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Sir Wyn Williams
Chair Post Office Horizon Inquiry

By email only to:
Leila Pilgrim, Secretary to the Post Office Horizon IT Inquiry
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Friday 6th September 2024

Dear Sir Wyn,

Re: Horizon Compensation Schemes

I am writing to ask whether you would permit me to address the Inquiry in oral submissions in connection with compensation issues?

As you know, I represent and have represented a number of Post Office victims, including Tracy Felstead, Janet Skinner, Seema Misra, Nichola Arch, Lee Castleton and, more recently, Gowri Jayakanthan, among others, in their claims for compensation under the various schemes established to compensate the Post Office's victims (not including, thusfar, any claimant in connection with the recent (2024) legislation). Of course, each of these individuals, as a Core Participant, is represented in the Inquiry, but their claims for compensation are not being handled by their representatives in the Inquiry.

My reason for making this request is that I believe that each of the following illustrative individual compensation claims suggest that there are significant weaknesses in, and inconsistencies across, all the schemes:

- (1) **Mrs Gowri Jayakanthan's** claim reveals that the eligibility criteria are different and more constricted in claims under the Horizon Shortfall Compensation Scheme (the largest of the schemes) (a) compared with the Government's GLO Compensation Scheme, and (b) even more so in

comparison with the **Post Office (Horizon System) Offences Act 2024**.

I believe that the Post Office's rejection of Mrs Jayakanthan's claim reveals extensive inconsistencies in the treatment and evaluation of claims. This has very likely resulted in the rejection of many claims as a result of an imperfect understanding/idiosyncratic application of the applicable legal principles. Because of my considerable concerns in that regard, I have previously copied to the Inquiry correspondence with the Post Office in connection with the (to my mind plainly wrong and unprincipled) rejection of Mrs Jayakanthan's claim in respect of her late husband's suicide, following his suspension and interview by Post Office investigators on 4 March 2005. As a matter of completeness, and so that you may understand more fully those concerns, I attach to this letter a copy of Mr Recaldin's letter to me, dated 27 August 2024, and my reply to him of 5 September. I believe that my letter raises issues of general importance in relation to the compensation schemes and their operation.

- (2) **Janet Skinner** was arraigned before the court for a second time in 2008, some months after her release from prison. The Post Office alleged, and the local press reported, that she had failed to comply with the terms of a confiscation order that it had obtained from the court subsequent to her conviction and imprisonment in 2007. She was once again confronted with the prospect of a further period of imprisonment. After several court appearances in Sheffield and in Hull, it was accepted that she did not have the financial resources to pay. She had not received equity out of the fire sale of her family home for which she could no longer pay the mortgage. Less than two weeks' later she suffered an episode of transverse myelitis, a demyelinating neurological condition affecting the lining of the spinal cord. It resulted in her complete neurological collapse and temporary paralysis. She was in hospital for several months and has never fully recovered. At the time of her collapse, she was re-establishing herself in paid employment, was well regarded, and had the immediate prospect of a permanent contract. She has not worked since.

Although it is almost two years since Janet Skinner's claim for general damages was submitted to Herbert Smith Freehills LLP, the Post Office's solicitors, and despite her having obtained two consultants' medical reports, including a report from a physician specializing in rehabilitative medicine, who is a specialist in spinal injuries and who expressed his clinical opinion that the stress that she was under between 2006 and 2008 was likely to have been a factor in the onset of her neurological collapse and hospitalization with TM, the Post Office and its legal team have continued to contest causation and have insisted that she obtain a third medical report from a consultant neurologist. This will be her fifth expert report (she has an

accountant's report and employment expert's report) and her third medical report. Arrangements are in hand, but the eminent neurologist in question cannot provide their report until the end of November 2024, because of their professional commitments.

Janet Skinner's case is, I believe, representative, and may be emblematic, of the Post Office's/Government's steadfast and attritional resistance to accepting liability, whenever the opportunity to do so arises. Janet Skinner is perhaps fortunate and unusual in being assisted in her claims by two counsel with long experience of both civil litigation and personal injury claims. Others may be less fortunate. Since her imprisonment in 2007, Janet Skinner has lived in rented sub-standard accommodation.

- (3) **Lee Castleton's** case is familiar to the Inquiry. Despite the obvious merit of his claim for damages/compensation for his having been maliciously (and it may be said, fraudulently) prosecuted by the Post Office (**Willers v Joyce** [2016] UKSC 42), on the face of it, for a collateral purpose of the Post Office that had nothing to do with the Post Office recovering the alleged £26,000 shortfall that was the basis of its claim against him (as Stephen Dilley of Womble Bond Dickinson (then Bond Pearce) put it in a telephone conference with Richard Morgan K.C. "*the Post Office driver had been getting a judgment against Mr Castleton to show that the computer system wasn't wrong and deter other sub post masters from bringing a claim... and that we want as much costs recovery as possible*" [POL00069794.pdf](#)) - and the grievous circumstances of the High Court civil litigation brought against him by the Post Office in 2006 and the ruinous adverse costs order of £321,000 made against him by the trial judge that resulted his bankruptcy (a bankruptcy only eventually annulled in 2022) that almost caused the death of his daughter from stress-related psychiatric illness, it is a matter of regret that the Post Office/Government have, to date, declined to make a substantial interim payment to him (or his family) on account of his self-evidently compelling and very extensive claims for damages/compensation.

