

Witness Name: Sir Stephen Lovegrove

Statement Number: WITN11010100

Dated: 14 June 2024

**POST OFFICE HORIZON IT INQUIRY**

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**FIRST WITNESS STATEMENT OF SIR STEPHEN LOVEGROVE**

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I, **SIR STEPHEN LOVEGROVE**, will say as follows:

1. I make this statement in response to a Rule 9 Request made by the Post Office Horizon IT Inquiry (the "Inquiry") dated 2 May 2024. I have sought to address all the matters raised by the Inquiry in as much detail as possible, notwithstanding the passage of time since the events with which the Inquiry is concerned. As the Inquiry will be aware, the events that I describe in this witness statement occurred over ten years ago and I am therefore reliant, to a significant extent, on the contemporaneous documentation I have been able to review. I have not had access to all the documents and e-mails that I would have had at the time. I have sought to make clear in this statement where I have a direct recollection of the

matters I describe and where I am relying on the documentation I have seen as part of this Inquiry, some of which I am not aware of having seen at the time. I have also sought to make clear where I am applying hindsight rather than describing my views at the time. My goal is to explain everything I can recall as clearly as possible to assist the Inquiry.

2. In preparing this statement I have been assisted by lawyers employed by UK Government Investments ("UKGI"), and by Eversheds Sutherland (International) LLP, the recognised legal representatives for UKGI, a Core Participant (as defined in paragraph 5(a) of the Inquiry's Protocol on Witness Statements) in the Inquiry.
  
3. I would like to acknowledge at the outset of this statement the years of suffering and hardship endured by sub-postmasters and their families. It is difficult to learn of their ordeals with anything other than a sense of horror and outrage. I recognise that it will be for the Chair of the Inquiry to determine the root causes of the dreadful treatment they received and to apportion responsibility. I will try to contribute to this task by providing as frank and full an account of my involvement in relevant matters as I am now able to give, bearing in mind the time that has passed and the papers that are available to me. I have also provided some reflections, informed by hindsight, about matters that could have been handled differently and about issues of corporate governance that seem to me to be important contributory factors to what went wrong at Royal Mail and the Post Office. These are offered tentatively and in the knowledge that I have seen only a small part of the evidence that the Inquiry has before it. I hope that my evidence may play some role in assisting the Inquiry to draw appropriate lessons from these appalling events and helping to

ensure that nobody in the future has to suffer the enduring injustice, loss and hardship experienced by so many sub-postmasters and their families.

4. In this statement I will refer to Post Office Limited as “POL”, both in respect of the company before separation from the Royal Mail Group (“RMG”) and afterwards.

### **Background**

5. Following graduation from university, I worked for approximately three years at a small management consultancy specialising in the media sector. Around 1993 I left to join the bank Morgan Grenfell, which had been acquired by Deutsche Bank in 1990, to work in its media sector team as an investment banker. I became the head of that team and remained so until late 2003, and was involved in a number of transactions and fund-raising.
6. In early 2004 I joined the recently formed Shareholder Executive (“ShEx”) – the predecessor of UKGI – in the Cabinet Office, under the then Chief Executive, Richard Gillingwater. Reflecting my previous sector experience, I initially worked almost entirely with the Department for Media, Culture and Sport on issues concerning the BBC Licence Fee negotiation and Charter renewal, as well as on Channel 4. In around late 2005 I was asked to become the Director responsible for RMG, and, by extension, its subsidiary POL.
7. In June 2007 I became the Chief Executive of ShEx, though I stayed closely involved with the Government’s strategy for RMG, given its scale, prominence and extremely severe commercial problems. In particular, I helped establish the Hooper

Review , titled “An independent review of the UK postal services sector”, (RLIT0000206)\_in 2007, which, amongst other things, recommended the separation of POL from its parent RMG in late 2008.

8. I was Chief Executive of ShEx until the end of January 2013, a period of time which saw an increase in the number of organisations for which ShEx acted as shareholder and a variety of transactions, including significant sales of and investments in assets within the ShEx portfolio. I was the Government’s representative on the Board of the London Organising Committee of the Olympic Games (“LOCOG”) from 2007 to 2013, and a member of LOCOG’s Audit and Risk Committee.
  
9. In February 2013 I was appointed the Permanent Secretary of the Department of Energy and Climate Change, a role I performed until April 2016, when I was appointed the Permanent Secretary of the Ministry of Defence. I continued in that role until January 2021, when I was appointed National Security Adviser. I stepped down in September 2022 and was the Prime Minister’s Adviser on Defence Industrial Strategy until December 2022.
  
10. Since leaving Government at the end of 2022, I have taken on the following roles:
  - a. Chair of Rolls Royce SMR (a civil nuclear business);
  - b. Governor of the Wellcome Trust (a charity);
  - c. Visiting Fellow at Columbia University’s School of International and Public Affairs; and
  - d. Senior Adviser at Lazard Ltd (an investment bank).

## **Government, the Shareholder Executive and Arm's Length Bodies**

### *Government responsibility for RMG/POL*

11. When I joined ShEx, POL was a wholly owned subsidiary of RMG. RMG in turn was wholly owned at that time by Government (through Royal Mail Holdings Ltd ("RMH")). Departmental responsibility for RMG lay with the Department for Trade and Industry ("DTI") (which, together with its successor Departments, the Department for Business, Enterprise and Regulatory Reform ("BERR") and the Department for Business, Innovation and Skills ("BIS"), I will refer to as "the Department"). The Secretary of State held a "special share" in RMH which conferred certain rights on Government over the activities of RMH and its subsidiaries. (Further information on the structure and ownership of RMG and POL in this period is set out in the First Witness Statement of Charles Donald dated 6 February 2024 ("Donald 1"), which I have read and which I consider accurately reflects the ownership and governance arrangements that were in place for the period of time in which I worked at ShEx) (**WITN10770100**).

12. The Secretary of State determined the desired policy outcomes for RMG and POL. The Secretary of State would effectively charge Junior Ministers and senior officials within the Department with delivering those outcomes, while remaining at all times accountable to Parliament for the effective implementation by the Department of Government policy for RMG and POL. This arrangement was typical of the approach taken at that time to assets in which Government was a shareholder, though the department in which responsibility lay varied depending on the nature

of the asset; for example, the Secretary of State for Culture, Media and Sport was responsible for Channel 4.

13. Also accountable to Parliament for RMG and POL was the Accounting Officer (“AO”). AOs were appointed by HM Treasury and in a Ministerial Department, the role was always taken by the Permanent Secretary. They were responsible for ensuring the proper management of public funds in accordance with the relevant rules and guidance (principally Managing Public Money (“MPM”)). I note that there have been several iterations of MPM since its inception; in this statement, I refer for the most part to the 2007 version (**RLIT0000205**) that was in place for most of my time at ShEx. In practice, the AO’s responsibilities were assessed through regular reports performed by the National Audit Office and appearances before the Public Accounts Committee.

14. In this way, accountability to Parliament for RMG and POL ran through both the Secretary of State and the AO.

15. I am asked to shed light on the questions being raised at ShEx Executive Committee (“ExCo”) on 27 April 2010 about the consequences of Chief Executives of HMG-owned assets being appointed as AOs for those assets (**UKGI00016656**). Treasury guidance is that the Permanent Secretaries of central Government Departments are Principal AOs, and that the CEOs of Trading Funds (a type of Arm’s Length Body (“ALB”)) are also AOs, who would report to Parliament formally through the relevant Principal AO. In practice, when it came to giving evidence in front of the Public Accounts Committee, both would appear. It was possible for

CEOs of other types of ALB to be AOs, though for the Public Corporations the AO would remain the Permanent Secretary. This would have been the background to the appointment of the Royal Mint's CEO as an AO, which is what sparked the discussion in ExCo on 27 April 2010. The Royal Mint was directly owned by the Treasury and I suspect ExCo would have been debating whether a change in approach was being considered by Treasury. During my tenure as Chief Executive, the CEOs of RMG and POL were not appointed as AOs and these responsibilities continued to sit with the Permanent Secretary of the Department.

16. I am further asked about the extent to which changes to departmental and ministerial portfolios in the period 1998-2013 affected the level or quality of Government oversight of ShEx, POL and RMG. I confine my answer to the period 2005-2013 when I had direct knowledge of these matters. In general terms the quality and extent of oversight improved over that period, but not because of either ministerial or portfolio changes. I discuss the evolution of oversight throughout this statement.

ShEx responsibility for RMG/POL

17. As set out in Donald 1 (**WITN10770100**), ShEx was established as part of the Cabinet Office in 2003. In 2004, ShEx was transferred to the Department and was charged with performing central Government functions in relation to a portfolio of HMG-owned assets (which had previously been performed by the relevant Government department). That portfolio included RMG, of which POL was a subsidiary. ShEx's principal purpose was to ensure that Government was an effective and intelligent shareholder, working with the boards and management

teams of HMG-owned businesses to ensure that they were being run in a way that was commercially effective but that was also within the clear confines of the Government's policy objectives.

