

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

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**SUBMISSIONS ON BEHALF OF  
POST OFFICE LIMITED**

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**INTRODUCTION**

1. These submissions are provided in response to the 12 issues listed by the Chair, in his invitation dated 10 May 2022, regarding: **(A)** the Historical Shortfall Scheme (the "**HSS**"), **(B)** final compensation for subpostmasters and subpostmistresses ("**Postmasters**")<sup>1</sup> with quashed convictions, and **(C)** fair compensation for the GLO Claimants (as defined below). Post Office notes that this invitation has been published in the context of the Chair's provisional view on compensation issues relating to prosecuted Postmasters, the Chair's announcement of a hearing to address issues of compensation, both dated 9 May 2022, and the correspondence from Hudgell Solicitors and Howe+Co published with that announcement. These submissions take note of, and address, these documents, as well as Post Office's previous written submissions to the Inquiry dated 8 April 2022 ("**April Submissions**"), insofar as appropriate in responding to the Chair's invitation. The information contained in these submissions, including the statistics given below, reflect the position as at 27 May 2022.
2. At the outset, Post Office wishes to reiterate its commitment to righting the wrongs of the past. It is essential that those affected by historical issues relating to previous versions of the Horizon system receive fair and appropriate redress. These submissions seek to address the 12 specific issues listed in the Chair's invitation in turn, together with the broader context of the mechanisms of compensation to which they relate, in **Sections A to C** below.
3. Post Office does not seek to anticipate in these submissions the full range of schemes and arrangements for redress, which it anticipates will be considered as part of Phase 5 of the Inquiry.
4. Post Office has always sought to avoid any potential applicant with a valid claim 'falling between' the mechanisms it has introduced for specific types of redress, and as part of its ongoing commitment to providing fair and appropriate redress it continues to keep these issues, as well as the various procedures involved, under review. Post Office anticipates being in a position to update the Inquiry further shortly before or at the hearings in July 2022.

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<sup>1</sup> Subpostmasters and subpostmistresses are both types of "Postmaster", but a Postmaster can be a limited company, partnership, or limited liability partnership, as well as an individual that contracts with the Post Office in their capacity as a Postmaster in the network.

5. It is also important to emphasise at the outset of these submissions that as Post Office is wholly owned by the Government, and because the funding for the various redress schemes and mechanisms has come from HM Treasury, their establishment and operation has required close engagement with the Department for Business, Energy and Industrial Strategy (its sponsoring Department) to obtain Government's support and approval.<sup>2</sup> Post Office's ability to provide timely offers of compensation to affected Postmasters is accordingly subject to and influenced by the governance, oversight and approval processes of its sponsoring Department, in addition to its own.

#### A. HSS

6. As explained in Post Office's April Submissions, the HSS was set up pursuant to the settlement deed of 10 December 2019 ("**Settlement Deed**"), which concluded the action *Alan Bates and others v Post Office Limited* pursued under a Group Litigation Order in the High Court (the "**Group Litigation**" brought by the "**GLO Claimants**"). Unlike certain other mechanisms for the payment of compensation to Postmasters, the HSS is a formal 'remediation scheme', with published Eligibility Criteria and specific rules. It is designed to enable offers of fair compensation to be made to applicants in a more streamlined and user-friendly way than ordinary litigation. These offers are determined with regard to applicable legal principles, including the judgments handed down in the Group Litigation, but are not constrained by them: as addressed in further detail below, the Independent Advisory Panel (see paragraphs 9, 26.b and 31.e) may instead recommend offers of compensation in line with broad considerations of fairness. In addition, the scheme's Terms of Reference expressly provide that Post Office will deal with all applicants in good faith.<sup>3</sup>
7. The HSS is a claims-led scheme which seeks to address circumstances in which Postmasters experienced a shortfall in stock or cash at a branch compared with the amount of stock or cash indicated on Horizon for that branch, where the shortfalls may have been caused by previous versions of Horizon or a breach of duty relating to such a shortfall on the part of the Post Office ("**Horizon Shortfall**").<sup>4</sup>

#### 1. The heads of loss which are recoverable under the HSS and the reason(s) for any exclusions

8. As the name of the scheme suggests, the purpose of the HSS is to resolve past issues with current and former Postmasters who, in good faith, believe they may have been affected by shortfalls which relate to previous versions of Horizon.<sup>5</sup> The published Eligibility Criteria of the HSS therefore provided that an application must relate to shortfalls which arose in respect of previous versions of Horizon, reflecting the scheme's important, specific purpose of addressing Horizon Shortfalls.<sup>6</sup> The HSS application form

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<sup>2</sup> See the Government's description of its role in [its response to the Business, Energy and Industrial Strategy Committee's interim report on Post Office and Horizon – Compensation dated 27 April 2022](#), at pages 6 – 7 and 10 – 15 in particular.

<sup>3</sup> [HSS Terms of Reference](#), Clause 10.

<sup>4</sup> [HSS Independent Advisory Panel Terms of Reference](#), Clause 4.c.

<sup>5</sup> [HSS Terms of Reference](#), Clause 2.

<sup>6</sup> [HSS Eligibility Criteria](#), Clause 2.

accordingly invited Postmasters to identify any such shortfall that the applicant has repaid or is regarded by Post Office as still owing ("**Shortfall Losses**"), as well as "*any other losses caused by a Horizon Shortfall*", namely **Consequential Losses**.<sup>7</sup> Consequential Loss is defined to mean financial or non-financial loss that is not a Shortfall Loss.<sup>8</sup>

9. Post Office recognised the importance of having an independent and expert assessment of the claims to the HSS, as part of ensuring fair compensation is offered. With this in mind, the Independent Advisory Panel was appointed. This Panel sits as one legal expert, one accounting expert and one retail expert who, together, assess a respective case and make a recommendation to Post Office for the fair outcome on the facts of the case in question. As noted above, the Panel's assessment is not limited purely by legal principles and they are guided by broad considerations of fairness. Establishing that Panel, including the approach and principles they would follow to assess cases, necessarily took time, as detailed further in respect of Issue 2 below. While Post Office entirely sympathises with the frustration or disappointment of applicants who have not yet received an outcome letter, Post Office believes this investment upfront was a necessary and important step in helping to ensure that when those outcome letters are received they contain a fair offer.
10. The HSS has published Consequential Loss Principles and Guidance which its Independent Advisory Panel apply when assessing claims of compensation in respect of such losses in order to guide their recommendation to Post Office for a fair offer in the relevant case (the process followed by the Panel is set out in their published Terms of Reference).<sup>9</sup> This guidance provides a non-exhaustive list of the types of loss that may be claimed as Consequential Loss, including for instance loss of earnings, loss of profits, loss of property, loss of opportunity/chance, penalties/general or increased costs of financing, bankruptcy/insolvency, legal and professional fees, stigma/damage to reputation, and personal injury/harassment.
11. When formulating their recommendation, there is no form of loss that the Independent Advisory Panel is prevented from taking into account in respect of an eligible claim.
12. The Independent Advisory Panel's discretion is also not confined solely to the specific heads of Consequential Loss claimed by the applicant: they may take into account any matters which they consider will produce a fair result on the facts of a particular case, even if not particularised by the applicant.<sup>10</sup>
13. All heads of loss are therefore recoverable in respect of eligible claims under the HSS; no head of loss within the HSS's remit is excluded. It is important to emphasise, however, that the HSS was not intended to, and did not, address all potential claims relating to previous versions of Horizon.<sup>11</sup> Other avenues are

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<sup>7</sup> [HSS Consequential Loss Principles and Guidance](#), Paragraph 1.2.

<sup>8</sup> [HSS Consequential Loss Principles and Guidance](#), Paragraph 2.1.

<sup>9</sup> [HSS Independent Advisory Panel Terms of Reference](#), Clause 34.

<sup>10</sup> [HSS Independent Advisory Panel Terms of Reference](#), Clause 30.

<sup>11</sup> Including Legacy Horizon, Horizon Online and HNG-X: [HSS Terms of Reference](#), Clause 2.

available to Postmasters in respect of certain of these potential claims, including the compensation mechanisms referred to in Sections **B** and **C** below.

