

## **WESTMINSTER HALL DEBATE:**

## **SUBPOSTMASTER MEDIATION**

### **SCHEME**

**James Arbuthnot MP (Con, North East**

**Hampshire)**

**Wednesday 17 December, 14.00 – 15.30**

## **CORE SPEECH – 1072 words**

**[Paragraphs 1 – 23, c. 8 minutes]**

### **Introduction**

1. I congratulate the Rt. Hon. Member for North East Hampshire on securing this debate on the Complaint Review and Mediation Scheme relating to Post Office Ltd's Horizon accounting software.

2. He has set out his concerns on this matter, and I know how passionately he cares about this subject. I remember well the statement that I made in the House in July 2013, and the important foundations that were committed to at

that time, which led to the creation of the Complaint Review and Mediation Scheme.

3. The Rt. Hon member has clearly laid out his perception of the failings of the Complaint Review and Mediation Scheme, which was established last August, and is overseen by the independent Working Group.

4. I have listened carefully to his concerns, and those expressed by other honourable members present here today, and will spend just a few moments reflecting on those.

## **Background**

5. To do this properly, it is useful to establish and agree some key facts.

6. First, there must be a degree of proportionality in this debate. The system processes 6 million transactions every working day across a Post Office network in excess of 11,500 branches.

Nearly 500,000 users have used Horizon since it was introduced, serving millions upon millions of customers.

7. Let us be clear, only a very small minority of, mainly former, subpostmasters and Post Office employees have made complaints about the system. Whilst every individual case matters tremendously, these do represent pretty isolated

incidents.

8. That brings me to my second point. Ensuring the integrity of the system is of paramount and overriding importance. That is why in 2012, the Post Office commissioned an independent firm of forensic accountants – Second Sight – to examine the Horizon system.

9. Second Sight published their report in July 2013. It pulled no punches, but we must always bear in mind during this debate one overriding fact that was clearly written into their independent report. There was no evidence of system-wide problems with Horizon. This fact has not changed to this day despite significant comprehensive investigation through the cases in the Scheme.

10. However, Post Office acknowledged that the report raised questions about the training and support offered to some subpostmasters and made plain its determination to address them.

11. This leads to my third point. Following the publication of the independent Second Sight report in July 2013, I made a statement before Parliament that the Post Office was deliver three initiatives in response to that report:

- a. A Working Group would be created to review cases;
- b. This would be independently chaired; and
- c. The Post Office would create a branch user forum to create a feedback loop for users.

12. At this point it is very important to clearly state for the record that the Government plays no role in the operation of the Post Office. And that the Working Group was established entirely separately of Government to ensure its independence.

13. It is also important to clarify the establishment of the Working Group. The Post Office was involved in designing and setting up the Working Group, but as an equal partner alongside the Justice for Subpostmasters Alliance and, Second Sight. The Rt. Hon. Member for North East Hampshire acknowledged at the time that the mechanism would lead to the process being fair, thorough and independent.

14. The Working Group has an independent chair.

Sir Anthony Hooper whose name was suggested

by the Justice for Subpostmasters Alliance who

publicly welcomed his appointment. As a former

Court of Appeal judge, Sir Anthony Hooper is

well equipped with the skills necessary to chair

this group as acknowledged by JFSA at the time

of his appointment and I welcome the role he has

played to date.

15. Since the Scheme began considering cases, I

understand that the Post Office has completed its

thorough and detailed investigations in virtually

all cases. Second Sight is also working hard to

produce its reviews of the cases.

16. With the jointly designed Scheme now operating and making recommendations based on the evidence presented about whether to recommend cases for mediation; it is regrettable that the Rt. Hon. Member has felt that he must now withdraw his support for the Scheme that he was so closely involved in creating.

17. Finally it is worth making the point that the findings of each case must remain confidential. This is a core aspect of the process. The Scheme requires applicants and Post Office to keep details of their cases confidential and the detail of mediations are confidential and undertaken in line with the European Code of Conduct for Mediators (to which the external

mediation provider CDER is required to comply to maintain its accreditation).

