



Department for
Business, Energy
& Industrial Strategy

Government response to the Business, Energy and Industrial Strategy Committee Post Office and Horizon – Compensation: interim report

April 2022

Darren Jones MP
Chair, Business, Energy and Industrial Strategy Committee
House of Commons
Parliament
Westminster
SW1A 0AA

14 April 2022

Dear Darren,

POST OFFICE: HORIZON

The Government thanks the Committee for its interim report on Post Office and Horizon Compensation.

The Horizon scandal has had a devastating impact on postmasters. That is why we set up the Post Office Horizon IT Inquiry to get to the bottom of what happened, ensure the right lessons have been learnt and to avoid the situation being repeated in the future.

The Government has also supported compensation to those affected by this scandal. We continue to ensure that the right support is provided.

As I announced on 22 March via a Written Ministerial Statement (UIN HCWS705), the Government has committed to making additional funding available to give those in the GLO group compensation similar to that which is available to their non-GLO peers.

On Historical Shortfall Scheme (HSS) offers, the Government is committed to ensuring offers are made as quickly as possible and I am pleased that 51% of offers have now been made. As I have said in the House, the Government has set the Post Office an ambitious aim of making 100% of HSS offers this year.

For those who have been wrongly convicted, the Government shares the Committee's desire to see work to trace and support postmasters with Horizon-related convictions progress without delay. Setting up an independent body would take significant time and potentially delay resolving this issue, which for some has been ongoing for 20 years. The Government has therefore been working with the Post Office to find alternative ways of addressing these issues to ensure that affected postmasters – who have already waited too long for justice – can get a resolution as quickly as possible.

I would like to thank the Committee for all its hard work on this issue.

Yours sincerely,



PAUL SCULLY MP

Minister for Small Business, Consumers & Labour Markets
Minister for London

Introduction

The structure of this paper corresponds to the recommendations in the Committee's *Post Office and Horizon – Compensation: interim report* from 17 February 2022. The recommendations taken from the Committee's report are in bold italics and are each followed by the Government's response.

The 555 Group Action Litigants

Recommendation 1: We demand that the Government as a matter of urgency commit to ensuring that the 555 are fully compensated for all of their losses on the same basis as other victims of this scandal receiving compensation. (Paragraph 17)

Government's response:

The Government has acted on this issue. The Government announced on 22 March 2022 that it will make funding available to ensure postmasters who took part in the Group Litigation Order (GLO) case are not financially disadvantaged by their decision to litigate against the Post Office. Members of the GLO group will be able to access similar compensation to that available to their non-GLO peers.

The Government is consulting informally with affected postmasters on how this compensation should be delivered. The Government will announce the results of those discussions to Parliament in the coming weeks.

Prosecuted Sub-postmasters and ‘unsafe’ convictions

Recommendation 2: We recommend that the Government urgently set up an independent intermediary body as a trusted first point of contact for those wrongly convicted because of Horizon, in particular for the 576 convicted sub-postmasters who have not yet come forward. The independent body should be appropriately resourced to support these victims to begin the process of overturning convictions and seeking the compensation they are entitled to. POL and BEIS should co-operate fully with this body. It is crucial that, if such a body should be established, it has proper engagement with the sub-postmaster community and their representatives. (Paragraph 23)

Government’s response:

Although supportive of the intent behind the recommendation, the Government does not propose to set up a new independent body to undertake these functions. The Government is keen to see work to trace and support postmasters with Horizon-related convictions progress without delay and is concerned that setting up such a body would take significant time. The Government and the Post Office are therefore seeking to work with existing independent bodies to address these issues.

Since the Select Committee met with Nick Read and Paul Scully in January 2022, the Post Office and BEIS have been working to establish a process of intermediary contact for those who have not yet applied to have their convictions overturned and support for postmasters who have had their convictions overturned and are seeking compensation.

Ongoing Activity to Offer Support

The following actions are being taken in light of the Committee’s recommendations:

- i. The Post Office has agreed with the independent Criminal Cases Review Commission (CCRC) that they will contact all identified postmasters with Horizon-related convictions who have not responded to previous communications from the Post Office. (More detail on this below.)
- ii. The Post Office continues to coordinate with the Non-Post Office Prosecutors, including the Department for Work and Pensions, Royal Mail Group, the Crown Prosecution Service, the Crown Office and Procurator Fiscal Service, and the Prosecution Service for Northern Ireland. Each of those organisations is making their own contact with postmasters and the Post Office is undertaking extensive disclosure to support each of these organisations.

The Government has encouraged the Post Office to take further action in this area, including appointing an intermediary body to provide independent advice to postmasters who come forward, including to assist them with routes to compensation, to provide information on the availability of legal advice and to strengthen the available emotional and well-being support.

Further background information is set out in the sections below.

As of 25 March, there were 955 postmasters identified as having received criminal convictions relating to their involvement with the Post Office from the period in question. Of these, 706 were prosecuted by the Post Office, 203 were prosecuted by other bodies and 46 were not based on evidence connected to Horizon.

Post Office Prosecutions

The Post Office is aware of 708 Horizon-related convictions resulting from Post Office prosecutions (see below for detail on prosecutions undertaken by other bodies). Of these, the Post Office has

contacted 640¹ former postmasters. This number includes 91 postmasters that the Post Office has newly traced and contacted since the BEIS Select Committee hearing. The Post Office continues to proactively seek contact details of all the individuals involved, using credit and tracing agencies where appropriate. The Post Office has so far been unable to contact the remaining 68 postmasters.

Of the 549 postmasters previously contacted (i.e. excluding the 91 more recent contacts), there are still 172 postmasters who have not responded to the Post Office's contact attempts. As the Committee states, this could be down to a lack of trust in the Post Office. The Government fully understands these concerns given postmasters' previous experiences.

To address concerns about trust and independence of the process, on 21 February 2022, the Post Office came to a formal agreement with the independent CCRC regarding it making direct contact with convicted postmasters.² The CCRC began contacting the 172 postmasters mentioned above in the week commencing 14 March, providing them with information on their options and routes to compensation.

To address the second part of the Select Committee's recommendation regarding an independent point of contact for postmasters, in addition to the role of CCRC mentioned above, the Government has encouraged the Post Office to actively explore options to establish an independent point of contact for postmasters. We understand discussions are in an advanced stage with a service provider to fulfil this role.

Finally, the Post Office is also looking to provide further support for the emotional well-being of affected postmasters by extending existing services. Currently there is a helpline (provided by Optima Health) that is available to postmasters applying to the Historical Shortfall Scheme; the Post Office is working to extend their service to other postmasters affected by Horizon issues.

