

From: Callanan, Minister (Private Office) [GRO]
Sent: Mon 30/11/2020 11:26:37 AM (UTC)
To: James Arbuthnot [GRO]
Cc: zz_Scully, Minister (Private Office) [GRO];
nick.read1 [GRO]
Subject: RE: The Clarke Advice to the Post Office

Dear Lord Arbuthnot,

My sincere apologies for the delay – I passed on your second email to the policy team as soon as it was received so that they had the full picture of your request. It took a little longer than anticipated as BEIS does not hold the advice you reference. Lord Callanan has considered your request, please find his response below:

Dear James,

BEIS does not hold the document you are asking for. I am told that the document in question has been disclosed by the Post Office to parties to ongoing legal proceedings that are before the Court of Appeal. On 19th November 2020 the Court of Appeal noted that some of the content of the document was already in the public domain and there was no current need for reporting restrictions. However, the Court also said that it would keep the need for reporting restrictions under review if and when more of the content of the document was referred to in Court. The Criminal Procedure Rules permit any member of the public to apply to the Court for access to information about cases (Rule 5.8). As the document relates to proceedings before the Court of Appeal, and given what that court have said about the document, it is clearly not appropriate for anyone other than the court to decide whether the document should be made public at this time.

*Kind regards,
Martin*

With best wishes,

Mel



Department for
Business, Energy
& Industrial Strategy

Melissa Craig
Private Secretary to Lord Callanan
Minister for Climate Change & Corporate Responsibility
Tel: [GRO] | Mobile: [GRO]

[GRO]
Department for Business, Energy and Industrial Strategy
www.gov.uk/beis | <https://twitter.com/beisgovuk>

From: James Arbuthnot
Sent: 28 November 2020 13:10
To: Callanan, Minister (Private Office)
Cc: Scully, Minister (Private Office) ; nick.read1 [GRO]
Subject: FW: The Clarke Advice to the Post Office

Dear Martin

A week ago I wrote to you (amongst others, including Paul Scully and the CEO of the Post Office) to say that the Post Office, which your department owns, funds and directs, lied to Parliament in its evidence on 3rd February 2015.

Please would you acknowledge receipt of that email? Please will you tell me what you are doing about it?

And over a week ago I wrote to you asking you to place a copy of the Clarke advice in the libraries of both Houses of Parliament. Ms Craig in your office said (see below) "Thank you for your email – I have passed it on to the appropriate team in BEIS who are looking into this. We'll get back to you next week." You have not got back to me. Please would you do so?

Yours ever,
James

From: The Rt Hon the Lord Arbuthnot of Edrom

[GRO]

Get Outlook for iOS

From: James Arbuthnot <[REDACTED]>
Sent: Saturday, November 21, 2020 4:45 pm
To: ARBUTHNOT OF EDROM, Lord
Subject: RE: The Clarke Advice to the Post Office

Dear Ms Craig,

Thank you for this. Further to my request yesterday that the Minister should place a copy of the advice of Mr Clarke in the Library of both Houses, I have a further request, and you will note that as a result of this request I am copying this email to the Speaker of the House of Commons, to the Lord Speaker and to other interested parties.

On 3rd February 2015 the BIS Select Committee took evidence in their inquiry into the Post Office Mediation scheme. Part of that evidence was a written submission from the Post Office, although they also received oral evidence from amongst others the Chief Executive of the Post Office. Paragraph 11 of that written evidence

(<http://data.parliament.uk/writtenevidence/committeeevidence.svc/evidencedocument/business-innovation-and-skills-committee/post-office-mediation/written/17827.pdf>) reads as follows:

"At the start of the Scheme, both Post Office and the Justice for Subpostmasters Alliance made clear that mediation cannot overturn a conviction. This can only be done through established Court procedures. Post Office is under an absolute duty to disclose any evidence that might undermine a prosecution case or support the case of a defendant. It takes its responsibilities in this regard very seriously and Post Office's investigations have been carried out with this important duty firmly in mind. Post Office writes to everyone who has suggested they have or have seen evidence that a conviction is unsafe and asked them to disclose this so that it can be acted on. To date no such evidence has been provided."

I suggest that the contemptibly late disclosure of the advice of Mr Clarke – something that should have been in the public domain in 2013 – establishes that the Post Office lied to, and was in contempt of, Parliament. The above quoted paragraph of the Post Office's written advice was only one of many instances of this. I should be grateful if you would consider my request for the immediate publication of the advice in the light of this.

Yours sincerely,

James Arbuthnot

From: The Rt Hon the Lord Arbuthnot of Edrom

[REDACTED] **GRO**
From: Callanan, Minister (Private Office) <[REDACTED]>
Sent: 20 November 2020 17:17

To: James Arbuthnot <[REDACTED]>
Subject: RE: The Clarke Advice to the Post Office

Dear Lord Arbuthnot,

Thank you for your email – I have passed it on to the appropriate team in BEIS who are looking into this. We'll get back to you next week.

With best wishes,

Mel



Department for
Business, Energy
& Industrial Strategy

Melissa Craig
Private Secretary to Lord Callanan
Minister for Climate Change & Corporate Responsibility

[REDACTED] **GRO**
[REDACTED] **GRO**
Department for Business, Energy and Industrial Strategy
www.gov.uk/beis | <https://twitter.com/beisgovuk>

From: James Arbuthnot <[REDACTED]>
Sent: 20 November 2020 09:10
To: Callanan, Minister (Private Office) <[REDACTED]>
Subject: The Clarke Advice to the Post Office

Dear Martin,

On Wednesday 18 November the Court of Appeal considered a piece of advice written by a barrister, Simon Clarke, in

2013 for the Post Office. According to Brian Altman QC, acting for the Post Office, this advice - which was apparently to the effect that the evidence of Gareth Jenkins (a former senior Fujitsu Horizon engineer) was wrong - was disclosed to Aria Grace solicitors (acting for three appellants) by Peters and Peters solicitors (acting for the Post Office) last week. As you know, the judge in the Horizon litigation referred Mr Jenkins' evidence to the DPP.

In 2013 I and other MPs were in full flow of the discussion with Paula Vennells and Alice Perkins about the unsafe nature of the Horizon convictions. We should have been told about this document, but I have not yet seen it. Please will you immediately send me a copy, and place it in the library of both Houses?

Yours ever,

James

From: The Rt Hon the Lord Arbuthnot of Edrom

GRO

UK Parliament Disclaimer: this e-mail is confidential to the intended recipient. If you have received it in error, please notify the sender and delete it from your system. Any unauthorised use, disclosure, or copying is not permitted. This e-mail has been checked for viruses, but no liability is accepted for any damage caused by any virus transmitted by this e-mail. This e-mail address is not secure, is not encrypted and should not be used for sensitive data.