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Dear Convener

The Post Office (Horizon System) Offences (Scotland) Act 2024 ('the Act') provides the requirement for Scottish Ministers to prepare, publish and lay before the Scottish Parliament, a report on the Act's operation as soon as is reasonably practicable after one year has elapsed since its commencement.

The report must include the number of convictions in respect of which Scottish Ministers have given notification under section 4 to a convicting court and to a person, and it will also provide information on the steps that have been taken by Scottish Ministers to identify convictions that have been quashed by the Act and to give notifications.

I am writing to provide the Justice Committee with an earlier update about the processes which I have put in place to date because of the significance of this legislation and to alert the Committee that the process of notification has commenced.

This letter sets out the arrangements which Scottish Ministers have adopted with partners to identify relevant convictions and to ensure that information is being shared in a manner which protects the integrity of our case management system and, most importantly, safeguards the personal data we receive.

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Given the sensitivity of the information that is being shared, data sharing agreements have been put in place with Police Scotland, Crown Office and Procurator Fiscal Service (COPFS), Scottish Courts and Tribunal Service, the Post Office and the Department for Business and Trade. We have agreed a process map with partners, which is underpinned by those data sharing agreements and demonstrates the flow of information between ourselves and partners. This process gives the requisite levels of assurance required to enable all partners to have confidence in how information is being shared and used. We have also worked closely with officials in the Ministry of Justice to ensure a consistent approach is taken to assessing the conditions in the Act.

The Scottish Government has primarily used 3 sources at this stage to identify potential convictions which may have been quashed by the Act. These are:

- A list of cases compiled by COPFS to identify cases which could have been Horizon cases/ miscarriages of justice.
- A list of individuals the Scottish Criminal Case Review Commission wrote to between 2020 and 2024 whose cases may have been impacted by the tainted Horizon evidence which includes those who have asked the Commission to review their case.
- Individuals who have emailed the Scottish Government through the public mailbox as a result of our open letter encouraging individuals to self-refer where they believe their conviction would contain a relevant offence under the Act.

As a result of this information gathering, the Scottish Government is assessing 141 cases. This information is correct as of the date of the letter, as further self-referrals could emerge. A case management system is in place to work through each case with pace and precision. Each case will be assigned a case handler and a reviewer. Reviewers are nominated to provide additional scrutiny on every case. This is consistent with the approach taken by the UK Government who appoint a case handler and case manager to each case. This ensures a consistent approach to cases and additional support in resolving any issues where the need for further inquiries is identified. Joint training with Crown Office has been provided to case handlers/reviewers and guidance is in development to embed good practice.

Of the cases assessed to date, we have initiated the section 5 request process in 40 cases. I would like to acknowledge that partners have been responding to requests promptly which has been helpful in enabling case handlers to be assigned to cases.

Cases where full information is available to allow an assessment to be made under section 2 of the Act have been assigned to a case handler and reviewer. All case information is stored within dedicated restricted access electronic files in line with Scottish Government data protection and retention of records policy.

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Priority is being afforded to any cases which have self-referred and to those who have approached the SCCRC asking for a case review, as these reviews have been paused to await the outcome of the process under the Act.

Once the cases have been considered and an assessment made that the case contains a relevant offence, I will send a notification letter to let the individual or their personal representatives know that the conviction has been quashed. A trauma informed approach is being adopted and, in some cases, other persons, such as a family member, may be nominated to be the point of contact. A corresponding notification is also sent to the convicting court with details of the quashed conviction so the court records can be updated. The police records will also be updated.

We are ensuring there are also robust processes to make sure that those who are notified receive the information. Letters sent by post will require to be “signed for” (formerly recorded delivery). This emphasises the significance of the letters and provides additional assurance of their legitimacy to the recipient. Where letters are not signed for, or where people are no longer at the last known address, we will retain evidence of this and will pursue avenues to find their new address, which fulfils Scottish Ministers’ obligations as set out within the 2024 Act (section 3(4)). In some cases, we may send letters by email only if the recipient has indicated a preference.

Notification letters relating to two cases have been sent and now that we have the necessary procedures in place, this volume will increase significantly over the next two months. I had committed to update the Justice Committee and will do so again next month, with the formal reporting to follow as set out above.

I trust this is helpful and would be happy to provide any further information.



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