

**Witness name:** Rachel Scarrabelotti

**Statement No:** WITN11120100

**Dated:** 20 February 2024

**POST OFFICE HORIZON IT INQUIRY**

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**First Witness Statement of Rachel Scarrabelotti**

**on behalf of Post Office Limited in the Post Office Horizon IT Inquiry**

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1. I, Rachel Scarrabelotti, of 100 Wood Street, London, EC2V 7ER, say as follows:

**A. Introduction**

2. I am Rachel Scarrabelotti, Company Secretary at Post Office Limited ("POL" or the "Company"). I joined POL in March 2022 and was appointed as Company Secretary effective 12 April 2022. This is my First Witness Statement to the Inquiry. Whilst not having been employed by the Company during the period in question (the "Relevant Period"), I feel that in my role as Company Secretary I am equipped with the professional experience required in order to have acquainted myself, through the review of the documents referenced in this witness statement, with the key corporate and executive level governance structures in place at POL

during the Relevant Period and so I am the appropriate person to give this witness statement on behalf of POL.

3. This witness statement has been prepared in response to a request made by the Post Office Horizon IT Inquiry (the "Inquiry") pursuant to Rule 9 of the Inquiry Rules 2006, dated 27 November 2023 (the "Rule 9 request") ("Request No. 49"). This statement addresses the key corporate and executive level governance structures at POL from the mid-1990s until April 2020 (i.e. when the Shareholder Relationship Framework Document between POL, the Department for Business, Energy and Industrial Strategy ("BEIS") and BEIS's representative, UK Government Investments Limited ("UKGI" or the "Shareholder's Representative") and revised Articles of Association for POL took effect). A separate statement will address the key corporate and executive level governance structures in place at POL from April 2020, and the Inquiry's request to understand "*any relevant changes that have been made*" since that date.
  
4. I have aimed to include within this witness statement evidence relating to all matters or issues detailed in the Rule 9 request insofar as the relevant facts are within my own knowledge. The facts in this witness statement are true, complete and accurate to the best of my knowledge and belief. Where my knowledge and belief, as set out in this witness statement, has been informed by another person or by documents that I have reviewed, I acknowledge that person or those documents. I have been assisted in preparing this witness statement by Burges Salmon LLP and Fieldfisher LLP (together "**BSFf**"), who act on behalf of POL in

the Inquiry. I have had online meetings with BSFf to assist my preparation of this statement.

5. Some of the companies referred to in this witness statement have undergone various name changes, and so to assist the reader in identifying the relevant entity, I have set out a brief history of those name changes as an Appendix to this witness statement.

## **B. Approach**

6. This statement is intended to explain POL's corporate ownership during the Relevant Period and then to outline the key corporate and executive governance structures across two time periods of the Relevant Period, being (a) the mid-1990s – March 2012; and (b) April 2012 – April 2020.

## **C. POL Ownership Structure During the Relevant Period**

### **Summary**

7. By way of a general summary, the ownership of POL during the Relevant Period can be categorised into the following ownership structures:

**1999 – 2001** POL was a subsidiary of the Post Office, a statutory public corporation

**2001** POL was a direct majority shareholding of Consignia plc, a holding company owned by the Government

**2002 –2012** POL was a direct subsidiary of Royal Mail Group PLC<sup>1</sup>

Royal Mail Group PLC (the operational company) was in turn a subsidiary of Royal Mail Holdings PLC<sup>2</sup>

Royal Mail Holdings PLC was a Government owned non-trading holding company

**2012 – 2018** POL was a direct subsidiary of Royal Mail Holdings PLC

Royal Mail Holdings PLC was a Government owned non-trading holding company

**2018 – 2020** POL was directly owned by the Government

8. By way of further background to paragraph 7 above, from an operating perspective:

- a. Royal Mail Holdings PLC was the non-trading group holding company for the businesses of the Royal Mail and the Post Office (together the “**Group**”) consolidating those Group companies in its annual financial statements. Royal Mail Holdings PLC managed the Group overall, including the Group strategy and provided central functions (e.g. Treasury). As stated in the Royal Mail Holdings PLC Report and Accounts Year Ended 26 March 2006 (page 11) [*POL00362143*], the Postal Services Act 2000 created a commercially focused

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<sup>1</sup> Royal Mail Group PLC also variously named Consignia Public Limited Company (January 2001 – November 2002) and Royal Mail Group Limited (from March 2007)

<sup>2</sup> Royal Mail Holdings PLC also variously named Consignia Holdings Public Limited Company (January 2001 – November 2002) and Consignia plc (January 2001). Royal Mail Holdings PLC changed its name to Postal Services Holding Company plc in September 2013 (which itself re-registered as a limited company in December 2013 to become Postal Services Holding Company Limited)

company with a more strategic relationship with the Government, its shareholder;

- b. Royal Mail Group PLC (see footnote 2) was the operating company for the Royal Mail business, which described itself in its annual returns as continuing to “*provide a nationwide and international distribution service, principally of mails and parcels*”. During the time that it was the parent company of POL, it did not consolidate its financial statements with POL; and
- c. POL, which described its “[*principle*] activity” in its annual returns as being “*the provision of access to a wide range of government, financial and retail services through its network of post office branches and other channels across the UK*”.

### **Further Detail**

9. Post Office Counters Ltd (“POCL,” changing its name to POL from 1 October 2001) was incorporated on 13 August 1987 as a subsidiary of The Post Office which was a statutory public corporation established pursuant to the Post Office Act 1969. The objects for which POCL was established, were, amongst others, “*to acquire...the business carried on by the Post Office*”<sup>3</sup>.
10. The Postal Services Act 2000 subsequently provided for the vesting of the property, rights and liabilities of The Post Office to a company nominated by the Secretary of State and for the later dissolution of The Post Office as a statutory public corporation.<sup>4</sup>

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<sup>3</sup> Clause 3, POCL Memorandum and Articles of Association 1987 [POL00327606]

<sup>4</sup> Explanatory Notes to the Postal Services Act 2000 dated 28 July 2000 state that: “*The Post Office is currently a publicly owned, statutory corporation, established under the Post Office Act 1969... Since the 1969 Act became law the postal services market has developed significantly, and the Postal Services Act 2000 redefines the roles of the Government and the Post Office to reflect those changes. The Postal Services Act 2000 will enable the Post Office to be transformed into a public limited company formed and registered under the Companies Act 1985 and subject to normal company law. The Memorandum and Articles of Association of the Post Office company will be published in the normal way. All the shares*

11. Ownership of POL as at 25 March 2001 was held by way of a majority shareholding by Consignia Plc (the name at that time for the holding company).<sup>5</sup> Royal Mail Group PLC (the operational company) then took a transfer of the entirety of POL's shares on 20 December 2002.<sup>6</sup> Royal Mail Group PLC, the operational company, was owned by Royal Mail Holdings PLC. The Government owned 100% of shares in Royal Mail Holdings PLC, including a special share conferring certain rights on the special shareholder, the Secretary of State for Trade and Industry.

