



Nick Read – Chief Executive
 Post Office Limited
 Finsbury Dials
 20 Finsbury Street
 London EC2Y 9AQ
By email and recorded delivery

Our Ref: DE/POHITI

22 October 2021

Dear Mr Read

Holistic compensation and interim compensation for subpostmasters

As you will be aware, we act for 150 subpostmasters who are core participants in the Post Office Horizon IT Inquiry (**‘the Inquiry’**). We write to you directly as, according to the Inquiry Chair’s update, you have not retained solicitors. We write to ask for your confirmation that:

- (i) You have commenced work on an holistic reparations scheme for subpostmasters and other persons affected by the Horizon IT scandal;
- (ii) If you have not commenced that work, that Post Office Limited will start work immediately to establish a reparation scheme to adequately compensate subpostmasters; and
- (iii) Post Office Limited commits to providing a meaningful sum of interim compensation to all affected persons, within 28 days of application, in line with the scheme for interim payments for those criminally convicted, and who have had those convictions overturned.
- (iv) That any future holistic compensation scheme will not exclude claimants in *Bates and Others v Post Office Ltd*; and
- (v) That Post Office Limited (with the assistance of Government) will commit to returning to the Claimants in *Bates and Others v Post Office Ltd* the legal and funding costs they incurred in order to bring that claim.

On this last point, we remind you of your statement of 8 April 2021:

“...although the parties entered into a full and final settlement of the Group Litigation in good faith, it has only become apparent through various news reports since quite how

Tel:

Fax:

Email:



DX 315004 Brentford 5

1010 Great West Road, Brentford, TW8 9BA

This firm is authorised and regulated by the Solicitors Regulation Authority SRA No. 73646

Partners:

M.J. Howe BA (Hons)

K.P. O'Rourke LL.B (Hons)

D. Enright LL.B (Hons)

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much of the total appears to have been apportioned to the claimants' lawyers and funders. Should those reports be accurate, it is at least understandable that the claimants in those proceedings should continue to feel a sense of injustice, even in circumstances where they also agreed the settlement in good faith..."

We call on you to give force to that statement and to immediately take steps (from POL or Government funds) to return to the Claimants in Bates and Others v Post Office Ltd the legal and funding costs they incurred in order to bring that claim.

Background and POL actions in response to the Public Inquiry

Post Office Limited ('POL') caused our clients and other subpostmaster exceptional financial, reputational and personal health harms. The principle that POL is liable to compensate our clients and other subpostmasters is well established, as a result of the various schemes of compensation the POL has established or been forced to establish, as well as Ministerial statements, and from your own statements.

As you are aware, it remains the case that few if any subpostmasters have been properly or fairly compensated for the losses and harms suffered by them, inflicted by POL staff.

Our clients are confident that in his report(s), the Chair of the Inquiry, Sir Wyn Williams, will conclude:

- That, but for the efforts of our clients and other SPMs in taking the civil action against POL (Bates and others v Post Office Limited) exposed conduct that was '*appalling*' and led to the exposure of '*one of the biggest miscarriages of justice in our history*' [Hansard, Commons volume 693, column 372, 28 April 2021];
- that Post Office Limited is liable for the harms caused to subpostmasters;
- that those harms were avoidable or could have been significantly reduced by prompt and proper action by POL;
- that the conduct of POL in the course of this scandal exacerbated the losses and harms suffered by subpostmasters;
- that compensation and other schemes established by POL to date were wholly insufficient, and did not adequately compensate subpostmasters for the losses and harms suffered; and
- that the delay in addressing the disparity between harm and compensation has caused and continues to cause exceptional harm to the victims, and that that harm is continuing.

In the light of recent statements from you and from ministers, we assume that Post Office Limited has already commenced work on developing a national transparent and fair scheme to provide holistic and comprehensive compensation to subpostmasters and other affected persons. Please confirm whether this work has commenced, and, if so, provide us with the details of the individual(s) with oversight of that work so that we may engage with them on behalf of our clients.

If you have not commenced this work please confirm this by return. In circumstances where you have not yet commenced this obviously necessary work, we ask you to confirm that it will be commenced immediately. We await your proposals by return and the contact detail(s) of the individual(s) managing or overseeing this work.

Interim compensation – Horizon harm’s way payment

However, pending the implementation and creation of such a scheme, there is an urgent and pressing need for SPMs and other affected persons to receive interim compensation immediately to alleviate their current distressing circumstances. We call on you to immediately announce and implement a meaningful interim payment to SPMs and other affected persons.

The evidence demonstrates that the Horizon IT system was fundamentally flawed, and that it caused irreparable harm to thousands of subpostmasters, employed managers, and their families. Our clients, and other subpostmasters, have suffered exceptional financial losses, reputational harm and harm to their physical and mental health. Many live in reduced circumstances, many in exceptionally reduced circumstances, directly attributable to the deficiencies in Horizon and the conduct of Post Office Limited.