Non-Post Office Prosecutions

There is a subset of postmasters who were prosecuted between 1999 and 2019 by prosecutors other than the Post Office: Department for Work and Pensions, Royal Mail Group, the Crown Prosecution Service, the Crown Office and Procurator Fiscal Service, and the Prosecution Service for Northern Ireland.

The Post Office has proactively offered to share information and provide assistance to these prosecutors to enable them to discharge their duties of post-conviction disclosure and in relation to any appeals against conviction. The Post Office has also agreed to extend the use of the specialist tracing company to conduct a tracing exercise on behalf of the other prosecuting bodies, upon request.

In February and March 2022, the Post Office held roundtable discussions with these prosecutors to discuss necessary actions. The meetings were constructive, and all prosecuting bodies expressed commitment to tracing and engaging with the postmasters they prosecuted. The contact tracing has reached different stages across the prosecuting bodies, with some having already made contact and

¹ 91 recent mailout + 172 no response to mailout + 6 non-convicted + 34 requested no further contact + 8 bespoke contact + 10 ID&V in progress + 42 awaiting disclosure request + 17 disclosure requests in progress + 117 disclosure requests made + 32 applications at CCRC + 5 CACD appeals + 35 abandoned appeals / convictions upheld +71 overturned convictions = 640

² The Criminal Cases Review Commission is the official independent body that investigates potential miscarriages of justice <https://ccrc.gov.uk/>

others not yet. Department for Business, Energy and Industrial Strategy (BEIS) officials attended these meetings as observers.

As of 23 March, the Post Office is assisting the Public Prosecution Service of Northern Ireland with tracing postmasters, with other prosecuting bodies agreeing to request assistance once their initial reviews are complete. In addition, the Post Office has offered to provide disclosure of documents that the Post Office holds and has started this activity for all prosecutors.

The Government and the Post Office are endeavouring to ensure that there is consistent treatment of postmasters no matter the prosecuting body. The intention is to give equivalent support to that being given to those postmasters prosecuted by the Post Office; this includes giving other prosecutors access to tracing services, extending the contact and tracing by the CCRC (where appropriate), and allowing affected postmasters access to the well-being helpline.

Recommendation 3: The Government must confirm how long it expects it to take for final settlements to be made to sub-postmasters after they have received their interim payments. The Government should set out what criteria they are using to determine final payments, alongside indicative examples of what claimants can expect in terms of overall compensation, which should include compensation for consequential losses. (Paragraph 25)

Government's response:

The Post Office aims to make offers for an interim payment within 28 days of an eligible claim being received. All 66 of the interim payment offers made as of 31 March 2022 occurred within 28 days. A few payments were, however, delayed in complex cases where a postmaster had died or was made bankrupt; however, these have all now been resolved. Final compensation settlements are determined through individual negotiations between the claimants' legal representatives and the Post Office. The length of time this will take depends upon how long it takes claimants' advisers to submit their claims and to reach a settlement agreement with the Post Office's legal representatives. BEIS, with support from UKGI, has full visibility of this process. The Post Office is committed to moving these negotiations forward as quickly as practicable and is working with the first two postmasters whose legal representatives have submitted a fully quantified claim. The Government is working to support this process in whatever way it can.

Final compensation payments will be determined on a case-by-case basis. When responding to claims, the Post Office is using a set of legal principles prepared following legal advice and with input from BEIS and UKGI based on current case law; they will be updated as necessary. These principles will inform the offers made in response to claims and the approach adopted when compensating specific heads of loss and assessing the available evidence. The principles will support a consistent approach to determining postmasters' settlements while still allowing the flexibility needed to take into account each individual postmaster's particular circumstances. This will help ensure that fair compensation is paid (while appropriately stewarding public funding) and claims are settled as quickly as possible.

All compensation will be assessed on a case-by-case basis, and payments made in response to claims for pecuniary losses, both direct and consequential, which may include loss of past and future earnings, alleged shortfalls and other costs incurred; as well as claims for non-pecuniary losses such as mental distress, personal injury, injury to reputation and loss of liberty. It is anticipated that payments will also be made in respect of interest and to address tax liabilities.

Recommendation 4: We recommend that the Government provides monthly updates on the number of interim payments made, the number of final payments made, and the range of amounts paid out to reach full, fair and final settlements. Because of the nature of the Horizon scandal, transparency on these issues is crucial to restoring trust. (Paragraph 26)

Government's response:

The Government accepts the Committee's recommendation and has agreed with the Post Office that it will publish this information on its website,³ subject to the caveats regarding privacy outlined below. This includes the information requested on interim payments and will be updated on a monthly basis. The Post Office has also committed to sharing the latest management information data with the Select Committee each month to enable the Committee to continue to track progress.

To ensure privacy for the claimants, the range of amounts paid for final settlements will only be made available once a critical mass of settlements has been reached. Immediate publication of settlement details could jeopardise the privacy of individual claimants.

Recommendation 5: We recommend that the Government provides regular updates when compensation is refused for sub-postmasters who have had their convictions overturned, the reasons for this and if subsequent compensation is sought and awarded. The Government should ensure that POL provide us with details of the mediation for those seeking compensation after overturning a conviction, including the process, how independence is achieved, the numbers using it, and what the outcomes have been. We also recommend that BEIS explains its role in signing off this mediation process and the nature of the oversight that it and UK Government Investments (UKGI) are providing. (Paragraph 29)

Government's response:

Further information is provided below in response to the Committee's requests.

Interim compensation payments of up to £100,000 are available to postmasters who meet the following criteria: i) their Horizon-related conviction has been overturned by the Courts; ii) they do not belong to the group of postmasters whose convictions were overturned but were not opposed by the company on public interest grounds (more information on this below); and iii) they have submitted a claim to the Post Office. If these three grounds are met, then interim compensation will be provided.⁴

To date, three claims for interim compensation payments have been declined for the reason given in point ii) above. In each case, the Post Office did not consider Horizon evidence to be essential to the prosecution in accordance with the Court of Appeal's 2021 judgement in *Hamilton and others*; however, the Post Office did not oppose the quashing of these convictions, as it would not have been in the public interest to hold a retrial (which is the procedure in Crown Court appeals). Although these postmasters are not eligible for an interim payment, they may still submit a claim to the Post Office for compensation, which will be considered on its merits.