14. In particular, as addressed at paragraph 23 of Post Office's April Submissions, the HSS excludes the following 2 categories of individuals, for the reasons given below.
- a. **Criminal convictions:** Those seeking to make applications involving or relating to any criminal convictions (not including cautions) are ineligible under the HSS.<sup>12</sup> This is because no convicted Postmaster had yet had their convictions overturned (or dismissed) at the time the scheme was opened to applications, which for these Postmasters is a necessary element of a claim for malicious prosecution. It was therefore too early to address matters arising out of those convictions. By contrast, applicants who had been prosecuted by Post Office but who were not convicted were eligible to apply to the HSS (including individuals within the Categories A and B addressed in Post Office's April Submissions), and any losses they may have suffered as a result of malicious prosecution are recoverable under the scheme. As stated expressly in the Eligibility Criteria available on the scheme's website, this included former or current postmasters who had received a caution.<sup>13</sup> The conviction of an assistant or family member was not always a bar to claiming under the HSS, although it is a point of complexity to be handled in order to avoid inadvertently undermining the respective conviction. Post Office is aware of at least 4 applicants who it appears may be making a claim for malicious prosecution under the HSS. None of these have, as yet, been assessed by the Independent Advisory Panel.
  - b. **GLO Claimants:** The HSS was not open to GLO Claimants, who were receiving sums pursuant to the Settlement Deed at the time the HSS was established.<sup>14</sup> For the avoidance of doubt, applicants who had entered into settlement agreements with Post Office prior to the handing down of the Horizon Issues judgment on 16 December 2019, for instance as part of the 2013 Mediation Scheme or under Network Transformation, were not excluded from the HSS.<sup>15</sup>
15. Alternative avenues of compensation are open to these categories of individuals, including those addressed in Sections **B** and **C** below.
16. It may assist the Chair to note that of the 2,528 applications received under the scheme only 22 (0.87%) were found to be ineligible on the basis that they fell within these categories.
17. For completeness, Post Office notes the suggestion in Hudgell Solicitors' letter to the Inquiry dated 11 April 2022 that "*heads of loss have routinely been missed*". To the extent that this suggestion has informed

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<sup>12</sup> HSS Eligibility Criteria, Clause 5.

<sup>13</sup> HSS Eligibility Criteria, Clause 5.

<sup>14</sup> HSS Eligibility Criteria, Clause 6.

<sup>15</sup> <https://www.onepostoffice.co.uk/hssarchive>

the Chair's invitation for submissions on this Issue, and for completeness, Post Office would respond to this suggestion as follows.

18. The HSS is designed to allow the full claim of each applicant to be understood and fairly compensated. The application form, set out at Annex 1 below, contained several questions addressed to different potential heads of loss applicants may have suffered – not only the single, catch-all question as suggested in Hudgell Solicitors' letter. Where the claim was not properly understood, the scheme's dispute resolution process is designed to allow it to be and for the applicant to be fairly compensated. To the extent that applicants have sought to claim additional heads of loss not included in their original application, there has been no routine refusal to consider such claims.
19. After an application has been made and found to be eligible, then, as explained in paragraph 31.b below, applicants will be sent requests for further information ("**RFIs**") if considered necessary to help substantiate or articulate their claim under the appropriate heads of loss. In any event, as noted in paragraph 12 above, when assessing applications, the Independent Advisory Panel's discretion to recommend the making of an offer is not confined only to the specific heads of Consequential Loss claimed by the applicant.<sup>16</sup>
20. In this context, Hudgell Solicitors also refer to the total compensation awarded to date (£7.1 million across 892 cases), which averages out at £7,959 per case, which they say "*seems a surprisingly low number.*" Post Office understands Hudgell Solicitors to be seeking to infer from this number that Consequential Losses have (wrongly) not been claimed in a number of cases. However, any such inference would be unfounded. As explained in paragraph 30 below, the average compensation payment under the scheme is expected to increase, as the applications currently being addressed generally concern more substantial and complex heads of loss than those that have been resolved to date. The average figure of £7,959 is therefore very unlikely to be reflective of the average figure of the scheme overall, once all payments have been made.

2. Whether there has been delay and, if so, the cause(s) of delay in processing applications under the HSS

21. Post Office regrets that affected Postmasters have in many cases waited several years to receive fair compensation. It is committed to ensuring that applications under the HSS are dealt with fairly and in good faith as quickly as possible, and has taken steps to accelerate its progress. While Post Office recognises Postmasters' frustration that by this stage not all applicants to the HSS have received an outcome letter, establishing a scheme of this scale and complexity does necessarily and unfortunately take time. This is particularly so where the funding is from the public purse (with the associated proper checks around the release of such funds) and assessments are conducted by independent experts guided by fairness, who need to be identified, appointed and determine the approach they will take. That said, as set out below, Post Office has taken concrete steps to accelerate progress on the HSS. In light of these, the

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<sup>16</sup> HSS Independent Advisory Panel Terms of Reference, Clause 30.

HSS is now making good progress week-on-week with a clear plan to deliver outcome letters to at least 95% of applicants this calendar year (see Annex 2 below).

22. The steps taken to accelerate this progress have included handling the Lower Value claims (as defined in paragraph 30 below) with an expedited process, and significantly expanding the resource handling all claims. For example, the Independent Advisory Panel has expanded from 3 members to 11, allowing multiple Panel meetings a week and an increased pace of cases being assessed by Panel and recommendations provided for a fair outcome. The time taken to set up and resolve applications under the scheme reflects the importance, scale and complexity of this remediation process.
23. As noted above, Post Office agreed to establish the HSS as part of the Settlement Deed entered into in December 2019. The scheme was initially open to applications from 1 May to 14 August 2020. This deadline was subsequently extended by 15 weeks, to 27 November 2020, in order to enable further applicants to apply following an amendment to the scheme's Eligibility Criteria, as well as to accommodate difficulties in making applications due to the Covid-19 pandemic.<sup>17</sup> Since the closure of the scheme to applications, Post Office has received in excess of 170 applications to date, all of which Post Office is actively considering how best to address. A window for applications was set in order that Post Office could gain an understanding of the total number of applications, to ensure among other things that sufficient infrastructure and funding was in place to handle all applications fairly and efficiently.
24. In circumstances where an individual died before being able to submit an application, the scheme accepted applications made on behalf of the estate of the deceased Postmaster (with the appropriate formalities in place).<sup>18</sup> The scheme also accepted applications on behalf of representatives of living applicants where this was preferred (with the appropriate formalities in place to protect the interests of those applicants).
25. The HSS has since made significant progress, with almost two-thirds of eligible applicants having received offers of compensation. As at 27 May 2022, 1,424 settlement offers have been made, which amounts to 60% of the total eligible applications received (2,368). Payments have been made in respect of 48% of the eligible applications, equating to 1,126 payments and a total value of c.£12 million. The vast majority of offers made by Post Office have been accepted, with only 68 (2.9%) of the eligible applications currently within the scheme's dispute resolution procedure. The terms of the outcome letters sent to Postmasters make reference to the money available to them under the scheme to contribute to the costs of seeking independent legal advice (as addressed in further detail in respect of Issue 3 below).<sup>19</sup> The Independent Advisory Panel is assessing further cases and Post Office is making further offers of compensation week-by-week. Post Office is committed to ensuring that the progress of the HSS in this respect is transparent.

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<sup>17</sup> As was explained in an announcement published on the scheme's website on 2 October 2020, the Eligibility Criteria was amended to enable all Postmasters who had entered into settlement agreements with Post Office before the High Court's judgment on Horizon Issues on 16 December 2019 to apply to the HSS (unless they were GLO Claimants). Further detail is available at: <https://www.onepostoffice.co.uk/hssarchive>

<sup>18</sup> [HSS Q&A](#), Page 4.

<sup>19</sup> The precise terms of outcome letters sent to applicants under the HSS vary depending on the circumstances of the particular case.