12. As at the date of submitting this statement to the Inquiry, I have been able to identify limited information regarding the relationship between the shareholder and POL up until 2012. I understand that from approximately 2003 to 2012 the functions of the shareholder were carried out by a team within the Shareholder Executive ("ShEx"), the predecessor to UKGI. I understand that ShEx did not hold a seat on the Board of Royal Mail Holdings PLC.

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*in the new company will be owned by the Crown. There can be no disposal of shares without further primary legislation, except in the case of a share sale or swap between the Post Office company and a partner to cement a commercial alliance, which will require approval from both Houses of Parliament. Similar restrictions apply to the disposal of shares in any subsidiary company directly engaged in providing the universal postal service."* [Paragraph 8]

<sup>5</sup> See page 8, Form 363s Annual Return up until 3 June 2001 [POL00362929]

<sup>6</sup> See page 8, Form 363s Annual Return up until 3 June 2003 [POL00362928]

13. The Group structure as of 2003 was noted as being as follows<sup>7</sup>:



14. POL continued to be a 100% owned subsidiary of Royal Mail Group Limited<sup>8</sup> (the operational company, having re-registered as a limited company and therefore changed its name from Royal Mail Group PLC in March 2007) until 31 March 2012, when pursuant to the Postal Services Act 2011, The Royal Mail began to be prepared to be privatised and POL was kept as a wholly owned Government entity, with its shares being transferred from Royal Mail Group Limited to Royal Mail Holdings PLC on 1 April 2012. POL and Royal Mail Group Limited continued with their business activities (see paragraph 8 above) and began operating independently as sister companies under Royal Mail Holdings PLC<sup>9</sup> as a precursor to the privatisation of The Royal Mail (in October 2013).

15. In becoming a wholly owned subsidiary of Royal Mail Holdings PLC (which changed its name to Postal Services Holding Company plc in September 2013), the Secretary of State for Business Innovation and Skills (“BIS”)<sup>10</sup> held a special

<sup>7</sup> Note 27 (Principal subsidiary undertakings, joint ventures and associates) on page 55 of the Royal Mail Holdings PLC Accounts 2002-2003 [POL00362155] lists Royal Mail Group PLC as the only investment held by Royal Mail Holdings PLC, with all other investments held by subsidiaries (including POL as a 100% holding). The source of the diagram is from a presentation made to a Chinese delegation in late 2003.

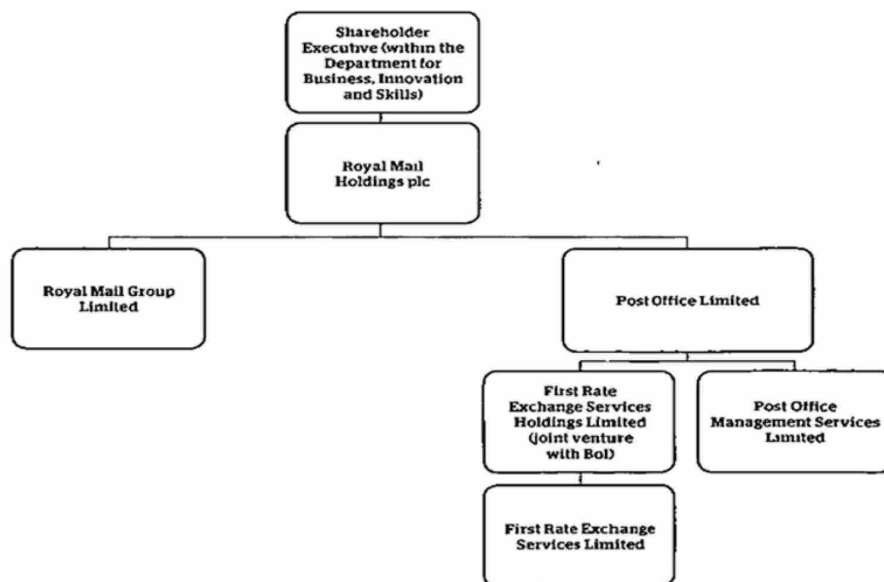
<sup>8</sup> Note: Royal Mail Group PLC reregistered as a private company in March 2007 to become Royal Mail Group Limited

<sup>9</sup> POL Annual Report and Financial Statements 2012-13, Chairman's forward (page 4) [POL00026694]

<sup>10</sup> POL's shareholding subsequently moved to BEIS in June 2017 and again to The Department for Business and Trade (“DBT”) in May 2023

share in POL, with the rights attaching to that set out in the Corporate Governance section below. Consequently the ownership structure from 1 April 2012 was as follows:<sup>11</sup>

#### Legal ownership structure



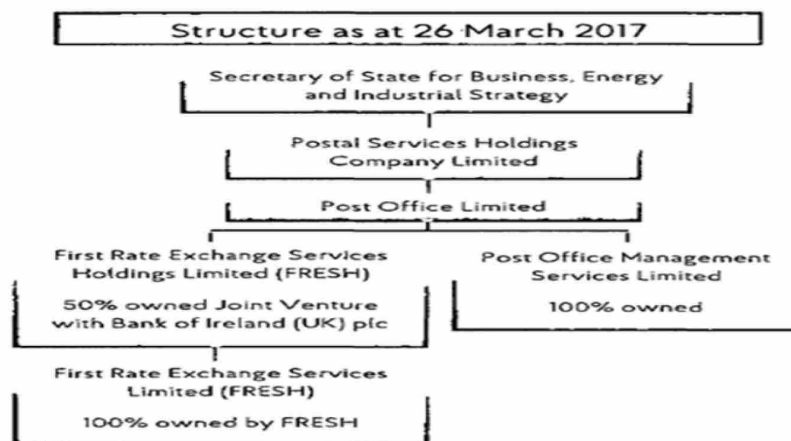
16. After 1 April 2012, I understand that ShEx continued to perform the role of shareholder representative for POL and that ShEx held a Non-Executive Director seat on the POL Board. During the Relevant Period, this role was performed by Susannah Storey (to March 2014), Richard Callard (March 2014 to March 2018) and Tom Cooper (March 2018 to May 2023).

17. Royal Mail Limited was a company incorporated in early September 2013 to be the listing vehicle and subsequently became Royal Mail plc on 19 September 2013. Royal Mail plc was listed on the London Stock Exchange in October 2013, with the Government retaining a circa 30% stake. The Postal Services Holding

<sup>11</sup> POL Annual Report and Financial Statements 2012-13, page 42 [POL00026694]

Company Limited<sup>12</sup> Annual Report & Financial Statements for the 52 weeks ended 30th March 2014 [POL00362176] states that it “held an investment in Royal Mail plc representing 29.99 per cent of the shares in Royal Mail plc”<sup>13</sup>. Likewise POL’s Annual Report and Financial Statements 2014/15 [POL00317841] has an ownership chart showing Postal Services Holding Company Limited as having a 30% investment in the privatised Royal Mail plc as at 29 March 2015<sup>14</sup>. However, a year later the POL Annual Report has POL as Postal Services Holding Company Limited’s only direct subsidiary,<sup>15</sup> with the Government having sold down half of its 30% stake in Royal Mail plc in June 2015 and the remainder in October 2015.<sup>16</sup>

18. POL continued to be a subsidiary of Postal Services Holding Company Limited up to and including financial year 2017 as per the following structure chart:<sup>17</sup>



