

Submissions on compensation – 1 December 2022

**IN THE MATTER OF THE POST OFFICE HORIZON IT INQUIRY**

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**SUBMISSIONS ON BEHALF OF**

**POST OFFICE LIMITED**

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**Introduction**

1. Post Office wishes to reiterate its recognition of the importance of ensuring that postmasters receive timely and fair compensation for the failings associated with the Horizon IT system.
2. The importance of this issue is duly reflected in the Chair's Progress Update on Issues relating to Compensation and his announcement on 22 September 2022 of a one-day hearing on compensation, which is to take place on 8 December 2022, in accordance with the Chair's stated intention of closely monitoring the extent to which the views set out in the Progress Update have been acted upon promptly.
3. These submissions contain an update for the Inquiry on the progress of the Historical Shortfall Scheme ("HSS") (Section A) and the Overturned Historical Convictions ("OHC") (Section B), including in relation to issues considered in the Progress Update. If there are further relevant developments prior to Post Office's oral submissions on 8 December 2022, it will of course provide a further update then. Post Office is proceeding on the basis that other Core Participants will be in a position to address the Inquiry on the progress of the Group Litigation Scheme.
4. For the avoidance of doubt, Post Office recognises that such updates are not a substitute for the full hearing of issues of financial and other redress, which is

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scheduled to take place as part of Phase 5 of the Inquiry. Post Office will seek to address those issues as appropriate in due course, in accordance with the Inquiry's timetable.

5. Unless otherwise stated, the information provided in these submissions is given as of 30 November 2022.

**A. HSS**Current statistics and trajectory

6. Post Office last updated the Inquiry on the progress of the HSS in October 2022, in its written and oral opening statements. As of 13 October 2022, it had made offers<sup>1</sup> in respect of 83% of eligible applications and was on course to meet its target of making offers in respect of 95% by the end of this year.<sup>2</sup> Post Office confirms that it has since continued to make good progress in this respect and remains on course to meet that target; at the end of October 2022 it had made offers in respect of 90% of eligible applications (against a target of 85%), and as at the end of November 2022 it has made offers in respect of 93% eligible applications (against a target of 90%).<sup>3</sup> Notwithstanding this, in its administration of the scheme Post Office continues to be mindful of the Chair's observation that there is a balance to be struck between speed of decision-making and ensuring that offers made are full and fair.<sup>4</sup>

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<sup>1</sup> In a small number of cases this offer is conditional upon meeting a certain case-specific requirement, for example providing evidence of authority to represent, or Court of Protection approval where the applicant does not have mental capacity. In a very small number of cases the offer letter explains the offer Post Office will make once it has established who holds the cause of action. On this point, see for instance paragraph 14 below. Post Office did not want to delay communicating the intended offer and allowing the respective applicant to consider this in the meantime, while the complexity around where the cause of action vests is resolved.

<sup>2</sup> Inquiry transcript of 14 October 2022 hearing, internal page 47.

<sup>3</sup> These figures do not include applications received after the extended 27 November 2020 deadline, who are addressed from paragraph 11 onwards below.

<sup>4</sup> Progress Update on Issues relating to Compensation, paragraph 7.2.

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7. Taken together, as of 30 November 2022 the offers Post Office has made represent a total value of approximately £70.8 million including interest and the deduction of withheld tax. Out of the 2,200 cases in which offers had been made by that date, 1,789 (81.3%) applicants have accepted offers in settlement. Payments have been made in 1,749 (79.5%) cases, amounting to a total value of approximately £43.57 million including interest and the deduction of withheld tax.
8. Of the remainder of applicants who did not initially accept their offer, 54 have subsequently accepted it. Of those applicants, 29 accepted it before any Good Faith Meeting and 21 after a Good Faith Meeting but before any Escalation Meeting. Of the 12 cases that have proceeded to an Escalation Meeting, four applicants accepted the offer thereafter and three applicants have asked to proceed to mediation. A further 201 cases are being actively supported through the HSS Dispute Resolution Procedure by the dedicated Dispute Resolution Team.
9. In order to assist in the effective running of the HSS and ensure that applications are progressed as quickly as possible, since Post Office's submissions to the Inquiry of 31 May 2022 it has appointed five additional members to the HSS Independent Advisory Panel. The Panel now comprises 16 members: eight legal specialists, six forensic accounting specialists and two retail experts. In addition, a legal specialist or a forensic accounting specialist may be appointed as a delegate in the event relevant members of the Panel are unable to attend Panel meetings (although, to date, every such meeting has been conducted by three members drawn from the Panel of 16). Applications will continue to be assessed by three members of the Panel, comprising one specialist of each kind. These changes to the composition of the Panel were announced on the HSS website on 13 October 2022, together with the publication of an updated scheme Q&A document, and are reflected in the updated Panel Terms of Reference published on 30 November 2022 (appended to these submissions at Annexes 1 and 2, respectively).

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10. Of the applications that were received by 27 November 2020 which have not yet received an offer letter, this is usually in light of a case-specific complexity meaning it has been slower to progress to an offer, such as:
- (a) Applications with complexities concerning insolvency/bankruptcy. It has taken longer to establish the relevant circumstances of these claims in light of the interests (or potential interests) of bankruptcy/insolvency practitioners such as the Official Receiver. The Independent Advisory Panel is also considering the fair approach to compensating for losses flowing from bankruptcy/insolvency. Post Office expects to make offers in respect of such applications early next year.
  - (b) Applicants who were prosecuted but not convicted. With the benefit of the progress made on the approach to non-pecuniary losses for postmasters who were prosecuted and convicted (as addressed in Section B below), the Independent Advisory Panel is to consider the fair approach to this category of applicants. Post Office expects to make offers in respect of these applicants early next year.
  - (c) Applications in respect of which information is required from the respective applicant or a third-party in order to fairly assess the claims. This may include circumstances in which responses are outstanding from the applicant (for example, if they are delayed due to ill health) or from the NHS (for medical records in support of a personal injury claim, for instance). As information is received, the Panel will consider the application and an appropriate offer letter will be prepared and sent. Again, Post Office is mindful in this regard of the importance of striking the appropriate balance between speed of decision-making and considerations of fairness.

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Late applicants

11. In its opening statement Post Office confirmed to the Inquiry that, following BEIS's announcement of 6 October 2022,<sup>5</sup> it would be writing to all postmasters<sup>6</sup> who had previously told it that they wished to join the HSS after the extended deadline but who were not currently included in the HSS.<sup>7</sup> It has now written to all but one<sup>8</sup> of the 230 such postmasters, inviting them to apply to the scheme and providing them with an application form and the Consequential Loss Principles and Guidance. Together with an initial notice on the HSS website inviting further such applications, on 12 October 2022 Post Office published a late-applicant specific Q&A document and application form. The HSS website confirms that applicants are asked to explain why they were unable to submit an application by 27 November 2020, and provides by way of example that they did not know about the HSS, or were poorly, overseas or caring for a relative. Post Office has since updated the Q&A on the HSS website to clarify the approach that will be taken in circumstances where a late applicant has provisionally been declined by Post Office on the basis that they have not provided a sufficient reason for missing the original deadline of 27 November 2020. Such applicants will be presented with a further opportunity to provide one, and Post Office will suggest a list of reasons that might apply. If an applicant still cannot provide a reason, or their reason is not accepted by Post Office, it will let them know that the matter will be referred to an independent third-party. The updated Q&A are appended to these submissions at Annex 3.
12. As of 30 November 2022 Post Office has received 77 late applications. 59 of these applications contained a complete set of information at this stage and Post Office has assessed 52 of them for eligibility under the HSS, with confirmation expected to be

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<sup>5</sup> BEIS announcement of 6 October 2022, 'Government supports postmasters impacted by Horizon scandal by providing funding for late applications to Historical Shortfall Scheme'.

<sup>6</sup> Including former postmasters and representatives of current or former postmasters.

<sup>7</sup> Inquiry transcript of 14 October 2022 hearing, internal page 50.

<sup>8</sup> There are aspects of complexity to this application which Post Office is actively considering how best to address in order that it may be processed promptly.

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sent to applicants soon. 18 of the late applications are partially complete and Post Office is contacting applicants for missing information. No applications have been provisionally declined by Post Office on the basis that they have not provided a sufficient reason as to why their initial application to the HSS was made after the extended deadline. In the light of the revised Q&A document mentioned above, Post Office expects that there will be very few, if any, applications that will be deemed to be ineligible on the grounds of the absence of a reason for its lateness alone.<sup>9</sup>

13. Post Office noted in its opening statement that it was considering whether any variations to the current approach to processing applications may be introduced in relation to late applicants (subject to ensuring that such variations would not in any way result in a less fair process).<sup>10</sup> Having considered the issue further, Post Office confirms that it has no intention to introduce any variations in this respect – late applications which are accepted as eligible will be processed in the same way as those received prior to the extended deadline.

