

Post Office Horizon IT Inquiry

**On behalf of Core Participants represented by Hodge Jones & Allen:**

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**Submissions in relation to HSS appeals**

***Introduction***

1. These submissions are made in response to the Inquiry's letter of 2 May 2025, which invited submissions on this topic. At the time of receipt, we were preparing submissions on compensation more broadly, because our clients are reporting such distress as a consequence of the way their claims are being handled. However, the Inquiry's letter made it clear that the Chair had completed his Report on the issue of compensation, apart from in this one area, and we agree that there is a pressing need for publication, so we have confined ourselves to HSS appeals. We have two points to make:
  - a. The DBT is not independent and therefore should not be arbiter of appeals, and
  - b. An appeal path should be made available to those who have accepted the Fixed Sum Offer.

***The DBT is not independent and therefore should not be the arbiter of appeals***

2. In our first submissions to this Inquiry of 22 June 2022, which were on the subject of compensation, we said this:

Were it not for the delay that would inevitably ensue, we would be advocating in the strongest terms for the removal of HSF and the appointment of a suitable independent third party who would be responsible for the vital task of awarding and administering claims. However, such a course (desirable as it is) would bring with it further delay, disrupting a process already dogged by the Post Office's inordinate obstruction over a number of years.<sup>1</sup>

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<sup>1</sup> SUBS0000042, p7 para 17

3. Events over the three years since then have demonstrated that we were wrong to prioritise the prospect of speedier outcomes over independence. Unfortunately, the evidence shows that sticking with a conflicted institution in the hope that it will produce speedier outcomes is misguided. On the contrary, delay is one of the tools used by conflicted institutions to obstruct full and fair compensation. Without institutional independence, there cannot be full and fair compensation, and the sooner the process is taken away from conflicted institutions the sooner full and fair compensation will be delivered.
4. DBT is not independent, just as Post Office and HSF were not independent, and it is likewise incapable of delivering full and fair compensation. The Inquiry heard from DBT officials during the final Phase. This evidence covered not only the Department's woeful failure to act as a responsible shareholder (as set out in our Closing Statement<sup>2</sup>), but also specifically the issue of compensation. The evidence of Carl Cresswell was particularly troubling.<sup>3</sup>
5. Even more importantly, the experience of those claiming compensation from DBT's GLO scheme must be heeded. They are being obstructed by many of the same tricks which have been deployed by Post Office and HSF. After making a claim, they will be asked a set of questions, often just before the deadline for responding to the claim, and while those questions are being answered DBT parks the claim. Once answers are received, DBT asks another set of questions just before the deadline for responding, and there is no rationale for why they were not asked alongside the first set of questions. The questions will often be on issues which are irrelevant. They will ask for evidence which is manifestly unnecessary or impossible to provide. This shameful obstruction and delay is from the Post Office playbook.
6. None of this should come as a surprise. It is the consequence of the institution being conflicted. Despite the best intentions of some individuals, the conflict is embedded in

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<sup>2</sup> SUBS0000074, pp83-97

<sup>3</sup> SIR WYN WILLIAMS: Before we go any further, when I read the transcript of today, in respect of the last five minutes I may get the impression that you have told me that there is a shift in ministerial objective from the three words "full, fair and prompt" to at least an emphasis on "prompt". Right? If so, I've not heard any minister or other politician articulate that publicly, and I don't want to be unfair either to you or them but if it is the case that one of the driving forces behind the fixed offer is to elevate "prompt", above what is full and fair, I'd like to know it in plain language, please.

A. And sir, responding to that, that is precisely what I am saying. I was given the steer by Secretary of State Badenoch and others that we needed-- and some of this evidence is included in my bundle-- to prioritise speed, even if it meant overpayment.

SIR WYN WILLIAMS: Well, and underpayment because the way the fixed offer operates, once you don't accept it, it's lost forever, isn't it? So there's an overpayment possibility, certainly, but there's also an underpayment possibility.

A. There is, although the 600k, I would say, is supported by legal advice.

SIR WYN WILLIAMS: I am not saying that anybody is going to do it deliberately; I'm talking about the effect of it.

A. Yes.

SIR WYN WILLIAMS: I can put myself in a position of a claimant who may claim £1 million, who is prepared to take the risk on not accepting 600. It's much more difficult if your claim is 700 or 750, isn't it?

A. It is.

INQ00001202, p47 (internal pp 185-186)

the institution's ways of working and ways of thinking. It comes out in all the small ways that officials respond to claims, but it also comes out in the way that senior officials advise Ministers to side with Post Office when they manifestly should not. Take, for example, the exchange between DBT and Paul Marshall regarding the sums which the unconvicted GLO claimants gave to the convicted GLO claimants following the GLO Settlement. The Post Office sought to argue that the compensation payable to the convicted GLO claimants should have those sums deducted. This was wrong, both in logic and in law, as Mr Marshall comprehensively proved, and yet Rob Brightwell of DBT wrote to Mr Marshall on 11 April 2023, siding with the Post Office view.<sup>4</sup>

7. We therefore submit, in the strongest possible terms, that mistakes must not be repeated. The HSS appeals should be handled by independent assessors.

***An appeal path should be made available to those who have accepted the Fixed Sum Offer***

8. The HSS appeals process makes it very clear that those who have accepted the Fixed Sum Offer of £75,000 are excluded from it. This risks serious injustice, because of the unfair way that the fixed sum offer was made.

9. On 7 May 2025 the HJA civil team sent this email to the HJA Inquiry team:

something that has recently come to light is that even if clients have made an application to the HSS scheme these applications were put on hold following the Fixed Sum offer of £75k (FSO) offer being made, but we were not informed.

This has made it very difficult to advise clients on whether the FSO should be accepted as we do not know what the PO will offer under the HSS. Costs are not provided until an offer in the HSS has been made and you are appealing the same. However, as we were expecting offers to be made (which would have likely been too low) we have assisted some clients to make the application. However, no offer has been forthcoming and when chased as have only recently been told that the HSS application has been stayed pending the client's decision on the FSO

Whilst some clients have not made any applications to the HSS and are happy to accept the offer, there are clients who have to make a difficult decision whether to accept the FSO now or risk getting less in the HSS. As you are both aware a lot of these clients do not have a lot of evidence and there is a real risk they could get less or that they are unsettling.

New clients who are approaching us for advice on the FSO we are having to turn away as no costs are allowed. I feel clients are feeling forced to accept the FSO even if they do not want to as they do not want to take the risk of getting less and they are not being afforded the opportunity for solicitors to properly investigate the claim and properly advise them on their options.

10. The only way to provide a possible remedy is to open the appeals process to those who have agreed to receive the Fixed Sum Offer. We appreciate that this undermines the whole point of the Fixed Sum Offer, which was intended to allow both sides to draw a line, but this was an inherently bad idea. It has resulted in large sums being given to those who may have only lost sums in the hundreds or thousands, and meanwhile those who have suffered the most have had to make difficult and highly pressured

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<sup>4</sup> Mr Marshall was informed by covering email that this letter was copied to the Inquiry, but we append it to these submissions for ease of reference.

decisions, without the benefit of legal advice. While this has improved the figures for settled claims, it has exacerbated the suffering of those with complex claims, the very cohort who stand in most need of compensation.

Edward Henry KC

Flora Page KC

Hodge Jones & Allen

14 May 2025