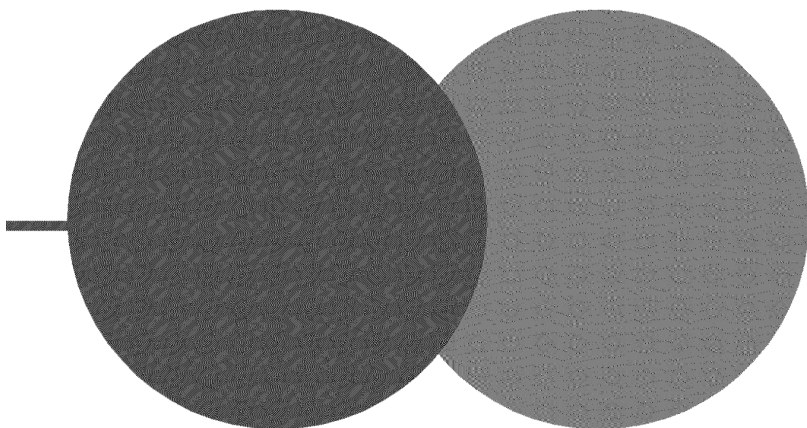




National Audit Office



INSIGHT

Lessons learned:

Government compensation schemes

Cross-government

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National Audit Office

Lessons learned: Government compensation schemes

Cross-government

Report by the Comptroller and Auditor General

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Commons in accordance with Section 9 of the Act

Gareth Davies
Comptroller and Auditor General
National Audit Office

5 July 2024

Lessons learned reports

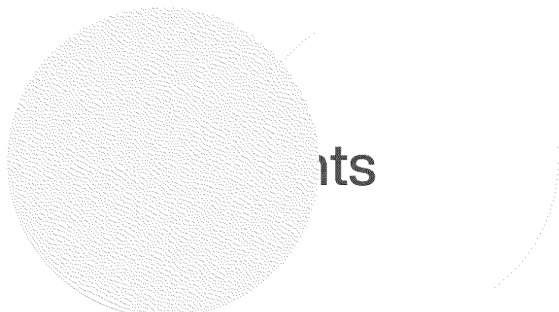
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Introduction

1 People are sometimes harmed by the actions or inaction of public bodies, and successive governments have recognised that in some circumstances where this happens those people are entitled to be compensated. This compensation should be swift, appropriate, and fair to those affected – both directly and indirectly – and to the taxpayer. In his 2022 compensation framework for victims of the infected blood scandal, Sir Robert Francis QC stated:

“Referring to dictionary definitions, it is clear that compensation is not a term limited to an award of money, that it involves a process of determining what should be awarded, and recognises that a person has suffered an injury or loss for which compensation is intended to redress. While liability in the sense of a legal wrong may be involved, fault, negligence or an unlawful act are not necessary preconditions for compensation. However, compensation is a recognition of adversity which should not have happened.”¹

2 This report provides insights based on many years of our reporting on such schemes and the testimonies of those currently engaged in the design and delivery of schemes. It is intended to draw out good practice and risks to assist officials charged with developing similar schemes in the future. For the purposes of this report, we use the term “compensation scheme” to cover schemes where payment (or non-financial redress) is made as a result of a liability established in the courts, where there is no admission of fault by the government, and where there is no government legal liability.²

3 HM Treasury states that “essentially, designing a compensation scheme is no different from designing other services. Good management, efficiency, effectiveness, and value for money are key goals”.³ However, the delivery of such schemes is historically a difficult area for government. Stakeholders may want them to deliver justice, not just redress, for those who have suffered harm or loss. Potential claimants may be suffering emotional trauma because of the cause of the claim, and the process of claiming can cause the original trauma to resurface. Assessing the eligibility and calculation of claims can be very complex and may depend on evidence for events that happened decades earlier. Bodies involved in administering schemes must balance the desire to pay the maximum number of eligible claimants as quickly as possible with a duty to protect taxpayers’ money.⁴ It is not surprising, therefore, that such schemes have regularly encountered problems in the past, as evidenced in our previous work and reports by others.⁵

¹ Sir Robert Francis QC, *Compensation and Redress for the Victims of Infected Blood: Recommendations for a Framework*, 7 June 2022.

² Some schemes where payments are made without the establishment of legal liability do not refer to themselves as ‘compensation schemes’.

³ HM Treasury, *Managing Public Money*, May 2023.

⁴ Or, in the case of some financial services schemes, the interests of firms who fund the schemes through levies.

⁵ See for example: National Audit Office, *Briefing: Administration of time-limited compensation schemes*, 2008; All-Party Parliamentary Group on Fair Business Banking, *Building a Framework for Compensation and Redress*, February 2023; Sir Robert Francis QC, *Compensation and Redress for the Victims of Infected Blood – Recommendations for a Framework*, June 2022.

Why have we produced this report now?

4 In January 2024, the Chair of the Committee of Public Accounts (PAC) asked the Comptroller and Auditor General (C&AG) to consider a thematic review of government compensation schemes for citizens who have suffered harm, hardship and distress from failures by public bodies. The C&AG agreed that this would be a timely moment to update messages from our previous work on compensation schemes over a period of more than 20 years.

5 In her letter, the PAC Chair drew attention to several schemes currently in the public eye: the Windrush Compensation Scheme; compensation and restorative measures for LGBT veterans of the UK armed forces; the proposed Infected Blood Compensation Scheme; and compensation for subpostmasters affected by the Horizon IT scandal.⁶ We have expanded our review to include the findings from a range of our reports on schemes of all kinds between 2002 and 2022 and have consulted with those involved in administering a range of schemes. Our methodological approach, including scheme administrators and other stakeholders consulted, is set out in Appendix One. More details on the schemes we reviewed for this report are set out in Figure 4, Appendix Two.

Scope of this work

6 The intention of this report is to draw on the lessons learned from experience by those involved in the design and operation of various schemes over the years. The report details the lessons drawn from the various schemes with supporting examples from across government to illustrate the challenges faced and how they have been addressed. It is in three parts:

- overview of compensation schemes (Part One)
- scheme design and planning (Part Two)
- operational challenges (Part Three)

7 Our starting point was the National Audit Office (NAO) 2008 report on the administration of time-limited compensation schemes.⁷ During the fieldwork for this study, those we spoke to confirmed the continued relevance of these themes and raised additional issues which are important issues for current schemes. We have also drawn on wider NAO good practice guidance. Despite the common structure of many schemes, each will reflect the particular circumstances of its creation, so these lessons should not be regarded as exhaustive.

⁶ There are four main compensation schemes for subpostmasters affected by the Horizon IT scandal. These are: the Horizon Shortfall Scheme (HSS), the Group Litigation Order (GLO) Scheme, the Overturned Convictions scheme, and the Horizon Convictions Redress Scheme. We spoke to the Department for Business and Trade and other stakeholders primarily about the GLO Scheme and the Horizon Convictions Redress Scheme, as these schemes are run by the government rather than the Post Office.

⁷ National Audit Office, *Briefing: Administration of time-limited compensation schemes*, 2008.

8 We have not sought to individually evaluate any of the schemes mentioned in this report, although in some cases we have drawn on our previous reports which did evaluate some of the schemes covered.

9 Throughout the report we differentiate between time-limited schemes and open-ended schemes (designed to address harms which may occur at any time after a specified earliest date of eligibility). We refer to these open-ended schemes in the report as ‘standing schemes’.

10 In the other parts of this report, we have drawn out a series of lessons for those designing and operating compensation schemes. We have summarised these lessons in **Figure 1**.

Figure 1

Summary of lessons identified in our review of compensation schemes

We have identified 21 lessons for the government on the design and planning of compensation schemes and operational challenges in delivering schemes

| Themes | Lessons |
|---|--|
| Overview of compensation schemes | |
| Principles of scheme design | Officials should learn and apply lessons from good practice and previous schemes, including by consulting guidance from HM Treasury and the Parliamentary and Health Service Ombudsman. |
| | Public bodies would benefit from a central hub within government that could provide guidance, expertise or a framework for those in government seeking to set up a compensation scheme. |
| Scheme design and planning | |
| Understanding stakeholder perspectives and building trust | It is important to make clear to stakeholders the purpose and scope of the scheme when the scheme is established, including what it is unable or not intended to do. |
| | Scheme designers should consider the full range of potential awards in line with the intent of ministers and Parliament. |
| | Involving stakeholders in the design of schemes can help to achieve buy-in and improve the quality of the scheme. |
| | It is important for the scheme’s credibility with claimants that both its design and operation can be seen to be independent from those judged to have caused the harm. |
| Trade-offs between speed of payment and other factors | There is a balance to strike between paying claimants as quickly as possible and the requirement to protect the public purse – the optimum point will vary by type of scheme and the circumstances of claimants. |
| | Scheme designers should be clear where ministers and Parliament stand on the extent to which speed of payment is balanced against other factors. |
| Considerations around types of payments | Interim payments can play an important role in supporting and reassuring scheme claimants. |
| | Scheme designers should be clear in advance to what extent, if any, the government or Parliament would desire scheme payments to be exempt from usual tax or benefit obligations. |

Figure 1 *continued*

Summary of lessons identified in our review of compensation schemes

| Themes | Lessons |
|--|---|
| Operational challenges | |
| Key estimates and assumptions | It may not be possible to precisely estimate the total number of those eligible for a scheme, and it will be helpful to make the level of uncertainty clear to decision-makers and stakeholders. |
| | Officials should avoid over-optimism in their assumptions about the duration of a scheme and the pace of claims processing. |
| | Officials should plan for the possibility that they may need to make additional efforts to persuade claimants to come forward. |
| Claims processing and administration | Claims processing capacity will need the flexibility to cope with changing circumstances. |
| | Schemes will wish to put in place robust systems for gathering evidence from third parties where necessary. |
| | It is important that scheme designers and administrators work to minimise any re-traumatising effects of the process on claimants. |
| Operational challenges <i>continued</i> | |
| Engagement with claimants | Constant communication using an appropriate tone is important for maintaining claimant engagement and stakeholder support. Specific attention should be paid to communicating with vulnerable or disadvantaged claimants. |
| | Claimants should be able to easily access accurate and up-to-date information about the progress and status of their claim. |
| | Additional support offered to claimants during the scheme will help to maintain confidence in the scheme, encourage potential claimants to come forward and improve the quality of applications. |
| Monitoring scheme performance | Scheme performance indicators should be meaningful, straightforward and transparent. |
| | There is a likelihood that schemes will need to change during their existence, whether time-limited or not, and scheme designers should allow for this. |

Note

1 These lessons are not intended to be exhaustive.

Source: National Audit Office analysis of our previous reports, other publicly available information and interviews with stakeholders

Concluding remarks and recommendations

11 Citizens eligible for redress will have suffered hardship and distress. These citizens have a reasonable expectation that their claim will be treated fairly and speedily. There is no central coordinated approach when government sets up new compensation schemes resulting in a relatively slow, ad-hoc approach. Setting-up and administering a compensation scheme is a complex task, and challenging for officials who may have never done it before. This has led to mistakes and inefficiencies in the design of schemes, and delays in getting money to claimants. Claimant and stakeholder confidence can be further undermined where the design and operation of the scheme is not seen as being independent from those who have caused them harm. Those with experience of schemes all agree that: redress should be swift; decisions fair, proportionate and transparent; and that those harmed should be at the heart of decision making.