<sup>12</sup> Formerly Royal Mail Holdings PLC and Postal Services Holding Company PLC per paragraphs 14 and 15, respectively

<sup>13</sup> Page 3, Postal Services Holding Company Limited Annual Report & Financial Statements for the 52 weeks ended 30<sup>th</sup> March 2014 [POL00362176]. Note that Royal Mail Holdings PLC changed its name to Postal Services Holding Company Limited in September 2013

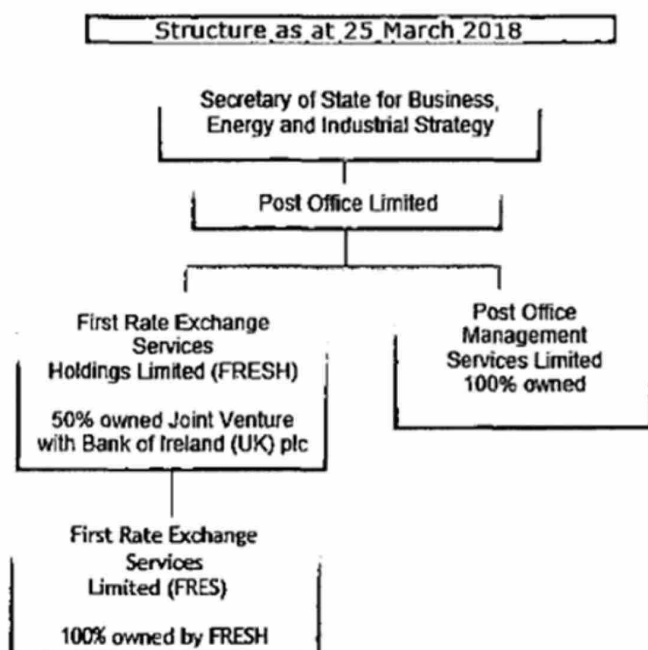
<sup>14</sup> Page 34, Post Office Limited Annual Report and Financial Statements 2014/15 [POL00317841]

<sup>15</sup> Page 20, Post Office Limited Annual Report and Financial Statements 2015/16 [POL00242920]

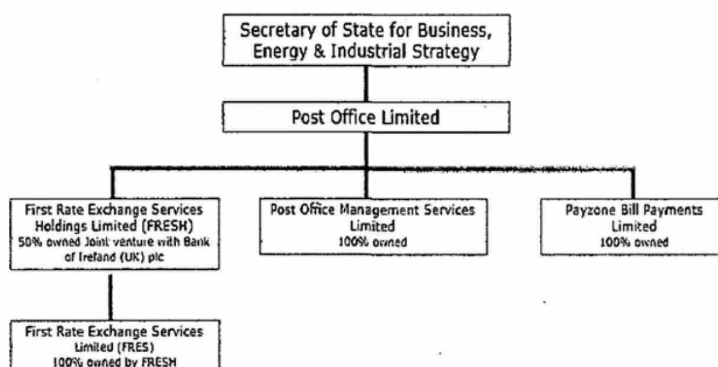
<sup>16</sup> Source: BIS Press Release dated 13 October 2015 on [www.gov.uk/government/news/government-completes-final-sale-of-its-stake-in-royal-mail-at-455p-per-share](http://www.gov.uk/government/news/government-completes-final-sale-of-its-stake-in-royal-mail-at-455p-per-share) [POL00362930]

<sup>17</sup> Page 23, Post Office Limited Annual Report and Financial Statements 2016-2017 [POL00026839]

19. By March 2018, with Postal Services Holding Company Limited having been put into liquidation (which is still ongoing), POL continued its business under the direct ownership of BEIS as per the structure chart below:<sup>18</sup>



20. The 2019 Annual Report and Consolidated Financial Statements 2018/19 discloses the following structure:<sup>19</sup> [POL00026927]



<sup>18</sup> Page 17, Post Office Limited Annual Report and Financial Statements 2017/18 [POL00259704]

<sup>19</sup> Page 15, Post Office Limited Annual Report and Consolidated Financial Statements 2018/19 [POL00026927]

**D. POL Corporate Governance – 2000 - 2012**

**D1 Articles 2000 - 2012**

***1987 Articles:***

21. Upon incorporation in 1987, POCL's Articles of Association (the "1987 Articles") [POL00327606] provided the statutory public corporation The Post Office (as parent entity "the Parent") with certain powers. For example:
- a. Director appointments (Articles 11 and 16);
  - b. *"At any time and from time to time direct the Company...to do (or as the case may be) to refrain or desist from doing any specified things and the Board shall forthwith use every endeavour and procure the Company to use every endeavour to give effect thereto"* (Article 13.02); and
  - c. *"Furnish The Post Office with such information (a) as the Post Office may so specify, and (b) as the Company has or can reasonably be expected to obtain"* (Article 13.03).

However, there were no specific mechanisms for Government to directly exercise oversight in relation to the performance of POCL.

***2001 Articles:***

22. With the changes in ownership outlined above pursuant to the Postal Services Act 2000, POL adopted new Articles of Association in 2001 (the "2001 Articles") [POL00327607/POL00327608], mainly to reflect the change in Parent (from statutory public corporation The Post Office to Consignia plc (the holding company)), with a substantial restatement of the powers that had been granted to The Post Office (as Parent) under the 1987 Articles. For example:

- a. The Parent had the right to appoint or remove any directors, including the chairman. The chairman had to consult with the Parent and obtain its approval in relation to the appointment or removal of any director (Articles 78 and 97);
- b. POL was obliged to comply with any direction given by the Parent (Article 11.1); and
- c. POL was obliged, upon request by the Parent, to provide any information required by the Parent (Article 11.2).

**2002 Articles:**

23. Minutes of a POCL Board meeting on 14 March 2000 [POL00362335] highlight the expected impact of the Postal Services Act 2000 and the debate that POCL intended to have regarding it: *“Whilst accepting the general thrust of the draft memorandum and articles of association, the Government had also decided to use a special share in the company as the means of exercising Government control. The effect of the special share would be to require The Post Office plc to obtain the prior written consent of the Secretary of State for a range of activities. Strong representations had been made to the Government seeking amendments to the special share provision to address issues identified as potentially being in conflict with the Government's stated aim of having an "arm's length relationship" with The Post Office. Discussions were continuing with the Government and a final version of the memorandum and articles of association will be presented to Board Members at either the April or May meeting.”*

24. The 2001 Articles were substantially revised in December 2002 with a new set of POL Articles of Association (the “**2002 Articles**”) [POL00327609], in particular giving more direct powers to The Secretary for State for Trade and Industry in their capacity as Special Shareholder (of one special redeemable preference share in the capital of Royal Mail Holdings PLC).<sup>20</sup>

25. Article 11 is entitled “*Directions of the Special Shareholder*”. It restates and supplements the powers granted to Consignia plc in the 2001 Articles as Parent. For example (a) and (b) below were largely the same as the 2001 Articles, whilst (c) and (d) were supplemental:

- a. POL shall comply with any direction given by the Parent (Article 11(A));
- b. POL shall upon request by the Parent furnish the Parent with information (i) specified by the Parent; and (ii) relating to the activities (past, present or future), plans or properties of the company or any member of the group (Article 11(B));
- c. POL shall upon request by the Parent procure that any of specified or other relevant director and senior manager meets with the Parent or the Special Shareholder to discuss the affairs of the group (or any individual member of the group), with POL being obliged to release the directors and managers from any duty of confidentiality owed to POL for the purposes of such discussions (Article 11(C));

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<sup>20</sup> Definition of ‘Special Shareholder,’ 2002 Articles [POL00327609].

d. POL was precluded from (amongst other things) selling, transferring, otherwise dealing with, or creating a mortgage or charge which had the effect of granting security over government securities held by it, without the prior written consent of the Parent (Article 11(D));

26. Other areas of Parent control include the appointment of directors, including the Chair (Articles 78(B) and 78(A) respectively) and the payment of dividends (Article 106).