The Settlement Process

³ <https://corporate.postoffice.co.uk/en/historical-matters/historical-matters-progress/historical-convictions-and-compensation-information-on-progress/>

⁴ The Post Office has published information on the routes to compensation for postmasters on its website: <https://corporate.postoffice.co.uk/en/historical-matters/historical-matters-progress/post-office-compensation-schemes/>

Each settlement requires an individual negotiation between the legal representatives of the postmaster and of the Post Office. The representatives will need to discuss all the matters in the claim to work out where agreement can be reached. Where it is not possible to reach agreement, the parties may jointly agree to a mediation. Mediation is a flexible, voluntary and confidential form of Alternative Dispute Resolution (ADR), in which a neutral third party assists parties to work towards a negotiated settlement of their dispute. Should it be necessary to move into mediation, the parties will agree on the appointment of a mediator to examine the areas of dispute and work towards a resolution. Independence is achieved by both parties agreeing on the mediator and the process to be followed. The parties retain control of the decision whether or not to settle and on what terms. To date, no negotiations have reached a stage where the parties jointly consider it to be beneficial to have a mediation.

Government's Role

The Government has responsibility for providing the funding for settlement payments, agreeing significant decisions in relation to the settlement strategy and monitoring the Post Office's progress towards reaching final settlements. BEIS, supported by UKGI, has been involved in the design of the compensation programme and holds regular monitoring, decision-making and working group meetings, both internally and with the Post Office. This includes sign off on processes, principles and oversight on initial cases. This is to ensure that negotiations are advancing in line with the Government's desire to see timely and fair compensation delivered to postmasters.

The Historical Shortfall Scheme

Recommendation 6: In responding to this report, we expect the Government to explain how the Historic Shortfall Scheme differs from the HBOS Reading scheme and what safeguards have been built in to avoid the problems that the latter scheme experienced. (Paragraph 35)

Government's response:

The Government is aware that Herbert Smith Freehills was employed by Lloyds Banking Group to provide legal support in relation to the HBOS Reading compensation process. We are also aware that the All-Party Parliamentary Group on Fair Business Banking submitted a complaint to the Solicitors Regulatory Authority (SRA) in July 2020, relating to Herbert Smith Freehills' involvement in the HBOS Reading Scheme. The SRA confirmed following that investigation that "they looked at all the available information and decided to close the matter with no further action".⁵

The Historical Shortfall Scheme differs from the HBOS Reading Scheme in some important areas:

- i. Whereas in the HBOS Reading Scheme it has been reported that claimants found it difficult to claim consequential losses, in the Historical Shortfall Scheme claims for consequential losses⁶ are clearly in scope.⁷
- ii. Whereas there was some reported criticism that the HBOS Scheme set a high evidential standard for claims for direct and consequential losses, the Historical Shortfall Scheme seeks to account for evidential issues when assessing all types of claims, including for direct and consequential loss. This approach is explained in the Historical Shortfall Scheme guidelines, which explain that "where the postmaster is unable to satisfy the burden of proof in relation to their claim, their claim may nonetheless be accepted in whole or in part if the Scheme considers it to be fair in all the circumstances".⁸ Further detail can be found in the response under Recommendation 15 below.
- iii. Whereas it has been reported that in the HBOS Reading Scheme there was no opportunity to appeal an offer (or no offer),⁹ the Historical Shortfall Scheme offers claimants opportunities to meet with the Post Office to discuss any concerns with their offer as part of the Dispute Resolution Procedure and refer the matter to another form of Alternative Dispute Resolution. This includes the option of mediation with an independent mediator. More detail about the Dispute Resolution Procedure can be found below in the response to Recommendation 8.
- iv. The HBOS Reading Scheme is reported to have used a panel made up of senior Lloyds Bank personnel,¹⁰ whereas the Historical Shortfall Scheme has put in place an independent

⁵ <http://www.law.com/international-edition/2021/02/09/mp-slams-regulator-as-hsf-lloyds-investigation-comes-to-an-end/>

⁶ http://www.cranstonreview.com/Content/Documents/The%20Cranston%20Review_v2.pdf

⁷ https://www.onepostoffice.co.uk/media/47793/historicalshortfallscheme_consequentiallossprinciplesandguidance.pdf

⁸ https://www.onepostoffice.co.uk/media/47793/historicalshortfallscheme_consequentiallossprinciplesandguidance.pdf

⁹ http://www.cranstonreview.com/Content/Documents/The%20Cranston%20Review_v2.pdf

¹⁰ http://www.cranstonreview.com/Content/Documents/The%20Cranston%20Review_v2.pdf

advisory panel of legal, forensic accounting and retail specialists to make recommendations on claims.

Recommendation 7: We ask the Government to seek clarity from the Post Office Ltd. (POL) on the basis on which offers are made, in particular whether claimants were aware before agreeing to take part in the Scheme of its terms of reference and methodology and what rights, if any, were waived. (Paragraph 38)

Government's response:

No rights are waived by postmasters in joining the Scheme. Agreement on the part of the postmaster that a settlement is full and final (meaning the postmaster cannot make any further claims against the Post Office in relation to the matters settled) only happens if the postmaster accepts the settlement offer made, thereby compromising his or her claim and bringing the process to an end.

The Historical Shortfall Scheme's process and methodology are outlined in its Terms of Reference,¹¹ which were made available on the Post Office website as part of the application process. In particular, points 7 and 8 in the document explain that applications will be assessed by an Independent Advisory Panel,¹² and it makes claimants aware of the Dispute Resolution Procedure should they be dissatisfied with the outcome of their claim assessment. All applicants to the Scheme were required to sign a declaration stating that they had observed and agreed to the Terms of Reference before they proceeded with their application. In addition, paragraph 8.6 of the document states that "[a]ny settlements reached shall be on a full and final basis and shall not be capable of being re-opened save in the event of fraud".

When an offer is made, claimants are reminded that they can seek independent legal advice prior to accepting the offer. As outlined further in the response to Recommendation 16, the Post Office will reimburse up to £1200 of these costs. Claimants can alternatively choose to reject offers made in line with the Independent Advisory Panel's recommendation and instead follow the Dispute Resolution Procedure steps to settle their claim.

Recommendation 8: We ask POL to explain how it ensures that the ADR process is fully independent from the Scheme, how many claimants have used it, and what the outcomes have been. We also recommend that the Government provide us with details of BEIS and UKGI's oversight role in the Scheme's ADR process. We specifically note that 22 offers have been turned down by claimants and we recommend that the Government confirm whether these rejections ended up in the Scheme's ADR process and, if so, what the outcomes are. We recommend that BEIS explains its role in assessing those offers that have been rejected. (Paragraph 39)

Government's response:

¹¹ https://www.onepostoffice.co.uk/media/47295/historicalshortfallscheme_termsofreference.pdf

¹² N.B. All references in this document to the 'Independent Advisory Panel' or 'Panel' are singular; the 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. Each case will be assessed by three members of the Independent Advisory Panel comprising one legal specialist; one forensic accounting specialist; and one retail specialist.

