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To: Baroness Neville-Rolfe

From: Laura Thompson, Shareholder Executive (GRO)

Date: 2 June 2015

Subject: Post Office Horizon mediation scheme

Purpose: Further briefing on the Post Office Horizon IT system and associated mediation scheme, and seeking your views on handling this matter in the future.

Recommendation:

- A) That you note the briefing on the scheme to date and likely next steps
- B) That you agree that Government should maintain distance from this matter and resist calls for further independent investigation
- C) That you agree that officials rather than Ministers should respond to future correspondence from the Justice for Subpostmasters Alliance (JFSA)

Timing: We would welcome your steer on handling JFSA correspondence this week in order to meet drafting deadlines.

Background

1. In 2012 a small number of (mostly former) subpostmasters, under the banner of the "Justice for Subpostmasters Alliance" (JFSA) and with support from some MPs led by then-MP James Arbuthnot, claimed POL's Horizon IT system had caused accounting losses which they had had to make good, and in some cases for which they had been prosecuted (usually for either false accounting or theft).
2. POL commissioned an independent firm of forensic accountants, Second Sight, to examine the system for evidence of systemic flaws which could cause accounting discrepancies. Their initial report (in June 2013) found no evidence of systemic flaws in Horizon that could cause the issues raised. The report did find that in some cases POL could have provided more training and support to subpostmasters, and POL have since made changes to address this. POL also established a mediation scheme and invited current and former subpostmasters to come forward with cases, which would be reinvestigated and then mediated if appropriate. More details on the scheme and its operation are in Annex A.
3. In total, 136 applicants were accepted to the mediation scheme. To put this in context, POL estimate that 68,000 users currently use Horizon each day across all its 11,700 branches, and that nearly half a million people have used Horizon since it was rolled out in 2000. The vast majority of subpostmasters are using Horizon effectively every day.
4. The independent investigators, Second Sight, began their investigations in 2012, producing their initial report in June 2013 and their final report in April 2015. They have also undertaken separate investigations into each of the 136 cases in the scheme. There has therefore been over two years of independent

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scrutiny and in that time no evidence of systemic flaws in Horizon has been found.

5. Rather, the investigations found that the main reason for losses in the majority of cases was “errors made at the counter” by the subpostmaster or their staff. While the details of individual cases are confidential, we understand that there cases range from, at one end, examples where POL could and should have provided more support to the subpostmaster in preventing errors being made, to the other end, where there has been clear fraud or dishonesty from the subpostmaster or their staff. Where POL identify areas for improvement on their part, they are committed to implementing them.
6. However, JFSA are not satisfied with this outcome and continue to campaign vocally with support of a number of MPs. Having initially claimed there were flaws in the system, they are now attacking the terms of the contract between Post Office and subpostmasters, and Post Office’s approach to prosecutions. The head of JFSA, a former subpostmaster called Alan Bates, has written seeking a meeting and his letter (attached at Annex B) gives a flavour of JFSA’s arguments. They accuse POL of secrecy and cover-up, and of attempting to “gag” Second Sight. However POL’s position is that Second Sight were no longer operating independently but were captured by JFSA, breaking the terms of their contract, openly criticising Post Office in public and on social media, and presenting skewed and unsubstantiated views as fact in their reports.

Recommendation

7. Despite JFSA’s complaints and calls for a new investigation, it is our strong recommendation that Government should maintain the position that this is not a matter for Government, and increase our distance from this matter. We consider that attempts to prolong this matter do damage to POL’s brand and cost POL significant amounts of money in funding Second Sight and operating the mediation scheme. We also recommend that Government should resist any calls for further investigation – the matter has been comprehensively investigated over several years and the complaints of JFSA have borne no fruit. Reinvestigation would be neither value for money nor in the public interest:
 - There is no evidence of systemic flaws in Horizon; any issues that individual subpostmasters have faced are contractual disputes between two independent businesses (POL and agent). This point has stood firm after over two years’ worth of close independent scrutiny.
 - There is no evidence that any of POL’s prosecutions against subpostmasters for either false accounting or theft are unsafe. POL has a duty to disclose any new material that comes to light that could support a subpostmaster’s defence, and none has emerged. All legal avenues remain open to query a conviction, including through the Criminal Cases Review Commission which is currently considering some applications for review from subpostmasters.

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- It is important to note that the National Federation of Subpostmasters (NFSP), which is the recognised representative organisation for subpostmasters, does not support JFSA's arguments. The NFSP general secretary, George Thomson, has said publicly that he considers JFSA members to be "trying it on" and that their complaints are doing damage to subpostmasters' businesses.
 - We understand that many subpostmasters who entered the mediation scheme did so with the (unrealistic) expectation of large compensation payouts from Post Office at the end. It is possible that JFSA are attempting to prolong the scheme and broaden its scope in an attempt to find a "smoking gun" to claim large payouts from Post Office.
8. To date, POL have generally sought to address JFSA's concerns where possible, and throughout the process have maintained the confidentiality of all members of the scheme, even where individuals have waived their own anonymity and spoken to the press, or where documents have been leaked by JFSA. There has been some media attention on this matter, mostly BBC's The One Show and local news programmes. Subject to taking legal advice, POL are now in favour of taking a more robust approach to handling JFSA, given that it is clear JFSA wish to derail the mediation scheme and prevent the final cases from being mediated.
 9. We consider that a more robust and proactive approach from POL, together with a more detached stance from Government, would be the right approach to attempt to minimise negative press and ensure the scheme can complete its work and close as swiftly as possible. This should ensure that individuals with cases in the scheme can have a chance for resolution, while limiting brand damage and costs to POL. **Are you content with this approach?**

