



[Redacted]  
[Redacted]

Date  
28 April 2023

Post Office  
Ground Floor  
Finsbury Dials  
20 Finsbury Street  
London EC2Y 9AQ  
**Classification:**  
Public

Dear [Redacted]

## Freedom of Information Request – FOI2023/00109

We are writing in response to your email received by Post Office Limited (“**Post Office**”) on 1 March, which has been dealt with under the terms of the Freedom of Information Act 2000 (“**FOIA**”) in which you requested the following:

**“My request relates to the “Historical Shortfall Scheme” (HSS) established by the Post Office to compensate victims of the Post Office scandal, and the Suspension Remuneration Review (SRR) specifically established to compensate postmasters who were suspended without pay.**

**Please provide me with copies of all tax advice received by the Post Office from accounting firms which relates to the tax treatment of HSS and/or SRR payments in the hands of the claimants/postmasters.**

**I would add for completeness that, unlike legal advice, tax advice from accounting firms does not attract legal advice privilege (see the Supreme Court decision in the Prudential case). Nor will tax advice from accountants benefit from litigation privilege unless it has been produced for the sole or dominant purpose of litigation, which will not be the case for a contractual settlement scheme such as this (see *Waugh v British Railways Board* and the recent High Court decision in *FRC v Frasers Group*).”**



On 29 March, we aggregated your request with two other requests received from your firm and relating to similar subject matters and extended the time in which we had to respond so that we could consider the public interest in disclosure. We have subsequently taken the decision to disaggregate the requests in order that we might provide you with a response as quickly as possible.

We note that you specifically requested information related to tax advice provided by accountancy firms and we can confirm that we don't hold such advice. Post Office, however, takes all Freedom of Information Act 2000 ("FOIA") requests seriously and seeks to be as transparent as possible and therefore we widened our search for any advice, from any source, received by Post Office in respect of the application of tax for both HSS and Suspensions claimants.

Post Office accepts that advice from accountancy firms would not normally enjoy privilege (the exception being Litigation Privilege which is not relevant in this instance) but, as you have yourself noted in your information request, legal advice from law firms is privileged. We can confirm that Post Office has received legal advice that would be categorised as tax advice. The advice was provided by a law firm and Post Office considers the documents are exempt from disclosure as they are legally privileged.

Section 42 of the FOI Act exempts information in respect of which a claim to legal professional privilege could be maintained. This is a qualified exemption and therefore the public interest test has also been considered.

Post Office is satisfied that the public interest in maintaining the exemption by withholding the privileged information outweighs the public interest in disclosing it. Post Office recognises that there has been considerable interest regarding the application of tax to settlement payments and it is committed to being as transparent as possible particularly in respect of matters related to compensation. Balanced against that is the strong inherent public interest in preserving legal privilege. In addition, the statement from the Government confirming that the tax



issue will be reviewed would satisfy the public interest. Post Office therefore considers that, in all the circumstances, withholding the advice outweighs the public interest in disclosure.

If you are dissatisfied with the handling of this response, you do have a right to request an internal review. You can do this by writing to the address above or to [information.rights@postoffice.co.uk](mailto:information.rights@postoffice.co.uk) stating your reasons for your internal review request.

If, having requested an internal review by Post Office, you are still not satisfied with our response you also have a right of appeal to the Information Commissioner at:

Information Commissioner's Office  
Wycliffe House  
Water Lane  
Wilmslow  
Cheshire SK9 5AF

Telephone: 0303 123 1113  
<https://ico.org.uk>

Yours sincerely,

Information Rights Team  
[information.rights@postoffice.co.uk](mailto:information.rights@postoffice.co.uk)  
<https://corporate.postoffice.co.uk/en/governance/access-to-information/access-to-information/>

**Post Office Limited is committed to protecting your privacy, information about how we do this can be found on our website at [www.postoffice.co.uk/privacy](http://www.postoffice.co.uk/privacy)**