

**IN THE POST OFFICE HORIZON IT INQUIRY**

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**INQUIRY SUBMISSIONS (HUDGELL CP GROUP)  
HSS APPEALS PROCESS**

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1. These submissions by Hudgell Solicitors on behalf of the Hudgell CP Group address the invitation of the Chair to make short submissions on the HSS Appeals (“HSSA”) Process (Letter dated 2 May 2025). They draw on the experience of Hudgell Solicitors in their wider representation of participants in the Horizon Shortfall Scheme (“HSS”). (The Inquiry is aware that Hudgell Solicitors represent a significant number of HSS applicants, many of whom are not CPs in this Inquiry).
  
2. These brief submissions address the following matters:
  - a. The Current Position.
  - b. Eligibility
  - c. The Guiding Principles, Consistency and Fairness
  - d. The Claims Process
  - e. Speed of Outcome
  - f. Full and Final Settlement
  - g. Costs
  - h. Summary

**A) The Current Position**

3. The HSSA process launched in April 2025. It is being delivered by the Department of Business and Trade with Post Office removed from the process.
  
4. Applications for the new scheme are invited in two phases.
  - a. The first phase are cases currently live in the Scheme and subject to eligibility criteria.

- b. The second phase are settled cases to be re-opened in the Scheme and again subject to eligibility criteria
5. The HSSA Scheme was set up to reflect and acknowledge the possibility of claims being settled without the benefit of legal advice and at an undervalue, a concern in relation to which Hudgell Solicitors made repeated submissions during the course of this Inquiry. In our closing submissions at the close of the Inquiry hearings, we regretted that there was insufficient information in the public domain for more than a cautious welcome (See **SUBS0000089** [6.52]-[6.54]).
6. A further reason for establishing the Scheme was a desire to speed up the process of resolving claims in the Dispute Resolution Process of the Horizon Shortfall Scheme (“HSS”). It is a matter of significant concern to users that the HSS remains slow, non-responsive, inconsistent in approach and does not deliver full and fair compensation to Sub-Postmasters in a timely manner. Revised offers are currently taking upwards of 6-9 months to be made following resubmission of claims.
7. There is a continuing deep mistrust and strong dislike among the Sub-Postmasters group for the Post Office to continue administering its own compensation scheme in any form.

## **B) Eligibility**

8. The HSSA process is prescriptive in terms of defining applicants that are eligible for the Scheme.
9. Namely, those applicants that have either settled their claim in the HSS without entering the Dispute Resolution Process or rejected an initial HSS offer without entering the Dispute Resolution Process or settled their claim in the Dispute Resolution Process before the mediation stage without legal advice funded by the Post Office (other than for reasonable allowances to consider the offer) or be within the Dispute Resolution Process (with or without legal advice) but not have requested or be awaiting a mediation meeting.

10. An additional category of Claimant is contemplated in the scheme. Namely, “a shareholder or a director of a company or a partner in a partnership which ceased to exist you can make an appeal as a linked individual. If appropriate, an offer of an ex gratia payment will be made to you and any other shareholders and directors of the company or partners of the partnership who may have a legitimate interest in that payment.” This is welcome. The HSS accepts only applications only from those with a direct contract with Post Office, disqualifying some partner and joint losses giving rise to significant unfairness.

11. In our closing submissions (above, [6.53] – [6.54]), we called on the Inquiry to ensure that all applicants who had not benefitted from legal advice and those who had been unaware of the right to access funded legal support. As highlighted below, we remain concerned that the criteria for eligibility would render the HSSA inaccessible to some of the groups for whom access to appeal may be the only option to secure fairness.

12. Cases that are ineligible for the Scheme include the following categories:

- a. Those Claimants that have accepted £75,000 by way of fixed sum offer.
- b. Those cases where a claim has been settled with the benefit of legal advice in the Dispute Resolution Process but before mediation.
- c. Those cases that have reached the mediation stage (which includes a request for mediation).

13. Exclusions from the new scheme create potential unfairness in the following respects:

- a. Cases that have settled for £75,000, where those Claimants have not had the benefit of any legal advice in accepting that offer. Paid legal advice has not been made routinely available to Claimants in deciding whether to accept this offer.

- b. Those cases in the HSS Scheme where a mediation date has been requested before these scheme eligibility criteria were published. In a limited number of cases this has the potential to cause unfairness by the retrospective application of this criteria. For example, Hudgell Solicitors has an applicant in the HSS who has been to mediation on a single discrete issue and who is now ineligible for the HSSA [HSS Case Ref 000556\_]. He has no avenue for redress for joint/partner losses which are not covered in the HSS.
  
- c. Those cases where Claimants have taken legal advice but the quality of that legal advice and/or the expertise of the adviser is “*sub optima*”. Hudgell Solicitors have seen cases where Solicitors have offered advice to Claimants which is not consistent with how the schemes operate and lack of fundamental understanding of how compensation should be addressed. It is anticipated that applicants would be at best very wary about the prospects of suing previous advisers for mis-advising them.

