

HORIZON COMPENSATION ADVISORY BOARD**INCREASING THE SPEED OF REDRESS****Introduction**

1. Minister Hollinrake has asked us to consider what can be done to increase the pace with which compensation is delivered. In doing so, we have of course also considered how the fairness – and perceived fairness – of the schemes can be maintained and improved.
2. We recognise that the main issues affecting speed of compensation are the preparation of OC and GLO claims, the resolution of disputes and the time taken to issue HSS offers. Initial GLO and OC offers are already being delivered promptly.

Recommendations

3. We welcome measures already in hand to speed up compensation. We recommend a further package of proposals which could be announced and implemented fairly quickly. There is more detail on these in Annex A.
 - An optional HSS fixed offer whose value should be calibrated to cover about one third of HSS claims – ie at about £12,000.
 - Additional interim payments to take compensation up to £50k when a GLO claimant submits their claim.
 - Create a new lighter touch “small claims” process for HSS claims under say £5k.
 - Firmly encourage the Post Office to strengthen and monitor instructions to move quickly, not to nit-pick, and respond pragmatically to differences of view on claims.
4. We also recommend that officials should develop for decision further advice on the package of more structural measures described in Annex B. These take advantage of the need to build new capacity to deal with the flood of new HSS cases generated by *Mr Bates vs the Post Office* plus the additional OC cases which will be created by the Government’s planned legislation. They include:
 - Asking the Post Office to remove HSF from any role in Horizon compensation as quickly as can be managed without unnecessarily disrupting delivery – and instructing their successors to make full offers without unnecessary quibbling.
 - Making DBT (rather than the Post Office) responsible for the delivery of redress for those whose convictions are overturned by legislation – and extending that capacity also to cover new HSS cases. The schemes should, so far as possible, take a common approach based on that of the GLO scheme.
 - Using that capacity also to provide an independent appeal route for HSS cases – effectively putting them through the GLO system.
 - Bringing into DBT the delivery of the existing stock of OC and HSS claims, along with the governance and staffing of the Post Office Remediation Unit.
5. We believe that these recommendations will speed up redress and increase stakeholders’ trust in the process. Because the capacity will need to be built to manage the new caseload, they will not create substantial new transitional costs.
6. We have two miscellaneous recommendations (Annex C):
 - Provide regular information for claimants in all schemes on claim status.

- Bring approval process for OC legal costs for future cases in line with the GLO scheme
7. All of the above recommendations are based on the continuation of what is broadly an adversarial model. For the longer term, we believe that is not the best way to deliver compensation schemes. Faster, more efficient and more claimant-friendly redress could be delivered through a system that was investigative rather than adversarial, and which made decisions efficiently through an independent process, by reference to a tariff of damages, and obtaining assistance from a standing panel of external experts. It is too late to adopt such a system in respect of the Horizon schemes – but we shall produce fuller recommendations for the benefit of those overseeing future schemes.

Background

8. DBT officials have provided the following summary of progress in the three schemes.
9. In the GLO and OC, the overall pattern is that **first offers** are generally being made quite promptly once claims are received. Delays are much more likely to arise in:
- The **preparation of OC and GLO claims**, including the acquisition of expert medical and accounting evidence and of Post Office disclosures;
 - **The resolution of disputes** (although it is too soon for this to have become a GLO issue);
 - **The issue of HSS offers**; and
 - **The overturning of convictions** (being considered separately).
10. In considering new measures, account needs to be taken of those which have been decided but have yet to have their full effects, including:
- Optional fixed offers of £600,000 to those with overturned convictions and £75,000 to those in the GLO;
 - an interim payment top-up (to £450,000) upon submission of a fully particularised pecuniary OC claim to incentivise early submission; and
 - Legislation to overturn remaining convictions.
11. Unless otherwise stated, data in this paper are as at 31st January 2024 for HSS, and 1st February 2024 for OC and GLO.

Current position

12. Across the three compensation schemes, 2,893 postmasters have applied for compensation. Settlements have been reached with 78% of these. Settlement numbers are likely to include more of the 'easier' cases to deal with. Recent decisions on fixed offers will accelerate that progress – but the decision to legislate to overturn convictions, plus the impact of *Mr Bates vs the Post Office*, will bring hundreds more cases.