18. These cases often involve very personal and sensitive information which participants would not want disclosed publically, and could seriously damage the confidence of others in continuing to participate in the scheme if that were the case.

19. Whilst it is therefore easy to accuse the Post Office of being secretive, this is a fundamental part of the process which everyone has agreed to respect. And in any event the cases and evidence of necessity include a significant amount of sensitive personal information which cannot be disclosed and debated publicly.

## **JFSA instigating legal action**

20. It is also deeply concerning that I have learned that the Justice for Subpostmasters Alliance has recently engaged a legal firm with a view to considering legal options.

21. The success of the Scheme rests on the commitment of all the involved parties to act in good faith. This includes the Post Office, but equally applies to the Justice for Subpostmasters Alliance. The actions of recent weeks have caused significant damage to the Scheme and it will remain to be seen if this can be recovered.

22. It must not be forgotten that this Scheme was established to provide a route for former and existing subpostmasters to have their cases considered through an independent Scheme.

The actions of the Justice for Subpostmasters Alliance does nothing but cause uncertainty and delay, and does not serve the applicants well.

23. The Government has not been involved in the design of the Scheme, or in the independent Working Group. But I would maintain that all the parties that are involved are obliged to work together under the processes that were jointly agreed, to bring the investigations into the applicants' cases to resolution as quickly as possible.



## **90% CASES NOT MEDIATED ACCUSATION –**

### **107 words**

*[Paragraphs 24 – 27, c. less than 1 minute]*

24. I have heard the Rt. Hon. Member for North East Hampshire described the Post Office as ‘blocking’ 90% of applicants from the scheme or mediation.

25. Sir Anthony Hooper, the independent Chair of the Mediation scheme, has provided me with an update on progress of cases in the Scheme.

26. Of the 24 cases recommended for mediation by the working group, Post Office has only declined to mediate on 2. So the reality is somewhat different to that reported by the Rt Hon

Member.

27. Around a dozen cases have also been resolved as part of the Scheme but before the mediation itself has taken place.

## **NOT MEDIATING ALL CASES – 423 words**

**[Paragraphs 28 – 37, c. 4 minutes]**

28. I must remind the Rt. Hon. Member that the Government was **not** involved in the design of the Scheme. This was the responsibility of the Post Office, the Justice for Subpostmasters Alliance and the Rt. Hon. Member himself who welcomed the Scheme.

29. Post Office has assured me that every case is fully investigated and the decision on whether to mediate is made on the basis of the facts and findings of the investigations. Each complaint is considered on a case by case basis. But Post

Office must base its decision on substance and facts.

30. As regards criminal cases, it is important to note two things; first that neither the Government nor the Working Group can intervene in the legal process to appeal past convictions. Second a conviction cannot be overturned by mediation, that is a matter which can only be dealt with by judicial authorities, as was made abundantly clear in the setting up of the Scheme.

31. Post Office is, however, under an absolute duty to immediately disclose to a defendant and/or his/her legal representatives any information which might undermine its own case or support that of the defendant.

32. The mediation scheme was not established to overturn criminal convictions. Where an applicant has been convicted in a court of law, but believes their conviction to be unsafe, they should appeal that conviction through the relevant judicial routes.

33. I am not involved in the Scheme and not familiar with the cases but it is difficult to envisage what mediation could achieve where it has found nothing in the course of its re-investigation which casts doubt on the safety of the conviction. An applicant would have the reports of their cases from the Scheme and be able to consider whether they felt they contained evidence to support an appeal.

34. There have also been allegations made that Post Office pressured subpostmasters into pleading guilty to lesser offences.

35. Post Office only brings a prosecution when it meets the tests set out in the Code for Crown Prosecutors. This means that the prosecution has to be supported by sufficient evidence and has to be assessed as being in the public interest.

36. Before pleading guilty to any offence, a subpostmaster has the opportunity to scrutinise the evidence upon which Post Office proposes to rely and of course he/she also has the opportunity to take legal advice.

37. I would re-iterate that if a sub-postmaster should feel that their conviction is unsafe, they can appeal through the relevant judicial routes.