The Government accepts the Committee's recommendation and has set out more detail on these points below.

The Terms of Reference for the Historical Shortfall Scheme were developed by the Post Office in consultation with, and endorsed by, the legal representatives for the claimants' steering group in the 2019 group litigation. This included endorsement of the three-stage Dispute Resolution Procedure, which is outlined in the Scheme's Terms of Reference published at the launch of the Scheme.¹³

The first two stages of the Dispute Resolution Procedure, the Good Faith Meeting and the Escalation Meeting, provide an opportunity for the Post Office and its legal representatives to engage with a claimant who has rejected the Post Office's offer to explain the rationale behind the offer and to consider any additional evidence provided by the claimant. If the claimant does not wish to accept the offer following the Good Faith Meeting, he or she has the option to request an Escalation Meeting with a senior manager from the Post Office, who will further consider the claim, any new evidence and seek to negotiate a mutually acceptable outcome. However, if the dispute remains unresolved after these first two stages, either party can then refer it to the independent mediation service provided by the Wandsworth Mediation Service. The mediation process is independent of the Scheme and is funded by the Post Office with no charge to the claimant under the Historical Shortfall Scheme Terms of Reference.

In response to concerns raised by Parliamentarians, the Post Office has set up a dedicated Dispute Resolution Team to develop, support and implement the Dispute Resolution Procedure from beginning to end. The Dispute Resolution Team will provide help and support to postmasters as an initial point of contact and throughout the process, including attending Good Faith Meetings when deemed helpful, and with the prior agreement of the postmaster. The Post Office has redeployed four Senior Managers as 'Customer Champions' who have real life experience of running Post Office branches; they will support the Historical Shortfall Scheme full-time, with five more anticipated to join the Dispute Resolution Team by end June 2022.

As of 25 March 2022, no rejected offers have been referred to mediation. If mediation ultimately proves unsuccessful, the Scheme's Terms of Reference set out that disputes for claims of less than £10,000 will be resolved through civil proceedings in the county court, whereas claims for over £10,000 will be determined through arbitration.

As of 25 March 2022, 1106 offers have been made, of which 966 (87%) claimants have responded and of which 911 (94%) have accepted (i.e. 82% of all offers made by 25 March have been accepted).

Of the postmasters who have responded to the offer, a total of 59 (6%) formally disputed the offer and have entered the Dispute Resolution Procedure. Of the 59 postmasters who have entered the Dispute Resolution Procedure, 21 have subsequently accepted an offer before reaching the mediation stage.

These 21 are included in the total 911 accepted offers above, and can be broken down as follows:

- 16 accepted the offer prior to the Good Faith Meeting (Stage 1 of Dispute Resolution Procedure)
- 4 accepted following the Good Faith Meeting
- 1 accepted at the Escalation Meeting (Stage 2 of Dispute Resolution Procedure).

The 38 cases currently within the Dispute Resolution Procedure (as of 25 March) are at the following stages:

¹³ https://www.onepostoffice.co.uk/media/47295/historicalshortfallscheme_termsofreference.pdf

- 13 – Post Office is progressing a response to the Claimant (arising from a combination of actions being taken before and after GFM)
- 19 – Post Office is awaiting a response from the Claimant (arising from a combination of actions being taken before and after GFM)
- 6 – Good Faith Meetings to be held.

BEIS and UKGI provide oversight and challenge functions, as appropriate, regarding the Dispute Resolution Procedure. BEIS and UKGI receive the regular management information and updates from the Post Office to enable monitoring of the Dispute Resolution Procedure on behalf of the BEIS Steering Committee.¹⁴ The Government is closely monitoring how the process is working as more postmasters are starting to move into the Dispute Resolution Procedure, to ensure the process allows postmasters the opportunity to present their case properly and with the right level of support. For example, the Post Office has shared lessons learned and consulted BEIS and UKGI on its continuous improvement of the Scheme's Dispute Resolution Procedure. The numbers of cases in dispute and the stages they have reached through the process are presented to and discussed at operational level with BEIS and UKGI officials at fortnightly meetings and are included in the monthly performance monitoring meetings and quarterly reviews attended by the BEIS Director, who is BEIS' Senior Responsible Officer for the Scheme. The fortnightly meetings provide a forum for UKGI and BEIS officials to raise any concerns or challenge specifically on the Dispute Resolution Procedure.

Within the Post Office, cases in the Dispute Resolution Procedure are managed daily and formally reported fortnightly to programme governance, and monthly in governance updates from the Historical Matters programme team to the Historical Remediation Committee, a sub-committee of the Post Office Board.

BEIS does not assess the offers that have been rejected by claimants, as the Scheme Terms of Reference set out the conditions for these entering the Dispute Resolution Procedure. Rather, the BEIS Steering Committee has right of approval over the set of principles that govern each stage of the Dispute Resolution Procedure: these include for example, specific courses of action in cases where a claimant articulates new elements of their claim or submits additional supporting evidence for their claim. Where specific cases fall outside of these principles these will be escalated through the relevant governance (in Post Office and in BEIS). Moreover, Scheme-wide issues that affect cost and/or precedent come to BEIS for approval as per an Operations Agreement between BEIS and the Post Office. BEIS and UKGI will continue to monitor the Dispute Resolution Procedure outcomes to ensure that this process is working effectively, and postmasters are properly supported.

Recommendation 9: In response to this report, POL and BEIS should provide details of who was consulted in drawing up the Scheme, what issues were raised by those consulted, and how those issues were addressed. We also recommend that POL and BEIS set out what opportunities were given to claimants to raise concerns after the Scheme was opened and how those concerns were addressed. (Paragraph 42)

Government's response:

The Government accepts the Committee's recommendation.

¹⁴ The Steering Committee has membership from BEIS and HMT, and UKGI attend meetings as observers.

An outline for what eventually became the Historical Shortfall Scheme was set out in the 10 December 2019 Settlement Deed which settled the GLO, which was approved by BEIS.

As explained above, the founding principles of the Scheme were developed by the Post Office in consultation with, and endorsed by, the legal representatives for the claimants' steering group in the group litigation. The GLO mediators Charles Flint QC and Stephen Ruttle QC also approved the "cost-effective and accessible mediation scheme" component contained within the settlement deed. The Terms of Reference and the 3-stage Dispute Settlement Resolution approach were also discussed and endorsed by the GLO group as set out in Question 8 above.

The Historical Shortfall Scheme was signed off by Post Office's Board via its GLO sub-committee. The Board included the BEIS Shareholder Representative. From October 2020, it became apparent from much higher-than-expected numbers of applicants that Government funding might be needed; therefore, formal BEIS and UKGI governance and oversight arrangements for the Scheme were established in January 2021, with Government funding announced in March 2021.