The latest statistics and announcements are available on scheme's website, which are updated on at least a monthly basis.<sup>20</sup>

26. The progress of the HSS is to be viewed in the context of the scale and complexity of the scheme. Following the agreement of the Settlement Deed in December 2019, before the opening of the HSS to applications in May 2020, Post Office:
- a. agreed the scheme's Terms of Reference, including with its sponsoring department in Government;
  - b. established a procedure for processing applications, including selecting and appointing the Independent Advisory Panel, which, as noted above, comprises legal, forensic accounting and retail specialists; and
  - c. ran national and regional media campaigns to bring the scheme to the attention of those potentially eligible to apply.
27. After the opening of the scheme to applications, from Autumn 2020 it became clear that there were a greater number of applicants than had been anticipated.<sup>21</sup> As addressed above, Post Office subsequently extended the initial window for applications by a further 15 weeks, to 27 November 2020, to enable other Postmasters to come forward.
28. In view of the significant number and value of applications received under the HSS, it became evident that Post Office could not provide fair compensation without additional funding from Government. Post Office therefore worked to ensure that the scheme would be adequately funded, by working with Government to develop proposals which would fairly compensate applicants whilst representing an appropriate use of public funds. Arrangements to ensure formal oversight of the scheme by Post Office's sponsoring department in Government were established accordingly in January 2021, and Government funding for the scheme was announced in March 2021.<sup>22</sup> Post Office recognises this has necessarily given rise to delay in awarding final compensation under the HSS.
29. Applications under the HSS started to be processed as soon as they arrived. There are several stages involved in the processing of an application. These are designed to deal with each applicant in good faith and mean offers are made to applicants on a fair and principled basis. They enable claims to be addressed in a more user-friendly, stream-lined and less adversarial way than ordinary litigation, which is intended

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<sup>20</sup> <https://www.onepostoffice.co.uk/secure/the-historical-shortfall-scheme/>.

<sup>21</sup> [Business, Energy and Industrial Strategy Committee, Oral evidence: Post Office and Horizon, HC 106 \(11 January 2022\)](#), Q65 and Government's Response to the Business, Energy and Industrial Strategy Committee's Interim Report on Post Office and Horizon - Compensation (27 April 2022), Page 13.

<sup>22</sup> Government's Response to the Business, Energy and Industrial Strategy Committee's Interim Report on Post Office and Horizon – Compensation (27 April 2022), Page 13.

to reduce the stresses on the applicants – and, significantly, in a way that avoids the need for applicants to incur litigation funding costs.

30. Where with any scheme there is a common theme to all claims, in the case of the HSS it is the Horizon Shortfall. One of the complicating factors for this particular scheme is the array of different claims it addresses. For example, the lowest value claim to date is £15.25 and the highest is several million pounds, with a full range in between. As part of seeking to strike a balance of dealing with all of this range of claims fairly in good faith, the HSS has proceeded in the first instance by (a) addressing those applications which are less complex and involve lower value claims (the "**Lower Value**" claims) while simultaneously (b) working with the Independent Advisory Panel in the meantime to understand and document their approach to assessing the higher value, more complex claims. As noted above, the compensation to be awarded under the scheme in respect of later categories of cases is therefore expected to be higher, given those applications concern more substantial and complex heads of loss. The average figure cited by Hudgell Solicitors (see paragraph 20 above) of payments to date is therefore very unlikely to be reflective of the average figure of the scheme overall, once all payments have been made, and is no indicator of any delay. In any event, updated information as to the value of payments made under the scheme to date is available on the scheme's website.<sup>23</sup>
31. By way of example, an application (other than a Lower Value claim) under the HSS is processed as follows:<sup>24</sup>
- a. Following the receipt of an application, it is first assessed by an assessor from Herbert Smith Freehills ("**Case Assessor**") (as the firm operating the scheme) and Post Office for eligibility in accordance with the HSS's published Eligibility Criteria. The applicant is informed as to whether their application is eligible or not.
  - b. To facilitate applications being dealt with fairly without the need for legal representation, the Independent Advisory Panel has recommended that Case Assessors request further information from applicants as appropriate – as opposed to assessing applications solely on the basis of the information initially provided. This process has accordingly been incorporated into the operation of the scheme and is almost complete, with only approximately 5% of eligible applications remaining to be assessed to determine whether such requests may be appropriate.
  - c. Each eligible application is then investigated by a member of the specialist case review team at Post Office. For each case, a set number of potential data sources is searched for potential evidence for the relevant branch across the relevant period, relevant material is collated, and a report is set out

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<sup>23</sup> <https://www.onepostoffice.co.uk/scheme>

<sup>24</sup> HSS Independent Advisory Panel Terms of Reference, Section E.



documenting the case reviewer's observations on this case, referred to as the 'Post Office Shortfall Assessment'.

- d. Post Office's detailed report is provided to the Case Assessor. The function of the Case Assessor is to review the information gathered in the investigation process and provide an initial assessment and recommendation based only on applicable legal principles, which is then presented to the Independent Advisory Panel for their consideration.
- e. The Independent Advisory Panel is provided with the Case Assessor's assessment of the case, together with the Post Office report and complete set of supporting documents. This can vary considerably case-to-case, but in some cases can comprise hundreds of pages of evidence. The three members of the Independent Advisory Panel make their own assessment of the application and submit a recommended outcome to Post Office, including whether and how much compensation should be offered to the applicant for each head of loss claimed. The Independent Advisory Panel is at liberty to accept, reject or amend the recommendations made by the Case Assessor. Where the applicant's claim has been quantified, the Independent Advisory Panel sometimes recommends an offer of a greater amount of compensation, including under different and/or additional heads of loss, than that initially claimed by the applicant (although the Panel does also recommend amounts lower than those claimed). This reflects the fact that, in preparing its assessment and recommendation, the Independent Advisory Panel has regard to the overarching requirement to achieve fairness in each case, as well as its Terms of Reference, applicable legal principles (including those established in the Group Litigation), and relevant principles the Panel has established in respect of previous applications under the scheme. If the Independent Advisory Panel considers that expert assistance is required in order to make a recommendation, the Panel may recommend to Post Office that such expert assistance be obtained at Post Office's cost.<sup>25</sup> For example, the Independent Advisory Panel has been assisted by a medical consultant for some personal injury issues.
- f. Post Office decides the outcome of the application with the benefit of the Independent Advisory Panel's assessment and recommendation. An outcome letter is then prepared and sent to the applicant. Herbert Smith Freehills prepare this and each non-Lower Value outcome letter is reviewed individually by the Panel to confirm they agree with it. To date there have been no cases in which Post Office has offered an applicant less than the Independent Advisory Panel has recommended.
- g. If the applicant is dissatisfied with the outcome, then they can opt to engage the HSS dispute resolution procedure.<sup>26</sup> In summary, this published procedure provides for meetings and, if necessary, independent mediation between Post Office and the applicant to resolve any outstanding issues in good faith. Applicants are not required to contribute towards the costs of the mediation

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<sup>25</sup> HSS Independent Advisory Panel Terms of Reference, Clause 27.

<sup>26</sup> HSS Terms of Reference, Clauses 8 and 9.

service, which are instead paid by Post Office.<sup>27</sup> Any disputes which remain unresolved at this stage may then proceed to arbitration or to litigation in the County Court.

32. It is inherent in this process that significant time may be required to deal with an application appropriately on its own facts. However, in order to accelerate the process, Post Office has more than tripled the number of members available to constitute the Independent Advisory Panel and increased the frequency of its meetings (three times a week). The Independent Advisory Panel has also developed, and Post Office and Government accepted, case assessment principles which allow cases to be considered fairly and more efficiently. These continue to be updated as new issues are considered. In addition, Post Office and Government have in place an operations agreement which codifies the relationship and responsibility for the HSS, to assist with efficient governance of the scheme. Ensuring that these processes were in place necessarily contributed to the time taken to set up the scheme.
33. To the extent that an applicant does experience delay in the processing of their application, the Independent Advisory Panel's Terms of Reference state that, unlike in ordinary litigation, it "*will not apply the laws of limitation in its assessment of Shortfall Losses or Consequential Losses but shall deal with each claim on the basis that it is not barred by the expiry of any relevant limitation period*".<sup>28</sup> Similarly, Post Office has agreed for all applicants that time will not run for limitation purposes outside of the HSS (i.e. in the event that an application does lead to arbitration or litigation), from the date the applicant joined the scheme to the date on which the applicant receives their outcome letter.<sup>29</sup>
34. In respect of any Shortfall or Consequential Loss claims which the Independent Advisory Panel recommends be paid (either in full or in part), it may recommend that interest be applied to the amounts in question.<sup>30</sup> Specifically, it is authorised to recommend that it be applied on either a simple or compound basis at a standard rate of 3.45%, on such claim(s) and for such period(s) as it thinks fit.<sup>31</sup> To date, Post Office has offered to pay compound interest in respect of all Horizon Shortfalls and Consequential Losses where appropriate, meaning that any delay experienced by these applicants is reflected in the proportionately larger payments they have received.
35. Currently, the HSS is issuing offers of compensation to applicants at a substantial rate, processing approximately 95 applications on average each month over the past year. As noted above, the scheme is expected to have sent outcome letters to over 95% of applicants by the end of this calendar year, and significant resource is being applied to achieve that goal.<sup>32</sup>

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<sup>27</sup> HSS Terms of Reference, Clause 8.4.

