

Witness name: Simon Recaldin

Statement No.: WITN09890700

Dated: 4 September 2024

POST OFFICE HORIZON IT INQUIRY
SEVENTH WITNESS STATEMENT OF SIMON RECALDIN

1 I, Simon Recaldin, of 100 Wood Street, London, EXCV 7ER, will say as follows:

INTRODUCTION

2 I am employed by Post Office Limited ("**Post Office**"), as the Director of the Remediation Unit ("**RU**") (previously also referred to as the Historical Matters Unit ("**HMU**"). I have held this role since 10 January 2022. My role includes managing the delivery of the Overturned Convictions redress process ("**the OC Process**"), the Horizon Shortfall scheme ("**HSS**"), the criminal appeals process and consequent civil liability and redress issues, internal and external communications and oversight of all matters relating to the Remediation schemes and payment of redress.

- 3 Under my Directorship, the RU was established to centralise redress and criminal appeals related work emerging from the outcomes of the Group Litigation Order judgments including settlement. As RU Director, I chair the Horizon Matters Committee ("**HMC**") which reports into the Remediation Committee ("**RC**") which is a sub-committee of the Post Office Board ("**Board**"). The HMC and RC are responsible for the decision making of the RU. I brief Post Office's Senior Executive Group ("**SEG**") and Board on matters considered by the RC. My line manager is the Post Office's Interim General Counsel for the Inquiry and RU.
- 4 I make this witness statement in response to a request dated 25 July 2024 for information pursuant to Rule 9 of the Inquiry Rules 2006 regarding the OC Process. The Rule 9 requests a statement to address the following:
- (a) Overview of the OC Process;
 - (b) Administration of the OC Process;
 - (c) Analysis of, and trends relating to, the operation of the OC Process and actions taken to address any issues arising from them; and
 - (d) Conclusions as to the operation of the OC Process.
- 5 For the avoidance of doubt, the applicable data range is from the effective starting date of the OC Process on 11 December 2020¹ to 31 May 2024 as set out in the Rule 9 request.

¹ 11 December 2020 was the date the first six convictions were overturned by the Southwark Crown Court

6 I will refer to the postmasters and postmistresses (“**Postmasters**”) in the OC Process as Claimants throughout this statement.

7 Except where I indicate to the contrary, the facts and matters contained in this witness statement are within my own knowledge. Where any information is not within my personal knowledge, I have identified the source of information or the basis for my belief. BSFf have assisted me in the preparation of this witness statement.

THE OC PROCESS

Establishment of the OC Process

8 As the Inquiry is aware, following the Horizon Issues Judgment dated 16 December 2019, six appellants had their convictions overturned by the Southwark Crown Court in December 2020. On 23 April 2021, a further 39 appellants had their convictions overturned by the Court of Appeal in *Hamilton & Others* [2021] EWCA Crim 577. As a result of convictions being overturned, both Post Office and Government wanted to create a mechanism to ensure that those affected by these serious miscarriages of justice could obtain fair redress outside of the judicial process. This was the reason for establishing the OC Process.

9 The OC Process effectively started on 11 December 2020 being the date on which the first six convictions were overturned. The most recent Claimant entered the OC Process on 22 August 2024. This was the 111th Claimant who successfully appealed their conviction. To assist the

Claimants with the issue of limitation, Post Office has offered to enter into standstill agreements with the majority of Claimants taking up that offer.

- 10 The OC Process is a remediation process and therefore, there was not a date on which it officially opened. It started out as a negotiated process akin to settling a dispute pre-litigation. Currently, it is best described as a hybrid process with aspects of both a remediation scheme and a negotiated process. The OC process also includes individuals who were prosecuted but not convicted of offences connected to the Horizon IT system (set out in more detail from paragraph 29 below).
- 11 From the date that the first convictions were overturned to July 2022, Post Office received 11 pre-action letters from previously convicted Postmasters seeking redress. In order to assist the Inquiry, Post Office has exhibited a workflow of the OC Process (**POL00448751**).
- 12 Post Office sought funding from Government to be able to provide redress to these Claimants. One funding agreement was made in July 2021 which enabled Post Office to make interim payments of up to £100,000 (**POL00448914**). A second funding agreement was made in December 2021 (**POL00448915**) enabling Post Office to make full and final settlement payments.
- 13 Setting up the OC Process was a collaborative process between Post Office, Herbert Smith Freehills ("**HSF**"), Postmasters, Postmasters' legal representatives and Government. Together a process was established to ensure that full and fair redress is provided as swiftly as possible. This included seeking to agree principles for remediation to reach fair redress.

- 14 From an early stage, Post Office recognised that there may be cases where parties could not agree on redress. As a result, an independent assessment panel (“**IAP**”) chaired by Sir Gary Hickinbottom (a former judge of the Court of Appeal) (“**Sir Gary**”) was set up, to opine on the outcome of any disputed pecuniary claims. If a case is referred to the IAP, it will provide a non-binding determination (this process is explained further at paragraph 87 below).

Initial Engagement with Postmasters

- 15 After the Court of Appeal handed down its judgment in *Hamilton*, Post Office wrote to several hundred Postmasters (in tranches, by recorded delivery) whose convictions were identified as potentially using Horizon data and who had been the subject of a private prosecution by Post Office. The Postmasters were informed that their conviction could be unsafe due to it being wholly or partly based on Horizon data and as such, they may wish to consider appealing their convictions. The letter (**POL00448908**) was sent to each potentially affected Postmaster with up to three follow up letters.
- 16 In response to these letters, Post Office received feedback from some Postmasters that they were too traumatised to engage with Post Office directly. Consequently, Post Office enlisted the help of the Criminal Cases Review Commission (“**CCRC**”) to contact these individuals in place of Post Office regarding the possibility of appealing their convictions. The CCRC also wrote to the individuals who did not respond to the contact from Post

Office. All such individuals were written to separately by the CCRC at least once.

- 17 Post Office was not the only prosecutor of Horizon related cases and other prosecuting authorities included the Department for Work and Pensions, the Crown Prosecution Service (“**CPS**”), the Public Prosecution Service of Northern Ireland and the Crown Office and Procurator Fiscal Service in Scotland. Post Office engaged with these other prosecuting authorities to explain the process it was adopting to contact Postmasters about appealing their convictions and suggested they may wish to undertake a similar process. The other prosecuting authorities adopted their own processes, and some wrote out to the relevant Postmasters, resulting in various levels of engagement.
- 18 To ascertain the details of the affected Postmasters, Post Office instructed a credit reporting agency. For Postmasters who had not responded, a third party was hired to carry out wider checks in an effort to trace affected Postmasters. Further letters were sent to those Postmasters who could be traced by this further process.
- 19 In response to the feedback from Postmasters and from the then BEIS Select Committee, Post Office wanted an independent body to be available for affected Postmasters to speak to about the possibility of appealing their convictions. To achieve this, Post Office engaged Citizens Advice (“**CA**”) (formerly known as the Citizens Advice Bureau) to specifically provide support for Postmasters who were reluctant to engage with Post Office directly and who wanted further information and support regarding

appealing their convictions. In October 2022, the CA set up a bespoke desk for Post Office victims and this contract remains in place to date and is available for Postmasters to access.