GLO

13. We know of no compensation scheme dealing with such complex cases which, now that it has commenced, is delivering so quickly.
14. There are 492 claimants in the scheme. Interim compensation totalling over £19 million has been paid to all but four claimants – three dormant companies and one estate awaiting probate.
15. As of 13 February, Post Office had produced disclosures in respect of 304 out of 582 branches (52%), probably equating to over 250 claims. They are now producing around 13 disclosures per week. They have also produced 68 shortfall analyses (which claimants'

lawyers find helpful in some cases) out of 153 extant requests. Note that the £75k fixed offer is expected to be relevant to about one third of cases. For those clearly below the threshold, no disclosures or shortfall analyses will be needed. These will include some for which disclosure has already been made but a significant number are still awaited.

16. DBT has approved funding for 342 forensic accounting expert reports and 332 medical reports. Accounting reports can generally only be produced once Post Office disclosures are received. DBT does not have information about how many reports have been commissioned or produced (although work is now in hand to track this).
17. DBT has received 58 complete claims. It has made 52 offers and have 6 still in hand. The claims and offers include some £1m+ cases as well as smaller ones.
18. DBT has have a target of issuing 90% of initial offers within 40 working days of receiving a completed claim. The target only applies to 90% of claims because a small proportion of cases raise new issues of principle: these take longer to resolve. There are of course more unprecedented cases at the start of a scheme: as a result, the target is harder to meet. To date DBT has issued 70% of offers within the deadline. Officials are confident that this will rise above 90% in coming months. DBT's performance against the target is published.
19. Of the 52 offers made, 41 have been accepted, 3 challenged and responses are awaited to 8.
20. Some challenges will involve the provision of additional evidence which is likely to lead to a settlement within weeks. Only challenges to the principles of offers are likely to require resolution by the independent panel. Dentons will refer matters to the panel as rapidly as they can.
21. Officials' view is that the very low number of challenges indicates that DBT's offers are – as intended – generally fair.
22. **Conclusion: in the GLO scheme we should focus on measures to accelerate the submission of claims. We should also consider what can be done to accelerate the scheme's response to substantive challenges once they arrive.**

HSS

23. 2,417 claims were submitted before original deadline. All have been made initial offers. 2,051 have been settled: 366 are in the dispute process.
24. 376 eligible claims have been submitted since the deadline. *Mr Bates vs the Post Office* is stimulating further HSS claims - Post Office has received 462 late claims since the start of the year, taking the total to 876 late claims. Of these, 400 have been assessed as eligible and 62 are ineligible. The remaining 414 are going through eligibility checks. The Post Office expects to continue to receive a high volume of claims in the coming weeks.
25. Post Office have indicated that it currently takes 30 weeks on average from when a new claim is received for it to progress to an offer (although it can be much faster in some cases). This includes any requests for further information and the referral to the independent panel, so it is not on the same basis as the GLO target of issuing offers within 40 working days.
26. The 30-week process is split roughly as follows:
 - First 10 weeks – **Eligibility confirmation**. This includes the verification that the applicant is eligible and the initial identification and verification (ID&V) of the applicant. The timeframe for this stage could be affected by issues with obtaining ID&V and any appropriate attestation/representation documents, including probate documentation (this could take up to 4-6 months depending on the complexity of the deceased's

estate). Also includes delays with IVA supervisors and independent trustees engaging with the scheme. NB in the GLO scheme this is much easier because the eligible cohort is known in advance.

- Week 10 - Week 15 – **Shortfall Analysis**. Average elapsed time is 5 weeks. This is the time taken to review the claim in detail (shortfalls plus any Post Office contractual claim elements, e.g. suspension/termination).
 - Week 15 - Week 26 – **Panel review and recommendation**. Average elapsed time is 11 weeks. This will include HSF completing their assessment, incorporating the shortfall analysis (SFA) with other consequential loss elements of the claim and may include requests for further information (RFI). Delays in RFI responses and complexity of the consequential losses being claimed may impact on this, as well as engagement with expert reports.
 - Week 26 – Week 30 - **Decision and Offer**. Average elapsed time is 4 weeks. This will include the drafting of the offer letter and resolution of any issues that may come from this process. This will include offers going through POL and DBT governance checks.
27. There are around 350 cases currently going through the Dispute Resolution Process. DBT has agreed some recent tweaks to that process to reduce bureaucracy around the approval of legal fees and to provide Post Office with more flexibility to make an offer on commercial grounds to settle claims within reasonable parameters.
28. The Board has previously expressed concerns about the fairness of POL and HSF involvement in administering compensation.
29. **Conclusion: the challenge is a mix of considering new claims and resolving those in dispute.**