<sup>28</sup> HSS Independent Advisory Panel Terms of Reference, Clause 31.

<sup>29</sup> HSS Independent Advisory Panel Terms of Reference, Clause 31.

<sup>30</sup> HSS Independent Advisory Panel Terms of Reference, Clause 32.

<sup>31</sup> HSS Independent Advisory Panel Terms of Reference, Clause 32.

<sup>32</sup> Business, Energy and Industrial Strategy Committee, Oral evidence: Post Office and Horizon, HC 106 (11 January 2022), Q66.

3. The provision which has been made for applicants to obtain independent legal advice in respect of their claims under the HSS and whether it is adequate

36. Under the HSS, applicants are entitled to a contribution towards the costs of obtaining independent legal advice in relation to their offer and the proposed settlement terms.<sup>33</sup> Post Office will contribute a sum of £1,200 (inclusive of VAT) towards the costs of such advice save that, in cases where Post Office offers to pay the applicant's claim in full (or largely in full),<sup>34</sup> Post Office will instead contribute a sum of £400 (inclusive of VAT). This commitment is set out in the Independent Advisory Panel's Terms of Reference available on the scheme's website and applicants are reminded of it in the outcome letter they receive from Post Office, and confirm they are aware of this as part of the terms of settlement (if agreed to).<sup>35</sup> Nevertheless, together with Government, Post Office will continue to monitor the provision currently made under the scheme for applicants to obtain independent legal advice.
37. Post Office has to date received requests to contribute to the legal costs of 35 HSS applicants, all of which it has paid accordingly. In 13 cases these payments have been made in respect of costs incurred by applicants prior to them having received a compensation offer under the scheme (for example in relation to the costs of providing medical records or ensuring authority to act). Payments have otherwise related to costs incurred by the applicant in connection with advice received on whether to accept the offers of compensation made to them.
38. In relation to reviewing offers and settlement terms received under the HSS, Post Office considers this provision to be appropriate in the context of a scheme that has been designed, and is operated, to be simple and user-friendly in order to avoid the costs and delay associated with formal litigation, which has been the subject of complaint in the GLO. Indeed, this is one of the principal benefits of addressing claims by means of a formal scheme, as opposed to ordinary litigation or other means of alternative dispute resolution such as mediation.
39. In particular, at each stage of the HSS, provision is made to help ensure that applications can properly be processed without the need for protracted and costly legal proceedings, including:
- a. the availability of guidance to Postmasters to assist them when preparing their applications;<sup>36</sup>
  - b. the presumption that where there is evidence of a shortfall, it was caused by a previous version of Horizon or a breach of duty related to such a shortfall on the part of Post Office, absent evidence to the contrary. This is intended to make it easier for applicants to evidence their claims than would

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<sup>33</sup> HSS Independent Advisory Panel Terms of Reference, Clause 19.

<sup>34</sup> To date, Post Office has in fact always offered the full £1,200 where its offer of compensation has been any amount less than that claimed by the applicant.

<sup>35</sup> HSS Independent Advisory Panel Terms of Reference, Clause 19.

<sup>36</sup> HSS Consequential Loss Principles and Guidance and HSS Q&A.

be the case in ordinary litigation, in recognition of the amount of time that has, in many cases, passed since losses were incurred and the associated difficulty for applicants to evidence their claim;<sup>37</sup>

- c. Post Office's agreement not to take any limitation defence in respect of claims made under the scheme, as noted above;<sup>38</sup>
- d. the practice of the Independent Advisory Panel, and Case Assessors, to request further information from applicants where appropriate;<sup>39</sup> and
- e. the discretion of the Independent Advisory Panel to take account of any facts and matters which the Panel considers will produce a fair result on the facts of each particular case, including but not limited to applicable legal principles.<sup>40</sup> The upshot of this discretion is that the Independent Advisory Panel is authorised to recommend compensation payments which would not have been awarded by a Court in the same circumstances. Personal injury claims brought under the HSS provide an example of this: the Independent Advisory Panel may recommend an offer of fair compensation in circumstances where insufficient evidence has been provided for the claim to succeed without medical and/or expert evidence.<sup>41</sup> As a result, such claims are much more straightforward and less burdensome for an applicant to make under the HSS than in the context of litigation, for instance.

40. Post Office has taken these steps as part of designing an applicant-friendly scheme in order to support Postmasters and minimise delay. As noted above, provision is nevertheless made for each applicant to receive a contribution towards the costs of independent legal advice should they request it.

41. These measures are also accompanied by the independent helpline established by Post Office at the outset of the HSS to provide counselling for anyone contacting Post Office, training and support which Post Office has given to its Customer Support Centre and Branch Support Centre to address queries relating to HSS applications, and a free independent wellbeing support line that Post Office has engaged to support applicants to the scheme. Those who have submitted applications under the scheme are also able to raise queries with Post Office's Historical Remediation Team, including in relation to any material change in their circumstances.

*4. The provision which has been made for interim payments pending completion of dispute resolution procedures under the HSS*

42. As noted in Post Office's April Submissions, payments have been made on an interim basis, prior to a final offer of compensation, to those applicants to the HSS whom Post Office understood to be in difficult

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<sup>37</sup> HSS Independent Advisory Panel Terms of Reference, Clause 33.

<sup>38</sup> HSS Independent Advisory Panel Terms of Reference, Clause 31.

<sup>39</sup> HSS Independent Advisory Panel Terms of Reference, Clause 26.

<sup>40</sup> HSS Independent Advisory Panel Terms of Reference, Clause 30.

<sup>41</sup> HSS Independent Advisory Panel Terms of Reference, Clause 35.

circumstances, who could be irremediably impacted by the time necessary to fully assess their claim and make a fair offer. To date, Post Office has made payments on an interim basis to 25 applicants, including in circumstances of severe financial hardship, terminal illness, risk of personal hardship, and old age. These payments are made before the applicant has received an offer of final compensation.

43. Applicants can accept payments offered on an interim basis without concern that they might need to be repaid if and when a final offer is made to them for less, or that by accepting the payment it somehow adversely impacts their claim in the HSS – it does not. Indeed, this is explained to applicants in the letter they receive containing their offer of such a payment.
44. The scheme has been designed to reach full and final settlement with applicants as soon as possible, to enable them to draw a line under this matter and move on. The contributions towards the costs of legal representation and payments made on an interim basis in circumstances of personal hardship addressed above have been made available to Postmasters to facilitate that aim.

## **B. Final Compensation for SPMs with Quashed Convictions**

### *5. The principles which are being applied to the calculation of final compensation payments*

45. Post Office is aware of 73 Postmasters whose convictions have been overturned on appeal, all of whom are expected to make claims for compensation. Post Office has also taken steps to identify and contact Postmasters convicted by Post Office (or, prior to separation, by Royal Mail Group) who may be able to appeal their convictions. In particular, Post Office has attempted to trace the addresses of these Postmasters, written to provide them with information on how they may appeal their convictions and request post-conviction disclosure, and liaised proactively with the relevant agencies, including the Criminal Cases Review Commission and the Scottish Criminal Cases Review Commission.
46. Of the 73 Postmasters whose convictions have been overturned, to date 69 Postmasters have applied for interim payments while they put together their formal claims. Interim payments have been made in 66 cases (i.e. all cases except the 3 Category C Postmasters referred to in Post Office's April Submissions).
47. The mechanism through which these payments have been made available provides for a simple, expedited process for receiving payment, with outcomes being delivered within 28 days of an eligible application.<sup>42</sup> Post Office hopes that the swift delivery of this interim compensation will alleviate any immediate financial hardship which Postmasters are suffering while their final claims for compensation are formulated and resolved. While these payments are interim in nature, pending final settlement of claims,

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<sup>42</sup> The only delays in this regard have been in cases where the correct applicant has been in doubt, for instance due to the intervention of bankruptcy. In any event, these issues have been quickly resolved through engagement with the Official Receiver and other trustees in bankruptcy.

Post Office confirms that it is not aware of any information which would lead it to consider making any request for repayment.