## **SCOPE OF THE SCHEME (INC TRAINING) – 282**

### **words**

**[Paragraphs 38 – 46, c. 2 minute]**

38. I note that in correspondence with Post Office's Chief Executive, which has been made public, the Rt Hon Member for NE Hampshire questioned what the mediation scheme now encompasses.

39. The Scheme's overall objective is to try to achieve the mutual and final resolution of individual Applicants' concerns about Horizon and related issues. I recall well that the concerns advanced by honourable friends which resulted in the appointment of Second Sight, was about the Horizon system.

40. This encompasses, as recorded in Second Sight's interim report, the following:

41. *“...Horizon relates to the entire application.*

*This encompasses the software, both bespoke and software packages, the computer hardware and communications equipment installed in Branch and the central data centres. It includes the software used to control and monitor the systems. In addition, ..... testing and training systems are also referred to as Horizon”*

42. The scheme was therefore set up with a very specific and defined purpose, but which was sufficiently wide to encompass more than just the software.

43. I would remind everyone that nothing prevents subpostmasters from raising a wider grievance with Post Office at any time through any other business-as-usual channels.

44. With regard to training specifically, which has been a source of complaint for some, this is within the remit of the scheme.

45. However, it must be remembered that those subpostmasters who have expressed complaints represent a tiny proportion of the hundreds of thousands of users who have successfully used the system.

46. The Post Office has informed me that it provides a comprehensive training package including both classroom and on-site training. If Subpostmasters feel they need additional training and support, then subpostmasters can ask for it.

## **CONCLUDING REMARKS – 214 words**

**[Paragraphs 47 – 51, c. 2 minutes]**

47. Having revisited the facts around the background to the Scheme, how it was designed and established, and how it operates, I will now draw some conclusions.

48. Following a detailed independent report into the Horizon system and related issues, a Working Group with representatives from the Justice for Subpostmasters Alliance was established in line with the three initiatives Government announced at the time.

49. After more than two-and-a-half years of detailed forensic analysis, there remains no evidence of system wide problems with Horizon.

50. Whilst some Hon Members may not be satisfied with some of the scheme's findings (which remain confidential) or outcomes to date, I would encourage them to continue to support and co-operate with the process as the best way of determining the extent to which the complaints of the members of the scheme are valid or not.

51. In all of this, I think it is incumbent on all Members to keep an open mind and act on the basis of fact. I am confident Post Office is, and will continue to, discharge its responsibilities in this matter fairly. We must be careful to ensure that the strong feelings which characterise this issue do not cause unwarranted damage to what is a vital institution at the heart of our

communities.

## **NETWORK TRANSFORMATION – 70 words**

*[c. 1 minute]*

### **Network Transformation**

Alongside the plans to modernise and improve the Crown network, Post Office Ltd is delivering its Network Transformation Programme, which is providing funding for all branches by 2018.

Nationally, over 4,500 subpostmasters have voluntarily signed up to convert, and over 3,500 branches have now converted and are open and operating. Under Network Transformation, branches are improved, and there are nearly always much longer opening hours bringing significant benefits for customers.

## **GOVERNMENT COMMITMENTS – 230 words**

**[c. 2 minutes]**

### **Government commitments**

In 2010, we set out our commitments to the Post Office network in our policy statement, “Securing the Post Office network in the digital age”. I am proud to stand here three years later and say we are delivering on those commitments, and will continue to deliver.

We said:

- There will be no programme of post office closures under this Government. There isn't, and there won't be.

- We have committed to provide nearly £2 billion for the Post Office to modernise the network.

We are providing that funding, and the Post Office is modernising.

- We want to see the Post Office become a genuine Front Office for Government. The company has won every contract it has bid for in the last three years, including the vital DVLA front office contract. Yesterday we announced a Post Office would provide the Post Office Card Account through to 2022.

- We said we would support the expansion of accessible and affordable personal financial services available through the Post Office. We

are doing so, and Post Offices financial services offerings are going from strength to strength

- We said we would create the opportunity for a mutually owned Post Office. We have held a public consultation, the company has through engagement with its stakeholders agreed its public benefit purpose, and the company continues to make progress against the mutualisation milestones that it has published.

