

IN THE MATTER OF THE POST OFFICE HORIZON IT INQUIRY

FURTHER SUBMISSIONS ON BEHALF OF POST OFFICE LIMITED

INTRODUCTION

1. These submissions are provided further to Post Office's submissions on compensation dated 31 May 2022 ("**May Submissions**"). The purpose of these submissions is to update the Chair on a number of the points addressed in Post Office's May Submissions; they accordingly address certain (but not all) of the questions raised by the Chair in his announcement dated 10 May 2022, regarding: **(A)** the Historical Shortfall Scheme (the "**HSS**") and **(B)** final compensation for subpostmasters and subpostmistresses ("**Postmasters**")¹ with quashed convictions.
2. The information and statistics contained in these submissions reflect the position as at the end of June 2022.

A. HSS

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

3. Post Office wishes to emphasise at the outset that it recognises the importance to all those affected of ensuring that applications made under the scheme continue to be processed at pace and that applicants are provided with timely offers of fair compensation.
4. In line with this goal, in the course of the past 3 months, offer letters have been delivered to applicants at a rate of approximately 125 per month. This has meant that at least 67% (1,582) of eligible applicants² have received offer letters to date. Post Office is on course to provide at least 95% of eligible applicants

¹ 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.

² Since Post Office's May Submissions, there has been a slight increase in the number of eligible applications, from 2,368 to 2,370. Minor changes in the number of eligible applications are not unusual and may arise where, for instance, applications are suspended or withdrawn. Conversely, changes may be attributable to the fact that, as applications progress through the assessment process, on occasion it becomes clear that the applicant actually intends to claim for different tenures. For example, an applicant may have started the business as a Postmaster in their individual capacity but subsequently entered into a partnership with a family member or set up a corporate body and contracted with Post Office Limited via that entity, and wishes to claim both in their personal capacity and on behalf of the corporate body. In such cases, rather than limiting the application to just that individual or entity which strictly applied to the scheme, the scheme treats the same set of documents as giving rise to the appropriate number of applications, in order to consider and resolve each claim separately.

Further Submissions on Compensation

with offer letters by the end of this calendar year. It remains the case that there have been no instances in which Post Office has offered an applicant a lower amount of compensation than that recommended by the Independent Advisory Panel. Post Office has also offered to pay compound interest in respect of all Horizon Shortfalls and Consequential Losses where appropriate.

5. This progress in processing applications has resulted in a total of approximately £16,590,000 having now been awarded in compensation payments under the scheme to 1,242 (52%) eligible applicants, which represents an average payment of £13,357. As noted in its May Submissions, Post Office anticipates that this average figure is very likely to increase as the scheme continues to process applications concerning more substantial and complex heads of loss.
6. To date, 115 applicants have formally engaged the dispute resolution process, of which 31 have now reached agreement on the amount of compensation (27%). Post Office has conducted Good Faith Meetings with 47 applicants and Escalation Meetings with 7 applicants, with a further 11 Good Faith Meetings scheduled for the coming weeks.³ No mediation has yet been required in order for a settlement to be reached, although Post Office anticipates that one case may require mediation in the coming weeks.

Issue 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

7. Post Office has now received requests to contribute to the legal costs of 45 HSS applicants, all of which Post Office has paid or is in the process of paying in accordance with the published scheme terms. In addition, in 2 cases 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 in support of a claim for personal injury). 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.
8. Post Office's May Submissions explained that, under the scheme, applicants are entitled to a contribution towards the costs of obtaining independent legal advice in relation to their offer and the proposed settlement terms.⁴ Post Office is currently considering whether contributions towards further legal or other professional costs can be made available to applicants to help resolve their claims. Post Office will, of course, update the Inquiry on the outcome of that consideration in due course.

³ See paragraphs 8.2 and 8.3 of the HSS Terms of Reference, in relation to the Good Faith Meeting and Escalation Meeting stages of the scheme's dispute resolution procedure.

⁴ Post Office will contribute £1,200 (inclusive of VAT) towards the costs of such advice, save where Post Office offers to pay the applicant's claim in full (or largely in full), where it will instead contribute £400 (inclusive of VAT).

Further Submissions on Compensation

B. Final Compensation for SPMs with Quashed Convictions*Issue 5. The principles which are being applied to the calculation of final compensation payments*

9. Since its May Submissions, Post Office has received (largely) quantified claims from 3 more Postmasters with quashed convictions, which it is considering, and further information from 1 further Postmaster. This brings the total number of (largely) quantified claims to 6. Post Office has also received 5 further applications for interim payments. Offers have been made in 3 cases; the 2 most recent applications are currently being processed.
10. Whilst the parties have been working hard to try and resolve the claims made by former Postmasters for compensation arising out of the overturning of their convictions, one area which it has proved challenging is non-pecuniary damages. These are damages which are not actual financial losses but reflect the impact on the former Postmasters' lives, such as their mental health or reputation within the community, and penalise Post Office for its poor conduct.
11. While there is case law in this area which indicates what likely awards might look like, the current circumstances here are unique. In order to find a way to resolve this issue Post Office and a number of the former Postmasters, represented by Hudgell Solicitors, have agreed that the issue of non-pecuniary damages should be referred to an early neutral evaluation ("ENE"). This is a process where a respected evaluator expresses a view on the likely outcome, if the matter were to go to court.
12. Lord Dyson has kindly agreed to act as the evaluator for this process and the fact that it is without prejudice and confidential allows a more open and less formal process. While the outcome is not binding on the parties, it is hoped that it will allow these issues to be resolved in a timely manner. It is anticipated the evaluation will be concluded by the end of July.
13. Post Office has made significant progress with the claimants in without prejudice negotiations in relation to the first 2 fully-quantified claims. Post Office anticipates that the ENE process referred to above will assist the parties in reaching an agreed resolution of the non-pecuniary aspects of these claims.
14. Post Office acknowledges the concerns of Postmasters in relation to the status of interim payments. Post Office has engaged with HMRC to ensure that the removal of any claw-back provisions will not affect the tax status on which the payments were made. Post Office received that confirmation from HMRC on 4 July 2022 and will be proceeding accordingly.

5 July 2022