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To: Jenny Willott**From:** Peter Batten **GRO****Date:** 25 April 2014**Subject:** Response to the Justice for Subpostmasters Alliance**Purpose:**

Alan Bates, Chairman of the Justice for Subpostmasters Alliance (“JFSA”) has written about the mediation scheme that was established in 2013 to consider cases where former and current subpostmasters believe the Post Office’s accounting software, ‘Horizon’, has been faulty and caused them financial loss. Officials have previously briefed you about this matter, which the Post Office refers to as “Project Sparrow”.

Recommendation:That you note:

- The mediation scheme is jointly administered by the Post Office, the JFSA, and Second Sight (“SS”) who are independent forensic accountants;
- The Working Group has an independent Chair, Sir Anthony Hooper, who was recommended by the JFSA, and whose appointment was approved by members of the Working Group; and
- There is a Scheme process map (Annex A), and that Post Office has completed reviews for 20 cases, but that SS has yet to complete any, and consequently the Working Group has not been able to consider a case.

That you reply to Alan Bates noting the independence of the Working Group, and that Sir Anthony Hooper is an independent Chair (draft letter attached at Annex B).

Timing:

Routine – as an item of correspondence the due date is 13 May. However, the Working Group next meets on 1 May.

Summary:

1. Relevant background to the creation of the mediation scheme (“the Scheme”) is contained in Annex C.
2. As Alan Bates’s letter notes, the Post Office has established a team of more than 20 staff to process the applications and to produce the evidence required of the Post Office under the Scheme. To date, the Post Office has completed around twenty applications, with the first being passed to SS for consideration in December 2013. At the time of writing, ShEx understands that SS has yet to complete a case report to a standard that the independent Chair, Sir Anthony Hooper, believes is of an acceptable standard.
3. Privately, the Post Office is deeply frustrated with the operation of the Scheme, and holds the view (shared by ShEx) that SS are unable to perform the task required of them with sufficient pace and objectivity. Indeed, there is a deep concern that SS,

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which is a small (two full time staff) firm, have lost their independence, and have become emotionally involved in the cases of individual subpostmasters.

4. The Post Office Board has been increasingly seized of the issue, and has taken legal advice. This advice has been clear that the company holds no liability for losses incurred by subpostmasters' malpractice or incompetence. A Board sub-committee has been created with the purpose of considering the impact of the Working Group and the Scheme on the business, and ways forward. From discussions with the Post Office on the matters contained within Alan Bates's letter, it is clear that there are some mistruths (e.g. the Post Office's responsibilities on contractual matters, and the way Second Sight and the Post Office's activities have been represented) that should be addressed.
5. However, it is important to remember that the Working Group is playing a vital role in providing an agreed process that the JFSA and the Post Office can both sign up to. It is beneficial that the Working Group is overseen by an independent Chair, but ShEx and the Post Office must be careful not to infringe or undermine the independence of the Chair.
6. Sir Tony Hooper was appointed in October 2013 by the Working Group. He is a former High Court and Appeals Court judge. He was recommended by a member of the JFSA and is reported as being even-handed and objective. The Post Office reports that he jealously guards his independence, and is likely to react very negatively to attempts to influence the Working Group or the operation of the Scheme. He has also been clear to the Working Group members that until the Group has completed its work there should not be a public flow of information that may jeopardise its operation. To this end, ShEx advises that Government does not seek to directly engage Sir Anthony Hooper at this stage, and should not reveal our knowledge of the operation of the Scheme, further to those that are known publicly.
7. Concurrently, the cases that POL has reviewed – which have been chosen by the Working Group on the basis that they are likely to be the most contentious – have not yet shown any systemic issues with Horizon. This is likely to be unsettling JFSA who still maintain there are issues, despite the conclusion of the July 2013 review, and emerging evidence from the cases reviewed by the Post Office as part of the Scheme – which to date has not found any issues with the Horizon system.
8. To this end, (and as highlighted in his letter) the JFSA is exploring options, which could include them breaking from the Working Group, allowing them to be publicly critical of the Scheme and its operation.
9. It is highly unlikely that Sir Anthony Hooper is aware of Alan Bates's letter to you. Given Sir Anthony Hooper's important role as Chair of the Working Group, ShEx recommends that you make him aware of the concerns that have been expressed to you by the JFSA. As a course of good practice, and given the nature of the letter, ShEx further recommends that you inform Alan Bates of your intention to forward his letter to Sir Anthony Hooper, noting that given his role as independent Chair, he is best placed to respond to the JFSA's concerns. This approach should also help to tease out Alan Bates's underlying motives. In the event that Alan Bates does not agree to your sharing his letter, we will propose sending a further letter (subject to handling considerations) that address specific issues in his letter, although it is obviously preferable that Sir Anthony Hooper address these in the first instance.