18. In pursuit of that objective the model necessarily adopted by Government was that of ALBs. ALB is a term that is used to describe a wide range of organisations that are related in one way or another to Government. The definition given at page 57 in MPM (RLIT0000205) is "*[non-governmental departmental bodies], companies in which the department has a significant shareholding and other sponsored bodies*". A number of corporate models fall into this definition, including trading funds and statutory corporations, but it is the second of those descriptors – "*companies in which the department has a significant shareholding*" – that is relevant to RMG and its 100% subsidiary, POL.

19. I explain below how the ALB model was employed generally and specifically in respect of RMG and POL, including what this meant in terms of the matters that were considered to be for RMG and POL and the matters that were for ShEx or Government.

20. When I joined ShEx, Government policy was (and remained throughout my time with the organisation) that, where public goods and services could be delivered by appropriately regulated private owners with access to private capital and bringing private sector disciplines, then that should be the course pursued. However, there has always been a clear acknowledgement that some services provided by ALBs could not be outsourced to the private sector. This might be because they touched



upon issues of vital national interest (often security-related), or because their operation was closely tied to Government policies, or because the asset in question could not realistically provide a service that offered sufficient returns to make it attractive to the private sector, or for a combination of these reasons. The Government therefore retained a controlling interest in organisations providing such services.

21. Traditional departmental and civil service structures, rooted as they are in issues of policy, are not the most effective ways of managing organisations owned by the Government which are fundamentally commercial in nature. Instead, ALBs are used to allow for a degree of distance from Government and freedom from civil service structures, as set out in Chapter 7 of MPM (**RLIT0000205**). As explained in MPM (at page 47), different forms of working partnerships, including the ALB model, are utilised by public sector organisations in order to “*deliver their objectives more effectively than they could acting alone*”. This was intended to create an environment in which the suitably qualified and experienced specialists needed to run these entities effectively could be recruited and retained by them.

22. To give a non-RMG/POL example, the Nuclear Decommissioning Authority (“NDA”) could not be outsourced to the private sector due to the sensitivity of its work, the enormous size of its liabilities and the impossibility of a private sector owner being capable of shouldering this type of nuclear risk. However, the need for a highly specialised and skilled workforce means that placing managerial and operational responsibility for the NDA within a Government Department staffed by generalist civil servants is clearly completely implausible. Instead, the NDA operates as an

ALB (technically a non-departmental body created by the Energy Act 2004). It is sponsored and funded by a Government department, but has more freedom in terms of remuneration, recruitment and working culture than would be the case if the usual civil service structures applied, and has much of the corporate apparatus of a company. ShEx was responsible for managing the Government's shareholder relationship with the NDA.

23. POL was an unusual organisation in that it clearly had its own status and identity as an ALB, but was a wholly owned subsidiary of another ALB: RMG. As an ALB, POL had a vital social role in maintaining branches in remote and rural locations, providing Government services as well as postal services, and playing an important role in financial inclusiveness. The network would always require significant subsidy if it were to be maintained at the size Government policy dictated. However, significant elements of POL were commercial, including the financial services that it offered and the retail element of most Post Offices. As a company it was best run by professional executives with relevant commercial experience, allied to a clear understanding of the social role the Post Office was expected to play.

24. POL was a 100% owned subsidiary of RMG. In normal circumstances there would not have been any supplementary Government oversight of a subsidiary of a Government-owned company; indeed, POL was the only subsidiary where this was the case. This was a recognition of the clear and vital social function the POL network was expected to perform. By way of example and contrast, GLS, a very large and successful logistics business owned by RMG, had no separate oversight

from Government. RMG, in turn, was expected to discharge its ownership responsibilities towards POL, not only in a conventional corporate sense, but also in a manner consistent with the Government's policy objectives. RMG itself, meanwhile, was overseen by ShEx by reference to different objectives than those in place for POL: it was expected to make a profit, within the confines of its regulatory responsibilities. Although, as I describe below, the company faced formidable difficulties, it was certainly possible to envisage it operating as a privately owned entity, as a number of foreign mail services already were. That was not the case with POL.

*Policy vs Commercial Priorities*

25. HMG's interest in its ALBs comprised two elements, referred to as the shareholder function and the policy function. The shareholder function concerned matters that would be of concern to any shareholder, whether state or private sector: company governance, commercial strategy, profit and loss and so on. The policy function was specific to HMG and concerned the desired policy outcome that the responsible Government Department sought to achieve through the ALB.

26. In general, ShEx would oversee the shareholder function and usually the Department (or another department if that was where the policy objectives sat) would oversee the policy function, though in some cases this would sit with ShEx instead. I understand that today UKGI does not have responsibility for oversight of the implementation of policy objectives across HMG's portfolio of assets. Things were not so cut-and-dried in the early days of ShEx. For instance, postal services regulation and RMG's Universal Service Obligation were originally transferred to

ShEx along with shareholding responsibilities, though they were moved to another directorate of the Department during my tenure. By contrast, policy with respect to POL did stay with ShEx.

27. A ShEx summary on POL from February 2012 illustrates the kind of POL policy issues that were overseen by ShEx: network size, network access, key service availability, the Government subsidy for the network, the delivery of POL's commercial strategy, and the potential mutualisation of POL (**UKGI00018222**). The same document also sets out POL's commercial objectives (also overseen by ShEx), including strengthening POL's Board, separating POL from RMG, eradicating losses made by Crown Offices, achieving growth in Government services income, and maximising profitable revenues from other areas, especially financial services.

28. The Inquiry has asked me to comment on a passage in the minutes of the ShEx Board meeting of 15 September 2010 (**UKGI00001339**). These record [§2.2]:

*"Members commented that there may be situations where the Board disagrees with policy decisions, and therefore ShEx's involvement in some cases which could compromise ShEx's capability or affect its reputation. Stephen stated that ShEx would always start from a commercial position but would overlay policy priorities in order to get a settled and agreed position."*

29. I discuss the role of the ShEx Board further below. Part of that role was to ensure that ShEx maintained a commercial outlook in its dealings with both ALBs and

Government departments, and to guard against a danger that the balance of ShEx's activities would tilt too far away from the interests of the taxpayer. To put it in other terms, the Board here was seeking to ensure that priority given to the shareholder function and the policy function remained in the correct proportion, a concern that was particularly prevalent at the time of the meeting with the new Coalition Government's emphasis on efficiencies. My response was intended to reassure the Board that I was aware of the concern. The emphasis here was on a "settled and agreed" approach that could be pursued by the ALB. The commercial and policy positions had to be in appropriate balance, a balance that would be different from situation to situation, and ShEx would consider both to get to the settled and agreed position.

### **Independence of ALBs**

30. All ALBs enjoy a degree of functional independence; indeed, that is typically the main reason for setting them up. For commercial ALBs such as RMG and POL, it was necessary and desirable to leave the running of the company to the executive teams overseen by their Boards. This was done on the basis that they were in a better position than the sponsoring Department or ShEx to make the decisions that were right for the companies, subject to conformity with any overriding Government policy for the ALB, and acting in a way that was financially and economically sensible, and in accordance with principles of good governance (on which, see below). As explained in guidance published by HM Treasury, the aim was to give *"appropriate levels of freedom to exercise commercial judgement, within appropriate delegated authority arrangements that protect Departments"* (UKGI00043214).

31. The types of decisions that were for ALBs to take rather than ShEx or Government would include matters that are sometimes described as “operational” or “contractual”. Although this is convenient as a shorthand, and accurately reflects the way in which decisions were left to the management of the ALB, I am not sure that this terminology always helps to distinguish between those matters in which Government became involved and those in which it did not. It is not the case, for example, that Government simply set the “strategy” for an asset and the management of the asset operationalised that strategy. The Board and executive team of a commercial ALB were central to developing that company’s strategic aims, knowing, as they would, their markets, opportunities and cost bases by an order of magnitude better than Government. The Government clearly had a role in establishing what the policy goals were and monitoring the ALB’s operational performance (as is discussed in more detail below). Further, while most contractual matters would have been left to the Board and executive team, Government would have been involved in some of the more major contracts, such as the appointment and removal of senior figures (for example, the Chair of the Board) or major Government contracts.

32. Horizon was, of course, a major Government contract worth hundreds of millions of pounds and of great significance to POL’s business. As such, Government necessarily would have had an important role in the procurement of that contract (which preceded ShEx’s inception). However, matters concerning the day-to-day running of Horizon – as a highly complex IT system – would have been left for POL on the understanding that they would be dealt with by individuals within the

business possessing the necessary technical expertise to do so, with appropriate oversight from the POL Board. It would have been implausible for Government to directly involve itself in such matters, or in the wider day-to-day operations of POL.