Dissolved entities

14. As well as beginning to review late applications, on 30 August 2022 Post Office announced that it will consider applications previously treated as ineligible on the basis that the relevant branch had been operated by a limited company which had since dissolved (meaning there was no legal entity to make the claim). Of the 31 dissolved entities that had HSS applications made on their behalf, Post Office has confirmed to the representatives of 26 that their claims are now eligible and those claims are in the process of being assessed under the HSS. A further three representatives are expected to be contacted within the next two weeks with confirmation that their claims are eligible for HSS assessment. The current status of

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<sup>9</sup> One of the late applications has been determined to be ineligible for reasons other than lateness.

<sup>10</sup> Inquiry transcript of 14 October 2022 hearing, internal page 51.



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the remaining two applications is complex and Post Office is continuing to work to resolve them.

Hardship payments

15. Post Office published an announcement on the Historical Matters section of its website on 29 July 2022 to publicise its practice of considering making early payments of up to £10,000 to applicants who are experiencing financial difficulties or suffering from serious health issues. In line with that announcement, Post Office has now made hardship payments in respect of 53 applications.

Interim payments

16. Applicants to the HSS can now request an interim payment in addition to the existing provision for hardship payments addressed above. The HSS website was updated on 30 November 2022 to reflect this change. In addition, the ability to request an interim payment will be specifically drawn to the attention of any applicants who enter the scheme's Dispute Resolution Process. Each application for such a payment under the HSS will in due course be assessed on a case-by-case basis.

Legal assistance

17. In line with the recommendation of the Chair,<sup>11</sup> in its opening statement Post Office explained that it would offer to pay the reasonable legal costs of remaining applicants in the scheme (whose claims are often higher-value and more complex than those previously settled), with effect from 10 October 2022.<sup>12</sup> Post Office provided its provisional view as to the value of work it considered to be reasonable in this respect and has since invited applicants who consider that they may require additional

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<sup>11</sup> Progress Update on Issues relating to Compensation, paragraph 7.9.

<sup>12</sup> Inquiry transcript of 14 October 2022 hearing, internal page 52.

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support to discuss – and ultimately agree – their position with them. In doing so, Post Office hopes to ensure that such applicants may obtain the assistance they require in the confidence that Post Office will pay their reasonable legal costs.

18. Since 10 October 2022, 26 requests have been received for legal fees. Post Office is endeavouring to work through these fee requests as quickly as it can, to avoid delay in progressing applications. In circumstances where the fees are to be funded from the public purse, due consideration must be given to each individual request.

**B. OHC**

19. Together with claimants and their legal representatives, Post Office continues to make good progress in settling the claims of postmasters with overturned Horizon-related convictions. As of 30 November 2022 Post Office has reached full and final settlement in two cases and has paid approximately £11.5 million in interim, non-pecuniary and/or pecuniary payments in respect of 77 of the 83 individuals whose convictions have been overturned on appeal.
20. As well as reiterating its encouragement to convicted postmasters to consider their options for appeal in its opening statement,<sup>13</sup> Post Office has written to or contacted the vast majority of the 706 individuals who have potentially relevant convictions, or their relatives. There remain 12 individuals whom Post Office is continuing to trace and 20 individuals whom Post Office has been unable to contact because all efforts to trace them to date have been unsuccessful. Post Office also continues to support the Criminal Cases Review Commission in their efforts independently to contact those who have not responded to Post Office or whom Post Office has been unable to trace.

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<sup>13</sup> Inquiry transcript of 14 October 2022 hearing, internal page 61.



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21. Progress has also been made in relation to applications to appeal convictions in both Northern Ireland and Scotland, where Post Office was not the prosecutor. In Northern Ireland, one appeal was conceded by the Public Prosecution Service in October 2022, one contested appeal is listed for a hearing in January 2023, and Post Office understands that a further appeal has been lodged and is awaiting its first hearing. In November 2022 the Scottish Criminal Cases Review Commission announced it was referring six cases to the High Court for determination.
22. Post Office continues to offer support to the Scottish Criminal Cases Review Commission, the Public Prosecution Service for Northern Ireland, the Crown Office and Procurator Fiscal Service, as well as the Crown Prosecution Service, the Department for Work and Pensions, and Royal Mail Group, who continue their reviews.

Citizens Advice

23. In its Eighth Report of Session 2021-22, the Business, Energy and Industrial Strategy Select Committee recommended the formation of an independent body to support individuals with potentially relevant convictions who may be reluctant to engage with Post Office due to the distress their historic convictions may have caused them.<sup>14</sup> Post Office has now agreed a package of support for such individuals through Citizens Advice. The service aims to provide preliminary information around the appeals process, the support which may be available through legal aid, information around benefits and help to guide individuals to emotional support tools. Citizens Advice is a well-known and trusted brand with experience of supporting members of the public on challenging matters such as this.

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<sup>14</sup> Eighth Report of Session 2021-22, Business, Energy and Industrial Strategy Select Committee, paragraph 23.

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24. The service went live on 17 November 2022 with a dedicated microsite on the Citizens Advice page. Post Office's website provides a link to the relevant page and it is working with Citizens Advice to raise awareness of this service through social media channels and a banner on the Citizens Advice home page. In addition, a telephone helpline will be available through which trained agents will be able to answer questions affected individuals may have. Citizens Advice will track any calls received on the helpline outside of working hours and individuals will also be able to request a call back by completing a form on the website.

Interim payments

25. Of the 83 convictions that have been overturned on appeal, applications for initial interim payments have been made in 82 cases.<sup>15</sup> Interim payments have been offered in 77 cases and accepted in all 77. No further applications (over and above the initial three 'public interest' cases) have been declined. Post Office has, in addition, made second, additional interim payments in respect of three cases and offered a second interim payment in a further two cases. In total, Post Office has made 80 interim payments, amounting to a combined value of approximately £7.975 million.

*Public interest cases*

26. In relation to the three public interest cases in respect of which Post Office has declined applications for interim payments, Post Office explained in its opening statement that it had agreed with Hudgell Solicitors to go to independent mediation in order to seek to resolve these disputes.<sup>16</sup> Post Office continues to work constructively with Hudgell Solicitors in relation to this process.

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<sup>15</sup> One postmaster has confirmed that they do not wish to apply for an interim payment.

<sup>16</sup> Inquiry transcript of 14 October 2022 hearing, internal page 56.

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*Increase in interim payment value*

27. As the Inquiry is aware, as part of a process of Early Neutral Evaluation ("ENE"), on 29 July 2022 Lord Dyson published his findings on the approach to be taken to assessing the value of the non-pecuniary losses of 10 particular claimants. Post Office has written to the legal representatives of all potential claimants (and any unrepresented claimants) with overturned Horizon-related convictions, offering to share the evaluation upon receipt of a signed confidentiality undertaking. To date, all but one solicitor's firm and one unrepresented claimant have provided a signed undertaking and duly been provided with the redacted evaluation. Post Office is engaging with these claimants and in particular seeking to assist the unrepresented claimant and her accountant to present their claim. The unrepresented claimant has been offered and accepted additional interim payments in the meantime. A copy of the evaluation has also separately been provided to the Inquiry.
28. In its opening statement Post Office confirmed that it fully endorsed Lord Dyson's findings and would reflect the ENE outcomes when considering future applications for interim payments.<sup>17</sup> Post Office accordingly decided to increase the value of future interim payments it may make to up to £163,000 and claimants who have previously received an interim payment, but have been unable to submit a non-pecuniary claim, will be entitled to a further top-up payment of up to £63,000 from 1 December 2022.<sup>18</sup> The Historical Matters section of Post Office's website was duly updated on 11 November 2022 to reflect this change. This should ensure that all claimants who are eligible for an interim payment have the opportunity to receive up to £163,000 by the end of 2022.

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<sup>17</sup> Inquiry transcript of 14 October 2022 hearing, internal page 57.

<sup>18</sup> Top-up payments are not anticipated to be made available to those claimants who have already received second interim payments, as addressed at paragraph 25 above.

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Final payments*ENE claimants*

29. As well as informing Post Office's approach to interim payments, Lord Dyson's findings have guided its approach to reaching full and final settlement with the 10 ENE claimants. Since their publication, Post Office has made non-pecuniary settlement offers to all 10 ENE claimants in accordance with them. Of those:

- (a) Six of the ENE claimants have settled and been paid the non-pecuniary element of their claim.
- (b) One claimant has already received the value of the non-pecuniary element of their claim via interim payments.
- (c) The three final claimants have accepted terms of settlement, but payment cannot be made by Post Office until insolvency arrangements have been finalised.

*Further non-pecuniary claims*

30. Post Office updated the Historical Matters section of its website on 11 November 2022 to make clear that it will seek to finalise compensation (over and above the interim payments of up to £163,000) for personal or non-pecuniary damages at the earliest possible opportunity, whilst awaiting claims or finalising settlements in respect of the pecuniary aspects. This is to ensure that the payment of compensation is not unnecessarily delayed.

