

Monthly Monitoring Meeting – Overturned Convictions and Horizon Shortfall Scheme**2 May 2024**Attendees:

Department for Business and Trade	Post Office Ltd	
Carl Creswell (CC)	Andrew Mortimer (AM)	Madeleine De Matteis (MM)
Charlotte Heyes (CH)		Matthew Nelson Hilton (MNH)
Ciara Lawrence (CL)	Catherine Connolly (CC)	Neil McDaid (NMc)
Ellen Wasden (EW)	David Firth (DF)	Nigel Machin (NM)
Katie Carr (KC)	Evelyn Hocking (EH)	Nicola Munden (NMu)
Mick Carling (MC)		Pam Heap (PR)
Richard Howard (RH)	George Day (GD)	Richard Paddington (RP)
Stephanie Cossom (SC)	Jamie Tebbutt (JT)	Sarah Lambert (SL)
Eleri Wones (EW)	Jacki Adams (JA)	Simon Recaldin (SR)
	Ken Kyriacou (KK)	Susan Sannachan (SS)

Overturned Convictions**Item 1 – HCRS/Bill Update**

CH provided an update on HCRS and the progress of the Bill. The Bill is moving away from the Commons stages and into the Lords. The Commons stages went smoothly; however, we are expecting the next stage to take longer and be more probing on the technical details of the legislation given many peers have legal backgrounds. Royal Assent is expected late June [*n.b. now early July*] resulting in extra prep time for the HCRS.

Internal pressure remains on whether we are delivering as quickly as possible. During Oral PQs, the Minister said that redress will be paid later this year. SR mentioned that this question was also being raised in restorative justice meetings with postmasters.

CH noted ongoing conversations with MoJ around plans to communicate to postmasters in scope of the legislation to inform them of their conviction being overturned and point them to necessary information and guidance on redress registration. CH noted DBT's intention of carrying over OC1 principles to the new scheme to avoid any inconsistent or disadvantageous outcomes, however the legal fee tariff may differ between GLO and HCRS; conversations are ongoing.

With the aim of awarding contracts in June, DBT will shortly go to tender to secure a law firm to act as case advisors. As policy questions are still being considered, the ADR contract will be secured at a later date. NMu questioned whether the panel would be included; CH confirmed this noting the appointment of the Chair as ongoing despite the intention for Sir Gary to play a role across all schemes to ensure consistency. A public appointment and/or amending current contracts is still being considered. Sir Gary is keen to be involved in non-pecuniary claims, however CC emphasised it may be better for him to focus on the pecuniary side in the immediate term, due to slower progress there.

Regarding user journeys, DBT are holding conversations with the Grants Directorate to discuss the payments process. SR noted POL's payment system works well and it could be used to deliver HCRS – though there may be conflicts of interest. CC noted there is a DBT system in place for GLO payments, but was grateful for the offer.

On principles and evidence thresholds, DBT is keen to make the principles publicly available and transparent. We need to work out the evidence thresholds for the new scheme *e.g. what evidence is required for those making a full claim?* CL noted a decision on Phase 1 and Phase 2 of POL disclosure work should be with POL early next week. JA noted the team should be in place to begin work once training has been completed.

Item 2 – Progress on Pecuniary Claims

103 convictions have already been overturned, but 9 further overturns are due to take place shortly. NMCD highlighted the slow progress on incoming claims, despite recently receiving a new claim. It was noted that Hudgell said he *'would need to reconsider the way [he] drafts'* pecuniary claims as he feels the methodology has changed. POL explained to Hudgell the approach taken was on the principles, and had not changed, but Hudgell has said this will cause delay.

POL are still awaiting some big claims to come through from Howe & Co – expert fees have been paid.

Item 3 – Moving to a Delegated Authority on Pecuniary Claims/Legal Costs

CC noted that we are trying to move to a delegated authority model on pecuniary claims. On CC-014, there are issues involving outstanding legal costs questions and a concern that redress payments should not be delayed whilst being resolved.

CC mentioned the difficulty in assessing legal costs. CL emphasised the need for guidance to ensure that when costs are being analysed, we can check they are reasonable and ensure value for money. CL and NMCD will continue this work offline.

Item 4 – Paul Marshall ENE

Although alternative dates have been offered to Paul Marshall by POL, he continues to decline due to lack of availability.

CL noted the Minister will be writing to Paul Marshall to encourage him to accelerate claim submission, set an ENE date and to not charge his clients for legal costs.

On the potential for criminal disclosure, DBT reiterated the intention of criminal disclosure not being required for people to sign eligibility statements, however this will be kept under review.