- 20 Post Office noted that despite its efforts to contact potentially affected Postmasters, the majority did not appeal their conviction.
- 21 In a further effort to prevent miscarriages of justice based on the use of Horizon evidence being missed, Post Office instructed its external criminal legal advisers to conduct a proactive review of the records held by Post Office for each of the cases which had not yet been through the appeals process. Independent counsel was instructed to review the cases and apply the test set out by the Court of Appeal in *Hamilton*, to determine whether or not the case could be considered to be a 'Horizon case'. Of the hundreds of cases reviewed; senior counsel identified 34 cases as 'Horizon cases'.
- 22 Following counsel's review, Post Office wrote to 32 of those individuals to inform them that if they appealed against their conviction, Post Office would concede the appeal. Since these letters were sent, ten of the individuals have had their convictions overturned, eight applied to the CCRC and two cases were before Southwark Crown Court. The remaining individuals will no doubt be captured by the recent legislation.
- 23 There are approximately 25 people that Post Office has not been able to contact due to not being able to locate an up-to-date address for them. Post Office has tried to arrange visits to previous known addresses and have run further address and credit checks in an attempt to locate these

individuals. Post Office paused further searches and letters in approximately mid-2023, at which point we provided details of the Postmasters who had not responded or we could not locate, to the CCRC. We understand that the CCRC has located three of those individuals but Post Office does not have any further information in this regard.

- 24 How Post Office might best engage with Postmasters in order to raise their awareness about and encourage them to appeal their convictions has been regularly discussed and considered including at the RC and HMC. In an effort to be proactive, Post Office has explored all proposals through these fora and has taken these forward where possible, recognising that this can be a difficult balancing exercise when respecting that some Postmasters understandably do not feel able to engage with Post Office.
- 25 At the point at which the Post Office (Horizon System) Offences Act 2024 passed into law, Post Office believes that a total of 183 individuals had applied to the courts to have their convictions overturned. 164 of these concerned Post Office prosecutions. At the same point in time, Post Office understands there were 32 live applications being considered by the CCRC.
- 26 Of the Post Office prosecuted convictions, 65 convictions were not overturned, 21 appeals were abandoned, 33 applications are understood to have been rejected by the CCRC, six appeals were refused by a Single Judge of the Court of Appeal Criminal Division ("**CACD**") and five appeals were dismissed by the Full Court and the convictions were upheld. In cases where appeals to the Court were unsuccessful or applications were

rejected by the CCRC, those appellants are not eligible for redress under the OC Process given their convictions have not been overturned.

27 As Director of RU, I have made it my practice to ensure that I, or a representative of mine, attends every court case where convictions are overturned so that Post Office can apologise directly to the Postmaster for the experiences they have suffered. Recognising that some Postmasters might not want to engage with a Post Office representative immediately after their conviction has been overturned, I approach the Postmaster's legal representative in the first instance to check that the Postmaster is willing to speak with me. Understandably, sometimes Postmasters do not want to take me up on this offer of an apology directly and in these circumstances I convey my apologies via their legal representative. I have attended the Court of Appeal in London as well as the equivalents in Edinburgh and Belfast in order to convey my apologies in person to Postmasters. It is an extremely humbling experience where the strength of these Postmasters can only be admired.

28 As previously advised to the Inquiry, Claimants, and applicants to all other Post Office and DBT redress schemes, have the opportunity to meet with the Post Office CEO or another senior Post Office Executive, if they consider it may be helpful to them. This enables individuals to recount the experiences that they and their families have suffered and to receive a sincere personal apology for all that they have endured. These are understandably charged and emotional events but Post Office hopes they help Claimants, even if in a small way. To date, I have attended all of these

meetings. I am inspired by the strength and power of the Claimants I have met and who have experienced such journeys. I am truly humbled by their explanations of what they have been through.

Prosecuted but not convicted cohort (“PNC”)

29 PNCs were included in the funding agreement provided by DBT on 20 December 2021 on the basis that Post Office’s liability does not end because a Postmaster was not convicted (**POL00448915**). Post Office and DBT agreed that in order for a PNC to be eligible for the OC Process, the test to be applied would be: if a prosecution had resulted in a conviction, would it have been deemed unsafe following the principles set out in *Hamilton*? Post Office instructed its external criminal law legal advisers, Peters & Peters (“**P&P**”) who in turn instructed external counsel, to make this determination. For the purposes of the OC Process, the term ‘prosecution’ has been given a broad meaning as set out in case law. It can cover the point at which an individual is charged to being found not guilty at a Court hearing.

30 The OC Process therefore includes PNC claims by individuals (i) who were prosecuted using Horizon evidence but were not convicted, (ii) who were not claimants in the High Court Group Litigation Order case against the Post Office brought by 555 postmasters exposed the Horizon IT scandal (the “**GLO**”) and (iii) are non-Postmasters (as set out further below). GLO claimants are remediated separately by DBT via the GLO Compensation Scheme announced in March 2022.

- 31 Under the HSS all Postmasters, including Postmasters who were prosecuted but not convicted, were sent a letter by Post Office inviting them to make an application to the HSS if they incurred a shortfall loss during the relevant period which the Postmaster thought could have been caused by the Horizon system. Post Office has received c.50 applications in the HSS which sought redress as a result of Postmasters having been prosecuted but not convicted. The HSS has a specific head of loss for malicious prosecution which is available for PNC Postmasters to claim. However, non-Postmasters for example, Post Office employees, branch assistants employed by a Postmaster etc (who I will refer to as employees) are not eligible for the HSS so cannot make a claim for redress under that Scheme. That is why Government provided funding for PNC employees under the OC Process, meaning they are eligible to apply to the OC Process. This means that both the HSS and OC Process can include PNCs depending on whether they are a Postmaster or an employee.
- 32 Through P&P, Post Office has tried to identify the individuals who might be part of the PNC employee cohort. P&P has been unable to identify all potentially eligible individuals² due to a lack of data and evidence relating to those cases. Identifying PNC employees who might be eligible for redress has proven to be very difficult. Accordingly, Post Office does not have a complete record of PNC employees who may have cases for malicious prosecution and may therefore be entitled to redress.

² Being not only those individuals who were prosecuted but also those who were eligible for redress by determining whether their prosecution resulted in conviction because Horizon evidence was essential and, if so, would it fall to be quashed under *Hamilton* principles?

- 33 Because of the difficulties identifying the PNC employee cohort, Post Office has not sent letters relating to the OC Process to them. Without reliable data to identify the potentially eligible individuals, Post Office is conscious that writing to every individual who was prosecuted but not convicted during this period could result in many ineligible people seeking advice from lawyers and incurring legal fees unnecessarily. In addition, it may cause confusion and upset to the individuals who may be ineligible for the OC Process (as a result of not satisfying the *Hamilton* principles).
- 34 To date, Post Office is aware of eight PNC related Claimants who have indicated their intention to seek to claim redress under the OC Process. One of these claims has reached full and final settlement and the others are at the eligibility stage where further information to confirm eligibility is being sought by Post Office. However, in many cases Post Office has found very few documents to disclose given the passage of time. To try and overcome this, Post Office has approached P&P and the CPS to understand what documentation/information is held and/or available to assist potential Claimants with the eligibility assessment. To assist with this, Post Office has also suggested to some Claimants that they approach the relevant police station in order to obtain the necessary documentation/information.

