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Iain Wright MP  
Chairman  
Business, Innovation and Skills Select Committee  
House of Commons  
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10 September 2015

Dear Mr Wright

**Post Office Complaint and Mediation Scheme**

I write to thank you for a very constructive meeting on Tuesday. The open and frank discussion we were able to have with you was much appreciated. We were also very pleased that Jessica Montgomery, to whom I am copying this letter, also attended.

As we stressed during our discussion, we have gone to great lengths to try to resolve the complaints raised with us by a small number of (mostly) ex-subpostmasters in 2012 in a comprehensive and fair manner, with a keen sense of fairness and responsibility. However, in fulfilling our commitments to confidentiality, we have been unable to correct inaccurate or misleading statements made by complainants or on their behalf.

We have also been determined to understand what actually happened in these cases - not least given the implications of finding a genuine issue with Horizon would have had on our entire operation. To recap, we have undertaken 136 individual and comprehensive investigations, provided funding to every complainant to access independent professional advice, and approached each mediation in a genuine spirit of readiness to accept where we may have fallen short. However, and as you would expect from any organisation, particularly one in receipt of public funds, we do not believe it to be in any sense right or fair to make payments in the absence of evidence to suggest that we have a liability or responsibility to do so.

***Panorama***

We agreed to send you a document which includes our response to the various and most common allegations made against us, most recently in the BBC's Panorama broadcast of 17 August 2015. This is enclosed with this letter. You will understand that this has, of necessity, been sanitised to a degree in order to preserve confidentiality and legal professional privilege.

The Panorama programme included a number of inaccurate statements, drawn selectively from limited information, to create a misleading and damaging impression of how and why Post Office undertook prosecutions. The programme presented these so as to invite the audience to be extremely concerned as to our handling of the three individual cases and inferred that these were representative of wider miscarriages of justice. We have evidence which conclusively disproves the accusations made and offered to share this with the programme but they refused to accept the confidentiality limitations we have consistently sought to place on all Mediation Scheme information in the interests of complainants.

We have since met the BBC's most senior news executive, James Harding. At that meeting we acknowledged the legitimate public interest in scrutiny of the Post Office, including by the BBC. Nevertheless, we made the point that the Panorama programme was unbalanced and misleading in its presentation of the facts, and that the BBC failed to take up the many opportunities we offered which would have facilitated the production and broadcast of a more balanced programme. We have also reserved our right to make a formal complaint to the BBC Trust.

### ***Criminal Cases***

As we flagged to you at our meeting, no criminal conviction arising from a prosecution brought by Post Office has been appealed. Nevertheless, there are now 20 cases (16 of whom are applicants to the Scheme) under consideration by the Criminal Cases Review Commission (CCRC) whose specific role is to consider whether any of these cases could have been the subject of a miscarriage of justice.

We are co-operating fully with the CCRC, which has the ability to require production of all materials relating to these cases, including information that is subject to legal and professional privilege. No other individual, organisation or body has such extensive and comprehensive powers of investigation. We welcome the involvement of the CCRC and will abide fully by its conclusions. Nevertheless, having thoroughly reviewed these cases ourselves, together with a significant number of other criminal prosecutions brought by Post Office, we believe that these prosecutions were handled properly and in accordance with the Code for Crown Prosecutors.

In light of the CCRC's on-going review, and the extensive and unique nature of its powers, we do not believe that it is appropriate, and perhaps not even possible, for any other body to seek to somehow supplement their investigations into Post Office's handling of these criminal prosecutions. Of course, it will be perfectly possible and potentially useful for the Committee to take stock of the CCRC's findings once their investigations are complete.

### ***Other Cases***

As you know, the Post Office is offering mediation in all cases other than those in which there has been a court ruling. Mediation cannot overturn a court ruling and therefore we do not believe that mediation will result in a mutually acceptable outcome in those cases. As we indicated in our meeting, only 6 of those cases which are capable of being mediated have not yet set a date for mediation with the independent mediator - the Centre for Effective Resolution (CEDR).

