

**IN THE MATTER OF THE INQUIRIES ACT 2005**  
**AND IN THE MATTER OF THE INQUIRY RULES 2006**

**THE POST OFFICE HORIZON IT INQUIRY**

---

**CLOSING STATEMENT OF  
THE DEPARTMENT FOR BUSINESS AND TRADE**

---

**INTRODUCTION**

1. The Post Office exists to provide public service to communities across the UK. For centuries it has been a cherished and trusted institution at the heart of our national life – and thanks to its postmasters up and down the country it can be again. Against this backdrop, the prolonged conduct of the Post Office as an organisation – and that of a number of its key people – during the course of this scandal is particularly deplorable and in many aspects hard to understand and explain. Through its actions over many years, the Post Office devastated many good people’s lives – it destroyed reputations, caused financial ruin, brought about the imprisonment of innocent people, weakened and divided families and communities, and in some especially tragic cases drove people to suicide.
2. The painful reality is that the Government failed to prevent the Post Office from doing these things. At the start of this closing statement, the Department<sup>1</sup> would therefore like to reiterate its profound regret that an institution of which it is sole shareholder and for which it is ultimately responsible and accountable was able to act as it did over so many years. For that it is sincerely sorry.

---

<sup>1</sup> For simplicity, “the Department” refers to the existing Department for Business and Trade and its predecessors (BIS, BEIS etc).

3. Since the scandal was exposed, the Department has worked hard and in good faith to make good the losses – both financial and emotional – suffered by postmasters.<sup>2</sup> The Department apologises wholeheartedly for the fact that, despite those efforts, redress has not come as quickly to all of the victims of this scandal as they deserved, after the many years of damage, upset and trauma caused by the Post Office’s actions. And it is acutely conscious that the list of those who have tragically passed away before receiving full and fair redress continues to grow.
4. The Government set up this independent Inquiry to get to the truth, identify failings, and – critically – to make recommendations in the interests of preventing a repeat of this appalling scandal. As the Department has stated publicly on several occasions, including in its opening statement to this Inquiry, it is essential that the right lessons are learned and remembered. The Department will continue to make sure that where change is needed it is implemented.
5. As part of that process – and as promised in its opening statement to this Inquiry – the Department has sought at all times to provide all possible assistance to the Inquiry, and has maintained its commitment to openness, self-reflection and co-operation throughout. In addition, it has supported and facilitated a large number of witnesses, including eight Secretaries of State, eleven Ministers and four Permanent Secretaries, in providing their frank accounts of the role of government together with their mature thoughts on what went wrong and how to improve the government machine for the future.
6. Consistently with that approach, this closing statement is intended to identify the key events and decisions with which the Department was involved where it now appears mistakes were made. It also seeks to identify how those mistakes came about, offers some considered reflections, and identifies possible lessons to be learned.
7. As foreshadowed in its opening statement to the Inquiry, the Department has sought to assist the Inquiry in relation to the themes, issues and questions arising in:

---

<sup>2</sup> This refers to both sub-postmasters and -mistresses.

- a. Phase 2, which concerns the procurement, design, pilot and roll out of and modifications to the Horizon system.
  - b. Phase 5, which concerns redress, access to justice, Second Sight, Complaint Review and the Mediation Scheme, the conduct of the group litigation, responding to the scandal and redress schemes.
  - c. Phase 6, which concerns governance arrangements, including monitoring of Horizon, contractual arrangements, internal and external audit, technical competence, stakeholder engagement, oversight and whistleblowing.
  - d. Phase 7, which concerns current practice and procedure and recommendations for the future.
8. Having made a written<sup>3</sup> closing statement in relation to Phase 2 of the Inquiry, the Department limits this closing statement to the issues explored in Phases 5-7; of course, this closing statement should be read and considered in conjunction with the Department's closing statement in Phase 2.
9. The structure of this closing statement is as follows:
- a. Organisational structure and accountability (pages 5-35)
  - b. Where should the Government have acted differently? (pages 36-58)
  - c. Why did the Government not act differently? (pages 59-76)
  - d. How does governance and oversight of the Post Office work now? (pages 77-81)
  - e. Redress (pages 82-89)
  - f. Reflections and possible recommendations for the future (pages 90-94)
  - g. Conclusion (page 95)

---

<sup>3</sup> **SUBS0000017**. Throughout this statement, references to witness statements are in the form [surname, paragraph number]; references to documents use the Inquiry's unique reference number (e.g. INQ0001234); and references to the transcript of oral hearings are in the form [date/witness/page/line]. Witnesses are referred to using their current titles, rather than their titles at the material time.

10. The Department hopes that this closing statement, together with its oral closing statement, will be of value to the Inquiry in its work and looks forward to receiving the Inquiry's report and recommendations.

## **ORGANISATIONAL STRUCTURE AND ACCOUNTABILITY**

11. This section is arranged under the following sub-headings:
- (1) The “arm’s length” model;
  - (2) The strategic / operational divide;
  - (3) Scrutiny, governance, oversight and accountability – the pyramidal structure;
  - (4) Managing risks in a complex environment;
  - (5) The importance of trust;
  - (6) Duty of candour;
  - (7) More general legal and regulatory controls;
  - (8) The role of Ministers in scrutinising information and advice.

### **The “arm’s length” model**

12. Since 1969, the Post Office has been a public corporation at “arm’s length” from Government, initially in the form of a statutory corporation. This was explained to Parliament by, for example, the Rt Hon. Kim Howells, Parliamentary Under-Secretary of State for Trade and Industry, in a debate on 21 July 1999:<sup>4</sup>

*“Since the Post Office was established as a public corporation in 1969, it has been the policy of successive Governments that decisions relating to the day-to-day running of the postal businesses, such as the contractual terms and the arrangements between sub-postmasters and Post Office Counters Ltd., are the operational responsibility of the Post Office Board and management. The Government’s role in Post Office matters is confined to broad issues of general policy and to overall financial control. With a network of some 18,000 sub-post offices, it would be inappropriate and impractical for Government or Ministers to become involved in decisions or disputes relating to individual offices.”*

13. When the state monopoly was removed and the postal services market opened up to commercial pressures, new technologies, markets and competition offered both

---

<sup>4</sup> WITN03380203

threats and opportunities for the Post Office. In response to this, the 1997 Labour manifesto contained a commitment to give the Post Office “*greater commercial freedom to make the most of new opportunities*”. In July 1999, the Government published a White Paper<sup>5</sup> setting out detailed proposals for reform of the Post Office which, as the Trade and Industry Select Committee noted in its report of 21 September 1999<sup>6</sup>, received a warm reception. The Government moved to give effect to these reforms through the Postal Services Bill which, following the ordinary process of democratic scrutiny, debate and amendment, Parliament chose to enact as the Postal Services Act 2000.<sup>7</sup>

14. The intended nature of the Government’s role in the Post Office, post-2000 Act, was explained to Parliament in clear terms on a number of occasions prior to the Act’s legislative passage. For example, on 7 December 1998, the Secretary of State Lord Mandelson stated<sup>8</sup>:

*“The Government’s role in the Post Office will be restricted to the strategic level, both on matters of commercial direction and on setting social objectives. The Post Office board will become clearly accountable for its success or failure in running the business.”*

15. And on 8 July 1999, the Secretary of State Stephen Byers stated<sup>9</sup>:

*“Although the Government will set out clear objectives for the Post Office, they will not be involved in day-to-day business operations. The Post Office Board will be responsible for running the Post Office, based on a rolling five-year strategic plan, which will be agreed with the Government. Clear duties, real powers and necessary resources to promote consumer interests will be given to the independent regulator and the users council. Annual reports will be published by the Government, the Post Office, the regulator and the users council on their roles and performance during the year.”*

---

<sup>5</sup> *Post Office Reform: A World Class Service for the 21<sup>st</sup> Century* (POL00089812)

<sup>6</sup> WITN03380201

<sup>7</sup> Johnson 2, 5-17 (WITN03380200)

<sup>8</sup> WITN03380204

<sup>9</sup> WITN03380206

16. It is therefore evident that the “arm’s length” nature of the relationship between the central Government shareholder and the Post Office – and the fact that the Post Office would have operational independence free of government interference – was a specific and intentional design feature, and one which Parliament had clearly decided to maintain and strengthen going forward.
17. The reasons why the “arm’s length” model was thought to be appropriate are clear, and have been addressed by several witnesses. The point is perhaps most neatly summarised in Mark Russell’s witness statement<sup>10</sup> (see, especially, paragraphs 18-21): in essence, central Government is not good at running these things and, whilst the “arm’s length” model has some downsides, it is the best model available.
18. As several witnesses have explained, the Post Office is not an “Arm’s Length Body” (or ALB) in capital letters under the formal Office for National Statistics (ONS) classification regime; indeed, it is too independent from the Government to be categorised as an ALB. According to the ONS’s national account system, Post Office is a “public corporation” – the most independent version of a public body. A number of witnesses described this to signify a “particularly long arm” compared with other bodies, in other words the management, governance and oversight structure is highly devolved from central Government.<sup>11</sup> Mark Russell explained:<sup>12</sup>

*“This devolved governance model is intended to enable more efficient delivery of public services. A core tenet of the classification is the ability of the Public Corporation to have “appropriate levels of freedom to exercise commercial judgements, with appropriate delegated authority arrangements that protect Departments.”*”

19. Mark Russell explained the good policy rationale for adopting a model where the Government is kept at such a distance:<sup>13</sup>

---

<sup>10</sup> Russell (WITN00800100)

<sup>11</sup> 5 November 2024/Munby/113/2 (INQ00001201); Chisholm, 26 (WITN00180100)

<sup>12</sup> Russell, 24 (WITN00800100)

<sup>13</sup> Russell, 25 (WITN00800100)

*“It is not simply a consequence of being a Public Corporation that neither the Secretary of State, nor the Department for Business and Trade (“DBT”), nor the Minister, nor ShEx / UKGI, acting on their behalf, has direct responsibility for POL day-to-day operational or contractual matters. This is instead a specific objective. It is a safeguard against central Government micromanagement which is likely to lack the necessary expertise and experience and be vulnerable to potential political conflicts of interest.”*

20. The “arm’s length” model was accompanied by an associated lack of teeth enabling the Department to insert itself into the Post Office’s decision-making at the sub-strategic level. The Post Office’s articles of association changed over time, and included some powers of appointment and the nuclear option of dismissal of board members, but did not give the Department hard and immediate levers of control over the Post Office at the relevant time (most obviously when the Post Office was considering applying to recuse Fraser J and for permission to appeal in the GLO proceedings).
21. There was a high degree of consensus between witnesses that the “arm’s length” model remains the right one. The Department agrees that, for so long as the Government continues to own the Post Office, the “arm’s length” model is the only sensible option. Direct management by central Government would bring different and substantially more serious problems. However, as the Inquiry knows, consideration is being given to fundamental questions about the future corporate structure of the Post Office.

### **The strategic / operational divide**

22. This devolved “arm’s length” arrangement was therefore designed to enable Ministers to shape the strategy of the company whilst leaving its executive and board to run it.
23. It is, however, clear that the strategic / operational divide implicit in this type of “arm’s length” structure is not a bright line rule to be observed by force of law. In reality there is a spectrum, or continuum. It is therefore regrettable (to say the least) that on frequent occasions, especially in the early days, ShEx / UKGI officials gave



unnuanced advice to Ministers which treated the strategic /operational divide as inflexible dogma and, in turn, prepared draft letters for Ministers on similar lines.

24. However, as a principled starting point, the presumption that Ministers should set the strategy but stay away from operational matters was the right one.
25. From a practical perspective, the government has vast responsibilities and Ministers are few in number. They do not have time to immerse themselves in operational matters at commercial organisations like the Post Office. The gov.uk website currently lists no fewer than 423 agencies and other public bodies.<sup>14</sup> Though few are as large and complex as the Post Office, some sort of responsibility for each of them must be divided among the hundred or so Ministers, who are of course also accountable for the functions of their own department and all the policy matters for which it is responsible, together with Parliamentary and constituency work. For example, in addition to the Post Office, the current Minister Gareth Thomas also has responsibility for the British Business Bank and Small Business Commissioner, local growth, small businesses, scale-ups, the retail and hospitality sector, professional and business services, access to finance, Ukraine reconstruction, export strategy (plus the export support service and UK Export Finance), outward direct investment, trade missions, shows and campaigns (including the UK's contribution to the World Expo 2025 in Osaka, Japan) and trade envoys<sup>15</sup>. Every other Minister has a similarly broad portfolio of responsibilities, and a similarly extremely busy schedule. They have no choice but to be highly selective in their focus, and it is generally sensible that they should put their energy into steering strategy rather than attempting to get involved in matters of detail.
26. Aside from the practicalities, a strategic approach is desirable as a matter of principle. This is essentially for three reasons. First, running a business like the Post Office is difficult. It demands a particular commercial skill-set and experience, which Ministers can rarely claim to possess. Ministers bring different values and attributes –

---

<sup>14</sup> RLIT0000464

<sup>15</sup> RLIT0000465

democratic legitimacy, breadth of experience, common sense, and a direct connection to and understanding of the views and wishes of the British public.

27. Second, Mark Russell was right to observe that there is a potential conflict (or, perhaps more accurately, a perception of conflict) of interest to guard against, most obviously a theoretical temptation for Ministers to make operational decisions for partisan reasons.
28. Third, the management and board of the Post Office can only perform their roles efficiently if they have confidence that they are not at risk of having every decision second guessed from above. As Sir Martin Donnelly explained, *“when you have the level of complexity that we were dealing with, you have to be able to empower people to take decisions and follow them through in a structure, because otherwise you're not going to get effective outcomes or value for money”*.<sup>16</sup> In addition, it would be harder to attract and retain the best talent in management and governance roles if they are concerned about being second-guessed from above instead of being allowed to get on with their jobs.<sup>17</sup>
29. A strategic approach also fits with the legal structure of any Companies Act company. Intervention in operational matters creates legal risks, for instance, through Ministers becoming “shadow directors” and thereby assuming the duties of a director with the attendant personal liability but without the benefit of directors’ and officers’ liability insurance. (The Inquiry will no doubt consider the Rt Hon. Greg Clark’s suggestion – adopted by the Institute of Directors (IoD)<sup>18</sup> – that the solution to this is some form of new “public interest company” corporate structure.)
30. However, none of this appears to have dissuaded Ministers from involving themselves whenever they thought it appropriate. They appeared to understand clearly that, whilst the default position was that the Post Office would operate free from government interference, there was no absolute bar to Ministers intervening if

---

<sup>16</sup> 27 September 2024/Donnelly/136/11 (INQ00001188)

<sup>17</sup> See Gratton (WITN11310100); 7 November 2024/Gratton/9/2 (INQ00001203)

<sup>18</sup> IoD Policy Paper: The Post Office Scandal – A failure of governance, October 2024 (RLIT0000412)

circumstances justified it.<sup>19</sup> A number of witnesses referred to this as “the arm shortening”<sup>20</sup>, as happened as Ministers’ concerns about Horizon mounted over time. Put another way, where Ministers saw the need to get involved, they did so.

### **Scrutiny, governance, oversight and accountability – the pyramidal structure**

31. An inherent – and indeed intended – consequence of the “arm’s length” model chosen for the Post Office is that the Department is towards the top of a pyramidal governance and accountability structure, with several tiers below.
32. The precise oversight structure has changed over time and reflects (amongst other things) an evolution in the way all public corporations are managed by or for Government.<sup>21</sup> Decades ago, governance and oversight was simply another policy function of Government, delivered by the relevant department. Culminating around the turn of the 21<sup>st</sup> Century, there was an increasing recognition that the absence of a specialist corporate governance and corporate finance infrastructure – and the dearth of specialist staff – within the Government meant that departments were not operating as effective shareholders. If state-owned industries were going to survive and thrive, Government needed to adopt the same sort of expertise and focus exhibited by private sector shareholders. This initially led to the formation of ShEx in 2003, providing expert corporate finance and governance services to shareholders across Government. ShEx was initially a business unit within the Cabinet Office, becoming a specialist directorate within the Department in 2004, whereafter it continued to provide support to Government departments across Whitehall. In 2016, ShEx’s functions and staff were transferred to UKGI, a private limited company wholly owned by the Treasury (and itself an “arm’s length” body, with an executive

---

<sup>19</sup> E.g. 19 July 2024/Swinson/6/14 (INQ00001178)

<sup>20</sup> 9 July 2024/Swannell/131/4 (INQ00001171)

<sup>21</sup> See the comprehensive explanations of how the governance arrangements for the Post Office were intended to work and how this varied over time from the Department’s perspective in the first and second statements of Gareth Davies (the current Permanent Secretary) (WITN11020100; WITN11020200), and in the statements of his three predecessors in the role: Sir Martin Donnelly (WITN11250100), Sir Alex Chisholm (WITN00180100) and Sarah Munby (WITN11520200).

team, fiduciary board and so on). ShEx was, and UKGI is, the UK Government's "centre of excellence" for corporate finance and corporate governance. The facts of this scandal do not change the Department's view that the existence of such a centre of excellence within Government is essential.

33. On the separation of the Post Office from Royal Mail in 2012, a shareholder representative (an official from ShEx), referred to as the Shareholder NED, was appointed as a non-executive director on the Post Office board. This was an innovation in the governance of public corporations, and a structurally important development in the governance of the Post Office. It was intended to give the Department as shareholder direct eyes and ears on the board, plus a direct opportunity to influence board-level discussions and scrutinise and challenge the executive management. The Shareholder NED role remains crucially important to this day, notwithstanding the greater role that the Department has played since 2018 following the creation of the Post Office policy team – it remains the case that UKGI acts as the Department's corporate governance advisor and representative on the Post Office fiduciary board. (The Department has noted, however, that some concerns have been raised about the Shareholder NED function and the possibility that this "two-hatted" role may create a (perception of) conflict and resulting uncertainty. The IoD has, for instance, suggested that consideration should be given to replacing the Shareholder NED approach with "*more of an arm length stewardship role*".<sup>22</sup>)
34. Despite these incremental changes to the corporate governance structure, the fundamental relationship between the Post Office and the Government has remained constant, and is shared with other public corporations. In short, the Government sets the strategic framework within which the corporation operates, such as its goals and governance. It determines how much it is prepared to invest in the company, and how much to subsidise any non-commercial activities. This framework is well-documented. Within it, the company's management and board have freedom to run

---

<sup>22</sup> IoD October 2024 policy paper (RLIT0000412)

the organisation without interference from the Government, and are bound by the same Companies Act rules which apply to other businesses.

35. Responsibility for the Post Office's operations fell to its executive team, which operated at the top of a conventional line management structure and chain of accountability, with tiers of Post Office employees reporting upwards. One of the executive team's functions was to manage and provide scrutiny and challenge to Post Office employees down through reporting lines, and to ensure that appropriate structures were in place to provide suitable training and supervision across the business, to enable accurate management information to flow up the management chain, and to surface and monitor risks (to give just a few relevant examples).
36. The Post Office board and its various committees were in turn responsible for scrutinising and challenging the Post Office executive, so as to satisfy itself that the business was being managed appropriately in line with the shareholder's objectives for the company. Amongst these board committees was the Audit and Risk Committee (ARC), whose specific responsibility was to review and monitor risks, ensure that appropriate mitigations were in place, and keep the wider board appraised.
37. Until 2012, the Post Office board was in turn overseen by and answerable to the Royal Mail fiduciary board, which provided the next tier of governance, scrutiny and oversight.
38. In 2012, the Post Office board became a fully constituted fiduciary board, and from that time each of the non-executive and executive directors owed important legal duties to the company pursuant to the Companies Act. The board was accountable to the shareholder (i.e. the Secretary of State).<sup>23</sup>
39. Above the Post Office executive and board (and, until 2012, the Royal Mail board), the next tier of scrutiny, challenge, oversight and accountability was ShEx / UKGI,

---

<sup>23</sup> Russell, 24 (**WITN00800100**); the Secretary of State has been sole shareholder since 2017, before which time he was majority shareholder.

acting on a devolved basis on behalf of the shareholder – since 2018, it has done so in conjunction with the Department’s Post Office policy team.