12 We recommend that:

- the Cabinet Office sets up, by the end of 2024, a centre of expertise within government to provide guidance, expertise or a framework for public bodies seeking to set up a compensation scheme – this should be resourced sufficiently to provide advice to existing and future schemes;
- the Cabinet Office reviews alternative arrangements, including structural arrangements, that would allow compensation schemes to begin and operate in a more timely, efficient and effective manner while earning the confidence of potential claimants. This review should consider a new standing public body to act as a compensating authority to administer future time-limited compensation schemes, and set out the changes it plans to make as a result of the review.

Part One

Overview of government compensation schemes

1.1 It is difficult for any definition to capture all compensation schemes given the range of circumstances through which they have come into being and their differing objectives. Although schemes adopt varying characteristics and features, HM Treasury and the Parliamentary and Health Service Ombudsman (PHSO) set out high level principles to guide how public bodies provide compensation. Officials tasked with setting up compensation schemes will need to draw on these principles, as well as the expertise within government, to ensure they follow good practice and learn from past experiences.

1.2 In this part we cover:

- why the government sets up compensation schemes;
- the timing of schemes;
- scheme characteristics and forms; and
- principles of scheme design.

When and why does the government set up compensation schemes?

1.3 The government generally sets up a scheme to compensate or offer redress to members of the public:⁸

- as a policy choice by ministers;
- in response to recommendations made by a public inquiry;
- through direction by the courts;
- as a result of legislation passed by Parliament; or
- some combination of the above.

1.4 The liability for compensation may arise from a number of sources: statutory, contractual, litigation, and common law, or a perceived moral obligation where hardship has been suffered consequent to State action, notwithstanding the absence of legal liability.⁹

⁸ The terms compensation and redress are often used interchangeably.

⁹ National Audit Office, *Briefing: Administration of time-limited compensation schemes*, 2008.

1.5 The compensation generally reflects the government’s acknowledgement, or a determination by Parliament or the courts, that people have suffered harm, and that a public body is responsible for the wrong or the harm caused. There are some exceptions to this, for example, awards made under the Criminal Injuries Compensation Scheme “are intended to be an acknowledgement of harm [caused by violent crime] and an important gesture of public sympathy”.

1.6 Schemes may be intended to provide redress in response to a variety of situations. These include:

- something that happened at a specific point in time, such as the scheme to compensate former UK trawlermen who lost their jobs as a result of settlement of the Cod Wars with Iceland;
- a particular policy or policy instrument, such as the Windrush scheme to compensate those who have suffered loss in connection with being unable to demonstrate their lawful status in the United Kingdom; or
- a ‘standing’ scheme to process claims of a type that can occur at any time, for example, the Armed Forces Compensation Scheme, designed to “provide compensation, irrespective of fault, across the full range of circumstances in which illness, injury or death may arise as a result of service [in the Armed Forces]”.

Timing of schemes

1.7 In **Figure 2** on pages 12 to 15, we set out the elapsed time from the point at which individuals suffer harm before a scheme is established and begins to deliver compensation for the time-limited compensation schemes raised with us by the Chair of the Committee of Public Accounts (see paragraph 5). It is not the role of this report to evaluate the events that lead to such long time lags. However, long time lags before introducing compensation can increase both the harm to those who have suffered, and the difficulties presented for those who are eventually tasked with designing and operating the schemes. For example:

- It may be very difficult for officials to regain the trust of the claimant population once it has been undermined by long-term failure to acknowledge and address the issue.
- The number of people harmed can increase over time – especially in cases where harm causes health issues. This can extend the impact to family and friends who may become carers or suffer other impacts.
- Claimants may also carry the effects of trauma as a result not only of the original harm, but also from events since, and officials will have to work carefully to minimise further trauma through interaction with the scheme.
- There is an increased risk that evidence to support the claim will have been lost or destroyed in the interim.

- When a scheme is being established there is likely to be considerable political, media and stakeholder pressure to pay claimants as soon as possible, which increases the risk that elements of the design will be rushed or have unforeseen consequences.

Scheme characteristics and forms

1.8 Compensation schemes can vary significantly in their characteristics and features, including the type of compensation offered, the method of claims assessment, access to the scheme and processes for appeals and dispute resolution. Figure 5 in Appendix Two sets out some characteristics of the schemes covered by this review in more detail.

1.9 Compensation schemes are structured in various ways. Common examples include the following.

- Awards based on the specific circumstances of an individual. This would be seen as closely meeting the needs of each individual, particularly for a scheme with wide variations in the extent and types of harm suffered. The complexity would require greater input of skilled resources for administrators, and may require greater evidence-gathering, thus hindering swift awards.
- A system of 'tariffs' where a set sum is applied to a specific harm suffered, or where similar harms are grouped together in tiers of compensation. This is in theory more straightforward but would still require some expert assessment.
- A one-off payment to all claimants, either fixed or variable, in which the redress is acknowledgement of a wrong rather than compensation for a specific harm.

Either of the first two types of schemes can be compensated in a single payment or a series of payments. There are numerous variations on these basic models.

1.10 The type of redress offered need not be solely financial. Non-financial redress is a prominent feature of some schemes, including apologies to those harmed on behalf of government. The government has accepted the recommendations of the LGBT Veterans Independent Review to introduce a wide range of non-financial restorative measures, including the restoration of medals, replacement of discharge papers, and restoration of rank following demotion.¹⁰ Another important non-financial measure can be a timely, meaningful apology. The Compensation Act 2006 states that "*an apology...shall not of itself amount to an admission of negligence or breach of statutory duty.*" The Ministry of Justice is consulting on further reform of the law of apologies in civil proceedings in England and Wales and has noted: "*apologies may play an important role in the dispute resolution process across a whole range of areas of law by reducing adversarial behaviour and the potential for disagreements to escalate... In some situations, a simple sorry may be what those bringing a claim had most wanted.*"¹¹

¹⁰ The Ministry of Defence told us that claimants consider this as additional to, rather than an alternative to, financial compensation.

¹¹ The Ministry of Justice, *Reforming the Law of Apologies in Civil Proceedings in England and Wales*, April 2024.

Figure 2
Timeline of selected schemes from event that caused harm to the present

For some of the most prominent compensation schemes it has taken several decades for victims to begin receiving payments

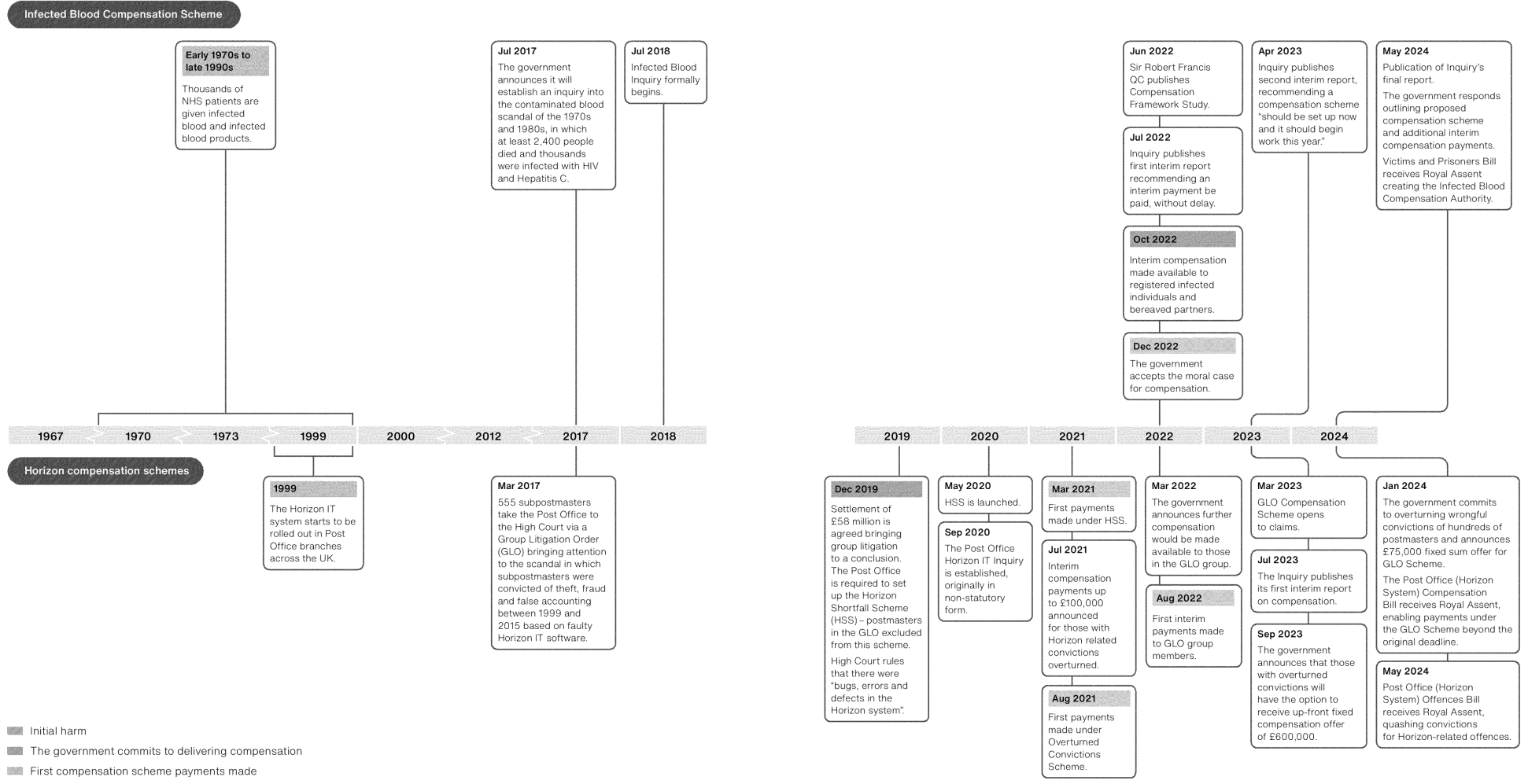
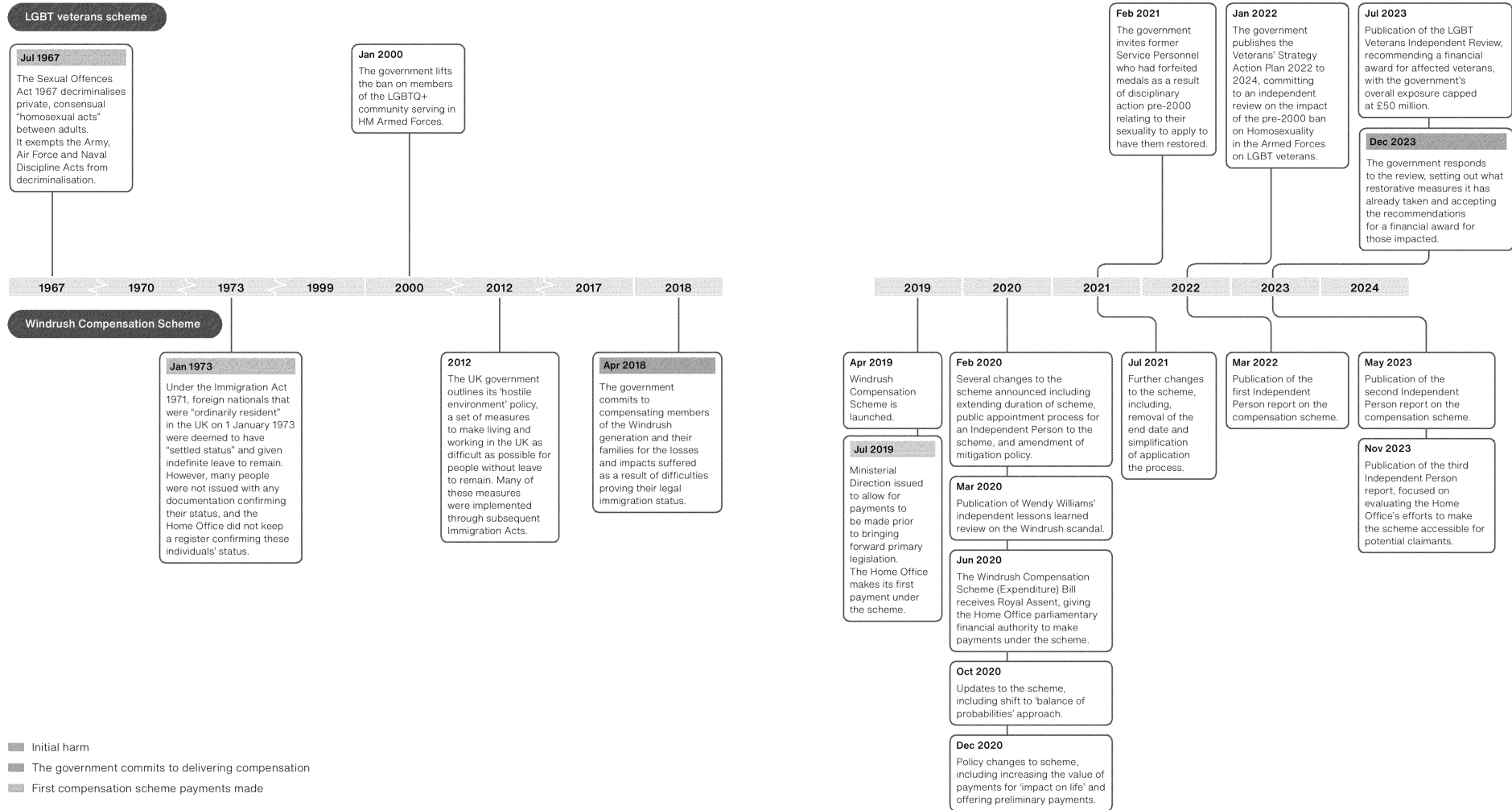