33. There were a number of ways in which Government, through ShEx, communicated with and influenced the actions of commercial ALBs. The relevant Secretary of State appointed, and could dismiss, Board members and the Board Chair. The practice developed of sending a letter from the relevant Secretary of State (or Permanent Secretary) to the Chair of an ALB containing instructions on the Government's priorities for the asset. The Chair's letter was generally sent annually and could be refreshed within the year if required. I would not have expected the Chair of POL, as a subsidiary of RMG, to receive such letters and objectives for both could have been contained in the same letter. However, I am aware that a letter was sent to Alice Perkins in January 2012 following her appointment as Chair of POL (**UKGI00041966**). This was shortly before separation and Ms Perkins had been appointed with a view to the establishment of an independent Board, which explains why a separate letter was sent at that time, and would continue to be sent. Ministers and senior civil servants also had regular scheduled meetings with the Chair, the CEO and other members of the senior management team to review and discuss the asset's performance. Further meetings could be arranged to deal with specific issues on an ad hoc basis, and the relevant Department could request information or updates from the asset about those issues. As is discussed below, ShEx monitored the performance of the company through quarterly and annual reviews. Finally, Government could insist on taking a seat on the Board itself, through the appointment of a Shareholder Non-Executive Director ("NED"), though

this was very far from common practice in the early years of ShEx, as I discuss below. I discuss the arrangements in respect of RMG and POL specifically in paragraphs 57 to 62 below.

### **Prevailing Governance Codes**

34. During my time as Chief Executive, ShEx's dealings with commercial ALBs were undertaken with regard to:

- a) The Combined Code on Corporate Governance ("Combined Code"), now the UK Corporate Governance Code (the current and previous iterations of the Combined Code/Corporate Governance Code are available on the website of the Institute of Chartered Accountants in England and Wales). As explained in the 2007 ShEx Handbook (**UKGI00044314**), the Combined Code contains general principles and more detailed provisions relating to the corporate governance of listed companies. Recognising that it may not be suitable to use a "one size fits all" model, ShEx expected assets to: (i) be compliant with the Combined Code, unless there were specific reasons to deviate in individual cases; (ii) fit the needs of the shareholder and the business; (iii) provide clarity on roles and responsibilities; and (iv) be based on an ethos of informed dialogue between all parties.
- b) MPM. This sets out the main principles for dealing with resources used by public sector organisations in the UK. As explained above, it contains guidance on, among other things, the role of an AO and working partnerships such as ALBs.



- c) The Companies Act 2006 (the “Act”). The Act underpins company law in the UK and has, since its commencement, applied to both RMG and POL (save to the extent disapplied by, for example, the Postal Services Act 2011).

### **Comparison of Government companies with other types of company**

35. I am asked by the Inquiry to compare the governance of a publicly owned company (such as RMG or POL) operating under the ALB model and a publicly listed company. Some elements of ownership are the same: both companies will be governed by a Board of Directors that will include a Chair, NEDs, a Senior Independent Director (SID), and members of the executive team. The companies will both be bound by the Act and other relevant law and regulations. The Board will be bound by its fiduciary duties and will be expected to appoint key executives, determine the strategic direction of the company, oversee its performance and manage its risk. The executive team will be responsible for meeting the objectives set by the Board and for the day-to-day running of the company. The Board is entitled to expect accurate and full information to be provided to it by the executive team in order to discharge its functions.

36. An institutional shareholder in a publicly listed company has considerably less oversight and influence on governance than Government does in a commercial ALB. An institutional shareholder will rely on their own analysis, as well as other factors such as, for example, indexation, when deciding on whether to invest in a company. Once it does so, it will largely expect the Board and executive team to make appointments and run the company and will usually not take a seat on the Board (save in the rare cases when institutional investors become activist

shareholders). Its rights to information will be curtailed. If the institutional shareholder is unhappy with the company's performance or direction its solution is to sell its shares and invest elsewhere. If enough shareholders take this course of action, the company's share price will go down and, possibly, pressure will be brought on the strategy, management, or Board to change. Selling shares in this way is not typically an option that is open to Government, unless its holding is in a publicly listed company.

37. A closer comparison, though not perfect, is between Government as sole shareholder in an ALB and private equity ownership of a company, as recognised in the ShEx Handbook **(UKGI00044314)**: *“the government's position as a significant (in most cases 100%) shareholder means that many features of the private equity model are relevant to the management of government shareholdings.”*

38. The private equity owner will appoint the Chair and NEDs, and may include its own officers in those roles. The Board members will be expected to appoint the key executives and determine the company strategy, but will do so in close consultation with the shareholder. It is a model in which the shareholder will have full control over appointments and company strategy, including eventual exit. If the Board or the executive team does not meet the shareholder's expectations, they can be removed and replaced.

39. The ShEx model is closer to private equity ownership, but in attenuated form. It had some of the same levers available to it, but they had to be operated more

delicately. Although the position varied depending on the ALB, HMG would usually be involved in the appointment of the Chairs of assets and might hold approval rights over other Board members, but in general it would not appoint key executives. Unlike private equity owners, and as discussed earlier, HMG would usually have to set objectives that would have policy elements as well as economic ones. A clear example would be the requirement placed on POL to maintain a size of network which in unsubsidised form would be completely uneconomic.

40. The distinction between governance of HMG-owned ALBs and other companies (whether publicly listed or privately owned) is particularly pronounced when considering the nature of the relationship between the shareholder and the senior management teams. ShEx and the responsible department had to sustain and manage a close, working relationship with the Chairs, Boards and executive teams of its assets. This was not always easy. At the time when I was Chief Executive, many senior executive teams were used to a culture in which they had a high degree of autonomy in how they ran the companies, as they had become used to a formerly very hands-off approach adopted by policy officials. They saw the relationship with Government as being akin to that between a publicly listed company and an institutional shareholder, not that between a company and its 100% owner, or sometimes seemed to feel that they had been appointed by a Secretary of State to do a job and should be left alone to get on with it. As is discussed below, there was considerable resistance in some ALBs to greater involvement from ShEx, including RMG and POL, in particular with regard to the appointment of Shareholder NEDs.

41. Institutional investors in publicly listed companies do not have such a close working relationship with the senior management of the companies in which they are shareholders and so do not face such difficulties. Private equity owners will be closely involved in the everyday management of their assets but enjoy considerably more freedom of action than ShEx had. Many HMG-owned assets, including POL and pre-privatisation RMG, are public institutions that combine a commercial and a social element, involve a degree of political direction, are subject to constraints on remuneration in line with Treasury guidance and attract a great deal of media attention. Recruitment to the senior management of such organisations is more challenging than for privately owned companies. It is not as easy to replace members of the Board and it can be highly destabilising to do so. For these reasons, ShEx had to approach its relationships with senior management in ALBs carefully and diplomatically. This was particularly the case for RMG and POL for the reasons I have described in the previous paragraph and will expand upon below.

#### **Governance within ShEx**

42. ShEx was led by a Chief Executive, now CEO, whose role was to lead the organisation, set its strategy, structure and resourcing requirements, give direction on the biggest decisions faced in respect of assets and transactions, and play a significant role in ShEx's interaction with the Department. The Chief Executive was a Director General level civil service appointment who reported to the Permanent Secretary, and as such was expected to play a full part in the running of the Department.

ShEx Board

43. In 2007 a non-Executive Chair of ShEx was appointed. The first holder of that post, Philip Remnant (now Lord Remnant), was tasked with establishing an Advisory Group, which he did by the end of that year. In his words, in a paper written in August 2010 setting out his view of the Board's terms of reference in light of the experience of the previous three years (**UKGI00041953**), in 2009 the Advisory Group "*metamorphosed into a Board*" principally because the Prime Minister announced two new members of the "ShEx Board". These were advisory rather than fiduciary roles, and their purpose was to provide the Chief Executive and other senior managers within ShEx with support and advice. The Chief Executive or CEO continued to be appointed through normal civil service rules and reported to the Permanent Secretary. The Chairs of the Board had no formal reporting line to anyone, though clearly they would consult closely with senior members of the Department and their performance was reviewed by the Permanent Secretary.

44. I have read the paper written by Philip Remnant (**UKGI00041953**) and it reflects how I remember the situation at the time. In particular, I agree with the following observations:

*"The very nature of ShEx, operating as we do within Government / the Civil Service and as a group within a Department, means that our governing body cannot have the same powers and responsibilities as a corporate board, whether or not we choose to style that body a "Board" or an "Advisory Group"; for instance, policy is decided by Ministers and our budget is set by the Department, not in either case by the Board. On the other hand, the Board's*

*role goes well beyond - putting it baldly to emphasise a point - offering a few words of advice which the Executive is free to take on board or ignore as it feels fit.*

*Paragraph 7 of the existing Terms of Reference sets out the Board's overall remit: "The Board has an advisory role in relation to the work of the Shareholder Executive as a whole. This will include setting strategic direction in the light of Ministerial objectives, periodically reviewing the delivery of objectives as set out in the Business Plan and considering any specific issues referred to it by the Executive Committee.*

*This still holds true, but, more specifically, the Board should expect to:*

- whilst not responsible for policy formulation, give advice on the operational implication and effectiveness of policy proposals having a significant impact on ShEx's work*
- provide independent support, guidance and challenge on the progress and implementation of the business plan*
- ensure the sound financial management of ShEx in the context of the business plan*
- review the progress and status of big projects, with particular focus on value for money for the tax payer*
- be consulted on the cost/benefit analysis for all major initiatives*
- protect, promote and enhance ShEx's reputation both within Whitehall and in the wider business and financial community."*

45. During my time as Chief Executive the majority of the members of the Board were drawn from business, though there were also members with civil service, particularly Treasury, experience. As I have explained above, part of the Board's role was to ensure that ShEx continued to take a suitably commercial approach when striking the balance between the shareholder function and the policy function. I found them an extremely helpful source of advice during my time in post.

