

# Business, Energy and Industrial Strategy Committee

Oral evidence: Post Office and Horizon, HC 106

Tuesday 14 December 2021

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Members present: Darren Jones (Chair); Alan Brown; Ms Nusrat Ghani.

Questions 1 - 45

## Witnesses

I: Alan Bates, former Sub-postmaster and founder, Justice for Sub-postmasters Alliance; Dr Neil Hudgell, Executive Chairman, Hudgell Solicitors; Paul Harry, former Sub-postmaster; Jo Hamilton, former Sub-postmaster.



## Examination of witnesses

Witnesses: Alan Bates, Dr Neil Hudgell, Paul Harry and Jo Hamilton.

Q1 **Chair:** Welcome to this morning's session of the Business, Energy and Industrial Strategy Select Committee for the first of two interim hearings on the Post Office Horizon scandal. Before I introduce our witnesses this morning, I would like to update the House on the status of this inquiry. Our inquiry was launched some time ago but was suspended pending the outcome of the independent and then statutory inquiries. This is normal practice, because the work of Parliament is not supposed to interfere with legal due process.

However, we had letters from parliamentary colleagues and others highlighting problems with compensation and interim payments to victims of the Horizon scandal. Given that compensation was out of scope of the statutory inquiry, my Committee sought agreement from Sir Wyn Williams, the legal chair of the inquiry, to undertake today's session with victims and representatives of victims, and a second session in the new year with Ministers and senior leaders from the Post Office specifically on the question of compensation and interim payments. We then informed Ministers of our intention to do this work and that we would be summoning them to answer questions in January.

Last night, I was informed that Ministers had published a written ministerial statement, which has been made public today, committing the Government to providing the funds necessary to the Post Office to pay victims their compensation. We have seen that written ministerial statement this morning. It does not answer all the questions that we have about funds being made available to all of the victims to cover all of their losses from this scandal, and so, of course, we will continue to take evidence today and put those questions to Ministers in the new year.

I would just say to any victims of this scandal watching the hearing this morning that, having looked at the written ministerial statement, if you have concerns that you will not be covered by the intention from Government to fund compensation for your particular circumstances, please do write to me here at the House of Commons, so that we can raise those issues directly with Ministers.

That being said, we will start the session this morning. I am delighted to welcome physically in the room Jo Hamilton, former sub-postmaster, and Dr Neil Hudgell of Hudgell Solicitors, who represented a number of victims. On the screen, I have Paul Harry, who is a former sub-postmaster, and Alan Bates, also a former sub-postmaster and founder of the Justice for Sub-postmasters Alliance. Good morning to all of you.

My first question is to Jo and Paul. I would just like to ask if you could set out for the Committee, from your particular examples, the extent of your financial losses arising from this scandal, and whether you have had to use personal funds to pay for shortfalls in the system whilst you were working.



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**Jo Hamilton:** Yes, I did have to use personal funds. I had to remortgage the house. When I had discrepancies, they kept my wages twice. I would ring up and say how much the shortfall was, and they would say, "You have to pay it". There was no question that it might not be correct. They just kept my wages until it was paid off. Then the amounts grew and grew, and I remortgaged and put £9,000 in. I borrowed money from friends. My parents helped out. Ultimately, I ended up in Winchester Crown Court. I had to plead guilty to false accounting. I always pleaded not guilty to theft. Then they did a last-minute plea bargain, provided I repaid all the money and did not mention Horizon on my sentencing. I then had to remortgage the house, and the village had a whip-round for the rest of the money that I could not get.

Q2 **Chair:** How much was the total amount of that plea bargain that you had to pay to the Post Office?

**Jo Hamilton:** It was £36,600 and something, plus £1,000 costs I had to raise on the day.

Q3 **Chair:** You had to pay for their legal costs.

**Jo Hamilton:** Yes.

**Chair:** Paul, can I just come to you with the same question?

**Paul Harry:** Yes, it was a very similar situation. When shortfalls were arising going through to the Post Office, they would take what they felt fit over 12 months to repay it. I also increased my overdraft. My parents gave me quite a lot of money. Even my mother-in-law gave me quite a lot of money. It is a fairly similar situation.

Q4 **Chair:** It sounds like you have both suffered long-lasting consequences from those repayments. Have you received any compensation yet, Jo Hamilton, and has that covered your costs?

**Jo Hamilton:** Yes, I have had an interim payment, which has given me back the money that I have given them over the years, plus interest, so I consider myself to be quite lucky really. Unfortunately, the rest of the group have not got the same. They have lost every bit as much as me, apart from the fact that they did not get dragged through the courts. They deserve to have what I have had, at the very least.

Q5 **Chair:** What was your experience of getting that interim payment? Was it an easy process?

**Jo Hamilton:** It came fairly swiftly, yes. You have to have a good legal team though. Yes, it was sorted. I cannot tell you the difference it has made. Having spent years and years in debt, to have a credit balance in your bank is like you cannot imagine.

**Chair:** Paul, have you managed to get some interim payments?



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**Paul Harry:** Yes. I have received, in my situation, a small amount of just over £20,000, but my losses are in excess of £100,000, so I am nowhere near getting my money back.

Q6 **Chair:** Dr Hudgell, there are many victims in similar circumstances to Jo and Paul, are there not?

