

Horizon Compensation Advisory Board
Secretariat: Department for Business and Trade
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Sir Wyn Williams
Post Office Horizon IT Inquiry
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By email to [posecretariat](mailto:posecretariat@postoffice.gov.uk)

GRO

15 August 2023

Dear Sir Wyn,

Initial Report on Compensation

The Horizon Compensation Advisory Board has studied with great interest the recommendations in your Initial Report in respect of our work. We wanted to offer you a number of comments additional to those set out in the report of our meeting of 31 July, published [here](#), at which we discussed this issue. We also wanted to draw to your attention our findings in respect of the review of convictions being conducted on behalf of the Post Office – and the implications for justice for hundreds of convicted people.

Inquiry recommendations in respect of the Advisory Board

The landscape of compensation schemes for the victims of the Horizon scandal has developed over time into a complex ecosystem. Unsurprisingly, questions are raised over the consistency of processes and application of rules as between the different schemes. It involves numerous people performing different functions within several different schemes. Different functions include managing and administering, providing information and advice, representing, negotiating, making decisions, reviewing decisions, determining appeals, auditing, and advising on the design and operation of system(s). The arrangements also involve respecting the exercise of choice and judgment by individuals. Professionals, where they are involved, are subject to obligations of ethics as well as of contract.

As you will be aware, the Minister has asked us to advise him on the design and operation of the schemes. The four members of the Advisory Board work *pro bono*. Our fundamental concerns have been to advise on changes in procedure or rules, so as to support trust that the schemes operate fairly, that objective decisions are taken in accordance with legal precedents, professional standards and the principle of fairness, and that there is improved consistency between the different schemes. In the current ecosystem, these are major challenges that are taking a great deal of effort.

It should go without saying that each of us is committed to the principle that the victims of this awful scandal receive full and fair compensation. However, we do not believe that it would be possible or advisable for us to intervene in the determination or outcomes of individual cases, nor to give an opinion on individual outcomes, or an opinion that full and fair compensation is being paid out to individuals. To do so would raise serious issues over interference in processes that involve procedural safeguards to ensure fairness (not least an review/appeal mechanism), and in individuals' rights and professionals' obligations and functions. We do hope that matters of concern, whether on individual cases or systemically, will be brought to our attention so that we may advise the Minister on appropriate action.

We intend to continue to meet roughly every six weeks and to ensure that minutes of our meetings are published.

It is, of course, for the Department rather than ourselves to provide a formal response to your recommendations. I am copying this letter to Minister Hollinrake: I am sure that he will take it into account in formulating that reply.

Convicted postmasters

There has already been ample testimony – both in your Human Impact hearings and in the media – of the disreputable tactics which were used by the Post Office in many prosecutions. We know that the phase of your Inquiry now under way will look at issues relating to prosecutions. We are sure that you will be able to add to the evidence base of postmasters' experiences and complement this with a clearer understanding of the Post Office's decisions which led to them.

We believe that there is already sufficient evidence to demand a positive presumption that unless clear evidence to the contrary remains, *all* Post Office convictions are unsafe and should be overturned. Further, we believe that a change in the law may be needed that a tainted investigation undermines other and previous investigations by the same tainted team. Such changes need to be done rapidly: as you know, many of those wrongly convicted are now elderly, and some have sadly already passed away. Because these people are still regarded by the law as criminals, they are not eligible for compensation. That is a matter of grave concern to us.

As well as discussing your Initial Report, our 31 July meeting heard about the review of convictions being undertaken for the Post Office by external lawyers. We learned that those lawyers regard the Criminal Appeals Act 1995, together with the criteria for "Horizon cases" set by the Court of Appeal and their expectations as to what evidence is needed to grant an appeal, and the policies of the CCRC, as severely restricting the Post Office's discretion in response to their review. We have written to the CCRC and intend to write to prosecutors in other jurisdictions about these matters and will copy you. We note that the Law Commission's recent Issues Paper on Criminal Appeals¹ explores proposals in this area. We may also write to the Law Commission: again, we will keep you informed.

The limitations which we have described may well mean that the legal system as it stands will never expunge hundreds of unjust convictions – and overturning the rest is already taking far too long. The Law Commission's project is unlikely to remedy the situation in the short term. This is more than an issue of principle, because no compensation can be paid to those whose convictions remain extant. We hope that you will consider making recommendations for more radical and urgent action, including legislation if necessary.

Yours sincerely,

GRO

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cc Kevin Hollinrake MP, Minister for Enterprise, Markets and Small Business

¹ See <https://www.lawcom.gov.uk/project/criminal-appeals/>