



# Overtaken Convictions

## Pecuniary Compensation Assessment Process

### 1. **PARTIES INVOLVED**

- 1.1 The Claimant. All references to the Claimant include any legal representative they may have instructed.
- 1.2 Post Office Limited (Post Office).
- 1.3 Independent Assessor. A reference to the Independent Assessor includes one or more members of the Independent Pecuniary Compensation Assessment Panel.

### 2. **STAGES – AT A GLANCE**

- 2.1 Claim submission.
- 2.2 Claim assessment (without prejudice principles setting out Post Office's proposed assessment methodology have been developed in consultation with Claimant representatives).
- 2.3 Offer.
- 2.4 Discussion of offer with Claimant representatives.
- 2.5 Reference to Independent Assessor.
- 2.6 Independent Assessor's recommendation.
- 2.7 Agreement of compensation or, if not agreed, Claimant retains the right to proceed to litigation (or agree upon an alternative dispute resolution process).

### 3. **SUBMISSION OF A CLAIM**

- 3.1 The Claimant should present their claim and supporting evidence to Post Office.
- 3.2 The Claimants' claims should:

- 3.2.1 Set out in a Schedule of Loss the precise heads of loss being claimed;
  - 3.2.2 Identify the specific amount being claimed in respect of each head of loss. Copies of any relevant calculations, ideally in excel format, should be included; it is not necessary to include interest calculations; interest at 3.45% compounded annually will be calculated on applicable heads of loss when an offer is made;
  - 3.2.3 Explain how the losses claimed were caused by the Claimant's prosecution;
  - 3.2.4 Clearly set out any relevant counterfactual scenario relied on by the Claimant as part of the claim;
  - 3.2.5 Include all available documentary evidence; where documentary evidence is no longer available, please confirm and set out in summary the reason for this;
  - 3.2.6 Include any relevant expert evidence;
  - 3.2.7 State whether the Claimant has or intends to make a linked claim in respect of another compensation scheme;
  - 3.2.8 Contain a statement of truth.
- 3.3 Further guidance as to the types of evidence Post Office would ask Claimants to search for and, where available, provide, are set out in the principles.
- 3.4 Where expert evidence is reasonably required in respect of any head of loss (including those set out in the principles), Post Office will pay the reasonable and proportionate cost of that evidence. Before instructing any expert, Claimants are asked to seek Post Office's agreement to instructing an expert and provide an estimate of the anticipated costs so that these can be agreed up front.

- 3.5 If Post Office considers it needs further information or evidence to support a claim, it will write to the Claimant with a Request for Further Information.

#### 4. **ASSESSMENT OF CLAIM**

- 4.1 Post Office will assess the claim in accordance with the principles with the objective of delivering compensation which is fair in all the circumstances.
- 4.2 Post Office will then make a without prejudice offer of compensation. If Post Office does not consider that elements of the losses claimed would be recoverable, Post Office will explain why and, where appropriate, invite the Claimant to provide further information and/or evidence.
- 4.3 If the Claimant accepts the offer made, Post Office will make payment within 28 days.
- 4.4 If the Claimant agrees with Post Office's offer in respect of some, but not all heads of loss, the Claimant may accept the offer in respect of the agreed heads of loss alone, in which event payment in respect of the agreed heads of loss will also be made within 28 days.
- 4.5 If the Claimant does not wish to accept the offer made, the Claimant should explain why they interpret the existing evidence differently and/or provide any additional evidence in support of their position.
- 4.6 Post Office will consider the reasons put forward by the Claimant and any further information received and make a revised offer, if appropriate, with a view to agreeing where possible the level of compensation payable.

#### 5. **INDEPENDENT ASSESSMENT**

- 5.1 If, following without prejudice discussions, Post Office and the Claimant are unable to reach agreement on the whole or parts of the claim, either Party may request an Independent Assessment, via the Independent Assessor.
- 5.2 Independent Assessment provides an opportunity for the Claimant to have a third party, independent of Post Office, make a recommendation as to the appropriate level of compensation to be paid in respect of any heads of loss which are not agreed between the parties.
- 5.3 The Independent Assessor's recommendation will not be binding on the parties. However, the expectation is that the guidance given by the

Independent Assessor will allow the parties to reach agreement in respect of all remaining disputed heads of loss.

- 5.4 To facilitate the objective of reaching agreement in a swift and proportionate fashion, Independent Assessment will be a without prejudice process and all material produced shall be kept confidential between the parties to the extent permitted by law, save for the fact that a claim or part of a claim has been agreed and/or was referred for Independent Assessment shall not be confidential.
- 5.5 The Independent Assessor shall consist of a panel of individuals with relevant legal, financial and retail expertise. Together they comprise the Independent Pecuniary Compensation Assessment Panel. The designated Chairperson is Sir Gary Hickinbottom.
- 5.6 Terms of Reference for the Independent Pecuniary Compensation Assessment Panel govern the procedure for Independent Assessment. In summary, any party who wishes to refer disputed issues to the Independent Assessor should:
  - 5.6.1 Notify the Panel and the other party in writing of the planned reference of the claim to the Independent Assessor, setting out the heads of loss to be referred.
  - 5.6.2 Share with the Independent Assessor and the other party, a concise summary of their position on the disputed issues, together with any relevant supporting documents which may include the prior correspondence between the parties. A standard application form has been prepared and this should be completed.
  - 5.6.3 The other Party should, within 10 working days, share a similar summary setting out their position.
- 5.7 The Chairperson (or in their absence, his delegate) will consider the issues referred for Independent Assessment and decide whether the claim should be considered by:

- 5.7.1 A single panel member with the necessary specialism; or
- 5.7.2 All or a combination of panel members.
- 5.8 The chosen Assessor(s) will consider the parties' competing positions and exercise their independent judgment to make a non-binding recommendation as to the appropriate amount of compensation to be paid in respect of all disputed heads of loss.
- 5.9 In order to do so, the Independent Assessor may ask the parties to take any steps that they consider appropriate to reach a fair resolution of the issues, including requesting further information or submissions, convening a short hearing, or appointing any experts which they consider necessary.
- 5.10 In deciding the appropriate procedure to adopt, the Independent Assessor will take account of the overriding objective of achieving swift and fair resolutions at proportionate cost.
- 5.11 The Independent Assessor will make a recommendation including as to the level of compensation which, in the Independent Assessor's opinion, should be paid.
- 5.12 The Independent Assessor's recommendation shall be supported by short written reasons and shall be shared with both parties at the same time.

6. **STEPS FOLLOWING THE INDEPENDENT ASSESSMENT**

- 6.1 Following receipt of the Independent Assessor's recommendations, the parties shall confirm whether they agree with the Independent Assessor's recommendation and, in light of that, endeavour to reach settlement on the compensation to be paid in respect of all outstanding heads of loss.
- 6.2 Post Office will make payment in respect of all agreed heads of loss within 28 days of a settlement being reached.

- 6.3 If the parties are not able to reach agreement on any heads of loss, the Claimant retains the right to proceed to litigation in respect of any remaining disputed issue(s) and the parties' legal rights remain unaffected.

7. **COSTS**

- 7.1 Post Office will pay the Claimants' reasonable costs of participation in this Process on the standard basis, to be assessed if not agreed.