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Telephone:

Mr Calum Greenhow  
The National Federation of SubPostmasters

Via Email:

11<sup>th</sup> March 2024

Dear Mr Greenhow

Thank you for your correspondence of 16 January 2024. As your correspondence relates to the prosecution of Scottish Sub-Postmasters it has been passed to me as Lord Advocate and head of the systems of prosecution in Scotland to provide a response.

The wrongful convictions of sub-postmasters in Scotland arising from the Post Office's failure to disclose errors within the Horizon system is deeply concerning, and I am grateful to you for raising your concerns on behalf of the National Federation of Sub-Postmasters. As you may be aware, I addressed the Scottish Parliament in my capacity as Lord Advocate on 16 January 2024.

As I set out in my statement, there is no record of prosecutors in Scotland being made aware of the bugs and errors in the Horizon system between 2000 and 2013. In May 2013, the Post Office, via its external lawyers, first contacted prosecutors to address public concerns that had been raised regarding the Horizon system. In the months that followed, the Post Office and its external lawyers sought to provide assurance to prosecutors that the system was robust. Notwithstanding that, on 07 August 2013, in recognition of the continuing public concern, Scottish prosecutors were advised to carefully consider any Post Office case to determine whether Horizon impacted it whilst information was awaited.

On 05 September 2013, a meeting took place between Scottish prosecutors, Post Office officials and their external legal counsel. At that meeting, Post Office officials repeated their assurances to Scottish prosecutors regarding the integrity of the Horizon system. They advised that they would provide the Crown Office and Procurator Fiscal Service with expert evidence and a further report to support the integrity of the Horizon system. In the meantime, Scottish prosecutors continued to follow the approach that was set out in the advice that was issued to them on 07 August 2013.



During a further meeting on 06 October 2015, Post Office officials advised that they remained confident in the Horizon system. However, they were unable to provide a final expert report or expert evidence that would support the Horizon system. At that stage, Scottish prosecutors formalised their cautious approach. On 20 October 2015, prosecutors were advised to assess all Post Office cases and report for Crown Counsel's instruction with a recommendation to discontinue action, or take no action, in cases which relied upon Horizon evidence.

As you will know, it was not until the decisions in the English group litigation, in particular the decision of Hamilton in 2021, which established beyond doubt the true extent of the Horizon issues. Those judicial determinations identified and confirmed the extent of the Horizon problems and the adverse impact that those problems had on prosecutions across the United Kingdom.

In 2020, and prior to the determination in Hamilton, the Crown Office supported the Scottish Criminal Case Review Commission in writing to individuals who might have been convicted in Scotland on the basis of unreliable evidence from the Horizon system. In addition, the Crown Office had separately undertaken work to try and identify potentially affected cases to ensure that no possible miscarriage of justice is missed. That work remains ongoing. I can, however, advise that as at the time of writing, eight cases have been referred by the SCCRC to the Scottish Appeal Court. Of those eight referrals, six convictions have been overturned. Two referrals remain active before the Appeal Court.

The actions of the Post Office during this period are of course a great cause for concern. Whilst our priority at the moment must be focussed on remedying miscarriages of justice where they have occurred, careful consideration will be given to the actions of the Post Office and its officials. In that regard, there will require to be collaboration between agencies across the United Kingdom to identify any criminality and consider what action ought to be taken where appropriate. As I indicated in my statement to the Scottish Parliament, I have also sought advice on the continued status of the Post Office as a Specialist Reporting Agency in Scotland.

I would like to repeat my thanks to you for raising these concerns on behalf of those who you represent. It is important that you continue to do so and, as I have stated, I remain committed to achieving justice for those who may have been impacted by the Horizon IT problems.



Yours sincerely,

**GRO**

**THE RIGHT HONOURABLE DOROTHY BAIN KC  
LORD ADVOCATE**