Public Interest only cases

- 35 There are five cases which were initially ineligible for an interim payment in the OC Process notwithstanding the fact that their convictions had been quashed. This was as a result of the DBT funding letter (**POL00448914**)

dated July 2021 which contained a criterion that Public Interest only cases were ineligible. 'Public interest only' cases arose where a Postmasters' route of appeal was to the Crown Court and not the Court of Appeal (Criminal Division). In these cases, Post Office, with the assistance of their legal advisers, were required to apply the Full Code Test under the Code for Crown Prosecutors. In Public Interest only cases, Post Office concluded that the evidential element of the Full Code Test had been satisfied, but due to various other factors, the public interest element had not been met and therefore Post Office offered no evidence to oppose the appeal. In short and as explained to Southwark Crown Court, Post Office considered that there was sufficient evidence to provide a realistic prospect of conviction in these cases (because the Horizon evidence was corroborated by other non-Horizon related evidence in accordance with the *Hamilton* Judgment). However, it was considered that it was not in the public interest to have a re-trial given the age of the cases and the fact that the appellants had already served their sentences.

36 In December 2022, Post Office participated in a mediation with three of the public interest only Claimants. The mediation was partly successful in that two of the three claims were fully settled using this process. Of the original five, the other two Claimants did not have their convictions overturned until September 2023.

37 In January 2024, the Government determined that public interest only cases should in fact be eligible for the OC Process. As such, Post Office wrote to the five public interest only individuals on 25 January 2024 to

confirm they were eligible for redress under the OC Process and that for those who had fully settled their claims via mediation, those settlement monies would be considered by Post Office as interim payments. Post Office invited those who had not yet submitted interim payment applications to submit them and it subsequently made interim payments of £163,000 to those who had not received at least this sum already (which were subsequently topped up to £200,000). One Claimant decided to settle for the Government's £600,000 upfront offer and this payment was made on 27 February 2024. Post Office invited the other four Claimants to submit their claims in the usual way. However, Post Office has not yet received them.

Lifecycle of a claim

- 38 There is no formal eligibility criteria, save for the requirement that the Claimant must have either had their Horizon-related conviction overturned or have been prosecuted for, but not convicted of, an offence where Horizon evidence was essential to the prosecution. Individuals from each of the jurisdictions within the United Kingdom are eligible to join the OC Process, it is not limited to England and Wales.
- 39 When Post Office becomes aware of a conviction having been overturned, it sends the Postmaster a letter of apology which is approved and signed by Nick Read, CEO. This is followed by a further letter to the Claimant's representative (when such details are received) summarising the OC Process (**POL00448913**). This includes information relating to the Government offer (described further below at paragraph 41), an application

form for an interim payment (**POL00448912**), an overview of the claims process (**POL00448916**) and a request for pre-prosecution shortfall details. Claimants are invited to make a pecuniary (financial loss) and non-pecuniary (intangible losses such as distress) claim. The provision of information at this stage is tailored depending on whether the Claimant is legally represented or not³ and whether the solicitor's firm is familiar with the OC Process.

- 40 Following receipt from the Claimant of the documents requested, a further letter is sent by Post Office on a 'without prejudice' basis. This letter appends various documents which describe the OC Process in further detail particularly in relation to pecuniary and non-pecuniary claims. The documents appended to this letter include: the pecuniary principles ("**the Pecuniary Principles**"), the Early Neutral Evaluation of Lord Dyson (dated 29 July 2022) (redacted for legal privilege) ("**the Evaluation**"), a template claim for non-pecuniary damages (**POL00448911**) and the 17th edition of the Judicial College Guidelines on Personal Injury Claims.
- 41 The Government offer is an upfront amount of £600,000 which is made available to OC Claimants (with the exception of PNCs) to accept without needing to submit a full claim to be assessed. This offer was announced by DBT on 18 September 2023 (the "**Government Offer**") and it went 'live' from that date although some of the precise mechanics of how it would work were put in place thereafter. Claimants have an option to either accept

³ Only one Claimant is not legally represented in the OC Process

the Government Offer or to request a full assessment of their claim (including pecuniary and/or non-pecuniary claims). If a Claimant elects for a full assessment, they will no longer be eligible for the up-front payment, even if their assessed claim is valued at less than £600,000.

- 42 The Claimant completes the relevant documents depending upon whether they would like to apply for an interim payment, accept the £600,000 Government Offer or seek a full assessment of their claim (pecuniary and/or non-pecuniary losses). In practice, the majority of Claimants will apply for the interim payment in the first instance to afford them further time to consider the Government Offer in more detail and/or with the assistance of their legal representative. Only four Claimants have accepted the Government Offer without first requesting an interim payment to afford them further consideration time.
- 43 Where the Claimant is deceased, Post Office needs to ensure the individual who is legally entitled to pursue the claim (as a representative of the estate) is communicated with and will receive the redress. As such, probate must have been completed before an offer can be made, which is a lengthy third-party process. Regrettably, there are eight deceased Claimants in the OC Process.
- 44 Where the Claimant is bankrupt, Post Office needs to communicate with their Trustee in Bankruptcy to request that it waives any interest in the redress being paid out. Post Office provides waiver forms for the Trustee in Bankruptcy to complete in relation to all interim payments, non-pecuniary settlements and full and final settlements. Communicating with third parties

may create a slight delay in progressing the claim however, to mitigate matters, Post Office proactively contacts the Claimant to see if there is anything that they can assist with which may involve contacting the Trustee in Bankruptcy directly and liaising with them if required, in order to progress matters.

- 45 Post Office endeavours to update Claimants with any changes made to the OC Process. For example, when the Pecuniary Principles were established, Post Office wrote to all Claimant representatives to inform them of the introduction of these principles.
- 46 Generally throughout the OC Process, Claimants are communicated with via their legal representatives by telephone and email. Teams or in-person meetings can be arranged if considered helpful. If Post Office does not receive an acceptance of its offer of an Interim Payment or a response to its Offer Letter in relation to either a pecuniary or non-pecuniary claim within a reasonable timeframe, it will send a follow-up letter to the Claimant and/or their legal representative which is followed up by a telephone call to the legal representative.
- 47 Post Office will assess the non-pecuniary claims in accordance with the Evaluation and the pecuniary claims in accordance with the Pecuniary Principles with the objective of delivering redress which is full and fair in all the circumstances. Following this, Post Office will make a without prejudice offer of redress. If Post Office considers that the elements of the losses claimed are not recoverable, it will explain why and, where appropriate, request further information.

- 48 In relation to the progress of claims, the aim is to make an offer to Claimants within 40 working days from receipt of a sufficiently particularised pecuniary claim (including a schedule of loss and evidence). During those 40 days, the likelihood is that there will have been contact with the Claimant to seek further information and/or clarification relating to their claim.
- 49 In relation to non-pecuniary claims, Post Office aims to send offers within 28 days of receipt of the claim. Short delays to settlement of non-pecuniary claims may occur in cases involving medical expert reports (such as personal injury claims) as Post Office often receives expert reports which are not compliant with Civil Procedure Rule (“**CPR**”) Part 35. Compliance with Part 35 is a requirement of Government given Post Office does not obtain its own separate expert report and typically will accept the findings of the Claimant’s expert providing the report is be CPR compliant (e.g. contain a signed statement of truth). In cases where the expert report is not CPR 35 compliant, Post Office requests that the report is rectified before settlement is finalised and payment of redress is made.
- 50 If the Claimant accepts the offer made by Post Office, a settlement deed will be drafted and agreed between the parties and once fully executed payment will be made within 28 days although typically this is made within seven working days. If the Claimant only agrees with some of the heads of loss in the offer, acceptance can be made in respect of only those heads of loss. In such instances, payment in respect of the agreed heads of loss

will be made within 28 days of either a settlement deed being executed or an offer letter being signed and returned by the Claimant.