40. ShEx / UKGI in turn reported<sup>24</sup> to the postal affairs Minister, who in turn was answerable to the Secretary of State. (ShEx / UKGI also sometimes reported directly to the Secretary of State.) The Minister and Secretary of State were accountable to Parliament and, ultimately, Parliament was answerable to the British public.
41. Part of this overall governance and oversight structure is set out at a high level in a diagram from a briefing given to Ministers in 2022,<sup>25</sup> replicated here in simplified form (figure 1) with some amendment to reflect Rt Hon. Kemi Badenoch’s evidence:<sup>26</sup>

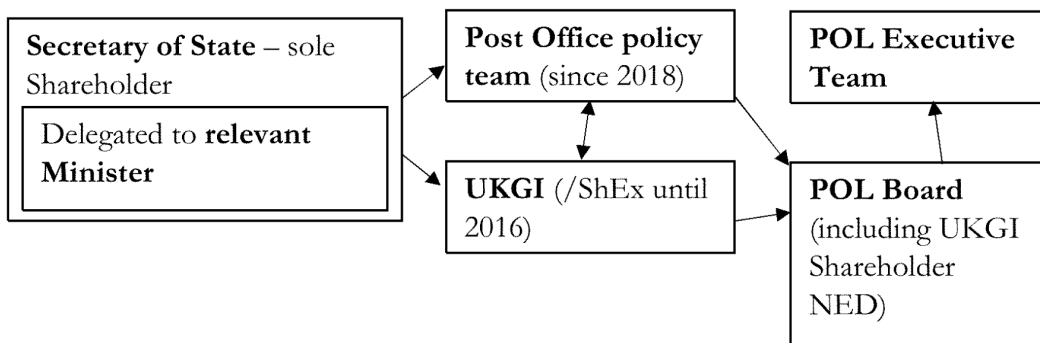


Fig. 1

42. The entire system of management, governance, scrutiny, oversight and accountability operated on a devolved basis, with responsibilities delegated by Parliament at the top through a pyramidal system to the range of Post Office employees at the bottom.
43. The Department considers that this structural model was and remains broadly appropriate, but would of course welcome any recommendations from the Inquiry on this issue.

<sup>24</sup> Noting that UKGI, as an “arm’s length” body of HM Treasury, is not managed by or accountable in organisational terms to the Department / the Secretary of State.

<sup>25</sup> BEIS0001061

<sup>26</sup> 11 November 2024/Badenoch/83/15 to 94/25 (INQ00001205)

44. This sort of structure is entirely typical of – and both necessary and unavoidable in – any large and complex organisation. The range of responsibilities for those in more senior positions within this pyramidal structure is so vast that it would be impossible for them to be personally involved in all matters arising in all of the tiers beneath them, but it is also true that they are formally responsible and accountable for everything falling within their remit.
45. This is equally – and perhaps especially – true for Government Ministers. As the Rt Hon. Alan Milburn put it when giving oral evidence in Phase 2 of the Inquiry:<sup>27</sup>

*“You know, it's difficult, I think, for people to understand, who haven't been in government, just how much stuff there is. You know, you're getting a lot of stuff coming at you all the time and there's a lot of correspondence, a lot of, nowadays, emails, and so on and so forth. So there does have to be some filtering mechanism, you know, because, otherwise, it just -- you're faced with an avalanche that it's just impossible to deal with... I don't want to, in any way, give the impression that ministers are victims in all of this because, in the end, you're in government, you know, you're responsible for what happens in your Department, that's the rule of the game, so to speak, even though, very often, to be perfectly honest, there are things that are happening in your Department that you have absolutely zero line of sight of, because it's almost impossible to have any line of sight of it...I mean it's a crazy way of life. I mean, you know, there's a reference to Alistair and Steve and I on Christmas Eve having a conflag about whatever it was in relation to Horizon, that wouldn't be unusual. There's another reference somewhere to meeting at 12.30 in the morning, trying to cobble together a decision. I mean, these are not unusual things. So it's a very intense thing to do, it's the most purposeful thing I've ever done in my life and I don't regret a moment of it. But it is -- it's pretty busy.”*

46. Having satisfied themselves that appropriate structures are in place beneath them, the key question for Ministers – and others sitting in senior positions in large and complex organisations – is therefore about where to focus their own limited time.

### **Managing risks in a complex environment**

---

<sup>27</sup> 2 December 2022/Milburn/49/3 (INQ00001023)

47. It is now entirely clear that the Post Office’s approach to postmasters suffering Horizon shortfalls was appalling, and that this was a risk which should have been identified and addressed.
48. It would be easy – but wrong – to assume from this that the problem with Horizon should necessarily have been identified and addressed, proactively, within every tier of the management, governance and oversight system.
49. Clearly each additional layer of oversight offers an additional opportunity to scrutinise and challenge the tiers below, and thereby to expose and socialise previously unidentified risks, but as in any pyramidal system each layer by necessity has a more macro role and limited focus compared to those below it. As Mark Russell observed, the most intensive oversight function comes from the board itself:<sup>28</sup>

*“Q. [What] mechanisms within the arm's-length body governance mechanism were there for detecting and dealing with situations such as, in this case, where senior executives acted in bad faith and covered up matters?”*

*A. I think the principal answer to that has to be the Board because -- the Board of the Post Office.*

*Q. The Post Office Board?*

*A. Correct, because they are our oversight, they are our -- they have the time, they have the capacity, they have the knowledge and their function is to hold the executive to account. If they miss it, then we might just catch it but I have to say it's sort of luck, if we, you know, if we can pick up on something like this. I mean, that said, we have missed things here and it was a catastrophe.”*

50. In addition, the more layers of oversight, the more complex – and therefore more difficult to manage, govern and oversee – the overall system. After a point, adding new or different layers of oversight is unlikely to be the solution and indeed may make matters worse. As Sir Martin Donnelly explained: *“The challenge of adding*

---

<sup>28</sup> 9 July 2024/Russell/103/6 (INQ00001171)



*additional layers is if you do not have additional information on which to base your challenge, it can merely add bureaucracy and actually make it more difficult to get at the facts<sup>29</sup>.*

51. In the same way that it would be impossible for a Permanent Secretary to scrutinise the work of each of the tens of thousands of staff employed by the Department and its arm's length bodies<sup>30</sup>, it would be impossible for ShEx / UKGI to scrutinise every element of the Post Office board and executive's business. Similarly, Ministers do not have the bandwidth to delve into everything going on below them (especially when also conducting Parliamentary business and constituency MP work). In large and complex organisations such as the Post Office or the Government, different people have different roles to play: institutional risk management requires a structure, with the right people in the right places doing the right things.
52. But no system of risk analysis and management is infallible. Gaps and weaknesses are inherent in any system – especially one designed simultaneously to address a potentially infinite, diverse, unknowable and ever-changing range of potential scenarios. The more resources focussed on the problem, the greater the chances of preventing these risks from eventuating, and of mitigating those that do – but this comes at a cost. As explained above, putting in ever more layers of governance is not the panacea it may superficially appear to be. In any case, the Government does not have limitless resources, and it has to use the resources it does have proportionately and wisely. At a departmental and Ministerial level, oversight of public corporations is by necessity limited, with substantial reliance placed on UKGI and the various management, governance and oversight functions below it to identify and highlight problems which are of sufficient seriousness to require escalation to the departmental and/or Ministerial level.

---

<sup>29</sup> 27 September 2024/Donnelly/164/7 (INQ00001188)

<sup>30</sup> Donnelly, 14 (WITN11250100)

53. And, whilst it is now clear that Horizon was the place where the holes in the “Swiss Cheese” aligned<sup>31</sup>, the Department had to spread its attention across the colossal range of risks and policy areas within its domain of responsibility. A number of Ministers and officials spoke of their work to head off various crises which arose during their time in office.<sup>32</sup> And the evidence made clear that Ministers (and their private offices) receive large volumes of correspondence requesting their attention on a huge range of different issues, problems and concerns.<sup>33</sup> Ministers have to choose where best to spend their time based on the information available to them. It is therefore understandable that, when a Minister is advised by those responsible for overseeing and advising on an “arm’s length” body that there is nothing of concern occurring, they should choose to spend their time on something seemingly more pressing. In these circumstances, direct and proactive Ministerial oversight of an “arm’s length” body may in practical reality be seen less as an intrinsic and consistent part of the overall governance system and more as an occasional incident.
54. All of this means that it would be wrong to lay blame at the feet of Ministers for the fact that they did not all spend their time focusing on occasional complaints about Horizon.
55. Between the Post Office, Royal Mail, ShEx / UKGI, the Department and Parliament, there were multiple layers of management, governance and oversight in place. Tragically they were insufficient to identify and prevent the extraordinary confluence of circumstances which together led to this scandal. Indeed, the fact that the Post

---

<sup>31</sup> As to the Swiss Cheese model of risk analysis and management, see James Reason, ‘The Contribution of Latent Human Failures to the Breakdown of Complex Systems’, *Philosophical Transactions of the Royal Society of London, Series B, Biological Sciences*, Vol 327, Issue 1241, pp475-484 (RLIT0000467). In the Magnox Inquiry Report, (RLIT0000475) Steve Holliday stated at 3.8: “*It would be overly simplistic to describe Magnox as merely a failed procurement exercise, without acknowledging that the totality of the contributing events was caused by multiple failings. In safety investigations I am used to the “Swiss cheese” model as a metaphor for how seemingly multiple layers of defence against individual and organisational failings (in the form of detailed processes and qualified and experienced personnel) can still allow significant incidents to occur.*”

<sup>32</sup> E.g. Javid, 12 (WITN10880100); Donnelly, 12-13, 17 (WITN11250100); Mandelson, 23 (WITN00600100)

<sup>33</sup> E.g. Cable, 19 (WITN10830100); Swinson, 11 (WITN10190100), Tolhurst, 10 (WITN10930100)

Office's conduct was so appalling on so many levels may well have made it more difficult for the system to pre-empt, identify and rectify it – because this scandal is not merely a story of a flawed IT system, it is also a tale of false assurances, of a culture of secrecy, of untruths and half-truths spun to board members, officials, Ministers, MPs and the Great British public, of institutional and individual incompetence, dishonesty and cover-up, of misleading official advice, of false testimony, of disclosure breaches, and of bad lawyers. Any risk management system would find that combination hard to stop.

56. All of this points to the conclusion that the best that can be done is to put the right systems in place, attempt to ask the right questions consistently with available bandwidth and on a proportionate basis (with proportionality essentially a balancing exercise), inculcate the right culture with the right incentives, employ good people, give them good training and rely on them to make good choices.

57. The Department agrees with the evidence of Robert Swannell and Mark Russell that the risk analysis and management structures in place were not fundamentally deficient.<sup>34</sup>

58. However, at the heart of any governance, oversight and risk management system are people. As Sir Alex Chisholm observed when giving oral evidence:<sup>35</sup>

*“No structural solution can fully deal with the realities of the situation which depend on the quality of the people you have in there, and their dealings with each other.”*

59. What is critical, therefore, is not just a fit-for-purpose risk management system but also people with the right skills, training and culture able and empowered to make good decisions. In the context of the Inquiry, it is right to ask whether it is ultimately about the people and the system which put them in place.

### **The importance of trust**

---

<sup>34</sup> 9 July 2024/Swannell/160/10 (INQ00001171); 9 July 2024/Russell/66/14 (INQ00001171)

<sup>35</sup> 7 November 2024/Chisholm/203/4 (INQ00001203)

60. Ministers' most important source of information ought to flow from those lower down the chain; in this case ShEx / UKGI (and latterly also Departmental) officials, the Post Office Board and the Post Office management team. This flow of information must be based on a relationship of trust and good faith. All of the Ministers who have given evidence have told the Inquiry that they have no genuine choice but to trust officials – our whole system of democratic government fails if they are unable to work on that basis.

61. Sir Ed Davey elegantly summarised the point when he stated:<sup>36</sup>

*“Our system of government is essentially built on the assumption that people in positions of trust – such as the leadership of the Post Office – tell the truth. It is hard to imagine how it could function without that basic assumption. For example, ministers are given a huge amount of advice and information from officials every day. They simply do not have the time or means to interrogate all of it to check for themselves whether it is true or false.”*

62. In the Rt Hon. Pat McFadden's words:<sup>37</sup>

*“Ministers receive large volumes of correspondence and documents across their policy portfolios. Ministers are to a very large extent reliant on the objective and impartial advice of officials and their steer as to what is required. They rely on officials to determine what a Minister should review personally, to analyse information accurately and to provide sensible recommendations for action, and to draft responses to correspondence that are consistent with and advance Government policy. Given the breadth of ministerial portfolios and the challenging constraints on time that entails, Ministers must make decisions on the advice given, trusting and with the expectation that officials are competent and have acted with honesty and integrity. Whilst Ministers do and must challenge the advice given when appropriate, the efficient functioning of Government necessitates that Ministers work with the expectation that the information they are given by advisers is given in good faith and in accordance with the Civil Service Code.”*

---

<sup>36</sup> Davey, 139 (WITN10610100)

<sup>37</sup> McFadden, 34 (WITN10250100)

63. He expanded on this point in oral evidence:<sup>38</sup>

*“Q. So my question was: the reliance you place on the Civil Service and the process you described, if you weren't to rely on the civil servants like that, what effect would that have on the business of Government?”*

*A. Well, it would be very difficult. How can government operate, how can ministers operate, if they couldn't trust what they were being told? You could perhaps envisage a world where everything is not trusted and pretty soon you can see it's very difficult to operate government on that basis. So trust in what you're being told is at the heart of how this works, how this system works -- how it should work.”*

64. The Civil Service Code (which is a developed expression of the Nolan principles) is fundamental to the work of civil servants, and its values are deeply ingrained. Baroness Neville-Rolfe referred to still having these “*residual Civil Service values in my DNA*” over 20 years after leaving the Civil Service. The Code explains:<sup>39</sup>

*“As a civil servant, you are appointed on merit on the basis of fair and open competition and are expected to carry out your role with dedication and a commitment to the Civil Service and its core values: integrity, honesty, objectivity and impartiality. In this code:*

- ‘integrity’ is putting the obligations of public service above your own personal interests*
- ‘honesty’ is being truthful and open*
- ‘objectivity’ is basing your advice and decisions on rigorous analysis of the evidence*
- ‘impartiality’ is acting solely according to the merits of the case and serving equally well governments of different political persuasions”*

65. Most relevantly, the Code also states:

**“Integrity**

---

<sup>38</sup> 18 July 2024/McFadden/35/20 (INQ00001177)

<sup>39</sup> RLIT0000468

*You must:*

- *fulfil your duties and obligations responsibly*
- *always act in a way that is professional and that deserves and retains the confidence of all those with whom you have dealings*
- *carry out your fiduciary obligations responsibly (that is make sure public money and other resources are used properly and efficiently)*
- *deal with the public and their affairs fairly, efficiently, promptly, effectively and sensitively, to the best of your ability*
- *ensure you have Ministerial authorisation for any contact with the media*
- *keep accurate official records and handle information as openly as possible within the legal framework*
- *comply with the law and uphold the administration of justice*

...

## **Honesty**

*You must:*

- *set out the facts and relevant issues truthfully, and correct any errors as soon as possible*
- *use resources only for the authorised public purposes for which they are provided*

*You must not:*

- *deceive or knowingly mislead ministers, Parliament or others*
- *be influenced by improper pressures from others or the prospect of personal gain*

## **Objectivity**

*You must:*

- *provide information and advice, including advice to ministers, on the basis of the evidence, and accurately present the options and facts*
- *take decisions on the merits of the case*
- *take due account of expert and professional advice*

*You must not:*

- *ignore inconvenient facts or relevant considerations when providing advice or making decisions*
- *frustrate the implementation of policies once decisions are taken by declining to take, or abstaining from, action which flows from those decisions<sup>40</sup>*

66. Officials within ShEx were civil servants and therefore directly bound by the Civil Service Code (enforceable through employment law). After UKGI absorbed ShEx in 2016, its officials were technically not civil servants (unless seconded in from the civil service) but they were nevertheless required to abide by the principles of the Civil Service Code (and were informed of this) and at risk of disciplinary measures and, ultimately, dismissal should they fall short.<sup>40</sup>

67. Ministers also understood that ShEx / UKGI, as the “*centre of excellence for corporate governance*”, housed a cadre of experts who had been specifically recruited to fulfil the corporate governance and oversight role on behalf of the departmental shareholders – in other words, it was reasonable to assume not just integrity, objectivity etc but also a high degree of competence.

68. To summarise:

---

<sup>40</sup> 9 July 2024/Russell/15/23 (INQ00001171)

- a. Given the immense pressures on Ministers' time, they are reliant on their officials to alert them to which matters require their attention.<sup>41</sup>
  - b. Ministers rightly expect their officials to provide them with frank, impartial and comprehensive information and advice.
  - c. Ministers rely on officials to deal with the vast quantities of incoming letters and emails, triaging them, and preparing draft responses for the Minister to sign, usually with little or no context, with the intention that Ministers should be able to scan read them before signing.<sup>42</sup>
69. As for Post Office employees, they were not civil servants but they did work for a Government-owned company fulfilling a social purpose. It is clear that Ministers and Departmental and UKGI officials expected Post Office staff to understand that they should act in line with the heightened standards of behaviour required of public servants.<sup>43</sup> In particular, it was assumed<sup>44</sup> that they would conduct themselves in accordance with the Nolan principles.<sup>45</sup> This was referred to in the letter of delegation sent to the CEO of Post Office as 'Accountable Person',<sup>46</sup> and explicitly stated in letters of appointment for senior executive, chairs and NEDs of public bodies from at least 2016.<sup>47</sup> As Sir Martin Donnelly put the point:<sup>48</sup>

*“Public servants understand, those of us who join the public sector do so on the basis we want to work ethically and effectively. So I think it's perhaps useful to remind people of them, but,*

---

<sup>41</sup> Swinson, 65 (WITN10190100)

<sup>42</sup> 18 July 2024/McFadden/29/20 (INQ00001177); Davey, 75 (WITN10610100); 19 July 2024/Swinson/30/13, 33/5, 65/12 (INQ00001178); 25 July 2024/Cable/18/6 (INQ00001181)

<sup>43</sup> Swinson, 110 (WITN10190100)

<sup>44</sup> Donnelly, 60 (WITN11250100); 27 September 2024/Donnelly/176/9 (INQ00001188); Chisholm, 78 and 253 (WITN00180100)

<sup>45</sup> RLIT0000469

<sup>46</sup> 7 November 2024/Chisholm/127/1 (INQ00001203); there is an absence of direct evidence as to whether these expectations were effectively communicated across the Post Office – and with the gift of hindsight it is probably reasonable to infer that it was not.