**Dr Hudgell:** There are many hundreds of victims of varying degrees. Jo says she is one of the lucky ones, but in a sense she is not. She is just getting back a token of what she has lost. We can focus on the tangible financial losses, but there are the intangible losses as well.

There are tragic stories of people who have lost liberties or lost their minds. There are all those sorts of intangible losses. Jo herself would tell a story about how her parents died in their 80s, before she was exonerated, in significant mountains of debt. It is not just the tangible loss of a job at the time and the financial hardship that came from that. It is the many years of financial suffering that flowed off the back of that. While it is fair to say that there are some token gestures of compensation, and there are some legal nuances where some people have been more fortunate than others, yet being in the same boat, who I am sure we will get on to this morning, there is a bigger picture of loss than is merely just about finance.

**Chair:** Over many years now.

**Dr Hudgell:** In some instances over 20 years.

Q7 **Chair:** Alan Bates, you represent a large group of sub-postmasters who are victims of this scandal. Presumably, it is a similar story for the many people you represent through your Justice for Sub-postmasters Alliance.

**Alan Bates:** The group consists of about 555. Over the years, when they were serving sub-postmasters, they paid in the order of £8.5 million back to Post Office from stated shortfalls. That is without anything else, such as the loss of their businesses and all the rest of it. Everyone is still suffering extremely badly from the financial difficulties that they have been left in by Post Office.

Q8 **Chair:** The money that was paid back to the Post Office was, as we now know, for shortfalls that did not exist, so that was, in essence, surplus funds to the Post Office, which it would not have been able to account for as providing goods and services. That is right, is it not?

**Alan Bates:** I have been involved in chasing this story for years and working with some people like Second Sight, when it did the mediation scheme. One of the big concerns it had, and which all of us had, was the suspense accounts. No one could ever get to the bottom of these suspense accounts or find out what was in them, what Post Office did with them or how they recorded them, but that money must have gone somewhere.

Q9 **Chair:** Dr Hudgell, when we look at compensation for victims—you



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alluded to this in your previous answer—in other areas of law, if you have suffered a loss of future financial earnings, physical or mental ill health, or hardship, that can normally be calculated as part of a compensation calculation.

**Dr Hudgell:** It can, and it will be here in certain instances. The people who were criminally convicted and have since been exonerated, and who have received interim payments, will now go on and have their claims fully quantified on the basis of the civil process, which is to try to put someone back in the position that they would have been in had the wrong not been done in the first place. That is an exercise that is ongoing for, so far, 79 in total, of whom we represent 59.

That is an ongoing process, but that is not a luxury that is open to the 555, because the 2019 litigation, as it stood, resolved their claims at that time in full and final settlement. Of course, they only received a fraction of their losses, so the process that has allowed the convicted people to push on is a luxury in the context of where the bulk of those people sit.

Q10 **Chair:** Of course, there were victims who paid so-called shortfalls but were not prosecuted or convicted. Unless they were able to bid into the historical shortfall scheme or get payments through there, they are, currently, potentially out of scope.

**Dr Hudgell:** Yes, correct. The historical shortfall scheme that opened for a window of about four months last year has about 2,500 applicants. The 555 were carved out of that process, so they do not have that redress.

Q11 **Alan Brown:** Could I start with a couple of questions to Alan Bates, please? Alan, we have heard that you have formed a group now consisting of 555 people. You were successful in litigation in receiving £55 million compensation from the Post Office as part of that group action, but can you break down what that means in terms of what the final compensation was to each of the people involved in that?

**Alan Bates:** To talk about compensation from the settlement agreement is wrong. That word does not appear once in the whole document. I will try to explain that. Of the £56.75 million quoted as being what the group received, approximately £46 million went towards the costs associated with bringing the legal action. After that £56.75 million had had the £46 removed, there was about £11 million left, which averaged about £20,000 per person. Unfortunately, each claim is closer to the order of £700,000 in actuality, in terms of what people have lost or to put them back in the position that they would have been in if Post Office had not done what it did in the first place.

If you have a minute or so, I would quite like to tell you about the settlement agreement, about which there has been a lot of nonsense spoken over the years. I would like to clarify a few points on that for you on behalf of the 555. First off, we simply had no other option but to accept it, because of the high financial commitment that we had incurred and because the funders supporting the action were unwilling to provide



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further financial support, which meant that ATE—or after the event—insurance would not have been available for us, if we had continued the legal action. Unfortunately, the group would have had to bear the risk of any loss, should we have failed with any of the further legal action.

Also, at that time it was being reported that the board of Post Office had instructed its lawyer to bury the case at any cost. Post Office, through the Government, had unlimited funds, which is something that we did not have.

The plus side of stopping at the point we did was that the claimants would at least receive something, albeit not a lot. There were so many in dire straits. They were losing houses left, right and centre. Had the funding not run out, there would have been another at least three trials. One was scheduled for March 2020 to address limitation. Another would have addressed the types of losses. There possibly would have been a third to sweep up on everything else afterwards.

There is a lot of nonsense spoken about the settlement agreement. Compensation is not strictly true, although Government like to talk about full and final settlement. It relates to only part of the payments for some of the issues at the first two trials. It is not what the victims are owed. That is still outstanding.