ShEx Executive Committee

46. The ExCo was a body comprising the Chief Executive and senior Directors from within ShEx. As set out in the Philip Remnant paper referred to above **(UKGI00041953)**:

*“The Executive Committee is responsible for the day-to-day running of the Shareholder Executive across the three strands of corporate finance, corporate asset management and property. The Committee will regularly review progress with meeting objectives as set out in the Business Plan. It will determine policies and procedures for the Shareholder Executive within the framework of BIS policies and the direction set by the Board.”*

47. Examples of matters discussed by the ExCo include the deployment of resources within ShEx, the adoption of new mandates and how to respond to spending cuts or recruitment freezes.

48. Although ExCo was not primarily designed to discuss major strategic or policy issues concerning individual assets, it did review a summary Risk Register of ShEx

assets, which would record the top risks for core assets. It was not designed to determine action with respect to each of these risks but was a means by which the most senior officials in the group could keep an eye on any significant changes in the known major risks the assets were running. Much fuller Risk Registers were maintained by the relevant shareholder teams and would be discussed at the regular asset reviews, and were captured in the associated traffic light analyses (discussed further below). Towards the very end of my tenure as Chief Executive (January 2013), we took the decision to increase the formality of risk appraisal at Group level (i.e. ShEx level), despite the fact that the requirement to do so had been dropped by the Department.

49. The Chief Executive did not require “approval” from either ExCo or the Board when making decisions, but I looked upon running ShEx as a team effort and discussed almost all major issues with senior colleagues in one forum or another.

### **ShEx’s Oversight Model**

50. The methods and processes that ShEx adopted, through individual shareholder teams responsible for particular assets such as RMG and POL, to monitor and report on those assets in the portfolio evolved over time, as would be expected, and will have continued to evolve. A system developed of Quarterly Reviews and Annual Reviews, informed by standardised traffic light analyses. An example is at **(UKGI00017395)**. The reviews would be prepared by the relevant shareholder teams overseen by the lead Director of that team and would be discussed at meetings attended by the ShEx colleagues, often including at least one of the Chief



Executive/CEO and the Deputy CEO, as well as other members of senior management. The meetings at which the reviews were examined were lengthy and detailed, and designed to subject the teams to a degree of challenge, as well as make sure that senior management were sighted on performance and issues. The shareholder teams also reported to me on an ad hoc basis as and when the need arose; if something required my attention, we would not wait for a Quarterly or Annual Review to discuss it.

51. An important part of the Reviews was examination of the Risk Register. Risk Registers are a necessary device within businesses and Government departments. They are intended to identify the most significant risks to the organisation and then score them by reference to their impact and probability using standardised criteria. While I was Chief Executive of ShEx, there was a Top Level Risk Register maintained by the Department, an ExCo Risk Register on key issues relating to individual assets and Individual Team Registers covering individual assets (including each of RMG and POL) in more detail. An example of one such contribution is the register prepared by the Post Office Network Team on 20 June 2007 (**UKGI00042173**). It is a matter of judgement for those compiling the register as to whether a risk is sufficiently significant to justify inclusion. As one goes higher up the chain of accountability the question of whether a particular risk should be escalated continually arises.

52. Risk Registers also contained information about mitigating actions for each risk, a timeline for their resolution and who was responsible for the action to be taken. Within a business, the Risk Register is typically owned by the Audit and Risk Sub-

Committee of the Board (ShEx, as a directorate of a Government department, did not, however, have a Risk and Assurance Committee until after I left the organisation). As the 20 June 2007 Departmental Risk Register (**UKGI00042173**) shows, it was the job of the Post Office Network Team to compile the POL Risk Register within ShEx, relying on their analysis of the information that was provided to them by POL, informed by further data from RMG, its parent company, and officials' own appreciation of the risks being run. The effectiveness of the Risk Register is therefore largely dependent on the flow of information from the asset in question (though certain risks of which the asset was not necessarily aware – for instance, concerning Government processes or potential departmental decisions – would also be included in the ShEx or Departmental registers).

53. Looking back now, with the benefit of hindsight and acknowledging that I have not seen all of the evidence, it seems to me that the failure to identify and socialise the risk posed by, first, errors in the Horizon system and, second, POL's power to prosecute sub-postmasters using Horizon data, was central to what followed. This is so both in terms of the initial wrongful prosecutions and the subsequent delay in acknowledgement and rectification. Those two risks should have appeared on the Risk Registers of, in ascending order, POL, Royal Mail, ShEx and the Department.

54. The order is important. It was for those in POL, who were most closely associated with the company's work and practices, to identify the risk associated with them. That should then be formalised through the Risk Register so that other concerned bodies – not only RMG, ShEx and the Department, but also external auditors, investigators and advisors – could form their own views about those risks and the

actions to take in respect of them. It appears that information did not flow as it should have done, so that those charged with overseeing the governance of POL, starting with officers in POL itself, were unaware of the risk, or even in some instances that POL was responsible for prosecuting sub-postmasters using Horizon data. If a risk is not identified, it cannot be properly monitored, mitigated and managed.

55. Clearly, Risk Registers were not the only forms of accountability and scrutiny ShEx used. Where appropriate, the asset team would also raise specific issues with the Ministers or the Permanent Secretary through submissions or meetings. Submissions raise specific issues for Ministers to give decisions on or of which they need to be made aware, and could be written by almost anyone in ShEx. There was no set pattern for the creation of a submission. For matters of sufficient importance, a submission would be seen and signed off by a member of the Senior Civil Service. In the case of submissions relating to POL, I would have expected this to have been done by the Deputy Director within the shareholder team (subject to arrangements to cover circumstances where this could not be arranged in good time). It would be open to those in the shareholder team to escalate the submission to the Director or, if necessary, to me as Chief Executive. I might also be informed about a sensitive submission if it was thought helpful to share that knowledge with me. The question of when to escalate a submission in this way was a matter of judgement, drawing on the experience and practice of those working in ShEx at the relevant time.

56. I did not expect, nor did I want, all submissions to Ministers and the Permanent Secretary to require my sign-off. A regular criticism of the civil service, both from within and without, was that there were too many levels of sign-off required for submissions, reducing clarity and introducing delay, as well disempowering more junior staff. Both would have run counter to the practice increasingly encouraged by both the Department and within ShEx. It would also have been impractical given the volume of submissions being written and my wider departmental responsibilities.

#### **Oversight arrangements for RMG and POL in particular**

57. For each of ShEx's assets, there would be teams in place to oversee different aspects of the asset's function. The RMG team was the largest of all such teams, given the scale of the company and the challenges it presented. It was led by a Director (the grade below Director-General), who was accountable to me as Chief Executive. The Director was supported by two Deputy Directors. One Deputy Director was responsible for oversight of Royal Mail (and increasingly the progress of the Postal Services Bill through Parliament) and had a team of nine or ten civil servants with a blend of civil service and private sector expertise dealing with the various aspects of the business and preparing it for life as a privatised entity. The other Deputy Director was responsible for oversight of POL. This was a smaller team of five or six, and again had a blend of different experience within it, though tending to a preponderance of civil service experience given the more prominent social mission of POL. Within this team were the civil servants who provided advice to Ministers on issues to do with the network and the sub-postmasters, including responses to the Justice for Sub-Postmasters Alliance ("JFSA").

58. As I discuss in more detail below, my own focus on matters relating to RMG was predominantly on the parent company, RMG, and increasingly on implementing the conclusions of the Hooper Review of 2008.

59. I had very little personal role on issues specific to POL. As I have already described, there was a separate team dealing with POL policy issues reporting through the ShEx Director responsible for oversight of RMG. A dedicated and refocused shareholder team was in place after separation and this is discussed further below.

60. My knowledge of Horizon during the time in which I was involved with POL and RMG related matters in ShEx was extremely limited: I understood that it was the Post Office's point-of-sale system and that it had been a complicated procurement some years before, but I knew little beyond this. I do not recall the May 2009 Computer Weekly article (**POL00041564**) being brought to my attention during my time at ShEx. Nor do I remember being made aware of complaints made by sub-postmasters as to the integrity of the Horizon IT system.

61. The Inquiry has asked separately about, first, how matters of POL's strategy were fed back to the Department by ShEx and, second, how matters of POL's operations were fed back to the Department by ShEx. I do not think that there was any difference in practice between the two. If an "operational" matter was deemed to be of sufficient importance that it required notification to or a decision from a Minister, this would be done through the same routes (submissions and/or

meetings) as would be done for a matter of “strategy”. It was, though, perhaps more likely that strategic rather than operational matters would require the attention of the most senior people in the Department. It was also the case that, particularly in respect of the period before separation, reporting on RMG and POL was heavily focused on financial performance (as reflected in ShEx’s reporting for this period, including traffic light analyses and Quarterly/Annual Reviews) and ShEx did not have a representative on the Board of RMG or POL, meaning that risks arising from operational matters were less likely to appear in ShEx’s reporting for this period.