31. In addition to the 10 ENE claimants, as of 30 November 2022 Post Office has received non-pecuniary claims from 41 claimants with overturned Horizon-related

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convictions.<sup>19</sup> Post Office has made offers in respect of 27 of these claims, the total value of which amounts to approximately £4.7 million by way of final compensation (i.e. excluding the value of the offers of interim payments already made in the same cases). Offers in respect of 23 of the non-pecuniary claimants have been accepted (excluding the ENE claimants), and Post Office has paid a total value of approximately £3.1 million by way of final compensation (again, excluding the value of the offers of interim payments already made in the same cases).

32. Post Office expects to have received 46<sup>20</sup> of the 83 potential non-pecuniary claims by the end of 2022 and, assuming that is the case, is on track to have made offers on these by the end of 2022 or, if claims arrive later than expected, early January 2023. Together with UKGI and BEIS, it is working hard to see that this is accomplished and, again, would like to take this opportunity to reiterate its encouragement to all potential claimants to come forward with their claims as soon as possible. As explained in its opening statement, Post Office will offer more help and support to any claimants with overturned convictions who do not currently have the benefit of legal representation, to ensure they are aware of the opportunity to take their non-pecuniary claims forward on an expedited basis and are aware of what they need to do in order to do so.<sup>21</sup>

*Pecuniary claims*

33. In relation to pecuniary claims, Post Office informed the Inquiry in its opening statement that (a) the two initial cases which Post Office reported on in its previous submissions have now been settled, one following a mediation and (b) a further six claims with supporting schedules of loss had been received.<sup>22</sup> In relation to (b), Post Office is working with the solicitors concerned on evidential matters to enable

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<sup>19</sup> This figure excludes the three public interest cases referred to above.

<sup>20</sup> As above, this figure excludes the three public interest cases.

<sup>21</sup> Inquiry transcript of 14 October 2022 hearing, internal page 58.

<sup>22</sup> Inquiry transcript of 14 October 2022 hearing, internal page 59.

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opening offers to be made. Again, Post Office would encourage all potential claimants to present their claims as soon as they are able to do so.

34. The claims for pecuniary losses that Post Office has received are complex, requiring significant legal expertise to assess. In these circumstances, in order to maintain the momentum of its process of providing offers to claimants in respect of pecuniary losses, Post Office is developing recommendations for further partial settlement offers in respect of the claims received.
35. More broadly, Post Office is in active discussions with claimant representatives about the best way to approach the calculation of compensation for pecuniary losses, with a view to arriving at a set of principles which is agreed by all concerned.

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**ANNEX 1 – QUESTIONS AND ANSWERS (HSS)**





# Historical Shortfall Scheme

## Questions and answers

Some of the information contained in this Q&A dates from 2020 and was correct at the time the scheme opened. As this remains a current reference document for existing applicants, that information still applies.

### The scheme – general

#### Q. What is the Historical Shortfall Scheme?

- A. The Historical Shortfall Scheme is a claims scheme that aims to independently assess and resolve applications from current and former postmasters who believe they may have been affected by shortfalls related to previous versions of Horizon. We are resolving past events fairly where we got things wrong and the scheme offers redress for current and former postmasters who may have experienced shortfalls related to previous versions of Horizon.

#### Q. Why has the scheme been set up?

- A. Post Office and a group of mainly former postmasters agreed a settlement in December 2019 that brought group litigation in the High Court to a conclusion. Part of the High Court proceedings found that Horizon has improved over time and the current version of Horizon used across Post Office's network is robust relative to comparable systems; however, the Court identified some issues with previous versions of Horizon, in use since around 2000, that had the potential to affect branch accounting.

Post Office is resolving past issues fairly, in good faith, with current or former postmasters who believe they may have been affected.

#### Q. How do I join the scheme?

- A. Any current or former postmaster wishing to join the scheme should apply using the application form available on the scheme website. Please read the information about the scheme, including the eligibility criteria and terms of reference, available at [www.onepostoffice.co.uk/scheme](http://www.onepostoffice.co.uk/scheme) before applying.

In light of the ongoing Coronavirus situation, please apply or send any queries by email to minimise any potential delays with responding to queries and processing your application. If you don't have an email address yourself, a family member or friend is welcome to email on your behalf.

If you do not have any access to an email address to submit all or part of your application, in those circumstances applications can be sent by post to Post Office Historical Shortfall Scheme, PO Box 76882, London E1W 9RR. Please use Royal Mail as PO Box addresses can only accept post from Royal Mail and not from other carriers or couriers. Please note postal applications and queries may not be dealt with immediately given the current circumstances.

#### Q. What information do I need to provide as part of my application?

- A. When submitting your application, you should submit relevant supporting material that will enable the application to be properly considered. This should include any relevant accounting or financial information. Doing this at the same time as you submit your application will allow your application to be investigated and considered more efficiently.

For applications made by email, please provide scans of the supporting material at the same time as submitting your application. For postal applications, please use Royal Mail as PO Box addresses can only accept post from Royal Mail and not from other carriers or couriers and please send in copies of the documents/material rather than original documents, which should be retained for your own records. We advise using a trackable service such as Royal Mail Special Delivery when sending documents by post.

If you are unable to provide all of the supporting material at the same time as submitting your application, please ensure that any supporting material provided at a later stage is sent with a cover note giving your name and explaining that these documents should be added to your application.

Please note that you may be required to provide additional information to help progress your application and you will be contacted if this is the case.

**Q. When is the deadline for applications to the scheme?**

- A. All applications to join the scheme must be received by Post Office before midnight BST on Friday 14 August 2020.

**Q. What are you doing about the impact of Coronavirus (COVID-19)?**

- A. We appreciate people may be facing difficult circumstances due to the ongoing Coronavirus situation.

At the time of the scheme launch (1 May 2020), we are asking people to apply or send any queries by email to minimise any potential delays with responding to queries and processing applications.

If an applicant does not have any access to an email address to submit all or part of their application, in those circumstances applications can be sent by post to Post Office Historical Shortfall Scheme, PO Box 76882, London E1W 9RR. Please use Royal Mail as PO Box addresses can only accept post from Royal Mail and not from other carriers or couriers. Please note postal applications and queries may not be dealt with immediately given the current circumstances.

We will of course continue to monitor the Coronavirus situation and any impact on the scheme, and if we need to be flexible, for example in changing the closing date or if postal applications become easier to manage, we will keep you updated at [www.onepostoffice.co.uk/scheme](http://www.onepostoffice.co.uk/scheme) so please check back regularly.

**Q. Where should I send my application?**

- A. The application form, along with supporting evidence, should be returned to [historicalshortfallscheme@GRO](mailto:historicalshortfallscheme@GRO)

In light of the ongoing Coronavirus situation, please apply or send any queries by email to minimise any potential delays with responding to queries and processing your application. If you don't have an email address yourself, a family member or friend is welcome to email on your behalf.

If you do not have any access to an email address to submit all or part of your application, in those circumstances applications can be sent by post to Post Office Historical Shortfall Scheme, PO Box 76882, London E1W 9RR. Please use Royal Mail as PO Box addresses can only accept post from Royal Mail and not from other carriers or couriers. Please note postal applications and queries may not be dealt with immediately given the current circumstances.

Please note these are Post Office addresses as this is a Post Office scheme — please be assured eligible claims will be assessed by an independent advisory panel.

**Q. What if my case is old?**

- A. The scheme is intended to address shortfalls that relate to previous versions of Horizon in use since around 2000 (not the current version of Horizon).

Please see all the information about the scheme at [www.onepostoffice.co.uk/scheme](http://www.onepostoffice.co.uk/scheme) including guidance regarding supporting evidence.

**Q. What should I do if I'm not sure whether my case is eligible?**

- A. The eligibility criteria are available at [www.onepostoffice.co.uk/scheme](http://www.onepostoffice.co.uk/scheme). If you need specific advice about eligibility under the scheme, please contact [historicalshortfallscheme@GRO](mailto:historicalshortfallscheme@GRO)

**Q. Will I have to pay anything to join the scheme?**

- A. There is no cost to join the scheme.

**Q. Can I leave the scheme if I wish to?**

- A. Yes, you may withdraw your application at any time before receiving an outcome letter by emailing [historicalshortfallscheme@GRO](mailto:historicalshortfallscheme@GRO) or by writing to Post Office Historical Shortfall Scheme, PO Box 76882, London E1W 9RR. Please use Royal Mail as PO Box addresses can only accept post from Royal Mail and not from other carriers or couriers. In light of the ongoing Coronavirus situation, please use email to minimise any potential delays. Please note that this will end any investigation into your case, and you will not be able to rejoin the scheme at a later date. Please note that the scheme (and the dispute resolution process it offers) is intended to provide a way for postmasters to resolve shortfall-related issues in a manner that is more time and cost-effective than other legal avenues that may be open to them.

