

From: Scully, Minister (Private Office) [GRO]
Sent: Fri 18/12/2020 11:22:29 AM (UTC)
To: James Arbuthnot [GRO]
Cc: nick.read1 [GRO]; The Rt Hon The Lord Charles Falconer QC [GRO]; FELLOWS, Marion [GRO]; Alan Bates [GRO]; JONES, Kevan [GRO]
Subject: RE: The Clarke Advice to the Post Office
Attachment: 20201218 Minister Scully Response to Lord A.pdf

Dear Lord Arbuthnot,
Apologies for the delay, please see attached a response from Minister Scully.
Kind regards,
Jessica



Department for
Business, Energy
& Industrial Strategy

Jessica Tysoe
Private Secretary to the Minister for Small Business,
Consumers & Labour Markets
and Minister for London
Department for Business, Energy and Industrial Strategy
1 Victoria Street, London, SW1H 0ET
minister.scully@beis.gov.uk [GRO]

From: James Arbuthnot
Sent: 14 December 2020 17:48
To: Scully, Minister (Private Office)
Cc: nick.read1 [GRO]; The Rt Hon The Lord Charles Falconer QC; FELLOWS, Marion; Alan Bates; JONES, Kevan
Subject: RE: The Clarke Advice to the Post Office

Dear Paul,

It is now more than three weeks since I drew to your attention that the Post Office, which your department owns and for which you are responsible, lied to Parliament on 3rd February 2015. The lie went to the heart of the BIS Committee's inquiry, and the effect of it must have been to deny to the subpostmasters evidence and an argument about a lack of safety of their convictions which might have helped them in their defence. The Post Office then went on to perpetuate the lie in the evidence they adduced and the arguments they made in the High Court, costing the taxpayer well over £100 million.

I am disappointed that, despite the importance of the matter and the fact that you are responsible for the Post Office, you have given me no response whatever. I am therefore writing to the Chair of the BEIS Select Committee to see what the Committee might be able to do in the matter.

Yours ever,

James

From: The Rt Hon the Lord Arbuthnot of Edrom

jna@beis.gov.uk [GRO]

From: James Arbuthnot

Sent: 07 December 2020 12:09

To: CALLANAN, Lord [GRO]; Callanan, Minister (Private Office)

[GRO]

Cc: Scully, Minister (Private Office) <[GRO]>; nick.read1@beis.gov.uk [GRO]; The Rt Hon The Lord Charles Falconer QC <[GRO]>; FELLOWS, Marion <[GRO]>; Alan Bates <[GRO]>; JONES, Kevan <[GRO]>

Subject: RE: The Clarke Advice to the Post Office

Dear Martin,

Thank you. I shall pursue this with Paul Scully.

Yours ever,

James

From: The Rt Hon the Lord Arbuthnot of Edrom

ina@GRO

From: CALLANAN, Lord GRO

Sent: 07 December 2020 10:49

To: James Arbuthnot <GRO>; Callanan, Minister (Private Office)

GRO
Cc: Scully, Minister (Private Office) <GRO>; nick.read1@GRO; The Rt Hon The Lord Charles Falconer QC <GRO>; FELLOWS, Marion <GRO>; Alan Bates <GRO>; JONES, Kevan <GRO>

Subject: Re: The Clarke Advice to the Post Office

Dear James,

Apologies for my delay in responding but UKIM bill is occupying a lot of my time at the moment.

I want to be as helpful to you as I can on this matter and have pushed repeatedly with BEIS lawyers and officials, I can assure you that we do not have the Clarke Advice. After your most recent email, I asked BEIS and UKGI officials to check the files again, including for copies, and neither BEIS nor UKGI have found a copy of it on BEIS/UKGI systems.

Even if we did have it, the sharing of this document is now a matter for the courts - the strong advice to me is that any sharing of it without the court's agreement (even by Post Office) could result in a charge of contempt of court. So I'm afraid there's nothing more I can do at this stage.

As you are aware, whilst I am accountable for BEIS matters in the Lords, the Post Office is not directly within my Ministerial portfolio and rests with Paul Scully, hence it may be more helpful for you to address any further queries to his office.