62. An example of the type of information pack produced in this period is the RMG Group Finance Director’s Report of December 2007 (**UKGI00041838**). This would have been provided by POL to the ShEx shareholder team. The key performance indicators at the start of the document focused on figures relating to the transformation programmes in place for RMG and POL, the share value, data concerning productivity and personnel issues, and metrics measuring the quality of service to customers. There followed several pages of detailed figures and data on group results, segmental results, the profit and loss statement, revenue streams, operations, cashflow, balance sheets, delivery data and measures relating to personnel and customers. The section on risks was dominated by RMG’s commercial and financial position, perhaps unsurprisingly given that this was a report from the Finance Director.

### **The evolution of ShEx's oversight model**

63. During my time working in ShEx, the organisation grew and evolved considerably from the approximately seven or eight individuals with whom I initially worked. It was a new and innovative body within Government and once it had proved its value it was quickly asked to take on more assets, including those resulting from Government intervention during the global financial crisis of 2008. Generally, it was the relevant Department that would suggest an asset should be brought within ShEx's portfolio, though sometimes we, at ShEx, proactively identified HMG-owned assets that we thought would benefit from ShEx oversight. Inevitably ShEx's approach and structures developed incrementally during this time.

64. In 2011 Anthony Odgers produced a paper for the ShEx Board entitled "Portfolio Unit Development" (**UKGI00043224**), which was an important waypoint in the development of ShEx's operating procedures. As is stated at the start of the paper, Anthony had been recruited the previous October into the new role of Head of Portfolio "*with an objective to improve and move forward the performance regime for the ShEx portfolio of companies.*" The paper was the result of focused conversations about our work in Anthony's first six months and how it could be improved. At that time in ShEx's development we were getting busier and we were keen to develop more formal and consistent structures.

65. Anthony's paper made a number of initial observations. The first of these was that ShEx "*does not have the level of resources necessary to give all our companies the ideal level of attention.*" I agreed with that observation, though I would note that it is not unusual for any busy organisation to have this concern. Resource pressures were at that point compounded by the recruitment freeze that the

Government had introduced. Anthony's paper proceeded, correctly, on the basis that it was not realistic to expect significant additional resource, meaning that ShEx would need to manage what it had carefully. He also noted that we would need to recruit more senior people if we were intending to place ShEx Directors on the Boards of a number of ShEx's larger assets.

66. Another of Anthony's observations was that ShEx *"doesn't always have the position it needs to monitor and challenge effectively."* As Anthony went on to make clear, this was principally directed to ShEx's presence on the Boards of its assets:

*"A Board seat, or at least an ability to attend Board meetings, is likely to be important to understand the business in detail, to be able to point out the government related issues to the Board as a whole, and to have the most credibility with executive management. We do not sit on the Board of some of our biggest portfolio companies (e.g. Royal Mail, Post Office, NDA)."*

67. I strongly supported Anthony's analysis and his proposed solution of taking seats on the Boards of ShEx's core assets. The extract above identifies the three main reasons for doing so: to understand what was happening in the asset, to communicate the Government's position to the asset and to maximise ShEx's credibility with the executive management. To my mind, the first of these was the most important, not least as it emphasised the role of Government as the owner of the asset, rather than its role as customer. I also agreed with Anthony's proposal for the Shareholder NED to take a seat on the remuneration committee in order, in his words, to *"help drive the link between ownership, objectives and management."*



This would be done by ensuring that the Government's preferred objectives were suitably incentivised.

68. It had, in fact, long been my view that the Government (through ShEx) should be taking seats on the Boards of its main assets and I thought it anomalous that it had often not done so when it was the sole owner of these companies. However, there was resistance to this proposition both within the Government and the assets in the early years of ShEx's existence. From the Government's side, this was due to concerns that a Government Board member might be associated with politically controversial decisions. From the asset's side, a Shareholder NED was often seen as an unwelcome innovation that risked political or inexperienced interference in commercial decisions (as I reference at paragraph 40 above).

69. In my initial years in ShEx, my view that we should have been taking Board seats did not prevail. For a company such as RMG, in which management had a deeply engrained culture of independence from Government, it would have been extremely difficult to even raise the issue. Had ShEx attempted to force the point, I am entirely certain that there would have been extremely strong pushback, which may well have become public, and would have resulted in increased conflict in an already strained relationship. This would have been destabilising commercially and politically and was certainly not what the Ministers responsible for RMG wanted, particularly given the policy goal, after 2008, of privatisation. Had, for instance, the Chair resigned, recruiting a replacement in the aftermath of such a public disagreement would have been highly challenging. As I describe below, RMG's culture of independence carried over into POL. There was resistance from the

Chair to the appointment of a Shareholder NED that continued well into 2011, when plans for separation from RMG were being finalised. This was the case despite the social/policy element of POL's business model forming a greater proportion of the whole than it did with RMG. However, by the time of separation the position of HMG and ShEx had shifted in favour of representation on the Board. I think this was because, as Anthony's paper showed, by May 2011 the problems associated with not having a Board seat were becoming manifest. It also reflected how ShEx had evolved from a relatively small organisation with shallow roots in Government to an established body that could more readily develop and advance positions that it considered to be important in managing HMG's shareholder interest in ALBs.

70. Anthony's central proposal was to develop two levels of ShEx involvement with assets, "Core" and "Light Touch". As Anthony explained:

*"Core involvement for ShEx would usually include a seat on the board; providing direct advice to Ministers; acting as the primary company (as opposed to policy) driver within Government; and having the ability to incentivize management – i.e. having the key input on management targets and any linked remuneration" (UKGI00043224).*

71. "Light touch" involvement would, as the name suggests, consist of ShEx adopting a less direct and intense role.

72. An asset would be identified as Core or Light Touch depending on its size and complexity. RMG and POL were Core assets on both counts and they were so

identified in Anthony's paper. He also wrote that, as POL separated from RMG, ShEx would take "*a more significant direct role*" in its governance. This was an inevitable consequence of POL becoming an independent company that was wholly owned by the Government, with ShEx monitoring the Government's shareholding. That relationship would now be direct, rather than through RMG. It also reflected the fact that the development of the independent structures for POL represented an opportunity for ShEx to influence the governance model of the newly independent company, for example by establishing from the outset that POL would have an effective set of Board committees, and that a ShEx NED would sit on the Board. I discuss later in this statement the further observations made in Anthony's paper about ShEx's relationship with POL.

### **ShEx oversight of RMG and POL before separation**

#### RMG

73. For the first year or two of my career with ShEx I had no involvement with RMG or POL. In, I believe, late 2005, I was asked by the then Chief Executive, Richard Gillingwater, to take on responsibility for RMG. At that time RMG was in extreme corporate difficulties. There were near constant concerns about whether it would remain a going concern, it had an unsustainable pension fund deficit and ongoing industrial relations problems. The wider business environment was hostile, with a clearly correct expectation that mail delivery services would be increasingly eroded by new technologies. New delivery services were being established without Royal Mail's legacy problems and without the requirement to provide a universal postal service to every part of the UK. The regulatory relationship was extremely poor. So difficult was the company's commercial condition, that Government was obliged to

inject £2.1 billion additional capital into the business in 2006, a transaction for which I was the responsible senior official.

74. It was against this background that I provided advice in 2007 to the Secretary of State recommending that a properly funded independent review into the future of postal services sector be established. This was agreed and undertaken by Richard Hooper, who published his Report in 2008 ('Modernise or Decline: Policies to maintain the universal postal service in the UK') (**RLIT0000206**), and an update, published in September 2010 ('Saving the Royal Mail's universal postal service in the digital age'). Its main recommendations were to:

- a. change the regulator from PostCom to OfCom;
- b. absorb the pension fund of Royal Mail into the Government finances;
- c. separate the Royal Mail from the Post Office;
- d. take legislation through Parliament to enable the above, as well as give the Government the legal ability to sell shares in the Royal Mail; and,
- e. prepare for the privatisation of the Royal Mail (ultimately implemented after my departure from ShEx).

75. Both the Labour Government until 2010 and the subsequent Coalition Government under Prime Minister David Cameron adopted these recommendations as policy.