<sup>47</sup> Dawson and Steward (expert report 1), 1.4.3 (EXPG0000006\_R)

<sup>48</sup> 27 September 2024/Donnelly/176/15 (INQ00001188)



*you know, signing up shouldn't make a difference because it ought to be implicit in everything everyone does. And obviously, you know, we're all imperfect and we don't manage to do it as well as we should, but it's just a core responsibility of anybody working in public services.”*

70. Similarly, Stephen Lovegrove observed that ShEx / UKGI were entitled to assume that public bodies like Post Office would give honest, truthful and full information:<sup>49</sup>

*“Q. In general terms, did ShEx seek assurances, before placing reliance on information provided to it by assets?*

*A. No, we didn't, because that would have been an admission that we didn't really -- if we asked a question, we weren't necessarily expecting an honest, truthful and full answer. And we did not operate along those lines. The Shareholder Executive handbook, the Shareholder Executive annual guidance, the framework agreements, the chairman's letters, all made it absolutely clear that we expected full and frank, honest, well-founded, detailed responses to questions that we might be asking. If we had had to go through that process every single time that we had communication with an asset, that would have been very, very wearing indeed, as well as wasting a lot of time. That was not the kind of relationship that we sought to develop.”*

71. Officials (and Ministers) were therefore entitled to place trust in what they are told by the Post Office. The Post Office board is entitled to place trust in what it is told by the Post Office executive, and the Post Office executive is entitled to place trust in what it is told from lower down the organisation.
72. In each case there must be trust that the lower level will pass on any information which the higher level might need to know, being selective to avoid information overload but providing accurate summaries and not omitting important matters, glossing them or obscuring them because they are difficult, embarrassing or uncertain. The higher level may be able to check some information from sources in other parts of, or outside, the organisation – but such checks can never provide assurance about more than a small fraction of the information provided up the management line.

---

<sup>49</sup> 15 July 2024/Lovegrove/68/24 (INQ00001174)

73. The Inquiry has heard clear evidence that this trust was betrayed by the Post Office, including its executive team, which gave cast iron assurances that it was not in a position to give, and regularly provided a grossly misleading (and possibly dishonest) spin on information where the truth may have led to greater scrutiny.
74. The Inquiry has also seen and heard evidence tending to suggest that ShEx / UKGI officials – whose job it was to provide genuine scrutiny and challenge on behalf of Ministers – instead merely repeated the Post Office’s lines (including the “no systemic issues” mantra) without explaining that they had not verified their accuracy, sought to “manage” Ministers, and aligned themselves with Post Office against the postmasters.
75. This may reflect the pervasive effect of Post Office’s consensus-driven “pull up the drawbridge” culture which lacked diverse perspectives, did not value internal challenge, was incurious, unintelligent and closed-minded – a culture flowing from Post Office’s board and CEO – all of which were symptoms and/or causes of the related problem of institutional groupthink within the Post Office.
76. This closing statement goes on to identify areas and occasions where the Department’s own scrutiny could and possibly should have been better – but it is hard to envisage any system able reliably to cut through where Government Ministers, MPs and Parliament are repeatedly given false information and false assurances by a public body and its senior staff.

### **Duty of candour**

77. The thrust of evidence from Ministers was that their general experience was that civil servants reliably work to the values expressed in the Civil Service Code.<sup>50</sup> However, this is not the first public inquiry to have revealed evidence of a lack of candour amongst some public officials. Sir Brian Langstaff’s Infected Blood Inquiry report identified, in Volume 1<sup>51</sup>, several overarching themes that caused and characterised

---

<sup>50</sup> E.g. 19 July 2024/Swinson/74/1 (INQ00001178)

<sup>51</sup> RLIT0000470

that scandal. The fifth of these themes was “*institutional defensiveness, from the NHS and in particular from government, compounded by groupthink amongst civil servants and ministers, and a lack of transparency and candour*”.

78. A notable passage in Volume 1 of Sir Brian Langstaff’s report states, at p.250, that his findings “*[lay] out clearly the consequences of civil servants and ministers adopting lines to take without sufficient reflection, when they were inaccurate, partial when they should have been qualified, had not proper evidential foundation, ignored findings made by courts which were inconsistent (or flatly contradictory of) the lines adopted, or made unrealistic claims ... The commentary ... reflects how:*

*“In relation to Hepatitis C, Ministers took on faith what civil servants said; civil servants took on faith what the files said. No one stood back and reflected. No one asked questions – could this really be right? ...”*

*It records how a “line, which was wrong from the very outset, then became entrenched for around twenty years: a dogma became a mantra. It was enshrined. It was never questioned.”*

79. Sir Brian went on (p.251) to state “*the Inquiry has a particular perspective on how the existence of a clearer, more emphatic, duty of candour among civil servants might have altered the nature of the government response ... I doubt that the last word has yet been said on whether a statutory personal duty of candour should be introduced across the Civil Service. No one can sensibly dispute that people in public life should observe basic moral principles: they are as applicable to government ministers and officials as they are to clinicians. The principles of public life may have become known as the Nolan Principles in 1995, but they articulate what was already well understood, and went beyond the “basic moral principle of our society that we should tell the truth.” Yet they did not prevent what the chapters on the government response describe. I said in the chapter Lines to Take that it is ironic that these Nolan principles were articulated in their present form at a time when for six years an over-confident line with no proper evidential foundation had been repeated by civil servants, adopted by them as having the status of a “given” through a form of groupthink, and was to go on being used repeatedly. It is more than ironic: it shows that without statutory underpinning the principles of Lord Nolan and the Civil Service Code are not in themselves sufficient to prevent this happening. It must be a concern that unless a duty of candour “has teeth” it might similarly be broken in future ...”*

80. Sir Brian ultimately recommended that consideration be given to a statutory duty of candour, which *“will first and foremost place requirements on those who lead – for they should be accountable by statute for the honesty, objectivity and completeness of what is said by them, or given to ministers to say.”*
81. The Government is committed to bringing forward legislation that will introduce a duty of candour on all public authorities and public servants, backed up by criminal sanctions.
82. Where Ministers are receiving inaccurate flows of information from officials, the best way to discover the truth comes from stakeholder comments, but these may or may not find their way to the Minister. Where there is an identifiable trend in such comments, in an ideal world they would prompt challenge down the governance chain. Where stakeholders’ stories differ markedly from that being presented up the chain, there can be a role for independent assurance. In the case of the Horizon scandal, there were times (discussed further below) when stakeholder comments were missed or not given sufficient weight, or when independent assurance, although started, was not carried through properly to its conclusions.

#### **More general legal and regulatory controls**

83. The observations above about the need for trust, the Nolan principles and the duty of candour feed into a related point that corporate governance and oversight structures do not operate in a vacuum. They form part of a broader ecosystem designed, overall, to drive high standards of behaviour and deter inappropriate behaviour.
84. In addition to the Civil Service Code and Nolan principles (as ultimately enforceable via employment law), that ecosystem also incorporates:

- a. criminal law (including the offences of perverting the course of justice<sup>52</sup> and perjury<sup>53</sup> and, in the public sector, misconduct in public office<sup>54</sup>); and
  - b. the professional regulation of solicitors and lawyers (carrying the threat of being struck off or disbarred), together with the system of training (including continual professional development) of lawyers which ought to ensure high standards of competence and integrity.
85. Evidently this ecosystem was insufficient, cumulatively, to deter or prevent the Post Office, its employees and internal and external legal advisors from acting in the way they did. Nor did it invariably result in balanced, impartial and objective advice from ShEx / UKGI officials.
86. The Department's Secretary of State, the Rt Hon. Jonathan Reynolds, adverted to this issue in his oral evidence:<sup>55</sup>

*“So I'd say this issue of how arm's-length bodies and how Government and UKGI functions is one that's got to be central to the conversation and the answers that we're having. Now I honestly cannot tell you, having been a Secretary of State for no more than four months, whether I am confident that the arrangements of the UK state in this way will always work effectively or whether this was just the wrong questions being asked of the wrong people, you know, the wrong mechanism or whether there's something more fundamental at stake in that.*

*I would say that I look at a whole range of things that I have seen from the perspective of being a Member of Parliament for over a decade and, obviously, this is a significant one but I think about Hillsborough, I think about Bloody Sunday, and I think about what we've recently seen around Grenfell, and I think there are some quite profound questions that we as a country have to ask ourselves, that go beyond individual mechanisms for oversight as to how we establish and run these kinds of organisations.*

---

<sup>52</sup> For which the maximum sentence is life imprisonment.

<sup>53</sup> Carrying a sentence of up to 7 years.

<sup>54</sup> A maximum of life imprisonment.

<sup>55</sup> 11 November 2024/Reynolds/64/16 (INQ00001205)

*There are things that have been going, you know, fundamentally wrong with how power is wielded in the UK, how accountability is provided for. So I think, yes, there are some specific questions around the future governance structure and oversight, but I think there are some wider changes we've got to think about as a country, whether that is-- you know, there's been, I know, as part of this Inquiry some conversation about how we would address in future historic miscarriages of justice and abuses of power and whether there's a sort of different mechanism, standing mechanism we can have to do that.*

*You'll know the Government has committed to something called the Hillsborough Law, the duty of candour. I think all of these things are connected to each other and, whilst we've got to address the specific problems of this Inquiry, there are some wider lessons that we've got to consider because there have been too many cases in modern British history of fundamental abuses of power and that is just how it is. And we've got to recognise that-- we've got to have the humility to recognise lessons have to be learnt from all of these things going forward.”*

87. As Dame Sandra Dawson observed, “[A] framework cannot control behaviour. It sets the boundaries and sets the expectations.”<sup>56</sup>
88. However, in this case the overall legal and regulatory ecosystem did provide Ministers with a false sense of security. Almost all the Ministers from whom the Inquiry heard evidence emphasised that a major factor in why they accepted the Post Office’s answers to the questions they posed (or which were posed on their behalf by officials) was the fact that the criminal justice system had considered Horizon evidence in many prosecutions and always found it to be reliable. On any view it was reasonable for the Government to respect the judgments of the courts in this domain. This was for at least three reasons:
- a. The fundamental constitutional principles of the separation of powers and rule of law, meaning that the Government does not interfere with or undermine the judgments of the independent judiciary and courts.<sup>57</sup>

---

<sup>56</sup> 13 November 2024/Dawson/24/5 (INQ00001207)

<sup>57</sup> McFadden, 103 (WITN10250100); Javid, 57 (WITN10880100)

- b. The understanding that the various safeguards within the criminal justice system – including the continuing duty to disclose any and all exculpatory material, the duty of experts, and the burden and standard of proof – should prevent widespread and systematic miscarriages of justice.<sup>58</sup>
- c. The reasonable underlying assumption that the Post Office and Fujitsu and their employees, agents and lawyers would not breach their disclosure obligations or otherwise mislead the court or pervert the course of justice nor (in the case of lawyers) act incompetently or in breach their professional codes of conduct.

89. This was illustrated, for example, in the evidence of Jo Swinson:<sup>59</sup>

*“For me, the separation between the Government and judicial processes weighed significantly on my mind. I was conscious in my actions and my public remarks of not undermining the courts or suggesting that decisions they had reached were wrong. I did not believe it was my place as a Minister to do that. The ongoing disclosure duty also seemed unambiguous, serious and a strong protection against unsafe convictions continuing to stand. It did not cross my mind that the cast iron assurances I received about POL’s compliance with such a serious legal responsibility would turn out to be false.”*

90. Baroness Neville-Rolfe took similar comfort from the role of the courts:<sup>60</sup>

*“I found this reassuring, in that the Criminal Cases Review Commission are looking at applications for review from subpostmasters and that POL has a duty, which obviously I was*

---

<sup>58</sup> The Department takes the view that the Supreme Court in *R (Nunn) v Chief Constable of Suffolk* [2015] AC 225 explained the common law post-conviction duty to disclose material capable of casting doubt on the safety of conviction; it did not create or develop that duty. The common law post-conviction duty is founded on fairness: [22], [30], [35]. The 2005 version (**RLIT0000045** at §59) (and subsequent versions) of the Attorney-General’s guidelines appear to have been an attempt to articulate the pre-existing common law duty (see *Nunn* at [35]), whereas versions of the guidelines prior to 2005 did not recognise any post-conviction disclosure duty. Therefore, whilst the post-conviction duty has certainly existed since 2005 and may arguably have existed for many years before this, the precise point at which the common law first recognised the post-conviction disclosure duty is uncertain.

<sup>59</sup> Swinson, 145 (**WITN10190100**)

<sup>60</sup> 23 July 2024/Neville-Rolfe/20/12 (**INQ00001179**)

*aware of from my corporate background, to disclose material that comes to light. I mean, that's a very important principle of British justice."*

### **The role of Ministers in scrutinising information and advice**

91. None of this should be taken to suggest that Ministers can always just take everything from officials at face value, or that they should never probe what they are told.

92. As Baroness Hallett stated in her Module 1 report in the UK Covid-19 Inquiry<sup>61</sup>:

*"Ministers commence their role, by and large, as amateurs, and are often not professionally trained in the policy areas of their departments. They are required to learn on the job. They must, nonetheless, provide leadership to their department and decide complex matters of policy, and that is no less true in the field of emergency preparedness and resilience.*

*They should, therefore, challenge the advice they receive from both experts and officials. The quality of the decision-making of ministers will only be as good as the depth and range of advice they receive, as well as their interrogation of that advice. Michael Gove MP, Chancellor of the Duchy of Lancaster from July 2019 to September 2021 and Minister for the Cabinet Office from February 2020 to September 2021, told the Inquiry:*

*"[W]hat we bring is the capacity to ask the 'daft laddie' question, and sometimes it is only when someone asks that question that we find out that the Emperor has no clothes or the pandemic preparedness plan has a huge hole in the middle."*

93. In his Report in the Infected Blood Inquiry, Sir Brian Langstaff stated<sup>62</sup>:

*"It is not the fault of ministers if civil servants do not bring matters to their attention. It is, however, the responsibility of ministers to demonstrate a degree of proactivity and to challenge."*

94. Ministers cannot, however, test, probe and second guess every piece of information they receive. Counsel's suggestion to Sir Vince Cable – that *"If somebody had asked me to sign something, I'd either want to know if what's in it is true from my own personal knowledge or*

---

<sup>61</sup> Covid-19 Inquiry Module 1 Report dated July 2024 at 6.2-6.8 (RLIT0000471)

<sup>62</sup> Infected Blood Inquiry Report Volume 4, p.65 (RLIT0000472)



*a little bit about the process which has gone into finding out the information and testing it*<sup>63</sup> – is perfectly logical in the abstract but is inconsistent with the extreme reality of a Minister’s job. And if officials were required to summarise, in relation to each piece of advice or draft letter, the process they had followed to ensure compliance with the Civil Service Code, government would soon grind to a halt, as the Rt Hon. Pat McFadden explained.<sup>64</sup> The Civil Service Code is in itself a very substantial safeguard for Ministers<sup>65</sup>.

95. The answer to the question faced by every Minister many times a day – “*Should I probe that piece of information or advice?*” – is therefore an inherently nuanced one which involves judgements and trade-offs. Ministers must make those judgements and trade-offs at pace, based on the information available to them and having regard to competing demands in the knowledge that, in this zero-sum game, doing A means not doing B.

96. Margot James explained her own approach in the following terms<sup>66</sup>:

*“As with the advice I received on all areas of my policy portfolio, I relied on officials for objective and honest advice. They were bound by the Civil Service Code and so I expected the advice given to be of this character. Given the breadth of all ministerial portfolios, it is necessary that Ministers make decisions on the basis of the advice given (except in those cases where I had good reason to challenge that advice) and we are reliant on its impartiality and accuracy.”*

97. In oral evidence, she expanded on the circumstances where she might challenge the information and advice she received<sup>67</sup>:

*“Q. What would constitute good reason to challenge advice?”*

---

<sup>63</sup> 25 July 2024/Cable/30/8 (INQ00001181)

<sup>64</sup> McFadden, 34 (WITN10250100)

<sup>65</sup> See, to similar effect, the evidence of Stephen Lovegrove: 15 July 2024/Lovegrove/68/24 (INQ00001174)

<sup>66</sup> James, 26 (WITN10910100)

<sup>67</sup> 24 July 2024/James/20/1 (INQ00001180)

*A. When you feel that the -- when you feel there's some partiality, for a start. If you don't trust the advice, that is a very good reason to challenge it. And when you think that it's contrary to the public interest is usually the other reason. There can sometimes be -- you have to have an eye on the Government and the impact you're having on other Departments, Number 10, all these other stakeholders within Government. That might be a reason to challenge advice. You might feel that the advice is all well and fine but you know that a key player, whether that's the Chancellor or the Prime Minister or your own Secretary of State, is going to have an issue with it, then that might be a reason to challenge it, against the public interest or you feel that there's some partiality involved and you doubt its integrity. Those are the reasons, really, that I would have challenged advice.*

*Q. At the time did you ever feel there was partiality in the advice being provided to you and the briefings being provided to you about the Post Office?*

*A. No, I didn't. I didn't."*

98. Sir Ed Davey also explained his own approach to information received from officials:<sup>68</sup>

*"Q. When you receive a briefing like the one from Mike Whitehead of 5 October 2010, would you ask questions about the sources of information in it or would you take the document as read and not query the accuracy or the sources of things said in it?*

*A. Normally we'd take it as read unless something jumped, completely jumped out at you. But I'd had submissions in all my ministerial posts and very rarely do I remember questioning them in the way you've described.*

*Q. So the information presented to you by civil servants, you take to be reliable and truthful?*

*A. Yes.*

...

---

<sup>68</sup> 18 July 2024/Davey/110/10 (INQ00001177)

*Q. Really what I'm asking, Sir Ed, is you said that you'd take the document as read as being truthful and accurate when it gets to you, whether you had ever thought about what had gone on to create the document that you were treating as truthful and accurate?*

*A. Yeah, well, my understanding, not just on this issue but other issues, was that by the time a submission got to a minister there had been number of checkpoints within the Department. The nature of what checking they were doing wasn't visible to me but, whether you're a junior minister or a Secretary of State, my understanding is that the Civil Service has processes to make sure what goes in front of the Minister is the best advice that they can provide."*

99. All of the Ministers who gave evidence on the subject explained how the Civil Service Code, and the presumption that officials faithfully applied it, influenced their attitude towards the information they received from ShEx / UKGI – and the extent to which they would challenge it or not.
100. Likewise, several Ministers relied on the (as it turns out false) assurance that the Post Office was complying with its post-conviction duty of disclosure. In other words, Ministers were given comfort by the governance and oversight structures, coupled with the overall regulatory ecosystem described above.
101. But Ministers nevertheless did probe and question information and advice where they considered it appropriate.

**WHERE SHOULD THE GOVERNMENT HAVE ACTED DIFFERENTLY?**

102. In light of the wider points made above about the nature of the strategic / operational distinction, the way in which governance of the Post Office was intended to work, the need for some level of trust and the reliance on being provided with accurate information by the Post Office, it is difficult to see how Ministers or officials within the Department could properly have been expected to do more to challenge or investigate Post Office until mid-2014.
103. From then on, however, the Department has identified five particular points in time when the Government could and arguably should have done more. Had it done so, it is certainly possible that the scandal would have been uncovered at an earlier stage than was in fact the case. These five points in time are:
- a. August 2014 to April 2015 – ShEx’s receipt and analysis of Second Sight’s reports and the Post Office’s response;
  - b. March 2015 – ShEx’s response to the Post Office’s decision to close the Working Group and end Second Sight’s involvement;
  - c. July 2016 – the lack of follow-up by UKGI on Tim Parker’s letter and the Swift Review after Baroness Neville-Rolfe’s departure as Minister;
  - d. 2017 to 2018 – UKGI not pushing harder to get the Post Office to reassess its strategy in the group litigation; and
  - e. March 2019 – UKGI and Departmental officials failing to prevent the recusal application and appeal following the Common Issues judgment.

