



INSIGHT

Lessons learned:

Government compensation schemes

Cross-government

Introduction

1 People are sometimes harmed by the actions or inaction of public bodies, and successive governments have recognised that in some circumstances where this happens those people are entitled to be compensated. This compensation should be swift, appropriate, and fair to those affected – both directly and indirectly – and to the taxpayer. In his 2022 compensation framework for victims of the infected blood scandal, Sir Robert Francis QC stated:

“Referring to dictionary definitions, it is clear that compensation is not a term limited to an award of money, that it involves a process of determining what should be awarded, and recognises that a person has suffered an injury or loss for which compensation is intended to redress. While liability in the sense of a legal wrong may be involved, fault, negligence or an unlawful act are not necessary preconditions for compensation. However, compensation is a recognition of adversity which should not have happened.”¹

2 This report provides insights based on many years of our reporting on such schemes and the testimonies of those currently engaged in the design and delivery of schemes. It is intended to draw out good practice and risks to assist officials charged with developing similar schemes in the future. For the purposes of this report, we use the term “compensation scheme” to cover schemes where payment (or non-financial redress) is made as a result of a liability established in the courts, where there is no admission of fault by the government, and where there is no government legal liability.²

3 HM Treasury states that “essentially, designing a compensation scheme is no different from designing other services. Good management, efficiency, effectiveness, and value for money are key goals”.³ However, the delivery of such schemes is historically a difficult area for government. Stakeholders may want them to deliver justice, not just redress, for those who have suffered harm or loss. Potential claimants may be suffering emotional trauma because of the cause of the claim, and the process of claiming can cause the original trauma to resurface. Assessing the eligibility and calculation of claims can be very complex and may depend on evidence for events that happened decades earlier. Bodies involved in administering schemes must balance the desire to pay the maximum number of eligible claimants as quickly as possible with a duty to protect taxpayers’ money.⁴ It is not surprising, therefore, that such schemes have regularly encountered problems in the past, as evidenced in our previous work and reports by others.⁵

¹ Sir Robert Francis QC, *Compensation and Redress for the Victims of Infected Blood: Recommendations for a Framework*, 7 June 2022.

² Some schemes where payments are made without the establishment of legal liability do not refer to themselves as ‘compensation schemes’.

³ HM Treasury, *Managing Public Money*, May 2023.

⁴ Or, in the case of some financial services schemes, the interests of firms who fund the schemes through levies.

⁵ See for example: National Audit Office, *Briefing: Administration of time-limited compensation schemes*, 2008; All-Party Parliamentary Group on Fair Business Banking, *Building a Framework for Compensation and Redress*, February 2023; Sir Robert Francis QC, *Compensation and Redress for the Victims of Infected Blood – Recommendations for a Framework*, June 2022.

Why have we produced this report now?

4 In January 2024, the Chair of the Committee of Public Accounts (PAC) asked the Comptroller and Auditor General (C&AG) to consider a thematic review of government compensation schemes for citizens who have suffered harm, hardship and distress from failures by public bodies. The C&AG agreed that this would be a timely moment to update messages from our previous work on compensation schemes over a period of more than 20 years.

5 In her letter, the PAC Chair drew attention to several schemes currently in the public eye: the Windrush Compensation Scheme; compensation and restorative measures for LGBT veterans of the UK armed forces; the proposed Infected Blood Compensation Scheme; and compensation for subpostmasters affected by the Horizon IT scandal.⁶ We have expanded our review to include the findings from a range of our reports on schemes of all kinds between 2002 and 2022 and have consulted with those involved in administering a range of schemes. Our methodological approach, including scheme administrators and other stakeholders consulted, is set out in Appendix One. More details on the schemes we reviewed for this report are set out in Figure 4, Appendix Two.

Scope of this work

6 The intention of this report is to draw on the lessons learned from experience by those involved in the design and operation of various schemes over the years. The report details the lessons drawn from the various schemes with supporting examples from across government to illustrate the challenges faced and how they have been addressed. It is in three parts:

- overview of compensation schemes (Part One)
- scheme design and planning (Part Two)
- operational challenges (Part Three)

7 Our starting point was the National Audit Office (NAO) 2008 report on the administration of time-limited compensation schemes.⁷ During the fieldwork for this study, those we spoke to confirmed the continued relevance of these themes and raised additional issues which are important issues for current schemes. We have also drawn on wider NAO good practice guidance. Despite the common structure of many schemes, each will reflect the particular circumstances of its creation, so these lessons should not be regarded as exhaustive.

⁶ There are four main compensation schemes for subpostmasters affected by the Horizon IT scandal. These are: the Horizon Shortfall Scheme (HSS), the Group Litigation Order (GLO) Scheme, the Overturned Convictions scheme, and the Horizon Convictions Redress Scheme. We spoke to the Department for Business and Trade and other stakeholders primarily about the GLO Scheme and the Horizon Convictions Redress Scheme, as these schemes are run by the government rather than the Post Office.

⁷ National Audit Office, *Briefing: Administration of time-limited compensation schemes*, 2008.