A large number of subpostmasters have been driven to the brink of insolvency. Many were, or are, insolvent. You will be aware that many subpostmasters died before their reputations could be vindicated, and before they could achieve restitution for the harms inflicted on them by Post Office Limited. By way of example, three subpostmasters were vindicated only posthumously in the Court of Appeal, as part of just one group of individuals who sought to have their convictions overturned (in *Hamilton & Ors*).

Unless Post Office Limited acts immediately, there can be no doubt that other subpostmasters will die during the course of this Inquiry, and before achieving the reputational vindication to which they are entitled, and before receiving the financial reparations which they deserve. It is also a fact that very many SMPs and other affect persons are currently living in greatly reduced and precarious circumstances as a result of POL’s actions and conduct.

You will also appreciated that very many other (if not all) subpostmasters, employed managers and other relevant persons experienced lesser, but still very serious consequences, as a result of the flawed Horizon system and POL’s actions in regard of it. This will include many affected persons using their funds on a regular basis to balance their account, where shortfalls arose as a result of the flawed system. They will have worked, for prolonged periods, under a cloud of concern, worry and fear that they might (like so many other SPMs of whom they would have been aware) be subject to audit, investigation, threats to their employment/contract, criminal action or civil suit. Those persons were also placed in harm’s way by POL’s flawed IT system; a flawed system they were required to operate. Causing SPMs to live under such a cloud of fear and threat was wrong and represents a serious harm that must be made good.

In the recently-established scheme for interim payments for those criminally convicted who have had their convictions overturned, you committed to providing a specific category of subpostmaster with compensation of up to £100,000 within 28 days of submitting a relatively short application form. We invite you therefore to immediately agree to establish an interim compensation scheme to provide meaningful initial compensation for subpostmasters, employed managers and others who were employed in the relevant period (as defined by the Inquiry, ‘*from the time of the first pilot of the Horizon IT System until 1st June 2021 (i.e. the date on which the Inquiry was established)*’).

Establishing such a scheme would not be novel or complex. There are multiple mediation and compensation schemes currently or recently in operation, related to the Windrush scandal, to child abuse in Northern Ireland, Scotland, and in the London Borough of Lambeth. All of those schemes are funded by government or government with contributions from other bodies who were responsible for harms suffered. Further, POL has currently and previously established a number of limited schemes including the mediation scheme, historic shortfall scheme and interim compensation scheme. As such, the process of developing a holistic mediation settlement scheme is not complex or unprecedented, and is a process POL has significant experience of. There is therefore no basis for Post Office Limited (along with government and other parties) to delay the creation and implementation of a similar scheme.

In respect of immediate aid for SPMs and other affected persons, a recent example is the Lambeth Children's Homes Redress Scheme, which includes harm's way payments (as well as full compensation) to eligible applicants who had been placed in 'harm's way'. Under that scheme the only criteria for a grant of (initial or harm's way) compensation is that an applicant:

- lived in fear of being abused, neglected or suffering cruelty while living in a Lambeth children's home
- experienced a negative impact on your childhood

By July 2021, 1,887 people have made applications to the Lambeth Scheme and more than £71.5 million has been paid out of the scheme. Applicants are also able to access independent, free and confidential counselling and specialist advice; as well as personal acknowledgements and apologies for harms suffered or being put in harm's way. The Lambeth "harm's way" scheme is not unique and is replicated in other current schemes.

The parallels between the victims in the Lambeth Scheme and the victims of the Post Office scandal are clear. Post Office Limited and BEIS implemented and imposed an IT system which was known to be, or should have been known to be, deeply flawed from its inception and implementation. As such, any SPM or other affected person who was required by POL to operate the Horizon IT System during the relevant period was exposed to risk, and placed in harm's way. Those harms obviously included the threat of prosecution, conviction, civil action, audit, investigation, allegation, intimidation, recoupage, reputational harm, etc.

In the circumstances, it is not open to the POL to maintain applicants for such interim compensation should have to evidence the actual harms suffered, unless for example they wish to seek fuller compensation, in which case naturally evidence would be required.

We therefore invite you to confirm that you will immediately commit to a scheme that includes a meaningful "harm's way" payment to SPMs and other affected person that will be payable within 28 days of application.

Such a step would go some way to ameliorating the pressing financial crisis that many SPMs are living under and to POL and Government beginning to make good on their statements of intention in relation to addressing the harms suffered by SPMs.

Post Office Horizon IT Inquiry

On our clients' instructions, we have and will continue to raise with the Inquiry the financial and other harms suffered by our clients, as a result of your IT system and your conduct in relation to its deficient operation. This will include the legal costs our clients had to incur in order to bring the civil action against POL, which exposed not only the flaws in the Horizon system, but also the use by and reliance on by POL of potentially perjured evidence in civil and criminal proceedings taken by POL against SPMs.