Horizon Shortfall Scheme

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

SR and KK highlighted that POL is finalising its approach to dealing with:

- Cases that have had offers/accepted an offer/settled (fixed back) – led by Paul Murray. This will be an largely automated process, offering a top-up payment.

- Cases that are yet to receive an offer (fixed forward)

KK indicated that Catherine Connolly was leading the fixed forward work, developing a process to review applications that specifically express a desire to take up the £75,000 payment, quickly and efficiently. KK highlighted that Catherine was also working on a simplified shortfall assessment for applications requesting the £75,000 payment. This assessment could be conducted internally at POL rather than by HSF, resulting in cost savings. HSF would still be engaged on complicated cases such as bankruptcy.

KK highlighted that POL were working out insolvency principles for individuals who are topped up to £75,000 having previously received an offer below that.

KK also highlighted that it was imperative to finalise a scheme closing date as this would make up a key part of the invitation letter. SR explained that the question of a closure date was previously posed to RC, but they could not land on a specific date. SR explained he was keen to come to a consensus with DBT.

CC thanked POL for the work they had done and queried whether POL would be clear in communications that by accepting the £75,000 offer, an applicant could not then subsequently appeal. CC highlighted the approach on the GLO scheme which is very clear in that regard and that POL should look to follow the same approach. CC confirmed to Simon that in the GLO scheme, if the £75,000 was rejected by a claimant and they ultimately were offered <£75,000 having gone through the full process, they would not be able to take up the £75,000 offer.

CC highlighted that there were some concerns in relation to fraud on the DBT side around the way the £75,000 payment was highlighted quite prominently in some of the comms POL had drafted. CC asked POL to consider how the availability of the offer was made clear, but was not prominently advertised in a way that may give rise to speculative claims. SR acknowledged this point.

BW highlighted the importance of POL/DBT agreeing clear mapping of the different types of options available to the claimant.

NM queried the position on legal representatives and whether the DRP should continue to run concurrently with a proposed DBT-run appeals process.

CC highlighted that there was no agreed funding to offer legal support to those wishing to take up the £75,000 offer and the minister was clear on this point. CC highlighted that the injection of legal advice had the potential to slow down the process significantly and as claimants will either have been topped up significantly, or are content enough to pursue the £75,000 offer, it is difficult to see the value of legal advice, unless a claimant chooses to appeal, rather than be topped up (in which case, they should be offered legal advice).

BW explained that in regard to the second point, (noting that the appeals process was yet to be agreed) the claimant should decide the pathway in terms of proceeding through the DRP or entering the Appeals Process. BW highlighted that it was important to consider the interactions with the Bates vs Post Office settlement deed.

SR and NM highlighted that POL were to revert imminently on the proposed £75,000 fixed sum payments funding letter.

Item 2 - POL to provide an update on late applications forecast and comms plans for closure date.

KK confirmed that a forecast had been finalised and shared with RC. Key dependencies were communications and the take-up of the £75,000 offer – with POL's starting point being that it is prudent to expect 30% of postmasters contacted may submit a claim. SR explained that it was made clear to RC that DBT had some concerns that this estimate was conservative, but RC agreed it was a fair starting point given the lack of information available, and that estimate could be reassessed once communications had gone out.

RH explained that he had seen the models and talked these through with POL. RH felt that there needed to be some more testing around the proportion of claimants POL expected will take the £75,000 offer (RH felt this would be quite high), as well as testing what POL expected the average claim size to be, whether we expected that average to be lower than it was currently. This was necessary as it DBT will need to finalise its own provision for its accounts.

Item 3 - Update on Dispute Resolution Process

SR explained by way of an update that RC have approved a proposal which would afford POL more delegated authority and would simplify the DRP greatly. This was with DBT for review.

SL explained that POL had moved towards conducting face to face escalation meetings as part of these changes. The first of these was conducted prior to the MMM and had worked much better than how escalation meetings had done before. POL was able to gauge a better understanding of the nuances of the applicant's claim, and they were able to understand what type of evidence would be needed in order for a higher uplift to be considered.

CC thanked POL for their work on the DRP and confirmed that DBT would consider the paper outlining the proposed changes. CC queried whether POL had enough capacity to process claims through the DRP, given the amount of work that needs to go into progressing each case.

SL confirmed that the DRP team was stretched, but this was being monitored. CC noted and flagged that DBT were open to try to support where possible.

SL also flagged that the DRP had pulled together a checksheet for POL caseworkers to use to ensure that when speaking to claimants, POL can get a better idea of what the issues are, and whether further information can be teased out prior to escalation.

SR explained that POL was conducting a review on the D&I head of loss, noting that claimants are often extrapolating their D&I over several months, which results in high figures being claimed.

CC thanked POL for their work on the HSS and closed the meeting.