**Q. Will the scheme be independent?**

- A. Post Office is resolving past issues in good faith with any current or former postmasters who believe they may have been affected by shortfalls related to previous versions of Horizon.

Eligible applications will be reviewed and assessed by an independent advisory panel. There is also a dispute resolution process that includes independent mediation.

The founding principles of the scheme were endorsed by the legal representatives for the claimants' steering group in the group litigation, namely:

- The three month application window for postmasters to apply and provide evidence of the basis for the application.

- The dispute resolution procedure where a postmaster is not happy with the outcome they receive in the scheme, involving a Good Faith Meeting, an Escalation Meeting and finally a Mediation to try to resolve the case.
- If the Mediation is not successful then disputes for sums totalling not more than £10,000 are to be resolved through civil proceedings in the County Court pursuant to the Small Claims Track and disputes for sums totalling more than £10,000 are to be determined by arbitration rather than through the courts.

The scheme has been established by Post Office and is being operated by Herbert Smith Freehills, a law firm with wide experience and expertise in operating similar schemes. Claims will be assessed initially for eligibility by people who have no previous knowledge of the cases.

Post Office is financing the scheme and will play a role in its overall governance as well as administration. But eligible applications will be assessed by an independent advisory panel and outcomes will be fair and impartial.

**Q. Why has Post Office appointed additional panel members?**

- A. Post Office has appointed additional panel members with similar level of qualifications and experience to the original panel to assist in the effective running of the Scheme and to ensure that individual cases are progressed as quickly and efficiently as possible.

**Q. Who is on the Panel to assess cases?**

- A. Each case will be assessed by three members of the Independent Advisory Panel comprising one legal specialist; one forensic accounting specialist; one retail specialist.

The Panel now consists of eight legal specialists (Michael Davie KC, Lord Edward Garnier KC, Lynne McCafferty KC, James Cross KC, Alex Charlton KC, Andrew Neish KC, Jessica Stephens KC and Benjamin Pilling KC); six forensic accounting specialists (Susan Blower, Kevin Haywood Crouch, Andy Cottle, Andrew Maclay, William Bowyer and Nishad Morjaria) and two retail experts (Sunder Sandher and Chris Mitchener).

In addition, a legal specialist from 4 Pump Court and a forensic accounting specialist may be appointed as delegates should relevant members of the Panel be unable to attend Panel meetings.

**Q. Will Post Office provide financial assistance to help me claim under the scheme?**

- A. Post Office will help you with the costs of obtaining legal advice (including advice on bankruptcy/insolvency if applicable) on an Offer if one is made to you. If so, full details will be included in the Offer letter. Reasonable legal fees (including advice on bankruptcy/insolvency if applicable) will also be reimbursed should you wish to dispute the Offer.

**Q. How long will the claim process take?**

- A. The time taken to investigate and assess each claim will be heavily dependent on the circumstances of each individual claim, the number of applicants to the scheme and the volume of documentation involved. While it is difficult to provide an accurate estimate at this stage, we envisage it could take several months for individual case outcomes to be reached and communicated. We will progress all claims as quickly and efficiently as possible.

Please also note the advice to apply by email to minimise any potential delays to processing your application in light of the ongoing Coronavirus situation as postal applications may not be dealt with immediately.

You will receive regular updates regarding your claim. If you have queries you can contact [historicalshortfallscheme@postoffice.co.uk](mailto:historicalshortfallscheme@postoffice.co.uk) **GRO**

**Q. I recall having a shortfall/number of shortfalls over a long period of time, but cannot be sure exactly when the shortfalls occurred and what the causes were. Can I get compensation under the scheme?**

- A. Please provide as much information as you can using the guidance at [www.onepostoffice.co.uk/scheme](http://www.onepostoffice.co.uk/scheme) together with any evidence, information or documentation you do have to support a claim as this will help with the assessment of your case.

**Q. I have a large number of hard copy documents and no means to scan them in – can I provide hard copies?**

- A. In light of the ongoing Coronavirus situation, please apply by email to minimise any potential delays to processing your application. If you don't have an email address yourself, a family member or friend is welcome to email on your behalf. If you are unable to scan documents, we would be willing to accept photographs of documents as long as they are good enough quality to be able to read the detail in the document and be certain that it is genuine and, if submitting more than one image, the link between the images is clear. If you do not have any access to an email address to submit all or part of your application, including supporting documents, in those circumstances they can be sent by post to Post Office Historical Shortfall Scheme, PO Box 76882, London E1W 9RR. Please use Royal Mail as PO Box addresses can only accept post from Royal Mail and not from other carriers or couriers.

**Q. Has this scheme been endorsed by any or all of the National Federation of Subpostmasters (NFSP), the Communication Workers Union (CWU) or the Justice for Subpostmasters Alliance (JFSA)?**

- A. The founding principles of the scheme were endorsed by the legal representatives for the claimants' steering group in the group litigation, namely:
- The three-month application window for postmasters to apply and provide evidence of the basis for the application.



- The dispute resolution procedure where a postmaster is not happy with the outcome they receive in the scheme, involving a Good Faith Meeting, an Escalation Meeting and finally a Mediation to try to resolve the case.
- If the Mediation is not successful then disputes for sums totalling not more than £10,000 are to be resolved through civil proceedings in the County Court pursuant to the Small Claims Track and disputes for sums totalling more than £10,000 are to be determined by arbitration rather than through the courts.

We are sharing information with the NFSP, CWU and JFSA to help publicise the scheme.

**Q. Does joining the scheme affect my legal rights?**

- A. The scheme is intended to resolve past shortfalls that some former and current postmasters may believe have affected them.

When applying to the scheme, applicants will need to agree to its terms of reference, which include how disputes under the scheme process will be resolved should they arise and that settlement terms will be full and final. You should read these terms of reference carefully.

Please note that the scheme (and the dispute resolution process it offers) is intended to provide a way for postmasters to resolve shortfall-related issues in a way that is more time and cost-effective than other legal avenues that may be open to them. Post Office expects that people entering into the scheme will use the dispute resolution process set out there, rather than taking other legal steps outside the scheme.

## Eligibility

**Important: All criteria need to be fulfilled for an application to be eligible.**

**Q. Who is the scheme open to?**

- A. Please see the eligibility criteria in full at [www.onepostoffice.co.uk/scheme](http://www.onepostoffice.co.uk/scheme) – all criteria need to be fulfilled for an application to be eligible.

**Q. Is the scheme open to branch managers and/or assistants?**

- A. It is open to people who currently have or previously had a direct contract with Post Office to deliver Post Office services through branches. Please see the eligibility criteria for full details at [www.onepostoffice.co.uk/scheme](http://www.onepostoffice.co.uk/scheme).

**Q. What if I have previously entered into a settlement agreement with Post Office?**

- A. You may apply to join the scheme if you entered into a settlement as part of the Initial Complaint Review and Mediation Scheme commenced in 2013 or as a result of Network Transformation or other scheme. You will not be eligible if you were a claimant in the group litigation (and therefore your claim was part of the full and final settlement in December 2019) or you have entered into a settlement agreement outside of the schemes referred to above.

In assessing your claim, any previous settlement awards that you have already received (and the terms) may be taken into account.

**Q. Can I make a claim on behalf of a deceased relative or another postmaster?**

- A. Yes, if you fulfil certain legal criteria and can provide proof of this, i.e. you are an assignee, a legally appointed personal representative, attorney or deputy. Your application will also need to meet all the other eligibility criteria for the scheme (please see these in full at [www.onepostoffice.co.uk/scheme](http://www.onepostoffice.co.uk/scheme)).

**Q. Can I make a claim for a former postmaster who is ill/unable to do so for themselves?**

- A. Yes, if you fulfil certain legal criteria and can provide proof of this, i.e. you are an assignee, a legally appointed personal representative, attorney or deputy. Your application will also need to meet all the other eligibility criteria for the scheme (please see these in full at [www.onepostoffice.co.uk/scheme](http://www.onepostoffice.co.uk/scheme)).

**Q. My problems with Post Office were before the introduction of Horizon – can I make a claim?**

- A. No. The scheme is for claims related to shortfalls that you believe were caused by a previous (not current) version of Horizon, in use since around 2000.

**Q. I left the Post Office with a settlement under Network Transformation – am I eligible for the scheme?**

- A. Yes, if you fulfil all the eligibility criteria, but please note that in assessing your claim any previous settlement awards that you have already received (and the terms) may be taken into account.

**Q. I am the director of a company who has/had a contract with Post Office. Can I apply to the scheme?**

- A. If you are the director of a company who has/had a contract with Post Office, you can apply to the scheme on behalf of the company. The applicant must be the legal entity which has/had a contract with Post Office, i.e. the company, and so any claims made should be those relating to the company only. The company will also need to meet all the other eligibility criteria for the scheme (please see these in full at [www.onepostoffice.co.uk/scheme](http://www.onepostoffice.co.uk/scheme)).