*Relationships with RMG and POL*

76. The relationship between ShEx and the management of RMG was, at points, difficult in the first part of this period. In very large part, this was the natural product of the extremely challenging circumstances the company was wrestling with and

difficulties of reaching agreed courses of action to stabilise its finances and modernise its operations. In addition, the senior management team, including the then Chair (Allan Leighton) and Chief Executive (Adam Crozier) of RMG had been used to a high degree of autonomy in the way that the company had been run. There was, in my view, a degree of resentment about perceived interference from ShEx which is reflected in my submission to the Secretary of State in December 2006 (**UKGI00045962**) where I state:

*“The shareholder/Board relationship has been far from ideal... at various times over the last three years the company has indulged in gaming and has tried to apply pressure on the shareholder without taking due consideration of the fact the shareholder is the Government and has to work within certain constraints (albeit that we strive to act as a commercial shareholder). This has manifested itself in the company refusing or being slow in providing information; threats of resignations and insolvency; and the playing out of issues in the media. There has been no shared vision of the ideal profile of members of the board ... There has also been poor consultation over key executive appointments in letters, POL and the finance function. In a word, "trust" is missing from the relationship.”*

*“More broadly, at one stage, Allan Leighton opposed our proposal for a series of regular meetings between the shareholder and the NEDs.”*

*“It was also a requirement of the letter of 17th May that Royal Mail institute a proper independent Board audit process, strongly resented by Allan Leighton.”*

77. This dynamic is reflected in a Traffic Light analysis of RMG dated 14 April 2008, on which I signed off as Director of the relevant team (**UKGI00017395**). The Shareholder Relationship was classified as Red (the most concerning of the three options). In response to the question, “*Does the Chair respond to Shareholder’s concerns*”, the analysis records (§1.3):

*“Yes and No. Often extreme. Recently some improvement. Chairman’s response to [the Secretary of State’s] Chairman’s Letter acknowledges importance of monitoring and reporting the company’s performance.”*

78. The overall relationship was described as being “*Satisfactory, just*” (§1,2). The same document contains comments that the “*Relationship with the Chair can be mixed*” (§1), and that the “*relationship with CEO has been strained but is improving*” (§3.2). These were, so far as I can recall, all aspects of the tension with ShEx that I have described above. On their part, I suspect that the Chair and CEO felt that they had been appointed to run the company, and to deal with its many interlocking problems with a relatively free hand and that this was now being curtailed by the imposition of the ShEx model. (The parlous state of RMG at that time is shown by other entries in the traffic light analysis: Strategy, Financial Performance, and Balance Sheet & Risk are all rated as Red.) On our part, there was a sense that the management of a company wholly owned by the Government did not consider itself sufficiently accountable and would not always share information with ShEx. In that context, and for the reasons I have discussed above, the prospect of ShEx taking a Board seat at RMG was remote.

79. The tension between RMG and ShEx was not unique. There was a spectrum of receptiveness among ShEx's assets to its involvement and RMG was at the more reluctant end.

80. The Traffic Light analysis (**UKGI00017395**) does show, however, that progress was being made. As well as the indications to this effect in the quotations cited above, the assessment of the implementation of the (ShEx) shareholder model was assessed as Green. A shareholder relationship paper was in place (though it was noted that it might need refreshing). A recent Chair's letter had been written and there was a clear statement of the Government's objectives for the business. Within ShEx the postal policy and shareholder functions had been split into different teams and work was underway on improving monitoring. Monthly (and timely) financial information was being provided. These were among the measures that ShEx was seeking to implement across its assets to try to formalise and regularise its relationships with them. As time went on, relationships with the management and Board became noticeably less fraught as faces changed and the shareholder model became more established and accepted.

POL

81. As I have stated, from the time at which I took over responsibility for RMG until the time at which it was privatised, my focus was very much on RMG, its problems and, later, the steps needed to give effect to the conclusions of the Hooper Review. Because of this I had very little direct role in matters relating to POL.

82. It was recognised that POL would have to be separated from RMG before privatisation. The main issues concerning POL were inter-related policy questions: How big was the Government subvention for POL? What size of branch network did the Government wish to maintain? How would the Government's strategy for the branch network be successfully executed? The team I describe at paragraph 27 was where this work was undertaken.

83. Neither this team nor anybody else in ShEx was in any way in charge of the conduct of prosecutions by RMG prior to separation, or POL after it. It seems from the documentary evidence that knowledge of the prosecutions was very limited. I was not personally aware that RMG/POL had the power to conduct prosecutions, nor was it a power that I would in any way have expected a company to have.

84. I am asked about the extent to which ShEx oversaw contractual and personnel management at POL prior to separation. Responsibility for these matters would have rested with the executive team and the Board of POL, overseen by the RMG Board. As such, ShEx had no role in overseeing contractual or personnel management in POL at that time. The only exception of which I am aware was the role played by ShEx in the appointment of the first independent Chair of POL, a matter that I discuss further below.

85. I am also asked about the extent to which ShEx oversaw POL's investigation and response to allegations made by sub-postmasters concerning the reliability of the Horizon IT scheme. I do not recall being made aware of these complaints at the time. From the papers I have seen when preparing this statement, it can be seen



that some concerns began to be raised with the Department by Parliamentarians in 2009. On 13 October 2009, Alan Cook, then the Managing Director of POL, wrote to Brooks Newmark MP in response to a Parliamentary Question Mr Newmark had put to the Minister of State at BIS about reports of errors in the Horizon IT scheme. Mr Cook explained that he had been asked to reply directly, presumably on the basis that this was seen as an operational matter for POL rather than a policy matter for the Minister (**UKGI00000028**).

86. A similar approach was taken to later Parliamentary Questions, for example in a draft answer prepared for Ed Davey MP, then the Parliamentary Under Secretary of State for Employment Relations and Postal Affairs, in response to a series of questions asked by Michael Weir MP in October 2011 (**UKGI00014000**). Ministers and officials would have expected the Managing Director or CEO of POL to have been in a better position to provide the relevant information and would have anticipated that a full and accurate answer would be provided to Parliamentarians. Mr Davey told Mr Weir that a copy of the letter sent to him would be placed in the House of Commons Library, so that it would be available to other Members. The draft answer was prepared by an official within the ShEx POL team and, in line with the processes I have set out above, it was approved by the Deputy Director in charge of that team. I would not expect the ShEx Chief Executive to have been involved in this process for the reasons I have given above at paragraph 55.

87. In addition to Parliamentary Questions, I can see from the papers provided to me that Mr Davey was scheduled to meet with Alan Bates of the JFSA in October 2010 in response to letters that Mr Bates had written. It appears from the

correspondence that Mr Davey had initially declined to meet Mr Bates, before reconsidering in light of further correspondence. The briefing prepared for the Minister ahead of this meeting reiterated the position that Horizon was then considered to be an operational matter for POL in line with the ALB model **(UKGI00000062)**. I have no recollection of being involved in the production of this submission and advice or of seeing it at the time, and I would not have expected to have been involved or copied in for the reasons I have described. It would have been signed off by a member of the Senior Civil Service (probably the Deputy Director) in the way described above, and it was open to the Shareholder Team to raise the submission with the Director or with me if they thought that necessary. I was not due to attend the meeting, where the Minister was to be accompanied by the member of the ShEx POL Shareholder Team who had prepared the briefing, Mike Whitehead. I am confident that Mike would have presented the Minister with an accurate representation of the facts as he understood them and relayed the advice of the ShEx POL team based on those facts. I did not work closely with Mike in my role as Chief Executive, but knew him well and had a great deal of confidence in him; I considered him to be a conscientious, diligent, sensible and experienced civil servant, and I have seen nothing in the documents provided by the Inquiry that would change my views on this.

88. I do not know what steps Mike took to obtain and interrogate information provided by POL to him, though he seems to have asked the main sub-postmasters' trade union, the National Federation of Sub-Postmasters ("NFSP") about it, and been told their view that there should be no lack of confidence in the Horizon system. Mike was in regular contact with the NFSP and so it would not surprise me if he

had spoken to them about Horizon. He was not, nor could he have been expected to be, an expert on POL's IT system. Any official in his position would have been entitled to expect POL to provide a truthful answer to the questions posed about Horizon. There had to be a degree of trust between ShEx and those who had been appointed to the job of running an ALB.

89. Based on the papers that I have seen to date, concerns about the Horizon system were not escalated on to ShEx's Risk Register entry for POL prior to separation, or indeed at any point during my time as Chief Executive. Nor do they appear to have been discussed at the ShEx Board or in any POL review meetings that I attended. This accords with my memory. As I have said earlier in this statement, whether an issue was escalated in these ways was a matter of judgement for those preparing the risk registers and reviews, in this case the POL Shareholder Team. With hindsight it is clear that it would have been better to have escalated the concerns about Horizon, but it seems that at the time the officials in question, having sought assurances from POL and the NFSP, did not perceive fully the possibility of failings of the system or the magnitude of the issue.

90. I do not know the extent to which, if at all, ShEx oversaw the pilot or rollout of Horizon Online. From what I understand of this system, this sounds like an operational matter that would clearly have been the responsibility of the executive team of POL, overseen by the Boards of POL and RMG, but I do not know whether issues concerning Horizon Online were escalated to ShEx or the Department at the time. I was not directly involved in this matter, nor would I have expected to have been involved. I would only have expected issues concerning Horizon Online

to have been escalated to ShEx or the Department if they were considered by RMG/POL to be sufficiently serious. As I have noted above, in the pre-separation period, given the financial focus of reporting prior to POL's separation from RMG and the lack of a ShEx seat on the Board, it was less likely that operational matters would have been brought to the attention of ShEx or the Department.