#### **2007 & 2009 Articles**

27. The Articles of Association were next amended in August 2007 (the “**2007 Articles**”) [*POL00327610*] and again in March 2009 (the “**2009 Articles**”) [*POL00327611*]. However, none of the changes made in the 2007 Articles or the 2009 Articles affected the powers granted to the Parent (in particular Article 11 (Directions of the Special Shareholder), as well as Article 78 (Appointment of Directors), with the provisions cited above in relation to the 2002 Articles being restated.

28. The 2007 Articles increased the authorised share capital from £50,000 to £51,000, divided into 51,000 ordinary shares of £1 each by a written resolution.

29. The 2009 Articles amended the provisions relating to Directors and conflicts of interest contained in Articles 89 to 90, and 101(A), and updated references to the former Companies Act 1985 with corresponding provisions from the Companies Act 2006.

30. The next change to the Articles that I am aware of was in 2012 – these are covered in section E1 below.

### **D2 POL Board and Executive Governance 2000 - 2012**

31. Whilst the POL Articles set out clear governance requirements, and notwithstanding annual confirmation that the Royal Mail Holdings PLC Board also applied the principles of the various iterations of the Corporate Governance Code over the period 2000 - 2012, POL holds limited information on the actual operation of the governance framework of POL itself prior to 2012.

32. A note from the Company Secretary identified as being from November 1999 [POL00362101] refers to *“the final version [of Matters Reserved] which encompasses your comments and recommendations as appropriate”* following Post Office Board Effectiveness feedback that the Matters Reserved should be reviewed. The list is split into Statutory Requirements, Combined Code Requirements and Management.

33. Minutes of a meeting of the Board of Consignia plc<sup>21</sup> dated 10 April 2001 [POL00021475] state that *“the Board noted that the powers previously reserved to The Post Office board had been updated to conform with the plc status of Consignia, and agreed to the Matters Reserved to the Board as set out in Annex*

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<sup>21</sup> Company number 4138203, and therefore carrying this company name from January 2001 – November 2002 prior to being renamed Royal Mail Group PLC.

*B of the paper*". As at the date of submitting this statement to the Inquiry, POL has not been able to locate a copy of Annex B, so I am not able to comment on its content. The minutes go on to provide that:

*"the Chairman reported that he had also received a letter from the Minister on the subject of corporate governance – the eventual and much-delayed reply to the Chairman's original letter of 27 June 2000, in which he had proposed a clear set of defined roles for the shareholder and the Board. The DTI's reply was inadequate, leaving Consignia without an agreed governance framework in place in respect of its dealing with the shareholder. The Board agreed that the Chairman should pursue the issues with DTI making clear the unacceptability of this situation."*

34.A Consignia plc Executive Board paper dated September 2001 [POL00363168] seeks approval for updated Corporate Governance principles intended to apply to all subsidiaries of Consignia plc (which would have included POL). It also highlights the process to be followed in relation to nominations to the Board of Directors in absence of a Nominations Committee:

*'Corporate Governance best practice is for companies to make appointments to Boards of Directors of subsidiary companies through a Nominations Committee. Consignia does not have a formal Nominations Committee; instead the following procedure is recommended: Where Consignia has the right to appoint Directors to a Subsidiary, Associate or Joint Venture, the nomination should be approved by the Chief Executive of Consignia plc. The process will be managed by the*

*Consignia Company Secretary's Office, with input from Group Personnel and the Mergers & Acquisitions team as appropriate.'*

35. The policy at 'Annex A' to that paper sets out the corporate governance standards expected on a wide range of matters, including shareholder meetings, Boards of Directors (appointments, resignations, attendance at meetings, declarations of interest, amongst other matters), Board meetings (notification, timing, transparency, and reserved matters), Company Secretarial Matters (appointment, and the respective roles of the subsidiary and Consignia plc Company Secretaries), monitoring compliance, adherence to Consignia plc policies, notification of governmental or regulatory investigations, company names, and liquidation.

36. Prior to the 2002 Articles being adopted, the Consignia Holdings Public Limited Company Board appears to have been invited by way of a document that appears to be a Board paper dated January 2002<sup>22</sup> (the "**January 2002 Board Paper**") [POL00362103] to "*(i) endorse the commencement of active proceedings of the POL Board; (ii) agree that Allan Leighton be appointed as a Director of POL and Chairman of the POL Board; and (iii) agree the list of powers to be delegated to the POL Board, and the matters which will continue to be reserved to the Consignia plc Board, as set out in Annex A.*" The January 2002 Board Paper

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<sup>22</sup> Assumed Consignia plc Board Paper from the Company Secretary, referring to a Board meeting on 11 December 2001 where "*the need to change the Chairman of the Post Office Limited (POL), and to establish a corporate governance framework to regulate the relationship between Consignia plc as parent, and POL, as subsidiary, was highlighted*"

reaffirms that the power to appoint and remove Directors of POL (including the Chair) vested with Consignia Holdings Public Limited Company<sup>23</sup> (noting that this is incorporated into the Matters Reserved to the Consignia Holdings Public Limited Company Board as well as POL's 2002 Articles (Article 78)). Matters Reserved to the Consignia Holdings Public Limited Company Board are also noted as including capital projects with costs in excess of £20m (with sums of less than this able to be authorised by POL, who it is noted planned to set up an Investment Board<sup>24</sup> similar to that operated within Consignia Holdings Public Limited Company). Annex A also stipulated a £20m threshold for material contracts in the ordinary course, with £10m for contracts not in the ordinary course, and a 5% voting share limit for share deals. A further matter reserved to the Consignia Holdings Public Limited Company Board was noted as being approval for the POL strategic plan and annual operating budget.<sup>25</sup> From an operational governance perspective, therefore *"the business units have authority to manage within the limits set by the Board and within the scope of reserved powers."*<sup>26</sup>

37. Paragraph 15 of the January 2002 Board Paper also proposes that Consignia Holdings Public Limited Company retains control of the remuneration, development, and succession planning for "Top Y" personnel within POL *"as all*

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<sup>23</sup> On page 16 of the Royal Mail Holdings PLC Accounts 2002 – 2003 [POL00362149], it is noted that *"the Nomination Committee has the overall role of leading the process both for appointments to the Board, and for appointments to subsidiary boards. Some appointments are subject to the consent of the Secretary of State"*

<sup>24</sup> See paragraph 13 [POL00362103]. It is understood that a POL Investment Committee was established, based on documents listing the dates for POL Investment Committee meetings for 2007, 2008 and 2009. It appears that this was an executive level subcommittee rather than a Pol Board Committee

<sup>25</sup> See Paragraph 14 [POL00362103].

