

OFFICIAL SENSITIVE: COMMERCIAL

**To:** Baroness Neville-Rolfe

**From:** Laura Thompson, Shareholder Executive GRO

**Date:** 1 October 2015

**Subject: Post Office Horizon: update**

**Purpose:** Advice following your meeting with James Arbuthnot on 17 September, covering Mr Arbuthnot's ask that you meet Second Sight and Sir Anthony Hooper. This note also updates on other next steps and the latest on this matter.

**Recommendation:** That you:

- A. Decide whether you would like to meet Second Sight (paras X), and/or Sir Anthony Hooper, possibly attempting to meet Sir Anthony first before deciding on Second Sight
- B. Agree the draft letter to Sir Anthony Hooper at Annex X (paras X)
- C. Agree to send a short note to Mr Arbuthnot, and write further once you have met Second Sight (should you choose to do so) (paras X)
- D. Note the latest update on the mediation scheme and other activity on this matter (paras X)

**Timing:** We suggest you write to Mr Arbuthnot in the next few days.

### **Summary**

1. You met James Arbuthnot on 17 September to discuss the Post Office Horizon matter, on the recommendation of Andrew Bridgen MP. We have already prepared a note of that meeting to be shared with Oliver Letwin's office, and have a letter to Mr Bridgen ready to send shortly.
2. Mr Arbuthnot's main ask of you at your meeting was that you consider meeting Second Sight, the firm of forensic accountants who were engaged by Post Office to investigate the complaints about the Horizon IT system. In your discussion with Mr Arbuthnot he also asked you to consider engaging Sir Anthony Hooper, who was the former Court of Appeal judge appointed to chair the Working Group which established and ran the mediation scheme – Mr Arbuthnot felt that Sir Anthony would be a suitable individual to review this matter for Government.

### Meeting with Second Sight

3. Mr Arbuthnot argued that, since you had received briefing from Post Office on this matter, it was only fair that you should meet Second Sight and hear their side of the story. He invited you to judge for yourself whether Second Sight were as "biased and unprofessional" as they had been depicted by Post Office. We

OFFICIAL SENSITIVE: COMMERCIAL

discussed after the meeting that the decision to meet Second Sight would be finely balanced and said that we would reflect and provide advice.

4. The advantages of agreeing to meet Second Sight would be:
  - a) Doing so would demonstrate that the Government is listening to the concerns of all parties on this matter, and deflect criticism that Government is only receiving briefing from Post Office Limited. These criticisms could be amplified if campaigners were to learn that Government had refused to meet Second Sight.
  - b) Mr Arbuthnot was an architect of the mediation scheme being established, is an influential Parliamentarian and has spoken publicly on this matter (and will do so again) – agreeing to his request may help maintain a positive relationship with him and mitigate future criticisms (although note that Mr Arbuthnot is strongly convinced that this issue will not go away)
  - c) Second Sight are claiming that their findings are being misrepresented – meeting them would demonstrate that they are not, and would also give Government a chance to understand why they feel the Horizon system is still flawed despite having advanced no evidence to support this.
  - d) Our position is that no Government action is necessary since the CCRC are considering cases, mediation is ongoing, and Tim Parker is considering this matter with a fresh pair of eyes. This position will be stronger if you can say that you have met Mr Bridgen, Mr Arbuthnot and Second Sight and remain of that view.
5. There are however significant risks in agreeing to a meeting:
  - a) The Government's position is that this is an operational matter for Post Office and Government is not involved. Meeting Second Sight could undermine that position. There is also the possibility that, having met Second Sight, you will come under pressure to meet campaign groups and by implication, individuals who have raised cases with Post Office, further removing us from our position of independence.
  - b) Related to that point, by meeting more stakeholders, campaigners might have a reasonable expectation that Government will opine on the merits of this issue and start to intervene in the process. This could be a confusing signal for individuals who have cases in the mediation scheme, and lead them to reject the offer of mediation because they believe that Government is preparing to launch an independent inquiry.
  - c) There is a risk also that your meeting Second Sight will be briefed to the media, giving another hook for this story to be repeated.
6. This is clearly a difficult judgement and one where you will need to be satisfied on the balance of risks to the Government. Our view is that on balance you