**Q. I was the director of a company who had the contract with Post Office, but the company is now in liquidation/administration. Can I apply to the scheme?**

A. The correct applicant to the scheme will be the liquidator/administrator. Please contact the liquidator/administrator to let them know about the scheme and ask them to submit an application form on behalf of the company if you believe the company would be eligible.

**Q. I was issued with a caution, can I still apply to the scheme?**

A. Please note a caution is not a criminal conviction and will not affect eligibility for the scheme.

**Q. If my application is rejected as ineligible, can I appeal this?**

A. If you believe a mistake has been made regarding the eligibility assessment of your application, you can raise this with Post Office at [historicalshortfallscheme@postoffice.co.uk](mailto:historicalshortfallscheme@postoffice.co.uk) and ask that the application is reconsidered. Ultimately, eligibility will be determined by reference to the criteria at [www.onepostoffice.co.uk/scheme](http://www.onepostoffice.co.uk/scheme).

## Scope of the scheme

**Q. I believe the current version of Horizon has caused a loss at my branch, so can I make a claim?**

A. The scheme is to address shortfalls related to previous versions of Horizon on the basis that the High Court has held that the current version is relatively robust. If you have experienced a more recent discrepancy and have concerns or queries about the way in which it was or is being resolved, please contact [casereviewteam@postoffice.co.uk](mailto:casereviewteam@postoffice.co.uk). If you experience an operational issue when using the current version of Horizon, please report it to the Branch Support Centre.

**Q. Can I claim for losses that were linked to the shortfalls I had to repay?**

A. These losses may be relevant – please provide as much information and evidence as you can about any shortfall-related losses.

**Q. Can I claim for consequential losses such as distress and ill-health as well as my financial loss?**

A. Eligible claims will be assessed by reference to recognised legal principles so please provide as much information and evidence as you can about any shortfall-related losses.

**Q. Can I use the scheme to raise grievances that aren't related to Horizon or shortfall issues?**

A. No, the scheme is not designed for this. You can find full information about the scheme eligibility criteria at [www.onepostoffice.co.uk/scheme](http://www.onepostoffice.co.uk/scheme). Any other concerns should be raised with your area manager.

## Applications, documentation and evidence

**Q. How do I know if Horizon has caused a loss at my branch?**

A. If you have had a past shortfall that you believe may have been caused by a previous version of Horizon, please provide as much supporting evidence and information as you can to help with the assessment of your case. The investigation will also take account of information Post Office holds.

**Q. I have no documentation – can I still make a claim?**

A. If you believe you meet the eligibility criteria on [www.onepostoffice.co.uk/scheme](http://www.onepostoffice.co.uk/scheme) you can apply, providing as much information as you can using the guidance on the website, together with any evidence or information you do have to support a claim and help with the assessment of your case. Post Office will consult its own records and will assess your claim on all the information available.

## Costs and representation

**Q. Can I represent myself or do I need a solicitor?**

A. The scheme has been designed to be simple and user-friendly to avoid the need to incur costs of legal representation. Applicants are welcome, however, to engage a lawyer or other professional advisor to provide independent representation at their own expense. Post Office will help you with the costs of obtaining legal advice (including advice on bankruptcy/insolvency if applicable) on an Offer if one is made to you. If so, full details will be included in the Offer letter. Reasonable legal fees (including advice on bankruptcy/insolvency if applicable) will also be reimbursed should you wish to dispute the Offer.

## Assessment of claims

**Q. How will my claim be assessed?**

A. Your claim will be assessed using the information available and in accordance with recognised legal principles (including those established as part of the group litigation).

**Q. Who makes the decision on whether my claim is successful?****A.** Your application to the scheme will first be assessed for eligibility.

Herbert Smith Freehills, a law firm with wide experience and expertise in operating similar schemes, will be operating the scheme.

Eligible applications will be assessed by an independent advisory panel.

The assessment will be made based on all the information and evidence provided. Following the assessment, we will write to you setting out the outcome. Please see full terms of reference at [www.onepostoffice.co.uk/scheme](http://www.onepostoffice.co.uk/scheme).

The scheme's assessment will very much depend on the individual circumstances of each application, and the information and evidence supporting it.

If you are not content with the assessment outcome, there is a dispute resolution procedure.

**Q. How will I know if my case is being treated fairly and consistently?****A.** We will explain to you the reasons for decisions about your application or claim. The scheme includes a dispute resolution process for eligible claims, including independent mediation. Please see the full terms of reference at [www.onepostoffice.co.uk/scheme](http://www.onepostoffice.co.uk/scheme).**Q. What are the possible outcomes of the assessment?****A.** The assessment will very much depend on the individual circumstances of each application, and the information that is provided in support of it.

Post Office will act in good faith and with the commitment to try to resolve all eligible claims.

**Mediation****Q. How will mediation work and when will it happen?****A.** Please see the terms of reference for the scheme at [www.onepostoffice.co.uk/scheme](http://www.onepostoffice.co.uk/scheme). Eligible claims will be assessed and the outcome will be communicated to you. If you are not content with the outcome, there is a dispute resolution procedure, which includes review meetings with you before the stage of independent mediation is reached.

The independent mediation provider will be Wandsworth Mediation Service, a charitable community mediation service chaired by Stephen Ruttle KC, who co-mediated the resolution of the group litigation.

**Current Horizon system****Q. I am experiencing issues with Horizon at the moment – who should I contact?****A.** Please contact the Branch Support Centre as soon as possible if you experience any operational issues with Horizon.

Submissions on compensation – 1 December 2022

**ANNEX 2 – TERMS OF REFERENCE OF THE INDEPENDENT ADVISORY PANEL (HSS)**





## Historical Shortfall Scheme

### Terms of Reference of the Historical Shortfall Scheme Independent Advisory Panel

The Historical Shortfall Scheme ("the Scheme") has been constituted to address past issues regarding Post Office's point-of-sale accounting system, Horizon. The Historical Shortfall Scheme Independent Advisory Panel ("the Panel") is a panel set up by Post Office to assess eligible claims.

#### A. Overriding Objective

1. The task of the Panel is to assess and recommend to Post Office a fair outcome for Eligible Claims made to the Scheme for Shortfall Losses and Consequential Losses.
2. The Panel's objective is to assess Eligible Claims by applying the principles and standards set out in Section E below.
3. The Panel will aim to assess and recommend outcomes on Eligible Claims in a timely manner having regard to the need to ensure sufficient care and consideration is given to each claim to provide a fair recommendation.

#### B. Definitions

4. The following definitions shall have the following meanings:
  - a. Consequential Loss means financial or non-financial loss that is not a Shortfall Loss.
  - b. Eligible Claim means an application that has been determined to be eligible for the Scheme in line with the Scheme's eligibility criteria and is identified to the postmaster as such in an eligibility letter.
  - c. Horizon Shortfall means a shortfall in stock or cash at a postmaster's branch compared with the amount of stock or cash indicated on Horizon for that branch, where the shortfall may have been caused by previous versions of Horizon or a breach of duty related to such a shortfall on the part of Post Office.
  - d. Shortfall Loss means the amount of a Horizon Shortfall that the postmaster has repaid or is regarded by Post Office as still owing.
  - e. Common Issues Judgment means the judgment handed down by Fraser J in *Bates v Post Office Ltd* (No.3: Common Issues) [2019] EWHC 606 (QB).
  - f. Horizon Issues Judgment means the judgment handed down by Fraser J in *Bates v Post Office Ltd* (No.6: Horizon Issues) [2019] EWHC 3408 (QB).

#### C. Composition and Governance

##### Membership

5. The Panel's members shall comprise representatives who are:
  - i. legal specialists;
  - ii. forensic accounting specialists; and
  - iii. retail specialists.
6. The Panel now consists of eight legal specialists (Michael Davie KC, Lord Edward Garnier KC, Lynne McCafferty KC, James Cross KC, Alex Charlton KC, Andrew Neish KC, Jessica Stephens KC and Benjamin Pilling KC); six forensic accounting specialists (Susan Blower, Kevin Haywood Crouch, Andy Cottle, Andrew Maclay, William Bowyer and Nishad Morjaria) and two retail experts (Sunder Sandher and Chris Mitchener). In addition, a legal specialist from 4 Pump Court and a forensic accounting specialist may be appointed as delegates should relevant members of the Panel be unable to attend Panel meetings.

##### Quorum & Voting

7. A Panel meeting will only be quorate when three Panel members comprising one legal specialist; one forensic accounting specialist; and one retail specialist are present (in person or remotely). For clarity this may include a delegate Panel member (as referenced at paragraph 8 below). For the purposes of this document, references to the "Panel" should be construed accordingly. If more than three Panel members are present, the three sitting Panel members that comprise the Panel for the purposes of that meeting will be declared and recorded at the outset of the meeting.