On instructions, we will be pressing the Inquiry for a full examination of the conduct, knowledge and actions taken by POL, BEIS (your owner), UKGI and your IT provider Fujitsu in relation to the development, implementation and operation of Horizon as well as the consequent actions taken by and roles played by POL and other parties in actions taken against our clients, other SPMs and other affected persons. Our clients have real concerns that this Inquiry may expose conduct, actions or lack of actions (at all levels in POL and other bodies/organisations) that may be even more serious than the matters referred to the Director of Public Prosecutions by Fraser J.

Our clients have also instructed us to press the Inquiry to fully examine and expose the paucity of response from Post Office Limited to the harms for which it is responsible.

You, Post Office Limited, and Rt Hon Paul Scully, Parliamentary Under Secretary of State (Minister for Small Business, Consumers and Labour Markets), all have at various times acknowledged the harms caused to subpostmasters. You and they have made statements as to your commitment to righting the wrongs inflicted on subpostmasters.

In your paper 'Check Against Delivery of 8 April 2021 – Post Office: Future, Past and Present', you stated:

*'Our first test is to resolve the past once and for all. **We must ensure that all Postmasters affected by this scandal are compensated and compensated quickly.** Whether Post Office's treatment of its postmasters in relation to Horizon amounts to a large-scale miscarriage of justice is for the Court to determine, but I am clear where I stand. Our organisation's historic handling of this matter fell short. I am in no doubt as to the human cost of this. I have heard it in the testimony of those during civil and criminal proceedings, and in the submissions to Sir Wyn's inquiry. We have to accept that it is the Post Office that caused what for some has been very deep pain. Absent the possibility of turning the clock back, compensation appropriate to that pain must follow. And we need to face this reality. Post Office cannot deliver the future our Postmasters and customers deserve until we have come to a comprehensive and swift resolution that recognises the scale of our shortcomings.'* [our emphasis]

Thus far, those statements and commitments have been largely hollow. Our clients call on you to turn those words into urgent actions. We call on you to give force to your statement above and, consistent with that statement and this letter, to 'compensate and compensate quickly subpostmasters affected by this scandal.

This must include, using your own words, ‘all’ subpostmasters affected by this scandal. It must include those involved in the group litigation who your previous schemes, for example your Historic Shortfall Scheme, explicitly excluded.

As a result of POL’s aggressive stance and actions in the group litigation, although the claimants were successful, they achieved only a fraction of the compensation to which they were due. In your statement of 8 April 2021, you further stated:

“Similarly, and although the parties entered into a full and final settlement of the Group Litigation in good faith, it has only become apparent through various news reports since quite how much of the total appears to have been apportioned to the claimants’ lawyers and funders. Should those reports be accurate, it is at least understandable that the claimants in those proceedings should continue to feel a sense of injustice, even in circumstances where they also agreed the settlement in good faith. What if, anything, can be done on these two issues is not for the Post Office to determine or even within its gift”

This is an explicit recognition of the continuing injustice which the claimants in the civil proceedings are suffering. You will recognise that, but for their efforts and commitment, little if any of what we now know would have been uncovered.

You state that something must be done, and we call on you to do it. You suggest that it is not in the POL’s gift. That is not correct. Whilst, as a party to the proceedings you are capable of varying or revisiting the settlement with the agreement of the other parties; it would be more efficient and appropriate for you to make an ex gratia payment.

It is for to decide you whether that funding comes from POL’s funds, or from government, as you have done in the interim payment scheme. Whatever methodology you choose, this step is long overdue and must be taken now.

Conclusion

You will be aware that the Prime Minister, Boris Johnson, has rightly described the treatment and conviction of subpostmasters as ‘appalling’ and ‘one of the biggest miscarriages of justice in our history’. It is. We therefore call on you to confirm immediately that:

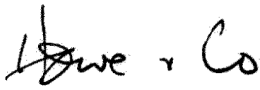
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- (iv) That any future holistic compensation scheme will not exclude claimants in Bates and Others v Post Office Ltd; and

- (v) That POL (with the assistance of Government) will commit to returning to the Claimants in Bates and Others v Post Office Ltd the legal and funding costs they incurred in order to bring that claim.

For the avoidance of doubt, this is an open letter and we will be raising it and the issues raised in this letter with the Chair of the Post Office Horizon IT Inquiry at the Preliminary Hearing on 8 November 2021 and throughout the life of the Inquiry.

We ask you to provide us with a substantive and positive response to this correspondence and these requests within 7 days. Please contact our David Enright by email at GRO.

Yours sincerely

A handwritten signature in black ink that reads "Howe + Co". The signature is written in a cursive, slightly stylized font.

David Enright JP

Howe + Co