<sup>26</sup> Page 16; [POL00362155]

*POL staff are Consignia secondees and this will promote movement between businesses for senior executives”.*

38. As such, Matters Delegated to the POL Board and to Management in Annex A of the January 2002 Board Paper are somewhat limited, being statutory requirements (approval of accounts, appointment of directors (once nominations are received from the Consignia Holdings Public Limited Company Board) and appointment or removal of the Company Secretary), spend requirements (approval of major capital projects with costs lower than £20m and material contracts lower than £20m (subject to where Special Shareholder consent is required)) and approval of risk management strategy (with regard to risk management, minutes of a POL Risk & Compliance Committee meeting on 20 July 2004 [POL00363167] state that this was the first meeting of the POL Risk & Compliance Committee (see the structure chart in paragraph 65 below, which has a similar sub-committee as at 2012)).

39. From a Board governance perspective, the Remuneration Committee of Consignia Holdings Public Limited Company (“RemCom”) *“develops the Company’s policy on executive Directors’ remuneration for approval by the Board and the Secretary of State.”*<sup>27</sup> The RemCom was made up of Non-Executive Directors. As at March 2002, there was no Nominations Committee (“NomCom”) of the Consignia Holdings Public Limited Company Board. However, by March 2003, the Consignia Holdings Public Limited Company Annual Report confirmed

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<sup>27</sup> Page 6, Consignia Holding plc Accounts for the period ended 31 March 2002, [POL00362149]

the establishment of a NomCom with “*the overall role of leading the process both for appointments to the Board of the Company, and for appointments to subsidiary boards. Some appointments are subject to the consent of the Secretary of State. The Committee consists of non-executive Directors.*”<sup>28</sup>

40. It appears that POL had an Audit Committee in place as at December 2000 based on the existence of minutes from the Audit Committee meeting in March 2001 [POL00021415]. It appears from these minutes that the cadence of the meetings was quarterly. An Audit Committee is noted as having reported to Royal Mail Group plc in December 2002. It appears however that the POL Audit Committee as existed in March 2001 did not continue once POL became part of the Royal Mail Group structure with Consignia Holdings Public Limited Company’s Audit Committee taking over responsibility for this oversight of POL – see paragraphs 42 and 43 below in this regard.

41. In a document that appears to be a Board paper dated November 2010 [POL00362104] there is a summary of matters reserved to the POL Board, with matters broken down into Statutory Requirements and Management (for example, approval of material contracts of the Company not in the ordinary course of business up to £10m). The paper also sets out proposed outline Terms of Reference for the POL Audit Committee and Remuneration Committee. POL Board minutes dated 3 November 2010 [POL00362221] note that Terms of Reference for the Board Audit and Risk Committee and Remuneration Committee

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<sup>28</sup> Page 16, Royal Mail Holdings PLC Accounts 2002-2003 [POL00362149],

were agreed and that the Committees *“should be established well in advance of separation”*<sup>29</sup>. See Section E2 for further information on POL Board Committees post-2012.

42. With regard to risk management strategy and internal control arrangements within POL for the period up to 2012, whilst Annex 1 of the January 2002 Board Paper gives POL approval rights over risk management strategy, including internal control arrangements, in paragraph 17 it states that *“it is envisaged that the Audit Sub-Committee of the Consignia [Holdings plc] [sic] Board will continue to deal with any POL audit issues, by virtue of its role overseeing financial probity across the whole of the Consignia Group. It is not therefore proposed to convene an Audit Sub-Committee of the POL Board.”*

43. Monitoring the effectiveness of POL internal control arrangements appears to have been with the Consignia Holdings Public Limited Company Board, which per the 2001/2002 Annual Report,<sup>30</sup> provides that authority was delegated to the Audit and Risk Committee (the **“ARC”**) to do so. During this 2000 – 2012 period, the Consignia Holdings Public Limited Company ARC consisted of Non-Executive Directors, providing a forum for reporting by both internal and external auditors and holding responsibility for a wide range of matters, including: *“monitoring the effectiveness of internal controls; reviewing the half year and annual accounts before their submission to the Board; advising the Board on the appointment of external auditors and on their remuneration both for audit and non-audit work;*

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<sup>29</sup> [POL00362221]

<sup>30</sup> Page 6, Consignia Holding plc Accounts for the period ended 31 March 2002 [POL00362149]

*discussing the nature, scope and outcomes of the audit with external auditors; keeping under review the independence and objectivity of the external and internal auditors.”*

44. The 2005 Royal Mail Holdings PLC Annual Report notes the Risk Management Committee (variously called the Corporate Risk Management Committee and Group Risk Committee in later Annual Reports) as being a sub-committee of the ARC, which *“sets out the framework for risk management within the Group and ensures integration with strategic planning. It also facilitates regular reporting of key risks and the actions to manage the risks to a desired level.”*<sup>31</sup> The members of this Committee included the CFO (Chair), CIO, Group Treasury Director, the Internal Audit & Risk Management Director, the Director of Corporate and Social Responsibility and other senior executives from across the Group.

45. In addition, the ‘Executive Board’ or ‘Management Board’ (also variously referred to as the ‘Group Executive Team’ from 2005/2006 onwards and then the ‘Chief Executive’s Committee’ from 2011/2012) is highlighted in the Annual Reports as being a ‘sub-committee’ of the Board that dealt with specific aspects of the Group’s governance.<sup>32</sup> The Management Board *“develops the Group’s strategy, annual operating plans and budgets for Board approval, and monitors their deployment. It reviews operational activities, sets policies where these are not reserved to the Board.”*<sup>33</sup> Taking the Royal Mail Holdings PLC Report and Accounts Year Ended

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<sup>31</sup> Page 29, Royal Mail Holdings PLC Report and Accounts Year Ended 27 March 2005 [POL00362150]

<sup>32</sup> For example, page 26 of the Royal Mail Holdings PLC Report and Accounts Ended 27 March 2005 [POL00362150]

<sup>33</sup> Page 15, Royal Mail Holdings PLC Accounts 2002 – 2003 [POL00362149].

26 March 2006 (page 33), the Group Executive Team appears to have consisted of the CEO and a mix of Group functional heads (for example Corporate and Government Affairs Director, Director of Strategy, Group Finance Director, Group Chief Information Officer and Group Director People & Organisational Development) and operating units Managing Directors (POL, Royal Mail Letters, and Parcelforce Worldwide).

46. As mentioned in paragraph 31, what is less apparent from the documentation that I have seen is what the composition of the POL executive management team was and what matters it considered. Notwithstanding this, however, a Proposal for the POL Executive Committee meetings dated 12 October 2001 [POL00363129] does set out a proposed approach to such meetings, including attendance, quorum (at least 5 of the 9 Executive Committee members, with at least 1 Finance representative), timing & duration (monthly for 3½ hours), agendas (*“the overarching principle for setting agenda items will be to focus on strategy and to discuss/develop ideas to take forward Post Office Limited’s overall strategic objectives”*), standing timetabled agenda items (for example, audit & risk management on a quarterly basis), papers and presentations and minutes.