- 51 If the Claimant does not wish to accept the offer, they are asked to set out why they interpret the existing evidence differently and/or provide any additional evidence in support of their position. Post Office will consider the reasons put forward and any further information received and, if appropriate, make a revised offer.

Independent Legal Advice

- 52 Only one of the 111 Claimants is not legally represented. Post Office has encouraged this Claimant to make a formal pecuniary and non-pecuniary claim and provided a list of documents that other Claimants typically submit with their claims to try to assist the preparation of this claim. Although a formal claim has not yet been received, Post Office has assessed the information it has available to it and made an interim payment to the Claimant based upon this information, which has been accepted. Post Office regularly contacts the Claimant's (non-legal) representative and is aware that their representative participates in meetings with Sir Gary. We have asked Sir Gary to support this Claimant and try to encourage them to engage a legal representative so that we can progress their claim further.
- 53 Where a Claimant has not appointed a legal representative immediately following their conviction being overturned, a senior member of the RU legal team will usually call the Claimant to explain the application process and suggest that they obtain legal advice. If a Claimant requires assistance on a legal firm to instruct, Post Office can provide a list of legal

representatives who have the requisite knowledge and experience of the OC Process as a result of already being instructed in respect of it.

- 54 Post Office has sought to make the OC Process as user-friendly as possible, however, given the unavoidable complexities in assessing malicious prosecution damages, it will always recommend that a Claimant seeks legal advice from the outset.
- 55 For Claimants who request a full assessment of their claim (where both the pecuniary and non-pecuniary claims are assessed), Post Office will pay reasonable legal costs. Legal costs are reviewed once the assessment has been completed and an offer for legal fees will be made to the Claimant following receipt of a schedule of costs. Although Post Office's offers for legal costs are usually accepted, there have been a number of cases in which legal cost offers have not yet been accepted. Where legal costs are disputed, the costs can be assessed by the IAP which has a costs adjudicator. The IAP determination as to reasonable costs is final and binding, albeit either party can request an oral hearing before the costs adjudicator.
- 56 Since 18 September 2023, when the Government Offer was introduced, Claimants who accept the up-front offer of £600,000 have been able to claim a maximum of £20,000 (excluding VAT) for legal costs. For claims that started before 18 September 2023, but which subsequently accept the Government Offer, Claimants can claim reasonable legal costs from the start of their claim up to 18 September 2023, and a maximum of £20,000

(excluding VAT) from 18 September 2023 onwards. Expert fees (such as accountants, medical experts) can be claimed in addition to these costs.

Application for Interim Payments and Top-up Payments

- 57 Once a Claimant's conviction has been overturned, where Post Office was the prosecuting authority, Post Office seeks to make contact either directly or via the Claimant's legal representative to provide details of the OC Process. Once the details of the legal representative have been ascertained, Post Office instructs HSF to write to them to provide a number of documents including an Interim Payment application form (**POL00448912**). To accept the Interim Payment, the Claimant needs to complete a six-page application form and return it to HSF. The application form requests personal information from the Claimant, such as their full name, date of birth, address (and previous addresses), contact details, their role, whether they would like to accept or are considering accepting the Government Offer and details of any bankruptcy. This ensures that Post Office receives all necessary information to make the Interim Payment, such as obtaining a waiver from a Trustee in Bankruptcy if necessary.
- 58 Upon receipt of an application for an Interim Payment, Post Office will send either an offer letter to the Claimant or a letter confirming that an Interim Payment will not be offered (which has only been sent three times to date). Post Office aims to send this letter to the Claimant within 28 days from receipt of the application for an Interim Payment. To accept the offer of an Interim Payment, the Claimant must sign the offer letter and return it to Post Office. Post Office aims to pay the Interim Payment within the Service Level

Agreements (“**SLAs**”) of (i) 28 days to make an offer following receipt of an interim payment application; and (ii) 28 days to make an interim payment following receipt of the acceptance of the offer for an interim payment (although in practice it is often paid much quicker).

59 The Department for Business and Trade (“**DBT**”) confirmed on 22 July 2021 that it would fund interim payments of up to £100,000 for all eligible OC Claimants. A Government approved interim payment process was set up in August 2021.

60 The interim payment was increased to £163,000 in November 2022 as a result of the ENE, as it was determined that this was the minimum amount a Claimant would receive in redress.⁴ Consequently, top up interim payments of £63,000 were offered to all Claimants who had received the £100,000 interim payment but not provided Post Office with a non-pecuniary claim by 1 December 2022. Where a non-pecuniary claim had been submitted by 1 December 2022, Post Office completed a full assessment of the claim rather than topping up the interim payment.

Acceptance of the Government Offer

61 On 18 September 2023, DBT announced the availability of the Government Offer of £600,000 which would not require Claimants to have either their non-pecuniary or pecuniary claims assessed.

⁴ This was before the Government Offer was implemented

- 62 Where a Claimant accepts this offer, the Claimant is required to enter into a settlement deed and once signed, the payment will be made with any previous interim payments being deducted from the £600,000. Post Office aims to send offer letters and settlement deeds to the Claimant within one week of receiving the Claimant's acceptance. Payment is typically made within 7 to 10 working days from receiving the signed settlement deed.
- 63 Where a Claimant elects for a full assessment and submits either a pecuniary or non-pecuniary claim, they will no longer be eligible for the £600,000 Government Offer payment, even if the assessed claim is valued at less than £600,000.
- 64 Post Office did not have any direct involvement in DBT's decision in relation to the Government Offer. Post Office was notified that DBT were considering it and were asked to provide DBT's working team with the principles agreed for the assessment of pecuniary claims and information regarding heads of loss.
- 65 Post Office encourages all Claimants, either in writing or by telephone, to seek legal advice to assist them to consider whether to accept the Government Offer and advise whether it is fair redress for that particular Claimant. As set out at paragraph 56 above, these legal fees are covered by Post Office.
- 66 As at 31 May 2024, the Government Offer has been accepted in 40 cases and those claims have been fully settled. Following the announcement of the Government offer, Post Office has received six separate pecuniary claims up to 31 May 2024 and since then has received a further six

pecuniary claims. When a pecuniary claim is submitted, Post Office now issues a top-up interim payment to the Claimant of £450,000⁵, less any interim payments already paid. Seven full and final settlements have been completed through the full assessment route. Offers have been made in a further three cases.

Application for Full Assessment of Claim

- 67 If the Claimant believes that their claim is worth more than £600,000 (the Government Offer sum) then they may elect for a full assessment of their claim by submitting a claim for their pecuniary and/or non-pecuniary losses. The evaluation process involves a full review of the claim and all heads of loss by Post Office using the criteria established for assessment of pecuniary and non-pecuniary claims set out below. If more information is required, it is requested from the Claimant and/or their legal representatives.
- 68 Given the pecuniary principles are not exhaustive, if a new head of loss is raised by a Claimant that Post Office has not previously considered in a claim, Post Office will consider it further. This will need to go through a Post Office and Government governance process which may include approval of funding by Government if applicable. If a new head of loss is agreed, it will be included in the Pecuniary Principles or added to the existing heads of loss if non-pecuniary.

⁵ This top-up was introduced by Sir Gary to incentivise the bringing forward of more pecuniary claims.

- 69 Once the evaluation has been completed, Post Office makes an offer of an amount it considers to be full and fair redress. The offer letters are usually very detailed. It sets out each head of loss and how Post Office has calculated what it considers to be full and fair redress in respect of each and Post Office encloses an Excel spreadsheet with its calculations to help the Claimant understand how the offer has been calculated.
- 70 As an example of Post Office's continuous learning, if during the evaluation process Post Office considers that the Claimant might have a claim for a head of loss that it has not expressly claimed, Post Office may note this head of loss in the offer letter. Albeit, it is for the Claimants legal advisers to advise them in this regard.