If I can just go on for another moment or two, both Post Office and the Government seemed, strangely, to ignore a key clause in that settlement agreement, where it states that both parties were acting in good faith. That is important, because it is now abundantly clear that Post Office was not. We were forced into agreement because Post Office's legal team were trying anything and everything to run us out of cash. Key documents relevant to the dispute were deliberately withheld from us, because, as we were to discover later, once the settlement agreement had been signed, Post Office had failed on numerous occasions to undertake its disclosure duties in providing evidence that it should have provided to both us and the court.

I have three brief examples of that, if I may. In 2011, the Ernst & Young audit reported that numerous Fujitsu personnel had free access to all of Horizon software to do, as is later confirmed by Post Office's own IT expert, pretty much anything through their third-party access to the software. That is something Post Office continued to deny up until the case was in court.

The second example is the BAE Systems Detica report in 2013, which, among many damning observations, identified that Post Office systems are not fit for purpose.

The more recent one, which you probably will have heard about, is the 2015 Clarke advice, which was revealed in the Court of Appeal earlier this year and pointed out the very serious concerns over the veracity of the Fujitsu evidence that had been used to prosecute sub-postmasters. You



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will know that this is something currently being investigated by the Metropolitan Police. The interesting thing about that one is that, when Post Office first received this particular advice from Mr Clarke in 2015, it seems that Post Office's board went into a mad panic, as it held six board meetings in a six-week period, when it normally held only eight or nine a year.

Because all this new evidence has been withheld from us, it does now seem that the settlement agreement may well be unsafe, as it was obtained under duress and through unfair conduct, which is why, today, we are announcing that we have an open contract available to any law firm that wants to pick up our case to have the settlement agreement set aside or overturned.

I hope that that has answered your question and possibly a few others as well.

**Q12 Alan Brown:** Thanks for that. It certainly opens up more questions. You are quite clear in your mind that Post Office did not act in good faith, and you used the phrase "damning". Since then, has there been any contrition from either the Post Office or even the Government in terms of a willingness to look at proper compensation? You said you received £20,000 per member, as it were, but claims could have been up to £700,000. You won the case but paid out £46 million of the compensation. Has anyone been willing to talk seriously about proper compensation and reimbursing these legal costs?

**Alan Bates:** No. There have been numerous requests made to Government and Post Office, and all they turn around and say, as I mentioned before, is, "Full and final settlement; that's it, mate". That is what they are doing. They are totally ignoring the distress that the 555 are still suffering. We are being punished for bringing the case in the first instance. It is like they want to send a message out to everyone. It is all well and good for the people who are getting their convictions overturned out of it. It is all well and good that all these other sub-postmasters who have come along later are going to receive something from the historical shortfall, but why should the 555, who dared to stand up to them and to expose the real truth in all of this, continue to be punished?

**Q13 Alan Brown:** In today's written ministerial statement, the Minister talks about how much work the Government are doing because they are providing the money to compensate those who are having their criminal convictions overturned. As you said, you want all of those who suffered an injustice to get proper compensation. How do you feel when the Government seem to be saying that they are doing a lot of work, yet there is still no recourse or avenue for your 555?

**Alan Bates:** We are frustrated and very angry. It is something that we will never let go of until we receive proper and fair financial redress. Why should we? People are still losing their houses and their businesses as we speak. The damage is still ongoing. They have to deal with this. They



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really have to deal with it once and for all, because Post Office will never, ever be able to move on until it has resolved it with us. We will never let go of this.

**Q14 Alan Brown:** Who should be taking the lead on this? Should it be the Post Office or the Government, or do you want to hear more clarity from each?

**Alan Bates:** We have the inquiry that is running along at the moment. That may well reveal further facts or come out with recommendations. We also have a complaint in with the Parliamentary Ombudsman about the Government's role in all of this. They have been trying to duck it for years, but they have been involved as much as anyone else right from the outset. Hopefully, some recommendations or findings will come out from the ombudsman's report that will assist us move this even further. If we have to go back to court, maybe that is where we are looking in the long term, but I do not know.

**Q15 Alan Brown:** You said you started the ball rolling in terms of exposing this and fighting to get justice. Your members have only got £20,000 each, and yet, in the cases that the Government are supporting in terms of people getting their criminal convictions overturned, they are getting interim payments of £100,000. I am sure that you support them getting money that they are entitled to. Can you see any logic as to why the Government stand by the full and final settlement for your group, yet they are happy to oversee interim payments of £100,000 that are clearly going to lead to more for those who are getting their conviction overturned?

**Alan Bates:** It is punishment. It is the way they operate. They have not been at all happy that we ever brought this up in the first instance. As I said before, they were determined to bury it at any cost. There is a lot to come out, and I think that there has been some sort of major cover-up that has been going on, which, hopefully, will be revealed over the years. Why the 555 should still be suffering is wrong. We have had a lot of support in Westminster and I am sure that we will get a lot more going forward with this. We cannot let it rest. We will never let it rest until people get proper financial redress in this.

**Q16 Alan Brown:** You made a pitch earlier on to legal firms. What other options do you have to claim additional compensation to fully cover your financial losses?

