



Department for
Business & Trade

Horizon Compensation Advisory Board

Report of ninth meeting held on 29 November 2023

Members present: Prof. Christopher Hodges (Chair); Lord Arbuthnot; Kevan Jones MP; Prof. Richard Moorhead.

Also present: Carl Creswell; Rob Brightwell; Eleanor Brooks; Eleri Wones (all DBT).

Fairness of the HSS

1. Sir Ross Cranston joined the meeting for this item and the next.
2. The Chair noted the Williams Inquiry's call for the Board to monitor the fairness of compensation. He added that the Board's aim was to ensure fairness, transparency and speed of compensation. These objectives were sometimes hard to reconcile.
3. Sir Ross noted that the HSS was perceived to have structural problems. Regardless of the diligence and professionalism of the HSS Panel the process was tainted by the involvement of the Post Office and issues such as the design of the form and absence of medical and legal advice. There were four possible ways to address these issues:
 - (i) Cases could be reviewed to consider the integrity of settlements. However, this would be little different from the review of the structure and integrity in an application and its handling – ie a ground up review (whether based on a sample or a complete review of all cases). This raised questions about whether cases would be selected for review randomly or by choice.
 - (ii) An independent reviewer could look through the cases to pick out those that appear to exhibit issues arising from the structural concerns. This was effectively a global review necessitating review of all cases. Such a review could either remit cases to the HSS panels for reconsideration; make alternative compensation awards; or lead to a report highlighting problems with the scheme, and recommendations as to how to resolve those problems.
 - (iii) A 'Reviewer' with an appeals-based Panel structure similar to that used for the GLO Scheme, with any 'appeals' being claimant led. Guidelines and gateways to set out an appeals-based process would be needed. To qualify, appellants would need to show that they had been materially disadvantaged – eg because they were not entitled to legal representation.
 - (iv) A claimant prompted 'appeals' type process as in (iii) but with no Panel. Depending on the number of cases seeking review, that could potentially create a considerable burden for the Reviewer.
4. Sir Ross recommended option iii. The Board agreed this recommendation, although it did not rule out some retrospective sampling in due course.
5. This option raised a number of design questions:
 - How should it mesh with the existing HSS dispute resolution process?
 - How should it be communicated to postmasters?
 - How should the independent panel and Review be procured?
 - What access should postmasters have to legal representation, including in making decisions about whether to appeal?
 - How many postmasters were likely to appeal, and hence what was the likely operational cost?

6. The Department was developing advice for Ministers on this issue.

GLO scheme

7. The Board welcomed the introduction into Parliament that day of a Bill to lift the August deadline to make payments under the GLO Scheme, and the parallel announcement of the Department's target of making offers within 40 working days of receiving completed claims in at least 90% of cases. The Bill did not mean any weakening in the Department's planned timescale for the scheme – but it ensured that no postmaster would be timed out of compensation or rushed into decisions. The Department had also published revised Guidance and Principles for the scheme, reflecting the Board's previous advice, and had issued Terms of Reference for the Independent Panel and for the Reviewer.
8. Sir Ross raised three issues relating to the scheme:
 - a. Compensation for members of postmasters' families. For instance, in some cases both spouses were effectively partners in a Post Office business although only one was formally appointed as postmaster. DBT took the view that the GLO and other compensation schemes already dealt with that situation.
 - b. The availability of interim payments. The Department explained that it was willing to make interim payments based on partial claims where postmasters had an urgent need for them. It had already done so very swiftly in a number of cases.
 - c. The rigidity of the tariff scheme for postmasters' reasonable legal costs. The Department noted that the tariff had been negotiated with three law firms, together representing almost all claimants under the scheme, who had accepted it on the basis that whilst some cases would cost much less than the tariff, others would cost rather more.
9. Further discussions would continue on these issues.

Postmaster Detriment

10. Simon Recaldin and Nigel Clibbens of the Post Office joined the meeting for this item to outline the delivery of two Post Office compensation work streams under the heading of Detriment.
11. Simon explained that the High Court's Common Issues judgment had made a number of findings in respect of Post Office's contracts with postmasters which were unrelated to the problems of the Horizon system.
12. The most significant was the finding that postmasters were entitled to pay whilst suspended for any reason, whether or not related to Horizon. The Post Office had launched a process – the Suspension Remuneration Review - to compensate postmasters for the lack of suspension pay. The Post Office had data to show that about 3,000 postmasters were affected, their period of suspension and their remuneration at the time of suspension. The Post Office is writing to them noting that they are entitled to compensation and asking them to confirm their details. Subject to that confirmation, compensation was being calculated. The Post Office was adding 8% per year simple interest to cover any Consequential Loss suffered.
13. Where Postmasters believed their consequential loss was greater than the 8% offered, they were encouraged to submit a claim setting out the nature of these losses. Such claims were assessed and, if over the 8% offered, paid. If the assessed losses were less than the 8% offer, the higher amount would be allowed to stand. Each postmaster could choose the option which suited them best. To date only 10 had asked for actual losses to be assessed.
14. The Post Office expected to launch another process – the Post Office Process Review – to cover another variety of detriment or potential detriment suffered by postmasters, because of historical operational issues with processes or policies relating to the delivery of certain Post Office services. This would take a similar approach to the suspension pay process in delivering

compensation. The Post Office expected to write to all potentially affected postmasters to invite them to claim. The amounts involved would typically be small. Consequential losses would be dealt with in the same way as under the Suspension Remuneration Review.

15. Claims for both types of Detriment could be made by the estates or next of kin of deceased postmasters. The Post Office was taking extensive measures to encourage all eligible postmasters to apply. Support for the costs of legal advice were available for postmasters who wanted actual consequential losses to be assessed.
16. Decisions on compensation were being taken by the Post Office itself, using a process which has been externally assured. Because the amounts involved were modest by comparison with the main compensation schemes and were the results of routine calculations rather than complex legal assessments, the Board accepted that an independent process would have been disproportionately costly. However, it would continue to monitor the progress of these work streams.

Overturning Convictions

17. The Board considered this issue in the light of correspondence with the independent prosecuting authorities and Criminal Cases Review Commissions in the four nations, and ongoing emerging evidence from the Inquiry and the media. The Board agreed that this issue is a major concern, and that the way forward remains unclear, in relation both to achieving the overturn of the large number of palpably unjust convictions and the payment of compensation to those unjustly convicted. The Board discussed a number of ways forward and intends to keep the issue under active consideration. They also discussed related issues around the position of family members and of those whose compensation has been at a lower level than others because the former's convictions were overturned on the basis of not being in the public interest to retry. The Board expressed concern at both those issues and noted that consideration of them is ongoing.
18. The Advisory Board noted that a response on its advice on public interest cases was still awaited, as requested at its last meeting. It was noted that consideration of the issues by Government remained ongoing. The Board expressed concern that time was of the essence in relation to people in this category, because of serious and deteriorating issues in individuals' health and strained economic circumstances. The Board affirmed that this matter raised a key issue of fair treatment and urged that the situation should be resolved as soon as possible. It hoped to receive a full update at the next meeting.