### **C) Guiding Principles, Consistency and Fairness**

14. Horizon Shortfall Scheme Appeals Process Guidance and Principles [URN tbc] document was updated on 10<sup>th</sup> April 2025 and is published on the Government website.

15. At page 8 under the heading “*Assessment of your Claim*”, this provides:

*'For consistency, the main principles of types of loss within the HSS consequential loss principles and guidance (on the Post Office website) will also be applied to the HSSA. They set out the underlying principles that will govern the assessment of any appeals for consequential loss under the process.*

*In addition to the application of these principles the process will also consider what is fair in all the circumstances.”*

16. In turn, the Horizon Shortfall Scheme Consequential Loss Principles and Guidance document provides at paragraph 3.3 under "*established legal principles*", that:

*"The object of the assessment will be, so far as the award of sum of money can do so, to put the Postmaster into the position that the Postmaster would have been but for the Horizon shortfall."*

17. The HSSA is yet to assess claims and therefore there is no evidence of how the principles will be applied in practice on appeal.

18. In the HSS, in practice, these principles have not been routinely followed. For example, loss of earnings claims are not routinely compensated on the basis of putting the Claimant back in the position they would have been in had the wrong not been done in the first place. A Network Transformation Payment type calculation is routinely applied to loss of earning claims and any related claims for capital losses and other financial losses.

19. In addition, the HSS routinely sees claims for partner losses and/or joint losses which are not compensated at all. It is anticipated the HSSA will resolve this particular unfairness in accepting applications from partners.

#### **D) The Claims Process**

20. The HSSA Process and Guidance Principles set out the procedure to be followed where a claim is transferred to the process. Again this is set out on the Government website at pages 5 to 12 inclusive [**URN** tbc].

21. It is not intended to repeat in detail the process to be followed other than to highlight it is very similar in design (as well as personnel) to the GLO. The GLO scheme continues to attract criticism in practice of the speed of the process and level of awards being made.

### **E) Speed of Outcome**

22. The HSSA process is being administered in similar fashion to the GLO with the same external legal adviser. It anticipates offers will be made in 90% of cases within 40 working days of a fully pleaded case being submitted.

23. Anecdotally it has been reported that Requests for Information have been served in the GLO late into the 40 day period in effect resetting the clock and that this has led to significant delays in a number of cases. It is not known in practice how the self-imposed deadlines for submission of offers will work in the new appeals scheme.

### **F) Full and Final Settlement**

24. In applying to the HSSA, the applicant foregoes certain rights within the HSS Dispute Resolution Process. When completing the certification for the eligibility criteria to be assessed the applicant confirms the following:

*“I/We understand that on confirmation of eligibility, my/our application will be transferred to the HSSA and I/we will not be able to return to the HSS DRP. I/We confirm that I/we have understood that upon transfer to the HSSA, I/we waive my/our rights under 7(a) to (e) of the HSS terms of reference regarding the HSS DRP, including my/our right to mediation in the HSS DRP.*

*I/we understand that upon confirmation about eligibility, I/we will no longer be able to apply for the fixed sum £75,000 award.*

*I/we confirm that I/we have understood that if my claim remains unresolved after the HSSA process is completed, para 7(g) of the HSS terms of reference continue to apply.”*

25. In turn, the HSS Terms of Reference [RLIT0000417], at paragraph 7, confirm a detailed dispute resolution procedure at the end of which is a mechanism where unresolved claims are referred to either the Small Claims Track with a value of less than £10,000 or to formal arbitration if the value exceeds £10,000. Those rights are preserved within the new appeals process.

26. In broad terms, and for the reasons set out above Hudgell Solicitors consider that the majority of their clients are best served in transferring their cases to the new appeals process. However, this view is subject to confirmation of a proper application of the Principles consistent with the Guidelines to ensure that the Postmaster is put back into the position they would have been had the wrong not been done in the first place.

#### **G) Costs**

27. A matrix of costs has been negotiated with some Claimant representatives that appear to be fair and realistic on the understanding the scheme is administered in an efficient and timely manner, at no cost to any applicants. However, at this stage with limited understanding of how the scheme will work in practice it is not known whether this provision will be adequate. In the HSS, Hudgell Solicitors conduct significant amounts of pro bono work for Claimants where fee limits have been exhausted and where claims have not yet been resolved. It is an unfortunate position that many Claimants have to rely on the goodwill of their Solicitors to work for nothing in circumstances where any costs proposal is not adequate.

#### **H) Summary**

28. It unfortunately remains premature to comment on how the HSSA will work in practice:

- a. It is generally welcomed by Sub-Postmasters represented by Hudgell Solicitors that the Post Office have been removed from the appeals process.
- b. It is a positive step that partner losses are capable of being presented as part of claims.

- c. It is important that DBT are regularly open to scrutiny to ensure they meet their own self-imposed deadlines for making offers and that such offers are full and fair.

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**14 MAY 2025**