

## **Written evidence submitted by the Department for Business, Energy and Industrial Strategy (POH0006)**

### **POST OFFICE: BEIS SELECT COMMITTEE INQUIRY**

Thank you for launching an inquiry on issues emerging from the Horizon IT Court cases. Government believes that postmasters are at the heart of communities and recognises the strength of feelings about the negative impact the Horizon cases has had on postmasters, causing distress to them and their families. I therefore believe this is an important inquiry and my officials and I will take the necessary actions to support the Committee.

As a first step, I welcome the opportunity to provide oral evidence with my Business, Energy and Industrial Strategy (BEIS) and UK Government Investments (UKGI) officials on 24 March. Ahead of this, I am writing to you to provide some further information. I have also included annexes that summarise the respective roles of BEIS as the Policy Sponsor, UKGI as the Shareholder Representative and Post Office Ltd (Annex A) as well as a timeline of historical events in relation to the issues brought forward by the Horizon litigation (Annex B).

### **Current status of the Horizon IT trials and next steps**

On 11 December 2019, Post Office Ltd reached a settlement of £57.75m to conclude the Horizon litigation claim. This was fully funded by Post Office Ltd under the new Chief Executive Officer Nick Read. Post Office Ltd led the mediation and the Government was not party to it, although we closely monitored the situation during the legal proceedings. The settlement was approved by Government in accordance with the governance arrangements between Government and Post Office. A factual summary of historical events is set out in Annex B.

Since the issues with Horizon surfaced, BEIS were reliant on Post Office Ltd's management to investigate issues with the Horizon system. We were assured that the system was robust and that the issues raised by the postmasters were being handled appropriately. BEIS pressed management on these issues, including instigating a review of the Post Office's handling of Horizon and its dealings with postmasters in 2015, and was given consistent advice from the company's management and its experts that appeared to verify these claims at the time. It is now clear that this was not the whole picture and, in hindsight, facts have come to light through the litigation that has revealed that advice received over that period was flawed.

As you are aware, Post Office Ltd, under Nick Read, has accepted that in the past it got things wrong, apologised and has said it aims to re-establish a positive relationship with postmasters.

This includes undertaking appropriate actions such as addressing historic shortfalls for postmasters who were not part of this group litigation and resetting its relationship with its postmasters. We will monitor its progress closely.

The Government wants to make sure lessons are learned from this case, so that such issues do not happen again, and it is of the utmost importance that the Post Office proceeds to undertake its dealings with postmasters openly and transparently.

We are therefore committed to establishing an independent review to consider whether the Post Office has learned the necessary lessons and to provide an independent and external assessment of its work to rebuild its relationship with its postmasters. We will announce further details on this in due course.

### **On-going legal processes**

As you are aware, the Criminal Cases Review Commission (CCRC) are currently considering 57 applications from postmasters seeking to have their convictions overturned. Government cannot comment on individual cases and it is important that we do not interfere with this process. Post Office Ltd has also assured Government that they are cooperating fully with the CCRC.

Furthermore, Justice Fraser when handing down the Horizon Issues Judgment raised concerns in relation to the evidence provided by Fujitsu employees. He has referred his concerns to the Director of Public Prosecutions (OPP). It is a matter for the OPP to consider what action, if any, he would like to take. Again, it would not be appropriate for Government to comment on this.

### **Post Office's contribution to this Government's agenda**

More broadly, I wanted to thank you for the report that the BEIS Select Committee issued prior to the election, following my predecessor's appearance at the Committee in June last year. I am grateful for your recommendations and know you will have seen our response, which I sent to you on 11 March. The Post Office delivers essential services that are hugely valuable – to both individuals and SME businesses – in urban and rural areas across the UK.

Looking forward, my priorities include helping the Post Office to continue to grow a thriving commercial business together with delivering of its social purpose, which includes:

- **delivering a convenient and trusted local service that meets customers' needs**, working closely with postmasters who play an important role in their local communities;
- **ensuring its services continue to be easily accessible to all consumers, but particularly vulnerable groups who rely on them the most**; and
- **supporting the Government's access to cash and financial inclusion agenda** by ensuring that basic cash and banking services are available throughout the network to meet the needs of individual customers and SMEs.

