

Witness Name: Gareth Thomas

Statement No.: WITN11490200

Dated: 9th December 2024

POST OFFICE HORIZON IT INQUIRY

SECOND WITNESS STATEMENT OF GARETH THOMAS MP

I, Gareth Thomas, will say as follows.

INTRODUCTION

1. I am the Labour and Co-operative Member of Parliament for Harrow West and currently serve as Parliamentary Under-Secretary of State for Services, Small Business and Exports in the Department for Business and Trade.
2. On 24 September 2024 I provided the Post Office Horizon IT Inquiry (the "**Inquiry**") with a witness statement to assist with the matters set out in its Rule 9 request dated 23 July 2024 (**WITN11490100**). I subsequently gave oral evidence to the Inquiry on 8 November 2024, as part of the Phase 7 hearings.
3. During my oral evidence, I was asked certain questions by Counsel to the Inquiry (Sam Stevens) about matters relating to:
 - (i) "capping" awards at £50,000 where postmasters reject the £75,000 fixed sum offer (the "**Fixed Sum Offer**") in the Horizon Shortfall Scheme (the "**HSS**");

- (ii) funding not being provided to applicants in the HSS to obtain legal advice on the HSS Fixed Sum Offer; and
 - (iii) whether persons whose cautions are deleted pursuant section 5 of the Post Office (Horizon Offences) Act 2024 (the “**Act**”) can apply for compensation under the Horizon Convictions Redress Scheme (the “**HCRS**”).
4. As my memory of these issues was uncertain I offered to follow up on those questions in writing, and following the hearing was asked to await a further Rule 9 request before doing so.
5. On 28 November 2024, I received a Rule 9 request from the Inquiry (the “**Second Rule 9 Request**”), requesting a witness statement in relation to the above. I make this second witness statement to assist the Inquiry with the matters raised in that request. I have prepared it with the support of the Government Legal Department and counsel. I have depended on others putting documents before me to help me prepare this statement.

HSS FIXED SUM £50k POLICY

6. During my oral evidence, I was asked questions by Mr Stevens on the approval I gave to the introduction of the HSS Fixed Sum Awards on 25 July 2024, which included approving the policy of ‘*Capping awards at £50k where postmasters reject the Fixed Sum and are offered a lower amount, with no option to return to the Fixed Sum*’ (the “**£50k Policy**”): (Email from Secretary of State DBT to Minister Thomas and Harry Fallowfield re: Ministerial Submission - Horizon Shortfall Scheme - Fixed Sum Awards - Official Sensitive (**BEIS0000888**); Note from Harry Fallowfield to Minister Thomas and Secretary of State re: For Decision: Horizon Shortfall Scheme Fixed Sum Awards (**BEIS0001228**)).

7. Mr Stevens's questions and my responses are set out below (INQ00001204 8 November 2024, page 19 line 15 to page 20 line 9):

“Q. Now what were you told about b), capping awards at £50,000, where postmasters reject the fixed sum and are offered a lower amount?”

A. I might need to -- I apologise, Mr Stevens, I might need to write to the Inquiry about this because we certainly looked at the question of capping awards at 50k but, ultimately, if I'm remembering rightly, did not – did not bring that in

Q. I mean, let's just explore it slightly. What it seems on its face is, whether or not it was brought in, if a postmaster didn't accept the fixed award of 75,000, they went to an assessment, and the assessment was that the loss was £65,000, on b) it looks like their award would have been capped at 50,000. Is that your recollection of the policy proposal?”

A. As I say, I think I'd just want to check that and write to the Inquiry and write back to you.”

8. I have now had the opportunity to check and discuss the £50k Policy with relevant Departmental officials.

Purpose of the £50k Policy

9. The purpose of the £50k Policy has never been to limit awards to a maximum of £50,000 in circumstances where the Fixed Sum Offer was not accepted by an applicant. To refer to it as a “cap” was therefore incorrect. Rather, the proposal was for a £50k floor or “safety net”, meaning that if an applicant rejected the Fixed

Sum Offer, they would not be awarded a sum of less than £50,000 – even if their claim were to be fully assessed at a value less than £50,000.

10. I therefore agree with Jonathan Reynolds’s explanation that this was intended to be a “*security cap... a floor by which you will be aware if you’re going through that process that you don’t risk, for instance, getting a sum of redress which is considerably below the £75k.*” (INQ00001205 11 November 2024, page 17, line 19-22)
11. In the Second Rule 9 Request, I am asked “*What, if any, consideration was given by you or within the Department to implementing a £50,000.00 cap that operated in the following manner: if an applicant rejected a fixed sum offer of £75,000.00 and had compensation assessed at £65,000.00 under the HSS, the cap would operate so as to limit their award to £50,000.00?*”
12. To the best of my knowledge, no consideration was given to a “cap” of this type. I certainly did not consider such a proposal.
13. Though the submission of 22 July 2024 referred to a “cap”, the proposal - which the Secretary of State and I approved – was for a £50,000 floor. This is clear from paragraph 6 of the submission, which explained:

“If the £75k remains available to those who pursue the full claims process, there is a high risk that many more will choose this option leading to greater costs and delays. We therefore recommend that claimants who reject the £75k should not be able to return to it if, upon full assessment of their claim, they are awarded a lower amount. Instead, we recommend that the award is capped at £50k (or the value of the offer if it exceeds £50k), to ensure fairness and help provide Value for Money (VfM) for taxpayers.”