8 We have not sought to individually evaluate any of the schemes mentioned in this report, although in some cases we have drawn on our previous reports which did evaluate some of the schemes covered.

9 Throughout the report we differentiate between time-limited schemes and open-ended schemes (designed to address harms which may occur at any time after a specified earliest date of eligibility). We refer to these open-ended schemes in the report as ‘standing schemes’.

10 In the other parts of this report, we have drawn out a series of lessons for those designing and operating compensation schemes. We have summarised these lessons in **Figure 1**.

Figure 1

Summary of lessons identified in our review of compensation schemes

We have identified 21 lessons for the government on the design and planning of compensation schemes and operational challenges in delivering schemes

Themes	Lessons
Overview of compensation schemes	
Principles of scheme design	<p>Officials should learn and apply lessons from good practice and previous schemes, including by consulting guidance from HM Treasury and the Parliamentary and Health Service Ombudsman.</p> <p>Public bodies would benefit from a central hub within government that could provide guidance, expertise or a framework for those in government seeking to set up a compensation scheme.</p>
Scheme design and planning	
Understanding stakeholder perspectives and building trust	<p>It is important to make clear to stakeholders the purpose and scope of the scheme when the scheme is established, including what it is unable or not intended to do.</p> <p>Scheme designers should consider the full range of potential awards in line with the intent of ministers and Parliament.</p> <p>Involving stakeholders in the design of schemes can help to achieve buy-in and improve the quality of the scheme.</p> <p>It is important for the scheme’s credibility with claimants that both its design and operation can be seen to be independent from those judged to have caused the harm.</p>
Trade-offs between speed of payment and other factors	<p>There is a balance to strike between paying claimants as quickly as possible and the requirement to protect the public purse – the optimum point will vary by type of scheme and the circumstances of claimants.</p> <p>Scheme designers should be clear where ministers and Parliament stand on the extent to which speed of payment is balanced against other factors.</p>
Considerations around types of payments	<p>Interim payments can play an important role in supporting and reassuring scheme claimants.</p> <p>Scheme designers should be clear in advance to what extent, if any, the government or Parliament would desire scheme payments to be exempt from usual tax or benefit obligations.</p>

Figure 1 *continued*

Summary of lessons identified in our review of compensation schemes

Themes	Lessons
Operational challenges	
Key estimates and assumptions	It may not be possible to precisely estimate the total number of those eligible for a scheme, and it will be helpful to make the level of uncertainty clear to decision-makers and stakeholders.
	Officials should avoid over-optimism in their assumptions about the duration of a scheme and the pace of claims processing.
	Officials should plan for the possibility that they may need to make additional efforts to persuade claimants to come forward.
Claims processing and administration	Claims processing capacity will need the flexibility to cope with changing circumstances.
	Schemes will wish to put in place robust systems for gathering evidence from third parties where necessary.
	It is important that scheme designers and administrators work to minimise any re-traumatising effects of the process on claimants.
Operational challenges <i>continued</i>	
Engagement with claimants	Constant communication using an appropriate tone is important for maintaining claimant engagement and stakeholder support. Specific attention should be paid to communicating with vulnerable or disadvantaged claimants.
	Claimants should be able to easily access accurate and up-to-date information about the progress and status of their claim.
	Additional support offered to claimants during the scheme will help to maintain confidence in the scheme, encourage potential claimants to come forward and improve the quality of applications.
Monitoring scheme performance	Scheme performance indicators should be meaningful, straightforward and transparent.
	There is a likelihood that schemes will need to change during their existence, whether time-limited or not, and scheme designers should allow for this.

Note

1 These lessons are not intended to be exhaustive.

Source: National Audit Office analysis of our previous reports, other publicly available information and interviews with stakeholders

Concluding remarks and recommendations

11 Citizens eligible for redress will have suffered hardship and distress. These citizens have a reasonable expectation that their claim will be treated fairly and speedily. There is no central coordinated approach when government sets up new compensation schemes resulting in a relatively slow, ad-hoc approach. Setting-up and administering a compensation scheme is a complex task, and challenging for officials who may have never done it before. This has led to mistakes and inefficiencies in the design of schemes, and delays in getting money to claimants. Claimant and stakeholder confidence can be further undermined where the design and operation of the scheme is not seen as being independent from those who have caused them harm. Those with experience of schemes all agree that: redress should be swift; decisions fair, proportionate and transparent; and that those harmed should be at the heart of decision making.

12 We recommend that:

- the Cabinet Office sets up, by the end of 2024, a centre of expertise within government to provide guidance, expertise or a framework for public bodies seeking to set up a compensation scheme – this should be resourced sufficiently to provide advice to existing and future schemes;
- the Cabinet Office reviews alternative arrangements, including structural arrangements, that would allow compensation schemes to begin and operate in a more timely, efficient and effective manner while earning the confidence of potential claimants. This review should consider a new standing public body to act as a compensating authority to administer future time-limited compensation schemes, and set out the changes it plans to make as a result of the review.