Annexes:

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Annex A	Scheme process map
Annex B	Draft response to Alan Bates, and suggested letter to Sir Anthony Hooper
Annex C	Background on the Scheme's creation
Annex D	Jo Swinson's statement to Parliament (July 2013)

Copied to:

Perm Sec; Cable Spad MPST; ShEx Post Office team; Lucy Bell.

Advice received from:

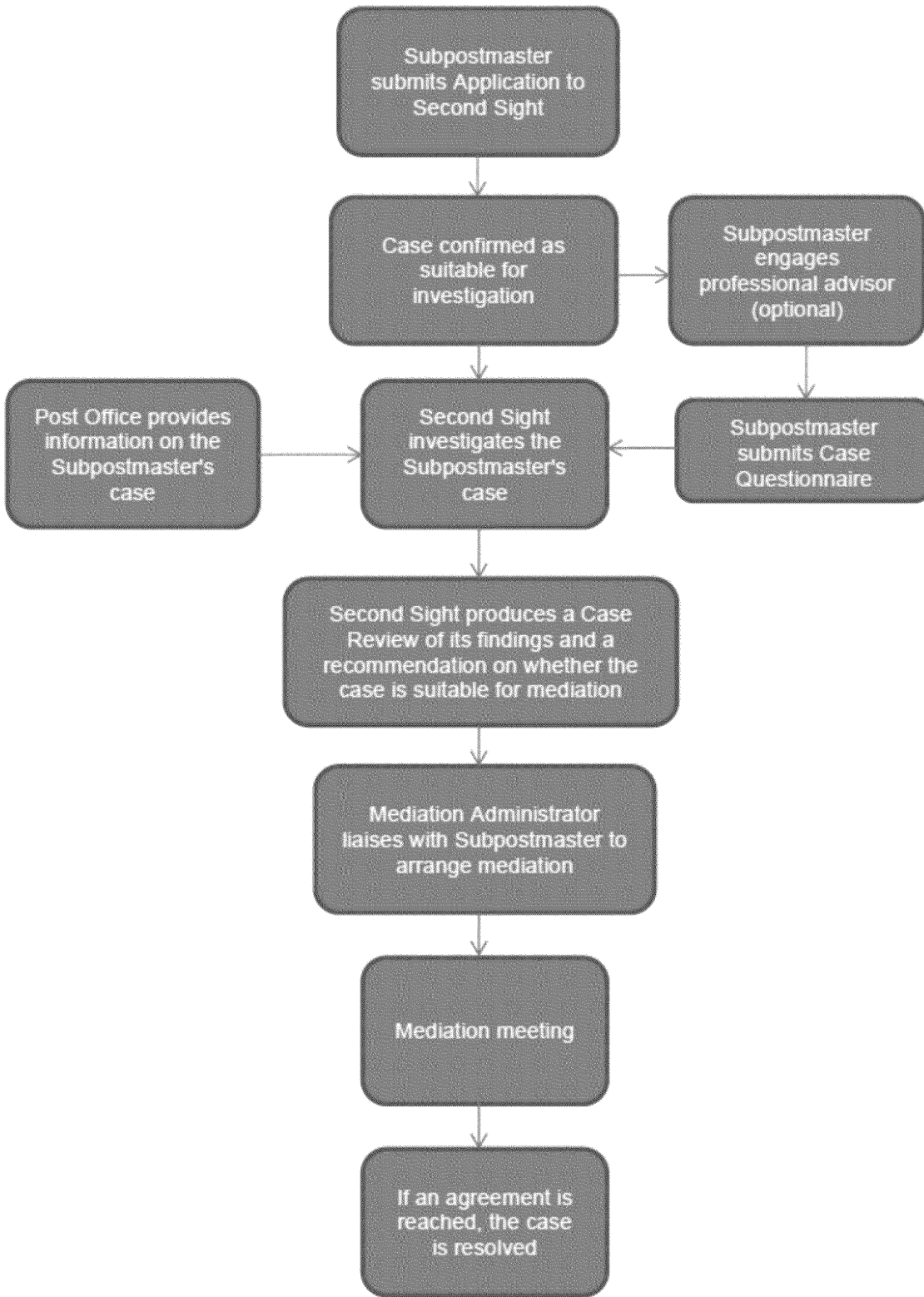
Finance	SpAds	Press	Legal	Analysts
N/A	N/A	N/A	N/A	N/A

