

## **DRAFT LETTER TO BNR – PROJECT SPARROW**

Further to our meeting on 26 January, in which I provided you with an update on the work I am undertaking with the assistance of Jonathan Swift QC and others at 11 Kings Bench Walk, I wish to update you on the progress of my review of the Post Office's handling of the Horizon-related complaints. In particular, I thought it would be helpful to share with you my approach to the review, the scope of work undertaken so far, and my initial findings, as well as to outline my plans for bringing it to a conclusion.

### Scope of the Review

I took, as my starting point, the following scope:

“To review the Post Office's handling of the complaints made by sub-postmasters regarding the alleged flaws in its Horizon electronic point of sale and branch accounting system, and determine whether the processes designed and implemented by Post Office Limited to understand, investigate and resolve those complaints were reasonable and appropriate”.

In my judgment, my review should address the historical position and also the important question as to what more, if anything, could or should now be done, so as to enable all concerned to move forward with confidence. As a result, the work was undertaken with two questions firmly in mind:

- a) What has already been done in the 2010-2015 period?
- b) If there are any gaps in the work done, is there any further action which can now reasonably be taken?

I then determined that the particular focus should be on those matters at the heart of the complaints raised against the Post Office, namely:

- i) criminal prosecutions;
- ii) the Horizon system (i.e. the software);
- iii) the support provided to sub-postmasters through training and helplines; and
- iv) the investigations in the circumstances of specific cases where a complaint had been raised.

The remainder of this letter summarises the headline findings from my review in these areas and the recommendations made against each.

In taking this work forward, my advisors requested and were given unrestricted access to documentation. Numerous meetings were held between them and a range of Post Office staff, as well as with Lord Arbuthnot, representatives of Second Sight (the forensic accountants who have worked on this issue) and Fujitsu (who provide the system). For the avoidance of doubt, I did ask Alan Bates, the Chairman of the Justice for Subpostmasters' Alliance, to take part but regrettably he declined.

## Principal Findings and Recommendations

### *i) Criminal Prosecutions*

In terms of the safety or otherwise of any specific conviction, this is a matter properly reserved to the Criminal Cases Review Commission which is the independent body established to consider complaints of miscarriages of justice and which is currently considering some 23 applications from former subpostmasters. The Post Office is co-operating fully with the CCRC's work and I have, of course, directed that it should continue to do so.

However nothing in the materials we reviewed suggested that there is any evidence that the Horizon system was responsible for those losses which resulted in convictions. In addition, we have seen evidence that Post Office's policy and practice in respect of disclosure of information were effective in ensuring that those facing prosecutions were not deprived of information or evidence which would have been helpful to them in their defence.

My review team identified a discrete legal issue, which has been the subject of significant publicity in the BBC Panorama programme and elsewhere, arising out of the accusation (and it is only an accusation) that the Post Office may not have had enough evidence justifiably to bring concurrent charges of theft and false accounting against individuals. In this respect, I have determined to seek further specialist advice from a leading criminal barrister to ascertain whether this practice would, in and of itself, undermine a conviction on either one of those charges. Depending on the result of that advice, further work to review specific prosecutions files may become necessary.

### *ii) Horizon*

My review team notes that, in a system of the age, size and complexity of Horizon, it is unremarkable that occasional bugs, errors or glitches should be uncovered and addressed periodically. A limited number of instances of specific errors with the potential to affect branch accounts were brought to the attention of Second Sight during the course of their work, as were details of the Post Office's handling of these. In the context of this review exercise, the team has concluded that there is no basis on which to recommend further action in relation to these known, specific, errors.

However, while my review team found that the Post Office's investigations in relation to the possible existence of unknown errors were thorough, they did consider whether it would be possible to perform additional testing to rule out that possibility more comprehensively. Work is now underway to assess if such testing is possible, and if so, to scope the work that would need to be done. Further work is also underway to address suggestions that branch accounts might have been remotely altered without complainants' knowledge. In particular the security controls governing access to the digitally sealed electronic audit store of branch accounts over the life of the Horizon system, will be reviewed.

### *iii) Training and Support*

A consistent theme of the complaints against the Post Office is the allegation that subpostmasters were provided with insufficient training to operate the system effectively and/or did not receive an appropriate level of support while in post. Here, my team notes that their ability to reach a definitive

conclusion in relation to these matters is hampered by a number of factors, including the lack of specificity in the allegations made and the relative paucity of available training records.

I have concluded that these issues have already been addressed as comprehensively as is reasonably possible by both the Post Office and by Second Sight through their investigations of all complainants' cases. However, I am taking forward one further line of enquiry in relation to the very limited number of cases where allegations were made of misleading advice being provided by the Post Office's helplines.

*iv) Investigation of Cases*

My team has concluded that the Post Office's investigations of the complaints made were detailed and thorough, leaving very limited gaps which might now reasonably be filled by further work. There is, only one further accounting exercise recommended by the review team, which consists in an examination of the extent of any relationship between unmatched balances in the Post Office's general suspense account and branch discrepancies, and independent experts have been instructed to undertake this examination.

Taking forward the Recommendations and Timings

Following discussions with my review team, I have commissioned independent persons to take the necessary work forward, and am satisfied that they meet the standards of expertise and independence appropriate to the tasks.

I do, of course, share your ambition to reach a conclusion to this exercise as soon as is possible while having regard to the need for it to be done to a high standard. However, you will understand that, particularly in relation to the further testing of the Horizon system, this work may take some time. I am hopeful that I will be in a position to report back on the outcome of this further work during May

As I have noted above, and as you are aware, a number of complainants have made applications to the Criminal Cases Review Commission for the circumstances of their convictions to be investigated. That work is ongoing and the Post Office continues to co-operate fully in the process. In addition, you will also be aware that the Justice for Subpostmasters Alliance is reported to have received funding to investigate civil proceedings against the Post Office although, at the time of writing, no claim has been issued.

I am hopeful that the focus and scope of my review to date, together with the further work which I have now commissioned, will allow me to confirm that the processes designed and implemented by Post Office Limited to understand, investigate and resolve those complaints were reasonable and appropriate, and that there are no further enquiries which should now be undertaken.

I would be happy to discuss this report with you should that be of assistance.

Yours etc

[ENDS]