BBC Panorama and Next Steps

10. POL have been informed that BBC Panorama are making a programme on this matter with journalist John Sweeney, to be broadcast on 22 June. The programme is likely to feature around 5 cases of former subpostmasters, all of whom have criminal convictions relating to this matter, and have already made their cases public.
11. POL will provide an interviewee for the show, likely to be Angela van den Bogerd, their Head of Partnerships, who also appeared in front of the BIS Select Committee on this matter back in February 2015. POL are taking legal advice on whether they can put forward a more robust defence than normal including breaking confidentiality to argue their case, or using anonymised examples of cases in the scheme. They have offered both on- and off-record briefings to the BBC and are preparing their handling strategy for interest in the programme, both before, during and after broadcast. We will provide further advice on this.
12. We will need to be prepared for media interest directed at Government. As this is an operational matter for Post Office, we recommend initially passing all

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queries to Post Office's press office. If a line is called for, we recommend a reactive-only BIS spokesperson quote (which we will provide nearer the time).

13. We recommend that correspondence from JFSA is handled at official level, on the basis that they are not a recognised organisation and that continued direct engagement with Ministers will serve to prolong their campaign. We propose to send the response (attached at Annex X) from our team. If you would prefer to reply personally we can adapt the response to come from you, or (preferably) we can prepare a short response from you politely declining the offer of the meeting and leave officials to respond on the other points. **Are you content for officials to respond to Mr Bates?**
14. There may be Parliamentary interest in this matter – in the last Parliament BIS Select Committee held a one-off evidence session on this matter and then wrote to the previous Secretary of State with a few recommendations, predominantly asking Government to receive a copy of Second Sight's report and for Parliament to be kept informed. We are yet to see whether the group of MPs with an interest in this matter will pick up again now James Arbuthnot is no longer leading it – we understand that Kevan Jones MP (North Durham, Lab) is taking over his lead. It is possible that the Panorama programme in particular will prompt questions or debates, and Mr Jones may seek a meeting with you.
15. We are happy to provide further briefing, either oral or written, on this matter.

Annexes:

- A. Background information
- B. Letter from Alan Bates, JFSA
- C. Proposed official-level response to JFSA letter

Copied to: Ministers' offices, SpAds, Permanent Secretary, Mark Russell, Anthony Odgers, ShEx Post Office team, Aileen Boughen, Ashley Rogers, Claire French

Advice received from:

Finance	SpAds	Press	Legal	Analysts
No	[TBC]	[TBC]	No	No

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ANNEX A: POST OFFICE HORIZON AND MEDIATION SCHEME: SUMMARY

The Horizon IT system

- Horizon is the name of POL's electronic point of sale (EPOS) system used across all Post Office branches (i.e. Crown branches and sub post offices) to process and record transactions. Supplied by Fujitsu Services Limited, it was rolled-out in 2000 and has been in operation ever since (subject to various upgrades and fixes, as standard for a large IT system).
- Unrelated to the issues below, POL are currently tendering for a new IT system to replace Horizon, which after 15 years is becoming increasingly obsolete. Horizon is due to switch off by March 2017.

Initial complaints

- In early 2012, a number of concerns were raised with Post Office by a group of MPs led by then-MP James Arbuthnot and a small number of (mostly former) subpostmasters – the Justice for Subpostmasters Alliance (JFSA).
- Post Office appointed an independent firm of forensic accountants, Second Sight, to conduct an investigation into the claims that there were systemic issues with the Horizon system that could cause these accounting errors. As part of this, Second Sight also looked at some of the specific cases raised by the JFSA.

Interim report and mediation scheme

- After a year's investigation, it was agreed that Second Sight would produce an Interim Report for POL and applicants, which they did in July 2013. The report found that there was no evidence of system-wide (systemic) problems with Horizon, but that in some cases there may have been other factors involved, including a lack of training and support from Post Office.
- On the basis of Second Sight's Interim Report (which was shortly thereafter leaked), Post Office agreed to establish a "Complaint Review and Mediation Scheme" to consider individual cases and ascertain what had happened, as well as other initiatives including improvements to training and engagement.
- The mediation scheme was open to applications from any current or former user of Horizon over a 12 week period between August and November 2013, and was publicised widely by Post Office and by JFSA. There were 136 applications to the scheme. A working group, chaired by independent former Court of Appeal judge Sir Anthony Hooper, was established to manage the scheme and decide on how cases should progress.
- Individuals who had their case accepted into the scheme were entitled to apply for funding from Post Office to appoint an independent professional advisor to assist in compiling their case. Applicants had their case re-investigated by Post Office and then investigated independently by Second Sight. On the basis of these investigations, the working group would agree whether a case should progress to mediation. Mediation was conducted by independent mediators and overseen by the Centre for Effective Dispute Resolution (CDER).