**The genesis of the scandal: contract and culture**

104. It seems clear that, from an early stage in the roll-out of Horizon, decisions were taken in the Post Office which put the scandal in motion. The Inquiry has heard from many postmasters who faced shortfalls in the early days of Horizon that they were told – untruthfully – that no-one else had a problem with the system. This was repeated frequently in different parts of the country by different people, many of

whom are likely to have known it was untrue. It is not conceivable that each of them made it up for themselves. Someone at the centre of the Post Office must have written and distributed that lie.

105. Postmasters who were prosecuted were offered plea deals on condition that they said nothing in public to challenge the integrity of the Horizon system. That is not a decision which an individual prosecutor would be likely to take unilaterally. Again, it must have come from the centre.
106. Someone must have approved these tactics, which had the effect of covering up known problems with the Horizon system. The Department hopes that those involved will be identified and brought to justice.
107. In a sense, the decision to adopt these tactics may have been where the Horizon scandal started. But the roots of the scandal go further back into the contract with postmasters and the Head Office culture which made it possible. Both of those pre-dated Horizon.
108. The framers of the postmasters' contract may not have foreseen Fraser J's conclusions that the contract was governed by the Unfair Contract Terms Act, or that it was a relational contract with implied duties of good faith. But what sort of business chooses to impose unexplained losses on its franchisees without investigating their cause? What sort of business offers inadequate training on its main IT system and a helpline which is nothing of the sort? Unfairly offloading problems of this sort would have been shortsighted and counterproductive for any business. For a Government-owned business with a social purpose, these actions were especially egregious. The evidence suggests that they stemmed from an entrenched culture of arrogance, disrespect and otherness towards postmasters which had developed over time.

109. Institutional culture within arm's length bodies is today certainly recognised as a matter of substantial importance.<sup>69</sup> It was less clearly recognised in that way in the 1990s.<sup>70</sup> Furthermore, until 2012 the Post Office was a subsidiary of the Royal Mail Group, the Government did not have a shareholder representative on the Board of the Group, and that Board did not exercise close oversight of the Post Office or its predecessors.
110. This is not to say that there was no way that information about the cultural problems in the Post Office could come to light. The Inquiry heard evidence from Sir Vince Cable that he and Sir Ed Davey had had experience of dealing with Post Office middle management in their capacity as constituency MPs, and had found them to take an "authoritarian" approach towards postmasters. Sir Vince recognised Sir Alan Bates's subsequent description of them as "thugs in suits".<sup>71</sup> However, these were anecdotal impressions, and there does not appear to have been anything significant brought to the attention of officials or Ministers about there being a wider or deep-seated cultural issue at Post Office before 2012 at the earliest. Even in the light of the Fraser J's 2019 Common Issues and Horizon judgments, it took time for the true depths of the cultural problems to be brought to light; Sarah Munby thought that, with the benefit of hindsight, briefings provided to her by civil servants in the early days of her time as Permanent Secretary in 2020 perhaps had not "*emphasised sufficiently the ongoing cultural challenge at POL.*"<sup>72</sup> Government's attention to the culture of the

---

<sup>69</sup> The introduction to the 2024 edition of the UK Corporate Governance Code (**RLIT0000217**) states that "a company's culture should promote integrity and openness, value diversity and be responsive to the views of shareholders and wider stakeholders". Principle B of the Code itself requires that "The board should establish the company's purpose, values and strategy, and satisfy itself that these and its culture are all aligned".

<sup>70</sup> Culture was not mentioned in the Cadbury Report (1992) which established the Corporate Code. By 2003, the Appendix to the revised Code (**RLIT0000474**) said that one of the questions which Boards should consider was: "Do the company's culture, code of conduct, human resource policies and performance reward systems support the business objectives and risk management and internal control system?"

<sup>71</sup> Cable/92 (**WITN10830100**); 25 July 2024/Cable/10/1-12/21 (**INQ00001181**)

<sup>72</sup> Munby 2, 12-13 (**WITN11520200**)

ALBs which it supervises should grow in parallel to the increasing focus on such issues in the Corporate Governance Code and more generally in business.

**First evidence of the scandal and the commissioning of Second Sight**

111. Prior to 2009, the Department received only a very small number of complaints about the Horizon system. Given the range of issues facing the Department, coupled with the arm's length arrangement by which the Post Office operated and the reasonable belief that the Post Office would provide accurate information to the Government and that the criminal justice system could be relied on to discern guilt from innocence, the Department considers it to have been understandable that ShEx officials did not alert Ministers to any sort of problem requiring their involvement at this stage.
112. In 2009 the first media reports of Horizon problems began to appear and from 2009-2012 the Department began to receive more letters from MPs raising concerns. Ministers started asking questions of the Post Office in earnest following Sir Ed Davey's meeting with Sir Alan Bates in October 2010 (following which the Minister asked officials to obtain further information and obtain further reassurance on a number of points), but appear to have been reassured by a combination of factors including the assurances provided by the Post Office, the lack of concern from the NFSP, and the (supposed) fact that the courts had repeatedly upheld the robustness of Horizon.<sup>73</sup> This was understandable, though the Department recognises that ShEx officials could and perhaps should have looked more sceptically at the Post Office's assurances. It would perhaps also have been sensible for ShEx officials to begin to collate a record of and monitor the various and increasingly numerous complaints; had they done so, this may have led to more concerted action at a slightly earlier stage.
113. In the event, following representations from Lord Arbuthnot, the Post Office appointed Second Sight in 2012 to conduct an independent review to "*consider and to advise on whether there are any systemic issues and/or concerns with the 'Horizon' system, including training and support processes, giving evidence and reasons for the conclusions reached*". The Post Office assured MPs that Second Sight would have "*unrestricted access to documents held*

---

<sup>73</sup> 18 July 2024/Davey/163/16-166/4 (INQ00001177)

by Post Office (including documents subject to confidentiality and legal professional privilege)’ and that there would be “no limitation in the scope of work determined necessary by Second Sight”.<sup>74</sup>

114. The Department was aware of Second Sight’s appointment, which appeared to be a sensible and proportionate response to the mounting concerns voiced by postmasters and their MPs. Having previously been deeply critical of the Post Office, the JFSA also publicly approved of this step. Sir Alan Bates was quoted publicly as saying in January 2013 that “*The agreement ensures evidence can be given without fear of any comeback from the Post Office*”.<sup>75</sup>
115. Although Sir Alan Bates then wrote to Jo Swinson as responsible Minister in April 2013<sup>76</sup> to express concerns about how Second Sight’s work was progressing, the response she gave on the advice of ShEx officials<sup>77</sup> was appropriate: Second Sight were genuinely independent, and Lord Arbuthnot had taken on a coordinating and liaising role.
116. At the time Jo Swinson was asked to give a Ministerial Statement on 9 July 2013<sup>78</sup>, it seemed that the Post Office was behaving responsibly in its approach to the concerns. Second Sight’s interim report (dated 8 July 2013)<sup>79</sup> did not suggest there was a dramatic problem, further investigation and other work was to be carried out, and there was no indication at that stage that the Post Office did not intend to follow up on Second Sight’s conclusions (although, as discussed below, the Inquiry has heard much evidence about the lack of clarity in the expression “*no evidence of system wide (systemic) problems*” and how the Post Office subsequently spun this).

---

<sup>74</sup> POL00000218; Warmington, 21 (WITN01050100); Henderson, 27-28 (WITN00420100)

<sup>75</sup> POL00059524

<sup>76</sup> POL00144511

<sup>77</sup> UKGI00013902

<sup>78</sup> POL00206822

<sup>79</sup> POL00115986



117. None of what the Minister was being told was the sort of thing which should have caused concern so as to justify a major Government intervention. Sir Martin Donnelly summarised well how this should be seen in context at the time:<sup>80</sup>

*“In retrospect, obviously these were important moments. At the time, this was a standard Junior Minister reporting on an issue. The Shareholder Executive team did not flag this up, and I am sure in good faith, on the basis that they did not see anything substantively significant out of the normal process of a review being commissioned in an area and followed up, and so on, as happened in a lot of areas across our area of Government and more widely.*

*So it would have required someone to say, “This is actually significant for the following reasons”, otherwise it would have been a normal bit of Government business.”*

118. On the establishment of the Initial Complaint Review and Mediation Scheme in August 2013, Lord Arbuthnot made a supportive public statement: *“I am very pleased indeed with the working group’s proposed process. To my mind, it represents the very best chance all parties – individual subpostmasters and mistresses, and the Post Office – have of ensuring the best outcome for everyone. It is fair, thorough, and independent.”*<sup>81</sup> Given the views expressed by Lord Arbuthnot and Sir Alan Bates at around this time, it was reasonable for the Department to conclude that matters were being handled properly, and that the Second Sight process should be allowed to run its course.

119. Of course, it is now clear that by the late summer of 2013 some senior people at the Post Office knew full well that the problems were far more significant than had been revealed to the Government. The Department was not aware of the Rod Ismay report, the Clarke advice or the subsequent Cartwright King review. It would have had no means of knowing about these matters unless Post Office had told it. The Post Office should have highlighted these problems as matters of the utmost

---

<sup>80</sup> 27 September 2024/Donnelly/145/1 (INQ00001188)

<sup>81</sup> FUJ00235527, NFSP00000263

seriousness, but it failed to mention them at all. Jo Swinson described this breach of trust in vivid terms:<sup>82</sup>

*“I am staggered that I made my statement to the House of Commons on 9 July [2013] and, on 15 July, Post Office Limited received the memo, the Clarke memo, that said that the credibility of their key witness was fatally undermined. I mean, this to me at the time seemed very reasonable. I cannot quite square in my mind how it was possible for -- as a minister, you know, as the shareholder -- us to be responding, me to be responding on these issues, being given this briefing and then that, you know, bombshell. I mean, I'm not a lawyer but when I read that document in the briefing notes [for the Inquiry], I -- you know, I couldn't believe it. I don't think any -- you do not need to be a lawyer. How could anyone read that document and not realise that this is something which demands urgent attention and yet where did that go?”*

120. The first key moment when the Government could and arguably should have realised there was more of a problem than the Post Office was admitting was at the time of Second Sight reports, and subsequently the breakdown of the Second Sight investigation and mediation scheme.
121. The Inquiry has heard how the Post Office used selective excerpts from the Second Sight reports to reassure anyone and everyone, from MPs to the press to Departmental officials and Ministers, that Horizon was robust and there were no significant concerns about the safety of prosecutions. The clearest example of this was the way in which POL adopted, spun and dogmatically clung to one of the preliminary conclusions in the interim report: *“we have so far found no evidence of system-wide (systemic) problems with the Horizon software”*<sup>83</sup>. As Ron Warmington recognised, this expression was ambiguous and its adoption in the report was regrettable. He explained this was a very provisional finding based on just four cases which had been the most thoroughly investigated by that point in time:<sup>84</sup>

---

<sup>82</sup> 19 July 2024/Swinson/45/25 (INQ00001178)

<sup>83</sup> POL00099063 at conclusion 8.2(a)

<sup>84</sup> 18 June 2024/Warmington/128/18 (INQ00001162)

*“Well, with the benefits of hindsight, absolutely. I wish we'd said that. I think Ian mentioned earlier, it would have been probably better if we'd spelled out exactly what we meant by "systemic". We didn't use the word by accident and a considerable amount of thought and discussion went into the word we used there. But, with the benefit of hindsight, Post Office pounced on it and, as Ian said, trumpeted it from the rooftops....”*

122. Reassurance based on the same excerpt was shared with the Post Office Board (including the Shareholder NED Susannah Storey)<sup>85</sup> and then carried through in advice to Ministers<sup>86</sup>. The same pattern repeated itself with Second Sight’s full report.
123. As Ron Warmington observed, a glossed version of this preliminary finding that they had so far found “*no evidence of system-wide (systemic) problems*” became a much-repeated ‘line to take’ in the Post Office’s communications. This subsequently morphed into a substantively different, more definite and entirely misleading Post Office line – in substance a positive claim that the independent reports had actively confirmed the robustness of Horizon.<sup>87</sup>
124. The Department recognises that ShEx officials should have compared the text of the reports with what the Post Office was saying and identified the misleading spin at the time. Had they done so, this would have provided a clear basis to challenge the Post Office and is likely to have created very substantial concerns about the way the Post Office was approaching the issue. It may well have led to earlier Ministerial intervention. (Indeed, when Second Sight later raised concerns about the way the Post Office and in turn Ministers had summarised its findings, Baroness Neville-Rolfe did take action.<sup>88</sup>) Instead, ShEx officials simply adopted the Post Office mantra in their advice to Ministers.

---

<sup>85</sup> 30 July 2024/Storey/50/15 (INQ00001184); Storey, 111 (WITN00920100)

<sup>86</sup> See for example UKGI00001656; 30 July 2024/Storey/47/22 (INQ00001184)

<sup>87</sup> POL00189881; 14 May 2024/Davies/46/2 (INQ00001146); POL00101783; 22 May 2024/Vennells/125/18 (INQ00001151); 23 May 2024/Vennells/42/19 (INQ00001152)

<sup>88</sup> Neville-Rolfe, 77-186 (WITN10200100)

125. In the summer of 2014, Second Sight produced their draft “Briefing Report – Part Two”, which raised various issues.<sup>89</sup>
126. In late October 2014, Jo Swinson took steps to find out what was happening with the mediation scheme and how it could be progressed more effectively, but was not given an accurate or comprehensive picture by the Post Office or by ShEx.<sup>90</sup> Despite the reasoned concerns now being expressed by a number of key stakeholders, Ministers were not advised to challenge the Post Office further at this point. In December 2014, the Minister was advised by Sir Anthony Hooper that the scheme was progressing slower than planned, but not much detail could be shared to preserve confidentiality.
127. It is now evident that in June 2014 the internal Post Office “Project Sparrow” sub-committee had started discussing options for making changes to the mediation scheme.<sup>91</sup> ShEx was represented on that sub-committee but did not inform the Minister of these developments. What followed was a decision by the Post Office to exclude some postmasters from the mediation scheme, which led no fewer than 140 MPs to withdraw their support for the scheme.
128. The serious Parliamentary concerns also led in December 2014 to a Westminster Hall debate. Jo Swinson told that debate that “*The hon. Member for North Durham said “do something”, and in such a situation what I would normally propose doing is to get a team of forensic accountants to go through every scenario and to have the report looked at by someone independent, such as a former Court of Appeal judge.*” That was, of course, what was still supposed to be happening through the mediation scheme with the involvement of Second Sight and Sir Anthony Hooper.

---

<sup>89</sup> WITN10370191

<sup>90</sup> Swinson, 53-58 (WITN10190100)

<sup>91</sup> Swinson, 43, 83 (WITN10190100)

129. In the light of MPs' concerns, the BIS Select Committee decided to investigate Horizon issues. At the Select Committee's oral evidence session on 3 February 2015 the Second Sight representative said:<sup>92</sup>

*"... we are very concerned about the prosecution cases—we have seen no evidence that the Post Office's own investigators were ever trained or prepared to consider that Horizon was at fault. That was never a factor that was taken into account in any of the investigations by Post Office that we have looked at.*

*That is a matter of huge concern, and that is why we are determined to get to the bottom of this matter, because we think that there have been prosecutions brought by the Post Office where there has been inadequate investigation and inadequate evidence to support some of the charges brought against defendants—sub-postmasters and former sub-postmasters. In particular, we are aware—this, again, is why we need to see the full prosecution files—that a common tactic employed by the Post Office, or lawyers acting on its behalf, is to bring charges for both false accounting, which is a relatively easy charge to prove, and theft; then, as a bargaining point—a plea-bargain, almost—before trial, they drop the charge for theft on the basis that, first, the defendant will probably avoid a custodial sentence and, secondly, the evidence is much simpler.*

*When we have looked at the evidence made available to us—bear in mind that I have been an expert witness for the Crown Prosecution Service, instructed by the CPS on fraud cases—I have not been satisfied that there is sufficient evidence to support a charge for theft. You can imagine the consequences that flow from that. That is why we, Second Sight, are determined to get to the bottom of this matter, which we regard as extremely serious."*

130. ShEx officials failed to bring this part of the evidence to Jo Swinson's attention. They should have. One of the Committee's recommendations was that it should be given a copy of Second Sight's further report, when available. Jo Swinson "*wasn't comfortable*" with officials' advice which said that it was not appropriate for the Government to receive a copy of the report. She commented that "*this is a sensible recommendation... and as sole shareholder Government should hold a copy of the report for audit trail purposes.*"

---

<sup>92</sup> UKGI00013818

Officials submitted stronger advice against accepting the recommendation.<sup>93</sup> Despite this, the Minister rightly maintained her position, which was reflected in the response to the Committee.<sup>94</sup>

131. On 5 March 2015 a submission to Jo Swinson, provided in the busy final few weeks of the Parliamentary session and shortly before the General Election, finally informed her that the Post Office were planning to “*change their approach to the mediation scheme*”.<sup>95</sup> In practice this meant terminating Second Sight’s appointment and closing the working group, but this was not drawn to the Minister’s attention nor was her agreement sought; the submission simply asked her to “note” the development and focused on whether a Written Ministerial Statement should be made (she was advised not to do so). This was a significant change to a draft submission prepared two weeks earlier,<sup>96</sup> which Richard Callard amended so as no longer to seek Ministerial approval for the change, thereby substantially reducing the likelihood that the Minister would recognise the proposal as one to spend time on and, in turn, the likelihood she would challenge it.

132. In another stark example of the inaccurate and incomplete provision of information by the Post Office to Ministers, on 9 March 2015 Paula Vennells wrote to Jo Swinson<sup>97</sup> providing a clear assurance that the Post Office had thoroughly investigated the postmasters’ complaints and the possibility of unsafe convictions and found nothing of concern. It emphasised Post Office’s post-conviction duty of disclosure and stated each of the cases had been reviewed and no reason found to conclude any prosecution was unsafe. The Clarke advice was not mentioned.

