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Our reference: 001430_Tax Direct (UK) Limited

Mr Paul Marshall
2-3 Gray's Inn Square
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27 August 2024

Horizon Shortfall Scheme: Update

Dear Mr Marshall,

Thank you for your patience while Post Office has been carefully considering your previous correspondence.

We acknowledge the disappointment Mrs Jayakanthan must feel regarding the letter we sent on 30 November 2023, concerning the outcome of the application to the Horizon Shortfall Scheme (the "HSS") made in relation to Tax Direct (UK) Ltd (now dissolved) ("TDUK") ("Outcome Letter"), confirming the decision that Post Office reached based on the recommendations of the Independent Advisor Panel (the "Panel"). This is not a decision that has been made lightly in all of the circumstances.

In your correspondence you raise a number of important points in relation to Mrs Jayakanthan's very sad case. Post Office is continuing its careful review and consideration of the issues you have raised and proposed to engage substantively and in good faith with these during the process outlined below.

The Horizon Shortfall Scheme (the "HSS")

As explained in the Outcome Letter, Post Office made no offer in relation to the application based on the Panel's view that on the current information that is available, the balance of probability was against the shortfalls identified around the time of the 4 March 2005 audit (the "Audit") being presumed to have been Horizon Shortfalls. We refer you to the summary of the Panel's reasons set out in the Outcome Letter and do not repeat the matters therein.

Understandably, Mrs Jayakanthan has disputed this outcome.

It is apparent that the threshold issue in this case is how the shortfalls identified during the Audit arose in the first place. As it currently stands, the only document that Post Office is able to find that is relevant to the issue is the Investigation Report listed at Annex 1 of the Outcome Letter. The matters set out in the Investigation Report point to the shortfalls, which was a shortage between the physical cash in the ATM machine and printouts from the ATM machine, not being related to the Horizon system.

In the case of shortfalls relating to ATMs, these can only be dealt with through the HSS in circumstances where the underlying root cause of the shortfall was Horizon (either demonstrated by the evidence available or where that is presumed to be the case in the absence of evidence to the contrary). The purpose of the HSS is to resolve issues with

current and former postmasters who believe they may have been affected by shortfalls relating to previous versions of Horizon (as set out in the HSS's Terms of Reference).

As with any remediation scheme there must be a remit of the scheme and therefore necessarily limitations to what the scheme can address and redress. In the case of the HSS, while the Panel can address Horizon Shortfalls and losses consequential upon the same suffered by former and current postmasters, it cannot consider or address any other losses a postmaster or any other individual may wish to claim. While it would not be appropriate to go into the detail with you of offers made to other applicants, we confirm that where ATM shortfalls have been raised and an Offer has been made, this is in light of it being determined that those particular shortfalls were in fact "Horizon Shortfalls" (as defined by the HSS's Terms of Reference). Each case is considered on its own facts and therefore it is not possible to simply say any time an issue is raised relating to ATMs that it must be, or must not be, a Horizon Shortfall.

What would ultimately assist in these circumstances is if further information could be provided regarding the provenance of the Audit shortfalls. We understand from the available information that your client was not involved in the running of the Putney branch and that was entirely left with Mr Jayakanthan. Nevertheless, if Mrs Jayakanthan feels that she, or any others (such as family members) who were involved in the operations of the Putney branch or recall hearing relevant information from others who were, could provide further information to help explain what happened around the time of the Audit, including how the shortfall arose, Post Office would welcome such information.

If such information is not available, what would assist is a fullsome explanation of the claim under the Fatal Accidents Act, and the evidence supporting the same.

For the avoidance of doubt, while Tax Direct (UK) Ltd having been dissolved while insolvent plainly creates additional complexity, Post Office's is not taking the position that this is an automatic bar on redress. It is a complexity which would need to be addressed in any offer and settlement and in our view could be resolved appropriately. However, as above, the pertinent point at this stage is to understand the details of the claim being made.

We reiterate again that we do not take the issues that this case raises, or our current decision based on the known information, lightly. Any new information that you are able to provide that can help us, and as appropriate the Panel, better understand what happened during the Audit and/or any claim under the Fatal Accidents Act will be welcome and considered in good faith. We set out below an overview of the procedure for provision and consideration of such information.

The HSS's Dispute Resolution Procedure

As you know, the HSS has a Dispute Resolution Procedure ("DRP") which can be engaged where the outcome of an application is disputed. We refer you and your client to the HSS website and the Terms of Reference for further details regarding that procedure.

Please let us know if your client would like to engage with that process and whether it would be helpful to set up a Good Faith Meeting to discuss this case and what further information you are able to provide. It may be that following this process, further information can be provided to the Panel for consideration, particularly on the threshold issue of the cause of the shortfalls.

Alternatively, Post Office is open to agreeing to bypass the Good Faith Meeting and proceeding straight to a mediation if that is your client's preference. The terms of such mediation would be as set out in the Terms of Reference. All mediation costs are borne by Post Office.

Given the additional complexity, explained in your letter, that Tax Direct Limited entered insolvent liquidation, if you and your client think it would be helpful for the liquidators to join either of those meetings, we would be open to that. While deferring to your client's preference on preferred next steps, as is hopefully clear from the above, our objective is to seek to utilise the Horizon Shortfall Scheme's DRT process to try and constructively explore whether it is possible to reach a settlement. This would include a claim relating to Horizon Shortfalls and, if distinct, any claim under the Fatal Accidents Act.

Further points

We fully appreciate that you, and your client, also have other wider questions and concerns around Post Office's conduct not directly related to this case. We think it would be most constructive to pick those up separately, to allow us in this context to focus on what further information there may be which supports the claim and would support a revised outcome. Please let us know your client's preference for next steps.

Interim payment

Finally, we note your request for an interim payment. We acknowledge and are extremely sympathetic to your client's current circumstances. While we would be open to considering an interim payment for the reasons set out in your correspondence, we can only do so with a clearer understanding of your client's claim. With that in mind, we propose progressing promptly with the procedure outlined above, in order that we can reach a position as soon as possible to consider whether to offer an interim payment and assist your client as quickly and as best we reasonable can.

We look forward to hearing from you in relation to the above, and please do get in contact with us if you feel you need further information before a full response can be provided.

Yours sincerely,

Simon Recaldin
Director - Horizon Shortfall Scheme
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