Non-Pecuniary Claims

- 71 To make a non-pecuniary claim, the Claimant would usually provide a schedule or witness statement. The schedule will set out each head of loss claimed with an explanation for each one, alongside any necessary supporting documentation such as a medical report. Post Office now has a template schedule that it provides to Claimants and/or their legal representatives to assist them in preparing the claim at a very early stage in the OC Process (**POL00448911**). Post Office hopes that having a template will make producing a schedule easier and more efficient for the Claimants.
- 72 The documentation provided (which may include a medical report, a victim impact statement or a quantified claim) is reviewed. If required, further information is requested from the Claimants' legal representatives. The RU

Legal team will prepare a report for the purposes of internal Post Office governance which includes: an executive summary, HSF's advice on the sum claimed for non-pecuniary heads of loss, advice sought from Senior Counsel with relevant personal injury expertise and an assurance report from Post Office which confirms whether the facts as stated in the witness statement are accurate and whether the medical expert report is Part 35 compliant. Internal Post Office Committees and Government will review this report in order to approve the proposed settlement figure and a settlement offer letter is sent to the Claimant.

- 73 In the ENE (discussed in more detail below), Lord Dyson considered six heads of loss (which had been agreed between Post Office and Claimants' legal representatives, Hudgell Solicitors) and evaluated a range of redress that might be awarded for each head of loss. For exemplary damages, Lord Dyson proposed a fixed sum of £75,000 to be paid to all Claimants to reflect the level of wrongdoing committed by Post Office based on previous case law and the estimates of the numbers of likely Claimants.
- 74 To assess non-pecuniary claims, Post Office considers the ranges of redress set out in Lord Dyson's ENE for each of the heads of loss claimed and assesses, based on the facts of each individual case, where each claim sits within those ranges. In considering each claim against Lord Dyson's ENE, Post Office endeavours to ensure consistency in its approach in assessment of all non-pecuniary claims. The case is reviewed by internal Post Office committees to approve the offer to be made. If a

case is considered to be exceptional⁶, Post Office will send the proposed offer to Government for its ratification before the offer is made to the Claimant.

75 Between August 2022 and 30 April 2023, 53 non-pecuniary claims were processed with all claims being settled via a formal settlement deed. As at 28 August 2024, 77 non-pecuniary claims have been fully settled (including the Claimants who accepted the Government Offer without first lodging a non-pecuniary claim) and nine non-pecuniary claims have yet to be fully settled. Of those nine claims, eight have received offers of settlement in relation to all heads of loss and one has received an offer of settlement in respect of all heads of loss except personal injury.

76 Post Office understands that there are 25 non-pecuniary claims that have not yet been submitted.

Pecuniary Claims

77 From the outset of the OC Process to the establishment of the Pecuniary Principles in October 2023, pecuniary claims were dealt with by negotiated settlements between the parties. As at 1 February 2023, eight pecuniary claims had been received albeit they were progressed very slowly. Post Office made requests for further information, waited for responses, entered into negotiations to settle the claims, then required both internal and Government approval of offers before they could be sent to the Claimant.

⁶ For example, where new heads of loss are raised, where new principles are to be developed or where precedent setting decisions are required

This was a lengthy and time-consuming process which Post Office felt was not an appropriate way to manage the claims. Instead, a more formal structure for processing claims was required.

78 Throughout 2023, Post Office held a consultation with Claimants and their legal representatives to establish a set of Pecuniary Principles⁷ to help promote swift and fair settlements. Post Office invited all Claimant legal representatives to comment on the draft principles, including an opportunity to propose any additional principles. Following an extensive feedback process and multiple iterations of the principles which was a necessarily time-consuming process, the principles were finalised on 22 January 2024 and shared with all Claimant representatives on 5 February 2024.

79 There have been a small number of cases in which a loss is claimed which is not included in the principles, for example gratuitous care. Where this situation has arisen to date, Post Office has considered whether this loss should be added to the principles and has made offers in relation to those losses. These forms of loss must be escalated to DBT for ratification under governance processes. Assessing pecuniary claims based upon these principles assists Post Office in endeavouring to assess claims consistently and ensures that before any offers are made against a new head of loss, Government funding is available to pay the claim.

⁷ These cover 14 heads of loss and detail examples of evidence that may be useful for each and the basic legal principles for each.

80 To make a pecuniary claim, Claimants need to provide a schedule of loss with supporting evidence such as tax records.

81 The first fully particularised pecuniary claim was received in or around November 2021. During 2021 and following the *Hamilton* judgment, Government were putting the requisite funding in place with the full and final funding agreement being signed in December 2021 (**POL00448915**). During 2022, a negotiated settlement approach was established and in November 2022, Post Office started to engage with the Claimant's representatives regarding the pecuniary principles. Engaging with the Claimant's representatives and finalising pecuniary principles necessarily took some time. By early 2023, Post Office had settled a number of non-pecuniary claims but had only received eight pecuniary claims.

82 Post Office identified some heads of loss for which it already held information on some Claimants, such as prosecution shortfalls, costs and the Royal Mail Colleague Share Plan. Where Post Office already held information about losses for Claimants and could ascertain how much that Claimant would be entitled to, it made offers to Claimants to pay those losses whilst awaiting the fully particularised claims. In so doing, Post Office sent 91 offer letters for these heads of loss to 68 Claimants as a result of no pecuniary claims being made.

83 Offers can be made for an individual head of loss, multiple heads of loss or a full claim.

84 Usually, within 1 to 2 weeks of receipt of a pecuniary claim, Post Office meets with DBT and HSF to review the claim and consider whether any

further information is required. A timetable is also set for the claim. If further information is requested, Post Office will send a Request for Further Information (“**RFI**”) to the Claimant’s legal representative. If a response is not forthcoming, the claim will be progressed and the offer letter will highlight the fact a response to the RFI was not received.

85 Post Office, or the Claimant, may require expert advice to be obtained, for example, for loss of earnings claims, where assistance may be needed from an accountant. If expert advice is required, Post Office pays reasonable costs for the expert to be instructed. Where the Claimant has requested expert advice be obtained, the Claimant can nominate an expert to be instructed. Depending on the costs of the expert, approval for funding of the same is required from Post Office’s governance and it may be the case that I have the necessary delegated authority to approve this.

86 As of 28 August 2024, all Claimants except three have received a payment in some form, whether an interim payment or final settlement payment. These three Claimants had their convictions overturned between late January and August 2024. All three have been sent an interim payment application form with one Claimant accepting the interim payment; this interim payment was made on 2 September 2024.

Independent Assessment Panel

87 If, following without prejudice discussions, Post Office and the Claimant are unable to reach an agreement, on either the whole or parts of a pecuniary claim, either party may refer an issue in dispute to the IAP. This is an opportunity for a third party to independently (and on a without prejudice

basis) assess the claim and recommend a level of redress in respect of any heads of loss or legal costs' claims which are not agreed.

88 The documentation provided to the Claimant at the outset of the process (as set out in paragraphs 39 and 40 above) informs the Claimant that they are able to refer issues relating to pecuniary claims⁸ to the IAP using the referral application form (**POL00448909**). If requested, HSF will explain the documents to the legal representatives and go through these in detail with them.

