

JAMES ARBUTHNOT POINTS TO BE RAISED

POSSIBLE INTERVENTION OR CHALLENGE IF JO FEELS IT APPROPRIATE:

If JA makes accusation that there have been or are likely to be cases of wrongful conviction or miscarriages of justice:

- I feel I must speak at this stage
- The Honourable Member is making some very serious allegations indeed
- I would say to him, as a matter of public record, that if he is in possession, or aware of the existence of, any evidence to support those allegations, he should immediately disclose this to the police.
- And I would remind him that Post Office are under an absolute duty to immediately disclose any information which might undermine the Prosecution's case or support the case of the defendant.

ARBUTHNOT LIKELY POINTS

Not destroying documents

- PO has not, and will not, destroy any existing documents relating to the cases in the Scheme
- The implied suggestion that it might is unwarranted
- The Scheme anticipated that some cases would be old and information may not be available.

If required:

- Post Office goes to great length to conduct extensive searches of all records when investigating the cases in the Scheme
- Some cases are, however, extremely old and certain documents are no longer available either to Applicants to the Scheme or to Post Office
- PO has operates a default 7 year retention policy, common to organisations

An independent review of the scheme

- I find it difficult to agree with the Hon Members request – the Horizon mediation scheme is already independent, and overseen by a former member of the Court of Appeal
- The Honourable Member will recall that he, along with PO, JFSA and Second Sight took great care to establish a system which had inbuilt guarantees of independent, notably through the Working Group and the appointment of Sir Anthony Hooper as its Independent Chair
- Indeed, he himself has on more than one occasion, expressed his confidence in the arrangements until very recently indeed
- Sir Anthony was appointed by POL but on JFSA's own recommendation

If required:

- An Independent Review would be a costly, and in the Government's view, unnecessary exercise likely to result in greater delays in the resolution of cases in the Scheme, to the detriment of those with cases within it
- It would also make Sir Anthony's position extremely difficult to say the very least

No statute of limitations on the claims being made through the scheme.

- I absolutely cannot commit Post Office to anything such as this – that is entirely a matter for Post Office
- But the Statute of Limitation protects all defendants against very old claims, for instance where claims are old and cannot properly be investigated
- I see no reason why Post Office should, uniquely, be deprived of its rights
- In any event, there has never been anything preventing a Subpostmaster from bringing Court proceedings against PO before any applicable limitation deadline

If required:

- I would remind the Honourable Member that no time limitation was placed by Post Office in accepting cases into the Scheme
- The clear implication being that it was, and is, prepared to mediate such cases where there is genuine substance capable of being mediated

Second Sight to brief MPs on the scheme and its progress

- Second Sight is bound by the same obligations of confidentiality as are all those participating in the Scheme
- And I am not sure what this would achieve. Second Sights report in 2013 set out the position, and despite almost 18 months of further investigations, no systemic issues with Horizon have been found.
- If he feels strongly, he is of course welcome to write to the Chair of the Scheme, but Sir Anthony's letter clearly sets out the progress that has been made to date.

POL to stop acting as prosecutor

- PO is not a prosecuting authority with special and/or particular rights and powers in this area
- Instead, like any organisation or person in the UK, it can mount private prosecutions
- These must, and I believe do, comply with all the requirements of the Code for Prosecutors
- Chief among these are that there should be sufficient evidence to mount a prosecution and that the prosecution itself is in the public interest
- The right to mount prosecutions is an important deterrent against those who maybe contemplating fraud, theft or other crimes of dishonesty against Post Office.
- There is no reason why Post Office should be placed in a different position to any other organisation.

SPM can't appeal verdicts because of cost

- I am glad that the Honourable Member recognises that the only forum in which appeals against conviction can be made is through the Courts
- Neither the Scheme, nor any mediations undertaken in relation to it, is a substitute criminal appeals systems and nor could it ever be
- The Honourable Member raises the issue of the costs involved in mounting an appeal against a conviction
- I am no expert, but my understanding is that public legal assistance is available for appeals in certain circumstances
- However, I do not see any compelling reason for which Subpostmasters convicted of a crime should be placed in any different position to people from other walks of life who find themselves in identical circumstances

Would like the Criminal Cases Review Commissioner to set up an independent review of the cases relating to Horizons

- The Honourable Member has asked whether I would write to the CCRC in relation to the cases in the Scheme in which there is a criminal conviction
- He will, doubtless, be aware that the CCRC is principally concerned with matters which arise (for instance material new evidence) which comes to light after an Appeal has been made and been turned down by the Courts
- I remind the Honourable Member that no such appeals have yet taken place but that there is no bar whatever to any going forward
- Subpostmasters with cases in the Scheme will have the benefit of all the documentation which results from the comprehensive investigations taking place to consider whether they have any grounds for mounting an appeal
- In the circumstances, I must decline his request but there is nothing to stop him raising this matter with the CCRC himself if he so wishes