8. Each sitting Panel member shall have one vote each. Decisions as to the recommended outcome will be taken by a majority of two.
9. Post Office may appoint replacement Panel members with a similar level of qualifications and experience to sit on the Panel as a delegate Panel member.

### Meetings

10. Panel meetings will be convened by the Panel members. Herbert Smith Freehills LLP ("HSF") shall have responsibility for the administrative arrangements for convening Panel meetings, including sending meeting invitations and providing meeting room facilities as required.
11. In respect of each Eligible Claim for consideration by the Panel, the Panel will be provided with the supporting materials necessary to consider the claim and determine a recommended outcome, a minimum of five working days prior to the Panel meeting at which it is to be considered.
12. Notice of each Panel meeting will be given to all those entitled to attend at least five working days before the meeting.
13. Meetings may be held in person or by telephone or other electronic means, so long as all participants can contribute to the meeting simultaneously.
14. The Panel will aim to convene on a weekly basis following the commencement of the Scheme, with ad hoc or additional standing meetings to take place as required and subject to the agreement of the Panel members.
15. One or more case assessors will attend each Panel meeting to present on the Eligible Claim they have reviewed, answer any questions from the Panel and share an initial recommendation. One or more representatives from HSF's London office shall, if the Panel so requests, attend particular Panel meetings to answer any more general questions the Panel may have about the Scheme.
16. In reviewing the claim, the Panel will follow the Assessment of Claims process as set out at paragraphs 23 to 27 below.
17. The case assessor will record for their respective claim:
  - a. the Panel's recommended outcome;
  - b. the brief reasons behind the recommendation as decided by the Panel at the meeting; and
  - c. a proposed draft letter to the applicant communicating the Panel's recommended outcome, the reasons for that outcome and the key documentation on which it was based, and provide this to the Panel for review within five working days of the meeting.
18. If the Panel is satisfied that the recommended outcome and associated reasons and documentation have been correctly recorded, the Panel will provide this recommended outcome and associated reasons to Post Office.
19. Upon receipt of the recommended outcome from the Panel, Post Office, acting through the Historical Shortfall Scheme Approvals Committee, will review the Panel's recommendation and accompanying reasons, and communicate the outcome of the application to the applicant who can either accept it or reject it.
20. Postmasters who would like to take independent legal advice to enable them to consider the terms of the offers made to them will have a period of four weeks to do so. Post Office will contribute a sum of £1,200 inclusive of VAT towards the cost of such independent advice save that, in cases where Post Office offers to pay the applicant's claim in full (or largely in full), Post Office will contribute a sum of £400 inclusive of VAT towards such independent advice.
21. If a postmaster rejects the offer made to him or her, they have the option to trigger the Dispute Resolution Process.
22. Postmasters who trigger the Dispute Resolution Process will be asked to write to the Scheme setting out why they consider the decision reached in their case was wrong.
23. Post Office will engage with those representations in good faith following which it will either (a) affirm the original offer made; (b) make an alternative offer; or (c) refer the matter back to the Panel for a further decision, to reconsider the decision in light of the further representations made.

### D. Assessment of Claims

24. The Panel will assess claims that:
  - a. are Eligible Claims;
  - b. have been investigated through the Scheme by Post Office; and
  - c. are presented to the Panel by a case assessor from HSF with an initial recommendation or recommended options based on legal principles alone.
25. The Panel will apply the principles and standards set out in Section E below when assessing Eligible Claims.
26. The Panel will independently assess and discuss each Eligible Claim presented to them and, at the Panel meeting, recommend an outcome to be given to Post Office. The Panel is not obliged to reach consensus on each claim; in case of disagreement, the majority view will prevail.

27. If the Panel considers that an Eligible Claim requires further investigation in order to allow the Panel to recommend an outcome, the Panel can refer the claim back to the investigation stage to undergo further investigation by Post Office with the assistance of the relevant case assessor. Where this is the case, the Panel will defer making a recommendation until such time as the case assessor has undertaken the further work and brought the Eligible Claim back to a later Panel meeting for assessment. Where this occurs, HSF and the Panel will use best endeavours for the same three members of the Panel to review the Eligible Claim when it returns.
28. If the Panel considers that it requires expert assistance in order to make a recommendation, the Panel may recommend to Post Office that such expert assistance be obtained at Post Office's cost. The Panel shall nominate three potential experts for consideration, of which the postmaster shall pick one.

## **E. Basis of Assessment**

### **General Principles**

29. The case assessor will compile the information gathered as a result of the investigation process, present it in a user-friendly format (accompanied with the relevant underlying documents) and provide an initial assessment and recommendation (or recommended options) based on legal principles (including the findings in the Common Issues Judgment and the Horizon Issues Judgment).
30. The role of the Panel is to consider the initial recommendation and to review it against their understanding of the application of the findings in the Common Issues Judgment and the Horizon Issues Judgment and the legal principles they consider relevant and arrive at a recommended offer to be made to a claimant in respect of their claim.
31. In formulating its recommended offer, the Panel may recommend the making of an offer to the postmaster if, guided by broad considerations of fairness, the Panel considers that doing so would produce a fair result in all the circumstances of the particular case. For the avoidance of doubt, in doing so, the Panel's discretion will not be confined solely to the specific heads of Consequential Loss claimed by the postmaster but will take into account any facts and matters which the Panel considers will produce a fair result on the facts of a particular case.
32. Many Eligible Claims will relate to Shortfall Losses and Consequential Losses suffered a significant number of years ago. In order to draw a line under the issues caused by previous versions of Horizon and treat postmasters who have been affected fairly, the Scheme (including the Panel) will not apply the laws of limitation in its assessment of Shortfall Losses or Consequential Losses but shall deal with each claim on the basis that it is not barred by the expiry of any relevant limitation period. Post Office's rights to rely on limitation defences outside the Scheme (including in any subsequent litigation or arbitration proceedings commenced under the Dispute Resolution Process) are strictly reserved. Given the large number of applicants to the Scheme, claims may take some time to investigate and assess. Post Office is therefore willing to agree, in respect of each applicant, that time will not run for limitation purposes from the date the applicant joined the Scheme to the date on which the applicant receives their offer letter.
33. For all Shortfall Loss claims and Consequential Loss claims which the Panel recommends be paid, either in full or in part, the Panel is authorised to recommend that interest be paid on the amounts in question at a standard rate of 3.45% (being the weighted average Bank of England interest rate for the period between 11 April 1999 and 14 August 2020 (2.45%) plus 1%), on such basis (simple or compound) and on such claim(s) and for such period(s) as the Panel thinks fit.

### **Horizon Shortfalls**

34. Where:
- a. there is evidence that the shortfall in question existed and was paid; and
  - b. there is no evidence that the shortfall was caused by something other than a potential issue with Horizon, for the purposes of the Scheme the presumption is that the shortfall is a Horizon Shortfall.

### **Consequential Loss claims**

35. The Panel should apply the Scheme Consequential Loss Principles and Guidance which are included at Appendix 1.
36. In relation to personal injury claims where insufficient evidence has been provided for a claim to succeed without further medical and/or expert evidence, the Panel may recommend the making of an offer to the postmaster which the Panel considers fair. The postmaster will then have the option of either accepting that offer or obtaining such further evidence and pursuing a personal injury claim in accordance with the ordinary legal standards relevant to such claims, including as to proof of causation and assessment of damages.

## **F. Review and Approval**

37. This version of the Terms of Reference was approved by the Historical Remediation Committee on 20 June 2022. Any further amendments to the Terms of Reference shall be approved by the Historical Remediation Committee.

Submissions on compensation – 1 December 2022

**ANNEX 3 – QUESTIONS AND ANSWERS FOR NEW APPLICATIONS FROM OCTOBER 2022**



# Historical Shortfall Scheme

## Questions and answers for new applications from October 2022



### The scheme – general

#### Q. What is the Historical Shortfall Scheme?

- A. The Historical Shortfall Scheme is a claims scheme that aims to independently assess and resolve applications from current and former postmasters who believe they may have been affected by shortfalls related to previous versions of Horizon. We are resolving past events fairly where we got things wrong and the scheme offers redress for current and former postmasters who may have experienced shortfalls related to previous versions of Horizon.

#### Q. Why has the scheme been set up?

- A. Post Office and a group of mainly former postmasters agreed a settlement in December 2019 that brought group litigation in the High Court to a conclusion. Part of the High Court proceedings found that Horizon has improved over time and the current version of Horizon used across Post Office's network is robust relative to comparable systems; however, the Court identified some issues with previous versions of Horizon, in use since around 2000, that had the potential to affect branch accounting.

Post Office is resolving past issues fairly, in good faith, with current or former postmasters who believe they may have been affected.

#### Q. How do I join the scheme?

- A. Any current or former postmaster wishing to join the scheme should apply using the application form available on the scheme website. Please read the information about the scheme, including the eligibility criteria and terms of reference, available at [www.onepostoffice.co.uk/scheme](http://www.onepostoffice.co.uk/scheme) before applying.