Current position: OC

30. 101 convictions have been overturned to date. People are invited to apply for compensation when convictions are overturned. Full and final settlements have been agreed with 32 individuals.
31. Interim payment offers of £163k are made within 28 days of applications. The process works efficiently and interim payments are paid quickly. Some have chosen not to apply for an initial interim payment and progress immediately to their full claim. 95 applications for interim payments have been received and 92 offers have been made.
32. Claimants can opt for a fixed offer of £600k – or can choose to have their claims considered individually. This offer has helped to significantly increase the number of full and final claims reached from 5 before the offer was made to 32 full and final settlements today (note – some previous settlements with ‘public interest cases’ have been re-opened so are not counted in the latter number).
33. Non-pecuniary claims are settled on the basis of the Dyson ENE. The process is now well embedded and offers/settlements of non-pecuniary claims progress quickly. Not counting those who have settled in full and final settlements, 44 non-pecuniary claims have been submitted, 40 offers have been made and 29 have been paid.
34. Progress in responding to pecuniary claims has to date been slower. These are often the larger elements of the claim with a great deal of evidential complexity. The OC Pecuniary Principles which have been put in place and Sir Gary Hickinbottom’s appointment should speed things along. However the speed/efficiency of the new process is still to be fully tested, as is the mechanism for then resolving disputes.

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- 35. Conclusion: the challenge has been getting pecuniary claims submitted. DBT has recently agreed an interim payment top-up (gross £450k) upon submission of a fully particularised pecuniary claim to incentivise this.**

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ANNEX A: PROPOSALS ADDRESSING CURRENT SOURCES OF DELAY

We welcome three measures to speed the submission of GLO and OC claims and the processing of HSS ones which are already being implemented:

- To incentivise claimants and their lawyers to submit pecuniary claims more quickly by offering additional interim payments to take compensation up to £450k when an OC claimant submits their pecuniary claim. (From Sir G Hickinbottom).
- Relaxing requirements on the Post Office to redact third-party information from their GLO disclosures. ICO have offered to help with this, which might shorten the GLO timeline by several weeks and substantially ease the disclosure challenge for new HSS and OC cases.
- Working with claimants' lawyers and the Post Office, to provide additional information to track individual GLO cases through the preparation process and hence identify any blockages and demonstrate scheme progress to stakeholders (JFSA suggestion).

We recommend four further measures with similar goals:

Scheme/proposal	Officials' assessment of feasibility and impact	Likely results
A1. HSS - Introduce fixed offer of about £12,000 to cover about the smallest third of HSS claims.	Would allow about a third of HSS late claims to be settled quickly. Would help to resolve only about 5 cases currently in the dispute process. Would add around £9 million deadweight cost by topping up over 1,200 lower awards. Would provide similar treatment to the OC and GLO schemes. Need clear narrative relating each scheme's fixed sum amount to the proportion of claims affected. Would encourage more claims – whether genuine or fraudulent (whereas GLO claimants are known).	Would accelerate resolution of late claims and address some issues around lower settlements. High deadweight cost. Some operational savings.
A2. GLO - Additional interim payments to take compensation up to £50k when a GLO claim submitted.	Reduces the financial pressure on claimants whilst claims are considered. No deadweight cost because of £75k fixed offer. Limited incentive on claimants and their lawyers to submit pecuniary claims more quickly – because most claims are delayed by practicality (eg expert evidence) not lawyers' tactics.	
A3. Create new "small claims" process for HSS allowing claims under [£5k] to be processed through a simple form without legal support, and paid subject only to ID/anti-fraud checks.	Some setup cost but should save significant operational costs and encourage postmasters to come forward who might not otherwise have claimed.	Saving op costs. Promoting takeup.
A4. HSS – Firmly encourage the Post Office to strengthen and monitor instructions to move quickly, not to nit-pick, and respond pragmatically to differences of view on claims.	HSS panel already guided by considerations of fairness.	Already implemented but could be reinforced.