48. Following the roll-out of the interim payments, Post Office has received 8 claims for final compensation, of which 2 are fully quantified, 2 are partly quantified and 4 are wholly unquantified. As Post Office understands the position, all but 1 of these Postmasters are currently represented by solicitors, namely Hudgell Solicitors (who represent the majority), Aria Grace Law, Aliant Law, Howe+Co, Clarke Kiernan, John Donkin Law and Brewer Harding & Rowe Solicitors. Post Office has sought to encourage the single Postmaster who is not legally represented (who is currently represented by an accountant) to also instruct solicitors.
49. Whilst a mechanism has been put in place to provide the interim payments referred to above, as explained in Post Office's April Submissions, there is no formal '*scheme*' for the payment of final compensation to Postmasters with quashed convictions. Rather, civil claims are being made by the claimants' representatives in the ordinary way, to be resolved ideally without recourse to litigation. Post Office hopes to reach negotiated settlements with all claimants swiftly and will offer to participate in formal alternative dispute resolution processes where that will help to achieve that objective. Post Office wishes to emphasise that the absence of a formal scheme is at the request of Postmasters themselves. In particular, in correspondence with Post Office, Hudgell Solicitors indicated that none of its clients would participate in any form of Post Office scheme.
50. There are accordingly no pre-set principles applied to the calculation of these final compensation payments, beyond the principles that fall to be applied on the facts of each particular case as a matter of the general law. Unlike under the HSS, for instance, there are no Terms of Reference that alter the position in this respect.
51. In line with ordinary legal principles, and based on the relatively small number of claims made to date, Post Office expects that Postmasters with quashed convictions will claim:
  - a. **Pecuniary losses:** i.e. both direct and consequential pecuniary losses, including repayments made to Post Office, costs associated with the prosecution, loss of earning capacity, loss of opportunity, increased costs of borrowing, and other financial costs.
  - b. **Non-pecuniary losses:** i.e. damages which are not financial in nature, including the typical non-pecuniary damages payable in claims for malicious prosecution, for example mental distress, non-pecuniary injury to reputation, and loss of liberty. Claimants to date have also claimed aggravated and exemplary damages.
52. Post Office is nevertheless concerned to ensure that offers made to Postmasters with quashed convictions are approached consistently, whilst balancing the need to take into account the circumstances of each

individual case. In particular, 2 of the claims are being taken forward as 'test cases' and, once core principles for compensation are agreed, it is likely that those cases will inform the approach taken to others.

53. Together with Government, Post Office has also put in place means of oversight designed to ensure that claimants are treated consistently and fairly.

6. The mechanism(s) by which final compensation payments are being calculated

54. As indicated above, there is currently no scheme or other formal mechanism by which final compensation payments are calculated for Postmasters with quashed convictions. At Postmasters' request, Post Office is instead in the process of addressing the final compensation of these individuals through discussion and negotiation with the particular Postmasters concerned. In that regard, Post Office has proactively reached out to the representatives of each Postmaster on a without prejudice basis with a view to inviting claims and offering assistance. Post Office is also currently engaged in more detailed without prejudice negotiation in relation to the 2 claimants who have quantified their claims. As those negotiations progress, Post Office is actively reviewing the best way to deliver compensation for these Postmasters and will continue to do so.

55. If Post Office cannot reach agreement with Postmasters as to the appropriate value of the compensation to be paid, it is open to Postmasters and the Post Office jointly to agree to proceed to alternative dispute resolution to help facilitate a settlement. Further, to the extent that a settlement cannot be reached, it remains open to Postmasters to bring a claim against Post Office in the courts in the usual way.

7. The provision (if any) which is being made for applicants to obtain independent legal advice in relation to their claims

56. As noted above, Post Office understands that 72 of the 73 affected Postmasters have instructed solicitors in relation to their claims for final compensation (and it has sought to encourage the remaining Postmaster to do the same). As part of the negotiations, Post Office will consider the Postmasters' reasonable legal costs. This reflects the differences between remediation under a formal scheme, such as the HSS, and the mechanism of individual negotiated settlement requested by Postmasters with quashed convictions.

8. The procedure(s) which are being adopted to resolve disputes about the value of final compensation payments

57. In circumstances where final compensation payments to Postmasters with quashed convictions are being addressed by way of individual negotiated settlement, Post Office has not stipulated that any particular procedure must be adopted to resolve disputes about the value of these payments. As explained in respect of Issue 6 above, Postmasters and the Post Office may jointly agree to means of alternative dispute resolution in order to facilitate a settlement. Alternatively, as explained at paragraph 55 above, it is open

to these Postmasters to pursue claims against Post Office through litigation in the courts at any stage. Those claims would be ordinary civil claims, made in the ordinary way.

**C. Fair Compensation for the Group Litigation Claimants**

58. Post Office is aware of the Government's announcement of 22 March 2022 that additional funding is to be made available to ensure that the GLO Claimants are fairly compensated. The Government has not asked Post Office to deliver this compensation, although Post Office will of course co-operate to the fullest extent possible with any scheme set up for that purpose or request for support from Government in this regard. Until further information is released by Government, Post Office is unable to assist the Chair further in relation to Issues 9 to 12.

**31 May 2022**



**Annex 1 – HSS application forms: Version 1 (May 2020) and Version 2 (June 2020)**



# Historical Shortfall Scheme

## Application to join the Scheme

### Please read this information before completing the application form

Please only complete one application form. If your claim relates to multiple branches and/or shortfalls, please include these in the same form. If you contracted with Post Office as various legal entities, you will need to complete a separate application for each legal entity. You may use separate sheets of paper to complete the application form if necessary.

When submitting your application, you should submit relevant supporting material that will enable your application to be properly considered. Failing to provide this information with your application may result in unnecessary delays.

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

If you do not have any access to an email address to submit all or part of your application, in those circumstances applications can be sent by post. Please note postal applications and queries may not be processed immediately given the current circumstances.

If any additional information is required to help progress your application, you will be contacted about this.

This application form, the Eligibility Criteria and the Terms of Reference contain formal, legal information and language that is necessary for the integrity of the scheme. Where possible, such as in the questions and answers to help you complete your application, we have kept the information as clear and straightforward as possible.

Applications and other communications should be sent:

- by email to [historicalshortfallscheme@postoffice.co.uk](mailto:historicalshortfallscheme@postoffice.co.uk)
- or by post to Post Office Historical Shortfall Scheme, PO Box 76882, London E1W 9RR. Please use Royal Mail as PO Box addresses can only accept post from Royal Mail and not from other carriers or couriers. If you do need to apply by post, please only provide copies of the supporting documents/material rather than original documents, which should be retained for your own records, and we advise using a trackable service such as Royal Mail Special Delivery if sending documents by post. Postal applications should only be submitted if the applicant has no access to an email address they can use.

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

In order to be eligible for the Historical Shortfall Scheme, you must meet all of the criteria set out below:

1. **You must have, or have previously had, a contract directly with Post Office.** If you are applying to the scheme on behalf of another person or a company, they must have, or have previously had, a contract directly with Post Office.
2. **Your application must relate to shortfalls which arose in respect of previous versions of Horizon (sometimes referred to as Legacy Horizon, Horizon Online or HNG-X).** Please note that the High Court has held that the current version of Horizon (HNG-A – sometimes referred to as the 'Branch Technology Upgrade') is robust relative to comparable systems. If you have a concern you believe is related to the current version of Horizon, please contact [casereviewteam@postoffice.co.uk](mailto:casereviewteam@postoffice.co.uk) and if you experience an operational issue when using the current version of Horizon please report it to the Branch Support Centre.

3. **If you are making an application on behalf of another person, you must be a legally appointed assignee, personal representative, attorney or deputy of the person you are making the application on behalf of.** Please note that you must provide proof of this legal relationship when you submit your application.
4. **You must agree to be bound by the Terms of Reference for the scheme, by returning a signed copy with your application.** A copy of the Terms of Reference is available on the scheme website.
5. **Your application and time with Post Office must not involve or relate to any criminal conviction(s).** Only the criminal appeal courts can consider past convictions. Please note a caution is not a criminal conviction and will not affect eligibility for the scheme.
6. **You must not have been part of the group litigation against Post Office that settled in December 2019.** The settlement reached by the parties was full and final. You must also not have entered into a settlement agreement with Post Office other than as part of the Initial Complaint Review and Mediation Scheme commenced in 2013 or as a result of Network Transformation or other scheme.