**Alan Bates:** We are looking to recommendations that might come out from the inquiry and also from the ombudsman. In the meantime, we will just keep chasing our politicians and asking them to keep raising it and bringing it to the attention of Government all the time, because the way we are being treated at the moment is wrong.

**Q17 Alan Brown:** Previously, there was a phrase that the Post Office acted as prosecutor, judge and jury in terms of how the cases were taken forward and pursued. It seems to me that the Government have been silent about



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the fact that, technically, to my understanding, the Post Office still has these prosecution powers. Is that your understanding? Are there risks that, somewhere down the line, the same type of prosecution of sub-postmasters could recur, if that was a route that the Post Office decided to go down?

**Alan Bates:** There is always the potential there. I do not know what has happened recently and whether they would pursue that course of action. I have not heard that they have changed. At one point, they were thinking of getting rid of those powers. The sooner they do get rid of them, the better, because most of these cases would never have gone to court—we are absolutely certain about that—if an outside agency had reviewed the cases first.

Q18 **Alan Brown:** Dr Hudgell, you have been reviewing whether the Government have done anything to restrain these prosecution powers of the Post Office. Even though, at the moment, there might not be a will to use them, is it the fact that there has been nothing to change the powers that they have?

**Dr Hudgell:** As I understand it, the legal framework now is that the Crown Prosecution Service sits in between, so you would not see this sort of scenario arise. It would certainly be folly for them to go back to any sort of system where they are judge, jury and executioner, as well as victim and beneficiary. There are lessons to be learned there, not just for Post Office but more widely.

If I can, I will just touch on and reiterate a couple of things that Alan said. He talked about the £57 million. I just did a bit of a calculation. Even if that is unravelling, it provides only a fraction of the losses for the bulk of the 555. The figure is much nearer to about £400 million. That is one point.

I chatted to Jo this morning, because she is one of the 50-odd within the 555 whose case was carved out of the settlement. In one of the provisions of the settlement, ironically, Post Office made it very specific that Jo and the other exonerees were not allowed a penny in compensation from the settlement, but the committee of the 555 assigned them a small portion of that. Carved out of the settlement was the right to pursue a malicious prosecution case. The irony is that the 555 were trailblazers who led the platform for the historical shortfall scheme. The convictions have been overturned. Through no fault of her own, Jo feels really rather guilty about being in what might be described as a luxurious position compared to the rest, in being able to pursue full and final and proper compensation.

The other practical difficulty will be that, in seeking redress through law, it will be a brave law firm that will take this on. As you know, the bulk of the original settlement went on funding fees, but that funder has to take the risk. Ultimately, had that litigation not been successful, there would have been a funder picking up a huge bill at the end of it. The dynamics



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of civil litigation do not lend themselves to racy, expensive litigation, particularly in circumstances where there would probably be an argument that there were legal teams on both sides and that settlements were reached at arm's length.

It is much more complicated here, because there are all sorts of allegations of impropriety and cover-up, but it is a very unimpressive landscape, where many people continue to suffer hardship, particularly bearing in mind that a lot of these people are elderly. They are coming to the end of their life. I have clients who are working well into their 70s to make ends meet, in rented accommodation, with significant debt, still dealing with the ravages of bankruptcy and the shame that attaches to that. Time will run out for a lot of people. Sadly, people will die while this still hangs over them, unless the Government come to the table and make proper compensation packages for everybody affected.

**Q19 Alan Brown:** You think that the 555 should be treated in the same vein as those who are getting their convictions overturned and whom the Government are looking at compensating as a consequence.

**Dr Hudgell:** The 555 includes some of those. As I say, Jo has been a strong advocate through the whole process, alongside Alan, Kay, Second Sight and everybody who has been involved in it. They stick together, but, sadly, some of the way that this has played out has caused division, resentment and bitterness within the cohort of the 555. Again, that is something that ought to rest at Post Office's door.

**Q20 Chair:** This is just ridiculous. If the Government really believe that there should be full and fair compensation, the 555 should not be excluded from that. It is plainly obvious that that is the case. I just want to ask a couple of follow-up questions on legal fees and how they relate to the compensation.

Jo, when all of this happened in the first place, were you able to get independent advice from lawyers, a trade union or anybody, or did you just feel that you had to start paying back these sums that the Post Office was asking of you?

**Jo Hamilton:** On the original 4,000 quid I had to pay back, they said, "Your contract says you have to pay it back". If you look at the words that I had not really read and understood properly, you are liable for it all. They said, "You have to pay it back", and so it was not until it got to an enormous amount that I rang the National Federation of SubPostmasters for help. They said, "You go and find yourself a good criminal lawyer and we will arrange an audit". That was the only help that I got out of the federation. Fortunately, one of my customers was a criminal lawyer and I went to her. Otherwise, I would literally have been picking a number out of a phone book to get help. I was fortunate to know someone in the first place. The whole thing is just a nightmare.

**Q21 Chair:** Otherwise, you could not challenge what you were being told.



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**Jo Hamilton:** No, and I always pleaded not guilty to theft, because I never stole anything. We did a prepared statement for my interview under caution. I could not explain where the money was and she said, "Well, I cannot let you answer questions". She said, "We will write you a prepared statement", which is what I did, and I did a no comment interview. I then went "not guilty" right the way to when the trial was about to begin, and they did a last-minute plea bargain.