Figure 2 *continued*

Timeline of selected schemes from event that caused harm to the present



Source: National Audit Office analysis of publicly available information

Principles of scheme design

Scheme principles and guidance

1.11 There are desirable principles that apply to all schemes set up to compensate people for a particular harm. Other bodies have commented on the importance of setting up schemes that recognise perspectives such as accountability, transparency, and maintaining good financial management. The Parliamentary and Health Service Ombudsman has published *Principles for Remedy* to guide public bodies in how to provide remedies for injustice or hardship resulting from their maladministration or poor service.¹² It encourages public bodies to use their judgement in applying the principles to produce reasonable, fair and proportionate remedies. The principles outline areas of good practice with regard to remedies.

- Getting it right, which involves acknowledging and putting right cases of maladministration or poor service that have led to injustice or hardship and considering all relevant factors when deciding the appropriate remedy.
- Being customer focused, which includes providing remedies that take account of an individual's circumstances, managing people's expectations and needs, apologising for and explaining the maladministration or poor service, and dealing with people professionally and sensitively.
- Being open and accountable about how public bodies decide remedies, operating a proper system of accountability, and keeping a clear record of what public bodies have decided on remedies and why.
- Acting fairly and proportionately by offering remedies that are fair and proportionate to the complainant's injustice or hardship, providing remedies to others who have suffered from the same issue, and treating people without bias, unlawful discrimination, or prejudice.
- Putting things right, which means returning the complainant to the position they would have been in if the maladministration or poor service had not occurred or compensating them appropriately where this is not possible. This also involves fully considering all forms of remedy, including financial and non-financial redress.
- Seeking continuous improvement by implementing lessons learned to ensure the maladministration or poor service is not repeated and information is used to improve services.

12 Parliamentary and Health Service Ombudsman, *Principles for Remedy*, 2009.

1.12 Government schemes, irrespective of how they have come into being, are within scope of HM Treasury's *Managing Public Money* (MPM) guidance. It sets out factors to consider when deciding whether financial compensation is appropriate, including whether the action or inaction of the public body has caused knock-on effects, hardship or additional costs. It says that the design of a compensation scheme should aim towards the same key goals as the design of any other services, including good management, efficiency, effectiveness, and value for money. MPM observes that some specific issues should be taken into consideration, including attention paid to:

- scheme coverage;
- scheme rules;
- issues of fairness and proportionality;
- testing of systems, such as piloting;
- designing in sufficient flexibility;
- avoidance of excessive administration costs; and
- assurance that the scheme is acceptable generally if it is to set a precedent.

The role of the centre of government

1.13 It is usually the case that the department or public body responsible for the relevant policy area will be responsible for the design of a compensation scheme. Different departments and bodies have adopted different approaches to the design and implementation of their schemes. Our 2008 report on the administration of time-limited compensation schemes highlighted the importance of drawing upon the expertise of other parts of government, and other organisations with relevant experience of administering similar schemes. As part of its development of the Infected Blood Compensation Scheme, the Cabinet Office brought together an informal working group of administrators and officials involved in current and former compensation schemes to be able to draw on their experience and expertise, and used this to inform scheme design.

1.14 Departments or public bodies may also require support from the Treasury Officer of Accounts team in HM Treasury on specific issues relating to regularity, propriety, value for money, and feasibility of the scheme. This could include identifying the need for legislation. Spending teams within HM Treasury will review and approve submissions for new spending relating to compensation schemes (for example, where an accounting officer considers spending is novel and contentious or outside departments' delegated limits), and monitor departments' budgets and spending risks.

1.15 However, there is no central point in government responsible for coordinating schemes or providing guidance or advice on how to design and administer compensation schemes. The Treasury Officer of Accounts team told us that a repository of knowledge on compensation schemes had built up over the past few years, but this was not necessarily formally recorded anywhere. We have previously noted how new schemes might fail to learn the lessons of previous schemes as institutional memory is lost or lessons fail to be learnt. Compensation schemes are not a new area of government spending, but in 2021, we reported that the Home Office told us it had found no clear precedent when designing the Windrush Compensation Scheme. In 2013, the Public Accounts Committee found that HM Treasury had failed to learn lessons from previous compensation schemes when setting up the Equitable Life Payment Scheme.

Lesson:

Officials should learn and apply lessons from good practice and previous schemes, including by consulting guidance from HM Treasury and the Parliamentary and Health Service Ombudsman.

Lesson:

Public bodies would benefit from a central hub within government that could provide guidance, expertise or a framework for those in government seeking to set up a compensation scheme.

Part Two

Scheme design and planning

2.1 A government compensation scheme might arise from a range of sources (paragraph 1.3). This report focuses on the period after a decision is made to introduce a scheme. A key consideration for scheme designers is that, before a scheme even starts, potential claimants and their representatives may feel traumatised by the experiences that led to the campaign for government compensation. Stakeholders may also feel alienated by the initial response of the relevant government bodies – the same bodies which may be involved in the development of the compensation scheme.

2.2 There are a range of different design options for a scheme and the public body must navigate its way through these options. The design must establish the credibility of the scheme with claimants, and strike a balance between speed of payments, the complexities of each case, and the principles of good financial management.

2.3 In this part we cover:

- understanding stakeholder perspectives and building trust;
- trade-offs between speed of payment and other factors; and
- considerations around types of payments.

Understanding stakeholder perspectives and building trust

Scheme purpose and coverage

2.4 It is important that the rationale for the scheme and the purpose of any compensation payment is clear from the outset, as this will affect the type and size of payments. The level and type of compensation offered will be partly determined by why the scheme was set up, which may be for one or more of the following:

- to restore the claimant to a specific financial position that they would have occupied if a wrong committed by a public body had not happened;
- to acknowledge harm suffered because of a wrong committed by a public body;

- to reflect harm suffered through contact with a public body without the formal apportionment of blame;
- as an acknowledgement of physical or mental harm suffered from other sources; or
- to cover financial losses resulting from the failure of, or behaviour of, firms in the financial services sector.

2.5 What the scheme is seeking to achieve, and what it aims to compensate for needs to be communicated effectively to manage claimant expectations sensitively and transparently. It also needs to ensure that those who are eligible realise that the scheme is targeted at them. As an example of why this is important, the Windrush Compensation Scheme's Independent Person reported in March 2022 that the scheme branding had meant that many individuals from communities beyond the Caribbean "felt discouraged from coming forward".

Lesson:

It is important to make clear to stakeholders the purpose and scope of the scheme when the scheme is established, including what it is unable or not intended to do.

Scheme scope

2.6 It is common for schemes not aimed solely at compensating financial loss to extend their scope beyond the person immediately affected and the direct harm experienced. This can present additional challenges for schemes in terms of identifying evidence of eligibility and engaging with the full range of potential claimants.

- *Awards for wider impacts, including social impacts.* Sir Robert Francis' study on Infected Blood Compensation acknowledged the challenges associated with trying to assign monetary values to individuals' different circumstances, as the social effects of diseases could show up in completely different ways depending on individual circumstances.
- *Awards for family members or other individuals affected.* Scheme designers will need to carefully consider the boundaries to the scheme, and how far eligibility to compensation will extend beyond the directly affected individual (including their estate if they have died). Schemes will need to consider this in light of proportionality and avoiding the scheme becoming unduly complex.

Lesson:

Scheme designers should consider the full range of potential awards in line with the intent of ministers and Parliament.

Stakeholder input into scheme design

2.7 Input from stakeholders to the design of a scheme is a helpful way of building potential claimants' confidence in the schemes and providing external expertise. This can feed through to greater awareness and willingness to claim when the scheme opens for applications. The Department for Business and Trade set up an advisory board, consisting of parliamentarians and academics, as a way of providing independent advice and challenge to the Group Litigation Order Compensation Scheme, and other strands of Horizon-related compensation delivered by the Post Office. The Horizon Compensation Advisory Board has recommended that future compensation schemes adopt an independent, well resourced and non-adversarial approach to redress, moving away from courts and lawyers towards new, modern, and responsive dispute resolution procedures. While the Board recognises it is too late to change the fundamental design of the schemes, it has contributed to the new approach of the Horizon schemes aimed at speeding up redress and reducing the effort required of some claimants in bringing claims. Another example is the way that the Infected Blood Inquiry's independent Infected Blood Expert Group had an important role in designing both the compensation framework for the scheme, and more detailed aspects.

Lesson:

Involving stakeholders in the design of schemes can help to achieve buy-in and improve the quality of the scheme.

Independence of scheme administrators

2.8 The body delivering a compensation scheme can have a significant impact on the confidence that potential claimants have in it, and hence their willingness to engage with it. Several public inquiries and parliamentary reports have drawn attention to issues around both the perceived and actual independence of the bodies involved in delivering compensation schemes from those who were seen to have caused the harm. These inquiries and reports expect government decisions about who delivers a scheme to reflect stakeholder views, and any recommendations from inquiries or other reviews. It may be the case that the level of harm caused by a government body, and a prolonged failure to acknowledge responsibility, risks making potential claimants distrustful, which increases the challenges for the compensating authority.

2.9 The relevant government department should develop a business case for a scheme. This business case should outline how the high-level policy objectives for the scheme will be delivered, and include elements such as the overall amount, and desired speed of, payments. One delivery option is to set up a ‘non-departmental public body’ which operates at arm’s length from ministers. For example, the Infected Blood Compensation Scheme will be administered separately from the Department of Health and Social Care by an arm’s length body called the Infected Blood Compensation Authority. Primary legislation is required to set up such a body and the HM Treasury Officer of Accounts team told us the setting up of such a body takes, on average, 18 months. However, in practice this delay can be partially mitigated through the government’s contingency fund advance to allow the body to start to spend, and recruit staff, before legislation is passed.

