



Ministry
of Justice



Department for
Business & Trade

The Right Honourable
Alex Chalk KC MP
Lord Chancellor & Secretary
of State for Justice

Kevin Hollinrake MP
Parliamentary
Under Secretary of State

22 February 2024

Dear Baroness Drake,

UPDATE ON POST OFFICE CONVICTIONS LEGISLATION

On 10 January, the Prime Minister announced a major step forward in response to the Horizon scandal. The Prime Minister confirmed that the Government will introduce new primary legislation to make sure that those convicted as a result of the Horizon scandal, which began in the 1990s, are swiftly exonerated and compensated. This announcement attracted widespread support in both Houses of Parliament and beyond.

The Government has now made a number of decisions on the proposed scope and function of the legislation, which we would like to share with the Lords Constitution Committee ahead of updating both Houses via a Written Ministerial Statement.

The Government recognises the constitutional sensitivity and unprecedented nature of this legislation – this is an exceptional response to an exceptional situation. The Government is clear that this legislation does not set a precedent for the future relationship between the executive, Parliament and the judiciary. The judiciary and the courts have dealt swiftly with the cases before them, but the scale and circumstances of this prosecutorial misconduct means this is an unprecedented situation that demands an unprecedented response. We are keen to ensure that the legislation achieves its goal of bringing prompt justice to all of those who were wrongfully convicted as a result of the scandal, followed by rapid financial redress.

Progress to date

Over the last 6 weeks, the Department for Business and Trade and Ministry of Justice have been working at pace to determine the most effective approach to this unprecedented intervention, which will deliver long overdue justice to postmasters, respectful of the separation of powers and constitutional balance. This has included consultative engagement with relevant stakeholders across interested groups as well as Parliamentarians, including the chairs of the relevant Select Committees. In

addition, detailed work has been undertaken to collect and analyse the available data from the Post Office, the criminal justice system and others to establish suitable criteria and understand the impacts of this intervention.

Scope of legislation

The legislation, which will be brought forward shortly, will quash all convictions which are identified as being in scope. That scope will be defined by a set of clear and objective criteria which will be set out in the legislation and will not require any element of discretion or subjective analysis in order to be applied. The legislation will prescribe criteria, each of which will need to have been met, to determine the convictions to be quashed.

The criteria will include:

Prosecutor(s): The legislation will specify who the prosecutor was in the relevant case. The Horizon inquiry has heard evidence of the egregious behaviour of the Post Office's investigatory practices. It is therefore proportionate that the Government legislates to quash these prosecutions where the prosecutor is, in effect, discredited. In addition, two cases have been quashed by the Court of Appeal which were prosecuted by the Crown Prosecution Service (CPS) but based on evidence provided by the Post Office. It is therefore reasonable to include CPS cases within the Bill's scope. However, we will not include any convictions from the Department for Work and Pensions (DWP). No convictions prosecuted by DWP have been quashed. Due to the nature of these cases, most DWP convictions relied on physical evidence; and when Horizon data was used it was not relied on, this evidence was corroborative of, rather than essential to, the case. The existing and established Court of Appeal processes remain available to those cases.

Offence dates: A set timeframe will ensure convictions are only quashed where the offence took place during the period that the Horizon system (and its pilots) was in operation (with exact dates confirmed in due course).

Offence types: The legislation will specify which offences are in scope, ensuring these align with the offences known to have been prosecuted by the Post Office. This means that only relevant offences such as theft and false accounting will be in scope. Non-related offences such as offences against the person will be excluded.

The contractual or other relationship of the convicted individual to Post Office Ltd: Only sub-postmasters or their employees / officers or family members, or direct employees of the Post Office will be within the defined class of convictions to be quashed.

Use of the Horizon system at the date of the offence: The convicted person will need to have been working (including working in a voluntary capacity) in a Post Office that was using the Horizon system software (including any relevant pilot schemes) at the time the behaviour constituting the offence occurred.

It is intended that the convictions in scope of this legislation will be quashed at the point of commencement.

Territorial Extent

At the time of the original announcement, it was stated that the Bill would legislate on an England and Wales only basis. Since then, we have been working closely with other jurisdictions on this important matter and wish to see equitable outcomes for postmasters delivered across the whole of the UK.

In Scotland and Northern Ireland prosecutions in this matter were undertaken by the relevant authorities in those legal jurisdictions. The Scottish Parliament and Northern Ireland Assembly has the responsibility of holding that system to account. We believe victims in those jurisdictions are best served by local decisions tailored to the judicial systems in Scotland and Northern Ireland, as such the UK parliamentary legislation will proceed on an England and Wales basis.

While it is for the Scottish Government and Northern Ireland Executive to decide on, and progress, their own approaches to the overturning of convictions, we will work with them to ensure those are compatible with the UK compensation scheme - so that compensation can be paid to victims across the whole of the UK.

Financial Redress

In Scotland and Northern Ireland, prosecutions in this matter were undertaken by the relevant authorities in those legal jurisdictions. The Scottish Parliament and Northern Ireland Assembly have the responsibility of holding those systems to account. We believe victims in those jurisdictions are best served by local decisions tailored to the judicial systems in Scotland and Northern Ireland, as such the UK parliamentary legislation will proceed on an England and Wales basis.

While it is for the Scottish Government and Northern Ireland Executive to decide on, and progress, their own approaches to the quashing of convictions, we will work with them to ensure those are compatible with the UK compensation scheme - so that compensation can be paid to victims across the whole of the UK.

Financial Redress

As noted in the statement on 10 January, the legislation is likely to exonerate a number of people who were, in fact, guilty of a crime. The Government accepts that this is a price worth paying in order to ensure that many innocent people are exonerated. The Government will seek to mitigate the risk that such people will receive financial redress when they have not been wronged. That mitigation will require, as a condition of access to financial redress, that the individual signs a statement to the effect that they did not commit the crime for which they were originally convicted. This and any other aspects of the process will be in line with best practice principles on fraud prevention. This statement will be part of their wider application for redress. Any person found to have signed such a statement falsely in order to gain compensation may be guilty of fraud. Along with other aspects of the financial redress arrangements, this will not need to be part of the legislation.

Outside the legislation, we shall provide a route to full, fair and rapid financial redress for quashed convictions. This will be paid on the same basis across the UK, regardless of where or how the conviction was quashed. Claimants receive an interim payment of £163,000 within 28 days of applying. They can then choose

between an up-front settlement offer topping up their redress to £600,000, or having their financial redress considered on an individual basis. Their reasonable legal costs will be met.

The Government will continue to engage closely with relevant stakeholders as it continues to prepare the legislation for introduction to Parliament - with the aim of achieving Royal Assent as soon as possible before Summer Recess. As the quashing of conviction are processed, the resultant financial redress will be delivered as swiftly as possible.

We look forward to engaging with the committee further as this important legislation progresses through both Houses.

Your sincerely,

A handwritten signature in blue ink, appearing to read 'Alex Chalk'.

RT HON ALEX CHALK KC MP

Lord Chancellor and Secretary of State for Justice

A handwritten signature in black ink, appearing to read 'Kevin'.

KEVIN HOLLINRAKE MP

Minister for Enterprise, Markets and Small Business