Then she said, "They are going to get you for false accounting, so plead guilty, remortgage and pay all the money back, and we must not mention Horizon, as a condition of it". They held the theft charge over in case I did not come up with the money and they would have put me on trial for theft.

The investigator, who wrote—I have read the document—that there was no evidence of theft or deliberate cash-inflated figures, came to every court appearance, including my sentencing. He had written a document that said that he could not find any evidence of theft.

Q22 **Chair:** Remarkable. Paul, when all of this happened, right from the very beginning, did you incur any costs from having to seek initial legal advice or representation, or did you just pursue it as an individual?

**Paul Harry:** I just pursued it and took it on individually. I did not go to any legal firms. The problem I had then was that I had four post offices, so this was occurring as a nightmare on a weekly basis. I was just fortunate that I had other businesses that were helping me to sustain the shortfalls, so I had no need, really. Even if you asked Post Office Counters Ltd to send in an audit team, which I did in various situations, they would come in and audit it, but they could not find it but there was no explanation as to where it went.

I had 21 staff at the time and, in certain situations, it was them telling us, "Maybe you have staff pinching the money from you". Over the years, because it went to individual stock units, as we called it, and their stock unit was down, albeit I could not say that they had stolen the money, I had to make them redundant to see if I could alleviate that problem. It is not just the fact that the postmasters have been hit with this. Their staff have been hit with this over the years as well.

Q23 **Chair:** Alan, on legal fees, you mentioned that the Post Office was trying to "bury" these initial claims. Do you know how much the Post Office has spent on legal fees?

**Alan Bates:** I do not know exactly but it must be well over £100 million, easily. It is something that I have asked other MPs whether the Public Accounts Committee want to look at. It is not just that; they have also had battalions of lawyers looking at each of these individual cases. I have heard of firms where there are 60 or 70 lawyers working on it, full time, and reviewing cases. I would hate to think what size legal bills are being run up at the moment.



**Chair:** That is a very visual way of describing 60 to 70 lawyers on one side and then having to rely on friends or neighbours on the other side. Just to say, Alan, based on some of your previous answers to my colleague Alan Brown, this Committee will be looking at the corporate governance issues that you referenced. It is just that we cannot do that at the moment, while the statutory inquiry is taking place, but we will certainly be coming back to it when we are able.

Q24 **Ms Ghani:** Alan referenced earlier that they were trying to bury it at any cost. What is interesting is that not only do we have the inquiry taking place right now, but over at Westminster Hall there is a debate taking place as well, so burying it has not quite worked.

I have some questions, but I just want to go back to Ms Hamilton. It just seems that you were trapped in this nightmare and there was no way out. It sounds quite sinister in the way that people conducted themselves around you and how you had to not only find bits of money but try to prove something that you could not prove, because you had no responsibility. It must have been such a huge contrast with when Horizon was first delivered as a new way of doing all of this. I just wondered if you could very quickly reflect on a bit more of your personal experience. One way that people can deflect from responsibility is by going on about the process, but we must not forget that there are individual people involved.

**Jo Hamilton:** When it started going wrong, I used to sit up half the night and print stuff off. I would be literally sat in the office, staring at all this paperwork, but you did not have a paper trail. If you came in and paid for something with a debit card, you would get a copy, but as a merchant you would not. It would all be held in the computer. I am going back to 2003 and it was all a bit magic then. It all went on behind the screen and you did not know anything about it. To try to prove it, you could print off stuff that had happened, but I did not realise that I could not find out. I just used to look at figures and think, "Well, it has to be here somewhere. I must have done something wrong". You had no access to it. One time I phoned the helpdesk, I had a £2,000 discrepancy that they managed to turn into £4,000, and then they took the £4,000 off me.

**Ms Ghani:** Over a phone call, you were trying to get some help to resolve this. Every time you tried to reach out and get some transparency, it just feels as though it was getting worse.

**Jo Hamilton:** In the end, you stop phoning them. You phone for help but you do not get it or they make it worse, and so you stop phoning.

**Ms Ghani:** The madness is that, because of the numbers we are looking at, there were so many people.

**Jo Hamilton:** When we were interviewed, they told us all that it had never happened to anybody else.

Q25 **Ms Ghani:** This is quite important. Let me just reflect on this for a moment. You were categorically told, constantly and continuously—



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**Jo Hamilton:** “You are the only one”. If you shift back to 2003 and 2004, social media was not really around like it is now. All the village came to court to support me when I was sentenced, and I believe that it was only that that kept me out of prison. Because it hit the daily papers, people started phoning up. People had heard of someone else and, gradually, we all met each other. We had the first meeting in 2009. We literally sat round a room like this and told our stories. It was like we were all telling the same story. We had all been told we were the only ones.

Q26 **Ms Ghani:** Ms Hamilton, I just want to drill down. When were you told you were the only one? Can you remember the last time this was said to you—what year, maybe?

**Jo Hamilton:** I remember the first time it was said was in 2006, when they came round to my house to look for money.

**Ms Ghani:** Who are “they”?

**Jo Hamilton:** The Post Office investigation team.

**Ms Ghani:** The Post Office investigation team, in 2006, made it abundantly clear that you were unique.

**Jo Hamilton:** Yes.

**Ms Ghani:** When was the last time they said this to you?

**Jo Hamilton:** It was not much after that—probably at my interview under caution. That was in 2006 as well. I then got sacked straight away.

