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22 April 2022

Dear Minister

### **Resolving the Historical Matters, and Closure for Affected Postmasters**

Three years have now passed since the Honourable Mr Justice Fraser published his findings in the Horizon Issues Judgement. A considerable amount has been achieved in that time, in an effort to bring closure to the thousands of postmasters whose lives have been affected or ruined by losses or shortfalls that arose as a consequence of the Horizon IT system. Post Office is rightly following the process that BEIS and UKGI have asked us to take on however, as you are aware, in some areas the pace of progress has been slower than many of us wanted and costs have been higher.

April 23 marks the one year anniversary of the Court of Appeal's decision to overturn 39 convictions in what has been described as the most widespread miscarriage of justice in UK history. Given that no final compensation has been paid after a year, I wanted to take this opportunity to set out some of my observations on the past twelve months and my concerns for what the future may hold. I also want to use this letter to ask for your intervention in a number of areas where I am seeing risks to a comprehensive and timely resolution starting to emerge. I know you can provide the direction and guidance your officials need here and that you can make a very tangible impact in the outcomes we are able to deliver.

Over the past year we have struggled to make demonstrable progress on the **Overtured Historical Convictions**. There are now 73 upheld appeals out of a potential population of 706 convictions and of the two pilot cases that have been brought forward by Hudgell Solicitors we remain some distance apart on reaching an agreement. More worryingly our lawyers have not been given a clear negotiating mandate by your Department to reach agreement or the agency they would usually have in these circumstances, and this is causing the applicants' lawyers to become exasperated by the irregular approach they are seeing from Post Office. This situation is not sustainable if the current process is going to have any real chance of success; I cannot see a way for us to make faster progress with the hesitant approach being taken by your Department and the behaviours we are seeing, which are not conducive to delivering the outcomes I believe you want. Most significantly I am increasingly concerned that this current approach is moving us towards litigation, which Post Office is very keen to avoid.

I understand this is difficult for BEIS on many fronts and that your officials want to know what settlement a court would reach were these claims litigated, to make sure any final offer represents value for money. However this is now preventing BEIS from giving Post Office and our lawyers clear negotiating parameters. Without going to court such counterfactuals are difficult to prove, and to date BEIS has been unwilling to accept the opinion of POL's legal counsel on the matter. A new 'Early Neutral Evaluation' process has been proposed which seeks to resolve the current impasse, however this is likely to take months to produce an outcome, it may not provide the clarity BEIS is seeking and we expect the delay will frustrate postmasters' solicitors further. We are at risk of losing the trust we have worked hard to rebuild and while these delays persist, no postmasters will get closure.

The offers made to the first pilot cases will set a precedent for how much is paid to the other 71 upheld appeals. This will also affect the number of convicted postmasters who seek to have their convictions overturned, so I know BEIS will want to be comfortable on these settlements. These first cases will however always be difficult, regardless of the time taken over them, and if you are able to embolden your officials to be more decisive I am certain we can break the current deadlock and make progress quickly. I also encourage you to help clear the way for Post Office's lawyers to be empowered to do the job they are paid for. While I recognise there is some scepticism among BEIS and UKGI regarding Post Office's lawyers we cannot deny they have built their careers doing precisely this type of work, often in more complex circumstances, and in light of this I firmly believe we should listen to their advice. We are being counselled how to reach a timely and comprehensive resolution at a level that represents value to the taxpayer, not necessarily to deliver that resolution at the lowest possible cost, which could be considered short-sighted. As you know value for money is about efficiency and effectiveness, as much as it is about economy. Such an approach may also cause us to lose hard-won trust and risks litigation, and our strong preference is to be commended for the successes we deliver rather than be held to account for failures to deliver, for affected postmasters.

In parallel with the discussions on Overturned Historical Convictions, over the past year we have made good progress on the **Historical Shortfall Scheme**. At the end of March 2022 not only had we had extended offers to more than 50% of claimants but we were also on course to meet our public commitment to get offers out to more than 95% of applicants by the end of December 2022. Offers are not the same as settlements though, which is how success will be measured, and I am starting to see potential challenges emerge here. Your support to maintain the momentum we have worked hard to establish will be valued highly.

Moving forward the claims we will be dealing with will become more complex and reaching individual settlements will be harder. Fewer first offers will be accepted, more applicants will look to appeal and we expect more will also need to be mediated. I am concerned that as currently operated, the Historical Shortfall Scheme will not deliver the progress that we will want to look back on in twelve months' time. The past year – including our experience with the Overturned Historical Convictions – has shown us that decisions are not made quickly and that the oversight sought by BEIS and UKGI results in Post Office and its lawyers being disempowered, and these issues will need to be remedied if we are to avoid the risk of a gulf emerging between the offers we make and the number of settlements we reach. On behalf of Post Office's team I am asking that you keep a close eye on the number of settlements reached, alongside the offers we make, and that you also step in if we see the risks outlined above start to crystallise.

I have sympathy for BEIS. The Historical Shortfall Scheme is unprecedented, complicated and high profile, which means making the right decisions is important. The Department also needs to demonstrate to HM Treasury that it has appropriate oversight in place and that it is delivering value for money. I also recognise BEIS's concerns that decisions taken today may set precedents for the future, and that this could have cost implications.

At the same time it is not acceptable that we are currently spending more to run the Historical Shortfall Scheme than we are paying out, and that over the life of the Scheme we are forecasting to spend almost 50% of the value of settlements on administration. Post Office is looking at ways to reduce these costs and streamline processes, and both BEIS and UKGI are engaged in these discussions and will need to support any of the proposed solutions. However the big opportunity will be found in BEIS and UKGI taking faster decisions, delegating more often to Post Office and its lawyers and, in making value-based decisions, looking at value for money holistically and taking into account the total cost to the Exchequer, Post Office included.

Post Office is also keen to see BEIS make progress in reaching agreement with the GLO litigants, who in March you announced would now receive full compensation. I am conscious that we are being kept at a distance from these discussions, arguably quite rightly given the lack of trust this group will have in Post Office, however I wanted to extend Post Offices' support to you in case this is useful. We have learned many lessons from our experiences with the Historical Shortfall Scheme and you may find our input helpful in what you design and how you choose to administer it. Keeping Post Office at arms-length could be a missed opportunity.

With no settlements reached yet with the Overturned Historical Convictions and more than 1125 offers still to make under the Historical Shortfall Scheme we have a long road ahead of us to deliver closure for the thousands of postmasters affected by the Horizon IT system. Progress is being made but like me, I know you want to see more happen faster, and with your involvement in the areas I have highlighted I know we can deliver better outcomes. I would welcome the opportunity to talk to you directly on these points with Nick Read, and agree a practical way forward.

I am very conscious BEIS has to follow due process when disbursing taxpayers' funds and that you and your Department will be held accountable by HM Treasury but also by Parliament for how you spend this money. The same rules apply to Post Office, so in making these requests I am not asking for any special dispensations. We have a shared intent and common challenges, and I want to see us deliver the right outcome in the most expeditious and cost effective way.

I am copying this letter to the Permanent Secretary.

Yours sincerely

A large, bold, black signature 'GRO' is enclosed within a dashed rectangular border.

Tim Parker  
**CHAIR, POST OFFICE LIMITED**