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OFFICIAL SENSITIVE: COMMERCIAL

To: Baroness Neville-Rolfe

From: Laura Thompson, Shareholder Executive GRO

Date: 31 July 2015

Subject: **Post Office Horizon: next steps**

Purpose: Following our meeting earlier this week, and ahead of our discussion with you and Nick King on Tuesday (4 August), this is a short update on current activity and plans. This note also looks ahead to the potential BBC Panorama programme.

Recommendation: That you note this update.

Timing: To see ahead of our meeting on Tuesday 4 August.

Summary

1. Since we spoke to you earlier this week, we have been exploring options to address the concerns you raised. We have also been engaging with Post Office at a senior level to ensure they are aware of your views.
2. We recommend that you meet Paula Vennells next week when she returns from leave. Paula will be accompanied by Jane MacLeod, POL's General Counsel, who wrote to you earlier this week regarding the preservation of information returned by Second Sight to Post Office.
3. Post Office are preparing some briefing for you to set out the degree of independent scrutiny this matter has had, and will want to update you on their own plans to manage this matter and ensure it is handled appropriately.
4. At our meeting on Tuesday we will bring proposals for options you can consider to ensure that there is independent oversight of this matter, rather than Government having simply to take the side of one party or another. We will also consider some suggestions around presentation and communication. We would like to discuss all those options with you and Nick King.
5. As we discussed with you, we expect that any proposals should be focused on cases where an individual does not have a criminal conviction and has been offered mediation, whether they have chosen to take this or not.
6. Individuals who have a criminal conviction already have a suitable independent route of appeal through the Courts or the Criminal Cases Review Commission (CCRC) and around 20 individuals are pursuing that option. That is the appropriate course of action for those individuals to take if they feel their convictions are unsafe.
7. We also explained there are a small number of cases (we believe fewer than 10) where an individual has permitted their Member of Parliament to engage with

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Post Office on the specific details. In these cases, the MP has acted as an independent arbiter and has heard both sides of the story, so we would suggest that these wouldn't necessarily need to be included in any option. While the number of these cases is small, Post Office continue to make these offers to all MPs.

8. Subject to your agreement that these proposals should focus on the individuals in paragraph 5 (rather than those in 6 and 7), we are considering options which:

   - Provide some oversight of the process of investigation and mediation of each case – could an independent arbiter satisfy themselves and stakeholders that the process of mediation is fair, to encourage those who haven't participated to take part. This could involve asking CEDR (the Centre for Effective Dispute Resolution, who oversee mediation currently) to take a stronger or more visible role. It could also involve an independent party (maybe a non-serving judge or some other suitably qualified individual) taking oversight or "spot-checking".

   - Provide some guidance to individuals who are considering mediation, explaining the options available to them if they do (or do not) choose to take part. This could include setting out that, whether or not an individual goes to mediation, they have the right to pursue a civil claim if they feel they have a case, and that a group can bring a class action. (Indeed, in December 2014 the JFSA indicated that they were looking to bring class action but we have heard nothing since then).

   - Provide some kind of scrutiny of the merits of individual cases. This could be more challenging as it becomes a quasi-judicial role, and we would need to be certain we were on solid legal ground for this, particularly when as stated above there are existing legal routes which have not been exhausted

9. We would like to discuss these with you on Tuesday. In any action, we would also want you to consider the merits of Government being seen to act or not. There is a risk that, the more that Government gets involved, the more we are asked to remain involved or to intervene further. Alternative options could involve, say, Post Office deciding to take action to increase independent oversight, which as Government we could support.

10. Separately, and as you are aware, we have secured a suitable response to Andrew Bridgen MP's query around the information to be returned by Second Sight, through Post Office offering to place copies of the information with their solicitor. You have replied to Mr Bridgen on this.

11. We would also like to use our meeting on Tuesday to discuss the forthcoming BBC Panorama programme. A short overview of what we understand about the programme to date (based on information from Post Office) is attached. Our current understanding is that the BBC Panorama programme will be broadcast

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on Monday 10 August, although this programme has moved before and there is a chance it will move again.

Copied to: Ministers' offices, SpAds, Permanent Secretary, Mark Russell, Anthony Odgers, ShEx Post Office team, Simon Creer, Claire French

Advice received from:

Finance	SpAds	Press	Legal	Analysts
No	No	No	No	No

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BBC Panorama overview

BBC Panorama is preparing a programme on this matter which we understand may be broadcast on Monday 10 August. We understand it will be fronted by journalist John Sweeney and expect it to be highly critical of Post Office, featuring:

Three separate human interest stories (brief overviews below)

Interviews with

- James Arbuthnot (former Conservative MP for North East Hampshire)
- A forensic accountant, potentially an individual from Second Sight, the firm of forensic accountants appointed to carry out an independent review
- A computer expert (no further detail)
- A former Fujitsu (supplier of Horizon) employee, apparently a whistleblower saying that POL can remotely alter branch accounts to cause discrepancies. This is related to an account by Andrew Bridgen MP's constituent Mr Michael Rudkin, which Mr Bridgen raised in Parliament.

The programme is also likely to criticise POL's approach to prosecutions and lack of support for subpostmasters, as well as repeating claims that there are faults in the system. They will repeat allegations that there have been miscarriages of justice.

All these allegations have been made before and POL plan to defend themselves robustly against them. POL have engaged fully with Panorama but have (in confidence) advised us they are not confident that the programme will present a balanced view. As such, they have decided not to field a senior manager for interview and will offer a spokesperson quote only. They are considering options including legal routes to manage media interest before, during and after the programme.

Currently we do not expect the programme to be critical of Government and BIS press office has not been approached by Panorama at all. There is a possibility that the programme could seek to use clips from the recent (29 June) adjournment debate on this matter, to which George Freeman responded for the Government.

We will provide further advice on handling, in conjunction with press office and SpAds, following our discussions next week.