2.10 It is best to consider the issue of independence while the scheme is being planned. In November 2021, the House of Commons Home Affairs Committee recommended that the ongoing Windrush Compensation Scheme be transferred to an independent organisation to increase trust and encourage more applicants. The government rejected the recommendation on the basis that replacing the existing arrangements could lead to further delays in issuing compensation to those affected.

2.11 Independent input to provide assurance, review, and challenge to operating compensation schemes is also an important element. Schemes have adopted different models for doing this (Figure 5 in Appendix Two), as shown in the following examples.

- The Home Secretary appointed an Independent Person with a remit to provide oversight and assurance to the Windrush Compensation Scheme. In his March 2022 report on the performance of the scheme, the Independent Person provided assurance on the ‘robustness’ of the scheme but drew attention to, among other things, the “problematic” communication with claimants on application progress.
- The Post Office Horizon IT inquiry’s First Interim Report on Compensation commented on the potential for the Horizon Compensation Advisory Board (see paragraph 2.7) to “have an extremely important safeguarding role” and “allay the fears of those who are dubious about the sufficiency of independence safeguards within each scheme”. For example, one of the Board’s recent lines of enquiry was to ascertain that those working on delivering compensation or the appeals process through the schemes had not been involved in the Horizon scandal.

Lesson:

It is important for the scheme’s credibility with claimants that both its design and operation can be seen to be independent from those judged to have caused the harm.

Trade-offs between speed of payment and other factors

Level of evidence to justify claims

2.12 It is usually the case that schemes operate on the basis of eligibility for an award of compensation ‘on the balance of probabilities’ (that is, it is more likely than not that the award is justified – the standard applied in civil proceedings). This still leaves scope for interpretation by scheme administrators as to what level of evidence this would require. This should be covered in the scheme’s business case.

2.13 Schemes have a duty to protect the interests of the taxpayer, especially from fraud. Before developing scheme eligibility criteria, the government requires departments and arm’s length bodies setting up new schemes to carry out an initial fraud impact assessment, which the Public Sector Fraud Authority should sign off. The level of fraud risk will reflect, among other things, whether supporting evidence is complete and held within government, and the level of certainty over who is eligible for the scheme.

2.14 If the burden of proof for a claim is set too high, it could cause an unacceptably slow pace of processing. For example, the Windrush Compensation Scheme had originally set the burden of proof for some categories within the scheme at ‘beyond reasonable doubt’ (the standard for criminal proceedings), which contributed to the much slower than expected processing of claims, but in October 2020 moved to making judgements ‘on the balance of probabilities’ in all categories and set targets for catching up on claim backlogs. This contributed to the amount paid out in 2021-22 being many times higher than in 2020-21.

2.15 There are alternative approaches which shift the burden of proof away from the claimant. For example, the LGBT Veterans Independent Review has suggested that claims for that scheme should be subject to a reverse burden of proof, in other words that evidence put forward to scheme administrators should be assumed to be true unless proven otherwise (especially as the Ministry of Defence has announced that in 2010 and 2011 it destroyed most remaining records of police investigations concerning decriminalised sexual offences, in line with its policy at the time). Similarly, stakeholders in the Post Office compensation schemes have suggested that the government should be more flexible in assessing claims where harm experienced is “self-evident”. Schemes need to balance this against the potentially higher risk of making erroneous payments.

Lesson:

There is a balance to strike between paying claimants as quickly as possible and the requirement to protect the public purse – the optimum point will vary by type of scheme and the circumstances of claimants.

Balancing speed of payment and fairness

2.16 The inherent tension between a desire for swift payment to victims and the desire for awards to fully reflect the complexity of each case was captured by Sir Robert Francis in 2022, referring to Infected Blood compensation:

“There is a groundswell of dissatisfaction at the ‘support’ offered to date... However, there is also a demand for a bespoke assessment of suffering and losses. Given the complexity and variability of the consequences of these infections, it would be very challenging to deliver such assessments within a very short period. Therefore, meeting the two demands may require a degree of compromise between these two needs and the wide range of people who have been directly and indirectly impacted who potentially could be entitled to make a claim.”

2.17 Providing bespoke settlements tailored to each claimant’s individual losses may be considered the fairest and most accurate way of compensating people, particularly where the scheme is aiming to put people back in the position they would have been had the wrong not occurred. However, this may also lead to a slower and more costly process. Some schemes have opted instead to provide a more standardised award, for instance, by grouping claimants or harms into bands or tariffs.

2.18 To speed up the delivery of financial redress to postmasters affected by the Horizon IT issues and reduce administrative costs, the Horizon compensation schemes introduced new up-front fixed-sum compensation offers in 2023 and 2024. The May 2024 proposed Infected Blood Compensation Scheme seeks to balance speed and the desire to act in accordance with HM Treasury principles by proposing a “core and supplementary” route. All claimants deemed eligible for the scheme will be offered a ‘core’ award calculated on a tariff basis, which is intended to “minimise the amount of information that applicants are required to provide”. In some cases, a higher ‘supplementary’ award may be applied for, which will require a greater amount of supporting evidence.

Lesson:

Scheme designers should be clear where ministers and Parliament stand on the extent to which speed of payment is balanced against other factors.

Considerations around types of payments

Interim payments

2.19 In delivering schemes, bodies may choose to make one or more interim payments to claimants. Schemes use these for one or both of the following reasons:

- to ensure claimants receive money while awaiting processing of claims to mitigate financial hardship; or
- to indicate that the public body operating the scheme is committed to meeting its commitments when the full processing of claims is delayed.

2.20 Interim payments are a common tool among existing schemes. For example, as at April 2024, between 476 and 483 interim payments have been made to the 492 postmasters in the Group Litigation Order (GLO) Scheme. The Windrush Compensation Scheme makes an interim payment of £10,000 wherever possible following the completion of essential eligibility checks. Similarly, in October 2022, the government made the first Infected Blood interim payment “to alleviate the immediate suffering of infected beneficiaries and bereaved partner beneficiaries of UK IBSS [Infected Blood Support Schemes], pending the UK Government’s response to any further recommendations by the Infected Blood Inquiry in its final report.”

2.21 Careful, early consideration needs to be given to the basis and timing of such payments. In setting interim payment amounts, there is a challenge in making payments substantive enough to satisfy claimants without the risk of paying more than the full and final amount calculated. The Home Office overcame this challenge in the Windrush Compensation Scheme by setting the interim payment as equivalent to the minimum award available under the scheme. The Quinquennial Review of the Armed Forces Compensation Scheme raised concerns that interim payments can be seen as a way for the compensating authority to defer the need for paying the full award.

Lesson:

Interim payments can play an important role in supporting and reassuring scheme claimants.

Impacts of awards on tax and benefits

2.22 Schemes vary as to whether a compensation payment is exempt from taxation or will impact upon benefits claimants already receive.

- Compensation payments will normally impact on any benefits received by the claimant. Which benefits are affected will depend on what any compensation award is for.
- The tax position for compensation payments is complex. It can vary depending on whether the payment is for any wrong or injury to a person or a financial loss, whether it counts as income or is paid in a lump sum, and so on.

2.23 The government and Parliament may decide to exempt recipients of awards from suffering any impact on benefits (such as with the Post Office compensation schemes), or from being liable to tax (such as the Armed Forces Compensation Scheme). In the case of the Post Office Horizon Shortfall Scheme, the tax implications were not grasped initially, and the government made top-up payments to recipients to offset the impact of tax on compensation.

Lesson:

Scheme designers should be clear in advance to what extent, if any, the government or Parliament would desire scheme payments to be exempt from usual tax or benefit obligations.

Part Three

Operational challenges

3.1 Operating a scheme is challenging. Schemes will frequently be under pressure to start paying claims as quickly as possible, and new systems need bedding in while unforeseen issues with submission and processing may emerge. The flow of claims may vary from expectations in several ways, depending, for example, on levels of awareness in the claimant population or in response to media publicity about the scheme.

3.2 One of the most difficult areas to manage on most schemes is the relationship between the scheme administrators, and the population of those eligible to claim and their representatives. The media regularly carries posts and articles that illustrate the consequences when these relationships are not working. Before a scheme starts, potential claimants and their representatives may be traumatised by the experiences that led to the campaign for government compensation. Stakeholders may also have been alienated by the initial response of the relevant government bodies – the same bodies which may now be involved in the development of the compensation scheme. Claimants may then find their interactions with the scheme onerous and unsatisfactory, and validating their claim may force them to re-live the traumatic events that render them eligible for compensation.

3.3 The challenges facing compensation schemes in delivering their claims processing activities are not dissimilar to those faced by the government in delivering operational services. The National Audit Office has produced a series of good practice guides on how to improve the quality and efficiency of day-to-day government services which are relevant to the operation of government compensation schemes.¹³

3.4 In this part of the report, we cover challenges related to:

- key estimates and assumptions;
- claims processing and administration;
- engagement with claimants; and
- monitoring scheme performance.

¹³ National Audit Office good practice guide series on *How to improve operational services*, February 2023.

Key estimates and assumptions

Identifying the extent of the liability

3.5 Irrespective of the scheme type, it is often a challenge for scheme designers and administrators to know accurately in advance the total population of potential claimants and, within that, what proportion are ready to claim. This is critical as it enables the government to estimate the resources required to deliver redress – including staff numbers and financial liability. It is rarely the case that a reasonably comprehensive list of eligible applicants is available, and so, accurately estimating numbers is difficult. For example, owing to the incompleteness of records, Ministry of Defence designers of the LGBT veterans scheme have used the Government Actuary's Department to model the potential claimant population, which produced a maximum estimate of 4,000 people. The government is also encouraging those who think that they might be eligible for restorative action to register their interest in advance to assist in scheme design. The Home Office used information from its immigration systems and the 2011 census to estimate the number of Windrush Compensation Scheme claimants.

3.6 Making these estimates is more challenging when including people who are eligible for a scheme based on their relationship to the individual who suffered harm. In the case of those harmed directly or indirectly by infected blood, Sir Robert Francis has recommended that these should include spouses, civil partners and long-term cohabitantes, children, parents, siblings and carers, others seriously affected, and the estates of deceased members of some of these categories. The Cabinet Office told us that there are no existing records that could indicate the numbers of people involved, and any estimate derived from population-level data will inevitably be a wide range. The Department for Business, Enterprise and Regulatory Reform significantly underestimated the number of claims for the coal health compensation schemes because of a failure to take into account the fact that the scheme allowed eligible beneficiaries from the estate of deceased miners, not just immediate relatives.

3.7 Standing schemes, regulators, and ombudsmen also have varying experiences of estimating claimant numbers. For example, the Armed Forces Compensation Scheme, a standing scheme for current and former members of the armed services who have suffered harm while in service, experiences reasonably constant demand from year to year, and variation in the level of demand is predictable as it is linked to specific events, for example, involvement in overseas conflicts. On the other hand, the Financial Ombudsman Service (FOS) can experience more volatility and receive claims from anyone for events within the financial services sector which may occur at any time, such as the mis-selling of Payment Protection Insurance which led to 1.3 million complaints to the FOS. To manage this volatility, it makes use of market intelligence and consults with consumer groups and other stakeholders, but it is not possible to predict every event, and multiple factors can affect demand in different ways.

Lesson:

It may not be possible to precisely estimate the total number of those eligible for a scheme, and it will be helpful to make the level of uncertainty clear to decision-makers and stakeholders.