Termination of Working Group and Second Sight contract

- In March 2015 Post Office completed all of its own re-investigations into each of the cases in the scheme. Having done so, and recognising the amount of time

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the scheme had been running (which was significantly longer than any party had anticipated), Post Office decided to put forward all remaining cases for mediation (except those where the applicant had been subject to a court ruling – those cases were considered on a case-by-case basis).

- As a result of that decision, Post Office closed the Working Group which had previously served to decide how cases should progress.
- Post Office also gave notice to Second Sight to terminate their contract. Post Office agreed that Second Sight would be able to complete their final report and would continue to fund Second Sight to complete the individual investigation reports for each of the remaining cases in the scheme.
- Post Office envisaged that through these changes, cases would be able to progress to mediation much more swiftly, with the intention of completing all mediations before the end of the year (2015).

Parliamentary interest

- The mediation scheme is independent of Government. However there has been some Parliamentary interest in this matter.
- In July 2013 Jo Swinson (then Minister for Postal Affairs) gave an oral statement to the Commons setting out the detail of Post Office's mediation scheme which was announced that day.
- In December 2014, then-MP James Arbuthnot called a Westminster Hall Debate on the scheme, where he set out that he and some fellow MPs had lost confidence in the scheme.
- In February 2015 the BIS Select Committee held a one-off evidence session on the matter. It heard evidence from Post Office, Second Sight, JFSA, NFSP, and the Communication Workers Union (CWU). Government was not invited to give evidence. The then-Chair wrote to BIS at the end of March 2015 with a small number of recommendations, mostly involving BIS receiving a copy of Second Sight's report, ensuring that information was preserved, and keeping Parliament informed. BIS wrote back to the Committee accepting most of the recommendations before Parliament was prorogued.
- In March 2015 when Post Office announced changes to the scheme, a bid for an Urgent Question was made and was refused. However James Arbuthnot was successful in raising the matter at Prime Minister's Questions that day, where the PM recognised his concerns and committed BIS to write to Mr Arbuthnot.

Media interest

- This matter has received some coverage in print, mostly occasional stories leading on a particular individual's case study. The Daily Mail has recently increased the amount of coverage it gives Post Office issues.
- One journalist in particular, Nick Wallis, has campaigned against Post Office on this issue for several years now – he has featured on the BBC's The One Show and other local news programmes (e.g. BBC Inside Out).
- POL leads on handling media interest and has been proactive in contacting outlets to offer quotes, correct factual inaccuracies, and in many instances to ask journalists to present a more balanced argument (including through lawyers).

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ANNEX C: DRAFT LETTER FROM OFFICIALS TO ALAN BATES (JFSA)

Dear Mr Bates

Thank you for your letter of 19 May to Anna Soubry regarding the Post Office Horizon mediation scheme and requesting a meeting. Your letter has been passed to Baroness Neville-Rolfe who is the Minister responsible for the Post Office. As I hope you will appreciate, the Minister receives a large number of letters every day and is unable to respond to each one personally. I have been asked to reply.

Since Post Office commissioned Second Sight to undertake an independent investigation of the Horizon system in 2012, there has been over two years' worth of scrutiny of the system and two independent reports from Second Sight, in 2013 and 2015. Both reports demonstrate that there is no evidence of systemic flaws within the Horizon system which could cause the accounting discrepancies reported. This is welcome news as it demonstrates that the system used by over 68,000 users every day in 11,500 branches across the country is operating correctly.

Nevertheless, recognising that there were a number of issues to address from Second Sight's initial investigation, the Post Office established the mediation scheme to enable current and former subpostmasters to bring forward their cases and seek to resolve any issues. As you are aware, the mediation scheme established in connection with the Post Office's Horizon system is independent of Government. Cases in the scheme relate to contractual disputes between two independent parties – Post Office Limited and individual subpostmasters – and it would not be appropriate for Government to intervene in these matters.

It is disappointing to hear that JFSA is suggesting that its members withdraw from the scheme. The mediation process is run by the independent Centre for Effective Dispute Resolution (CEDR) in line with established best practice, and each applicant is entitled to an independent advisor (funded by Post Office) and a case review from Second Sight, which should reassure applicants that the process is independently run and transparent. The Government encourages all parties involved in the scheme to continue to work together to ensure that those applicants with cases remaining in the scheme can progress to mediation swiftly.

Regarding your concerns about the preservation of data relating to the scheme, Post Office have confirmed publicly that they will not destroy documentation relating to the scheme, including information provided to (and returned by) Second Sight. All parties involved in the mediation scheme are bound by confidentiality agreements including the requirement to store information appropriately and dispose of it when it is no longer needed, or return it to the information owner.

As I hope you will understand, the Minister's diary is very busy and she is unable to accept every invitation to meet that she receives. I would encourage JFSA and its members to continue to work with the Post Office to ensure the remaining applicants in the scheme can progress to mediation.

Yours sincerely etc.