47. What is understood from the Annual Reports of Consignia plc / Royal Mail Group for the period 2000-2012 is that there was executive director representation across Group boards with the appointment of the POL CEO to the Consignia plc / Royal Mail Holdings PLC Boards,<sup>34</sup> as well as the POL CEO being a member of the

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<sup>34</sup> In the 2003, 2004 [POL00362144] and 2005 Annual Reports, the CEOs of Royal Mail and POL made a joint statement

Royal Mail Group's Group Executive Board / Management Board. In addition, it is understood that for most of this period a Non-Executive Director drawn from the Royal Mail Holdings PLC board was appointed as Chair of the POL Board<sup>35</sup>.

48. In addition to the ARC, the Management Board, the RemCom and the NomCom (from 2003), other Royal Mail Holdings PLC Board sub-committees noted in the Annual Reports up to financial year 2012 include the following:

a. Pensions Committee – chaired by the Group Finance Director, with management membership, this was responsible for reviewing funding, benefits, scheme structure and strategic developments impacting on the Group's occupational pension schemes. <sup>36</sup>

b. Investment Board (until financial year 2003) - chaired by the Group Finance Director, this was responsible for reviewing major investment projects and approving projects within the authorities devolved by the Board. <sup>37</sup>

c. Mergers and Acquisitions Board (until financial year 2003) – chaired by the Chief Executive, this was responsible for reviewing prospective transactions for commercial and strategic effectiveness and giving authorisation on behalf of the Group up to an agreed limit. <sup>38</sup>

d. Corporate and Social Responsibility Governance Committee (from financial year 2004 until financial year 2011, when it is no longer listed in the Governance

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<sup>35</sup> It is unclear for the period between September 2007 and May 2009 who was the Chair of the POL Board. Allan Leighton was Chairman of Royal Mail Holdings PLC at this time and was on the POL Board. The POL Board minutes we have been able to locate during this period indicate that the POL Board meetings, at which Mr Leighton was an apology, were chaired by Alan Cook, who was Managing Director of POL and an executive director of both Royal Mail Holdings PLC and Royal Mail Group Ltd (see for example POL Board Minutes of 20 October 2008 [POL00021497] and 19 January 2009 [POL00021498]).

<sup>36</sup> Page 6, Consignia Holding plc Accounts for the period ended 31 March 2002 [POL00362149]

<sup>37</sup> Page 6, Consignia Holding plc Accounts for the period ended 31 March 2002 [POL00362149]

<sup>38</sup> Page 6, Consignia Holding plc Accounts for the period ended 31 March 2002 [POL00362149]

section of the Annual Report) – chaired by the Senior Independent Director (until financial year 2008, when it became the CEO), this committee *“acts on behalf of the Management Board to identify Corporate and Social Responsibility issues with Group-wide impact and makes recommendations on minimum Corporate and Social Responsibilities standards and policies.”*<sup>39</sup>

49. In discussing key relationships in the 2006 Annual Report,<sup>40</sup> it is noted that *“the Group is a plc that is 100% owned by the Government. The Shareholder Executive (within the Department of Trade & Industry) manages the shareholder relationship with Royal Mail as a commercial shareholder. While management of the company therefore lies with the Board of Directors, the shareholder is kept up-to-date through quarterly performance reviews and is asked annually to approve the Company’s business plan. Any new funding required by the company can only come from Government and can only be approved by the Shareholder Executive if it meets market economic investor principles.”*

50. With regard to other Group functions, it is noted that for Treasury matters *“the Group operates a central Treasury function that manages...current asset investments...borrowings and...cash primarily in the Post Office network, in accordance with investment restrictions set out by the Government...Group Treasury derives its authority from the Royal Mail Holdings PLC Board and provides quarterly monitoring reports for their review.”*<sup>41</sup>.

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<sup>39</sup> Page 22, Royal Mail Holdings PLC Report and Accounts Year Ended 28 March 2004 [POL00362144]

<sup>40</sup> Page 21, Royal Mail Holdings PLC Report and Accounts Year Ended 26 March 2006 [POL00362143]

<sup>41</sup> Page 12, Royal Mail Holdings PLC Report and Accounts Year Ended 28 March 2004 [POL00362144]

## **E. POL Corporate Governance – 2012 – 2020**

### **E1 2012 & 2013 Articles**

51. On 15 October 2013, The Royal Mail was (partially) privatised. POL had already been moved to be a subsidiary of Royal Mail Holdings PLC in April 2012, with the Secretary of State for BIS now holding a special share in POL. As such, the Articles of Association required significant amendments to reflect this change in ownership. These were made on 2 April 2012 (the "**2012 Articles**").  
[POL00327612]

52. The 2012 Articles restated and supplemented the powers previously granted to POL's parent by granting rights directly to the Special Shareholder (BIS). Whilst the 2009 Articles restated the 2002 Articles regarding the provision of information to the Parent, as well as director appointments, amongst others (see paragraph 25), the 2012 Articles included (amongst others) obtaining the Special Shareholder's prior written consent for certain specified matters which were deemed a variation of the rights attaching to the Special Share - for example:

- a. The alteration of the 2012 Articles;<sup>42</sup>
- b. The issue or allotment of shares;<sup>43</sup>
- c. The appointment/removal from office of any director of the company (including the CEO);<sup>44</sup>

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<sup>42</sup> Article 11.1(A)

<sup>43</sup> Article 11.1(D)

<sup>44</sup> Article 11.1(J)

- d. The appointment or removal of any person as chairman of the company;<sup>45</sup>
- e. The approval of or agreement to or any material variation or amendment to the remuneration of a director (appointed by the Special Shareholder);<sup>46</sup>
- f. The adoption of a Strategic Plan or any material variation or amendment of a Strategic Plan previously adopted;<sup>47</sup>
- g. Save as specifically provided for in the approved Strategic Plan,<sup>48</sup> any substantial alteration in the nature of the business carried on by the Company;<sup>49</sup>
- h. Entry into or implementation of a relevant transaction which was likely to involve a commitment or liability, or payment of a sum by any member of the group of in excess of £50,000,000;<sup>50</sup>
- i. Incurring of, or entry into a commitment to incur, any borrowing by a member of the group which exceeded £75,000,000, or which was to be provided from a source other than certain specified sources.<sup>51</sup>

53. The 2012 Articles specify an approval process for obtaining the Special Shareholder's consent for any of the matters specified under article 11.1 (as set out in paragraph 52 above),<sup>52</sup> which included the Special Shareholder being

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<sup>45</sup> Article 11.1(T)

<sup>46</sup> Article 11.1(R)

<sup>47</sup> Article 11.1(K)

<sup>48</sup> POL's Board is obliged to submit a draft Strategic Plan in relation to the group for the next five years to the Special Shareholder by 31 December each year – Article 72. POL's board is also obliged to prepare and discuss quarterly progress reports in relation to the Strategic Plan and submit these to the Special Shareholder (Article 72(D) and, where the report significantly departed from the Strategic Plan, the board had to prepare a revised Strategic Plan for the remainder of the relevant financial year (Article 72(J) / (E))

<sup>49</sup> Article 11.1(L)

<sup>50</sup> Article 11.1(O)

<sup>51</sup> Article 11.1(S)

<sup>52</sup> Article 11.2

entitled to request any further information it reasonably required, as well as an extension of time in which to consider the request.