### **Developing POL's Governance Model**

91. In terms of wider governance, Anthony Odger's paper for the ShEx Board meeting on 5 May 2011 (**UKGI00043224**) set out the position of ShEx's relationship with POL at that time and the approach that he proposed to take, which was in line with his wider proposals for the evolution of ShEx's shareholder role. On the existing situation, Anthony wrote that:

*"POL is a subsidiary of Royal Mail Postal Services (RMPS). It is heavily subsidised by HMG, but overall policy objectives are unclear other than a requirement to maintain a national work of over 11,500 branches and to avoid a post office closure programme. POL does provide services to a number of government departments but often finds itself undercut by competitors who are able to look at the government services on a marginal cost basis. There is a significant change programme to be undertaken – bringing down the costs of the large Crown post offices, and changing the relationship with the franchised post offices move more from fixed to commission based pay. HMG has committed that POL will remain in Government ownership and may be mutualised.*

*ShEx has no Board seat (on either POL or RMPS) and the management information provided to ShEx doesn't always provide us (or, we suspect the company) with the early warning mechanism to understand where financial problems are developing."*

92. Anthony went on to explain ShEx's proposed new approach:

*"As POL disengages from RMPS, we would look to take a more active role, and have already agreed with minister and RMPS to take a Board seat once the business separates from Royal Mail. We have also agreed with the Chair of RMPS that we will jointly select a new Chair for POL.*

*As part of our increased focus, we will look to help the company and policy holder within BIS define what the policy objectives are with greater clarity and we are developing a proposal to [Other Government Departments] for an umbrella agreement with UK government departments that seeks to avoid the situation where individual government departments are incentivised to reduce their individual costs – only for a larger cost to be borne by the rest of Government to support the network.*

*We will also work to improve the quality of management information on, for example, contracts coming up for renewal, on cost*

*benchmarking and on a set of metrics to understand if the change programme is going to plan. We have agreed with the current finance director of POL to review the information the Board gets to allow us a better 'dashboard' of indicators, and will use the arrival of a new finance director within the next 3 months to make sure we (and the Board) have the right level of information."*

93. I agreed both with Anthony's analysis of the existing situation and with his proposals for the future. The establishment of POL as an independent company allowed ShEx an opportunity to reshape the shareholder's role in its governance. As Anthony had indicated, the first independent Chair, Alice Perkins, was jointly appointed by RMG and the Secretary of State.

94. The appointment of a Shareholder NED was met with resistance from the new Chair, despite what Anthony understood to be RMG's agreement. A submission from the ShEx Post Office Network Team to Ed Davey dated 24 October 2011 (**UKGI00042604**) that I have seen while preparing this statement indicate that Ed Davey and Vince Cable decided in spring 2011 that a Shareholder NED would be appointed. However, when Alice Perkins met the Permanent Secretary in September 2011 in the first of a series of meetings she undertook with senior figures in the Department, she indicated that she had some concerns. These were: first, that ShEx joining the Board was inconsistent with the policy of future mutualisation, where the relationship between POL and Government would be purely contractual; second, that it would *"in some way prevent Government insulation from the impact of operational decisions"*; and third, that *"one Board*

*member had indicated that they would be reluctant to serve on a Board where a ShEx appointee was also a director” (UKGI00042604).*

95. Those concerns were relayed to Ed Davey, but he reiterated his “*strong feeling*” that ShEx should take a Board seat. The papers show that I “*spoke to Alice in advance of her meeting with [the Secretary of State, Vince Cable] to pass on [Ed Davey’s] views.*” I do not now recall this meeting, but I have no reason to think that this record is incorrect. Subsequently, the Secretary of State resolved the situation by writing to the Chair on 25 October 2011 to confirm his initial decision that a Shareholder NED would be appointed (UKGI00042604). In that letter he wrote that:

*“This practice embeds constructive, candid and open relationships between the Shareholder Executive and the boards of its portfolio businesses, and the vast majority of portfolio business now have a Shareholder Executive board representative. I firmly believe that the already extremely positive relationship that exists between Post Office management and the Shareholder Executive team would therefore be further enhanced by this move. Importantly, such an appointment would also ensure necessary Government accountability for the investment it is making in the business over the spending review period.*

*I would also like to reassure you that any Shareholder Executive appointee would be subject to the full range of legal duties*

*applicable to other directors. So there would be no risk that such an appointment would lead to any diminution of the arm's length relationship between Government and the business."*

96. This exchange shows how deeply embedded the reluctance to the appointment of Shareholder NEDs was at POL even in the second half of 2011. The Secretary of State's reply reflected the need to explain why the decision had been made to take a seat on the Board while assuaging fears that this would undermine the independence of the company and the ALB model. Susannah Storey was subsequently appointed but, as I understand it, following discussion with the Board she did not share Board papers with the ShEx POL team out of concern that this would create a conflict of interest or otherwise undermine the independence of Board discussions. I do not recall being aware of this arrangement at the time when I was Chief Executive.

#### **ShEx oversight of POL after separation**

97. As I have stated, the separation of POL from RMG was regarded by Government as an opportunity to reset the relationship with a now directly owned POL and to introduce the governance that was appropriate for an independent company rather than a subsidiary, with appropriate Board members and committee structures. This was reflected in the Chair's letter, which was sent to Alice Perkins by the Secretary of State, Vince Cable, on 11 January 2012 (**UKGI00041966**). The letter also set out the Department's wider interests and priorities in respect of POL.



98. In my role as Chief Executive, I had limited involvement in POL's separation from RMG. The governance arrangements and ShEx's performance of the shareholder role post-separation are set out in Donald 1 (**WITN10770100**). In brief, ShEx's shareholder role in respect of POL was performed in two ways: first, via a dedicated Shareholder Team within ShEx; and second, via the appointment of a new Shareholder NED to the POL Board (who initially was not part of the Shareholder Team, but became head of the Shareholder Team in March 2014, after I had left ShEx). The responsibilities of and types of information provided to the Shareholder Team and the Shareholder NED are described in Donald 1 (paragraphs 26 to 32).

99. In the months that followed separation, and Susannah's appointment as Shareholder NED, there seemed to be a positive working relationship between ShEx and the Board. The traffic light analysis that formed part of the August 2012 Quarterly Review recorded that there was a "*good and constructive relationship with the new Chair*" and a "*strong relationship*" with the CEO (**UKGI00001439**). The NEDs were assessed to be challenging management. It was thought that there had been a "*generally strong application of the shareholder model*", although the policy and shareholder roles continued to be combined. Some reservations were expressed about the quality of the management team. While they had a strong record of defending revenues and managing costs, it was not known whether they had the right "*skillsets / capabilities*" to achieve the transformational strategy that the business model required.

100. In this context, the traffic light analysis recorded that: "*ShEx are working closely with management to monitor the performance of the business, and provide support*

*where appropriate/possible.*” I am asked what work ShEx were carrying out in this respect. I cannot now recall the specifics, and I can see from the minutes of the meeting of 13 August 2012 at which the Quarterly Review was discussed that I was not in attendance (though the Deputy CEO, Mark Russell, was) (**UKGI00001448**). I suspect, though, that this was a reference to ShEx taking the opportunity to influence the direction of the newly separated POL to better align it with the interests of its stakeholders and in particular with HMG’s policy objectives. Although I do not know what the author of this document meant by the phrase, the standard ways of doing this would be to work with the company on the contents of board packs (which guided the discussions and focus of the Board) and the selection and presentation of key performance indicators (“KPIs”). I can see from an earlier section of the document (**UKGI00001439**) that ShEx was working with management to ensure that POL had a *“credible plan aligned to the needs of the Spending Review and State Aid processes”*, in other words a strategy that would reduce the size of the Government subsidy and comply with State Aid rules in the context of tight financial settlements across Government. The paper also recorded that ShEx had been working with management to develop a series of KPI dashboards to provide accessible data about its performance in key areas. Finally, the paper included reference to ShEx engaging with POL and the POL Stakeholder Forum on the initial stages of work towards the mutualisation, which was emerging as HMG’s preferred approach for future ownership.

101. Having reviewed the minutes of the 13 August 2012 meeting I can see that Susannah had reported that she was *“gaining traction with other directors and that*

*the board is generally running well*" (UKGI00001448). This would have been welcome news.

102. Much of the analysis contained in the Quarterly Review was echoed in the report for the Annual Review, dated December 2012, where it was noted that concerns were emerging about some areas of POL's future strategy and the capabilities of the management team to navigate the challenging period that lay ahead (UKGI00017385).

103. The August 2012 Quarterly Review did not mention the instruction of Second Sight to carry out an investigation into Horizon and I do not remember being told about this at that time, or indeed at any point before I left ShEx at the start of 2013. However, I can see from papers provided to me now (which I do not think I was copied into at the time) that Ed Davey's successor as Minister, Norman Lamb MP, was informed of the instruction of Second Sight in a briefing ahead of a meeting with Alan Bates in June 2012 (UKGI00014165). In a later submission Mr Lamb's successor, Jo Swinson MP, was also briefed on the concerns raised about Horizon and the Second Sight inquiry in a note sent to her Private Office on 4 October 2012 (UKGI00001457) (UKGI00001458).