OFFICIAL SENSITIVE: COMMERCIAL

should offer a meeting to Second Sight. The risks of doing so are significant, but we believe they can be handled if we are careful and robust in our messaging. Frankly, the campaign will escalate whether you decide to meet Second Sight or not, and we assess that your having met Second Sight will put Government in a marginally stronger position than if you refused. It will also allow you to understand some of the arguments against Post Office better yourself.

7. Post Office have very strong concerns about the prospect of you meeting Second Sight, for the reasons set out above. They are concerned in particular about people withdrawing from the mediation process, having gone to considerable effort to arrange mediations with the vast majority of remaining cases (see paragraph X below). If you do decide to meet Second Sight then Paula Vennells will request a phone call with you beforehand and we recommend you do so, before you communicate your desire to meet to Second Sight or James Arbuthnot.
8. If you do decide to meet Second Sight we suggest a low key approach, with an email from your office to Mr Ron Warmington, Managing Director (who has contacted you previously).

Meeting with Sir Anthony Hooper

9. Sir Anthony Hooper is a former Court of Appeal judge in England and Wales, and was appointed in October 2013 to be the independent Chair of the Working Group overseeing the mediation scheme on this matter. He performed that role until the Working Group closed in March 2015. Mr Arbuthnot was complimentary about Sir Anthony's approach and experience, and suggested he would be a good person to review this matter for Government.
10. We have previously considered whether you should write to Sir Anthony seeking a meeting on this matter, noting that Sir Anthony has previously refused to meet Ministers (or indeed Mr Arbuthnot) while he was in post. Nevertheless we recommend you write to Sir Anthony requesting a meeting to hear his thoughts on this matter, and attach a draft letter (Annex X) for your approval.
11. *A “compromise position” could be to meet Anthony Hooper first (if he accepts), and reserve judgement on meeting Second Sight until you have met (or until he has declined to meet). This would allow you to accede to one of James Arbuthnot’s requests, whilst allowing you to make a more informed judgement on the other.*

Writing to James Arbuthnot

12. You may wish to write to Mr Arbuthnot following up on the points raised in your meeting. We suggest a short note to be sent in the next few days which thanks Mr Arbuthnot for the meeting, that you will reflect on the points he has raised and respond substantively in due course. You could include in that note your decision whether to meet Second Sight.

OFFICIAL SENSITIVE: COMMERCIAL

13. As you know, Mr Arbuthnot stated his intention to make this matter the subject of his maiden speech in the Lords. Note that his introduction is scheduled for Monday 20 October. Your note to Mr Arbuthnot could request some warning of his speech, so that Government can respond as constructively as possible. Annex X contains some suggested text for a note for your consideration.

Further updates

14. **Mediation:** We previously advised that Post Office set a date of 4 September for individuals offered mediation to decide whether they would accept the offer. Post Office have advised us that, of the 49 cases where mediation had been offered but not accepted, **only 5 have decided to reject the offer and 3 have not responded**. The remaining cases have dates agreed between now and end January for mediation to take place and Post Office are prioritising this.
15. **Tim Parker** has now (as of Thursday) taken up his role as Chair of Post Office Limited and will be considering this matter as you have requested. We recommend you arrange to meet Mr Parker towards the end of this calendar year to hear his thoughts on the matter, along with his initial impressions of the business more widely, and we will provide a separate note on this.
16. There is an **Early Day Motion** in the Commons, tabled by Kate Hoey MP (Vauxhall, Lab), which is attached at Annex X. To date the EDM has received 28 signatures: that number may change once Parliament returns on 12 October. The list of signatories is also attached; note that only one Government backbencher is a signatory, the remainder are predominantly Labour or SNP. Post Office are writing to each MP who signs the EDM to offer a meeting. Having met with Post Office, one MP has written to them stating that they would withdraw their name from the EDM.
17. When we spoke after your meeting with Mr Arbuthnot, we mentioned the possibility that, if Government considered it necessary to look into this matter, we would need **professional advice** in order to do so: a firm such as Deloitte could be appointed to look into a sample of cases, or to review Second Sight's reports and Post Office's responses for a more considered view than that of officials. This would be a significant step, with budgetary implications, and if done with the knowledge of Post Office could cause them significant concern. We maintain our recommendation that such a review is unnecessary at this time given the lack of evidence found by Second Sight (who have been openly hostile to Post Office), and because other routes to resolve the issue have yet to run their course.