Delivering these services enables the Post Office to contribute to the Government's broader social and economic priorities, locally and nationally. The Post Office also has a key role to play in high streets across the UK, helping keep town centres vibrant and playing a role in

levelling up communities throughout the country

I hope the information provided in my letter is useful in supporting the Committee's inquiry and I look forward to speaking further on 24 March.

*Paul Scully MP*

*Minister for Small Business, Consumers & Corporate Responsibility*

*March 2020*

## **Annex A: Department for Business, Energy and Industrial Strategy written evidence to the BEIS Select Committee's Inquiry into the Post Office and Horizon IT System, March 2020**

1. This written evidence will be followed by oral evidence from the Parliamentary Under Secretary of State for Small Business, Consumers and Labour Markets, the BEIS Director for the Post Office Policy Sponsor team and the UK Government Investments (UKGI) Director for the Shareholder Representative team on 24 March.
2. Post Office Ltd (POL) was separated from Royal Mail in April 2012, following the Postal Services Act 2011. It is wholly owned by the BEIS Secretary of State and operates with an independent Board of Directors. POL is a Public Non-Financial Corporation and in 2018/19 generated revenue from commercial activities of £972m and trading profit before subsidy of £60m. UKGI has been Shareholder Representative for BEIS in relation to POL since 2012<sup>1</sup>. HMG subsidises to POL in the current Funding Agreement (that spans from FY18/19 to FY 20/21) includes £160m of Network Subsidy Payment supporting the cost of the uncommercial network of branches and £210m of Network Investment Payment.

### **Summary of current governance**

#### *Responsible Minister*

3. The Minister for Small Business, Consumers and Labour Markets (Responsible Minister) provides ministerial oversight and support for key policy priorities, on behalf of the BEIS Secretary of State. The Minister is also the parliamentary spokesperson for Post Office-related business.
4. The Responsible Minister is supported by the BEIS Policy Sponsor (see paragraph 7) and by UKGI, who provide support to the Responsible Minister as the shareholder representative on the POL Board.

#### *Accounting Officer responsibilities*

5. The Shareholder's Principal Accounting Officer (PAO) is the BEIS Permanent Secretary. The PAO is accountable to Parliament in respect of POL and for ensuring that arrangements are in place for effective shareholder oversight of the Post Office.
6. POL's Accountable Officer (AO) is the Group Chief Executive (GCE) and is designated by the PAO. The GCE is expected to observe the principles set out in *Managing Public Money* and is personally responsible for: safeguarding all funds for which he or she has charge; for ensuring propriety, regularity,

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<sup>1</sup> UK Government Investments was formed in April 2016 when the Shareholder Executive, a Directorate of the Department for Business, Innovation and Skills was brought together with UK Financial Investments, a part of HM Treasury, under a single holding company owned by HM Treasury. The Shareholder Executive was set up in 2003, in part to act as shareholder for government's arm's length bodies.

value for money and feasibility in the handling of those funds; and for the day-to-day operations and management of POL.

*Shareholder policy and corporate governance roles*

7. The BEIS Policy Sponsor Director role was established in April 2019, as part of an expansion in the BEIS Post Office policy team. On behalf of the BEIS Secretary of State, the BEIS team oversees the Post Office's overall policy direction, ensuring consistency with the wider government policy framework and responding to parliamentary scrutiny and reporting requirements. The BEIS team has ultimate accountability for the policy relationship.
8. UKGI acts as the shareholder representative for BEIS. As part of this role UKGI hold a Non-Executive Director (NED) seat on the POL Board and sits on its Audit and Risk Committee and the Remuneration Committee. In that capacity, the UKGI NED is one of four NEDs on the Post Office Board. The NED's role is to challenge management, including the CEO, on financial and operating issues and the strategy to execute the company's objectives. The Shareholder Representative liaises with the BEIS Partnerships Team on governance matters.
9. In addition, the NED leads a team at UKGI that performs the shareholder function which includes monitoring the company's financial performance and strategy, monitoring the company's compliance with the Funding Agreement, and acting as the lead officials on all recruitment and remuneration issues relating to Ministerial appointments at the company.
10. The relationship between UKGI and BEIS is governed by a Memorandum of Understanding between the two organisations.