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ANNEX B: STRUCTURAL PROPOSALS

- B1. This Annex sets out a number of proposals for changes in structure.
- B2. Two current developments create opportunities for such change. More capacity is needed to deal with the flood of HSS cases stimulated by *Mr Bates vs the Post Office*, and to take on the large number of OC cases to be overturned by legislation. The latter will effectively require a new scheme – “OC2”.
- B3. That capacity will need to include additional external legal advisors. We recommend that this should be used as an opportunity to **remove HSF from any role in Horizon compensation** as quickly as can be managed without unnecessarily disrupting delivery. HSF damage the credibility of the schemes and have a reputation for adversarial negotiation inappropriate to schemes delivering financial redress for often vulnerable claimants. We understand that their involvement is already being reduced. New advisors should be better able to deliver on an **instruction to make full offers without unnecessary quibbling** – and we recommend that such an instruction should be given.
- B4. As well as external lawyers, new in-house capacity needs to be established to run OC2. That could be built in DBT as easily as in the Post Office and so we recommend that **OC2 should be managed by DBT**. With the GLO scheme, the Department has already established the principle that it can run Horizon redress which attracts more public trust than the Post Office’s schemes. And by removing the governance interaction between DBT and Post Office, the scheme can operate more quickly and efficiently.
- B5. The ITV drama has already stimulated [n] new HSS cases, and many more are expected. Additional capacity will be required to respond to this. Rather than allowing the Post Office to scale up its own delivery, the most efficient way of creating this new capacity will be for it to be integrated with that for OC2. So we recommend that **new HSS cases should also be managed by DBT**. The timing of the switch of responsibility should be determined by when DBT’s capacity will be ready to take on cases.
- B6. We note that the ***average*** time to make an initial offer in new HSS cases is 30 weeks. That compares to the GLO scheme’s target of delivering ***90%*** of offers within 40 working days of receiving a completed claim. We recognise that these targets are measuring different things: the HSS figure includes much of the work required to develop claims plus a higher level of identity checking (because the GLO cases are a pre-identified group). Furthermore we accept that the longer time-frame is in part driven by the difference in processes, with the HSS Panel responsible for deciding offers in all cases whereas in the GLO the panel is not involved except in cases which cannot be agreed bilaterally. But we see that as a weakness in the HSS process: as well as adding delay, it is more costly to involve the panel in every case. The construction of new capacity managed by DBT creates an opportunity to see HSS offers made in-house with the panel’s role confined to resolving disputes.
- B7. These recommendations would mean that within a few months, new cases in all three schemes would be delivered by DBT. We recommend that, so far as possible, **all three schemes should take a common approach modelled on the GLO**, including offers made bilaterally; resolution sought through ADR; a Panel to resolve disputes; a Reviewer for final appeals; a tariff for claimants’ reasonable legal costs; and a claims facilitator, responsible for helping to resolve disputes and chasing both sides to act promptly. These changes will increase both efficiency and stakeholder understanding.
- B8. We recognise that procurement law means that it will be impossible for DBT simply to scale up its ask of Addleshaw Goddard and Dentons under their existing GLO contracts: in any case, by the time DBT is ready to deliver, the great majority of GLO cases should already have been resolved, and that most of the remainder will be in the ADR process. DBT will need to consider at the time how far it is possible to integrate remaining GLO work with the other schemes.
- B9. We have previously recommended the creation of an independent appeals process for the HSS. If our Annex A recommendation to introduce a minimum payment for HSS is accepted, the number of postmasters who might

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want to take advantage of this should be reduced by about one third. And if the above recommendation that new HSS cases should be managed by DBT on the GLO model is also accepted, they too will not need an independent route of appeal. But that will still leave perhaps 2,000 claims, some of which will have been submitted before the consequential loss guidance was published and others without legal advice. We continue to believe that these people deserve the chance to have their cases reconsidered independently, even though we expect relatively few choose to take that opportunity.