The ongoing running and administration of the Historical Shortfall Scheme is overseen by specific policy and delivery teams within BEIS. This includes oversight and approval of letters to former and current postmaster applicants, principles established from test cases, operational agreements for the Scheme and process maps. This list is not exhaustive but indicative of the oversight that BEIS (as supported by UKGI) have over the running of the Historical Shortfall Scheme.

The Scheme was designed with the intention of providing a route to compensation for current and former postmasters who had faced shortfalls. It also removed the requirement for legal action against the Post Office which would have come with obvious legal, financial and emotional pressure. The Scheme's independent Panel was also empowered to have regard to 'fairness' countered by any perceived power imbalance between the postmasters and the Post Office.

The Terms of Reference developed by the Post Office and endorsed by the legal representatives for the claimants' steering group in the group litigation included:

- i. The three-month application window for postmasters to apply and provide evidence of the basis for the application. It also should be noted that, although the Scheme closed to formal applications in August 2020, there was an extension until November 2020 for applications following a clarification of the eligibility criteria.
- ii. The principle that, once an application has been made, either party may write to the other to request relevant information. Each party is required to co-operate in providing any information which the other party may reasonably request.
- iii. The three-stage Dispute Resolution Procedure, which is described in the response to Recommendation 8 above. The Terms of Reference also outline the agreed principle for how cases should proceed following this Dispute Resolution Procedure.

Regarding the second issue raised as part of this recommendation, if a claimant has concerns about the Historical Shortfall Scheme or their application, they can raise these with the Post Office by e-mail or post. The Post Office manages a process to accommodate complaints related to the Historical Shortfall Scheme, which are routed to the appropriate team and addressed individually. Responses are signed off by a senior manager at the Post Office and escalated to the HM Operations Director if deemed necessary. This process acts as an oversight function, helping Post Office address potential issues as they are identified.

When contacting the Post Office, claimants can make them aware of their circumstances or changes to them, which are then fed into a prioritisation process. Cases that are prioritised fit into one of three

levels (Critical, High, Medium) based on conditions including severe financial hardship, terminal illness, risk of personal hardship and old age. Prioritisation can happen in the first instance (i.e. when an application is submitted), or at a later stage when a claimant identifies an issue.

Furthermore, the Post Office has prioritised claimants for interim payments in circumstances where concerns have been raised about the impact of the speed of progress on the claimant. As of 5 April 2022, 24 interim payments have been made on this basis.

Recommendation 10: *The Government must explain how consequential losses will be assessed under the Scheme with a range of indicative examples that draw on offers that have already been made. (Paragraph 44)*

Government's response:

The Government recognises the importance of ensuring that postmasters are compensated for consequential losses. The Post Office has been clear from the start of the Scheme that consequential losses would be covered under the Historical Shortfall Scheme.

In establishing the Historical Shortfall Scheme, an initial round of test cases was used as the basis for the creation of the Case Assessment Principles. These principles were approved by the Independent Advisory Panel and by BEIS' Steering Committee and set out the underlying legal principles which will be applied to claims within the Historical Shortfall Scheme to ensure consistency of approach.

The 'Consequential Loss Principles and Guidance' document, published on the Historical Shortfall Scheme website, sets out the main principles and the process that is being followed in the case of a consequential loss claim.¹⁵ The Historical Shortfall Scheme application form asks applicants to identify any shortfall losses as well as any consequential losses caused by a Horizon shortfall. In this instance, a consequential loss is defined as a "financial or non-financial loss that is not a Shortfall Loss". Types of consequential loss may include but are not limited to: loss of earnings; loss of profits; loss of property; loss of opportunity/loss of chance; penalties/general or increased costs of financing; bankruptcies/insolvency; legal and professional fees; stigma/damage to reputation; personal injury/harassment.

Consequential loss claims are assessed by Herbert Smith Freehills and put to the Panel to consider against the legal principles to determine whether, on a balance of probabilities, the loss can be attributed to a Horizon shortfall. This assessment takes into consideration the following legal principles; however, this list is not exhaustive and may depend on the individual circumstances of the claim:

Causation – Whether the Horizon shortfall caused the consequential loss

Remoteness – Whether the consequential loss was reasonably foreseeable at the time of the Horizon shortfall.

Mitigation – Once causation is established, the extent to which the consequential loss was or could reasonably have been mitigated by the postmaster.

¹⁵https://www.onepostoffice.co.uk/media/47793/historicalshortfallscheme_consequentiallossprinciplesandguidance.pdf

Quantum – The object of the assessment will be, so far as the award of a sum of money can do so, to put the postmaster into the position that the postmaster would have been in but for the Horizon shortfall.

Sufficient evidence may be required to prove a consequential loss claim, particularly in situations where a claim for consequential loss refers to a situation that is only known to the postmaster. The Independent Advisory Panel is, however, well aware of the issues around lack of evidence and lapse of time since claimants may have suffered a consequential loss, and as a result they have a degree of discretion to award 'fair offers' based on the facts of each case. The principles will be updated as necessary in the light of Panel decisions on individual cases and wider consideration on the handling of appropriate losses.

Indicative examples:

Claimant A included claims for shortfalls, loss of remuneration and increased insurance costs. Following assessment by the Independent Advisory Panel, the offer made by the Post Office included losses for all of the claimed areas as well as for compensation connected to dismissed employees, for distress and for compound interest.

Claimant B included claims for shortfalls, loss of retail profit and time spent on shortfalls. Following assessment by the Independent Advisory Panel, the offer made by the Post Office included losses for all of the claimed areas as well as compound interest.

Recommendation 11: *We recommend that the Government in consultation with POL set out the reasons for involving POL in assessing claims, how this was discussed with stakeholders and how they dealt with any concerns stakeholders may have raised regarding POL's involvement. We also recommend that POL set out what steps have been taken to ensure independence, including how robust challenge is achieved and the numbers of initial recommendations rejected or amended by the Independent Panel. We further recommend that Government explains how BEIS and UKGI are providing oversight of the Scheme with practical examples of how, if at all, it has intervened to ensure independence. (Paragraph 49)*

Government's response:

The Government accepts the Committee's recommendation.

In establishing the Historical Shortfall Scheme, the Post Office was determined to ensure that all those impacted received full, fair and final compensation. Independence is built into the foundations of the Historical Shortfall Scheme via the Independent Advisory Panel and the Scheme is overseen by BEIS with the support of UKGI.

Involvement of Post Office

The involvement of the Post Office in assessing claims arose from the Group Litigation Order settlement, which required the Post Office to establish and administer a scheme to deal with shortfalls which relate to previous versions of Horizon (sometimes referred to as Legacy Horizon, Horizon Online or HNG-X) for postmasters who were not part of the Group Litigation Order settlement.