Devolution Issues	Post Office policy is a retained matter, there is no devolved issue.
N/A	

Equality Analysis	There is no requirement for an equality assessment for this submission.
N/A	

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Annex A – Scheme process map:



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Annex B – Draft response to Alan Bates, and suggested letter to Sir Anthony Hooper:

ShEx recommends that the reply take two steps:

- (1) Response to Alan Bates, acknowledging the Working Group has an independent Chair; that the Government plays no role; and seeking agreement to forward his letter to the independent Chair.

We request that Alan Bates replies giving his permission, or an explanation why not, within 5 working days.

Then, on the assumption that the JFSA does not object to their letter being shared with Sir Anthony Hooper – their refusal would raise questions about the strength of their concerns – then to send:

- (2) A short covering letter to Sir Anthony Hooper, noting the Government's position regarding his independence, and forwarding the JFSA letter; and a similar letter to Paula Vennells.

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Alan Bates
Chairman, JESA

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Our ref: MCB2014/08461

April 2014

Thank you for your letter of 16 April to Jo Swinson MP, about the Initial Case Review and Mediation Scheme. I am the Minister responsible for Post Office policy, while Jo Swinson takes maternity leave.

The Government is supportive of the desire to resolve the issues raised by subpostmasters in a timely manner, however, as shareholder, Government cannot be involved in operational matters concerning Post Office Ltd or the Working Group.

Clearly the matters you raise are important and I understand your desire for them to be addressed but it is important that they are addressed by the appropriate parties.

Paula Vennells, as Chief Executive of Post Office Ltd, is responsible for operational matters relating to the company; and the Scheme, which is overseen by the Working Group comprising representatives from the Justice for Subpostmasters Alliance, Post Office Ltd, and Second Sight, has an independent Chair in Sir Anthony Hooper. As a member of the Working Group I am sure you will understand that the Chair must be allowed to perform his duties independently and free from influence.

Given the matters you raise relate to the operation of the Working Group, and also about the engagement of Post Office Ltd with the Scheme I intend to forward a copy of your letter to both Sir Anthony Hooper and Paula Vennells so that they can make informed responses to the issues that you have raised. If you have any objections to my doing so, please let me know by Wednesday 30 April.

JENNY WILLOTT MP

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Our ref: MCB2014/08461

April 2014

I have recently received a letter from Alan Bates, Chair of the Justice for Subpostmasters Alliance (“JFSA”) regarding the Initial Case Review and Mediation Scheme, of which the JFSA plays a role as a member of the Working Group, and of which you are independent Chair.

The Government, as shareholder in Post Office Ltd, does not play a role in the operation of the Working Group, and is keenly aware that you must be allowed to perform your duties independently and free from influence.

The Government is supportive of the aim to resolve concerns of subpostmasters in a timely manner and especially those who have lodged applications with the Scheme. In that spirit I am forwarding to you correspondence from the JFSA that sets out their concerns about the operation of the Scheme. This is provided without prejudice, and I have informed the Mr Bates that I would be forwarding his letter to you to enable you to respond.

JENNY WILLOTT MP

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April 2014

I have recently received a letter from Alan Bates, Chair of the Justice for Subpostmasters Alliance (“JFSA”) regarding the Initial Case Review and Mediation Scheme.

As you will be aware, the Government, as shareholder in Post Office Ltd, does not play a role in operational matters relating to Post Office Ltd, or the Working Group but is supportive of aim to resolve concerns raised by subpostmasters and believes it is in the interests of all parties for that to happen in a timely manner, especially for those who have lodged applications with the Scheme.