Please apply or send any queries by email to minimise any potential delays with responding to queries and processing your application. If you don't have an email address yourself, a family member or friend is welcome to email on your behalf.

If you do not have any access to an email address to submit all or part of your application, in those circumstances applications can be sent by post to Post Office Historical Shortfall Scheme, PO Box 76882, London E1W 9RR.

Please use Royal Mail as PO Box addresses can only accept post from Royal Mail and not from other carriers or couriers.

Please note postal applications and queries may not be dealt with immediately.

#### Q. What information do I need to provide as part of my application?

- A. When submitting your application, you should submit relevant supporting material that will enable the application to be properly considered. This should include any relevant accounting or financial information. Doing this at the same time as you submit your application will allow your application to be investigated and considered more efficiently.

When submitting your application, please provide a sufficient reason, giving as much detail as possible, as to why you weren't able to apply to the Historical Shortfall Scheme before the closing date of 27 November 2020. For example, a sufficient reason might include that you didn't know about the Scheme or were poorly, overseas or caring for a relative. You should also submit relevant supporting material that will enable the application to be properly considered. This should include any relevant accounting or financial information. Doing this at the same time as you submit your application will allow your application to be investigated and considered more efficiently.

If you are unable to provide all of the supporting material at the same time as submitting your application, please ensure that any supporting material provided at a later stage is sent with a cover note giving your name and explaining that these documents should be added to your application.

Please note that you may be required to provide additional information to help progress your application and you will be contacted if this is the case.

#### Q. When is the deadline for applications to the scheme?

- A. There is no fixed closing date for the scheme at this time. Post Office will ensure that plenty of notice is given of any change to this.

**Q. Where should I send my application?**

- A. The application form, along with supporting evidence, should be returned to [historicalshortfallscheme@GRO](mailto:historicalshortfallscheme@GRO)

Please apply or send any queries by email to minimise any potential delays with responding to queries and processing your application. If you don't have an email address yourself, a family member or friend is welcome to email on your behalf.

If you do not have any access to an email address to submit all or part of your application, in those circumstances applications can be sent by post to Post Office Historical Shortfall Scheme, PO Box 76882, London E1W 9RR.

Please use Royal Mail as PO Box addresses can only accept post from Royal Mail and not from other carriers or couriers. Please note postal applications and queries may not be dealt with immediately.

Please note these are Post Office addresses as this is a Post Office scheme — please be assured eligible claims will be assessed by an independent advisory panel.

**Q. What if my case is old?**

- A. The scheme is intended to address shortfalls that relate to previous versions of Horizon in use since around 2000 (not the current version of Horizon).

Please see all the information about the scheme at [www.onepostoffice.co.uk/scheme](http://www.onepostoffice.co.uk/scheme) including guidance regarding supporting evidence.

**Q. What should I do if I'm not sure whether my case is eligible?**

- A. The eligibility criteria are available at [www.onepostoffice.co.uk/scheme](http://www.onepostoffice.co.uk/scheme). If you need specific advice about eligibility under the scheme, please contact [historicalshortfallscheme@GRO](mailto:historicalshortfallscheme@GRO)

**Q. Will I have to pay anything to join the scheme?**

- A. There is no cost to join the scheme.

**Q. Can I leave the scheme if I wish to?**

- A. Yes, you may withdraw your application at any time before receiving an outcome letter by emailing [historicalshortfallscheme@GRO](mailto:historicalshortfallscheme@GRO) or by writing to Post Office Historical Shortfall Scheme, PO Box 76882, London E1W 9RR. Please use Royal Mail as PO Box addresses can only accept post from Royal Mail and not from other carriers or couriers. Please use email to minimise any potential delays. Please note that this will end any investigation into your case, and you will not be able to rejoin the scheme at a later date. Please note that the scheme (and the dispute resolution process it offers) is intended to provide a way for postmasters to resolve shortfall-related issues in a manner that is more time and cost-effective than other legal avenues that may be open to them.

**Q. Will the scheme be independent?**

- A. Post Office is resolving past issues in good faith with any current or former postmasters who believe they may have been affected by shortfalls related to previous versions of Horizon.

Eligible applications will be reviewed and assessed by an independent advisory panel. There is also a dispute resolution process that includes independent mediation.

The founding principles of the scheme were endorsed by the legal representatives for the claimants' steering group in the group litigation, including:

- The dispute resolution procedure where a postmaster is not happy with the outcome they receive in the scheme, involving a Good Faith Meeting, an Escalation Meeting and finally a Mediation to try to resolve the case.
- If the Mediation is not successful then disputes for sums totalling not more than £10,000 are to be resolved through civil proceedings in the County Court pursuant to the Small Claims Track and disputes for sums totalling more than £10,000 are to be determined by arbitration rather than through the courts.

The scheme has been established by Post Office and is being operated by Herbert Smith Freehills, a law firm with wide experience and expertise in operating similar schemes. Claims will be assessed initially for eligibility by people who have no previous knowledge of the cases.

Post Office is financing the scheme and will play a role in its overall governance as well as administration. But eligible applications will be assessed by an independent advisory panel and outcomes will be fair and impartial.

**Q. Why has Post Office appointed additional panel members?**

- A. Post Office has appointed additional panel members with similar level of qualifications and experience to the original panel to assist in the effective running of the Scheme and to ensure that individual cases are progressed as quickly and efficiently as possible.

**Q. Who is on the Panel to assess cases?**

- A. Each case will be assessed by three members of the Independent Advisory Panel comprising one legal specialist; one forensic accounting specialist; one retail specialist.

The Panel now consists of eight legal specialists (Michael Davie KC, Lord Edward Garnier KC, Lynne McCafferty KC, James Cross KC, Alex Charlton KC, Andrew Neish KC, Jessica Stephens KC and Benjamin Pilling KC); six forensic accounting specialists (Susan Blower, Kevin Haywood Crouch, Andy Cottle, Andrew Maclay, William Bowyer and Nishad Morjaria) and two retail experts (Sunder Sandher and Chris Mitchener).

In addition, a legal specialist from 4 Pump Court and a forensic accounting specialist may be appointed as delegates should relevant members of the Panel be unable to attend Panel meetings.

**Q. Will Post Office provide financial assistance to help me claim under the scheme?**

- A. Post Office will help you with the costs of obtaining legal advice (including advice on bankruptcy/insolvency if applicable) on an Offer if one is made to you. If so, full details will be included in the Offer letter. Reasonable legal fees (including advice on bankruptcy/insolvency if applicable) will also be reimbursed should you wish to dispute the Offer.

**Q. How long will the claim process take?**

- A. The time taken to investigate and assess each claim will be heavily dependent on the circumstances of each individual claim, the number of applicants to the scheme and the volume of documentation involved. While it is difficult to provide an accurate estimate at this stage, we envisage it could take several months for individual case outcomes to be reached and communicated. We will progress all claims as quickly and efficiently as possible.

You will receive regular updates regarding your claim. If you have queries you can contact [historicalshortfallscheme@GRO](mailto:historicalshortfallscheme@GRO)

**Q. I recall having a shortfall/number of shortfalls over a long period of time, but cannot be sure exactly when the shortfalls occurred and what the causes were. Can I get compensation under the scheme?**

- A. Please provide as much information as you can using the guidance at [www.onepostoffice.co.uk/scheme](http://www.onepostoffice.co.uk/scheme) together with any evidence, information or documentation you do have to support a claim as this will help with the assessment of your case.

**Q. I have a large number of hard copy documents and no means to scan them in – can I provide hard copies?**

- A. Please apply by email to minimise any potential delays to processing your application. If you don't have an email address yourself, a family member or friend is welcome to email on your behalf.

If you are unable to scan documents, we would be willing to accept photographs of documents as long as they are good enough quality to be able to read the detail in the document and be certain that it is genuine and, if submitting more than one image, the link between the images is clear. If you do not have any access to an email address to submit all or part of your application, including supporting documents, in those circumstances they can be sent by post to Post Office Historical Shortfall Scheme, PO Box 76882, London E1W 9RR. Please use Royal Mail as PO Box addresses can only accept post from Royal Mail and not from other carriers or couriers.

**Q. Has this scheme been endorsed by any or all of the National Federation of Subpostmasters (NFSP), the Communication Workers Union (CWU) or the Justice for Subpostmasters Alliance (JFSA)?**

- A. The founding principles of the scheme were endorsed by the legal representatives for the claimants' steering group in the group litigation, including:
- The dispute resolution procedure where a postmaster is not happy with the outcome they receive in the scheme, involving a Good Faith Meeting, an Escalation Meeting and finally a Mediation to try to resolve the case.
  - If the Mediation is not successful then disputes for sums totalling not more than £10,000 are to be resolved through civil proceedings in the County Court pursuant to the Small Claims Track and disputes for sums totalling more than £10,000 are to be determined by arbitration rather than through the courts.