Time allowed for claim applications

3.8 Schemes are generally only open to claims for a limited time. This is partly because schemes not established under specific legislation only have delegated authority from Parliament to incur expenditure for two years, and it is helpful for the prompt receipt and processing of claims.¹⁴ However, as we have set out earlier in this report, there are a number of reasons why it could prove difficult to identify potential claimants and to persuade them to claim. Those introducing schemes need to assess the risk that claims are not made at the expected rate at an early stage and consider contingency options. The Windrush Compensation Scheme had to relax its initial two-year application window after under-estimating the work necessary to get claimants to come forward. Similarly, the government had to pass an Act of Parliament to ensure that postmasters affected by the Horizon scandal were not timed-out of making claims for compensation under the GLO Scheme by the original two-year rule.

3.9 Even when claims are received in line with expectations, the time taken to process complex claims, or where there is difficulty in establishing evidence to support the claim, may lead to a long 'tail' of claims processing. This will require decisions to be made about the retention of processing capacity – will it be dedicated capacity or part of business as usual, and what skill levels will be required?

Lesson:

Officials should avoid over-optimism in their assumptions about the duration of a scheme and the pace of claims processing.

¹⁴ Standing schemes also generally require a claim to be submitted within a set period after the harm occurred, although there are exceptions in the case of mitigating circumstances.

Impact of willingness to claim

3.10 The willingness of those eligible to come forward with claims will impact on the amount and profile of payments. This should already have been identified when establishing the likely extent of the scheme's liability, as set out in paragraph 3.5. If this has not been anticipated, additional effort, and possibly expenditure, will be required to encourage people to come forward. The Government Communication Service recommends the OASIS framework for planned government communications: Objectives, Audience, Strategy, Implementation, and Scoring. Claim processing and payments will be skewed towards the latter part of the scheme's existence, potentially placing an additional burden on processing capacity. For example, in December 2023 the Horizon Compensation Advisory Board raised concerns about the reluctance of postmasters with Horizon-related convictions to apply to have their convictions overturned, proposing that all convictions be automatically overturned.

3.11 Several stakeholders told us that potential claimants for the Windrush Compensation Scheme were fearful of engaging with the scheme in case it was used to question their right to remain in the UK. The Home Office undertook additional outreach activities, including contacts with community groups, and numbers of applications increased following changes to the scheme. As at March 2024, 8,164 claims had been received against an expectation of 11,500 in 2019, more than 70% of claims were filed after the original closure date of April 2021.

Lesson:

Officials should plan for the possibility that they may need to make additional efforts to persuade claimants to come forward.

Claims processing and administration

Building in capacity to process claims promptly

3.12 There are always trade-offs to be made between the desire to process claims quickly and the requirements to achieve efficiency and value for money in the scheme operation. Estimates are needed for various aspects of the scheme, including the likely number of claims, rate of applications, and timings for processing a claim through to conclusion. It is important that the scheme's commitments to processing times for claims are based on realistic assessments of what is achievable, and a clear understanding of where the pinch points and dependencies in the process are (such as reliance on other organisations for supporting evidence). There is a reasonable expectation that claims will be assessed accurately. The scheme incurs reputational damage and imposes hardships on claimants if it underperforms against expectations (including if it starts accepting applications before it is ready). If there is the possibility that a scheme might experience sharp increases in demand, and it wishes to avoid this impacting on the speed of decision-making, it will require a contingency plan to increase the processing capacity of the organisation.

3.13 National Audit Office guidance on understanding and managing demand emphasises the importance of planning for peaks and troughs.¹⁵ For a time-limited scheme, for example, it is logical to expect more claims at the start, in the run-up to the end-date for claims, or in response to exercises by administrators and stakeholders to encourage claimants to come forward. In late 2022 and early 2023, the Windrush Compensation Scheme experienced a volume of claims several times higher than a few months earlier. The Home Office told us this was partly in response to external social media activity about the scheme. The Home Secretary authorised a loan of 'surge' staff from citizenship casework to the scheme in May 2023, which increased the case throughput from 210 cases finalised in April 2023 to 340 in May 2023 and 370 in June 2023. In the financial services sector, activities like mis-selling can cause major inflows of claims. The FOS received 1.3 million complaints about the mis-selling of Payment Protection Insurance. In order to cope with this, the service increased in size from around 1,000 to around 4,000 people.¹⁶ The FOS was also able to adjust its funding model to finance this in a way not available to central government bodies. One important factor with wider relevance was its development – in six weeks – of a decision-support tool to assist with caseload.

¹⁵ National Audit Office, *Improving services – understanding and managing demand*, February 2023.

¹⁶ The National Audit Office reported in this in *Financial services mis-selling: regulation and redress*, Session 2015-16, HC 851, February 2016.

3.14 There may be options to triage applications early for more efficient processing. The Windrush Compensation Scheme's Independent Person has recommended a fast-track approach of triaging and grouping applications where there are close family links. The Armed Forces Compensation Scheme is implementing a process for identifying more complex cases upon receipt of the claim. NHS Resolution is increasingly focusing on using a range of dispute resolution options such as resolution meetings or mediation for clinical negligence claims to resolve claims earlier and avoid the need for adversarial court proceedings, with the aim of reducing stress and financial burden for all parties involved.

Lesson:

Claims processing capacity will need the flexibility to cope with changing circumstances.

Evidence to support claims

3.15 As we explained in paragraphs 2.12 to 2.15, the availability of evidence is a major factor in determining how long it takes to process claims. Evidence to support testimony of what happened in the past may never have existed, or been destroyed. HM Treasury has accepted evidenced arguments from departments that a flat-rate compensation payment to all claimants was justified, even if it was likely to be more than some claimants would have received through individual assessment of their claims, if it reduces the administrative costs of the scheme.

3.16 Schemes have put in place systems for gathering evidence from third parties who may be involved in providing evidence to support a claim, for example the police, the NHS, or the Insolvency Service. Scheme developers will wish to consider how requests can be met in line with processing targets, for example, through service level agreements or memoranda of understanding. Experts may be involved in validating claims or assessing an appeal, such as medical assessments of physical and mental injury. Claimants may have already supplied evidence of their eligibility, or of their experiences, to previous schemes, organisations, or investigations. However, there are rules which govern the extent of any information sharing between organisations or between any inquiry into events and other parties.

Lesson:

Schemes will wish to put in place robust systems for gathering evidence from third parties where necessary.

Preventing re-traumatisation in processing claims

3.17 Mr Melville Williams QC, one of the trustees of the variant Creutzfeldt-Jakob disease (vCJD) compensation scheme, stated: “A scheme to be regarded as acceptable should provide an appropriate payment with the minimum of delay and without the need for repeated and painful persistent inquiries.”¹⁷ We have heard from stakeholders about the potential for aspects of the design and implementation of compensation schemes to have a re-traumatising effect on claimants. In some cases, the fear of being re-traumatised by the process may be one barrier preventing eligible individuals from applying for compensation. Professor Christopher Hodges, Chair of the Horizon Compensation Advisory Board, told us that claimants’ existing psychological harm can be compounded by involvement in a “long, impersonal, confusing or legalistic process”.

3.18 Several reports and stakeholders have raised concerns about overly onerous processes where claimants are often repeatedly having to prove their eligibility and relive their trauma. Sir Robert Francis’ Infected Blood Compensation Study recommended that the application process for the scheme be “*as simple, sensitive, ‘trauma-informed’ and undemanding as possible.*” The Department for Business and Trade identified that a key lesson learned from its involvement in the Post Office Horizon schemes is the importance of establishing a clear position on evidential thresholds which acknowledges the trauma experienced by claimants early on in the process as a way of reaching compensation agreements more quickly.

3.19 The National Trauma Transformation Programme, which the Scottish Government funds, publishes guidance to help services and organisations to embed a trauma-informed and responsive approach across policy and practice. The guidance sets out how organisations can create environments and relationships that improve access to support, promote recovery and reduce re-traumatisation.¹⁸ The approach can also be used to inform how schemes communicate with claimants, the language used, and what additional support schemes should offer. The Criminal Injuries Compensation Authority told us that it uses this guidance to train its staff. It has also amended the language used in its communications in response to victim feedback.

Lesson:

It is important that scheme designers and administrators work to minimise any re-traumatising effects of the process on claimants.

¹⁷ John Melville Williams QC, *Setting Up the vCJD Trust Operations and Lessons for the Future*, 2004. Available at: www.vcjdtrust.co.uk/setting-up-the-vcjd-trust-operations-and-lessons-for-the-future/

¹⁸ National Trauma Transformation Programme, *A Roadmap for Creating Trauma-Informed and Responsive Change: Guidance for Organisations, Systems and Workforces in Scotland*, 2023.

Engagement with claimants

Communicating with claimants

3.20 Effective ongoing communication with claimants and other stakeholders is critical throughout the delivery of any compensation scheme but continues to prove challenging for many schemes. In some cases, scheme administrators might need to counteract misinformation in social and traditional media, either publicly or privately.

3.21 The Parliamentary and Health Service Ombudsman told us that it has found that having a single caseworker throughout a case can be helpful in streamlining communications. In response to concerns about the communication between caseworkers and claimants, the FOS now embeds the principles of ‘active case management’, placing increased responsibility on its case-handlers to properly update, inform and communicate with customers in a timely fashion.

3.22 The Armed Forces Compensation Scheme has a set of performance indicators around communications with claimants, for example, to measure timeliness and usefulness of communications. The Ministry of Defence told us that only 34% of people currently understand how they will be assessed and that this is driving more work around signposting and explanations.

3.23 Particular consideration should be given to how scheme administrators and caseworkers communicate with vulnerable or ‘difficult to reach’ eligible claimants. In July 2022, the Public Accounts Committee highlighted a failure to recognise the specific vulnerabilities preventing British Steel Pension members from seeking compensation directly and resulting in only a small proportion of eligible members seeking compensation. The Financial Conduct Authority has subsequently introduced a consumer redress scheme, operating on an ‘opt-out’ basis in which firms are expected to identify all consumers within scope of the scheme. Scheme administrators will need to pay attention to how vulnerable or disadvantaged claimants might gain access to information and advice needed to make a claim and understand any barriers to communication that they might face (which might be assisted by directing communications to relatives). The Financial Services Compensation Scheme has introduced ‘Customer Care Champions’ to support customers in vulnerable circumstances. The Home Office established a Vulnerable Persons Team in May 2018 to provide advice to individuals where safeguarding and vulnerability issues are identified, although the Independent Person to the Windrush Compensation Scheme suggested further support and signposting for vulnerable claimants be considered.

Lesson:

Constant communication using an appropriate tone is important for maintaining claimant engagement and stakeholder support. Specific attention should be paid to communicating with vulnerable or disadvantaged claimants.

Keeping claimants updated on progress

3.24 Schemes will wish to consider how claimants can access information about the progress of their claim. The Financial Services Compensation Scheme publishes expected timeframes for different types of claims on its website and has an online portal for claimants to access information about their claim's status. The Independent Person report on the Windrush Compensation Scheme, on the other hand, found that communication with applicants on progress of their applications has been problematic, owing to a lack of a simple digital interface to enable the applicant to self-track progress of their application.

3.25 How queries from claimants will be handled and routed needs consideration. In 2013, we reported that applicants to the Equitable Life Payment Scheme received standard letters in response to queries, which often did not address the issues they raised or provide all the details they sought. The scheme later introduced a queries handling team and developed more bespoke letters with the aim of addressing policyholders' queries more effectively.

Lesson:

Claimants should be able to easily access accurate and up-to-date information about the progress and status of their claim.