Regards

Martin.

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From: James Arbuthnot GRO

Sent: Monday, December 7, 2020 10:19:00 AM

To: Callanan, Minister (Private Office) <GRO>

Cc: Scully, Minister (Private Office) <Minister.Scully@GRO>; nick.read1@GRO; GRO; The Rt Hon The Lord Charles Falconer QC <GRO>; FELLOWS, Marion <GRO>; CALLANAN, Lord <GRO>; Alan Bates <GRO>; JONES, Kevan <GRO>

Subject: Re: The Clarke Advice to the Post Office

Dear Ms Craig,

Thank you, but he has not done so. Please ensure that he sees the following message direct to him:

It is now more than two weeks ago that I wrote to you to say that the Post Office, which your department owns, lied to Parliament. You have not denied it, and you cannot because you know it to be true. But neither can you admit it, because that would create consequences for the Ombudsman inquiry submitted by Alan Bates through Kevan Jones MP. So what are you going to do?

Yours sincerely,

James Arbuthnot

From: The Rt Hon the Lord Arbuthnot of Edrom

GRO

On 2 Dec 2020, at 17:02, Callanan, Minister (Private Office) GRO wrote:

Dear Lord Arbuthnot,
 I am copying in Lord Callanan's parliamentary email address so that he can respond to you directly.
 With best wishes,
 Mel

Melissa Craig
 Private Secretary to Lord Callanan
 Minister for Climate Change & Corporate Responsibility
 GRO
minister.callanan@beis.gov.uk | melissa.craig@beis.gov.uk
 Department for Business, Energy and Industrial Strategy
www.gov.uk/beis | <https://twitter.com/beisgovuk>

From: James Arbuthnot GRO
Sent: 30 November 2020 12:16
To: Callanan, Minister (Private Office) <GRO>
Cc: Scully, Minister (Private Office) <GRO>; nick.read1@beis.gov.uk GRO; The Rt Hon The Lord Charles Falconer QC <GRO>; marion.fellows.mp@parliament.uk GRO
Subject: Re: The Clarke Advice to the Post Office

Dear Ms Craig,
 Again, thank you. Please will you pass to the minister the following response.
 Of course your department does not hold the document in question. It is a document which the Post Office (which, I remind you, your department owns) commissioned and received and which therefore the Post Office holds. Are you suggesting that your department does not have a copy of the document? Really?
 And do you have nothing to say about the issue of the Post Office (which, I remind you, your department owns) lying to Parliament? I note that you do not deny it.
 Yours sincerely,
 James Arbuthnot
 From: The Rt Hon the Lord Arbuthnot of Edrom

GRO
 On 30 Nov 2020, at 11:26, Callanan, Minister (Private Office)
 <Minister.Callanan@beis.gov.uk> wrote:

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

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

[\[redacted\] GRO](#)
[minister.callanan@beis.gov.uk](#) | [melissa.craig@beis.gov.uk](#)
Department for Business, Energy and Industrial Strategy
www.gov.uk/beis | <https://twitter.com/beisgovuk>

From: James Arbuthnot <[\[redacted\] GRO](#)>

Sent: 28 November 2020 13:10

To: Callanan, Minister (Private Office) <[\[redacted\] GRO](#)>

Cc: Scully, Minister (Private Office) <[\[redacted\] GRO](#)>
[nick.read1@beis.gov.uk](#) <[\[redacted\] 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

[\[redacted\] GRO](#)
[Get Outlook for JCS](#)

From: James Arbuthnot <[\[redacted\] GRO](#)>

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

GRO

From: Callanan, Minister (Private Office) <

GRO

Sent: 20 November 2020 17:17

To: James Arbuthnot <

GRO

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

Melissa Craig

Private Secretary to Lord Callanan

Minister for Climate Change & Corporate Responsibility

GRO

minister.callanan

GRO

| melissa.craig

GRO

Department for Business, Energy and Industrial Strategy

www.gov.uk/beis | <https://twitter.com/beisgovuk>

From: James Arbuthnot <

GRO

Sent: 20 November 2020 09:10

To: Callanan, Minister (Private Office) <

GRO

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

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