104. I have been asked about whether there was a particular strategy adopted by ShEx and the Department in responding to freedom of information requests relevant to the Horizon IT system. While in general I was not involved in freedom of information requests at ShEx, I am confident that there would not have been such a strategy and that each request would have been considered on its own

terms. The Inquiry has referred me to a submission to the Minister dated 23 October 2012 about one such request, which was seemingly made to the Department rather than ShEx specifically. I can see that I was not included on the distribution list (**UKGI00018248**), nor would I have expected to have been included. It seems to me, from reading this document now, that this is an example of the Department considering and responding to the request on its merits. The advice given to the Minister was that 28 of the 38 items sought should be provided and relevant statutory exemptions should be applied in respect of the other 10.

### **Hindsight**

105. I am asked whether there is anything that I would have handled differently with hindsight. The most obvious thing that falls into this category is the decision, whether made consciously or not, to retain the POL policy function within ShEx rather than move it to another part of the Department as we did with postal services policy. Would this have meant that the officials with sight of the JFSA correspondence would have handled the issue differently? It is impossible to say with any certainty, but in truth, my feeling is that it would not have made any difference. From the papers and submissions that I have now seen, it seems to me that officials' response to the JFSA was responsible and measured. The difficulty with that advice was the reliance that it placed on assurances from POL and, to a lesser extent, the NFSP. But officials had no particular reason to doubt that the answers that they had been given were not truthful and complete, and were assured that they were supported by internal POL investigations. I am uncertain that, were the POL policy team to have sat in another part of the Department, i.e. outside ShEx, it would have led to any other outcome.

106. It would clearly have been vastly preferable if Horizon and POL's prosecutorial function had appeared on internal Risk Registers in ShEx. Indeed, the collective lack of awareness that RMG/POL were mounting their own prosecutions now strikes me as a very significant oversight indeed. Within ShEx it would have allowed for a senior discussion of relevant matters that did not happen (though, of course, successive Postal Services Ministers were sighted on the JFSA correspondence and received advice on it). From what I have seen, this seems to be principally (but not solely) the result of the absence of Horizon and prosecutions from risk registers in POL or RMG. I do not know the reason behind those organisations' own failure to realise the problems the system, combined with behaviours on the ground with prosecutions of sub-postmasters, were causing. There could be no managerial escalation of a problem that was not in itself recognised at the lower level. In part, though, there was a failure, during my tenure at least, to place the issue on our asset risk register given the JFSA was writing to the Department from 2010 onwards. This I ascribe to the reasons I give in the paragraph above: knowledge of the integrity or otherwise of Horizon was derived from POL, and clearly a very imperfect impression of the system offered and accepted. Information, which it would have been perfectly natural to rely upon, was wrong.

### **Final reflections**

107. Faced with a miscarriage of justice on the scale of the prosecutions of the sub-postmasters over many years, and the harrowing and unjustified hardship that they

caused, it is, of course, wholly right to examine the causes of the disaster and to make such changes that are necessary so that it does not happen again.

108. With that said, I confine my final reflections to governance, which is the main subject of my witness statement. In particular, I do not believe that it would be right to abandon either the model of the ALB or that of UKGI (or ShEx as was).

109. ALBs are an entirely necessary construct in order to attract the right technical and commercial expertise to work for vital national enterprises. It is not plausible that the products and services they are expected to provide could be provided if they were to sit fully within a Whitehall department, closely run by ministers and officials lacking the right experience and skills to make sense of often highly complex technical businesses. I have earlier mentioned the NDA in this regard, but The Met Office, Ordnance Survey, the Hydrographic Office and many others would be equally good examples.

110. In its turn, some unit – currently UKGI – capable of understanding and overseeing those ALBs which are essentially businesses in many fundamental aspects, is necessary for effective Government ownership. The ability to attract suitably qualified and expert professionals to discharge that function is, in my view, dependent on maintaining a distinct centre of excellence within Government, and would be severely impaired by reverting to a position where predominantly policy-focused civil servants were overseeing complex commercial enterprises, outside an organisation providing critical mass.

111. Notwithstanding the multiple failures of governance, starting at ground level in POL, that have been a major contributory factor in the perpetuation of the Horizon scandal, I do not believe that an inference should be drawn that the models of corporate governance employed by ShEx or UKGI on behalf of the Secretary of State as owner of the Royal Mail and, after 2012, POL were flawed in conception. Modern codes of corporate governance are fit for purpose and should drive proper and honest company behaviours when fully implemented.

112. Evolving a more effective Government ownership lies, therefore, not in a complete redesign of governance arrangements or ownership structures, but in a more effective implementation of the highest standards of existing corporate governance, with systems and practices that promulgate and enforce those standards right through the organisation. Its operations need to be fully understood by the Board and executive, its risks need to be identified accurately and honestly, its issues and problems need to be escalated appropriately, and the shareholder needs to be properly apprised of the most significant issues and developments in the company. This is particularly the case where there are complex policy issues at play, as well as commercial ones. The evidence that this Inquiry has heard of the devastating effects on the lives of so many blameless people is, at least in part, witness to the human cost of governance failure.

**Statement of Truth**

I believe the content of this statement to be true.

Signature

**GRO**

Date 14<sup>th</sup> June 2024



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2.	First Witness Statement of Charles Hunter Donald	WITN10770100	WITN10770100
3.	Managing Public Money – October 2007	RLIT0000205	RLIT0000205
4.	Meeting minutes: minutes of ShEx Executive Committee Meeting held on 27 April 2010	UKGI00016656	UKGI011468-001
5.	ShEx POL Review – February 2012	UKGI00018222	UKGI028229-001
6.	HM Government Shareholder Executive Board Meeting Minutes for 15 September 2010	UKGI00001339	UKGI012153-001
7.	HM Treasury – Consolidated Budgeting Guidance: 2023-2024	UKGI00043214	UKGI00043214
8.	Letter from Vince Cable to Alice Perkins regarding Post Office Ltd dated 11 January 2012	UKGI00041966	UKGI050861-001
9.	Report re: UKGI Section 3 – Part 5 – Corporate Governance	UKGI00044314	UKGI053038-001

10.	Report re: ShEx Board's Remit - concerning Board's terms of reference	UKGI00041953	UKGI050848-001
11.	Shareholder Executive Portfolio Monitoring: Traffic Lights	UKGI00017395	UKGI027402-001
12.	Department of Trade and Industry spreadsheet re: DTI Risk Register	UKGI00042173	UKGI051068-001
13.	Bankruptcy, prosecution and disrupted livelihoods - Postmasters tell their story; reported by Rebecca Thomson	POL00041564	POL-0038046
14.	RMG Group Finance Director's Report of December 2007	UKGI00041838	UKGI050733-001
15.	Protect - Policy and Management - ShEx Board Portfolio Unit Development	UKGI00043224	UKGI052835-001
16.	Submission to Secretary of State dated 6 December 2006 titled Royal Mail Board composition: Non-Executive Directors, recommendation on the refresh	UKGI00045962	UKGI056927-001
17.	Letter from Alan Cook to Brooks Newmark MP concerning PQ asked about errors in Horizon system	UKGI00000028	VIS00000989
18.	House of Commons Parliamentary Question:	UKGI00014000	UKGI024793-001

	2010/7392-95 Question from: Michael Weir Minister answering: Edward Davey re: prosecutions and investigations of postmasters instigated by Post Office Ltd		
19.	Briefing/Update for Edward Davey ahead of meeting with Alan Bates (JFSA)	UKGI00000062	VIS00001023
20.	Meeting with Alice Perkins, Chair - Post Office Ltd 12:45-13:30 Thursday 27 October 2011	UKGI00042604	UKGI051499- 001
21.	Shareholder Executive HM Government PowerPoint: POL- Quarterly Review August 2012	UKGI00001439	UKGI012253- 001
22.	ShEx POL Quarterly Review – 13 August 2012	UKGI00001448	UKGI012262- 001
23.	ShEx Annual Review of POL, dated December 2012	UKGI00017385	UKGI027392- 001
24.	Agenda for meeting with Alan Bates to discuss the JFSA's claims its members are victims of endemic flaws in POL's Horizon system dated 27 June 2012	UKGI00014165	UKGI024958- 001
25.	Submission from Mike Whitehead to Swinson MPST, cc Will Gibson and Peter Batten re: POL Horizon	UKGI00001457	UKGI012271- 001

	System. Dated 4 October 2012		
26.	Note prepared by BIS summarising the position on Horizon IT issues. Dated October 2012	UKGI00001458	UKGI012272-001
27.	Submission from Mike Whitehead to Jo Swinson re Freedom of information request 12/1362: proposed Section 36 exemption regarding Ministerial briefing dated 23 October 2012.	UKGI00018248	VIS00011647