Additional support to claimants

3.26 Scheme administrators should consider what non-financial support might be appropriate to help support claimants through the process. Some schemes have provided additional support for claimants' legal representation or access to advice services. For example, the GLO Scheme provides support for claimants' legal costs through a tariff agreed via mediation with the legal advisors representing claimants, and the Windrush Compensation Scheme offers an independent advice service through 'We Are Group' (formerly We Are Digital) to support claimants with paperwork and applications. Several stakeholders highlighted to us the importance of advice and advocacy services to help guide claimants through complex claims processes. We heard how subpostmasters have been reliant on pro-bono support offered by independent advisors and accountancy firms. Sir Robert Francis reiterated the importance of such services in his Infected Blood Compensation Framework, in which he recommended an advice and advocacy service, supplemented where necessary by discretionary access to independent legal advice and representation.

3.27 We have found that few schemes have focused on providing access to health or counselling support services, despite the profound psychological impact that the event leading to compensation may have had on individuals. Northern Ireland, Wales and Scotland have developed bespoke psychological support services dealing with the specific needs of people impacted upon by the infected blood scandal. Sir Robert Francis recommended that non-financial support form part of the Infected Blood Compensation Scheme, including a support unit to provide or arrange the provision of medical, psychological, and social support to infected and affected individuals. The Inquiry's Second Interim Report repeated the call for steps to be taken "without delay" to provide a bespoke psychological service in England. The government has said it is developing a service that will be introduced from summer 2024.

Lesson:

Additional support offered to claimants during the scheme will help to maintain confidence in the scheme, encourage potential claimants to come forward and improve the quality of applications.

Monitoring scheme performance

Monitoring and responding to claims-processing performance

3.28 The way that schemes measure claims-processing performance should reflect the needs of claimants and what matters most to them, for example the claimant's experience of interacting with claims administrators. Techniques such as consumption mapping can be used for understanding what is important to claimants. The time taken to reach a decision is of great importance to claimants. However, we found that there is rarely much public reporting of performance on this and other measures, such as the number of appeals and those which are successful.

3.29 One example is the published performance data from the Criminal Injuries Compensation Authority (CICA), which show in 2022-23 it decided 41% of new applications in 6 months, 66% in 12 months, and resolved 72% of review cases within six months. A small percentage remain open for years, for example, until the long-term implications of injuries are known. Bodies tend to take this 'tail' into account in setting performance. The Financial Services Compensation Scheme reports the average time it takes to provide a decision on most claims (8 out of every 10), based on claims completed in the preceding 9 months. This information is broken down by type of claim to reflect the fact that some are more complex than others. A small proportion of claims, across all types, can take longer to complete than their reported time-frame due to their complexity. The Department for Business and Trade undertakes to make an initial offer to 90% of claimants within 40 working days of submission of a complete claim on the GLO Scheme. It would be good practice to also publish evidence on the time taken to process all claims, as does CICA. In its Annual Report and Accounts, CICA also records numbers of appeals and the results, reasons for refusing claims, and customer satisfaction.

Lesson:

Scheme performance indicators should be meaningful, straightforward and transparent.

Scheme flexibility

3.30 The rules and eligibility criteria for any compensation scheme should be established at the outset and communicated clearly. Our report on the Icelandic-Water Trawlermen Compensation Scheme found that ambiguity with the initial scheme rules complicated the processing of applications. Piloting the proposed rules and key aspects of the scheme with different types of applicants could be helpful to determine what changes are needed to enable more efficient and effective implementation and avoid the need for frequent changes once the scheme has launched. Piloting can be used to identify practical barriers or risks that might prevent the scheme from working as intended.

3.31 The National Audit Office's good practice guide on evaluating government spending sets out how integrating evaluation throughout the policy-making process will help departments identify how the intervention might be modified to maximise its impact.¹⁹ As specified in Figure 5 in Appendix Two, compensation schemes have adopted different approaches to external review and evaluation. Scheme administrators will need to be clear about the process and scope for changing scheme rules. Academics in this field have noted that, where rules are too restrictive or prescriptive, they can impinge on the functioning of a scheme.²⁰ Changes to scheme rules can result from emerging evidence, or recommendations from external evaluations or reviews. Administrators should be clear on how they will mitigate any risks associated with these changes.

3.32 As we noted in our 2008 report on time-limited compensation schemes, comparatively small changes to the scheme rules and eligibility criteria can have a potentially big impact on the resources needed to manage and pay for the scheme. Whether or not the rules of a scheme are set out in specific legislation, the schemes we examined found it necessary to update the rules on a regular basis, as the following examples show.

- The Ministry of Defence relies on an advisory non-departmental public body, the Independent Medical Expert Group, to provide medical and scientific advice on updates to the Armed Forces Compensation Scheme. It also consults with a stakeholder advisory group, the Central Advisory Committee on Compensation. Scheme updates are made annually in Parliament by statutory instrument.
- Since 2020, the Ministry of Justice has consulted three times on changes to the Criminal Injuries Compensation Scheme following a review of the scheme and recommendations from the Independent Inquiry into Child Sexual Abuse.
- Since the launch of the Windrush Compensation scheme in 2019, the government has introduced changes, including to the eligibility criteria, scheme end date, and the way claims are assessed. The scheme's rules are not laid out in legislation. The Home Office told us that reviewing a scheme and revising it in response to experience can help to demonstrate a listening culture and rebuild relationships but is not straightforward administratively.

Lesson:

There is a likelihood that schemes will need to change during their existence, whether time-limited or not, and scheme designers should allow for this.

19 National Audit Office, *Evaluating government spending: an audit framework*, April 2022.

20 Sonia Macleod and Christopher Hodges, *Redress Schemes for Personal Injuries*, 2017.

Appendix One

Our approach

Our scope

1 We undertook this work after receiving correspondence from the Chair of the Committee of Public Accounts asking us to consider conducting a thematic review of government compensation schemes for citizens who have suffered harm, hardship, and distress from failures by public bodies.

2 This report identifies lessons learned relevant to government compensation and redress schemes. We include in our scope examples of compensation schemes set up to provide redress in response to a specific harm or event that happened at a particular point in time, a particular policy or policy instrument, or a 'standing scheme' to process claims of a type that can occur at any time. The lessons in our report are primarily intended for schemes where compensation is funded by central government, although, to identify common challenges and lessons, we also held discussions with bodies determining and distributing compensation paid by industry.

3 This report includes examples of government compensation schemes from our published work and from other schemes that are in the public domain. These are illustrative examples and not indicative of the overall performance of specific departments. This report does not set out all of the actions the government may have taken, or changes implemented since the relevant National Audit Office (NAO) reports were published.

Our evidence base

4 We conducted our fieldwork between March 2024 and May 2024. Our purpose with this work was to identify and illustrate the most important lessons that can be learned from drawing together insights on the government's delivery of compensation schemes. We drew on a variety of evidence sources.

Review of NAO reports

5 We used our knowledge management tools and colleagues' expertise to identify NAO reports which looked at, or were highly relevant to, government compensation and redress schemes. We reviewed 12 NAO reports on compensation and redress schemes published between 2002 and 2022 to identify findings related to how government sets up and delivers compensation schemes. These are listed in Figure 4 in Appendix Two.

6 We structured our review of NAO reports around the key areas examined in our 2008 briefing on the administration of time-limited compensation schemes.²¹ This gave us a set of key areas upon which to base our review:

- determining the extent of the liability;
- designing the scheme;
- implementing the scheme; and
- winding down the scheme.

Within each of these areas, specific themes were used to draw out and collate insights from our back catalogue of reports into a qualitative matrix. During this review process, we also recorded any other themes which appeared in the reports but fell outside of our standard review framework.

7 We also reviewed other NAO good practice guides and lessons learned reports for practices and principles relevant to government compensation schemes, including our work on operational delivery in government.

Review of other documents and publicly available information

8 We supplemented this review with additional sources of information on government compensation schemes, such as Parliamentary reports (including Committee of Public Accounts reports), official scheme documents, reviews of schemes and reports of inquiries. These covered the schemes outlined in the former Chair of Committee of Public Account's letter, in addition to other relevant compensation schemes listed in Figure 4 in Appendix Two. These documents were reviewed using the same analytical framework and approach as were used in our review of NAO reports.

9 We also reviewed documents sent to us by departments administering compensation schemes. These included internal lessons learned reports on specific schemes.

²¹ National Audit Office, *Administration of time-limited compensation schemes*, July 2008.

Interviews with other government departments, regulators, ombudsmen, and wider stakeholders

10 We conducted semi-structured interviews with government departments, regulators, and wider stakeholders to test our findings from the review of past NAO audits, hear their perspectives on the key issues and challenges, and discuss specific schemes. The interviews generally lasted one hour, and we took detailed notes which were agreed for factual accuracy with the attendees. The government and other public bodies we spoke to, included:

- HM Treasury, Cabinet Office, Ministry of Defence, Home Office, the Department for Business and Trade, the Criminal Injuries Compensation Authority, NHS Resolution, Financial Services Compensation Scheme, Financial Conduct Authority, Financial Ombudsman Service, Parliamentary and Health Service Ombudsman.

11 We also tested our emerging findings with a cross-government group of government departments and public bodies involved in setting up and delivering compensation schemes. We facilitated this discussion to challenge and refine our findings and test whether they were realistic and relevant. Attendees included government officials working on the following compensation schemes: the Infected Blood Compensation Scheme, the Windrush Compensation Scheme, the proposed child sexual abuse redress scheme, the Armed Forces Compensation Scheme, the LGBT veterans scheme, the Group Litigation Order Compensation Scheme, the Criminal Injuries Compensation Scheme and Victims of Overseas Terrorism Compensation Scheme, the Number 10 Delivery Unit, and the response to the Hughes Report on options for redress for those harmed by valproate and pelvic mesh.²²

12 We also spoke to other non-governmental stakeholders to hear views on the key challenges and lessons involved in the delivery of government compensation schemes. We spoke to various individuals and representatives from stakeholder groups, including:

- The Horizon IT Inquiry, the Horizon Compensation Advisory Board, Freeths LLP, Justice for Subpostmasters Alliance, Fighting with Pride, the Independent Person to the Windrush Compensation Scheme, SME Alliance.

13 The interviews were structured around the same key stages identified in our 2008 report on time-limited compensation schemes: determining the extent of the liability; designing the scheme; implementing the scheme; and winding down the scheme.

²² Patient Safety Commissioner, *The Hughes Report: Options for redress for those harmed by valproate and pelvic mesh*, February 2024.

Analytical approach

14 We organised the notes from the interviews in an Excel matrix, against the themes identified in our review of past NAO reports. We used this analysis to refine, test and supplement our findings and to identify and examine case examples to illustrate our findings.

International examples

15 We contacted 12 international Supreme Audit Institutions (SAIs) to understand their governments' approaches to setting up and delivering compensation schemes, any audit work they may have done in this area, and any areas of good practice or lessons learned. We received 10 responses, allowing us to consider common themes and lessons across countries and international comparisons as we developed this report.

Quantitative analysis

16 We analysed simple quantitative information for various schemes, such as data on financial expenditure and number of claims processed, to provide contextual information on the main compensation schemes we reviewed for this report. Figure 3 in Appendix Two sets out the estimated expenditure and claims processed for each of these schemes. In some cases, these data were available in annual reports and accounts. In other instances, we used figures reported in publicly available documents or published on gov.uk. We have endeavoured to report the most up-to-date publicly available data. However, not all of the data are reported consistently across schemes or are fully up to date. Some caution should therefore be exercised in interpreting the information as it may not fully reflect the scheme's current performance or be comparable across schemes.