- B10. We recognise that one of the difficulties facing DBT in considering whether to create such an appeal route has been the great uncertainty in the number of cases which would need to be dealt with. That created risks of building unused capacity – or of having capacity swamped by unexpectedly large numbers of cases. The recommendations above substantially reduce that risk because DBT will be building capacity anyway for OC2 and new HSS cases. A final HSS appeal panel and reviewer could be built into that new capacity with very little set-up cost – it might even be possible to use the GLO system – and the uncertainty in the number of HSS appeals will be less significant when seen alongside the large number of OC2 and new HSS cases. So if our other recommendations are agreed, we also recommend that **an independent HSS appeal mechanism** should be built alongside them.
- B11. The Post Office is already dealing with about 60 OC cases and 349 HSS disputes, and will have made a start on hundreds of late HSS applications received before the ITV film was broadcast. Once DBT's capacity comes on stream, new cases will need to be directed away from the Post Office, leaving them with a rump of previous claims. We accept that it will probably be difficult – and unfair to claimants – to change in mid-flight the processes governing these claims or the resources being used to manage them. However we recommend that **the governance and staffing of the Post Office Remediation Unit should be brought within DBT.** This will speed governance and improve the scheme's credibility, especially given the greater influence of the Advisory Board over DBT's delivery. We recognise that existing staff may have a legal right to transfer with the work. Even though most have been recruited since 2019, in the public mind their continued involvement will to some extent taint the continued delivery of existing cases. But the taint would be greater if the operation continued to fall under Post Office governance.

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ANNEX C: PROPOSALS AFFECTING OTHER ISSUES

The Board welcomes recent confirmation that:

- “Public interest” cases are to be compensated in the same way as others with overturned convictions.
- OC awards will now only be reviewed by DBT in exceptional cases.
- Difficult issues of principle can be put to the GLO Panel at an early stage, perhaps unlocking resolution of multiple claims and saving operating costs.
- Decision-makers in OC and HSS cases can exercise appropriate commercial flexibility to secure just, early settlements. This will become a useful tool in the GLO as more cases move into dispute, saving legal costs.

We recommend a number of further measures:

Scheme/proposal	Officials’ assessment of feasibility and impact	Likely results
C1. GLO (and other schemes) – more regular information for claimants on claim status	Worth considering (via their solicitors), esp for claims which are taking some time.	Feasible, low cost, may reduce claimants’ concerns.
C2. OC – Bring approval process for legal costs for future cases in line with the GLO scheme	On the whole, costs issues are not particularly slowing OC claims as most advisers have agreed to settle the issue of costs after or at the settlement of the whole compensation claim. POL will make interim payments on account of costs at the points of: i) non-pecuniary claim settlement; and i) pecuniary claim submission. It will also pay expert disbursements upfront if agreed ahead of time. Finally, POL has put in place costs adjudicators at the end of the process if costs cannot be agreed. However, getting hundreds of postmasters legally represented and ready to submit claims after primary legislation may be a challenge, so it is worth pursuing for future delivery. Claimants’ solicitors are keen to see a tariff because they believe it will be of financial advantage to them, not because they expect it to accelerate the scheme.	Unlikely to be useful in current process but required for future legislative overturns.

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We have considered two further proposals which we do not recommend:

<p>C3. <u>NOT RECOMMENDED:</u> OC/GLO - Increase values of fixed offers</p>	<p>GLO fixed sum award means that nearly a third of claimants are getting more than they asked for. We have claimants requesting £15k who are getting £60k more than that. Increasing to say £100k would mean perhaps 160 people getting an extra £25k each (plus more people who were already in the £75-100k range also getting something). That's £4m-plus of pure deadweight. It might mean a few dozen more claims didn't need full analysis, accelerating the end of the scheme by a few weeks. A few weeks for £4m seems like bad vfm when there are so many other demands on the public purse. There are also the potential repercussive impacts on the HSS to contend with.</p>	<p>Accelerate scheme by a few weeks. Cost £4m- plus.</p>
<p>C4. <u>NOT RECOMMENDED:</u> GLO/OC – following up the £75k GLO fixed offer, give flexibility for quick settlement of sub-£100k claims at £100k with especially low evidential bar. Could take similar approach to OC claims below say £750k.</p>	<p>Creates further complexity and edge effects in schemes, which will be unwelcome to claimants. Would create deadweight (eg paying £100k on an £80k claim) although savings in legal costs would reduce this. Reduced evidential requirement could speed submission of claims. Could speed settlements where offer is challenged. However would mostly affect initial offers. In the GLO, ~90% of those are accepted. So each settlement accelerated would cost about 10 lots of deadweight, each worth £0-25k. Risk of undermining the £600k settlements which have been reached to date, likely that some would have taken a higher award if it was available. Re-opening settlements may distract from processing outstanding claims. Feasible, but Treasury likely to be very concerned about deadweight. Proposal C2 would be more effective.</p>	<p>Feasible way to accelerate challenged settlements but very high cost and creates unwelcome complexity. Commercial flexibility would be better.</p>

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