If you are unsure whether you are eligible for the scheme, please contact [historicalshortfallscheme@postoffice.co.uk](mailto:historicalshortfallscheme@postoffice.co.uk)

For further information about how Post Office will process your information, please see the privacy policy at [www.onepostoffice.co.uk/scheme](http://www.onepostoffice.co.uk/scheme)

## Your details

1	Full name	
2	Previous name(s) (if any)	
3	Postal address	
4	Email address	
5	Contact telephone number	
6	<p><b>Preferred method of communication about your application</b></p> <p>In light of the ongoing coronavirus situation, we strongly advise using email wherever possible to minimise any potential delays.</p>	<input type="checkbox"/> Email <input type="checkbox"/> Post

## Application on behalf of a postmaster

7	<p><b>Are you applying on behalf of a postmaster? If yes, please set out (i) their details, and (ii) your relationship with them.</b> Please see the guidance set out at the start of this application form as to who can bring an application on behalf of another person. As part of this application, you must provide proof as to your legal capacity to make an application on their behalf.</p>	
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## Branch and role details – *Please provide details of all branches you have been associated with. You may use separate sheets of paper if necessary.*

8	Post Office branch name(s) and address(es) (including the postcode)	
9	Post Office branch or FAD code(s) (if known)	
10	Post Office customer account number(s) (if known)	
11	<p><b>Are you currently in post?</b></p> <p>If no, please give details, e.g. resigned, terminated.</p>	
12	Start date of appointment	
13	End date of appointment (if applicable)	
14	PAY number (if known)	

15	<p><b>Have you ever been suspended from your position?</b> If yes, please provide the dates of your suspension and the reasons for the suspension.</p>	
16	<p><b>Please provide the full name of the individual(s) or company which has or has had a direct contract with Post Office.</b></p>	
17	<p><b>What is/was your role (e.g. postmaster, directly managed branch employee, absent postmaster, temporary postmaster)?</b> <i>If your role has changed over time, please list the different roles and the relevant dates for each.</i></p>	
18	<p><b>Did you employ assistants/staff at the branch?</b> If yes, please provide details, including full names and dates of appointment (if known).</p>	

**Shortfall(s) – Please note that this scheme will only deal with shortfalls allegedly caused by previous versions of Horizon. It will not deal with issues arising with the current version of Horizon. Concerns related to the current version of Horizon should be raised via [casereviewteam@postoffice.co.uk](mailto:casereviewteam@postoffice.co.uk) and any operational issues experienced when using the current version of Horizon should be reported to the Branch Support Centre.**

19	<p><b>For each shortfall in respect of which you are applying, please specify:</b></p> <ol style="list-style-type: none"> <li>1. <b>The amount;</b></li> <li>2. <b>The relevant dates (please specify when any shortfall was first noticed and when it was settled (if applicable));</b></li> <li>3. <b>Whether the shortfall amount was paid to Post Office (along with the date and value of any payment);</b></li> <li>4. <b>How the shortfall was treated (or settled, if applicable) in the relevant accounts, and why;</b></li> <li>5. <b>Whether Post Office was notified of any shortfall and, if so, how and when it was notified.</b> In particular, please provide details of: <ul style="list-style-type: none"> <li>– Any relevant reference numbers;</li> <li>– Any advice given by Post Office to deal with any shortfalls; and</li> <li>– Who within Post Office advised you (if known);</li> </ul> </li> <li>6. <b>Any other relevant information in relation to any shortfall</b> – e.g. please detail whether shortfalls arose as a consequence of any specific transaction or type of transaction.</li> </ol>	
20	<p><b>Please explain what you would like Post Office to do in respect of the alleged shortfall(s).</b> For example, please specify whether you are applying for the shortfall(s) to be repaid or written off. If you are making a claim for repayment, please specify the precise amount claimed.</p>	

21	<p><b>Did Post Office conduct an audit into the relevant branch?</b> If yes, for each audit, please provide details including:</p> <ul style="list-style-type: none"> <li>- What prompted the audit (if known);</li> <li>- The date(s) of the audit; and</li> <li>- The outcome(s).</li> </ul>	
22	<p><b>Was there any other investigation into the alleged shortfall(s) by either Post Office or any other organisation/ individual?</b> If yes, please provide details, including:</p> <ul style="list-style-type: none"> <li>- Whether any such shortfalls were reported to Post Office as part of any investigation and, if so, what happened;</li> <li>- Whether any intervention support visits were carried out; and</li> <li>- Whether any further training was provided following the reporting of a shortfall(s).</li> </ul>	
23	<p><b>Was any action taken by Post Office as a result of the alleged shortfall(s) (e.g. suspension or termination)?</b> If yes, please provide details including relevant dates and what steps were taken in respect of the branch (eg it was closed, a temporary postmaster was appointed, etc).</p>	
24	<p><b>Have you experienced any other losses that are directly related to the alleged shortfall(s) in respect of which you would like to claim?</b> If yes, please provide the following details for each alleged loss:</p> <ul style="list-style-type: none"> <li>- The nature of the alleged loss;</li> <li>- The dates of the alleged loss;</li> <li>- How the loss arose as a result of the alleged shortfall; and</li> <li>- The value/size of the loss.</li> </ul>	
<b>Miscellaneous matters</b>		
25	<p><b>Have you or anyone who works/worked in the branch ever been the subject of civil or criminal proceedings relating to shortfalls?</b> If yes, please give brief details.</p> <p><b>Please note that applicants who have a criminal conviction related to shortfalls are not eligible for the Scheme. Please note a caution is not a criminal conviction and will not affect eligibility for the scheme.</b></p>	
26	<p><b>Did you participate in the Initial Complaint Review and Mediation Scheme commenced in 2013 in which complaints were reviewed by Second Sight? If yes, was a settlement agreed? Please provide details of any settlement amount received.</b></p>	
27	<p><b>Have you participated in a settlement/restructure as a result of Network Transformation or other scheme? If yes, on what terms did you settle? Please provide details of any settlement amount received.</b></p>	

28	<p><b>Have you or your company been placed into any bankruptcy or insolvency processes or been the subject of any arrangements with creditors (including through a debt relief order, IVA or CVA) since 2000? If so, please confirm:</b></p> <ul style="list-style-type: none"> <li>- which processes or arrangements have been undertaken; and</li> <li>- the start and, if applicable, end dates of any such processes or arrangement.</li> </ul>	
<b>Other information related to your application</b>		
29	<p><b>Please provide an explanation as to why you believe you have not been treated fairly by Post Office.</b> In doing so, you should set out what you would like Post Office to do to remedy the situation, and why. Please provide a clear and detailed explanation. As much detail as you are able to provide here will assist in resolving this matter. Please use a separate sheet if necessary.</p>	
30	<p><b>What documents/material do you have to support your application?</b> Please provide this scanned (or photographed) material at the same time you submit your application. This will allow your application to be investigated and considered more efficiently.</p> <p><i><b>For postal applications, please use Royal Mail as PO Box addresses can only accept post from Royal Mail and not from other carriers or couriers. Please send in copies of the documents/material rather than original documents, which should be retained for your own records. We advise using a trackable service such as Royal Mail Special Delivery when sending documents by post.</b></i></p> <p>If any additional information is required to help progress your application, you will be contacted about this.</p>	
31	<p><b>Is there any further information you would like Post Office to consider when assessing your application?</b> Please use an additional sheet if necessary.</p>	

## Statement of truth

By signing this document I confirm that:

1. All of the information provided in this application form is true and correct to the best of my knowledge and belief; and
2. I have read and understood the eligibility criteria for the Historical Shortfall Scheme and believe I am eligible for the Scheme.

As we are advising applicants to submit this form by email rather than post, if you are unable to print and scan this form we will accept an electronic signature – this can include simply typing in your name. Please tick this box if you are submitting an electronic signature.

Please note that you must separately read and sign the terms of reference for the Historical Shortfall Scheme, which are also available on the scheme website. The signed terms of reference must accompany your application form.

I am submitting an electronic signature

Signed

Name

Date





# Historical Shortfall Scheme

## Application to join the Scheme

### Please read this information before completing the application form

Please only complete one application form. If your claim relates to multiple branches and/or shortfalls, please include these in the same form. If you contracted with Post Office as various legal entities, you will need to complete a separate application for each legal entity. You may use separate sheets of paper to complete the application form if necessary.

