



The Insolvency
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Sir Wyn Williams
Chair of the Post Office Horizon IT Inquiry

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Dear Sir Wyn Williams

Post Office Horizon IT compensation and bankruptcy

Further to the Inquiry hearing on 8 December 2022, and recently published Opinion from Catherine Addy KC ('Counsel') on the impact of bankruptcy on the payment of compensation, I thought it would be helpful to set out the Official Receiver's position as trustee and how the Insolvency Service has, within the confines of the law, assisted individuals who have been subject to bankruptcy orders.

To provide some context, the Official Receiver, when acting as trustee, is an independent officeholder, akin to a private sector insolvency practitioner; however, Official Receivers are also civil servants under the employ of the Insolvency Service.

The Insolvency Service has been supported by legal advisors and it is reassuring that the steps taken by the Official Receiver are consistent with Counsel's Opinion, as I set out later in my letter.

As Counsel has highlighted, the impact of bankruptcy on the compensation schemes is extremely complex but I would like to reassure the Inquiry that a dedicated team ("the Team"), set up specifically for this matter, has worked hard to understand the schemes and support the affected individuals during this extremely difficult time. The Team continues to ensure that compensation, which is due to affected postmasters, is paid



The Government Standard

over in a timely manner, as well as keeping individuals informed of the status of their cases where legal issues have taken time to resolve.

Historical Shortfall Scheme (“HSS”)

The Team has worked closely with the Department of Business and Trade (“DBT”), UK Government Investments and Post Office Limited (“POL”) colleagues to understand the nature of the scheme.

Identifying the cadre of affected individuals (numbering 65), our dedicated GOV.UK page details how individuals affected should contact the Insolvency Service if they had been subject to bankruptcy orders in England and Wales and what they should do if they had been subject to insolvency in devolved administrations.

As trustee, the Official Receiver must act in accordance with their statutory duties and the right to compensation under the HSS is an asset in the bankruptcy proceedings in these 65 cases; however, the Team has worked with POL to understand the apportionment of the compensation awarded between financial (for example, loss of earnings) and personal loss (damage to reputation).

I note Counsel agrees with our approach (paragraph 15 of the opinion), that compensation for financial losses vests in the bankruptcy estate and compensation awarded for personal loss is due to the individual.

Once offers of compensation are made by POL, the Official Receiver’s office has been contacting the former postmasters to help them understand the offers and the impact of their historic bankruptcy. This includes directing them to independent legal advice and exploring how, in appropriate circumstances, the individual might apply for the annulment of the bankruptcy order.

To assist affected individuals, this position has been published on GOV.UK.

The Official Receiver, as trustee of the bankruptcy estates, acting in accordance with their statutory duties must distribute realised assets for the benefit of creditors. However, to minimise the impact on the compensation awarded for financial losses, the Official Receiver has engaged with creditors to establish if they wish to waive their claims to the compensation in these bankruptcies.

In the event there is a surplus from the vesting compensation, following the payment of any statutory costs of the bankruptcy and any claims from creditors that wish to receive a distribution from the compensation, the balance of funds will be repaid to the former bankrupts.

There are some remaining matters which the Team is working with POL on; including annulment applications where POL was the petitioning creditor for bankruptcy and/or where POL has submitted a claim in the proceedings.

I note both matters were raised in Counsel’s Opinion and the Team will continue to work with POL in order to progress such matters.

Group Litigation Order

Legal advice received concluded that in cases where former postmasters were previously subject to a bankruptcy order and were discharged, neither the interim payment nor any future payments under the scheme were due to the bankruptcy estate. In the small number of cases where the Official Receiver is trustee, waivers have been signed (as requested by DBT) to any compensation, which will be paid in full to the former postmasters. This position aligns with the opinion expressed by Counsel (paragraph 62).

Whilst legal advice was ongoing regarding the status of those formerly subject to bankruptcy orders in making claims in the compensation process, and not wishing to delay compensation being paid, the Official Receiver supported annulment applications in three cases, progressing these in a timely manner. The applications were successful and annulment orders were granted, resulting in the interim payment being able to be paid directly to these former postmasters prior to December 2022.

The Team continues to work with the scheme administrators, DBT, to ensure these payments are made without delay to the former postmasters.

Overtaken Historical Convictions

The Team has worked closely with colleagues in DBT and solicitors that represent the former postmasters.

In cases where former postmasters were previously subject to a bankruptcy order and are now discharged, neither the interim payment, nor any future payments under the scheme, are due to the bankruptcy estate. This aligns with the opinion expressed by Counsel (paragraph 59).

The Official Receiver has additionally signed waivers to assist with payments being made to the former postmasters without further delay.

I trust outlining the Insolvency Service's position for each of the schemes assists the Inquiry in understanding the complexity of the insolvency matters and the impact on the Horizon IT compensation schemes. However, if the Inquiry requires any additional clarification, I would be happy to assist further.

Yours sincerely

[GRO]

Mr J Dionne
Chief Technical Officer