**Ms Ghani:** In 2006, you were told categorically you were unique and you were the only one.

**Jo Hamilton:** Yes.

**Ms Ghani:** That, in itself, is—

**Jo Hamilton:** A lie—a complete lie. Subsequently, when we got together in the groups, we found the same investigators were telling all of us that we were the only ones. Only a couple of months later, they were telling someone else they were the only one.

Q27 **Ms Ghani:** Investigator A, for example, came to you in 2006 and said you were the only one, and then you were speaking to other people who were victims and they said that Investigator A was saying the same to them.

**Jo Hamilton:** Yes.

Q28 **Ms Ghani:** That cannot be correct, because they were speaking to more than one person who was a victim. We just need to make sure that that is noted. Thank you so much, Ms Hamilton.

I have a series of questions, which I am going to zip through quite quickly because I know that time is an issue. I am going to come to you



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first, Dr Hudgell. You represent 59 former sub-postmasters who have had their Horizon IT prosecutions overturned and are seeking compensation. I have about four questions to get some data from you. How many of your 59 clients have received interim compensation and how much have they received? Is there a way that you could give us a bandwidth of that?

**Dr Hudgell:** To date, 42 have been paid. Six are awaiting payment. Six have slight complications involving the official receiver, which we are working through and should be resolved in short term. Three have been refused.

**Ms Ghani:** Refused?

**Dr Hudgell:** Yes.

**Ms Ghani:** I will explore that later.

**Dr Hudgell:** On two, we are waiting on paperwork from the clients. That should get to 59.

Q29 **Ms Ghani:** Of the 42, what was the average sum?

**Dr Hudgell:** They were all £100,000.

Q30 **Ms Ghani:** For what reason were the three refused?

**Dr Hudgell:** We feel quite strongly about those. Again, you can start to get into the legal nuances, but they were based on false confession evidence. Post Office has said that, essentially, Horizon and the operation of the IT system was not intrinsic to the prosecution. As I say, we feel strongly about that and are mounting a claim to present to them. If it is not appropriately responded to, we will issue proceedings.

False confessions were quite a strong part of the story. You heard from Jo. There was certainly a prosecution strategy that involved saying, "Don't blame Horizon" and, as part of that, "Make up a story as to what you have done with money that you have supposedly taken". In these cases, they made up stories. When you scratch beneath the surface, first, there was not enough money to have gone missing from the Post Office for them to have taken it. Secondly, there was no examination of the story that sat behind that. When people said that they had to remortgage to pay gambling debts, family loans or whatever, no one made any effort to see what sat behind that. They were quite fanciful explanations that were offered.

Q31 **Ms Ghani:** If you have been told that the system is functioning and that it must be human error, it must have been a difficult place to be in that room. Also, if you are told that you are the only person it has happened to, you can sort of explain how people have come up with responses to try to make sense of something that does not make sense, unless the only response is that they are, in some way, complicit.

**Dr Hudgell:** It is an impossible situation. Of course, there is an inequality of arms, which continues to this day. I have always compared



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it to a jigsaw. If there is an 800-piece jigsaw, which is just above the number of convictions that there have been, each person has one piece but the Post Office has all 800, so there is only one party that can see the picture. That was Post Office, but at the time computer evidence was taken as being reliable unless someone could prove it to be the opposite.

Let us not forget that these are ordinary, decent folk who sit in small communities and just about make a living. They cannot afford to spend £2,000 or £3,000 on a computer expert report. They cannot afford legal fees to do it. Presented with that picture and the opportunity to potentially avoid prison if they pleaded guilty to a lesser offence—"And please don't blame Horizon"—lots of people were in that situation. That inequality of arms continues to this day, really, with the whole mistrust around lawyers. Even now, probably only one third of those convicted have popped their head above the parapet and sought advice.

**Q32 Ms Ghani:** We will come to that in my second round. When will those who have received interim compensation ever have their cases settled in full?

**Dr Hudgell:** It is an ongoing process. We have some practical issues at the minute. What I will say, in complete fairness to Post Office, is that it has dealt with the interim payment applications expeditiously. As soon as the money was made available, payments have been made within a period of a few weeks, other than for the cases that involve the official receiver.

Where we struggle at the minute is in establishing documentary support for various heads of claim, because we are talking, in some instances, 20 years on. HMRC records last only a certain period of time, and the same for DWP. We find ourselves in a position where the burden of proof is on the claimant to establish loss and, because of Post Office's actions, paperwork is very often not there and is unavailable.

Now we seem to have funding signed off today, it will soon become very apparent how Post Office intends to forward offers in compensation. They have the first cases before them, fully pleaded by us, so we will see how they respond in the next few weeks. What we do not want to see is Post Office putting up the blockers and saying, "You cannot prove this loss". In some instances, we are short of documentation because of Post Office.

**Q33 Ms Ghani:** Some of your clients will be facing a number of obstacles in trying to get compensation. If there were three things that could maybe be addressed to make the process a little easier, do you want to share those with us now?