The Government believes that the Post Office cannot fully move on until it has righted the wrongs of the past and that it is therefore appropriate that the Post Office itself takes responsibility for making amends to the postmasters affected by the Horizon IT issues and that the Government holds it to account for doing so in a fair and consistent manner. The Government agrees that it is also right, for

the reasons outlined by the Committee, that the Post Office itself is not the judge and jury in assessment of individual claims.

Claims in the Historical Shortfall Scheme are assessed using Case Assessment Principles, which set out the underlying legal principles which will be applied to ensure consistency of approach, as explained in the response to Recommendation 10. As highlighted in that response, these Case Assessment Principles were approved by a Director-level Steering Committee in BEIS before the first offers could be made.

The first stage of assessing a claim involves an independent Legal Case Assessment by Herbert Smith Freehills. This takes into account the information provided in the application and the shortfall analysis information provided by the Post Office from its branch and historical record sources. Herbert Smith Freehills' initial assessment is passed to the Independent Advisory Panel which includes experts from the retail, forensic accountancy and legal sectors, who review the initial assessment and the facts of the application. The Independent Advisory Panel can request further information or recommend an offer be sent to the postmaster based on its assessment of the evidence.

As noted previously, Herbert Smith Freehills' role is to assess claims purely against legal principles and present options for the Panel to consider quantum of compensation. The Panel can then also exercise its discretion to recommend what it believes to be a 'fair offer' when considering the facts of the case in the round. Government supports the Panel in this approach. As of 5 April 2022, there have been no cases where the Post Office has offered an applicant less than the Panel has recommended.

Oversight from BEIS and UKGI

BEIS Steering Committee's oversight of Herbert Smith Freehills's recommendation to the Independent Advisory Panel and the final offers subsequently recommended by the Panel is supported by an anonymised weekly case review process. The purpose of this is to check that the assessments and recommended offers are consistent with the Case Assessment Principles, and to identify any cases that require discussion and/or approval.

BEIS, supported by UKGI, has oversight of the pipeline of cases being submitted to the Independent Advisory Panel, as well as of the subsequent decisions made by the Panel. Through this governance framework, the BEIS Steering Committee has challenged Herbert Smith Freehills and the Post Office on various issues, including how to treat unquantified claims.

As an example, in March/April 2021, BEIS challenged the Post Office's proposed approach to investigating shortfall claims. As a result, the Post Office amended its approach and opted for a 'tailored investigation' approach based on the evidence from claims that were fully investigated.

The BEIS Steering Committee has a right of approval over all offers made by Post Office to applicants, and reviews Independent Advisory Panel recommendations that fall within a 'review criteria' range; this includes, for example, complex claims above a certain value, or cases where the Independent Advisory Panel's recommendation differs materially from the options presented in Herbert Smith Freehills's Legal Case Assessments. The BEIS Steering Committee can also sample a proportion of cases on a regular basis. However, BEIS officials are extremely mindful of the need to preserve the Panel's independence, and therefore any intervention once a Panel recommendation has been made would be focussed on ensuring the Case Assessment Principles are being applied. The case review framework enables BEIS and UKGI officials to have sight of the more complex or potentially contentious cases, in an anonymised form, as they move through the case preparation stages. This provides an opportunity for Government's views to be considered before a case is put to the Panel for a recommendation. Questions raised so far have particularly focussed on better understanding the Panel's approach to

decision-making and in particular understanding how the Panel is ensuring, as far as possible, consistency of outcomes across the HSS claimants.

BEIS's ongoing oversight of the Scheme includes scrutiny of monthly management information provided by the Post Office and monthly and quarterly performance monitoring meetings with the Post Office. The Operations Agreement between BEIS and the Post Office sets out that the monthly monitoring meeting includes (but is not limited to): management information covering all applications to the Scheme showing the status of applications; an up-to-date cashflow forecast; an up-to-date cost estimate for the Scheme (including explanatory notes); any major changes to the risks / issues assessment reported at the quarterly Senior Responsible Officer meeting; and information to monitor the Post Office's and BEIS's responsibilities under the Public Sector Equality Duty (PSED).

Recommendation 12: We recommend that the Government ask POL to set out and share stretching monthly targets and outturns on how the backlog of claims is being addressed. We also recommend that BEIS and UKGI in their oversight role give monthly updates on what actions they are taking to ensure these targets are agreed and met. (Paragraph 55)

Government's response:

The Government accepts the Committee's recommendation.

The Post Office has increased the capacity of the Independent Advisory Panel to deal with this and are now making good progress. At the 11 January 2022 Select Committee evidence session, Minister Scully set out his ambition that 100% of initial offers will be made to Historical Shortfall Scheme claimants by the end of 2022.

At the same Select Committee evidence session noted above, the Post Office Group Chief Executive, Nick Read, made a commitment that the Post Office will have provided initial compensation offers to 95% of claimants by the end of 2022. As of 31 March 2022, compensation offers have been provided to over 50% of claimants and the Post Office is confident it will meet its year-end commitment.

The Post Office has published its targets for this year as 50% offers made by the end of March and 95% for the end of the year. They have met the first of these targets and will update their ongoing progress on a monthly basis on their website.¹⁶

The response to Recommendation 11 above gives a detailed explanation of BEIS's ongoing oversight role. Although the Government accepts the Committee's recommendation to provide an update on actions taken to ensure targets are agreed and met, the Government suggests that this is done on a quarterly, rather than monthly basis. By doing so, BEIS, supported by UKGI, will be able to provide a more rounded update which reflects the full extent of the oversight work taking place during that time, including materials from the quarterly and monthly meetings between BEIS, UKGI and the Post Office.

Recommendation 13: It is worrying to hear that many of the claims awarded so far may be towards the low end of the compensation scale. To dispel any fears that Horizon victims are not being compensated fairly we recommend that the Government ask the Post Office to provide information showing the spread of average claims paid out so far with a commitment to sharing such details

¹⁶ <https://corporate.postoffice.co.uk/en/historical-matters/historical-matters-progress/historical-shortfall-scheme-information-on-progress/>

going forward to ensure transparency and trust in the Scheme. We also recommend that the Government is explicit about how BEIS and UKGI are providing oversight of the appropriateness of offers made to claimants. (Paragraph 57)

Government's response:

The Government accepts the Committee's recommendation.

There have been 2,365 eligible claims to the Historical Shortfall Scheme. Each case is complex and unique, requiring specific examination of the details of the case and the circumstances in each.

