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Dear Sirs

POST OFFICE HORIZON IT INQUIRY – COMPENSATION

We write to update the Inquiry on our involvement in the operation and delivery of the GLO scheme (the “GLO Scheme”). We act on behalf of 388 individuals who are each making claims in the GLO Scheme.

We wrote to the Inquiry dated 28th November 2022 explaining the scope and basis of Freeths LLP’s ongoing involvement in the GLO Scheme, the status and progress of matters and also expressing concern over particular aspects.

We would like to assist the Inquiry by providing information/views on the following topics - this is not an exhaustive list, but these are the matters we regard as being the most significant:

1. **Proposed timetable for completing the GLO Scheme**

In our 28th November letter we expressed our serious concerns over the timescale within which all claims need to have been finally resolved and paid in the GLO Scheme, with all offers and payments having to be made by Government by no later than August 2024.

The setting up of the GLO Scheme by Department for Business and Trade’s (DBT) has taken many months, not least due to extensive procurement processes that have had to be undertaken for services such as Claims Facilitators (Dentons now appointed) and DBT’s own legal advisers (Addleshaw Goddard).

Furthermore, the process of disclosure of documents by Post Office Limited has proved to be exceptionally slow and has been made unnecessarily complex by Post Office, with resourcing problems having been cited by them as a major issue.

We remain extremely concerned that factors beyond our control, or the control of our clients, will result in there being insufficient time for there to be a full and fair evaluation of cases by DBT, the obvious risk being that compensation offers must then be made by DBT without having all relevant information available (documents; medical expert evidence; expert accounting input).

The August 2024 deadline for the resolution and payment of all claims in the GLO Scheme remains a serious project risk. We shall continue to progress matters as rapidly as possible. However, we reiterate our view that there needs to be very close monitoring of the need for Government to initiate whatever process is necessary to extend the final deadline, should that become necessary.

2. Production of documents by Post Office Limited

As explained above, the delay by Post Office in producing documents has already held matters up. The issue has not yet been resolved satisfactorily. DBT has been liaising directly with Post Office on this issue for many months and we have continued to re-state our simple requirement, namely that the documents held by Post Office, that evidence the impact of events on postmasters, need to be disclosed without delay.

Obtaining the relevant historical documents from Post Office is essential to reviewing and evaluating cases, including evidencing matters such as the timing and amounts of shortfall payments made by postmasters.

Postmasters have recollections, but many years have passed and through no fault of theirs, they do not always have the documents. The documents are obviously relevant to the nature, duration and severity of conduct by Post Office that harmed postmasters.

The document types that are required should not be controversial (e.g. branch files; audit files; HR files). Further, we would in any event have expected Post Office and its lawyers to have collated such documents for the purposes of the original High Court litigation.

We were informed at the beginning of March that Post Office had stated to DBT that it would take 32 weeks for Post Office to produce the necessary documents. That timescale is obviously unworkable, given the final deadline of August 2024 in the GLO Scheme.

The way in which claims will be assessed in the GLO Scheme when documents are missing will be of fundamental importance to the fair operation of the Scheme. In our view, the approach taken by DBT and its lawyers should be monitored very closely to ensure that postmasters will not be prejudiced by the absence of documents. In many cases, Post Office removed all documents/records from post office branches at the time that the postmaster was terminated/suspended. It would be inherently unjust and abhorrent if postmasters were now to be penalised financially by reason of Post Office's conduct either in removing documents historically or failing to produce documents now for the purposes of the Scheme.

The evidential “benefit of the doubt” should be with postmasters in the GLO Scheme where there are documentary gaps by reason of Post Office not being able to locate/produce documents in time for DBT to fully and fairly assess claims.

3. Scheme principles as published by DBT on 23rd March 2023

We must record our concern over three matters concerning the GLO Scheme documents published by DBT:

3.1 Bands for compensation levels:

The GLO Scheme “Guidance and Principles” document contains a number of “bands” by reference to which it is stated by DBT that offers will be assessed. There was virtually no meaningful consultation by DBT with stakeholders (including ourselves on our clients’ behalf) as to the sums comprising those bandings, the principles underpinning them or the manner in which the bands would be used to assess offers.

DBT consulted with us and other representatives on early drafts of the Guidance and Principles document, but the proposed “bands” did not appear until a very advanced draft of the document, that was sent to us very shortly before publication, which left no time to carry out any meaningful analysis which would inform feedback to DBT.

3.2 Unduly narrow definitions used in the Guidance and Principles document.

DBT did not adopt an amendment to the proposed document, that we had proposed on a number of occasions. This related to the definitions, which as now published, requires all consequential losses to have flowed from and caused by a “Horizon shortfall”. We had proposed a broader definition of “Horizon issue” as being the primary causative factor, which we firmly believe more accurately reflects the reality of the multiple breaches by Post Office that tended to occur in practice, the combined or sequential effect of which was to cause loss.

The extent to which this becomes a problem in the GLO Scheme will depend on how fairly DBT and its lawyers will apply the principles when evaluating causation. This we believe is another aspect that requires very close monitoring, to ensure that an unduly narrow interpretation is not used by DBT to deploy technical causation arguments, so as to minimise compensation offers. If that was to occur, then that would obviously be manifestly unjust.

3.3 Expert input

We have made it very clear to DBT on numerous occasions that a large proportion of the more complex cases we are handling in the GLO Scheme will require expert medical reports to evidence the conditions suffered and the extent of harm caused. Furthermore, many cases require detailed financial analysis to formulate loss of earnings and other financial losses, which will require input from a forensic accountant.

Fees for such expert input have been built into the fee tariff that has been put in place with DBT. However, DBT insisted on retaining the right to refuse permission for us to instruct an expert in any individual case.

We are concerned that DBT will refuse to fund expert input on cases that require it. The responses to date from DBT have heightened our concern on this issue, given the challenges we have received from DBT as to the need for expert input.

DBT are currently holding 16 cases in respect of which they have not yet agreed to us obtaining expert input, which we maintain is essential to progress those cases. Without DBT's consent, those cases are being held up. DBT has questioned why expert input is reasonably required, which we regard as being a disingenuous stance.

That is clearly a significant concern and is another aspect that requires very close monitoring.

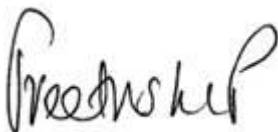
4. Government's priorities in the GLO Scheme

Our view remains that provided the Scheme principles are applied fairly and consistently by DBT, then the Scheme has every potential to deliver fair and just outcomes. However, for the reasons set out at section 3 above, we are concerned as to the risk of financial pressures within Government (possibly pressures from Treasury upon DBT, to contain the overall cost of the GLO Scheme) eroding the primary objective of delivering fair compensation, assessed by reference to established legal principles.

Given the history of this matter, all caused by a government-owned entity, there is obviously a need to avoid cost-cutting measures overriding the imperative of delivering justice in this Scheme.

We hope that these comments are of some assistance to the Inquiry and as always we would be happy to provide any further information if required.

Yours faithfully

A handwritten signature in black ink, appearing to read 'Freeths', written in a cursive style.

Freeths LLP

Please respond by e-mail where possible