects to go through the full claims assessment.
 - Upon receipt of their full application, the postmaster receives a taxable interim payment of £50k. At this stage, Post Office cannot clarify how much of the £50k is taxable because they have not had their claim assessed.
 - Postmaster A has their claim assessed by the panel who award £50k with £30k taxable. They receive no further compensation but are now liable for tax on £30k of their interim payment.
5. The above scenario could be delivered but would create a very clunky process for the claimant, likely leading to confusion and criticism. Furthermore, the policy will inadvertently benefit those who receive a lower award from the independent panel as they would then owe less tax on the £50k already received.
6. On this basis, we think it is sensible to revisit the policy position. Although moving away from interim payments creates some inconsistency with the GLO scheme, we think this is appropriate given the different circumstances of the two schemes and the delivery risks for HSS.

Options

7. The options are to remove the interim payment offer or continue to make £50k available to those who seek a full assessment. However, given the delivery challenges with the latter, we do not think this is a credible approach and it may inadvertently lead to greater criticism, as well as the risks highlighted in terms of increased complexity and resource demands.
8. Post Office can continue to make bespoke interim payments for confirmed non-taxable amounts of the claim, as they have been doing for the main scheme. For example, if their shortfall analysis identifies losses of £10,000, this could be awarded as an interim payment ahead of the full claim being settled without causing any additional complexity.

Legal Risk

9. We do not anticipate any legal risk relating to the advocated approach, as there is no legal right to an interim payment. Nonetheless, we may come under pressure from postmasters who opt for the full assessment and receive less than £75k. We will monitor responses and may need to reconsider whether new claimants who

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receive less than the £75k will need to be topped up. Officials will keep this under review and revert with advice to the Minister if required.

Communications

10. We do not plan any proactive comms on this as information on interim payments has not been announced previously. However, we will work with Post Office to prepare Q&A if questions are raised on this approach.

Recommendation

11. We recommend that you agree not to offer £50k interim payments to HSS claimants who do not wish to accept the fixed sum award.

Next steps

12. Subject to your steers, we will press Post Office to continue with implementation of the Fixed Sum and report back to you on progress.

Clearance list

Team	Clearance necessary?	Named lead who has cleared
SCS	Mandatory	Carl Creswell
Perm Sec	No	N/A
Second Perm Sec	No	N/A
Communications (inc named Press Officer)	No	N/A
Finance / Fiscal Events	Yes	Richard Howard
HR	No	< Name >
Legal	Yes	Kat Minett
Parliamentary Unit	No	N/A
Devolution	No	N/A
Analysis	No	N/A
HMTC	No	N/A
Other	No	N/A

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