**Dr Hudgell:** Establishing the burden of proof in circumstances where documentation is missing is a really significant one. Coming back to this point around the ageing demographic of a lot of the sub-postmasters, we need to resolve these things speedily. The other thing is about awareness. There is a real lack of awareness, which, again, might be



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reflective of the demographic. A lot of elderly people will not use social media.

What does and does not surprise me is that, from time to time, we still get new inquiries from people who were convicted a long time ago. Equally, there is a bit of a fear of taking on Post Office again, because, anecdotally, I have heard that Post Office has written to all the people who were convicted, some of whom have written back and said, "Listen, I just do not want to know about this". That is incredibly sad because, at the minute, they have a huge stain on their character that needs washing away.

Q34 **Ms Ghani:** The damage has been done, and the issue is the ageing demographic, as well as the shame or the anxiety about starting a process that they cannot control again, because it was so damaging the first time round.

Alan, I am going to quickly come to you. The Post Office wrote to 736 convicted sub-postmasters earlier this year. Is that correct?

**Alan Bates:** Neil might know better than I do on that.

Q35 **Ms Ghani:** I will stay with Neil. A considerable amount of them have not come forward. You have also spoken about the reason why. I am still struggling to understand why the discrepancy is so huge. We were talking earlier on. Writing is one thing. Have they made enough of an effort? Why is there that discrepancy and how do we try to narrow it?

**Dr Hudgell:** It is hard to say. I know from my own experience that people become incredibly paranoid, cynical and fearful. I have rafts of clients who have psychiatric medical evidence that says that they have had a variety of disorders, from which many of them are still continuing to suffer, even with the benefit of medication, counselling and all those things. You can imagine that, for people left to swim alone for many years, it becomes a vicious circle. There are a number of people who would fit that category. To demystify it and for people like Jo and others to say it is a process that, at the end of it, will hopefully give them some measure of comfort, it is just a reiteration of that message.

Sadly, some will have died. I know stories of people who left the country. If we have to be completely balanced and fair about it, there will be one or two people out there whose convictions are entirely safe, so we need to have a little bit of a measure of total balance.

Q36 **Ms Ghani:** Only 72 people have had their cases overturned. Does that also put people off coming forward?

**Dr Hudgell:** It is a process. The first raft went through the CCRC. There is another raft who sit there. We probably have 90 to 100 who sit somewhere within the process. Some of those will fall away and some will turn into an acquittal. Legal process is not quick. It follows a process and



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a pattern that starts with review of disclosure that Post Office has given in individual cases.

**Q37 Ms Ghani:** If there are 736 convicted sub-postmasters, and the Post Office has corresponded with them, is that data being shared so that people can work out if they got one letter or three letters? What level of interaction has taken place? My anxiety is that we are never going to get that figure down unless someone is held responsible. Ensuring that intervention and getting them involved is quite sensible and quite deep. Are you aware of how the Post Office interacts with them and what kind of response they get back?

**Dr Hudgell:** Only anecdotally from speaking to Post Office.

**Ms Ghani:** But there is no sharing. There is an issue there that maybe we need to draw out with the appropriate Minister, because it does not mean anything until we know exactly what they have done and what the response has been. They should know exactly how many have said “no, thank you”, how many have said “maybe”, and how many have not got back; otherwise we are just going to have this figure for a while here.

**Dr Hudgell:** I guess there will be a number who are “not at this address” or are difficult to trace.

**Ms Ghani:** It does not take that long to pursue and work it out, if they wanted to.

**Dr Hudgell:** No, but we have no insight into that, apart from what I am told. Anecdotally, I am told that some people simply do not want to know, having been approached by Post Office.

**Q38 Ms Ghani:** One would hope that that data is being kept and logged. If the Chair allows, we can always ask to have sight of that or of how they are managing it. As my final question, we are hearing that convicted sub-postmasters need more advice and support in overturning their convictions and seeking compensation. How do we go about providing this?

**Dr Hudgell:** How do we as lawyers?

**Q39 Ms Ghani:** Everybody. What message do you want to get out today?

**Dr Hudgell:** There is an able support network. Alan does sterling work through the group, as do the likes of Jo. There are plenty of people to reach out to. We think we are okay and approachable, and we know the ropes. There are plenty of able lawyers out there whom we collaborate with, because it is such a hideous scenario, but we feel very privileged to look after what are just a cohort of badly wronged, normal working-class folk like us. It brings with it some privilege on our side as well.

**Q40 Ms Ghani:** They just need to reach out to you, do they not?

**Dr Hudgell:** They do.



**Ms Ghani:** Thank you to Jo and Paul in particular for coming and giving their evidence.

Q41 **Chair:** It sounds to me like the Government might want to think about an independent body or organisation to reach out to victims, if people do now want to hear from the Post Office because of their experience. Jo, do you think it would help people if it came from someone other than the Post Office offering to provide compensation?

**Jo Hamilton:** Yes, or the JFSA. They could not be more supportive if you reach out to them. We are all human. We have all been through it and we know the process.

**Chair:** I can understand that, if you have gone through the experiences you have set out for us today and you then receive a letter from the Post Office, you just run a million miles away from it.

**Jo Hamilton:** I know two people who have run a million miles from it. They have had letters from the Post Office and will not have anything to do with it.