Appendix Two

Summary of selected government compensation schemes

1 **Figure 3** on pages 44 to 47 sets out some of the key figures relating to compensation paid out and numbers of claims received and processed across a selection of compensation schemes. **Figure 4** on pages 48 to 50 outlines the 19 compensation schemes and other mechanisms for providing redress reviewed by the National Audit Office for the purpose of this study, and **Figure 5** on pages 51 to 53 exhibits some of the key characteristics and features of these schemes.

Figure 3
Key figures relating to costs and claims processed of a selection of compensation schemes

From our sample, the total value of compensation paid out under individual government compensation schemes ranges from around £43 million to around £27 billion

| Scheme | Duration of scheme | Claims complete | Provision or liability in 2022-23 annual report and accounts | Compensation expenditure |
|---|--|---|---|---|
| Armed Forces Compensation Scheme | Since 2005. | 114,573 claims cleared between April 2005 and March 2023. | As at 31 March 2023 the compensation liability of the Armed Forces Compensation Scheme was valued at £2.3 billion. | The total expenditure for compensation under the scheme was around £1.3 billion as at March 2023. |
| British Steel pension redress scheme | The redress scheme has been in place since 2023. Prior to this, redress was provided through a complaints-led process. | Total claims figures not yet published. As at March 2023, 1,600 British Steel pension scheme claims have been completed through the Financial Services Compensation Scheme (FSCS), which include claims processed as part of the Financial Conduct Authority's British Steel pension redress scheme. | N/A (Redress is mandated by the Financial Conduct Authority (FCA) and is paid by private firms or by the FSCS where firms are unable to do so.) | The total compensation paid to British Steel pension scheme members not yet published. As at March 2023, the FSCS, which covers compensation from firms no longer in business, had paid out £69 million in compensation to British Steel pension scheme members. This includes claims processed as part of the FCA's British Steel pension redress scheme. |
| Clinical negligence schemes managed by NHS Resolution | Since 1995. | 13,499 claims settled across all clinical negligence schemes in 2022-23. | Provision for all clinical negligence schemes managed by NHS Resolution was £69.3 billion as at 31 March 2023. | In 2022-23, the total payments made against NHS Resolution's clinical negligence schemes was £2.6 billion. The total compensation paid between 2005 and 2023 was £26.5 billion across all clinical negligence schemes. |
| Coal health compensation schemes: Vibration White Finger (VWF) scheme and Chronic Obstructive Pulmonary Disease (COPD) scheme | 1998 to 2004. | The total number of claims completed for the VWF and COPD schemes was 761,379 as at June 2011. | N/A | The total compensation in damages and Compensation Recovery Unit Payments paid across the VWF and COPD schemes was approximately £4.3 billion as at June 2011. |
| Compensation schemes run by the Criminal Injuries Compensation Authority | The Criminal Injuries Compensation Scheme was first set up in 1964. The most recent version of the Scheme has been operating since 2012. The Victims of Overseas Terrorism Compensation Scheme has been operating since 2012. | 34,753 claims resolved in 2022-23. | As at March 2023, the total provision for all schemes was £170 million. | The total compensation paid between 2012 and 2023 was over £2 billion across all compensation schemes. |
| Equitable Life Payment Scheme | 2011 to 2015. | As at August 2016, the scheme had issued payments to 932,805 policyholders, which was 90% of eligible policyholders. | N/A | The total compensation paid by August 2016 was £1.1 billion. |
| Financial Services Compensation Scheme (FSCS) | Since 2001. | 67,908 customers compensated and around 97,000 decisions on claims completed in 2022-23. | As at March 2023, the provision for compensation costs was £36.3 billion. | In 2022-23, the total compensation paid out to customers was £403 million. The total compensation paid between 2001 and 2023 was around £27 billion, which includes compensation paid out by FSCS under other schemes listed in this table. |
| Financial services mis-selling | 2011 to 2015. | Between April 2011 and November 2015, firms paid redress to more than 12 million customers. | N/A | Between April 2011 and November 2015, it is estimated that firms paid £22.2 billion in redress to customers (some of which will have been arranged by the FCA). The FSCS paid £898 million in compensation for claims relating to defunct firms between 2010-11 and 2014-15. |
| Foot and mouth disease compensation scheme | 2001 to 2002. | Over 17,000 applications received, of which 14,000 were accepted. | N/A | Between February 2001 and May 2002, approximately £1.3 billion was spent on compensation and other payments to farmers. |

Figure 3 *continued*

Key figures relating to costs and claims processed of a selection of compensation schemes

| Scheme | Duration of scheme | Claims complete | Provision or liability in 2022-23 annual report and accounts | Compensation expenditure |
|--|---|---|--|--|
| Horizon compensation schemes | <p>The Horizon Shortfall Scheme (HSS) was launched in 2020 and is ongoing.</p> <p>The Overturned Convictions Scheme started in 2021 with interim payments and is ongoing.</p> <p>The Group Litigation Order (GLO) Scheme was announced in 2022 and is ongoing.</p> <p>The Horizon Convictions Redress Scheme is yet to be launched.</p> | At least 3,060 offers made as at 31 May 2024, of which 189 are full and final offers under the GLO Scheme. | The former Department for Business, Energy & Industrial Strategy reported a discounted liability estimate of £600 million as at 31 March 2023. | <p>As of 31 May 2024, approximately £222 million in compensation has been paid out across three schemes (HSS; GLO Scheme; Overturned Convictions). This includes £54 million in payments (including interim payments) under the GLO Scheme.</p> <p>In the 2024 Spring budget the Government said it has committed around £1 billion to date to ensure postmasters are compensated fairly, which will be increased if needed.</p> |
| Icelandic-Water Trawlermen Compensation Scheme | 2000 to 2002. | By March 2007, the Department for Business, Innovation and Skills had paid out compensation to 4,400 claims (63% of the claims received from or on behalf of around 7,000 former trawlermen). | N/A | The total compensation paid as at March 2007 was just under £43 million. |
| Infected Blood Compensation Scheme | Not yet fully set up, although interim payments began in 2022. | 3,460 interim payments made as at March 2023. | Department for Health & Social Care recognised provisions totalling £2.2 billion as at March 2023. | <p>£346 million in interim payments were paid in 2022-23.</p> <p>The government has not announced an estimate of the scheme's cost.</p> |
| London Capital & Finance Compensation Scheme | 2021 to 2022. | Compensation for 12,421 bonds had been paid as at June 2022 under the government scheme. | N/A | The total compensation paid as at February 2024 was over £115 million under the government scheme. In addition, £58 million was also paid through the Financial Services Compensation Scheme's usual industry funding. |
| LGBT veterans scheme | Not yet established (although non-financial redress is underway). | None. | None. | <p>No compensation has been paid so far.</p> <p>The government has announced that the total cost of compensation will be capped at £50 million.</p> |
| Vaccine Damage Payment Scheme ^{3,4} | Since 1979. | No figure available. | No figure available. | <p>No figure was available for the total amount paid to applicants.</p> <p>As of 15 March 2024, the scheme has paid approximately £20 million to claimants where a COVID-19 vaccine has caused severe disablement (provided as a one-off payment of £120,000).</p> |
| Windrush Compensation Scheme | Since 2019. | As at March 2024, the total number of cases which were fully closed was 5,383. | The Home Office reported a provision of £111 million as at March 2023. | <p>£85.9 million in compensation has been paid as at March 2024.</p> <p>The total estimated cost of the scheme as at July 2021 was £171-215 million.</p> |

Notes

- 1 In some cases, the most up to date data were not available. We have used the best available information which can be found in publicly available documents, which may not reflect the current status of the scheme.
- 2 For some ongoing schemes, such as the clinical negligence schemes managed by NHS Resolution, the Financial Services Compensation Scheme and the compensation schemes run by the Criminal Injuries Compensation Authority, we calculated the total compensation paid under the schemes by adding the annual amounts paid in compensation as found in the relevant annual reports and accounts. We report the total compensation paid since 2005 for the clinical negligence schemes, and since 2012 for the compensation schemes run by the Criminal Injuries Compensation Authority.
- 3 Some schemes listed here, such as the Vaccine Damage Payment Scheme, are technically not compensation schemes but payment schemes. We have included them in this table as they are similar concepts.
- 4 The Vaccine Damage Payment Scheme does not regularly publish data on the scheme. The figure of £20 million was published in response to a Freedom of Information request.
- 5 Some of the amounts reported in the table are rounded to one decimal place.

Source: National Audit Office analysis of publicly available information

Figure 4

Compensation schemes reviewed by the National Audit Office (NAO)

We have reviewed 19 compensation schemes and other mechanisms for providing redress, primarily from within the last 20 years, of which 12 have had their own NAO report

| Name of scheme | Time period | Description of scheme | Relevant reports by Comptroller and Auditor General |
|--|------------------------------|---|---|
| Time-limited schemes | | | |
| Coal health compensation schemes | January 1998 to 2024 | Two compensation schemes to compensate coal miners for mining-related health problems – Chronic Obstructive Pulmonary Disease (COPD) and Vibration White Finger (VWF). | <i>Coal Health Compensation Schemes</i> , Session 2006-07, HC 608, National Audit Office, July 2007. Available at: https://webarchive.nationalarchives.gov.uk/ukgwa/20170207052351/https://www.nao.org.uk/wp-content/uploads/2007/07/0607608es.pdf |
| Icelandic – Water Trawlermen Compensation Scheme | October 2000 to October 2002 | A scheme to compensate former distant water trawlermen who lost their jobs when the industry collapsed following settlement of the 'Cod Wars'. | <i>The compensation scheme for former Icelandic water trawlermen</i> , Session 2006-07, HC 530, National Audit Office, June 2007. Available at: www.nao.org.uk/wp-content/uploads/2007/06/0607530.pdf |
| Foot and mouth disease compensation scheme | 2001 to February 2002 | A scheme to provide compensation to farmers for animals that were slaughtered for disease control purposes after the outbreak of foot-and-mouth disease in the UK. | <i>The 2001 Outbreak of Foot and Mouth Disease</i> , Session 2001-02, HC 939, National Audit Office, June 2002. Available at: www.nao.org.uk/wp-content/uploads/2002/06/0102939.pdf |
| Equitable Life Payment Scheme | June 2011 to December 2015 | An ex gratia payment scheme for Equitable Life policyholders who had a loss on their investments due to government maladministration between 1992 and 2000. | <i>Administering the Equitable Life Payment Scheme</i> , Session 2012-13, HC 1043, National Audit Office, April 2013. Available at: www.nao.org.uk/wp-content/uploads/2013/04/10095-001_Administering-the-Equitable-Life-Payment-Schemex2.pdf National Audit Office, <i>Memorandum for the Committee of Public Accounts: Equitable Life payment scheme</i> , April 2021. Available at: www.nao.org.uk/wp-content/uploads/2021/04/Memorandum-for-the-Committee-of-Public-Accounts-Equitable-Life-payment-scheme.pdf |
| Windrush Compensation Scheme | Started April 2019 | A compensation scheme serving members of the Windrush generation and their families who incurred losses due to difficulties proving their legal immigration status in the UK. | <i>Investigation into the Windrush Compensation Scheme</i> , Session 2021-22, HC 65, National Audit Office, May 2021. Available at: www.nao.org.uk/wp-content/uploads/2021/05/Investigation-into-the-Windrush-compensation-scheme-.pdf |