89 The IAP consists of a three-person panel of individuals with financial, retail and legal expertise, chaired by Sir Gary. Sir Gary was nominated by the Claimant solicitors jointly⁹ following which Post Office formally engaged him. The Claimants were also invited to nominate the other two panellists although no names were forthcoming therefore, the individuals suggested by Post Office were approved.

90 The IAP follows the Pecuniary Principles and the procedure for independent assessment is governed by the IAP's Terms of Reference (**POL00448910**). These set out the following steps which should take place when a party requests an independent assessment:

- (a) Notify the panel and the other party in writing of the proposed referral and set out the heads of loss to be referred.

⁸ Where referrals are required for non-pecuniary matters, these are referred to Lord Dyson. To date, there have been no such referrals

⁹ Huggell Solicitors were the only legal representatives who wanted to engage in this process. Post Office invited all Claimants and their legal representatives to engage.

(b) Share a summary of their position on the disputed issues with the independent assessor and other party. This should include relevant supporting documents. In addition, a standard application form has been prepared which will require completing.

(c) The responding party should, within ten days, share a similar summary setting out their position.

91 Upon receipt of the summaries, Sir Gary or his delegate will consider the issues and determine whether the claim will be considered by Sir Gary as a single panel member or whether Sir Gary requires the expertise of either or both of the other two panel members.

92 The IAP can ask the parties to provide further information, convene a short hearing or appoint any experts considered necessary. Throughout the procedure, the IAP will keep in mind the overriding objective of achieving swift and fair resolutions at proportionate cost.

93 Whilst the independent assessment is not binding, it is anticipated that the guidance provided will assist the parties in reaching agreement as to the disputed heads of loss. The IAP's recommendation will be supported by short written reasons and be shared with both parties at the same time.

94 In the event the parties are still unable to reach agreement, the Claimant retains the right to proceed to litigation in respect of any remaining issues of dispute.

95 Some legal representatives have referred OC Process related matters such as legal costs to Sir Gary in order that he can opine on them and offer

an independent view. However, a request for an independent assessment of a disputed head of loss has not been referred to Sir Gary to date.

96 It is too soon to say whether the IAP provides sufficient means of resolving disputes fairly without the need for Claimants to resort to civil proceedings: the IAP has not yet had much opportunity to improve the efficiency and/or fairness of the OC Process given no referrals over disputed heads of loss have been made. Nevertheless, the role of Sir Gary has been helpful in moving cases forward and liaising with legal representatives (who are willing to engage with him) to keep cases progressing through the OC Process. Sir Gary has direct meetings with the Claimants and/or their legal representatives which are attended by HSF on Post Office's behalf.

97 Post Office would have expected to receive more referrals as matters progressed through the OC Process. However, as a result of the Government Offer, fewer claims will require a full pecuniary assessment through the OC Process therefore, fewer referrals to the IAP.

98 There was a delay in establishing the challenge mechanism and IAP as a result of the essential requirement to set up a process that had clear pecuniary principles. It took time for these to be considered with the Claimant representatives before determining the escalation route. Post Office sought the Claimant representatives' input on the adjudicator to be appointed and Sir Gary was nominated as the Claimants' preferred candidate. Following this, there were practical delays in appointing Sir Gary and the two other specialist panel members due to procurement considerations and data protection / data sharing issues.

99 The availability of the IAP, even though no formal recommendations have been made yet, has improved the efficiency and fairness of the process because of its independence: it is a mechanism by which Claimants can escalate disputes if necessary and Sir Gary has assisted with progressing claims.

Early Neutral Evaluation

100 In early 2022, Post Office, Government and a number of the Claimants' legal representatives were having difficulty agreeing what monetary value should be considered fair redress in respect of non-pecuniary claims. The difficulty stemmed from the scale of the Post Office's prosecutions which fell to be set aside by the courts and there not being a previous precedent example to follow. Therefore, an external, independent view was required on the issue.

101 Post Office liaised with Hudgell Solicitors (the legal representative of the majority of the Claimants) to choose a suitable evaluator and provided a list of possible candidates, including Lord Dyson. Following consideration of the list, Hudgell Solicitors selected Lord Dyson to be appointed. It was agreed with Hudgell Solicitors that a formal ENE hearing would take place on 18 July 2022. The parties were Post Office and 10 Claimants all of whom were represented by Hudgell Solicitors.

102 Post Office invited other legal representatives to participate and, although some expressed interest, ultimately no other parties took part. Post Office and Hudgell Solicitors agreed the Terms of Reference and the Heads of Loss for Lord Dyson to consider. It was agreed between Post Office and

Hudgell Solicitors that ten of Hudgell Solicitors' claims would be evaluated covering a range of fact patterns. This would enable the parties to obtain a range of evaluations for different issues that could then be applied across all other cases.

- 103 Hudgell Solicitors provided Lord Dyson with a witness statement and schedule of loss for each claim together with evidence (there was a medical report for all ten claims). Both Hudgell Solicitors and Post Office put forward legal submissions in relation to how much should be awarded for each head of loss and attended a hearing before Lord Dyson on 18 July 2022 at which he heard oral submissions from Tim Moloney KC on behalf of Hudgell Solicitors and Jonathan Kinnear KC on behalf of Post Office.
- 104 Lord Dyson's Evaluation was produced on 29 July 2022 which sets out the ranges of redress for various heads of loss for Postmasters with overturned convictions and the appropriate award for exemplary damages. The Evaluation was accepted by the parties which allowed for the Claimants' non-pecuniary losses to be settled in fairly short order; six out of the ten Claimants settled their claim with Post Office almost immediately.
- 105 The Evaluation unlocked the difficult issue of the appropriate monetary ranges for non-pecuniary damages including exemplary damages which enabled the bulk of Claimants to present their non-pecuniary claims to the OC Process. Consequently, between August 2022 and mid-2023, Claimants' representatives were focused on settling non-pecuniary claims with Post Office pursuant to the terms of the Evaluation.

106 The Evaluation presented Post Office with an opportunity to seek further funding from Government to raise the initial £100,000 interim payment to £163,000 as this, according to Lord Dyson, was the lowest sum a formerly convicted Claimant could expect to receive for their non-pecuniary damages. Post Office topped up all Claimants who had not settled their non-pecuniary claims by 1 December 2022 to £163,000. This resulted in 26 Claimants (who had returned their signed offer letters) receiving a further top up payment of £63,000 in or around December 2022. Two Claimants had not returned their signed offer letters therefore, upon receipt of the same in July 2023, those two Claimants were paid the top up payment of £63,000. There were five Claimants who presented their non-pecuniary claims in December 2022 however, their legal representatives confirmed they would not settle these claims until a preliminary issue was resolved. These Claimants did not agree that the monies they received from the 2019 GLO settlement ought to be deducted from the redress received in the OC Process. Post Office suggested to these Claimants that the issue could be moved to the pecuniary stage of the claims in order that the non-pecuniary claims could be settled, but this was not accepted.

107 A further Early Neutral Evaluation took place before Lord Dyson in December 2023 to resolve this issue and the Evaluation was published on 8 December 2023. Lord Dyson confirmed that the GLO monies would not fall to be deducted from the overall OC Process redress as they were collateral in nature, or in effect gifts from the non-convicted GLO population to the convicted GLO population. Lord Dyson did not agree that the GLO monies were paid to the convicted population by Post Office but rather the

GLO monies were paid by the non-convicted population notwithstanding that the ultimate source of the monies was Post Office. In cases where GLO monies had been deducted from the OC Process redress, it was refunded by Post Office pursuant to Lord Dyson's Evaluation.