To support the aim of ensuring consistency and fairness of approach, the cases have been grouped into cohorts which share similar levels of complexity. To enable early progress, the first cohorts included the least complex cases and were generally lower value claims, which means that the awarded amounts are expected to be lower than those that will be made in later cohorts where more complex and substantial heads of loss are included.

The Post Office now regularly publishes updates on their website on the progress being made with compensation as outlined in Recommendation 12 above.¹⁷

The Post Office is committed to continued transparency in its public reporting and management information provided to the Government – including, amongst many other things, the spread of average claims, which it will publish on its website and include in regular reports within appropriate governance packs within the Post Office itself and provided to BEIS and UKGI.

The BEIS oversight of the appropriateness of offers made to claimants takes place through approval of the Case Assessment Principles, the weekly case review process and consideration by a Director-led Steering Committee as outlined in Recommendation 11 above.

Recommendation 14: We recommend that POL shares details, with relevant examples, of how it takes the absence of information into account when it makes its initial recommendations for claims and how the Independent Panel reflects on such cases. We recommend that POL sets out how many claims have been refused by the Scheme or rejected by claimants, where an absence of information has been relevant. We also recommend that BEIS and UKGI confirm what safeguards it agreed when signing off the Scheme for cases where there was a lack of records. (Paragraph 63)

Government's response:

The Government accepts the Committee's recommendation.

It is recognised that, due to the absence of records and the amount of time that has passed since losses were incurred, postmasters may face challenges in evidencing their claim. The Scheme was therefore designed so that a lack of supporting information would not be a barrier to entry to the Scheme and claims made to the Scheme would not be rejected on the sole basis of a lack of information at application stage.

Eligibility:

¹⁷ <https://corporate.postoffice.co.uk/en/historical-matters/historical-matters-progress/historical-shortfall-scheme-information-on-progress/>

An 'absence of information' would not, of its own, cause a claim to be made ineligible and excluded from the process. If a claimant cannot provide a value of their loss, the claim is simply classified as 'unquantified'.

Claims Where No Award was Offered:

As of March 2022, the Post Office has issued 12 outcome letters with no award. Only 1 of these 12 'no award' claims is classified as 'unquantified'.

Rejected Offers (Rejected by Claimants):

As of March 2022, 59 offers have been rejected (out of 1106 cases where offers have been made). The Post Office has reviewed the 59 cases and determined whether an offer reduction due to lack of claimant information was applied to the disputed case. Preliminary findings are that 11 cases (18.6% of 59 total disputes) appear to have had the offer reduced due to lack of claimant information, although it is worth noting that on a number of occasions the offer was increased despite a lack of claimant information.

The Government supported the Post Office's appointment of an Independent Advisory Panel, which includes retail, legal and forensic accountancy experts to make recommendations on the Historical Shortfall Scheme applications. As set out above, Herbert Smith Freehills initially undertakes a Legal Case Assessment making initial recommendations. This is then sent to the Independent Advisory Panel for their assessment. In making its decision the Panel may accept, amend or reject the recommendations made by Herbert Smith Freehills and provide its own independent view on what offers to make to claimants. It also has the discretion to take into consideration a lack of supporting evidence when making its recommendations, so that an applicant who has clearly articulated a claim will not be disadvantaged if there is a lack of records to support their claim. The Case Assessment Principles used by the Independent Advisory Panel to assess each claim cover the scenario where claims do not provide supporting information.

As of 31 March 2022, two applications have been rejected by the Panel in cases where no supporting evidence was provided by the claimant. The Panel considered that it did not have sufficient evidence to support the claims.

Please see below an example of how the Post Office and the independent Panel consider cases with evidential issues.

Case example:

Claim: Particularised claim with no/limited evidence: "The evidence of a Horizon shortfall and repayment are contained in the application form and subsequent Request for Information. Despite the absence of documentary evidence, the Panel finds these compelling. The Applicant describes the relevant events with clarity and in real detail. The Post Office has no evidence to the contrary. Non-Disclosure Agreement data appears to evidence the existence of shortfalls. This was a one-off large error, without explanation. Claim to be awarded in full."

In responding to the second part of this recommendation, it is first important to note that the Historical Shortfall Scheme was designed by the Post Office with input from Herbert Smith Freehills and in line with the Terms of Reference endorsed by the GLO. It was subsequently approved by the Post Office Board, on which a Government representative sits. Ministers were sighted on, but not asked to approve, the proposal approved by the Post Office Board regarding the delivery of the Scheme.

Once it became clear that Government funding was required to support the compensation costs of the Scheme (Autumn 2020), Government took a more active role in the governance of the Scheme but maintained a commitment to keeping the assessment process independent. The BEIS Steering Committee was closely engaged and input into the Case Assessment Principles developed by the independent Panel to ensure fair and consistent treatment of claimants while ensuring value for money. Any amendments to the Case Assessment Principles are subject to approval from the BEIS Steering Committee; this provides Government with clear sight of any change in approach.

Recommendation 15: We ask the Government to confirm that the burden of proof should not rest solely with the claimant, not least because POL itself hasn't kept appropriate records, including itemisation of which postmasters paid what amounts to individual suspense accounts. The fact these funds were merely added to the overall profits of the Post Office during those applicable years should be sufficient to agree that claimants must be given a significant level of benefit of the doubt when compensation is being calculated. (Paragraph 64)

Government's response:

The Government accepts the Committee's recommendation.

The terms of the Historical Shortfall Scheme include provisions for those who do not have access to evidence to support their claim. The guidelines for the Historical Shortfall Scheme state that "where the postmaster is unable to satisfy the burden of proof in relation to their claim, their claim may nonetheless be accepted in whole or in part if the Scheme considers it to be fair in all the circumstances".

This guideline is designed to ensure that all former and current postmasters who have suffered losses, or their beneficiaries, can make an application to be considered to receive compensation. The Case Assessment Principles for the Independent Advisory Panel take this into account and accommodate such applicants.

This can be seen in the following case example:

Claim: Despite evidential uncertainty, the Independent Panel awarded the claimant all of the claimed £50,000 related to shortfall losses, based on the claimant's account and the fact that this was not contradicted by Post Office records for part of the eligible period. The Independent Panel highlighted that evidential uncertainty was to be expected given the lapse of time since the shortfalls occurred.