We are sharing information with the NFSP, CWU and JFSA to help publicise the scheme.

**Q. Does joining the scheme affect my legal rights?**

- A. The scheme is intended to resolve past shortfalls that some former and current postmasters may believe have affected them.



When applying to the scheme, applicants will need to agree to its terms of reference, which include how disputes under the scheme process will be resolved should they arise and that settlement terms will be full and final. You should read these terms of reference carefully.

Please note that the scheme (and the dispute resolution process it offers) is intended to provide a way for postmasters to resolve shortfall-related issues in a way that is more time and cost-effective than other legal avenues that may be open to them. Post Office expects that people entering into the scheme will use the dispute resolution process set out there, rather than taking other legal steps outside the scheme.

## Eligibility

**Important: All criteria need to be fulfilled for an application to be eligible.**

### Q. Who is the scheme open to?

- A. Please see the eligibility criteria in full at [www.onepostoffice.co.uk/scheme](http://www.onepostoffice.co.uk/scheme) – all criteria need to be fulfilled for an application to be eligible.

### Q. Is the scheme open to branch managers and/or assistants?

- A. It is open to people who currently have or previously had a direct contract with Post Office to deliver Post Office services through branches. Please see the eligibility criteria for full details at [www.onepostoffice.co.uk/scheme](http://www.onepostoffice.co.uk/scheme).

### Q. What if I have previously entered into a settlement agreement with Post Office?

- A. You may apply to join the scheme if you entered into a settlement as part of the Initial Complaint Review and Mediation Scheme commenced in 2013 or as a result of Network Transformation or other scheme. You will not be eligible if you were a claimant in the group litigation (and therefore your claim was part of the full and final settlement in December 2019) or you have entered into a settlement agreement outside of the schemes referred to above.

In assessing your claim, any previous settlement awards that you have already received (and the terms) may be taken into account.

### Q. Can I make a claim on behalf of a deceased relative or another postmaster?

- A. Yes, if you fulfil certain legal criteria and can provide proof of this, i.e. you are an assignee, a legally appointed personal representative, attorney or deputy. Your application will also need to meet all the other eligibility criteria for the scheme (please see these in full at [www.onepostoffice.co.uk/scheme](http://www.onepostoffice.co.uk/scheme)).

### Q. Can I make a claim for a former postmaster who is ill/unable to do so for themselves?

- A. Yes, if you fulfil certain legal criteria and can provide proof of this, i.e. you are an assignee, a legally appointed personal representative, attorney or deputy. Your application will also need to meet all the other eligibility criteria for the scheme (please see these in full at [www.onepostoffice.co.uk/scheme](http://www.onepostoffice.co.uk/scheme)).

### Q. My problems with Post Office were before the introduction of Horizon – can I make a claim?

- A. No. The scheme is for claims related to shortfalls that you believe were caused by a previous (not current) version of Horizon, in use since around 2000.

### Q. I left the Post Office with a settlement under Network Transformation – am I eligible for the scheme?

- A. Yes, if you fulfil all the eligibility criteria, but please note that in assessing your claim any previous settlement awards that you have already received (and the terms) may be taken into account.

### Q. I am the director of a company who has/had a contract with Post Office. Can I apply to the scheme?

- A. If you are the director of a company who has/had a contract with Post Office, you can apply to the scheme on behalf of the company. The applicant must be the legal entity which has/had a contract with Post Office, i.e. the company, and so any claims made should be those relating to the company only. The company will also need to meet all the other eligibility criteria for the scheme (please see these in full at [www.onepostoffice.co.uk/scheme](http://www.onepostoffice.co.uk/scheme)).

### Q. I was the director of a company who had the contract with Post Office, but the company is now in liquidation/administration. Can I apply to the scheme?

- A. The correct applicant to the scheme will be the liquidator/administrator. Please contact the liquidator/administrator to let them know about the scheme and ask them to submit an application form on behalf of the company if you believe the company would be eligible.

### Q. I was issued with a caution, can I still apply to the scheme?

- A. Please note a caution is not a criminal conviction and will not affect eligibility for the scheme.

**Q. If my application is rejected because no reason, or no sufficient reason, is provided, can I appeal this?**

- A. If Post Office informs you that your late application may be rejected because you haven't given a sufficient reason for missing the original deadline of 27 November 2020, we will give you another opportunity to provide one, and will suggest a list of reasons that might apply. If you still can't provide a reason, your reason is not accepted by Post Office, we will let you know that the matter will be referred to an independent third party for a final decision.

**Scope of the scheme****Q. I believe the current version of Horizon has caused a loss at my branch, so can I make a claim?**

- A. The scheme is to address shortfalls related to previous versions of Horizon on the basis that the High Court has held that the current version is relatively robust. If you have experienced a more recent discrepancy and have concerns or queries about the way in which it was or is being resolved, please contact casereviewteam@postoffice.co.uk. If you experience an operational issue when using the current version of Horizon, please report it to the Branch Support Centre.

**Q. Can I claim for losses that were linked to the shortfalls I had to repay?**

- A. These losses may be relevant – please provide as much information and evidence as you can about any shortfall-related losses.

**Q. Can I claim for consequential losses such as distress and ill-health as well as my financial loss?**

- A. Eligible claims will be assessed by reference to recognised legal principles so please provide as much information and evidence as you can about any shortfall-related losses.

**Q. Can I use the scheme to raise grievances that aren't related to Horizon or shortfall issues?**

- A. No, the scheme is not designed for this. You can find full information about the scheme eligibility criteria at [www.onepostoffice.co.uk/scheme](http://www.onepostoffice.co.uk/scheme). Any other concerns should be raised with your area manager.

**Applications, documentation and evidence****Q. How do I know if Horizon has caused a loss at my branch?**

- A. If you have had a past shortfall that you believe may have been caused by a previous version of Horizon, please provide as much supporting evidence and information as you can to help with the assessment of your case. The investigation will also take account of information Post Office holds.

**Q. I have no documentation – can I still make a claim?**

- A. If you believe you meet the eligibility criteria on [www.onepostoffice.co.uk/scheme](http://www.onepostoffice.co.uk/scheme) you can apply, providing as much information as you can using the guidance on the website, together with any evidence or information you do have to support a claim and help with the assessment of your case. Post Office will consult its own records and will assess your claim on all the information available.

**Costs and representation****Q. Can I represent myself or do I need a solicitor?**

- A. The scheme has been designed to be simple and user-friendly to avoid the need to incur costs of legal representation. Applicants are welcome, however, to engage a lawyer or other professional advisor to provide independent representation at their own expense. Post Office will help you with the costs of obtaining legal advice (including advice on bankruptcy/insolvency if applicable) on an Offer if one is made to you. If so, full details will be included in the Offer letter. Reasonable legal fees (including advice on bankruptcy/insolvency if applicable) will also be reimbursed should you wish to dispute the Offer.

**Assessment of claims****Q. How will my claim be assessed?**

- A. Your claim will be assessed using the information available and in accordance with recognised legal principles (including those established as part of the group litigation).

**Q. Who makes the decision on whether my claim is successful?**

- A. Your application to the scheme will first be assessed for eligibility.

Herbert Smith Freehills, a law firm with wide experience and expertise in operating similar schemes, will be operating the scheme.

Eligible applications will be assessed by an independent advisory panel.

The assessment will be made based on all the information and evidence provided. Following the assessment, we will write to you setting out the outcome. Please see full terms of reference at [www.onepostoffice.co.uk/scheme](http://www.onepostoffice.co.uk/scheme).

The scheme's assessment will very much depend on the individual circumstances of each application, and the information and evidence supporting it.

If you are not content with the assessment outcome, there is a dispute resolution procedure.

**Q. How will I know if my case is being treated fairly and consistently?**

- A. We will explain to you the reasons for decisions about your application or claim. The scheme includes a dispute resolution process for eligible claims, including independent mediation. Please see the full terms of reference at [www.onepostoffice.co.uk/scheme](http://www.onepostoffice.co.uk/scheme).

**Q. What are the possible outcomes of the assessment?**

- A. The assessment will very much depend on the individual circumstances of each application, and the information that is provided in support of it.

Post Office will act in good faith and with the commitment to try to resolve all eligible claims.

## Mediation

**Q. How will mediation work and when will it happen?**

- A. Please see the terms of reference for the scheme at [www.onepostoffice.co.uk/scheme](http://www.onepostoffice.co.uk/scheme). Eligible claims will be assessed and the outcome will be communicated to you. If you are not content with the outcome, there is a dispute resolution procedure, which includes review meetings with you before the stage of independent mediation is reached.

The independent mediation provider will be Wandsworth Mediation Service, a charitable community mediation service chaired by Stephen Ruttle KC, who co-mediated the resolution of the group litigation.

## Current Horizon system

**Q. I am experiencing issues with Horizon at the moment – who should I contact?**

- A. Please contact the Branch Support Centre as soon as possible if you experience any operational issues with Horizon.