

Adrian Bailey MP
Chair
Business, Innovation and Skills Select Committee

March 2015

POST OFFICE MEDIATION SCHEME

Thank you for your letter of 17 March 2015 regarding the Business, Innovation and Skills Committee's inquiry into the Post Office mediation scheme.

I am grateful to the Committee for considering this matter and I am pleased to provide a response to the points the Committee has raised, attached to this letter.

Since these issues were first raised over two years ago, Post Office's Horizon system has been under considerable scrutiny and I note that it remains the case that there is no evidence of systemic problems with Horizon. That conclusion has stood firm through independent investigation by Second Sight. I agree that it is regrettable that, in a small number of cases, the relationship between Post Office and subpostmasters has deteriorated. That is why it is important that those current and former subpostmasters with cases remaining in the mediation scheme can progress swiftly to mediation.

It is important to reiterate that the mediation scheme is independent of Government. Given that the cases in the scheme are contractual disputes between independent businesspeople and Post Office, and are of course sensitive and confidential, it would not be appropriate for Government to intervene or seek to influence the outcome. It is important that independence is maintained.

The vast majority of subpostmasters continue to use Horizon successfully every day in operating their branches across the country. Post Office have committed to learning lessons from this matter, and I note that they have already taken on board several improvements, working closely with the National Federation of Subpostmasters, to ensure that the Post Office network is stronger for the future.

VINCE CABLE

1. Individuals with cases involving previous Court rulings

- 1.1. The Committee were concerned whether there was a contradiction between the letter from Paula Vennells to Jo Swinson MP dated 9 March 2015, and the evidence provided by Post Office to the Committee on 3 February 2015, regarding individuals who had previously been the subject of Court rulings.
- 1.2. As Post Office explained during their evidence to the Committee, individuals whose cases involved previous Court rulings were eligible to apply to the mediation scheme. This was set out in the original scheme documentation, which is available as an Annex to Post Office's recent report on the scheme.
- 1.3. Those individuals who have a case in the scheme involving a previous Court ruling have had their cases thoroughly re-investigated by Post Office. Post Office have a duty to disclose any new information which comes to light (including as part of that re-investigation) which could undermine the case for prosecution or aid the applicant in their defence. Post Office have confirmed that no such information has come to light in any of the 136 cases they have investigated.
- 1.4. As Post Office set out in their letter to Jo Swinson on 9 March, and their announcement the following day, any case remaining in the scheme which involves a previous Court ruling will be considered on a case-by-case basis. Mediation cannot overturn a Court ruling, and as such, it may not be appropriate to proceed. An exception might be if the applicant's claim for mediation does not relate to the Court ruling, in which case I would expect Post Office may mediate. It is important to note that any applicant who believes their conviction is unsafe may continue to pursue the legal avenues open to them, and will have the benefit of the re-investigation by Post Office and the independent report by Second Sight to inform them should they choose to challenge their conviction.

2. Post Office's approach to mediation

- 2.1. The Committee were concerned at suggestions that Post Office had not engaged constructively in the mediation process and had adopted an overly legalistic approach to mediation.
- 2.2. Mediation is a voluntary process and requires the consent of both parties to proceed. If one party feels there is no prospect of resolution through mediation, they may choose not to take part. Post Office have however agreed to take part in mediation in the majority of cases, and indeed have announced that they will mediate in all cases not involving a Court ruling (while considering the remainder on a case-by-case basis).
- 2.3. The mediation scheme is provided by the Centre for Effective Dispute Resolution (CEDR), and the arrangements are in line with CEDR's Code of Conduct as well as the European Code of Conduct for Mediators. CEDR were appointed to ensure that mediations under the scheme are conducted in line with best practice.

2.4. CEDR have provided feedback on the mediations which have taken place to date, in general terms given the need for confidentiality. This feedback is included in Post Office's detailed report on the scheme, published on their website last week. In particular, the feedback from CEDR notes that "there are some indications that legal representation provides better support" and recommends that "applicants should be strongly urged to seek legal advice and if at all possible legal representation at the mediations". It is also worth noting that Post Office have agreed to provide each applicant with funding towards the cost of a professional advisor in preparing for and attending mediation.

3. Support available to subpostmasters to report discrepancies

The Committee

4. Second Sight's final report

5. Exchange and storage of information

6. Outcomes of mediation