When submitting your application, you should submit relevant supporting material that will enable your application to be properly considered. Failing to provide this information with your application may result in unnecessary delays.

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

If you do not have any access to an email address to submit all or part of your application, in those circumstances applications can be sent by post. Please note postal applications and queries may not be processed immediately given the current circumstances.

If any additional information is required to help progress your application, you will be contacted about this.

This application form, the Eligibility Criteria and the Terms of Reference contain formal legal information and language that is necessary for the integrity of the scheme. Where possible, such as in the questions and answers to help you complete your application, we have kept the information as clear and straightforward as possible.

Applications and other communications should be sent:

- by email to [historicalshortfallscheme@postoffice.co.uk](mailto:historicalshortfallscheme@postoffice.co.uk)
- or by post to Post Office Historical Shortfall Scheme, PO Box 76882, London E1W 9RR. Please use Royal Mail as PO Box addresses can only accept post from Royal Mail and not from other carriers or couriers. If you do need to apply by post, please only provide copies of the supporting documents/material rather than original documents, which should be retained for your own records, and we advise using a trackable service such as Royal Mail Special Delivery if sending documents by post. Postal applications should only be submitted if the applicant has no access to an email address they can use.

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

In order to be eligible for the Historical Shortfall Scheme, you must meet all of the criteria set out below:

1. **You must have, or have previously had, a contract directly with Post Office.** If you are applying to the scheme on behalf of another person or a company, they must have, or have previously had, a contract directly with Post Office.
2. **Your application must relate to shortfalls which arose in respect of previous versions of Horizon (sometimes referred to as Legacy Horizon, Horizon Online or HNG-X).** Please note that the High Court has held that the current version of Horizon (HNG-A – sometimes referred to as the 'Branch Technology Upgrade') is robust relative to comparable systems. If you have a concern you believe is related to the current version of Horizon, please contact [casereviewteam@postoffice.co.uk](mailto:casereviewteam@postoffice.co.uk) and if you experience an operational issue when using the current version of Horizon please report it to the Branch Support Centre.

3. **If you are making an application on behalf of another person, you must be a legally appointed assignee, personal representative, attorney or deputy of the person you are making the application on behalf of.** Please note that you must provide proof of this legal relationship when you submit your application.
4. **You must agree to be bound by the Terms of Reference for the scheme.** A copy of the Terms of Reference is available on the scheme website and is also contained below within the application form.
5. **Your application and time with Post Office must not involve or relate to any criminal conviction(s).** Only the criminal appeal courts can consider past convictions. Please note a caution is not a criminal conviction and will not affect eligibility for the scheme.
6. **You must not have been part of the group litigation against Post Office that settled in December 2019.** The settlement reached by the parties was full and final. You must also not have entered into a settlement agreement with Post Office other than as part of the Initial Complaint Review and Mediation Scheme commenced in 2013 or as a result of Network Transformation or other scheme.

If you are unsure whether you are eligible for the scheme, please contact [historicalshortfallscheme@postoffice.co.uk](mailto:historicalshortfallscheme@postoffice.co.uk).

For further information about how Post Office will process your information, please see the privacy policy at [www.onepostoffice.co.uk/scheme](http://www.onepostoffice.co.uk/scheme).

## Historical Shortfall Scheme Terms of Reference

**In order to enter the Historical Shortfall Scheme, you must agree to these terms of reference.**

1. Post Office intends to establish the Historical Shortfall Scheme (the “**Scheme**”) to address past issues regarding its point-of-sale accounting system, Horizon.
2. The purpose of the Scheme is to resolve past issues with current and former postmasters who, in good faith, believe they may have been affected by shortfalls which relate to previous versions of Horizon (sometimes referred to as Legacy Horizon, Horizon Online or HNG-X) (“**Historical Shortfalls**”). The Scheme will not deal with issues arising with the current version of Horizon (HNG-A, sometimes referred to as the ‘Branch Technology Upgrade’).
3. All applications to join the Scheme must be received by Post Office by midnight on Friday 14 August 2020. If they are not, Applicants will not be eligible to join the Scheme unless Post Office agrees otherwise.
4. Applications and other communications should be sent:
  - 4.1 by email to [historicalshortfallscheme@postoffice.co.uk](mailto:historicalshortfallscheme@postoffice.co.uk)
  - 4.2 or by post to Post Office Historical Shortfall Scheme, PO Box 76882, London E1W 9RR. Please use Royal Mail as PO Box addresses can only accept post from Royal Mail and not from other carriers or couriers.

In light of the ongoing Coronavirus situation, at the time of launch (1 May 2020) post may not be dealt with immediately. **Please apply by email; postal applications should only be submitted if the applicant has no access to an email address they can use.** We will update the information on the scheme website if circumstances change.

Please note these are Post Office addresses as this is a Post Office scheme – please be assured eligible applications will be assessed by an independent advisory panel.
5. Applicants to the Scheme are required to agree to these Terms of Reference. Applicants who do not agree to the Terms of Reference will not be eligible to participate in the Scheme.
6. Once an application has been made, either party may write to the other to request relevant information. The parties shall co-operate with one another in providing any information which the other party may reasonably request. Information obtained and provided in relation to each application should be proportionate to the circumstances of that application.
7. Eligible applications made under the Scheme will be individually investigated and the outcomes assessed by an independent advisory panel. Following assessment of the claim, Post Office will write to the Applicant setting out the outcome of his or her application.
8. In the event the Applicant is dissatisfied with the outcome of his or her application, the following Dispute Resolution Procedure shall apply:

- a. The Applicant must notify Post Office by email or post within 28 days that he or she wishes to engage the dispute resolution procedure. Please see the previous advice around using email wherever possible in light of the ongoing Coronavirus situation.
  - b. As soon as is practicable, at least one Post Office representative shall meet with the Applicant by telephone and endeavour to resolve all issues regarding any outstanding shortfalls in good faith and in a manner that takes into account the legitimate interests of Post Office and the Applicant (the **“Good Faith Meeting”**).
  - c. If the dispute is not resolved as a result of the Good Faith Meeting, either party may within 28 days escalate the dispute to a member of Post Office’s senior management (the **“Escalation Meeting”**) in writing by email or by post. Please see the previous advice around using email wherever possible in light of the ongoing Coronavirus situation.
  - d. If the dispute is not resolved as a result of the Escalation Meeting, either party may refer the matter to Wandsworth Mediation Service (**“WMS”**) within 28 days for mediation (the **“Mediation”**). WMS is a charity chaired by Stephen Rutt QC, one of the two independent mediators who assisted the parties to reach agreement between Post Office and the claimants in the group litigation. All income generated by WMS is used to support the services it provides in the community. WMS will carry out the Mediation in accordance with standard terms. The Applicant will not be required to contribute towards the costs of Mediation but the Mediation will be limited to four hours in duration.
  - e. All Good Faith Meetings, Escalation Meetings and Mediations shall be carried out on a confidential and “without prejudice” basis, to ensure each party is able to engage in an open and meaningful fashion.
  - f. Any 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. The terms of each settlement will be recorded in writing and signed by both parties.
  - g. In relation to disputes which are not resolved at, or as a result of any Mediation:
    - i. disputes for sums totalling not more than £10,000 shall be resolved by recourse to civil proceedings in the County Court pursuant to the Small Claims Track and shall be subject to the fee scale applicable thereto. The parties agree not to seek reallocation of the proceedings to the Fast Track or the Multi Track; and
    - ii. disputes for sums totalling in excess of £10,000 shall be referred to and finally determined by arbitration under the Arbitration Act 1996. The appointing authority shall be either Charles Flint QC or Stephen Rutt QC, the number of arbitrators shall be one, the seat of arbitration shall be London, England and the language of the arbitration shall be English.
9. These dispute resolution procedures may be varied by agreement between Post Office and the Applicant or, if it becomes apparent that amendments to these terms would allow the Scheme to operate more effectively without causing any material disadvantage to the Applicants, by agreement between Post Office and Charles Flint QC or Stephen Rutt QC.
10. Post Office will deal with all Applicants in good faith and in light of the lessons learned from Mr Justice Fraser’s judgments in the group litigation. However:
- a. entry into the Scheme does not guarantee that a relevant shortfall will be repaid or written off; and
  - b. by creating the Scheme, Post Office does not waive any of its own legal rights. The duty of good faith is reciprocal and, if it appears from the investigation of any application made that the Applicant has not acted consistently with his or her own duties of good faith, Post Office shall not be precluded from taking such steps as may be open to it as a matter of law.