---

<sup>93</sup> UKGI00003957

<sup>94</sup> Swinson, 96-98 (WITN10190100)

<sup>95</sup> UKGI00000032

<sup>96</sup> UKGI00003390

<sup>97</sup> POL00132580

133. Jo Swinson's evidence on her subsequent meeting with Paula Vennells and other Post Office executives, at which she was again given clear assurances, was particularly powerful:<sup>98</sup>

*"So, having received this letter, which, without having seen the tracked changes, is a very specific, confident, robust letter that says, you know, "We've investigated, we've looked at this, we've got this duty to disclose immediately, any information that comes to light would be disclosed, and, of course, there's all these avenues for appeal, and, you know, there's no reason to conclude that any original prosecution was unsafe".*

*That, to me, felt very reassuring and I just want to be clear, as well, that this was not only a set of assurances that were given to me in writing; these were assurances that Paula Vennells delivered to me in person, you know, across the table, looking me in the eye and telling me that there was no problem, that they had investigated, that they had not found anything that would cause concern, which I cannot square with that email I have now seen that she sent in October 2013, that says that she is -- you know, her concern is about an unsafe witness and their obligations of disclosure.*

*So she knew about the Clarke Advice and the lack of credibility of the key witness that they had relied on for so many prosecutions. I mean, I consider that she did not tell me that at the time in the summer and autumn of 2013 to be massively problematic, nor at any point in the subsequent 18 months in any of our catch-ups in any of the submissions that I received, and that she would sit and look me in the eye and give me those assurances and then put that in writing, you know, it just beggars belief because she knew that there were problems with convictions, and the safety thereof because she had been told that in the Clarke memo.*

*And I got this letter and I did take it at face value, I believed the assurances and, you know, in that first briefing note where I met with Alice Perkins and Paula Vennells in 2012, one of the bullet points -- which I remember because it was unusual -- was that Paula Vennells is also an ordained vicar, right? And so she was sitting there, yes, as a Chief Exec of a national organisation, national company, but she was also sitting there with the moral*

---

<sup>98</sup> 19 July 2024/Swinson/118/16-120/8 (INQ00001178)

*authority of somebody who was a minister of the cloth, right, not of some kind of slick Chief Executive who seemed to care only about profit. I believed her. I believed her.”*

134. Based on Post Office information, ShEx officials also gave Jo Swinson significant reassurance about the safety of criminal convictions.<sup>99</sup>

135. In her witness statement, Jo Swinson stated:<sup>100</sup>

*“It never occurred to me at the time that information from ShEx might be anything other than fully accurate. Indeed, my experience of the civil service was one of extreme caution in terms of establishing facts. To illustrate, even when making a political speech as a Minister that the Department had no role in drafting, for example at party conference, I would have to submit the text in advance to allow the departmental officials to check it for accuracy. In hindsight, I now question whether the ShEx officials were acting as the Government’s representative on the POL Board or the POL Board’s representative in Government. It seems it may have been they who had ‘gone native’, not Second Sight.”*

136. This last remark was a reference to a claim, included in an (inaccurate) September 2014 briefing to the Minister from Richard Callard of ShEx, that *“Second Sight have ‘gone native’ and are unduly taking the side of JFSA. This is supported by the fact that SS have admitted privately that they find it emotionally difficult to opine against SPMs, regardless of the circumstances of the case.”*<sup>101</sup>

137. Second Sight’s final “Briefing Report – Part Two”, dated 9 April 2015,<sup>102</sup> contained reference to various troubling issues including:

*“26.1 When we started our work on these important matters in July 2012, we believed there was a shared commitment with Post Office to ‘seek the truth’ irrespective of the consequences. This was reflected in us being provided with unrestricted access to highly confidential and sensitive documents, including legal advice relating to individual cases. This position was*

---

<sup>99</sup> Swinson, 61 (WITN10190100)

<sup>100</sup> Swinson, 115 (WITN10190100)

<sup>101</sup> UKGI00002472; Swinson, 50 (WITN10190100)

<sup>102</sup> UKGI00004122



*recognised and well received by other stakeholders, including the Rt. Hon. James Arbutnot MP and the JFSA.*

*26.2. However, as time progressed, and particularly in the last 18 months [February 2013—August 2014], it has been increasingly difficult to progress our investigations due to various legal challenges by Post Office. There have been considerable delays in receiving responses to requests for information and legal issues have been raised, such as Data Protection and Legal Privilege, as being the reason various documents could no longer be provided to us.*

*26.3. We found that types of document previously provided to us without restriction were no longer being provided. Some of these documents were also not being provided to Post Office's in-house team of investigators.*

*26.4. We can only conclude that this represented a policy decision by Post Office at a senior level, possibly based on legal advice. We consider this regrettable, particularly in the light of assurances previously provided to ourselves, MPs and the JFSA.”*

138. Furthermore, at the same time the Post Office published its own rebuttal<sup>103</sup> of the Second Sight report, which should have been treated as a warning sign that all was not well.

139. Taken together, the strong criticisms expressed by Second Sight, the withdrawal of the MPs' support for the mediation process, Post Office's decision to terminate the process and the concerns expressed by the Select Committee should have stimulated active intervention by the Government. However, Ministers were given misleading and materially incomplete information – by both the Post Office and officials in ShEx – and were actively advised that there was no problem requiring their detailed involvement. Had the advice and information provided been different, it might have been possible to cut short the scandal by some five years.

### **The Swift Review**

140. However, as events unfolded, another opportunity to bring the scandal to light emerged within a few months through another route, due to the proactive work of Baroness Neville-Rolfe, Jo Swinson's successor as responsible Minister from 12 May 2015. After receiving further representations from MPs, Baroness Neville-Rolfe

---

<sup>103</sup> POL00021793

arranged a meeting with MPs and Post Office executives in mid-July 2015. Following this, and in light of other meetings and information, she requested the incoming Chair of the Post Office, Tim Parker, to investigate the concerns being raised about Horizon. Her letter confirming this on 10 September 2015 was clear:<sup>104</sup>

*“The Government takes seriously the concerns raised by individuals and MPs regarding the Post Office Horizon system and the suggestions that there may have been miscarriages of justice ... I am therefore requesting that, on assuming your role as Chair, you give this matter your earliest attention and, if you determine that any further action is necessary, will take steps to ensure that happens.”*

141. Tim Parker told Baroness Neville-Rolfe at the beginning of October 2015 that he would instruct Jonathan Swift KC to conduct the review.<sup>105</sup>

142. Tim Parker sent the Minister a letter in early March 2016 updating her on the progress of the review.<sup>106</sup> However, the letter failed to make clear that he had by then received Jonathan Swift’s final report (which, based on deficient legal advice, he did not share with Post Office’s board or the Department). As Baroness Neville-Rolfe commented in evidence to the Inquiry, Mr Parker’s reassuring summary in the letter was “*materially misleading*” as a summary of Jonathan Swift’s report.<sup>107</sup> Most importantly, it failed to mention findings highly critical of the Post Office in relation to its prosecution of postmasters. The letter was described as an “update” presenting “initial” findings, and indicated that further work was in progress. Even setting to one side the failure accurately to reflect the contents of the Jonathan Swift’s report, the letter failed to meet the Minister’s original remit and was unsatisfactory in many respects:

---

<sup>104</sup> **POL00102551**

<sup>105</sup> **UKGI00006138**

<sup>106</sup> **POL00024913**

<sup>107</sup> Neville-Rolfe, 166 (**WITN10200100**)

- a. It noted that the investigation had been confined to the period 2010-2015, even though problems with Horizon had begun from its launch in 2000. No reason was given for this constraint.
- b. On prosecutions – which had been central to the complaints of many MPs – it said no more than that the safety of convictions was a matter for the CCRC and Court of Appeal.
- c. In considering Second Sight’s concerns that full information about the contents of legal files had not been disclosed to them, it considered only one of the five reasons which paragraph 2.4 of Second Sight’s Part Two report gave for disclosure.
- d. It did not consider the contractual issues which had been raised by Second Sight and which were crucial to the treatment of postmasters.
- e. It remitted most follow-up actions to the Post Office, undermining the need for independence. As Baroness Neville-Rolfe explained when giving evidence to the Inquiry, the impression she got from this letter was that the review was ongoing and that there was still considerable work to do. She was understandably upset about the fact she was not provided with a copy of Jonathan Swift’s report or even informed that it existed.<sup>108</sup> Given what she was told, it was reasonable for her to leave the matter with Mr Parker and assume that the matter was being taken forward by him. She met with him on 27 April 2016 and he did not seek to correct her understanding that his review was ongoing. She never saw the draft letter produced by Mr Parker which said he had been advised to bring the review work to an immediate end as a result of the litigation, and she was unaware that this decision had been taken.<sup>109</sup> The reasons why Tim Parker failed to inform the Government that the review had

---

<sup>108</sup> Neville-Rolfe, 161-169 (**WITN10200100**)

<sup>109</sup> Neville-Rolfe, 176-181 (**WITN10200100**); **POL00022776**

been cut short prior to completion of the promised work streams remain unclear.

143. Shortly afterwards, in July 2016, Baroness Neville-Rolfe moved to a different Ministerial position. UKGI<sup>110</sup> officials did not inform her successor, Margot James, of the existence of the Swift Review nor brief her in any detailed way on Tim Parker's work.<sup>111</sup> This was another missed opportunity.
144. Given the scale of concerns described above, ShEx / UKGI should have followed up on Tim Parker's letter. The relevant officials within UKGI should have ensured that Baroness Neville-Rolfe's successor was properly briefed on the matter and encouraged to obtain an update from the Post Office. Further scrutiny at this point may well have led to the Post Office board, UKGI officials and Ministers receiving a copy of the Swift Review; and it is also likely that the decision to stop the follow-up work recommended by Jonathan Swift would have been subject to serious challenge.
145. However, whilst these were clearly missed opportunities, primary responsibility for the failure lies with Post Office. Mr Parker should have disclosed the Swift Review to the Post Office board and, via ShEx / UKGI, to the Department. When it came to light, Sarah Munby rightly censured him for his failure to do so (she described the letter sent to him in 2020 as "*one of the harshest letters, if not the harshest letter, I have ever written to a chair of an arms'-length body I've been involved with*")<sup>112</sup>. However, that was too late for postmasters. If the Swift Review had been disclosed to the Post Office board and the Department in March 2016, the scandal might have been resolved without recourse to a long and gruelling High Court case.

---

<sup>110</sup> By this time, the functions and officials of ShEx had been transferred to the newly formed UKGI.

<sup>111</sup> James, 42 & 47 (**WITN10910100**)

<sup>112</sup> 5 November 2024/Munby/118/1 (**INQ00001201**); **POL00104180**

146. Mr Parker’s decision not to disseminate Jonathan Swift’s review was evidently based on legal advice<sup>113</sup>. It is apparently yet another example of a lawyer – in this case former Post Office General Counsel Jane MacLeod – giving seriously erroneous legal advice; and one of many examples of the Post Office misusing and abusing legal privilege as a basis to avoid external scrutiny.

### **The Group Litigation**

147. The High Court case was launched in 2016. It was reasonable for the Department initially to take the view that this was an example of an operational matter for Post Office to deal with, in the same way as other litigation. However, when facing litigation, particularly of this scale, the natural reaction of most organisations might be to ask “are the allegations justified?”. The Government appears not to have asked this question at the time, instead relying on the Post Office to obtain the right advice. Given the scale and importance of the issues, it would have been sensible for officials to have obtained a copy (or as a minimum a detailed summary) of the lawyers’ analysis of the legal merits, and an explanation of the Post Office’s legal strategy. Based on that, they may have suggested seeking a second opinion. They could and, at least in hindsight, should also have considered whether the proposed approach to the legal issues was appropriate for a publicly-owned company. However, it appears that no consideration was given to these steps, and they were not raised with Ministers.

148. As the litigation progressed, more questions should have been asked; and when concerns emerged, they should have been escalated. The Inquiry has heard from Tom Cooper, the UKGI Shareholder NED on the Post Office board at the time, about his growing concerns about the Post Office’s position as the High Court case proceeded, in particular his doubts about the wisdom of the postmasters’ contract. The evidence of the Ministers is that any such doubts were not conveyed to them.

149. A further problem was the lack of any proper contingency planning to prepare for the eventuality of the Post Office losing the case. Even though it was clear that any significant finding in favour of the claimants would have very substantial

---

<sup>113</sup> 3 July 2024/Parker/77/15, 84/12 (INQ00001170)

consequences for both the Post Office and postmasters, UKGI officials steadfastly maintained the line that ‘this is an operational matter for the Post Office’. This seems to have dominated UKGI’s own thinking and, in turn, the advice it gave to Ministers.

150. The Post Office effectively dismissed the claim as aggressive litigation by disaffected individuals. This does not seem to have been subjected to any serious scrutiny within Government. It was not until Fraser J issued his first judgment, describing the Post Office’s case as amounting to “*the 21st century equivalent of maintaining that the earth is flat*”,<sup>114</sup> that settlement discussions began.
151. Throughout the trial, the Post Office’s litigation strategy was particularly high-handed and, for a publicly-owned company, deplorably cynical. Indeed one of the objectives was to make the costs to the claimant postmasters so high that they would have to withdraw or settle; as Fraser J held in the Common Issues judgment, “*The Post Office has appeared determined to make this litigation, and therefore resolution of this intractable dispute, as difficult and expensive as it can.*”<sup>115</sup> Of course, this was not brought to Ministers’ attention, nor were they advised to inquire as to the Post Office’s litigation strategy.
152. Sir Alex Chisholm described how, after he was initially briefed on the Horizon litigation in May 2018, it was disappointingly difficult to get information out of the Post Office, with considerable back-and-forth about an information sharing protocol. He described how “*POL’s position in respect of providing BEIS officials and ministers with information regarding the litigation was on a ‘need to know basis’ and indeed that there was an institutionalised wariness about what the Department should be told*”.<sup>116</sup>
153. Finally, on 17 October 2018, shortly before the Common Issues trial commenced, the responsible Minister (Rt Hon. Kelly Tolhurst), Sir Alex Chisholm and relevant UKGI and Departmental officials met Paula Vennells and her team for a detailed briefing on the litigation. It is clear that both Kelly Tolhurst and Sir Alex Chisholm

---

<sup>114</sup> [2019] EWHC 3408 (QB) at para 929 (**POL00112972**)

<sup>115</sup> [2019] EWHC 606 at [544] (**POL00113269**)

<sup>116</sup> Chisholm, 115 (**WITN00180100**); 7 November 2024/Chisholm/131/2-18, 154/15-155/23 (**INQ00001203**)

were worried about the litigation and thought the Post Office needed to do more to plan for the possibility of losing and to consider settling. However, the Post Office were confident in their prospects of success and offered to provide regular detailed updates on the proceedings.<sup>117</sup>

154. Had Tom Cooper or other UKGI officials raised their concerns at an earlier stage, it is possible that a detailed briefing such as that provided to the Minister in October 2018 would have taken place sometime earlier, and that Ministers would have chosen to push the Post Office harder on their litigation strategy and the possibility of settlement.

155. That said, as the Chair noted during Sir Alex Chisholm's evidence,<sup>118</sup> there was no clear window of opportunity for earlier settlement as it would have required both parties to be willing to reach a compromise. The Department could have pressured the Post Office to enter settlement negotiations, but that would have been a radical step in the face of the Post Office's own legal advice that it was likely to win (coupled with the absence of a second opinion or other expert scrutiny). Even if the Department had pushed hard for a settlement to be negotiated, the prospects of reaching agreement with the postmaster group would have been at least questionable.

### **The recusal application**

156. The Government could and arguably should also have acted differently in relation to the recusal application in March 2019 following the Common Issues judgment.

157. It is clear that as soon as they were informed about the proposed appeal and recusal application, both Kelly Tolhurst and the Secretary of State Rt Hon. Greg Clark thought it was an astonishingly bad idea. They had both immediately realised the judgment was very serious indeed for the Post Office and expected it fundamentally to change its approach in response.<sup>119</sup> Their views were very robustly expressed to

---

<sup>117</sup> UKGI00008554

<sup>118</sup> 7 November 2024/Chisholm/196/3 (INQ00001203)

<sup>119</sup> Tolhurst, 71-72 (WITN10930100); Clark, 59-68, 75 (WITN10900100)

Tom Cooper of UKGI. Sir Alex Chisholm was also asked to consider the issue and was also clear (albeit using more moderate language) that he considered the appeal and recusal application should not be taken forward. When giving evidence, Kelly Tolhurst expressed her disappointment that, though she was accountable as Minister, she lacked the power to prevent the Post Office from making the application.<sup>120</sup>

158. What subsequently happened remains somewhat confused, but what does seem clear is that (acting on legal advice) Tom Cooper attended the Post Office board meeting at which the recusal application was discussed, took part in the discussion in some way, and then absented himself from the actual decision. This appears to have arisen on the basis that it would be improper for anyone associated with the Government to be involved in a decision impugning a judge. However, this does not explain why Tom Cooper could not have attended the meeting, conveyed the assessment of the Permanent Secretary, Minister and Secretary of State clearly and forcefully, and voted against making the recusal application.<sup>121</sup> This would not have created any conflict of interest, nor would it have undermined the separation of powers or independence of the judiciary. If he had done so, it could potentially have identified the absurdity of Lord Grabiner KC's advice that the Post Office was somehow under a "duty" to seek to recuse Fraser J, and swung the debate. It certainly would have made the Post Office Board think very hard indeed about their decision. This was another missed opportunity.

159. However, it is hard to tell whether at this point such an intervention from Government would have made any material difference to the overall outcome. As noted above, by this time the opportunity for meaningful settlement negotiations had very probably passed.

160. In any event, the Government's approach changed markedly from May 2019, with strong scrutiny of the Post Office's leadership initiated by Ministers. In that month, as a result of the Post Office appealing the Common Issues judgment, Kelly Tolhurst

---

<sup>120</sup> 17 July 2024/Tolhurst/172/8 (INQ00001176)

<sup>121</sup> 10 July 2024/Cooper/86/8 (INQ00001172); 25 July 2024/Clark/169/9 (INQ00001181)



decided that she wanted to “*change POL’s board around*” and that she would like to “*meet with the Chairman separately to ... ask that he considers his position.*”<sup>122</sup> Departmental officials had a call with the Minister the following day to discuss the risks of such an approach.<sup>123</sup> In the light of that discussion, on 29 May 2019 Kelly Tolhurst sent Tim Parker a letter which requested information about the implications of the case, the legal strategy and the new legal team,<sup>124</sup> to which Tim Parker replied on 3 June 2019.<sup>125</sup> The Post Office’s interim CEO, Alisdair Cameron, subsequently reported the Minister’s disappointment that “*at times she had been under communicated with*”.<sup>126</sup>

161. On 4 June 2019, at a meeting with BEIS and UKGI officials<sup>127</sup> the Secretary of State, supported by Kelly Tolhurst, expressed “*serious concerns about the direction of travel of the litigation and POL’s handling of it*”. They “*referenced the first judgment and particularly the recusal application as evidence of poor judgement of the board.*” The Secretary of State “*gave a clear steer that he wanted the department to be on the side of postmasters*”. He said it felt like there were “*shades of Windrush*” in respect of “*the potential for a number of injustices to come out*”. He asked for a strategy to “*ensure the litigation is settled quickly and put BEIS on the side of postmasters; and consider how we deal with the ongoing management of POL given the concerns Ministers have on Board performance*”.

162. The Secretary of State agreed to take forward all seven options presented by Departmental officials in a submission dated 11 June 2019.<sup>128</sup> These included:

- a. Challenging the Chair and Board to review their litigation strategy, consider opportunities for early settlement and set out an action plan;

---

<sup>122</sup> **WITN10930108**

<sup>123</sup> **WITN10930108**; Tolhurst, 108 (**WITN10930100**)

<sup>124</sup> **POL00023739**

<sup>125</sup> **WITN10930129**

<sup>126</sup> **UKGI00010232**

<sup>127</sup> **BEIS0000830**

<sup>128</sup> **UKGI00018319, UKGI00010205**

- b. Commissioning the Post Office to consider how to structure and operate a settlement, including a fund to award redress to others affected by Horizon shortfalls;
  - c. Public statements by BEIS Ministers to state publicly that they want to see justice resulting from litigation for claimants with valid claims;
  - d. Challenging the Post Office to announce that it was taking on board some of the legitimate criticisms in the judgments to date and is taking action to address them;
  - e. Closer scrutiny of Post Office's legal decision making by putting UKGI's legal counsel on the Post Office litigation sub-committee;
  - f. Asking Nigel Boardman, Chair of the Department's Audit and Risk Committee, to carry out independent due diligence on the Post Office's litigation strategy; and
  - g. Putting in place more robust information-sharing arrangements.
163. At a meeting with Kelly Tolhurst and BEIS and UKGI officials on 24 June 2019, the Post Office leadership said that they would prefer to reach a settlement on the case before the Further Issues trial commenced. Figures ranging from £40 million to £224 million were discussed. The Minister asked the Post Office to work with the Department and UKGI on their planning for a potential settlement.<sup>129</sup>
164. As the Inquiry is aware, the settlement was eventually agreed in December 2019. The settlement figure was agreed with the Department, and officials and Ministers reasonably assumed that it was an acceptable outcome for the postmaster claimants which properly valued their losses.