**Annexes:**

- A. To add

**Copied to:** Ministers' offices, SpAds, Perm Sec, Mark Russell, Anthony Odgers, Justin Manson, Patrick Kilgarriff, ShEx POL team, Matt Barker, Claire French

OFFICIAL SENSITIVE: COMMERCIAL

**Advice received from:**

<b>Finance</b>	<b>SpAds</b>	<b>Press</b>	<b>Legal</b>	<b>Analysts</b>
No	[Nick King]	No	[Patrick Kilgarriff]	No

OFFICIAL SENSITIVE: COMMERCIAL

**Annex: Letter to Sir Anthony Hooper**

Dear Sir Anthony

I am writing to you as Minister responsible for the Post Office in connection with the Complaint Review and Mediation Scheme established in 2013. I understand that you were the independent Chair of the Working Group overseeing that Scheme from October 2013 until the Working Group was closed in March of this year.

I am sure you are aware that concerns continue to be raised about this matter, and that some individuals (including some Members of Parliament) are dissatisfied with the way the Scheme has operated and are asking the Government to intervene by establishing an independent inquiry.

Your role as part of that Scheme will have given you a unique insight into this matter, and I would be very interested to hear your thoughts on the conduct and operation of the Scheme. I would therefore like to invite you to meet with me on this matter, at a time and date convenient to you.

I understand that in the past you declined to meet with my predecessor, but I would hope that with the scheme's subsequent closure you would be able to meet me, on a confidential basis should you so wish. I would like to emphasise that the Government fully respects the confidentiality of individual cases in the Scheme and would not wish to discuss the merits of individual cases.

If you would be agreeable to this, please contact my diary secretary.

Yours etc.

OFFICIAL SENSITIVE: COMMERCIAL

Annex: Note to James Arbuthnot

Dear Mr Arbuthnot

Thank you for coming to meet me on 17 September to discuss the Post Office. I am grateful to you for taking the time to set out your experience of the matter, and it was a very useful discussion.

I am considering the points you raised during our discussion and will respond to you substantively on those matters shortly.

AND/OR

You suggested that I should meet with Second Sight and I have written to Mr Ron Warmington to offer a meeting, should they choose to do so.

OR

You suggested that I should meet with Second Sight. I am afraid my diary does not permit me to do so at present, but I have asked Tim Parker, the new Chair of Post Office Limited, to extend an invitation to Second Sight to meet as part of his review into this matter.

AND/OR

You suggested that I should meet with Sir Anthony Hooper, and I have extended an invitation to him.

I am aware of how instrumental you have been in championing the cases of subpostmasters who have raised concerns about Post Office, and I hope that we can continue to work constructively on this to ensure that the right outcome is reached for all parties involved. To that end, if any further matters arise of which you think I should be aware then I would invite you to contact my office.

You also mentioned that you intended to make this matter the focus of your Maiden Speech in the Lords. If you are able to inform my office of when you plan to speak, I hope the Government will be able to respond as constructively as possible.

OFFICIAL SENSITIVE: COMMERCIAL

**Annex: EDM text and signatories**

Add latest from: <http://www.parliament.uk/business/publications/business-papers/commons/early-day-motions/edm-detail1/?session=2015-16&edmnnumber=427>