54. Under the 2012 Articles the Special Shareholder was entitled to request any information from POL that it considered necessary or desirable and POL was obliged to promptly comply with the request to the extent that it had the information or could reasonably obtain it.<sup>53</sup> In addition, POL was obliged to procure that, at the request of the Special Shareholder, any of its specified or relevant directors and senior managers met with the Special Shareholder (or its representatives) to discuss the affairs of the group (or any member of the group). POL was obliged to release the directors and managers from any duty of confidentiality owed to POL for the purposes of such discussions.<sup>54</sup>

55. POL's board was obliged to give the Special Shareholder written notice prior to taking any decision on a Relevant Issue (defined as, amongst other things, as an issue that had not been set out in the approved Strategic Plan which could have a material adverse effect on the business).<sup>55</sup>

56. POL's Articles of Association were further amended on 12 September 2013 (the "**2013 Articles**") [*POL00327613*]. However, the 2013 Articles substantially reproduced all the provisions cited above from the 2012 Articles, with necessary changes to reflect the privatisation of Royal Mail.

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<sup>53</sup> Article 12(A)

<sup>54</sup> Article 12(B)

<sup>55</sup> Article 13

57. For changes made to the 2013 Articles in 2020, please refer to the Second Witness Statement in response to Request No. 49.

### **E2 POL Board and Executive Governance 2012 - 2020**

58. Following the separation from Royal Mail, POL established a Board of Directors with no Royal Mail directors included in the composition and four permanent Board sub-committees (Audit, Risk and Compliance; Nominations; Remuneration and Pensions).

59. A paper dated April 2012 from the Legal and Compliance Director (“GC”)<sup>56</sup> states that *“as a consequence of this separation it is necessary to establish POL with standalone corporate governance processes.”* The paper is to *“inform the Leadership Team of the new Governance structure and delegated authorities to enable us to work effectively with our Board and our shareholder, the government Shareholder Executive (ShEx)...To ensure the business can operate on a stand alone basis it was required to establish an independent Post Office Board with appropriate sub-committees. This will deliver transparent decision making and robust oversight with clear delegated authorities. The POL Board will also take responsibility for oversight of risk.”*

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<sup>56</sup> POL document – Post Office Leadership Meeting Update; POL Governance [POL00362126]

60. The delegated authorities as agreed by the Board were appended to the GC's paper.<sup>57</sup> These reflected the requirement in the 2012 Articles for the ShEx's consent for planned spend over £50m<sup>58</sup>. The Board had authority for spend between £20-£50m, the Executive Team £5-£20m, the CFO £1-£5m and management directors less than £1m. Each threshold was also subject to a maximum number of approvals per year (3-4 for Board, 10 for the Executive, 20 for the CFO and 50 for management directors).

61. This is further emphasised in the POL Board Terms of Reference dated January 2013 [POL00362127], where the introduction reads as follows:

*"The Board of Post Office Limited is collectively responsible for setting the Company's primary business objectives, for establishing a proper governance framework to manage and monitor risk and for ensuring that the Company has the resources and leadership required to achieve its stated objectives. Directors' statutory duties are set out in the Companies Act 2006. The primary duty of the directors is to promote the success of Post Office Limited as a Company for the benefit of its Government shareholder and the wider stakeholder community.*

*The Board remains accountable for performance to the Shareholder Executive within the Department for Business, Innovation & Skills ("ShEx"). The Board is required to notify ShEx of certain activities and capital commitments and to seek*

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<sup>57</sup> Appendix B - POL document – Post Office Leadership Meeting Update; POL Governance [POL00362125]

<sup>58</sup> Article 11.1(O)

*the consent of ShEx, as Shareholder, for certain actions, as set out in the Articles of Association.”*

62. In addition, Section D sets out Matters Reserved for Board Decision, which is then broken into the following sub-sections (with an acknowledgment that some elements can be delegated *“to a Board sub-committee to bring forward a recommendation for approval or to complete a project or task on behalf of the Board<sup>59</sup>”*): (i) Strategy and management; (ii) Ownership, capital structure and constitution; (iii) Financial reporting and controls; (iv) Financial commitments; (v) Appointments and Senior Remuneration; and (vi) Governance. Under the sub-section on Governance, it is noted that the Board has responsibility for, amongst others:

- a. Ensuring delivery of the obligations on the Post Office set by the Postal Services Act 2011, including the publication of an annual Network Report and Postal Heritage Report;*
- b. Approval of the Group’s overall corporate governance arrangements;*
- c. Performance evaluation of the Board, Board Sub-Committees and individual Board members (or confirmation of why this has not occurred);*
- d. Approval of Group policies including, but not limited to, the Health and Safety Policy, Anti Money Laundering Policy, Freedom of Information Policy, Whistle-Blowing policy and/or Code of Conduct and Anti-Corruption Policy;*

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<sup>59</sup> For example – (a) *“Consideration of any recommendations for major changes to the Group’s ownership and/or control structure (Mutualisation Committee)”*; (b) *“Ensuring that an effective risk management system is maintained as part of a sound system of internal controls and internal risk management (ARC)”*; (c) *“Determination of the appropriate investment strategy for Post Office pension funds and monitoring of performance by the investment managers (Pension Committee)”*; (d) *“Recommendation of the appointment of any person as a Director (Nominations Committee)”*; and (e) *“Approval of any annual bonus schemes involving participation by Directors (Remuneration Committee)”*

- e. Approval of the overall levels of insurance for the Group, including directors' and officers' liability insurance and any arrangements for indemnity of directors;*
- f. Decisions on the potential prosecution, defence or settlement of litigation involving potential costs of more than £1m or being otherwise material to the interests of the Group.*

63. In the Board materials for the meeting of 23 January 2013 [POL00027557], there is a Corporate Governance Review Pack which contains the following:

- a. An analysis of Post Office's compliance with the UK Corporate Governance Code – this paper looks at areas in which POL “cannot, or does not currently, comply with the detailed provisions of the UK Corporate Governance Code”, noting that “there is no statutory obligation on the Post Office to “comply or explain”, as listed companies must do in their annual reports, but best practice would be for the Chairman to comment within the Annual Report and Accounts on how Post Office has implemented corporate governance principles in the year under review.”*
- b. Terms of Reference for the Post Office Board, including a Schedule of Matters reserved for Board decision – see paragraph 62 above;*
- c. Terms of reference for the Audit, Risk and Compliance, Pension and Nominations Committees (revised Terms of Reference have not been included for the Mutualisation Committee as, in practice, all Board members have contributed to the discussions on mutualisation and are considered likely to continue to do so) it being noted that “revisions follow the recommendations of the Institute of Chartered Secretaries and Administrators and the new*

*formats will be very familiar to those used to looking at corporate governance documents on listed company websites”;*