---

<sup>129</sup> UKGI00010212, UKGI00018319, UKGI00010296, WITN10930101 at page 264

## **WHY DID GOVERNMENT NOT ACT DIFFERENTLY?**

165. The previous section identified specific episodes where the Department believes that Government intervention might have prevented the scandal. This part sets out the Department's analysis of the reasons why events unfolded in the way they did, from a central Government perspective. They include:

- a. The lack of a Departmental policy team;
- b. Provision of incomplete or misleading information by the Post Office;
- c. The role of lawyers;
- d. A lack of willingness by ShEx / UKGI to challenge;
- e. Failure of governance systems;
- f. Groupthink;
- g. A lack of institutional memory.

### **Lack of Departmental policy team**

166. The Department had no policy team of its own to advise Ministers and the Permanent Secretary on Post Office policy until 2018, relying solely on ShEx/UKGI. This was, with hindsight, a serious mistake.

167. ShEx was, until 2016, a directorate within the Department, and was considered (within both ShEx and the broader Department) to be competent to fulfil both the corporate governance and corporate finance function and policy function relevant to the Post Office. As Sir Martin Donnelly observed,<sup>130</sup> no concerns were ever raised with him that this was not an appropriate model.

168. However, it is evident that the objectives of ShEx, and the skills and background of many of its staff, were focused on corporate finance and governance matters. The

---

<sup>130</sup> Donnelly, 54 (WITN11250100)

same evidently remained true when ShEx’s functions and staff were transferred to UKGI in 2016. In addition, once ShEx was succeeded by UKGI in 2016, its relationship with the Department naturally became more distant. This made the absence of a Departmental policy team more critical.

169. By 2018, this had belatedly been recognised as a serious problem. As at April 2018, UKGI assessed the Post Office as ‘red’ on its risk register for ‘departmental relationship’.<sup>131</sup> Mark Russell explained this was because UKGI was increasingly anxious for the policy role to return to the Department, leaving UKGI with just the shareholder role, as the Post Office was the only asset for which UKGI had a policy function.<sup>132</sup>
170. The Department recognises – and apologises unreservedly – for the consequences that appear to have flowed from the absence of a Departmental policy team, which meant ShEx / UKGI were left to undertake both the corporate finance / governance and policy roles. As set out above, these include the “two-hatted” conflict (or perception of conflict), less instinctive adherence to the Civil Service Code, and a susceptibility to the Post Office’s groupthink.

#### **Provision of incomplete or misleading information by the Post Office**

171. The Inquiry heard in detail about the fact that crucial documents like the Clarke Advice were not shared promptly or fully within the Post Office executive or with the board, and were not provided to ShEx / UKGI, or through them to Ministers.<sup>133</sup>
172. The failure to pass crucial information about Horizon concerns up the chain seems to have started from very early on in the unfolding scandal. For example, the Inquiry heard how in 2004 the Post Office settled a claim brought by a postmaster, Ms Wolstenholme, as a result of a joint report by a computer expert making it clear

---

<sup>131</sup> **UKGI00007909**

<sup>132</sup> Russell, 74 (**WITN00800100**); 9 July 2024/Russell/42/11 (**INQ00001171**)

<sup>133</sup> 9 July 2024/Russell/86/16 (**INQ00001171**)

Horizon was defective and likely to be the reason for the shortfalls on her system.<sup>134</sup> Yet the Managing Director did not hear about it, nor did it go any further. Had it done so, many of the ensuing events might have been prevented.<sup>135</sup> Even though the continuing relevance of the report was (or should have been) blindingly obvious as similar issues continued to emerge, no-one within the Post Office raised it as a concern or ensured that it was disclosed – the reasons are shrouded in mystery, but at the very least this indicates long-term institutional dysfunction (and reflects recurring problems with its institutional memory and record keeping).

173. Throughout the relevant period there seems generally to have been an attitude within the Post Office that Government and Parliamentary scrutiny of Horizon issues was a peril to be avoided. For instance:

- a. As early as 21 July 2010, in the light of MPs raising questions about postmasters' cases, ShEx requested further detail on "*how confident [the Post Office] is that there is nothing behind these claims?*".<sup>136</sup> David Smith, then Post Office Managing Director, explained that internally he asked for further investigation, but did not convey this to ShEx as he wanted to give them confidence.<sup>137</sup>
- b. Mark Davies produced a memorandum for the Post Office executive team on 16 April 2015<sup>138</sup> which sought to "*remove Sparrow [i.e. Horizon problems] from the spotlight?*". When challenged on it during his oral evidence, he still considered this to be the "*right thing to do?*".<sup>139</sup>
- c. Paula Vennells was asked in evidence why she was briefed by Jane Hill, then Post Office Head of Public Affairs, to adopt a strategy of withholding

---

<sup>134</sup> WITN00210101

<sup>135</sup> 16 April 2024/Miller/65/20 (INQ00001130)

<sup>136</sup> POL00417098

<sup>137</sup> 11 April 2024/Smith/64/23 (INQ00001128)

<sup>138</sup> POL00102387

<sup>139</sup> 14 May 2024/Davies/196/15 (INQ00001146)

information from the BIS Select Committee in February 2015 unless pushed further, and was unable to provide a coherent explanation.<sup>140</sup>

- d. Tim Parker explained how Jane MacLeod, then the General Counsel, advised him in 2016 that he could not share the Swift Review with the wider Post Office board or the Department because it was privileged or out of concerns about it being subject to Freedom of Information requests,<sup>141</sup> although (perhaps understandably as a non-lawyer) he was unable to explain why it was privileged.<sup>142</sup> This was one of many examples of the Post Office (at the instigation or acquiescence of their lawyers) misusing and abusing the important principle of legal privilege as a pretext to avoid external scrutiny.

174. On many occasions the information which the Post Office and its leadership provided to MPs, Ministers and Government officials was simply false. It is for the Inquiry to determine whether this was intentional and whether the senior figures in the Post Office who conveyed the information were aware it was false, or were in turn misled by their staff. To give just a few examples:

- a. Rod Ismay failed to correct an inaccurate briefing provided by the Post Office to the Department in November 2010, which stated that Horizon was robust without identifying the receipts and payments mismatch bug or remote access, despite having been told about them days earlier.<sup>143</sup>
- b. Paula Vennells wrote to Sir Oliver Letwin (campaigning MP and Cabinet Office Minister) on 4 April 2012 and gave the direct assurance that when postmasters had been prosecuted for theft or false accounting “*In every instance, the courts have found in our favour.*”<sup>144</sup> This was not true.

---

<sup>140</sup> 22 May 2024/Vennells/189/16 (INQ00001151)

<sup>141</sup> 3 July 2024/Parker/84/12 (INQ00001170)

<sup>142</sup> 3 July 2024/Parker/77/15 (INQ00001170)

<sup>143</sup> 10 May 2024/Ismay/39/20 (INQ00001145); POL00120561

<sup>144</sup> 10 April 2024/Arbuthnot/26/8 (INQ00001127)

- c. Paula Vennells was also advised to adopt a strategy of withholding relevant information from the Business Select Committee unless pushed.<sup>145</sup>
- d. Paula Vennells was aware that Second Sight’s interim report could not<sup>146</sup> give the assurance that there were no systemic issues in Horizon, and yet under her leadership the Post Office continually maintained that it did.<sup>147</sup>
- e. Mark Davies, the architect of Post Office’s “communications strategy”, drafted a misleading press summary of the interim Second Sight report in 2014<sup>148</sup>, adopted a strategy to avoid and minimise Government scrutiny of Post Office’s handling of Horizon issues<sup>149</sup>, and regularly worked with Richard Callard and other ShEx / UKGI officials to provide (inaccurate and partial) information to Ministers.<sup>150</sup>
- f. On 9 March 2015, Paula Vennells wrote a letter to Jo Swinson containing the express assurance that the Post Office was compliant with its duty of ongoing disclosure as a prosecutor and that there was no reason found to conclude any prosecutions were unsafe.<sup>151</sup> There was no mention of the Clarke advice or subsequent fallout. The assurance was false.
- g. Tim Parker’s summary (as drafted for him by Jane MacLeod) of the Swift Review, provided to both the Post Office board and Baroness Neville-Rolfe in early 2016, was materially misleading, as Baroness Neville-Rolfe observed when she saw a copy of the full report.<sup>152</sup> Mr Parker himself accepted that it

---

<sup>145</sup> 22 May 2024/Vennells/190/16 (INQ00001151)

<sup>146</sup> And indeed did not; cf 14 May 2024/Davies/108/21 (INQ00001146)

<sup>147</sup> 23 May 2024/Vennells/32/25 (INQ00001152)

<sup>148</sup> 14 May 2024/Davies/54/3 (INQ00001146)

<sup>149</sup> 14 May 2024/Davies/196/15 (INQ00001146)

<sup>150</sup> 14 May 2024/Davies/190/13 (INQ00001146)

<sup>151</sup> POL00132580

<sup>152</sup> Neville-Rolfe, 166 (WITN10200100)

“underplayed” the actual conclusions and recommendations in the Swift Review.<sup>153</sup>

### **The role of lawyers**

175. The part played by lawyers is a recurring theme running through this scandal. It is apparent now that there was a sustained failure by Post Office lawyers to disclose exculpatory evidence to individuals that they were prosecuting or had prosecuted<sup>154</sup> and that there was a failure to inform their expert witness of their duty to the court.<sup>155</sup> It is also clear that the Post Office’s assertion of legal professional privilege and confidentiality was regularly used as a mechanism for the restricting of the flow of information and avoiding external scrutiny. Further, it is clear that the Post Office was on occasion given strikingly poor quality advice by external lawyers.<sup>156</sup> This is something that could not have been anticipated by anyone and is shocking in itself.

176. The role played by lawyers is significant on at least two levels: first, they by turns misled and gave cover to the Post Office as an institution; and, second, they fundamentally undermined Ministers’ justifiable belief and expectation that the justice system was equipped to distinguish guilt and innocence. As this situation could not be anticipated, there was misplaced confidence in legal process and conduct on the part of not only postmasters but others including Ministers who had confidence in the operation of the criminal justice system to achieve just outcomes. This led to a belief, when assurances were provided by the Post Office, that claims by postmasters were unfounded and the legal process should be allowed to run its course.

### **Lack of willingness by ShEx / UKGI to challenge**

177. There was a lack of sufficient scepticism or willingness to challenge the Post Office on the part of officials within ShEx / UKGI, particularly on policy matters rather

---

<sup>153</sup> 3 July 2024/Parker/106/10 (INQ00001170)

<sup>154</sup> 3 May 2024/Jarnail Singh/38/20 (INQ00001141); 8 May 2024/Brian Altman KC/52/2 (INQ00001143)

<sup>155</sup> 2 May 2024/Martin Smith/181/3 (INQ00001140)

<sup>156</sup> E.g. 11 June 2024/Grabiner/156/21 (INQ00001158); 3 July 2024/Parker/151/20 (INQ00001170)



than financial issues. Individuals working in any sponsorship or oversight function within Government must build relationships with key people in the organisation in question. However, those relationships should not be allowed to obscure the essence of the role: to oversee, scrutinise and challenge on behalf of the Government. As Mark Russell, ShEx / UKGI CEO recognised, it does not appear that this duty was always understood and acted upon:<sup>157</sup>

*“Had we had more scepticism and curiosity on our own part, such that we interrogated further, we might have concluded that a much fuller investigation of the system should have taken place sooner. The fact that [Post Office Limited] was a relatively autonomous ALB would not have stopped us recommending a comprehensive, independent investigation if we had felt this to be necessary albeit that this would have signalled a loss of confidence in the POL Management and Board.”*

178. Mark Russell also acknowledged that the strong and repeated assurances which ShEx / UKGI officials gave to Ministers “*make for uncomfortable reading now*”.<sup>158</sup> In particular, he noted that they should have been clearer that the information was received from the Post Office and did not represent a balanced view setting out both sides of the debate.<sup>159</sup> The Department agrees. In several instances, the ShEx / UKGI advice to Ministers does not appear to have accorded with the Civil Service Code.

179. Several of the Ministers who gave evidence to the Inquiry spoke of their frustration at the advice they received from ShEx / UKGI officials at various stages, and how they began to suspect that they were largely being given the Post Office line rather than the objective, impartial and properly researched assessment to which they were entitled. Some Ministers only became aware of the deficiencies in the information and advice they received from ShEx / UKGI when presented with documents in the course of the Inquiry, but were similarly critical.

---

<sup>157</sup> Russell, 216 (WITN00800100); 9 July 2024/Russell/98/23 (INQ00001171)

<sup>158</sup> Russell, 217 (WITN00800100)

<sup>159</sup> 9 July 2024/Russell/99/12 (INQ00001171)

180. Jo Swinson’s oral evidence drew attention to the apparent failure to draw her attention to relevant issues of which ShEx was aware, only visible to her when provided with relevant evidence in preparation for the Inquiry.<sup>160</sup> It is now clear that while ShEx and the Post Office were discussing reducing the role of Second Sight, Richard Callard did not mention this at all when briefing Ms Swinson as relevant Minister on her return from maternity leave. In fact, only one sentence on the entire Horizon situation was included within the briefing. She thought that his email which stated “*I want to get [Jo Swinson] in the right place on Sparrow*”<sup>161</sup> tended to suggest, contrary to her normal experience of working with civil servants, that he was hiding a problem from her, rather than give her impartial advice.<sup>162</sup> She reflected that it seemed to her that Post Office and ShEx had a “*very cosy relationship*”<sup>163</sup>, and observed the irony in Richard Callard’s December 2014 complaint that Second Sight had ‘*gone native*’<sup>164</sup>. As is now clear, Second Sight’s judgements were right and ShEx / UKGI’s judgements were wrong.

181. Baroness Neville-Rolfe remarked that she was concerned that ShEx officials were too “*coordinated*” or aligned with the Post Office: “*Obviously, they needed to go to the Post Office to find out the facts, particularly on individual cases, but I was looking to them for ... the kind of independent, objective advice that, as a former civil servant, I knew was the job of civil servants.*” She felt the need to request (but did not get) senior support from civil servants outside ShEx.<sup>165</sup> She noted that the ShEx advice to avoid further involvement in Horizon issues was “*very black and white*”.<sup>166</sup> She summarised her concern by August 2015 as follows:<sup>167</sup>

---

<sup>160</sup> 19 July 2024/Swinson/71/22; 88/7 (INQ00001178)

<sup>161</sup> UKGI00002288

<sup>162</sup> 19 July 2024/Swinson/73/2 (INQ00001178)

<sup>163</sup> 19 July 2024/Swinson/99/1 (INQ00001178)

<sup>164</sup> UKGI00002837; Swinson, 115 (WITN10190100)

<sup>165</sup> 23 July 2024/Neville-Rolfe/6/8 (INQ00001179)

<sup>166</sup> 23 July 2024/Neville-Rolfe/21/8 (INQ00001179)

<sup>167</sup> Neville-Rolfe, 124 (WITN10200100)

*“By this time, I had lost confidence in the quality of ShEx's advice. We were going round in circles, and they were unwilling to engage with the issues in the way I felt they needed to. In my view ShEx had lost objectivity, and its officials were unable or unwilling to scrutinise POL properly — even though that was an essential part of their role. The advice they gave seemed closed minded, deaf to the issues and constantly repeating the same mantra. As time went by I felt as though they were trying to obstruct, or shut down, my efforts to get to grips with the issues. This may have been connected in some way to a dogmatic belief that ALBs should be entirely free of Government interference; and certainly I was repeatedly advised that POL should be left alone. I do recall feeling the pressure of the consistent advice from ShEx that these were not matters for Government and to hold that official line, but based on what I now knew that was no longer a tenable position.”*

182. She went on to question the extent to which ShEx / UKGI officials properly understood their role as public servants bound to act in accordance with the Nolan principles:<sup>168</sup>

*“Q. Do you think things would have been different, from what you experienced, had the body charged with oversight of the Post Office been composed of classic Civil Service Officials?”*

*A. I'm not sure that they would have had the expertise to hold shareholdings in things like the banks and the Post Office ... without commercial expertise. I'm not against commercial expertise. I think what I was saying is that that's not necessarily sufficient. ... Susannah Storey, who I think you're seeing later, whom I know from DCMS, I mean she was a civil servant of the classic kind. So there was a mixture. But ... I'm not sure the Civil Service is as good -- I remember when I went to work in the private sector, the whole of my first month was induction, and I had three-hour meetings with all of the key directors -- three-hour meetings, which I couldn't understand. The difference, when you go to work in Civil Service, is you're lucky to get a 15-minute meeting just to say hello to people.*

*Because it's very different, and what you have to do in the public sector is a bit different, I think it's very, very important that they should understand that, and that, obviously, was an understanding by Mr Callard. He felt that it was important to keep the lid on but,*

---

<sup>168</sup> 23 July 2024/Neville-Rolfe/158/5-159/21; and 160/1 (INQ00001179)

*obviously, as a civil servant, it's not only keeping the lid on; it's also making sure that you're doing the right thing.*

*Q. In terms of public duties and serving the public, did you perceive there to be any ethical difference between ShEx officials and the rest of the civil servants who you worked with?*

*A. I don't think we discussed ethics but they obviously took a very narrow, focused view, linked to their duties in terms of the commercial and strategic vision for the POL, and didn't seem to focus so much on classic governance issues like, you know, the risk from these prosecutions, which would be something that, as a civil servant, you're always looking at the downside, as well as the commercial opportunity.*

...