| Name of scheme | Time period | Description of scheme | Relevant reports by Comptroller and Auditor General |
|--|-------------------------------|--|---|
| London Capital & Finance (LCF) Compensation Scheme | November 2021 to October 2022 | Scheme to compensate bondholders with an outstanding investment in London Capital & Finance which had not already been compensated by the Financial Services Compensation Scheme. | |
| British Steel pension redress scheme | Started February 2023 | Consumer redress scheme for British Steel pension scheme members who suffered financial loss after being advised to transfer out of the pension scheme. ¹ The redress scheme post-dates the NAO report. | <i>Investigation into the British Steel Pension Scheme</i> , Session 2021-22, HC 1145, National Audit Office, March 2022. Available at: www.nao.org.uk/wp-content/uploads/2022/03/Investigation-into-the-British-Steel-pension-scheme.pdf |
| Group Litigation Order (GLO) Scheme | Started March 2023 | An ex gratia claims based scheme for postmasters who were part of the action <i>Alan Bates and Others v Post Office Limited</i> and who do not have a Horizon-related conviction. This scheme is delivered by the Department for Business and Trade. | |
| Horizon Convictions Redress Scheme | Expected from 2024 onwards | A scheme to provide redress payments to postmasters who have had their convictions quashed by the Post Office (Horizon System) Offences Act 2024. | |
| Infected Blood Compensation Scheme | Expected from 2024 onwards | A scheme to provide financial compensation to victims of infected blood in the UK and those affected. Interim payments are being made to claimants already registered with Infected Blood Support Schemes. | |
| LGBT veterans financial award scheme | Expected from 2024 to 2026 | A financial award scheme to recognise the hurt suffered by LGBT veterans affected by the pre-2000 ban on homosexuality in the UK Armed Forces. Non-financial restorative measures have already been introduced. | |
| Standing schemes | | | |
| Clinical negligence and non-clinical schemes managed by NHS Resolution | Started 1995 | NHS Resolution provides indemnity to the NHS in England for the risks involved in delivering healthcare services by handling clinical negligence compensation claims. It also provides indemnity for other non-clinical risks such as employer and public liability. | <i>Managing the costs of clinical negligence in trusts</i> , Session 2017-2019, HC 305, National Audit Office, September 2017. Available at: www.nao.org.uk/wp-content/uploads/2017/09/Managing-the-costs-of-clinical-negligence-in-trusts.pdf |
| Financial Services Compensation Scheme | Started 2001 | A statutory compensation scheme set up to protect customers of financial services firms that have failed. | |
| Pension Protection Fund | Started 2004 | The Pension Protection Fund provides compensation to the members of UK private sector defined benefit pensions scheme where the employer was insolvent and the scheme itself has insufficient funds to pay more than the fund will pay in compensation. | <i>The Pension Protection Fund</i> , Session 2009-10, HC 293, National Audit Office, February 2010. Available at: www.nao.org.uk/wp-content/uploads/2010/02/0910293.pdf |
| Armed Forces Compensation Scheme | Started 2005 | A compensation scheme that compensates UK serving and former service personnel for any injury, illness or death caused by service after April 2005. | |

Figure 4 continued

Compensation schemes reviewed by the National Audit Office (NAO)

| Name of scheme | Time period | Description of scheme | Relevant reports by Comptroller and Auditor General |
|---|---|--|---|
| Criminal Injuries Compensation Scheme | Started 2012 | A scheme operated by the Criminal Injuries Compensation Authority to provide compensation for victims of violent crime in Great Britain. | <i>Compensating victims of violent crime</i> , Session 2007-08, HC 100, National Audit Office, December 2007. Available at: www.nao.org.uk/wp-content/uploads/2007/12/0708100.pdf |
| Other mechanisms for providing redress or compensation | | | |
| Parliamentary and Health Service Ombudsman | Established in 1967 | The Parliamentary and Health Service Ombudsman handles complaints that have not been resolved by the NHS in England and by UK government departments. It can recommend various remedies, including financial payments. | |
| Financial Ombudsman Service | Established in 2001 | The Financial Ombudsman Service provides an alternative dispute resolution service to the Court system for addressing potential consumer harm, when using financial services, and can award redress where harm has been found. | <i>Efficient handling of financial services complaints</i> , National Audit Office, January 2012. Available at: www.nao.org.uk/wp-content/uploads/2012/01/1012_Financial_Ombudsman.pdf <i>Financial services mis-selling: regulation and redress</i> , Session 2015-16, HC 851, National Audit Office, February 2016. Available at: www.nao.org.uk/wp-content/uploads/2016/02/Financial-services-mis-selling-regulation-and-redress.a.pdf |
| Regulator-led mechanisms | The Financial Conduct Authority was established in 2013 | For example, the Financial Conduct Authority can use its statutory powers under the Financial Services and Markets Act 2000 to establish a <i>consumer redress scheme</i> or a <i>single firm scheme</i> where it considers a widespread problem exists. | |

Notes

- 1 Prior to the FCA's implementation of a consumer redress scheme in February 2023, complaints and claims by former members of the British Steel pension scheme were resolved through redress paid by the firms who gave the unsuitable advice, either resolving the complaints themselves or following a decision by the Financial Ombudsman Service. In other cases, where the firm that provided the unsuitable advice had gone out of business and the consumer had a valid claim against that firm, FSCS paid the compensation.
- 2 We also reviewed the National Audit Office's (NAO's) 2008 briefing, *Administration of time-limited compensation schemes* and other relevant NAO reports on delivering similar operational services.
- 3 Time-limited schemes refer to schemes set up to provide redress in response to a specific harm or event that happened at a particular point in time. Standing schemes refer to schemes that process claims of a type that can occur at any time.

Source: National Audit Office analysis of our previous reports, other publicly available information and interviews with stakeholders

Figure 5
Characteristics of schemes covered by our review of compensation schemes

Schemes can exhibit a wide range of characteristics

| Characteristic | Variant | Description | Example of a scheme which demonstrates this variant |
|--------------------------------------|---|---|---|
| Purpose/Type | Voluntary | Compensation is not required by law, but the government provides it voluntarily. | Windrush Compensation Scheme |
| | Statutory | The law requires the government to provide compensation. | Criminal Injuries Compensation Scheme |
| Funding | Funded by government | Funded by the government through the appropriate public body. | Windrush Compensation Scheme |
| | Levy-based | The scheme is funded using a levy on other bodies, such as banks. | Financial Services Compensation Scheme |
| Access to the scheme | Open-ended | The scheme is open indefinitely to new claims, although claims are often still required to be made within a set period of time since the claimant first became eligible. | Armed Forces Compensation Scheme |
| | Time-limited | The scheme is open for a set time period. | London Capital & Finance Compensation Scheme |
| Administrator | Government department | A government department runs the scheme. | Windrush Compensation Scheme |
| | Operationally independent body | An independent body runs the scheme. | Financial Services Compensation Scheme |
| | Contracted body | Operations are contracted out to another body on behalf of the government. | Coal health compensation schemes |
| | Regulator | Regulators are involved in organising redress or compensation to claimants. | British Steel pension redress scheme |
| | Ombudsman | Some ombudsmen can require organisations to provide redress to successful claimants. | Financial Ombudsman Service ² |
| Legal basis for compensation payment | No-fault | Compensation payments are made without the government admitting fault. The individual could also make a separate claim through common law route for damages. Claimants just need to prove that the event claimed for occurred rather than prove wrongdoing. | Armed Forces Compensation Scheme |
| | Legal liability established by case law and statute | If there is no agreement on whether or not compensation should be provided, or how much should be paid, then the claim will be taken to court and resolved through legal challenge. | NHS clinical negligence schemes |
| | Ex gratia | A payment made as goodwill where there is no government legal liability. | Group Litigation Order (GLO) Scheme |

Figure 5 continued

Characteristics of schemes covered by our review of compensation schemes

| Characteristic | Variant | Description | Example of a scheme which demonstrates this variant |
|------------------------------|---|---|---|
| Assessors or facilitators | Independent panel assessment | An independent panel assesses claims. | GLO Scheme (for certain claims referred to the panel by the Department for Business and Trade (DBT)) |
| | Assessment by department or other body | The government department administering the scheme assesses claims. | GLO Scheme (DBT assesses with legal advice) |
| | External claim handlers | The scheme administrator contracts with claims handlers to assess claims. | Financial Services Compensation Scheme |
| | Dispute resolution or mediation service | If the parties cannot agree on whether compensation is payable, or the amount that should be paid, a mediation or other dispute resolution mechanism can be adopted. This can involve referring the dispute to a service which may assist both parties to reach an agreement without having to go to court. | NHS Clinical Negligence Scheme for Trusts |
| Review and advice | Expert advice within the scheme | Experts, such as legal professionals, advise scheme administrators. | GLO Scheme |
| | Independent Person | The scheme is subject to a review from a person independent of the scheme who monitors scheme progress, performance and effectiveness. | Windrush Compensation Scheme |
| | Advisory board | An independent advisory board, which does not have a role in individual cases, monitors scheme progress and ensures the process is working well. | GLO Scheme (Horizon Compensation Advisory Board advises DBT ministers on delivery of this scheme and other strands of Horizon-related compensation) |
| | Regular scheme reviews | The scheme is subject to regular reviews to ensure it remains fit for purpose and provides an opportunity to make improvements to the scheme. | Armed Forces Compensation Scheme |
| Form of compensation payment | Lump sum | Compensation is paid with a tax-free lump sum. | Armed Forces Compensation Scheme |
| | Interim payments | Compensation payments are paid prior to the full settlement being established, so claimants receive some compensation as they wait for a final decision. | Infected Blood Interim Compensation Payment Scheme |
| | Guaranteed Income Payment (GIP) | An award to compensate for loss of earning capacity which is tax free and paid for life. It is described as an income replacement payment. | Armed Forces Compensation Scheme |
| | Tariff-based payments | Compensation is decided based on a tariff system where levels of harm are categorised and allocated a pre-determined amount of compensation. | Criminal Injuries Compensation Scheme |

| Characteristic | Variant | Description | Example of a scheme which demonstrates this variant |
|------------------------|---|---|---|
| Scope of compensation | Non-financial redress | Redress is given to impacted individuals through non-financial means, such as through a public apology by the government, and other restorative measures to recognise the wrongdoing which took place. | LGBT veterans scheme |
| | Compensation to other affected individuals (such as family members) | Family members close to an eligible 'primary claimant', such as parents, siblings, children or partners, can also receive compensation for impact to their lives. | Windrush Compensation Scheme |
| | Compensation for social impact/ impact on life | Payments are made to compensate for non-financial or social impacts on the lives of claimants, such as emotional distress or social difficulties. | Windrush Compensation Scheme |
| Appeals and complaints | Appeal through independent tribunal | Claimants can make an appeal to an independent tribunal if they are unhappy with the outcome of their claim. | Armed Forces Compensation Scheme |
| | Independent panel | Claimants can appeal to an independent panel of specialists which will review individual claims and aim to reach an agreement on the amount of compensation to be awarded. | GLO Scheme |
| | Independent adjudicator | Claimants can seek a review of their claim by an independent person who will consider the initial decision and recommend whether or not the decision should be reconsidered. | Windrush Compensation Scheme |
| | Ombudsman | Claimants can complain about a scheme to an ombudsman such as the Parliamentary and Health Service Ombudsman if they feel that the bodies responsible for the scheme have not acted properly and their complaint has not been resolved by the government and other systems. | Icelandic - Water Trawlermen Compensation Scheme |

Note

- This is not an exhaustive list of the characteristics of compensation schemes. It is meant to illustrate some key features or characteristics found across a range of compensation schemes.
- The Financial Ombudsman Service is not an example of a compensation scheme, but it can require a financial business to provide compensation where it has made a mistake or treated a consumer unfairly.

Source: National Audit Office analysis of publicly available information and interviews with stakeholders

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