In that spirit, I am forwarding to you correspondence from the JFSA that sets out their concerns about the operation of the Scheme and Post Office Ltd’s engagement in the process. This is provided without prejudice, and I have informed Mr Bates that I would be sending his letter to you to respond.

JENNY WILLOTT MP

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Annex C – Background on the Scheme’s creation:

1. In 2012 the Post Office Chair commissioned a review by independent forensic accountants to investigate claims by a small number of former subpostmasters that the Horizon system was responsible for financial irregularities at their branches, which resulted in some cases in convictions & custodial sentences.
2. The review, conducted by SS, was published in July 2013, and attracted some Parliamentary interest, largely driven by James Arbuthnot MP who has a constituent whose subpostmaster contract was terminated following financial irregularities at their branch. The review found “no evidence of system wide problems with the Horizon software”. On 9 July, Jo Swinson MP made a statement to Parliament (Annex D) that affirmed the findings of the review, but also noted that the Post Office would take steps to address issues around support and training for subpostmasters that the review highlighted. These are:
 - The creation of a Working Group that will include the JFSA;
 - An independent Chair to determine how best to adjudicate future disputes; &
 - The creation of a new branch user forum to raise issues relating to business processes, training and support.
3. A Working Group comprising the Post Office, JFSA and SS was established and in August 2013 the mediation scheme (“the Scheme”) opened for applications from former and current subpostmasters who wished to have their cases considered. The application window was open from 27 August to 18 November, and in total 147 cases were received.
4. Documentation published at the launch of the Scheme included a process map. This correlates closely with the description included in Alan Bates letter, and is uncontentious. A copy of the diagrammatic process map is attached at Annex A, and shows how cases are expected to progress from application to mediation.

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Annex D – Jo Swinson’s statement to Parliament (July 2013):

Yesterday evening, an interim report into alleged problems with the Post Office’s Horizon computer system was published. The report was commissioned by Post Office Ltd from external forensic accountants, Second Sight. The Horizon system records all transactions conducted at every post office counter across the country. The Government welcome the publication of the interim report and the Post Office’s statement in response.

Although Post Office Ltd is 100% owned by the Government, the company operates at arm’s length as an independent commercial business. The Government do not play any role in operational matters. It is important to note that the issues in the report have no impact on Royal Mail, which is an entirely separate business. It is also important to be clear that, contrary to misleading media reports, the review explicitly confirms that

“we have so far found no evidence of system-wide problems with the Horizon software”.

The very small number of sub-postmasters who have experienced issues with the Horizon system are a minute proportion of the tens of thousands of people who have been successfully using the system across the network of 11,500 branches on a daily basis since 1995. Out of 68,000 users, only 47 cases have been put forward to the review.

I want to emphasise that the interim report makes no comment on the safety or otherwise of any conviction of a sub-postmaster for fraud, theft or false accounting. Equally, even if it had, the Government cannot intervene in the legal process to review or appeal past convictions. These matters can properly be dealt with only by the relevant judicial authorities. The interim report published yesterday analysed four cases. It found that there was scope for the Post Office to improve aspects of its support and training for sub-postmasters, and it has already taken steps to do so. The Post Office has further proposed a number of measures to build on some of the points made in the Second Sight report on support and training for sub-postmasters. I welcome those initiatives as, I understand, does my right hon. Friend the Member for North East Hampshire (Mr Arbuthnot), who has played a key supporting role in identifying cases for examination in the review.

The Post Office statement issued yesterday welcomed the broad thrust of the report’s findings and outlined three initiatives to deal with the issues raised. First, it will set up a working party to complete the review of cases started by Second Sight, and will consider all 47 cases brought forward by the Justice for Subpostmasters Alliance—the JFSA—and MPs. The JFSA has been invited to join the working party. Secondly, an independent figure will chair a review to determine how best to adjudicate disputed cases in future. The JFSA and other stakeholders will also be invited to take part in this process. Finally, a new branch user forum will provide a channel for sub-postmasters and others to raise issues at the highest level on business processes, training and support. The company will take forward the proposals as an urgent priority. I commend this statement to the House.