

Please ask for: Neil Hudgell
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11 April 2022



Sir Wyn Williams
Post Office Horizon IT Inquiry

BY EMAIL ONLY:

Dear Sir Wyn,

Adequacy of Compensation - Historical Shortfall Scheme

You recently called for Submissions on the availability of compensation for discrete categories of SPMs.

When you reach Northern Ireland for impact evidence you may hear from our client John Gormley, to whom you recently granted Core Participant status.

Mr Gormley applied out of time to the Historical Shortfall Scheme (HSS). His application was rejected as not establishing exceptional reasons for being submitted out of time.

We propose to reference this in his statement, which is in the process of being drafted.

Beyond that and more widely I would invite you to consider (either now or at a later time) seeking submissions on the suitability of the HSS scheme to deliver adequate and timely compensation.

Our recent experiences have identified a number of issues, including;

1. The overwhelming majority of offers are being accepted without the benefit of legal advice.

In that context it is of real concern that claims are being settled off at an under value.

As of 7th April 2022 a total of 892 final payments have been made out of 1210 offers¹.

It would be interesting to know how many of those where signed off with the benefit of legal advice.

That should be relatively easy to establish from enquiry of Post Office.

¹ <https://www.onepostoffice.co.uk/secure/latest-news/our-business/historical-shortfall-scheme-information-on-progress/>

2. Informing that view is our experience of offers that we have been instructed to review. Heads of loss have routinely been missed, often of significant amounts.

In one case for example, we have identified a six year loss of earnings claim, refinance costs and loss of investments. This is not exceptional.

Generally the application form for the scheme does not encourage the articulation of losses beyond shortfalls, including only one “catch all” question asking for details of “other losses”

Total compensation of £7.1 million has been awarded across 892 cases, an average of £7959 per case. This seems a surprisingly low number.

3. Post Office routinely refuse to consider additional heads of claim when being challenged and/or delay in considering the request.

4. Equally, Post Office refuse to make Interim Payments for agreed Shortfall losses whilst other issues are explored.

This is an important issue.

This leaves SPMs in the invidious position of either potentially settling at an undervalue, or waiting an indeterminate time for review (see next point)

5. Delay remains a significant concern in a number of respects.

Although the scheme closed on 27th November 2000 as of 7th April 2022 almost 50% of applications remain to be determined.

In relation to the small number of cases awaiting review (44) there is no visibility on the timescales for each stage to be completed.

We are unaware of any cases having been through the first stage of the review process.

There is an absence of transparency here that needs addressing.

6. Inadequacy of legal fees. A fixed contribution is made to review offers (£400 or £1200 depending on value).

Beyond that nothing is offered. In many instances substantial work is needed to prepare cases for review.

Solicitors cannot reasonably be expected to do that work pro bono, and it is unfair for SPMs to lose a percentage of damages to enable lawyers to work on their behalf.

In complex cases there is a justifiable case to incur other professional fees (eg accountants). There is no provision for this.

This is not an exhaustive list and essentially covers only some of the key “headline” issues

Having seen the keen interest you have taken on the issue of compensation I thought it prudent to bring these matters to your attention at this stage.

Yours Sincerely

A handwritten signature in black ink, appearing to read 'Neil Hudgell', with a stylized flourish at the end.

Neil Hudgell
HUDGELL SOLICITORS