These three cases illustrate the fact that the four schemes currently in operation for the purpose of compensating victims of the Post Office scandal, namely (chronologically): (i) the Horizon Shortfall Compensation Scheme; (ii) the Overturned Convictions Scheme; (iii) the Group Litigation Order Scheme; and (iv) compensation paid to those whose convictions are quashed under the **Post Office (Horizon System) Offences Act 2024**, are not achieving the Government's publicly stated objective of fairly - still less speedily - compensating all victims of the Post Office.

The compensation schemes are not achieving their object because they were each set up at different times on an *ad hoc* basis as new categories of Post Office victims emerged /were

identified, without regard to the possible existence of other potential victims who lay outside the scope of those particular schemes. Thus:

- (i) None of the schemes expressly applies, for example, to claims by wives, partners or widows or dependants of postmasters;
- (ii) None of the schemes allows the widow/widower/partner of a postmaster who committed suicide to claim.
- (iii) The most extensive scheme, the Horizon Shortfall scheme, is said by the Post Office not to apply to postmasters who conducted their business through a corporate vehicle – whether or not since dissolved.¹ As it was put by the Post Office to Mrs Jayakanthan in rejecting her claim for compensation: *“As set out in the Eligibility Criteria, the Horizon Shortfall Scheme deals with losses incurred by applicants who had contracted directly with the Post Office.”* That, is in marked, explicit but inexplicable contrast with the GLO scheme under which, save in special circumstances, the existence of a corporate vehicle – including its liquidation – is expressly stated to be irrelevant;
- (iv) None of the schemes allows postmasters whose alleged “shortfalls” were, or were arguably likely to have been, caused by flaws in Post Office systems *other than Horizon*, for example, by the known unreliability of the ATM system (Detica) operated by the Post Office – a system that appears to have generated enormous balances on Post Office ATM suspense accounts (Second Sight), to bring a claim. The presence at branch of an ATM was identified in 2013 as representing for a postmaster a principal risk of failing an ‘audit’ – with all the calamitous consequences that typically followed. None of the schemes reflect that fact. It seems that Post Office FOREX systems were similarly unreliable.
- (v) None of the schemes allows family members of postmasters who have themselves suffered mental illnesses of various kinds to bring a claim. That is to deny reality – and justice.

The Horizon Compensation Advisory Board has at various times emphasized the need to bring some of these categories of claimant within the scope of the compensation provisions. In short, there are no coherent or consistently applied eligibility criteria under any

¹ I believe this constriction reflects recognition by the Post Office that the class of victims is likely to be greatly expanded if the role of corporate entities separating the Post Office from its postmasters is to be disregarded – many Post Office branches were operated through third-party high street retailers such as WH Smith or Menzies. It is known that the Post Office has declined to accept direct responsibility to the postmasters because of the interposition of such retailers.

of the schemes, either for designating a Post Office “victim” or for classifying and recognising the cause of harm that the Post Office inflicted upon its victims. That might be thought unsatisfactory.

The recent Scottish case of Ravinder Singh who wrongly confessed to theft of Post Office moneys in order to protect his postmistress mother from prosecution, whose conviction was quashed by the Scottish appeal court in August 2024, 15 years after the event, shows that the categories of victims deserving of compensation cannot be regarded as closed and that any person who suffered serious financial or health-related detriment as a result of unlawful conduct on the part of the Post Office, based on flawed evidence and/or alleged wrongdoing by postmasters, should be regarded as entitled to compensation.

It is, further, unfortunate that despite the frequent considerable difficulty inherent in dealing with claims that are complex, and that typically go back many years, the government has been zealous to limit and restrict recoverable legal costs, to fixed “tariffs”, with scant if any regard being paid to the frequently (in my experience) challenging issues that arise. That was the subject of criticism by the Business and Trade Committee in its March 2024 report. The limiting of recoverable legal costs to arbitrary tariffs and resulting limitation on available legal representation (to those willing to accept low rates/fixed tariffs) arguably distorts the market for legal services in relation to Post Office claims (in the absence of alternative funding arrangements – of which the government has been seriously critical and about which postmasters, given the experience of some, may be understandably cautious). Mrs Jayakanthan’s claim – that it took the Post Office three years to reject, is but one example; there are likely to be many more, perhaps less striking/obvious, examples. As against that, recent press reports suggest that the Post Office’s solicitors have billed in fees a sum not dissimilar to the total amount of compensation paid-out to the Post Office’s victims. It is perhaps understandable that its victims are aggrieved.

I would be glad to have the opportunity of addressing the Inquiry on these issues.

Yours sincerely,

GRO

Encls.

Letter Recaldin/Marshall 27 August 2024
Letter Marshall/Recaldin 5 September 2024

c.c. Mike Schwartz, Hodge Jones & Allen LLP

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