108 If an offer for a non-pecuniary claim is not agreed by the Claimant, Post Office will offer to submit the case to Lord Dyson to carry out an independent review and opine on what a reasonable offer would be. Post Office has offered to refer three cases to Lord Dyson but none have accepted this offer so far (despite Post Office following up with the Claimants' legal representatives multiple times). These three Claimants have been paid Post Office's full non-pecuniary offer as an interim payment and Post Office await contact from the legal representatives to progress any outstanding claim amounts.

109 Post Office considers that the ENE has improved the fairness of the process by providing a consistent framework against which the claims can be assessed and claims have been settled as a result of it. The availability of the IAP, even though no formal recommendations have been made yet, has improved the efficiency and fairness of the process because of its independence: it is a mechanism by which Claimants can escalate disputes if necessary and Sir Gary has assisted with progressing claims.

Tax Obligations

- 110 Following the introduction by the Government of legislation¹⁰, the OC process is tax exempt for individuals who are resident in the United Kingdom. This includes income tax, inheritance tax and capital gains tax.
- 111 There are at least two Claimants in the OC Process who live outside of the jurisdiction. The tax exemption does not apply to these claims. Post Office is working with Government to find a way forward in these two claims. These exceptions will require a new governance process to be put in place which may cause a delay in finalising these claims and making the final settlement payment.

Bankrupt Claimants

- 112 For Post Office to process payments to bankrupt Claimants, it requires waivers from the Claimant's Trustee in Bankruptcy. These have been freely given in most cases by the Official Receiver. However, three of the ten Claimants' (who participated in the ENE) non-pecuniary settlements were delayed because of a dispute with their trustee in bankruptcy who refused to sign the required waiver.
- 113 Claimants can make a claim for any losses that they suffered as a result of being made bankrupt as part of their pecuniary and non-pecuniary claims (there is a head of loss to cover these claims).
- 114 Claims for redress under the Government's Horizon Conviction Redress Scheme ("**HCRS**") will be dealt with by DBT not Post Office. As such, Post

¹⁰ The Post Office Horizon and Infected Blood Interim Compensation Payment Schemes (Tax Exemption and Relief) Regulations 2023 which came into force on 16 March 2023

Office has been collaborative with lessons learnt (for example, sharing the pecuniary principles with government to inform HCRS principles).

ADMINISTRATION OF THE PROCESS

115 The OC Process is run and governed by Post Office, specifically, the RU, HMC, the RC and Government. I attend the following meetings which are intended to provide oversight, each of which has a defined purpose and important functional role in the governance and delivery of the OC Process:

- (a) I attend monthly monitoring meetings with DBT to formally oversee the OC Process, discuss performance and any outstanding matters, risks and issues.
- (b) I am requested to attend the Horizon Redress Programme Board meetings which are run by DBT which oversees all redress schemes across Post Office and DBT.
- (c) I chair the weekly Horizon Committee meetings. This is the governance forum which represents the RU and which oversees the OC Process.
- (d) There is a sub-committee of the HMC which I chair called the OC sub-committee. This sub-committee considers and approves interim payment applications and pecuniary and non-pecuniary claim offers in the OC Process cases and meets on a weekly basis.
- (e) I attend the monthly, previously fortnightly, RC meetings which are chaired by Brian Gaunt (previously chaired by Ben Tidswell). The RC is a sub-committee of Board and is responsible for considering

and making decisions/approving recommendations made by the HMC in respect of matters relating to the OC Process or making recommendations to the Board as required.

- (f) I regularly attend weekly SEG meetings. Once a month, I have a standard appointment at a SEG meeting to provide written and verbal updates and answer any questions.
- (g) I regularly attend Post Office Board meetings. For each meeting, I provide written and verbal updates.
- (h) I am regularly invited to attend the Post Office Risk and Compliance Committee and on occasion, the Audit, Risk and Compliance Committee.

116 To assist me with managing the delivery and governance of the OC Process, I have a team of seven individuals who report directly to me. However, not all of these are involved in the OC Process. In the main, I have one-to-one meetings with two colleagues from the RU team who manage the OC Process.

117 HSF is instructed by Post Office in the OC Process and all communications go via them. However, Post Office has responsibility for management and oversight of the OC Process.

118 Government is heavily involved in the OC Process including ratifying decisions made by the RC. The first 20 non-pecuniary claims following the Evaluation were reviewed and ratified by Government. Following this, exceptional case criteria were developed so that now the majority of non-

pecuniary claims do not need to be formally ratified by DBT before an offer can be made.

119 All processes and decisions are approved by DBT except those that have been formally delegated to Post Office, such as straightforward decisions in relation to interim payments, Government Offers and non-pecuniary claims that are not deemed exceptional. Decisions for delegated matters are made by the RC and ratified by DBT. Approval is not released until such ratification has been obtained.

120 There are no KPIs to measure the performance of the OC Process instead, turnaround times are monitored. The OC Process adheres to the GLO Scheme target: for non-pecuniary claims, Post Office endeavours to make an offer within 28 days from receipt of a sufficiently particularised claim and for pecuniary claims, in 90% of cases a first offer should be made within 40 working days from receipt of a sufficiently particularised claim.

121 The Inquiry specifically requested that Post Office sets out any oversight of the OC Process by the Horizon Compensation Advisory Board (“**HCAB**”). There is no direct oversight from the HCAB over Post Office in respect of the OC Process however, HCAB does advise DBT ministers in respect of their oversight of the OC Process and liaise with Sir Gary and will be kept informed via those channels.

ANALYSIS AND TRENDS

Processing times

122 The Inquiry has requested that Post Office provide data in relation to the operation of the Scheme as follows:

- (a) The average length of time between submitting an application and being considered for eligibility is not strictly subject to Post Office's determination. Eligibility¹¹ is determined by the Horizon related conviction being overturned by the Courts. The only exception to this was in relation to the public interest only claims (detailed in paragraph 35 above). However, following the HMG policy decision dated January 2024, this is no longer a consideration for eligibility (as detailed at paragraph 37 above).
- (b) The average length of time between submitting an interim payment application and payment of an interim payment is 34 working days, based on the 99 initial interim payments that have been made to 31 May 2024. This excludes the three former public interest claims where settlement payments were reattributed to Interim Payments following the HMG policy decision (as set out in paragraph 37 above).
- (c) The average length of time from receipt of Government Offer requests to redress payment is 20 working days, based on the 40 Government Offers accepted to 31 May 2024. This average includes both Post Office and third-party handling times such as (i) Post

¹¹ As per the term used in the Rule 9 request

Office/DBT Governance approvals and preparation of a settlement deed; and (ii) Claimant solicitor(s) review/acceptance.

- 123 Following the ENE, over 90% of non-pecuniary claims submitted were settled and paid within 44 working days of application submission.

Non-pecuniary claims

- 124 It takes an average of 50 working days to make a redress payment from the submission of a non-pecuniary claim based on the 59 non-pecuniary offers accepted to date. This average includes both Post Office and third-party handling times such as (i) Claimant solicitor responses to requests for further information; and (ii) Claimant representative confirmation of the Official Receiver's waiver (where previous bankruptcy applies).

- 125 The average payment time for the nine non-pecuniary claims subject to previous bankruptcy proceedings is 85 working days, compared to an average of 44 working days for the other 50 non-pecuniary settled claims. The average days are taken from receipt of a sufficiently particularised claim to the first offer made.