Recommendation 16: We recommend that the Government liaise with the Post Office to establish how many of the 2,500 claimants have been offered support through the Scheme, at which point support was offered, if costs were covered, how much was paid on average, and what the nature of that support was and who provided it. We also recommend that BEIS and UKGI set out what oversight they provided of any support that was given through the Scheme, how they ensured that it was independent and how it was evaluated. (Paragraph 67)

Government's response:

The Post Office is committed to ensuring that all applicants to the Historical Shortfall Scheme are provided with adequate support throughout the application process, which is, of course, a sentiment shared by Government. An independent well-being helpline was established by the Post Office from the beginning of the Scheme to provide counselling for anyone contacting the Post Office. This exists

alongside the additional training and support which has been given to the Post Office's Customer Support Centre and Branch Support Centre agents when dealing with Historical Shortfall Scheme applicants, including how best to deal with their queries.

Further support has been established for those who have submitted applications. The Post Office Historical Matters Remediation Team assists with queries received and can also provide updates on progress of individual applications. This team can also advise on claims which require prioritisation due to additional circumstances communicated to them from applicants. From the beginning of the Scheme's development, the Post Office recognised that there would be some applicants who would require prioritisation given their circumstances. Further information on the prioritisation process can be found in the response to Recommendation 9.

A Post Office representative with in-depth knowledge of running a Post Office branch is now involved in the Dispute Resolution Procedure to help resolve any issues raised by postmasters via their participation in both the Good Faith Meetings as well as the escalation meetings where they not only provide support but also guidance based on real experience.

The Post Office has set out their terms for providing legal support on their website:¹⁸ "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." This commitment is set out in the Terms of Reference and within the text sent out with settlement offers. The Government supported this decision when proposed by the Post Office.

The number of postmasters who have been offered support through the Scheme so far are outlined below. The following figures are accurate as of 18 March 2022:

- i. Pre-Offer Support – this has so far been limited to 3 requests (authority to act costs, provision of medical records) for a total of £326.
- ii. Post-Offer Legal Support – a small number of claimants have submitted invoices for the reimbursement of these legal fees: 9 claims totalling £6.5k. The take up of legal support so far has been low because very few claims have been escalated to a Dispute Resolution Procedure. As the more complex cases proceed, it is expected that the take up will increase. Details on the available legal support are included in the offer letter to claimants.
- iii. Well-being Support – up to the end of Q4 2021, the third-party well-being support service had been used for 16 calls/sessions of well-being support and counselling.

The Government and the Post Office keep the matter of support provided to postmasters under review. As has been explained previously in this response, in Autumn 2020 the Government committed to funding the Historical Shortfall Scheme, and therefore subsequently Government took a significant role in governance of the Scheme. Through its role as Shareholder, the Government holds regular meetings with the Post Office, including monthly updates specifically on the Historical Shortfall Scheme. During these meetings, the Post Office provides updates on progress and the Government is given an opportunity to challenge, both on specific operational issues (e.g. case assessment progress) and strategic issues (e.g. support to postmasters). In these meetings, officials have, for example, pressed the Post Office to consider its representation at the dispute resolution meetings, the structure of dispute resolution meetings and the journey postmasters take from one stage to the next in

¹⁸ https://www.onepostoffice.co.uk/media/108595/independentadvisorypaneltor_feb2022.pdf

providing informal opportunities to resolve issues. Alongside challenge from Parliamentarians, this has resulted in meaningful changes to the process, which should improve the postmaster experience.

Recommendation 17: We have recommended in this Report that the Government set up a properly resourced independent intermediary to assist sub-postmasters seeking to overturn convictions and seek compensation. We recommend that this same body should also be tasked with assisting sub-postmasters who are accessing the Historic Shortfall Scheme. This should include providing claimants with access to forensic accountants and legal experts who can offer advice to help ensure that claims are as robust as possible, that offers take account of all the losses suffered and that claimants do not suffer significant detriment because records have not been kept by the Post Office or other relevant organisations. (Paragraph 69)

Government's response:

As noted in Recommendation 2, the Government is supportive of the intention behind the recommendation but is concerned that the time needed to set up such an independent body is likely to lead to additional delays and ongoing frustration for affected postmasters.

Furthermore, the Historical Shortfall Scheme has already closed for applications and as of 31 March, the Scheme is 51% of the way through offers being made and assessment is underway on applications more widely.

When the Historical Shortfall Scheme was devised, independence was built into the foundations of the Scheme and decision-making process. This includes the use of an independent advisory panel to make recommendations to the Post Office on settlement offers under the Scheme, as set out in the response to Recommendations 8 and 11.

The Scheme also aims to ensure that postmasters are not penalised for a lack of evidence, as set out in the response to Recommendation 15. In addition, postmasters already have access to support during the process through various measures, including:

- i. access to an independent well-being helpline that was established at the beginning of the Scheme to provide counselling for anyone contacting the Post Office;
- ii. a commitment from the Post Office to cover legal fees incurred by postmasters up to £1,200; and
- iii. support of a Post Office representative with in-depth knowledge of running a Post Office branch during the Dispute Resolution Procedure (more detail on this support is covered in Recommendations 8 and 16).

Independent support

Given the Committee's recommendation for further independence and the need for support for claimants in the Historical Shortfall Scheme, as noted in Recommendation 2, the Government has advised the Post Office to take further action in this area, including appointing an intermediary body to provide independent advice to postmasters who come forward, to assist them with routes to compensation, the availability of legal advice and to strengthen the emotional and well-being support being provided to postmasters.

Recommendation 18: The Government must explain whether this direct grant is to cover the whole estimated cost of the Horizon scandal and whether this includes money assigned for achieving a fair settlement with the 555. (Paragraph 72)

Government's response:

The information requested by the Committee is provided below.

After the Committee's 11 January hearing, on 2 February 2022, the Minister for Small Business, Consumers and Labour Markets wrote to the Committee setting out costs to date and expected final outturn costs relating to the Post Office and Horizon Issues. His letter was published on the Committee's website on 9 February.¹⁹

As set out in the Minister's letter, the £685.6 million is not a direct grant to the Post Office. It is the maximum budget cover agreed by HM Treasury to pay full and final compensation to postmasters whose Horizon-related criminal convictions are overturned as well as to those postmasters who were prosecuted but not convicted. This sum is in addition to the £94.4 million maximum budget cover made available to pay interim compensation payments of up to £100,000 to postmasters whose convictions are quashed. This funding includes compensation for members of the 555 who have their Horizon-related criminal convictions quashed. It does not include any element in respect of other Group Litigation Order claimants including those who were prosecuted but not convicted, whose cases will be addressed as part of compensation for the GLO group more generally (see response to Recommendation 1 above). Separate funding has been agreed to allow the successful completion of the Historical Shortfall Scheme.

¹⁹ <https://committees.parliament.uk/publications/8841/documents/89132/default/> (Posted on the Business, Energy and Industrial Strategy Committee Correspondence website at <https://committees.parliament.uk/committee/365/business-energy-and-industrial-strategy-committee/publications/3/correspondence/>)