We continue to explore options to provide further mediation dates for that handful of cases who have not contacted CEDR.

These mediations are entirely voluntary and Post Office bears the full cost. In addition, Post Office has advised that it will not use as a defence in any subsequent court proceedings the fact that the 6 year time limit available in all contractual disputes has expired, where that time limit has expired while a case has been in the Scheme.

Reports from CEDR confirm that Post Office does approach these mediations constructively with a genuine desire to seek an agreed outcome, as you will have seen from the latest report we sent you with my letter dated 3 September. We will of course provide you with copies of any further CEDR reports. Unfortunately, however, it is apparent that many believe that the only appropriate outcome of mediation is compensation payable to them by Post Office, and this means that not all mediations will achieve agreement.

Applicants to the Scheme are also entitled to seek legal redress through the Civil Courts should they have a legal basis to do so. To date, no such action has been brought by any applicant or group of applicants.

### ***Individual Members of Parliament***

We continue to offer meetings to Members of Parliament who have one or more constituents with cases in the Scheme. During these meetings and subject to the relevant applicant's consent, both sides are able to discuss the case in full. The meetings have been constructive, with MPs having the opportunity to understand greater detail around the cases, together with the rationale for Post Office's position.

It is therefore regrettable that neither of your fellow MPs, Kevan Jones or Andrew Bridgen, has agreed to meet with us to discuss their respective constituents' cases despite repeated invitations (and even the direct encouragement of Baroness Neville-Rolfe) to do so.

### ***Public Inquiry***

You will be aware that a number of calls have been made for some form of "public inquiry" to be convened into the Post Office's handling of this issue. These calls have been repeated following the broadcast of the Panorama programme. No detail has been given as to the nature of such inquiry, who should sponsor it, who should be appointed to conduct it, or who should pay for it.

As stated above, the CCRC is already reviewing 20 criminal cases and in our view it would be premature to establish any other inquiry whose mandate includes a review of the criminal cases until such time as the CCRC has completed its work. Further, and as noted above, any other inquiry is unlikely to have as wide powers as CCRC to require the production of all relevant materials.

As to the remainder of the cases in the Scheme specifically, and the Post Office's handling of similar cases more generally, it should be noted that these are essentially contractual disputes between the Post Office and former postmasters. Postmasters are agents of the Post Office who handle Post Office funds and therefore have a fiduciary and contractual obligation to account to Post Office for the amount of those funds. All these cases have at their heart a failure by the agent to fully account for Post Office monies.

### ***Business Innovation and Skills Select Committee***

This brings me on to the matter which is of most direct concern to you in your role as Chairman of the Committee. We fully appreciate that you must take the allegations being made seriously and that these are matters which fall within the purview of the Committee. With that in mind, please be assured that the Post Office stands ready to co-operate fully with any inquiry you feel is necessary whenever you judge that moment to be.

We have every confidence that any such inquiry will be rigorous, transparent and, critically for us, fair beyond reproach. As I indicated yesterday, we would however wish to ask for a further meeting ahead of any such inquiry so that we can understand, at the very outset, what the objectives, structure and parameters might be so that we can best contribute in a way that adds value that you will wish it bring to the resolution of this longstanding issue. We would also anticipate that our evidence to the Committee would, of necessity, be more robust and granular in nature than we felt was appropriate in February 2015.

However, in our considered view, the most useful timing for a further inquiry by the Committee would be after the CCRC has concluded its work in addressing the accusations made of potential miscarriages of justice and the 51 mediations we have scheduled with complainants between now and Christmas have taken place. There will, at that point, be something concrete for the Committee to examine in a way that there is not at present.

Please do not hesitate to contact me if you would like to discuss any aspect of this issue with us, whether in confidence or on the record. We are ready to assist you and the Committee in any way we can. Indeed, should you wish to share this letter and enclosure please do feel free to do so.

Yours sincerely

**GRO**

Mark Davies  
Communications and Corporate Affairs Director

Encs.

cc Jessica Montgomery, Clerk to the Business, Innovation and Skills Select Committee