## Your details

1	Full name	
2	Previous name(s) (if any)	
3	Postal address	
4	Email address	
5	Contact telephone number	
6	<b>Preferred method of communication about your application</b> In light of the ongoing Coronavirus situation, we strongly advise using email wherever possible to minimise any potential delays.	<input type="checkbox"/> Email <input type="checkbox"/> Post

## Application on behalf of a postmaster

7	<b>Are you applying on behalf of a postmaster? If yes, please set out (i) their details, and (ii) your relationship with them.</b> Please see the guidance set out at the start of this application form as to who can bring an application on behalf of another person. As part of this application, you must provide proof as to your legal capacity to make an application on their behalf.	
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## Branch and role details – *Please provide details of all branches you have been associated with. You may use separate sheets of paper if necessary.*

8	Post Office branch name(s) and address(es) (including the postcode)	
9	Post Office branch or FAD code(s) (if known)	
10	Post Office customer account number(s) (if known)	
11	<b>Are you currently in post?</b> If no, please give details, e.g. resigned, terminated.	
12	Start date of appointment	
13	End date of appointment (if applicable)	
14	PAY number (if known)	

15	<b>Have you ever been suspended from your position?</b> If yes, please provide the dates of your suspension and the reasons for the suspension.	
16	<b>Please provide the full name of the individual(s) or company which has or has had a direct contract with Post Office.</b>	
17	<b>What is/was your role (e.g. postmaster, directly managed branch employee, absent postmaster, temporary postmaster)?</b> If your role has changed over time, please list the different roles and the relevant dates for each.	
18	<b>Did you employ assistants/staff at the branch?</b> If yes, please provide details, including full names and dates of appointment (if known).	

**Shortfall(s) – Please note that this scheme will only deal with shortfalls allegedly caused by previous versions of Horizon. It will not deal with issues arising with the current version of Horizon. Concerns related to the current version of Horizon should be raised via [casereviewteam@postoffice.co.uk](mailto:casereviewteam@postoffice.co.uk) and any operational issues experienced when using the current version of Horizon should be reported to the Branch Support Centre.**

19	<p><b>For each shortfall in respect of which you are applying, please specify:</b></p> <ol style="list-style-type: none"> <li>1. <b>The amount;</b></li> <li>2. <b>The relevant dates (please specify when any shortfall was first noticed and when it was settled (if applicable));</b></li> <li>3. <b>Whether the shortfall amount was paid to Post Office (along with the date and value of any payment);</b></li> <li>4. <b>How the shortfall was treated (or settled, if applicable) in the relevant accounts, and why;</b></li> <li>5. <b>Whether Post Office was notified of any shortfall and, if so, how and when it was notified.</b> In particular, please provide details of: <ul style="list-style-type: none"> <li>– Any relevant reference numbers;</li> <li>– Any advice given by Post Office to deal with any shortfalls; and</li> <li>– Who within Post Office advised you (if known);</li> </ul> </li> <li>6. <b>Any other relevant information in relation to any shortfall</b> – e.g. please detail whether shortfalls arose as a consequence of any specific transaction or type of transaction.</li> </ol>	
20	<b>Please explain what you would like Post Office to do in respect of the alleged shortfall(s).</b> For example, please specify whether you are applying for the shortfall(s) to be repaid or written off. If you are making a claim for repayment, please specify the precise amount claimed.	

21	<p><b>Did Post Office conduct an audit into the relevant branch?</b> If yes, for each audit, please provide details including:</p> <ul style="list-style-type: none"> <li>- What prompted the audit (if known);</li> <li>- The date(s) of the audit; and</li> <li>- The outcome(s).</li> </ul>	
22	<p><b>Was there any other investigation into the alleged shortfall(s) by either Post Office or any other organisation/ individual?</b> If yes, please provide details, including:</p> <ul style="list-style-type: none"> <li>- Whether any such shortfalls were reported to Post Office as part of any investigation and, if so, what happened;</li> <li>- Whether any intervention support visits were carried out; and</li> <li>- Whether any further training was provided following the reporting of a shortfall(s).</li> </ul>	
23	<p><b>Was any action taken by Post Office as a result of the alleged shortfall(s) (e.g. suspension or termination)?</b> If yes, please provide details including relevant dates and what steps were taken in respect of the branch (e.g. it was closed, a temporary postmaster was appointed, etc).</p>	
24	<p><b>Have you experienced any other losses that are directly related to the alleged shortfall(s) in respect of which you would like to claim?</b> If yes, please provide the following details for each alleged loss:</p> <ul style="list-style-type: none"> <li>- The nature of the alleged loss;</li> <li>- The dates of the alleged loss;</li> <li>- How the loss arose as a result of the alleged shortfall; and</li> <li>- The value/size of the loss.</li> </ul>	
<b>Miscellaneous matters</b>		
25	<p><b>Have you or anyone who works/worked in the branch ever been the subject of civil or criminal proceedings relating to shortfalls?</b> If yes, please give brief details.</p> <p><b>Please note that applicants who have a criminal conviction related to shortfalls are not eligible for the Scheme. Please note a caution is not a criminal conviction and will not affect eligibility for the scheme.</b></p>	
26	<p><b>Did you participate in the Initial Complaint Review and Mediation Scheme commenced in 2013 in which complaints were reviewed by Second Sight? If yes, was a settlement agreed? Please provide details of any settlement amount received.</b></p>	
27	<p><b>Have you participated in a settlement/restructure as a result of Network Transformation or other scheme? If yes, on what terms did you settle? Please provide details of any settlement amount received.</b></p>	

28	<p><b>Have you or your company been placed into any bankruptcy or insolvency processes or been the subject of any arrangements with creditors (including through a debt relief order, IVA or CVA) since 2000? If so, please confirm:</b></p> <ul style="list-style-type: none"> <li>- which processes or arrangements have been undertaken; and</li> <li>- the start and, if applicable, end dates of any such processes or arrangement.</li> </ul>	
<b>Other information related to your application</b>		
29	<p><b>Please provide an explanation as to why you believe you have not been treated fairly by Post Office.</b> In doing so, you should set out what you would like Post Office to do to remedy the situation, and why. Please provide a clear and detailed explanation. As much detail as you are able to provide here will assist in resolving this matter. Please use a separate sheet if necessary.</p>	
30	<p><b>What documents/material do you have to support your application?</b> Please provide this scanned (or photographed) material at the same time you submit your application. This will allow your application to be investigated and considered more efficiently.</p> <p><i><b>For postal applications, please use Royal Mail as PO Box addresses can only accept post from Royal Mail and not from other carriers or couriers. Please send in copies of the documents/material rather than original documents, which should be retained for your own records. We advise using a trackable service such as Royal Mail Special Delivery when sending documents by post.</b></i></p> <p>If any additional information is required to help progress your application, you will be contacted about this.</p>	
31	<p><b>Is there any further information you would like Post Office to consider when assessing your application?</b> Please use an additional sheet if necessary.</p>	

## Statement of truth

By signing this document I confirm that:

1. All of the information provided in this application form is true and correct to the best of my knowledge and belief; and
2. I have read and understood the eligibility criteria for the Historical Shortfall Scheme and believe I am eligible for the Scheme; and
3. I have read and understood the terms of reference for the Historical Shortfall Scheme and I agree to be bound by them.

As we are advising applicants to submit this form by email rather than post, if you are unable to print and scan this form we will accept an electronic signature – this can include simply typing in your name. Please tick this box if you are submitting an electronic signature. If you do tick this box to submit an electronic signature, please also type your name in the 'Signed' box below.

I am submitting an electronic signature

Signed

Name

Date



**Annex 2 – Timetable for HSS completion**

<b>Targets</b>	<b>Pre May</b>	<b>May-22</b>	<b>Jun-22</b>	<b>Jul-22</b>	<b>Aug-22</b>	<b>Sep-22</b>	<b>Oct-22</b>	<b>Nov-22</b>	<b>Dec-22</b>	<b>Post Dec 22</b>
<b>Percentage of Offers Issued (from 2,368 eligible claims)</b>	55%	60%	65%	70%	75%	80%	85%	90%	95%	100%