Q42 **Chair:** That is something that we will take forward, so thank you for that. Dr Hudgell, criminal law and evidence relating to computer decisions is something that Ministers were looking at. I led a Westminster Hall debate before the summer recess, because the law is, as you will know, significantly out of date, which led to lots of these issues. Your evidence has reminded me to chase Ministers on that, so I will do that as well.

I have a final few questions on the historical shortfall scheme. We have talked today primarily about victims whose convictions have been quashed and the 555, but I just want to take a bit more evidence on this broader group of people, not least because it seems that the Post Office did not account for the individual so-called shortfall repayments from individuals, so that it can go back and track who deserves compensation. Neil, you said that the scheme was open only for four months.

**Dr Hudgell:** My knowledge of the scheme is not extensive. We had quite a lot of inquiries and we directed clients to complete their own application. Once they were processed, we were then quite happy to review them. We have in the order of just under 200 inquiries, but I am not sure how many of those translated to applications. Of those, I have knowledge of three offers that have materialised in the scheme. My understanding is that there were about 2,500 applications, of which about 500 were determined by the middle of this year. There has been no recent update on that.

My first concern regarding the scheme was that it, in effect, acted as a funnel. As soon as you made an application to the scheme, you were, in effect, trapped in it. If you did not like the first decision, you could appeal or review it—I cannot remember the terminology—and beyond that there was an arbitration process. The obvious concern about that was the time that it would take to resolve those claims. As I understand it, the last public statement said that about 20% of the claims had been resolved.



Again, the ones that I have seen tend to be those that appear to be at the lower end of the scale. In my thinking, it might be an appropriate time to get some sort of update from Post Office as to where it is on the overall numbers.

My other, quite limited knowledge of the scheme, from seeing the offers that I have, is that it brings with it this issue around proof. One of the offers that I have is one based on what Post Office has as limited records and that sits below what the sub-postmaster recalls as the level of shortfall, but he has no documentation to support that. While we will invoke a review process, at the moment it is premature to say what the outcome of that will be and what stance Post Office will take on it.

**Q43 Chair:** Just on that issue of evidence, if you have had to shut your post office down and if all of the information was in the IT system that was the core of this problem, how on earth would you provide evidence to get compensation? Did you keep certain documents in hard copy or somewhere else?

**Paul Harry:** No. It is very difficult. As I said, I was running four post offices, and it is coming up to 25 years now. You do not keep this type of evidence. One week, you could be putting £100 into one and, the following week, it could be £500. I just realised that you had to put it in because it was the Post Office. You had no choice. I never thought that Horizon was pinching off me, and nor did anyone else. It was just the fact that you had to keep on going. As far as taking records is concerned, you did not look at it that way then. You just did not know what was going on, really.

**Q44 Chair:** Jo, I assume you would agree. You would not write down individual discrepancies if you thought that they were genuine, and I assume you just had to pay them.

**Jo Hamilton:** Yes. I have a printout of the one where it doubled when I rang the helpdesk. I have a copy of that and, within three minutes, minus two turned into minus four. I have a copy of that, but that is it, really. A lot of the time, you had no idea. It would come up and say you should have that much in the till, but you would look and think, "Well, I haven't", and there is absolutely no way of finding out. If you rang the helpdesk, it usually made things worse.

**Chair:** It just seems like a fundamental flaw to me. The scheme cannot work.

**Jo Hamilton:** There is no double entry at all. You had nothing. I did in the paper days, when you had cheques and everything else, and I never had a minute's bother. The moment it went electronic, when chip and PIN came in, it was just a nightmare. You could not balance anything, because you had nothing to compare it to.

**Q45 Chair:** How do you appeal this thing, Neil? If the evidence does not exist and you have victims who genuinely believe they have suffered losses



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here, but the requirement is to present evidence, how do you take that forward?

**Dr Hudgell:** It remains to be seen because the ball sits with Post Office, essentially, either as part and parcel of the funding stream that is now being released, to see how it responds to the cases that we have put forward, or within the review process of the historical shortfall scheme. Post Office has a fine balancing exercise between the use of money from the public purse, which has to be justified, and, by the same token, acknowledging that these are people who have not kept documents for the last 20 years, in the same way that HMRC or Post Office have not. There are new disclosure shortcomings that have just recently been revealed in relation to some Post Office records, so there is a raft of missing documentation across the piece and we do not see why sub-postmasters should be penalised as a result.

**Chair:** Thank you to all of you. That has been very helpful to set the scene for these two interim hearings. It is plainly obvious why this is referred to as not just a scandal but, quite frankly, the largest miscarriage of justice, by the sounds of it, with life-changing consequences for so many of you. For Ministers to publish a written ministerial statement two hours before a session like this, leaking it to the press the day before and not providing sufficient detail or giving a statement to the House, is, quite frankly, wholly unacceptable.

**Jo Hamilton:** It is terrible.

**Chair:** It is terrible; I agree. So we will be calling Ministers and the Post Office in the new year to ask many of the questions that we have talked about today and to try to provide as many answers as possible. As I said, on the broader issues, we have to revisit those once Sir Wyn Williams's inquiry is concluded, but we can take these issues on compensation forward and will do so in the new year. Thank you, Jo Hamilton, Neil Hudgell, Paul Harry and Alan Bates for your evidence. I will call the session to an end.