14. It is unfortunate that the language in the submission is imprecise, using the word “cap” when a “floor” is actually what was being proposed.
15. In the example given in the question in the Inquiry’s Second Rule 9 Request, the applicant would (had the £50k Policy been put into effect) have been awarded £65,000.
16. In the end, as I alluded to, we did not bring in the £50k Policy. I explain the reasons below.
17. On 11 September 2024, my Private Office received an email from a Senior Policy Advisor in the Department’s Post Office Compensation Team (**BEIS0001242**) which summarised and attached a ministerial advice/submission dated 11 September 2024: ‘FOR DECISION – HSS FIXED SUM INTERIM PAYMENTS’ (**BEIS0001240**) (“**the September Submission**”).
18. As set out in the September Submission and cover email, it was recommended that I urgently agree *‘not to offer £50k interim payments to HSS claimants who do not wish to accept the fixed sum award’* (**BEIS0001242**; **BEIS0001240**). Despite the reference to “£50k interim payments” rather than a “£50k cap” (or “£50k floor”), I understood this to be a reference to the £50k Policy which I had approved in July – and that in effect, I was being asked to reverse the decision to put in place the £50k Policy. Relevant Department officials have since confirmed to me that this was indeed the purpose of the September Submission.
19. The recommendation to reverse my approval of the £50k Policy was primarily based on officials’ understanding of the tax consequences of making £50k interim payments (coupled with the availability of hardship payments), which they discovered following my decision to put in place the £50k floor in July 2024. As

explained in the September Submission, although the Fixed Sum Awards and top-ups are exempt from tax, HMRC have advised that £50k interim payments would be taxable.

20. I accepted this advice and, on 16 September 2024, decided to reverse my decision to put in place the £50k Policy (**BEIS0001241**).
21. By this time in September 2024, the HSS policy area had been delegated to me by the Secretary of State. As such, the Secretary of State did not need to make a decision on the September Submission (**BEIS0001241**).
22. As at the date of this witness statement, there is no £50k Policy in place for those individuals who do not accept the Fixed Sum Offer in the HSS.
23. However, I have now asked officials to look again, carefully, at whether a protective £50,000 floor would necessarily create the taxation consequences referred to in the September Submission, and to provide further advice on the issue. I will update the Inquiry if I make any new decision to implement the £50k Policy.

HSS LEGAL FUNDING

24. The Inquiry asked why it was decided that funding should not be provided to applicants to the HSS to obtain legal advice on fixed offers of £75,000.
25. The fixed offer is significantly greater than the average offer of £52,000 made by the HSS panel. As the Secretary of State explained in oral evidence to the Inquiry (**INQ00001205** page 23), the decision about whether to accept the £75,000 will therefore be straightforward for most claimants. Rather than accepting the fixed offer, any claimant who is unsure can choose to have their claim fully assessed.

The Post Office will meet their reasonable legal costs in seeking legal advice to assist their consideration of the initial offer resulting from that assessment, and if necessary to challenge it.

26. The intervention was designed to deliver redress quickly for those with smaller claims, delivering more money for postmasters and involving less expenditure on operational and legal costs. It also accelerates redress for those with larger claims by shortening the queue of cases.

HCRS COMPENSATION FOR DELETED CAUTIONS

27. In the Second Rule 9 Request, the Inquiry has asked whether persons whose cautions are deleted pursuant to section 5 of the Post Office (Horizon Offences) Act 2024 (“**the 2024 Act**”): (a) have been able to apply for compensation under the HCRS since it was established; and (b) whether they can do now.
28. The HCRS is a scheme to provide redress for individuals whose Horizon convictions were overturned pursuant to the 2024 Act. Those who are eligible under the scheme have the option of accepting a £600,000 fixed sum award. This is intended as a broad measure of the seriousness of a criminal conviction for “relevant offences” under the 2024 Act.
29. The HCRS does not apply to individuals who did not have a Horizon conviction. Cautions are not convictions, and individuals who were cautioned but not convicted are not and have never been eligible for compensation under the HCRS.
30. The GLO and HSS schemes have been open since their inception to people with cautions, even where those cautions have remained on the record. Anyone

cautioned for a Horizon offence – whether or not that caution was deleted pursuant to the 2024 Act – remains entitled to apply under these schemes. The redress paid under these schemes takes account of the losses (including distress, inconvenience and reputational damage) caused by a caution. Both schemes also include the option of a £75,000 fixed sum award. I am informed that, to date, fifteen people in the HSS and GLO schemes have received offers of redress for cautions.

Statement of Truth

I believe the content of this statement to be true.

Signed:

GRO

Dated: 09/12/2024

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