*Q. Finally, Baroness, this narrow view, this lack of focus on more public interest-type problems, such as prosecution, is that, on your evidence, the fault in the system which prevented you from being able to carry out your ministerial duties in terms of receiving the right information?*

*A. I think it was also to do with the particular individuals because I gave them lots of openings, saying, you know, "What's in the Second Sight Report?" If I had been, my previous self, sitting in that seat, I would have gone away and I would have read the whole of the Second Sight Report and I would have gone through all of the negative findings and I would have then wanted to do my own job, understanding what was right and what was wrong. That wasn't done.*

*What they did was take advice from the Post Office because they felt the Post Office could give the answers and that isn't what you do. As a good civil servant, you bring -- you look at different -- you know, you look at different sources."*

183. Baroness Neville-Rolfe observed that where people without a Civil Service background are joining public service roles, good recruitment, training, induction and management are critical.<sup>169</sup>
184. Kelly Tolhurst described how she became concerned as the group litigation progressed that Tom Cooper, the UKGI Shareholder NED, had “*lost his independence from POL and was not providing effective challenge or scrutiny.*”<sup>170</sup>

### **Lack of policy focus within ShEx / UKGI**

185. Relatedly, the lack of policy focus, skills and experience within ShEx / UKGI created unintended issues. ShEx / UKGI’s staff bring invaluable expertise in corporate governance and finance which few civil servants can match. But they (or at least some of those given the Post Office brief) had grown up outside the civil service and may not have been equally imbued in civil service values or have acute political antennae. Their backgrounds were in finance, and so they were at greater risk of taking a narrow, focused view in terms of the commercial and strategic vision for the Post Office, and not applying a wider public policy lens.<sup>171</sup> In addition, Ministers did not have access to civil servants who had that focus, skills and experience. The Rt Hon. Greg Clark explained the problem in the following terms:

*“I’ve got great respect for the people who, often after distinguished commercial careers, give up their time to be on the Board of UKGI and to serve in the public interest, and I don’t want to say anything critical about them. But I think there is -- I have reflected on this over the weeks and months ahead -- I think there’s something of a kind of Emperor’s New Clothes quality to UKGI, as an organisation, that, with hindsight, I think I and perhaps others should have pointed out. I mean, let me give you some examples, some of them perhaps trivial. It talks about its “assets”, the whole time, “We are managing the asset”, “We are dealing with”-- “These are our assets”. It’s a peculiar way of talking. These are, you know, the Post Office, the Nuclear Decommissioning Authority, Ordnance Survey. They’re not assets... no*

---

<sup>169</sup> 23 July 2024/Neville-Rolfe/152/16, 154/20 (INQ00001179)

<sup>170</sup> Tolhurst, 89 (WITN10930100)

<sup>171</sup> 23 July 2024/Neville-Rolfe/159/10 (INQ00001179)

*one in Government would talk about the "assets". They are organisations, they are public bodies; why not call them public bodies?"*

186. Margot James had a similar concern, noting that the fact UKGI reports to the Treasury heightens the risk that UKGI's dominant focus is on the achievement of financial objectives.<sup>172</sup>
187. The relative lack of political antennae may explain why ShEx / UKGI officials did not see fit to inform the Minister or Secretary of State that they (and the Post Office board) had serious concerns about Paula Vennells's capabilities as a CEO, and that one of the concerns related to her failure to get a grip on Horizon issues. Jo Swinson noted that this information was not shared with Ministers, stating that "*it just stuns me that that can be happening*".<sup>173</sup>
188. Whether the perceived conflict of interest is real or imagined, it may also be the case that a single ShEx / UKGI official should not simultaneously undertake both scrutiny and oversight functions on behalf of the Government and also Post Office board functions as Shareholder NED. The Department notes that at paragraph 3.45 of the Magnox Inquiry Report<sup>174</sup>, Steve Holliday found that ShEx / UKGI's similarly hybrid role in the case of the Nuclear Decommissioning Authority "*resulted in a blurring of its oversight role, and compromised the rigorous independence required for successful oversight.*" Similarly, in its October 2024 policy paper, the IoD noted concerns about how the Shareholder NED worked in practice, and suggested that "*The public interest may be better served if [UKGI] were to operate more of an arm length stewardship role*".<sup>175</sup>

### **Failure of governance systems**

189. The governance systems which were thought to be "best practice" and which sat within a wider legal and regulatory ecosystem were unable to deter or prevent poor quality decision making. The Inquiry has heard evidence of the relative lack of

---

<sup>172</sup> James, 79 (WITN10910100)

<sup>173</sup> 19 July 2024/Swinson/68/23, 81/25 (INQ00001178)

<sup>174</sup> RLIT0000475

<sup>175</sup> IoD October 2024 policy paper (RLIT0000412)

training and relevant experience of the ShEx / UKGI Shareholder NED appointments, an issue also referred to by the IoD in its October 2024 policy paper.<sup>176</sup>

190. ShEx / UKGI had in place what they considered, and still consider, to be good risk management systems.<sup>177</sup> They knew that trust was fundamental in a shareholding relationship and did not expect it to be betrayed;<sup>178</sup> they had in place a handbook, annual guidance, framework agreement and chairman’s letter process, all of which “*expected full and frank, honest, well-founded, detailed responses to questions that we might be asking.*”<sup>179</sup>

191. Everyone within the Government also trusted the courts to arbitrate innocence and guilt, and the fact that Horizon had (so it was said) been examined in court many times and held to be reliable was a major reassurance.<sup>180</sup> As Rt Hon. Pat McFadden explained:<sup>181</sup>

*“The Post Office kept insisting that the system was robust and fit for purpose. They kept expressing their faith in it and they’re using court judgments as a proof point. Now, of course, the terrible thing here is that these court judgments were found to be unsafe and unsound but I didn’t know that at the time and, you know, it took a long time for those court judgments to be overturned: many years after they took place, in some cases.”*

### **Groupthink**

192. Groupthink within the Post Office may over time have infected (some of) the ShEx / UKGI officials whose job it was to oversee and scrutinise the Post Office.

---

<sup>176</sup> IoD October 2024 policy paper (RLIT0000412)

<sup>177</sup> 9 July 2024/Russell/66/18 (INQ00001171); 9 July 2024/Swannell/160/10 (INQ00001171)

<sup>178</sup> 9 July 2024/Swannell/176/3 (INQ00001171)

<sup>179</sup> 15 July 2024/Lovegrove/69/1 (INQ00001174)

<sup>180</sup> 23 July 2024/Neville-Rolfe/20/12 (INQ00001179)

<sup>181</sup> 18 July 2024/McFadden/59/9 (INQ00001177)

193. The pernicious phenomenon of groupthink within public institutions was recently explored during the UK Covid-19 Inquiry. In her Module 1 report,<sup>182</sup> Baroness Hallett described it as follows:

*“On its own, ‘groupthink’ is simply a description of an outcome. It is necessary to understand how and why it happens and what can be done to remedy it. The dynamics of being part of a group may explicitly or implicitly encourage consensus and discourage internal challenge to consider alternatives. This may result in irrational or poor decision-making. However, consensus by itself is not necessarily a bad thing, provided there is adequate discussion before a consensus is reached and provided it remains open to being challenged.”*

194. The concept of groupthink is, of course, substantially more complex than Baroness Hallett could hope to reflect in her report. In his 1972 paper “*Victims of groupthink: A psychological study of foreign-policy decisions and fiascoes*”, Prof. Irving Janis described groupthink as a psychological drive for harmony and consensus that suppresses dissent and appraisal of alternatives in cohesive decision-making groups and leads to poor decision-making outcomes.<sup>183</sup> A group is especially vulnerable to groupthink when its members are similar in background, when the group is insulated from outside opinions, and when there are no clear rules for decision making. The Inquiry may consider that several of the eight main symptoms of groupthink, as identified by Janis, were exhibited by the Post Office during this scandal.

195. Groupthink is the result of a failure of organisational structure, leadership and/or culture. The apparent causes of groupthink within the Post Office are touched upon in paragraph 75 above. Many of the compelling observations of Dame Sandra Dawson and Dr Katy Steward also tend to a conclusion that the Post Office suffered badly from groupthink.

---

<sup>182</sup> UK Covid-19 Inquiry Module 1 Report at paragraph 6.43 (**RLIT0000471**)

<sup>183</sup> Perhaps the most well-known example of groupthink is the organisational structure and culture which led to the Challenger disaster. See (for example) David Epstein, “*Range*”, Chapter 11.



196. Baroness Hallett recommended the regular use of ‘red teams’, whose sole job is to challenge accepted orthodoxies, as a way to combat the effects of institutional groupthink within public bodies.<sup>184</sup>
197. The Inquiry’s attention is also drawn to paragraphs 6.56 to 6.57 and 6.61 to 6.66 of Baroness Hallett’s report.
198. Groupthink – coupled with a lack of official candour and a failure to comply with the Nolan principles – was also a cause of the infected blood scandal: see Sir Brian Langstaff’s Infected Blood Inquiry Report Volume 1.<sup>185</sup>
199. And groupthink was also a theme identified in the Magnox Inquiry Report.<sup>186</sup>
200. The Inquiry has heard evidence that ShEx / UKGI’s submissions to Ministers disregarded critical stakeholder comment as an irritant, and treated them as intrinsically unreliable.<sup>187</sup> It is true that in any field, stakeholders’ comments are sometimes based on misunderstandings, do not take account of the full picture, or are made in furtherance of a particular hobby-horse; but this is not a basis to discount or ignore them out of hand. Any communications from MPs should have been treated seriously; as Baroness Neville-Rolfe commented, MPs “*are really important ... because they sometimes bring ... unwelcome bits of information to you*”.<sup>188</sup>
201. By 2015 the postmasters’ complaints were being backed by 140 MPs of all major parties – roughly a quarter of all MPs. Many of them were not serial critics of the Government, and indeed they included a senior Cabinet Minister (Sir Oliver Letwin). They also had the support of the BIS Select Committee. Career civil servants are likely to have picked up this groundswell as pointing to something that needed to be

---

<sup>184</sup> UK Covid-19 Inquiry Module 1 Report, Paragraphs 6.58-6.60 (**RLIT0000471**)

<sup>185</sup> Infected Blood Inquiry Report Volume 1, Page 252 (**RLIT0000470**)

<sup>186</sup> **RLIT0000475** at paragraph 3.55

<sup>187</sup> 23 July 2024/Neville-Rolfe/157/17 (**INQ00001179**)

<sup>188</sup> 23 July 2024/Neville-Rolfe/84/18 (**INQ00001179**)

addressed. As Baroness Neville-Rolfe explained, it was hearing from MPs directly that changed her own perspective:<sup>189</sup>

*“I'd got all this evidence that everything was fine, that there was nothing wrong, that there'd been an independent inquiry which actually told us that the Post Office was right, and yet the people who were, as it were, going down were terribly honest citizens. I have to say this is the thing that worried me...but I didn't actually have any information to support my case until I had this meeting and Andrew Bridgen and Kevan started to, you know, list some of these points. That was my sort of road to Damascus, if you will...”*

202. All of this could and should have led to far more intensive scrutiny of and challenge to the Post Office groupthink by ShEx / UKGI officials.
203. The Department considers that the Departmental Post Office policy team, following its creation in 2018, served as a bulwark against Post Office groupthink and ShEx / UKGI “capture”. On a cross-Government basis, the Department notes that the Government has committed to putting the duty of candour on a statutory footing, backed by criminal sanctions.

### **Institutional memory**

204. Institutional memory was affected by regular turnover of the Ministerial portfolio. Each new Minister came into their brief fresh. To get up to speed, they needed time but they also needed officials to provide them with an accurate briefing on the important issues within their portfolio. Many of the Ministers explained to the Inquiry that the briefings they received were, with hindsight, deficient in relation to Horizon – and so it was back to square one with each new Minister.
205. The “*revolving door*” of Ministers was an issue highlighted by Baroness Hallett in her Module 1 report in the UK Covid-19 Inquiry:<sup>190</sup>

---

<sup>189</sup> 23 July 2024/Neville-Rolfe/59/18 (INQ00001179)

<sup>190</sup> Paragraphs 5.114 to 5.115 (RLIT0000471)

*“A third cause of inaction was the lack of institutional memory. This is often caused by frequent and rapid changes in personnel and, as a consequence, a loss of experience and knowledge. It is not a problem unique to government – it is a problem faced by all major institutions.*

*Institutional memory includes internal knowledge, lessons learned, successful strategies and past mistakes, and enables the business of government or some other organisation to continue effectively across successive administrations. It is crucial that there is a simple and accessible system for knowledge to be captured and shared. This is especially important when there is a high turnover of officials and ministers – “churn in the system” or a “revolving door” of ministers. An effective system of institutional memory requires a means of storing and accessing exercise reports, action plans, emergency planning and guidance. This enables a full and open discussion of what worked well and what did not, and the encouragement of a culture of debate and challenge.*

*Understanding lessons of the past and retaining knowledge about past failures contributes to more effective decision-making in the future and help to prevent the repetition of similar mistakes. It also fosters innovation and is crucial for continuous improvement and building resilience.”*

206. Ministers should be able to rely on their officials, operating in accordance with the Nolan principles, to retain relevant knowledge and learning and to provide an appropriately informative initial briefing, and it should not be necessary for Ministers themselves to dedicate time to providing a handover to their successor. The proposal to introduce a statutory duty of candour should provide some additional assurance that initial briefings (in common with all briefings) are suitably complete, accurate and nuanced. Jo Swinson commented on this in the following terms:<sup>191</sup>

*“To be clear, I don't think a cultural solution is sufficient but I also am supportive of the suggestions that have come out, for example, about the Duty of Candour. But I would also say that any official duty like that being put in will also not be sufficient without the right culture in place. And I do think there was a different culture in ShEx that was not of the*

---

<sup>191</sup> 19 July 2024/Swinson/131/2 (INQ00001178)

*usual Civil Service culture, which, as I say, I found was generally a very helpful one that was focused on the public good, and I think, while there is a need obviously, to have, you know, relevant commercial experience when you're dealing with companies, actually, that mindset of public service is an incredibly important part of what needs to be present in all civil servants, even when dealing on commercial matters, and I think that's the culture -- cultural element that is important to instil."*

## **GOVERNANCE AND OVERSIGHT OF THE POST OFFICE TODAY**

207. The Department has already acted in response to its analysis of past shortcomings. Significant changes have already been made, many of which are detailed in Gareth Davies's witness statements.<sup>192</sup> These include:

- a. The creation in 2018 of the Post Office policy team within the Department in addition to UKGI, as set out above.
- b. The adoption in 2019 of a Memorandum of Understanding<sup>193</sup> between the Department and UKGI.
- c. New Shareholder powers being added to the Post Office's Articles of Association in 2020,<sup>194</sup> particularly the new general power of direction.
- d. Putting in place a Framework Document in 2020 setting out the expectations between the Shareholder and the Post Office.<sup>195</sup>
- e. A Government Internal Audit Agency review of the Department's sponsorship of the Post Office in June 2022, which led to Quarterly Shareholder Meetings and other enhancements of the governance framework.<sup>196</sup>
- f. Changes to the Post Office's leadership, which is the essential precursor to changing its culture.

### **Creation of Post Office policy team**

208. An important step to strengthen the Government's oversight of the Post Office was the creation of a Post Office policy team within the Department. Whilst there have been significant improvements in the sponsorship of public corporations which have arisen from the creation of ShEx and then UKGI, it is clear that broader expertise

---

<sup>192</sup> WITN11020100, WITN11020200

<sup>193</sup> BEIS0000578

<sup>194</sup> BEIS0000593

<sup>195</sup> RLIT0000334

<sup>196</sup> BEIS0000597

was required in overseeing the Post Office; as set out above, the core ShEx / UKGI skill set may have been insufficient to manage the public policy aspects of that oversight role. Since 2018 responsibility for oversight has therefore been shared between UKGI and the newly-formed Departmental Post Office policy team. The policy team can draw on UKGI's commercial expertise, but it also brings its own appreciation of public policy concerns, including a greater awareness of the importance of the input of stakeholders such as MPs.

### **Memorandum of Understanding**

209. Lorna Gratton described how the relationship between the Government and the Post Office now works in practice. The Memorandum of Understanding between UKGI and the Department makes a distinction between the “policy function” carried out by the Post Office policy team, and the “shareholder function” carried out by UKGI.<sup>197</sup>

210. The Department recognises that in the short- to medium-term it needs to remain more hands on, both directly and through UKGI. The Inquiry has heard evidence that various Post Office board members, even up until quite recently, have considered the Department to be too involved and interventionist.<sup>198</sup> In circumstances where Post Office's institutional culture has been laid bare, that is unrealistic. As Robert Swannell put it, “*I think you'll see from those notes of meetings that, in each of the meetings, [Tim Parker] says that the UKGI Non-Exec is being too interventionist and I'm telling him that he's got to be dreaming and that, in the circumstances in which he now found himself, he should expect the length of the arm to be shortened*”<sup>199</sup>.

### **Shareholder powers**

211. The re-introduction of a general power of direction in the 2020 Articles of Association means that one concern raised by Ministers (see, for example, the Rt Hon

---

<sup>197</sup> 7 November 2024/Gratton/4/8 (INQ00001203)

<sup>198</sup> The current POL Company Secretary, Rachel Scarrabelotti, is also of this view: 4 October 2024/Scarrabelotti/84/6 (INQ00001191)

<sup>199</sup> 9 July 2024/Swannell/131/4 (INQ00001171)

Kelly Tolhurst<sup>200</sup>), namely that they did not have the usual Governmental powers over a true Arm's Length Body of being able to direct or demand information, has been addressed. Had this power existed at the time of the recusal application, it is very likely it would have been used.

212. There are various levers available to the Government to influence the governance and management of the Post Office, including the “nuclear option” of dismissing the Chair and “soft power” exercised through meetings between Ministers and senior leaders of the Post Office. The danger of intervening too much is that it makes it difficult to attract qualified individuals for the board, who need to feel empowered to exercise oversight and take up their responsibilities to hold the company to account.<sup>201</sup> However, in the current circumstances the Government is willing to be more interventionist and is doing so through the Shareholder NED.<sup>202</sup> As it showed when removing Henry Staunton as Post Office Chair, the Department is willing to wield its power when circumstances demand it.

#### **Risk management**

213. Risks are reported in a variety of ways to the Department. Lorna Gratton described how in addition to a quarterly Shareholder meeting, she and her team provide a monthly note to the Department's relevant Director-General, David Bickerton, and to the Permanent Secretary and Ministers, as well as having regular conversations with Mr Bickerton and Carl Creswell.<sup>203</sup>

#### **Post Office culture and leadership**

214. An obvious problem to be tackled is the need for ongoing cultural transformation at the Post Office. The most obvious two problems have been: (a) the attitude towards postmasters from those within Post Office central management; and (b) the lack of openness and flow of accurate information within and from the Post Office.

---

<sup>200</sup> 17 July 2024/Tolhurst/172/8 (INQ00001176)

<sup>201</sup> 7 November 2024/Gratton/7/14, 9/2 (INQ00001203)

<sup>202</sup> 7 November 2024/Gratton/12/21 (INQ00001203)

<sup>203</sup> 7 November 2024/Gratton/20/23 (INQ00001203)

215. The situation as at 2019 was neatly summarised by Robert Swannell, then Chair of UKGI:<sup>204</sup>

*“I think -- if you ask me about what I think went wrong, you'll hear this -- these two words mentioned a number of times. I think it was a mixture of culture and curiosity... It's clear to me -- it was clear to us then, and by then, I mean in 2019 -- that the culture at the Post Office was shocking. And, by that, I mean that it was a closed, defensive culture that was not in the business of giving information. I can't tell you whether information was withheld deliberately or whether they simply didn't give it but, whatever the reason, there was -- there were a whole range of things that should have been known to the Board of the Post Office and then, therefore, to the SbEx / UKGI Board member and, as a result of that, to the UKGI Board and, had it happened, you would have seen exactly what you saw in March 2019. We would have been on it, in spades. And, sorry, the second point is curiosity, and I'm afraid that when an incomplete curiosity, if I can put it that way, meets a toxic culture, bad things happen.”*

216. Attracting the right people to the Post Office in a state of crisis is not easy. However, the Government has great confidence that the right team is now place. The Department is fully supportive of Nigel Railton, the new Post Office Chair, and confident that he is grasping the challenge of transforming its culture.<sup>205</sup> The presence of the two postmaster NEDs assists in reorientating the mindset of the Post Office leadership towards postmasters.<sup>206</sup> Mr Railton has also set out a clear vision of securing a better deal for postmasters both economically and operationally, and “reversing the polarity” of the Post Office, by putting postmasters at the centre with the current central functions becoming a service function for the postmasters.<sup>207</sup> He has also put in place a programme to implement a set of recommendations arising from

---

<sup>204</sup> 9 July 2024/Swannell/138/12 (INQ00001171)

<sup>205</sup> 8 October 2024/Railton/141/18 (INQ00001192)

<sup>206</sup> Railton, 46 (WITN11390100); Burton, 57 (WITN11330100)

<sup>207</sup> 8 October 2024/Railton/121/24 (INQ00001192)



a recent report by Grant Thornton about how to improve the governance arrangements of the Post Office board itself.<sup>208</sup>

---

<sup>208</sup> Railton, 37-39 (**WITN11390100**)

**REDRESS****Redress paid to date**

217. As of 29 November, 2,941 people have accepted offers for Horizon redress under the four schemes. A total of £499 million has been paid out. The table below gives details. A similar table is published each month on gov.uk.