Pecuniary claims

- 126 Based on the four fully assessed claims settled to 31 May 2024, it takes an average of 305 working days from first submission of a pecuniary claim to redress payment. This timeframe includes both Post Office and third-party handling times, such as:

- (i) Post Office/DBT Governance approvals;

- (ii) Liaising with Trustee in Bankruptcy or Probate; and
- (iii) Claimant representative responses to requests for further information.

127 Since the start of 2024, following the completion of the Pecuniary Principles consultation with Claimant representatives, Post Office aims to make a first offer within 40 working days of a Full Claim (being claims which Post Office considers, with advice from its legal advisors, do not need any further evidence in order to assess every element of the claim) (as set out at paragraph 41 above).

128 Post Office acknowledges that in relation to pecuniary claims the OC Process was too slow and uncertain for too long. Claims were substantively delayed whilst principles were in the process of being finalised and concessions requested by Claimant representatives went through Post Office/DBT governance approvals. The turnaround time for new pecuniary claims has improved significantly in 2024 and Full Claims (which do not include novel heads of loss) are being processed in around 40 working days.

Trends relating to delays

129 The Inquiry has requested that Post Office set out any trends relating to delays in processing applications. These are set out below:

- (a) Initially, there were delays in receipt of non-pecuniary claims as it was very difficult for the parties to reach agreement on the level of

redress to be paid. However, these were significantly improved by the ENE in July 2022.

- (b) As set out above in paragraph 81, there have been delays in receiving fully particularised pecuniary claims. Some of these delays appear to have been resolved by Post Office proactively undertaking a review of certain heads of loss for which it already held information for the relevant Claimants and making offers in respect of those heads of loss only (whilst awaiting further information on the heads of loss for which no information was held by Post Office). These delays were also resolved by establishing the Pecuniary Principles in consultation with the Claimants' legal representatives and due to the assistance from Sir Gary in his oversight of the pecuniary process.

Referrals to the Independent Panel

- 130 The Inquiry has sought the numbers and proportion of cases referred to the IAP and any trends in the types of cases referred to the IAP. The Inquiry has also requested that Post Office address whether referral to the IAP has resulted in an improvement of offers to Claimants. As stated above at paragraph 96, no disputes on substantive claims or heads of loss (as opposed to ancillary costs matters) have been referred to the IAP for an independent assessment to date. Accordingly, the IAP has not assessed the level of any offers so we are not in a position to identify any trends in the types of cases referred.

131 Although not a part of the independent assessment process, a schedule showing the status of all live pecuniary claims was reported to Sir Gary previously on a monthly, and now a quarterly, basis. This provides Sir Gary with an oversight of offers made, what Post Office or the Claimant representatives are waiting for and any issues that are causing delays. Claims are then discussed between the legal representatives and Sir Gary in regular meetings he holds with them every few months or as issues arise. Post Office does not attend these meetings but can provide Sir Gary with updates on particularly complex cases ahead of these meetings so that he can relay this information and try to assist in progressing claims. These meetings help to keep individual Claimants informed about the progress of their claim. Any recommendations made by Sir Gary during these meetings are provided to Post Office for consideration and implementation. In some more complex cases, Sir Gary has helped Post Office prepare a timetable for progressing the claim.

Impact of Legal Advice

132 Due to only one Claimant not having legal representation, there is an insufficient pool to compare their experience against the represented claimants so as to provide any reliable analysis on the impact of legal advice on the claims, including in respect of time taken to process claims and the level of pay out. Furthermore, neither a non-pecuniary claim nor a fully particularised claim has been received from this individual therefore, there is no data to analyse.

Complaints

133 The Inquiry has requested that Post Office summarise the types of complaints (if any) received about the process. These include:

- (a) Complaints from legal representatives regarding difficulties with evidential standards which were created by Post Office's wrongdoing. The issue concerned the extent of requests for further information and challenges in obtaining historic evidence. In response, Post Office proposed a set of mutually agreed evidential standards be drafted in order to particularise a claim. However, this proved to be more challenging than anticipated due to a divergence of positions between the parties as to what losses should be considered "self-evident" against those requiring an evidential basis. Consequently, Post Office set out in the pecuniary principles that Claimants should undertake a search for documents to assist in the presentation of their claims. In the event this is not possible, there is provision for Claimants to submit witness evidence in place of documentary evidence.
- (b) Complaints from legal representatives relating to the disclosure of relevant documents. Due to the time which has passed since Post Office prosecutions were pursued, the content and volume of available Post Office records which could potentially support a redress claim, is extremely variable and ranges from a small number of documents to thousands. Sufficient evidence may be unavailable to evidence a submitted or potential claim, leading to complaints of obfuscation by Post Office. In the latter scenario, the time required

to review content, assess for materiality regards redress claims and, subsequently, redact non-disclosable information, is significant. Previously this has resulted in complaints about Disclosure extended timelines. To date, the team may not have been sufficiently resourced to manage this level of disclosure, but now there is a greater level of resource to manage disclosure.

CONCLUSIONS

134 Post Office considers that the OC Process is now running efficiently and that claims are resolved in a reasonable timeframe. However, it acknowledges that this was not the case from the outset of the OC Process and apologises accordingly.

135 Post Office considers that the ENE of July 2022 was critical in overcoming the difficulties resolving non-pecuniary claims and has greatly assisted with the efficient, consistent and fair settlements of those claims.

136 Post Office acknowledges that whilst Pecuniary Principles were too long in the making, their introduction has significantly improved the processing times of the pecuniary claims. Additionally, the principles have assisted with consistency and fairness of offers made. The fact no disputes regarding pecuniary claims have yet been referred to the IAP suggests this is the case.

137 Whilst the IAP has not had to deal with any substantive referrals as yet, Sir Gary's involvement appears to be improving the process generally in turn, improving efficiency. Post Office considers that the availability of an

independent mechanism for disputes to be resolved in both the IAP for pecuniary claims and use of ENE for non-pecuniary claims has improved the fairness of the OC Process.

138 Post Office considers that Claimants have been supported and encouraged to secure legal advice and adequate legal funding has been made available. In addition, Post Office has taken appropriate steps to engage with Postmasters that may be eligible to apply to the OC Process, as set out in detail above.

139 Overall, Post Office considers that the OC Process is now set up to deliver, and is delivering, full and fair redress.

Statement of Truth

I believe the content of this statement to be true.

Signed:



GRO

Dated: 4 September 2024

**Index of Exhibits to the seventh witness statement of Simon Recaldin on
behalf of Post Office Limited in response to Rule 9 Request 59**

Number	Inquiry URN	Document Description	Control/Production Number
1.	POL00448751	Workflow of OC Process	POL-BSFF-126-0000001
2.	POL00448914	DBT Funding Agreement July 2021	POL-BSFF-136-0000007
3.	POL00448915	DBT Funding Agreement December 2021	POL-BSFF-136-0000008
4.	POL00448908	Letter to all potentially affected Postmasters	POL-BSFF-136-0000001
5.	POL00448913	Letter to Claimant representative summarising the OC Process	POL-BSFF-136-0000006
6.	POL00448912	Application form for Interim Payment	POL-BSFF-136-0000005
7.	POL00448916	Overview of the claims process	POL-BSFF-136-0000009
8.	POL00448911	Template claim for non-pecuniary damages	POL-BSFF-136-0000004
9.	POL00448909	IAP Referral application form	POL-BSFF-136-0000002
10.	POL00448910	IAP's Terms of Reference	POL-BSFF-136-0000003