*Post Office Ltd's Board*

11. The POL Board is ultimately accountable to the BEIS Secretary of State for the delivery of the aims and objectives set out in POL's strategic plan. It must ensure that BEIS is kept informed of any significant changes which are likely to impact this and ensuring that any statutory or administrative requirements for the use of public funds are complied with. It also must exercise control over the day-to-day operations of POL and ensure that effective arrangements are in place to provide assurance on risk management, corporate governance, the use of public funds and internal control.
12. Fuller details of the roles and accountabilities for Post Office's governance are outlined in the Framework Document which is due to be published on gov.uk shortly.

**Annex B – Factual Timeline of Events from the Last Decade in Relation to the Post Office Horizon Case**

<b>Date</b>	<b>Event</b>
Apr 2012	Post Office Ltd (POL) is separated from Royal Mail Ltd. The BEIS Secretary of State (SoS) as shareholder appoints a Non-Executive Director (NED) to represent Government interests.
May 2012	POL hold a meeting with James Arbuthnot and Oliver Letwin (Minister of State for Government Policy), during which they agree to appoint a firm of forensic accountants, Second Sight.
Jul 2013	The Post Office Minister gives an oral statement to parliament, following publication of Second Sight's interim report, that "so far found no evidence of system wide (systemic) problems with the Horizon software" but did note 2 incident of defects giving rise to branch issues that were investigated.
Aug 2013	POL announces a Complaint Review and Mediation Scheme in consultation with the Justice for Subpostmasters Alliance (JFSA), MPs and Second Sight as an avenue for postmasters to resolve complaints.
Jul / Sept 2014	Second Sight produce their second report which describes branch operating procedures and related Horizon functions. Second Sight raise specific concerns and POL publishes a response.
Dec 2014	Westminster Hall Debate on the Complaint Review and Mediation Scheme.
Feb 2015	BIS Select Committee hearing on the Complaint Review and Mediation Scheme and the Horizon IT system. Witnesses included: POL, NFSP, CWU, Second Sight and JFSA.
Mar 2015	Complaint Review and Mediation Scheme closed. 41 of 136 cases resolved. POL write to the Post Office Minister outlining the outcomes of the scheme.
Apr / May 2015	Second Sight's final report is published, and POL publishes its response. CCRC announces it will consider cases from postmasters.
Aug 2015	The Post Office Minister meets with POL to discuss the Complaint Review and Mediation Scheme, Second Sight reports and POL's approach to addressing issues raised about the Horizon system.
Sept 2015	The Post Office Minister commissions POL's new Chair to undertake a review of POL's Horizon system and handling of postmaster issues. Support is provided by a QC
Apr 2016	Preliminary conclusion of the review by the POL Chair finds no systematic problem with the Horizon system. Review halted following legal proceedings lodged against POL by the JFSA. CCRC also initiate review the POL cases.
Mar 2017	Group Litigation Order made.
Nov / Dec 2018	'Common Issues' Trial between 5 November and 6 December.
Mar 2019	'Horizon Issues' Trial commenced on 11 March. Trial is suspended following recusal application by POL on 21 March.
Mar 2019	'Common Issue' Judgment (CIJ) handed down on 15 March.
Apr 2019	Recusal application refused on 9 April. POL apply directly to the Court of Appeal on 11 April. Horizon Issues Trial is to be stayed in the meantime.
May 2019	Court of Appeal reject POL's recusal application on 9 May. POL's application to Mr Justice Fraser for permission to appeal the CIJ denied on 23 May.
June 2019	POL apply to Court of Appeal for permission to appeal the CIJ on 13 June. 'Horizon Issues' Trial resumes on 4 June.
July 2019	'Horizon Issues' Trial concludes on 2 July.

Nov / Dec 2019	Permission to appeal the CIJ rejected by the Court of Appeal on 22 November. Mediation between POL and claimants begins, concluding with a £57.75m settlement being reached on 11 December.
December 2019	'Horizon Issues' Judgment handed down on 16 December