Scheme	Claims received	Offers made	Offers accepted	Claims paid
<b>Overturned Convictions (OC): full and final settlements</b>	77	68	63	62
<b>Group Litigation Order Scheme (GLO): full and final</b>	334	315	235	231
<b>Horizon Shortfall Scheme (HSS): eligible claims before deadline</b>	2,417	2,417	2,088	2,083
<b>Horizon Shortfall Scheme (HSS): eligible late claims</b>	2,385	765	457	428
<b>Horizon Convictions Redress Scheme (HCRS): full and final</b>	98	98	98	82
<b>All schemes</b>	<b>5,311</b>	<b>3,663</b>	<b>2,941</b>	<b>2,886</b>

218. The Horizon Compensation Advisory Board met representatives of claimants' lawyers on 31 October 2024.<sup>209</sup> Claimants' lawyers advised that subject to some issues around fixed offers (which are discussed below), "all schemes were generally providing fair levels of redress. The main issues were about pace".

**Evolution of the HSS**

219. As noted above, the Department approved the terms of the settlement in the Group Litigation. Post Office's initial advice was that there were likely to be only 200 postmasters affected outside the 555 claimants in the Group Litigation. There was no indication at that stage of the full damage which the scandal had done to the lives of those affected. In particular the effects of the prosecutions on the health of

---

<sup>209</sup> RLIT0000496

postmasters were generally not known: postmasters have only been medically assessed during the subsequent redress processes.

220. It was in this context that the Horizon Shortfall Scheme (HSS) was initially seen as a process to bring a relatively small number of postmasters who had not been litigants in the Group Litigation case onto the same footing as those who had. As Post Office had wronged the postmasters the Department considered it was Post Office's legal, moral and practical responsibility to put those wrongs right.
221. Only during 2020 did it become clear that Post Office's estimates had grossly understated both the number of postmasters affected and the range and scale of harm which many of them had experienced. The estimated cost of the scheme rose to over £87 million. This change required not just a recasting of figures but a substantial reconsideration of the whole scheme.
222. It became obvious at this stage that the Post Office did not have the resources to fund the HSS. That meant that the Department would have to step in as funder, which required extra resources to be agreed with the Treasury. It also meant that the Department needed to be involved in the scheme's governance. The Post Office also needed to build the capability to deliver a large and complex redress scheme, but it was constrained by the terms of the scheme which had already been published.
223. These steps took time. As Sarah Munby noted in oral evidence<sup>210</sup> "... *four months is not particularly slow, in the context of resolving funding issues. Sort of in between spending reviews, going back and asking for more money for things is really difficult.*" Decision-making in Government – even at a routine level – is slower than in private-sector organisations because it is rightly subject to much higher levels of scrutiny. Accounting Officers can be held personally responsible by the Public Accounts Committee for failing to achieve value for money. Ministers must be able to show Parliament and its Select Committees – and, on occasion, the courts – that all aspects of a decision were

---

<sup>210</sup> 5 November 2024/Munby/152 (INQ00001201)

properly thought through and took account of all material facts. Ensuring that these high standards are met requires processes which inevitably take some time.

224. These factors led to regrettable delays in Government approvals which were necessary to beginning the payment of redress under the HSS. However, once Post Office started work in earnest, it did meet the goal of delivering 95% of redress by the end of 2022.

### **Evolution of other schemes**

225. The circumstances which led to the creation of four different routes to redress were not foreseeable at the time of the Group Litigation Order (GLO) settlement:

- a. Because the impacts of the scandal on individuals were not properly understood, the settlement was largely seen as the settlement of a limited commercial dispute. Only once the scale of harms being compensated through the HSS became apparent did the case for providing additional redress to the members of the GLO become clear.
- b. It was known that convictions might be overturned by the CCRC and Court of Appeal processes then under way. But it was not clear how many convictions would be affected, and there was no expectation that those convictions would be found to “offend the court’s sense of justice and propriety”.
- c. The mass overturning of convictions by an Act of Parliament was unforeseeable.

226. Had these circumstances been anticipated, the redress programme might well have been set up in a different way.

227. The Department’s overall reflection is that the various different schemes caused complexity and delay, and that in hindsight it would certainly have been preferable if redress had been delivered as a single scheme and not operated by Post Office. However, delivery of the HSS by Post Office was a requirement of the GLO settlement with the JFSA and so was difficult to unpick or replace. Tom Cooper’s

fourth written statement shows that in July 2020 the Post Office Board chose not to ask the Department to take on delivery of the HSS. The Department has seen no evidence that prior to 2024, Post Office or the JFSA subsequently sought to have its delivery transferred to the Department.<sup>211</sup> The Post Office did seek to have Overtaken Convictions (OC) redress delivered by the Department in March 2021.<sup>212</sup>

### **Focus on full and fair redress**

228. Government witnesses spoke about processes and progress made in compensating victims of the Horizon scandal. All witnesses made it clear in their written and oral statements that the goal was always and continues to be delivering full and fair redress as speedily as possible. Sarah Munby was adamant that the intention was clear and she “*never encountered anything that could be described as resistance or opposition to that intent, from anyone*”.<sup>213</sup> But it is clear that when translating that intent into action there have been challenges and complexities to overcome. The most obvious are as follows:
- a. The relatively long time it took to agree funding for the Horizon Shortfall Scheme, both for the original scheme and for its re-opening for late applications;
  - b. The difficulty in identifying a legal power to deliver redress for the GLO claimants, given that the GLO group had signed off the settlement with the Post Office as “full and final”.
229. It is important to clarify two matters. The first is the suggestion made to several witnesses that there might be a tension between redress being “full and fair” and “fast”, and that at some point Ministers gave a steer that the redress should prioritise ‘fast’ over ‘full and fair’. In fact, the Department’s clear position throughout has been that speed should not come at the expense of fullness of redress. It is right to say that under Rt Hon. Kemi Badenoch and Kevin Hollinrake there was a greater emphasis

---

<sup>211</sup> Cooper 4 (WITN00200400)

<sup>212</sup> UKGI00013382

<sup>213</sup> Munby 2, 44 (WITN11520200)

than previously placed on speed,<sup>214</sup> but this was at the risk of over-compensating claimants, not under-compensating them, and was justified in terms of value for money to the public purse because it was achieving the overall policy aim more quickly. This approach has been continued by the current Government, but as Secretary of State Jonathan Reynolds emphasised “*I do not believe that increase in pace has been at the cost of fair or accurate compensation being made.*”<sup>215</sup>

230. The second is the suggestion that “value for money” considerations played a role in the payment of redress to individual postmasters. Value for money does not mean simply minimising public spending: it is about the relationship between the delivery of Government objectives and the cost of doing so. To take a simple generalised example, good value for money could involve doubling spending in order to treble the extent to which an objective was delivered. The clear objective of Ministers in successive administrations has been to ensure full and fair redress to postmasters affected by the scandal. Providing a postmaster with only half of the redress to which he or she is entitled delivers only half of the objective, and is therefore no different in value for money terms from making a full payment. However, value for money considerations are relevant where there is a possibility of paying an individual more redress than he or she is entitled to. They are also relevant to the costs of delivering redress.

231. Every witness involved in the redress process confirmed that value for money does not play a role in decisions on redress for individuals. Simon Recaldin, for example, explained that it did play a role in terms of the processes being applied to provide redress and their cost.<sup>216</sup> Ben Foat confirmed that value for money was a consideration in terms of the overall “financial envelope” set aside for redress by the Government, but not the actual payments made to individual postmasters.<sup>217</sup>

---

<sup>214</sup> 11 November 2024/Badenoch/103/22 (INQ00001205)

<sup>215</sup> 11 November 2024/Reynolds/6/4 (INQ00001205)

<sup>216</sup> 4 November 2024/Recaldin/29/22 (INQ00001200)

<sup>217</sup> 18 October 2024/Foat/96/6 (INQ00001199)

### Support for claimants' legal costs

232. The Inquiry has heard evidence that those claimants who were legally represented were more likely to claim consequential losses.<sup>218</sup> The Department notes that whilst there is a correlation between these factors, causation may work either way. So legal advice may make people more likely to claim consequential losses – but equally, those with larger claims (who will tend to be those who suffered consequential losses) may be more likely to have sought legal advice.

### Fixed sum offers

233. The Inquiry has heard evidence from various witnesses about the fixed offers which have been made to claimants under the various schemes - £600,000 for Horizon Convictions Redress Scheme (HCRS) and OC claimants, and £75,000 for those in the HSS and GLO – which were initially proposed by Kevin Hollinrake in the light of his experience of other redress schemes.

234. The primary purpose of these payments was to accelerate the provision and settlement of redress. As Kevin Hollinrake told the House of Commons on 18 September 2023:<sup>219</sup>

*“Although good progress has been made on personal damages, ... progress on full and final settlements has been slower.*

*That is why I can announce today that the Government have decided that postmasters who have their convictions on the basis of Horizon evidence overturned should have the opportunity, up front, to accept an offer of a fixed sum ... However, we hope that the change I am announcing today will provide more reassurance and quicker compensation to those postmasters who would prefer this option over going through the full assessment process.”*

235. Redress was obviously accelerated for those who chose to take the fixed sums. However, it was also accelerated for those who chose instead to have their claims

---

<sup>218</sup> Recaldin 6, 127 (WITN09890600); 4 November 2024/Recaldin/128/8 (INQ00001200)

<sup>219</sup> RLIT0000379

individually assessed – because it took the smaller claims out of the “queue” of cases requiring both the time of claimants’ legal advisors and consideration by the Department or the Post Office.

236. The fixed sum approach has a number of other benefits:
- a. it greatly reduces the complexity of the process of applying for smaller amounts of redress, and hence the stress to claimants;
  - b. it ensures that the process of getting redress is much less lawyer-heavy, reflecting calls from many stakeholders;
  - c. it reduces the cost to Government of legal advice to claimants and to the Government and Post Office.
237. The approach had disadvantages too. Most importantly, it involved paying a large number of people more redress than they would otherwise have received. In some cases the amounts were very substantial – a person with a £10,000 HSS claim would receive £65,000 more than their assessed losses. Whilst there would have been offsetting savings in legal and operational costs, these would have been much smaller. Officials were initially concerned that the net excess amounts would not have met the value for money requirements of Managing Public Money because they were not directed to meeting the objective of full and fair redress. However, they subsequently satisfied themselves that those amounts were justified by their contribution to the separate objective of paying redress promptly.
238. HSS applicants were not offered support for reasonable legal costs in considering fixed sum offers. In most cases such advice was clearly not necessary: someone with a £20,000 claim would not need legal advice to know that a £75,000 offer was worth taking. The Department appreciates that someone with a claim for say £85,000 might find it a more difficult decision. It would be open to them to seek individual assessment of their claim: they would be entitled to support with legal costs to consider an offer.



239. The Department recognises that some applicants to all schemes with claims just above the fixed offer amount may well have chosen to take the fixed offer rather than go through the process of individual assessment. That is a fair choice, balancing the individual's preference for more rapid redress and less stress against a possible higher redress entitlement.
240. The Department has heard arguments that the fixed offer amounts should instead have been offered as minimum payments or interim payments, or that those who accept the HSS fixed offer should be able to enter the new HSS appeals scheme. However, these changes would have defeated one of the central objectives of the fixed offer – removing smaller claims from the “queue” for assessment so that larger ones could be considered more quickly. Interim payments (although of smaller amounts) are already made in the GLO, HCRS and OC schemes.

**Further measures under consideration**

241. The Department continues to work with the Post Office to make improvements to the way in which redress is delivered. At present it is:
- a. Funding the top-up of past HSS offers to match the £75,000 fixed payment offer;
  - b. Developing an independent HSS appeals process as recommended by the Advisory Board;
  - c. Considering whether to take over from the Post Office responsibility for delivering the HSS and OC;
  - d. Considering whether to extend the redress schemes to cover the family members of postmasters, and whether to extend the HSS to cover managers and assistants working for postmasters, Post Office employees, and those who were affected by the Capture software used by some postmasters in the 1990s.

## THE FUTURE OF OVERSIGHT AND REDRESS

242. The preceding sections of this statement have described actions which the Department already has in hand in the light of its learning from this scandal, and from its involvement in the delivery of redress. This section reviews suggestions for wider changes to supervision of public bodies and improvements to the delivery of redress for future scandals.

243. Several Departmental witnesses in Phase 7 referred to the possibility of creating a new oversight or review body. For example, Rt Hon. Pat McFadden floated the idea of an organisation that could launch an inquiry or take action in relation to any “arm’s length” body when the level of allegations about it reached such the point that this seemed the right thing to do.

244. Margot James put forward the concept of the Post Office being regulated by Ofcom instead of or in addition to oversight by the Department and UKGI.<sup>220</sup>

245. Sir Alex Chisholm also raised the possibility of an independent committee to scrutinise “arm’s length” bodies, with mandatory reporting responsibilities to their Board and the authority to write to the Secretary of State annually with any concerns, and report periodically to Parliament.<sup>221</sup> He also identified the main problem with this type of approach:<sup>222</sup>

*“I think in a perfect world you wouldn't need to have this because it obviously adds an extra layer, and every additional layer creates scope for friction, cost and, you know, risk with that... it's not a straightforward matter because then you have run the risk of undermining the Board and its own responsibilities and you've got sort of guards, for guards, for guards, and that itself, you know, can create, can obscure the underlying reality.”*

246. He did, however, note that in the particular circumstances of the Post Office, where the Board had failed in its oversight responsibilities, and the management executive

---

<sup>220</sup> James, 78, 81 (WITN10910100)

<sup>221</sup> Chisholm, 255 (WITN00180100)

<sup>222</sup> 7 November 2024/Chisholm/167/17 (INQ00001203)

and internal legal teams had failed over many years to provide effective service, causing “*a terrific breakdown in trust*” with both postmasters and the wider public, special measures such as an independent oversight committee might be required.

247. Sir Vince Cable suggested the creation of a bespoke corporate structure for public bodies such as Post Office Limited, to include a mechanism for putting them into a form of “special measures”.<sup>223</sup>

248. The Rt Hon. Greg Clark observed that Ministers are accountable to Parliament for ALBs but have limited powers to control them. He made a similar suggestion for the creation of a new form of “public interest company”, outside the Companies Act, and removing some of the restrictions which stand in the way of Ministerial action where necessary.<sup>224</sup> The IoD adopted this suggestion in its October 2024 policy paper.<sup>225</sup>

249. Dame Sandra Dawson and Dr Katy Steward did not support the NFSP’s suggestion of an oversight committee for the Post Office, made up of representatives from Government, consumer champions, postmaster representative bodies, and representatives of key groups who rely upon the social purpose of the Post Office such as older people or those from economically deprived areas, as well as specific experts where required.<sup>226</sup> They were of the view that, in the end, it was for the Post Office Board to own and find solutions for its problems.<sup>227</sup>

250. The Rt Hon. Jonathan Reynolds committed to considering ideas to strengthen the Post Office’s governance and oversight, but emphasised that the Government’s immediate priority was to provide redress to those impacted by the scandal, and noted that the details would need to be carefully thought through.<sup>228</sup>

---

<sup>223</sup> 25 July 2024/Cable/75/13 (INQ00001181)

<sup>224</sup> 25 July 2024/Clark/124/13 (INQ00001181)

<sup>225</sup> RLIT0000412

<sup>226</sup> WITN00370110

<sup>227</sup> 13 November 2024/76/13 (INQ00001207)

<sup>228</sup> 11 November 2024/Reynolds/67/5 (INQ00001205)

*“I would want to make sure that any governance change was, first of all, one that was going to be effective. I mean, on paper, the existing structure could have been effective but clearly wasn't. I also wouldn't want anything which is seen to sort of be outsourcing responsibility for fixing these problems to a committee of people or whatever. I think that might be perceived as the opposite of what we're trying to do in terms of facing up to and providing redress in relation to this and providing a future which is one where we've got confidence we've put these problems right.”*

251. The Government is committed to bringing forward legislation that will introduce a duty of candour on all public authorities and public servants, backed up by criminal sanctions. The details are being considered carefully and will be brought before Parliament in due course.

### **Redress**

252. In July of this year the National Audit Office (NAO) published an “insight – lessons learned” report<sup>229</sup> which looked at a number of redress schemes, including the Horizon schemes. It recommends that:

- *“the Cabinet Office sets up, by the end of 2024, a centre of expertise within government to provide guidance, expertise or a framework for public bodies seeking to set up a compensation scheme – this should be resourced sufficiently to provide advice to existing and future schemes;*
- *the Cabinet Office reviews alternative arrangements, including structural arrangements, that would allow compensation schemes to begin and operate in a more timely, efficient and effective manner while earning the confidence of potential claimants. This review should consider a new standing public body to act as a compensating authority to administer future time-limited compensation schemes, and set out the changes it plans to make as a result of the review”.*

---

<sup>229</sup> National Audit Office report titled Lessons learned: Government Compensation Schemes, 5 July 2024 (**RLIT0000366**)

253. The NAO also identified 21 more operational lessons learned (Annex A), some of which reflect the approach which has been taken to at least some of the Horizon schemes.
254. The Horizon Compensation Advisory Board's report<sup>230</sup> was written by Professor Chris Hodges, who was asked to join the Board as an expert in Alternative Dispute Resolution. It, too, recommends delivery of future redress by an independent standing body. It argues that the approach to redress should be investigative rather than adversarial.
255. But it goes further, looking to reduce the chances of future scandals – or at least expose them more quickly – by allowing appeals to the new body about complaints against public services. A more circumscribed version of that role is currently played by the Parliamentary and Health Services Ombudsman and various other Ombudsman services.
256. The Government welcomes the recommendations of both the NAO and the Advisory Board. It sees considerable attractions in the prospect that they might speed the response to harm, improve the delivery of redress and (in the case of the Advisory Board's recommendations) reduce the risks of recurrence.
257. However, this would be a substantial change. Government would need to consider any implications for existing arrangements such as the Ombudsmen. In the health service, there is already a body that resolved clinical negligence claims (NHS Resolution) and multiple bodies that deal with and learn from complaints, investigations and inquiries.
258. Any proposed changes would also need to be discussed with the devolved governments, in addition to whether they would want similar arrangements.

---

<sup>230</sup> RLIT0000288

259. The Government will want to think through the details, and hear the Inquiry's view, before reaching a conclusion on this. It intends to make a full response to the Advisory Board's proposal within six months of the Inquiry's report.

## **CONCLUSION**

260. The scandal explored by this Inquiry has been appalling. In the spirit of self-reflection promised at the outset, the Department has identified in this closing several occasions on which it made mistakes, some of them serious, and has attempted to identify the causes. Where the Department has made mistakes, it apologises unreservedly.

261. The Department has taken several very positive steps since this appalling scandal came to light. It remains committed to implementing any further necessary changes, and looks forward to the Inquiry's findings and recommendations.

**9 December 2024**