- d. A paper setting out the respective authorities of the Board, ExCo and the Remuneration Committee relating to remuneration decisions, which also contains the Terms of Reference for the Remuneration Committee;*
- e. A draft “roles and responsibilities” paper which confirms the separation of powers of the Chairman and the Chief Executive – noting that the Chair is responsible for leading “the Board as an effective decision-making body, collectively responsible for the long term success and sustainability of the Post Office...[including]...Managing the relationships with key stakeholders – in particular, understanding the priorities of the Government shareholder and communicating to the Shareholder the action being taken by the Post Office to respond to current challenges.” Whilst the CEO is responsible for “delivery of the performance targets set by the Board and for leading and inspiring the management and employees of the Post Office to achieve the actions determined by the Board as being most likely to promote the long term success of the Post Office.”*

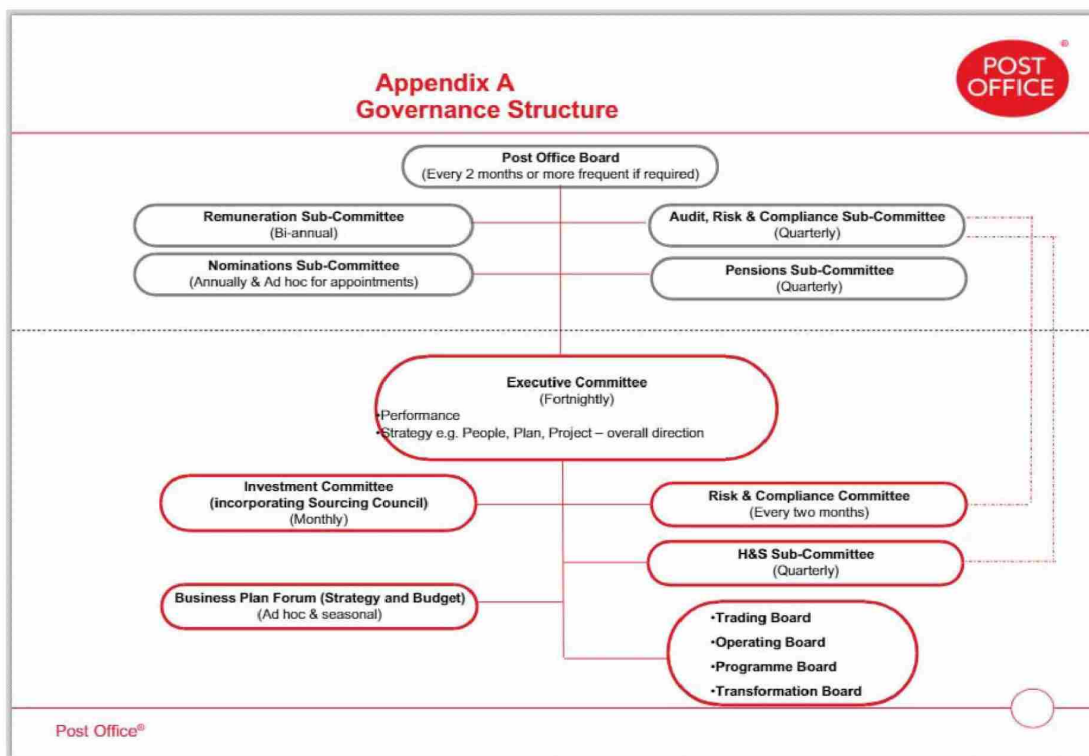
64. The Board Terms of Reference appear to have been updated in February 2015 [POL00362178]. It is noted that the sections quoted above (in paragraph 62) were unchanged, with the exception of noting the existence of the Financial Services Committee and the £1m quantum in the final bullet above regarding potential prosecution, defence or settlement of litigation is unspecified. A further version of the Board Terms of Reference, which is undated on the face of the document although the metadata contained within Relativity indicates that it is dated July

2016 [POL00362191], mentions the Financial Services Committee (it being noted that as per paragraph 83 below, the Financial Services Committee has agreed to be disbanded around the same time), but the responsibility relating to “*potential prosecution, defence or settlement of litigation*” has been deleted from the Matters Reserved under the Governance sub-section. Notwithstanding this, the Postmaster Litigation Sub-Committee was established in January 2018 – see paragraph 81(d). It appears from the draft POL Prosecution Policy dated January 2016 that delegated authority was given to the Group General Counsel in relation to decision making for potential prosecution, defence or settlement [POL00253282]. The draft POL Prosecution Policy was included within the POL Board pack for 22 January 2016 where the Board was asked to note the Prosecutions Policy and the POL Board proceeded to note this at the Board meeting of the same date [POL00363144].

65. The following diagram outlines the governance structure at POL following the 2012 separation: <sup>60</sup>

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<sup>60</sup> Appendix A - POL document – Post Office Leadership Meeting Update; POL Governance [POL00362124]



### **Board:**

66. As regards the responsibilities of the Board, these are stated as including “*setting the business’s strategic aims, putting in place the leadership to deliver them, supervising the management of the business and reporting to the Shareholder. There are a number of Board committees which deal with specific topics requiring independent oversight, including audit, risk & compliance, nominations of the Board, pensions and senior remuneration*”<sup>61</sup>.

67. As with Royal Mail in the period prior to 2012, once separated, POL’s Board regarded the UK Corporate Governance Code to be an appropriate governance

<sup>61</sup> Page 40, Post Office Limited Annual Report and Financial Statements 2012-2013 [POL00026694]

benchmark and therefore endeavoured to comply with its spirit where appropriate, and in so far as it could apply to a Government-owned entity which had no private or institutional external shareholders<sup>62</sup>.

68. The POL Annual Report and Financial Statements 2014/15 elaborates on the Board's governance roles and responsibilities as follows<sup>63</sup>:

- a. *"The Board is accountable to the Secretary of State for BIS for the performance of the Post Office and is required to notify the Shareholder of certain actions, as set out in the Articles of Association.*
- b. *The Board is also responsible for ensuring compliance with all legal and regulatory requirements, supervising the management of the business, providing constructive challenge to the Group Executive and communicating with the Shareholder. It has a Schedule of Matters reserved for its decision and has approved terms of reference for its Committees.*
- c. *The Board approved the Business Plan [in March 2014] and regularly reviews reports on performance against that Plan, together with receiving periodic business reports from senior management. Directors are briefed on matters to be discussed at Board and Committee meetings by papers distributed in advance, as well as management presentations.*
- d. *In setting the risk appetite for the PO and establishing a framework to manage and mitigate risk, the Board takes guidance from its Audit, Risk & Compliance*

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<sup>62</sup> See the Governance Section of Annual Reports over this period

<sup>63</sup> Page 37, Post Office Limited Annual Report and Financial Statements 2014/15 [POL00317841]

*Committee, to which it delegates oversight of risk management. This committee receives reports from the Group Executive's Risk & Compliance Committee and from the internal and external audit teams.*

- e. The Articles give the directors power to authorise conflicts of interest. The Board has adopted a procedure by which situations giving rise to potential conflicts of interest are identified to the Board, considered for authorisation and recorded.*
  
- f. The Board is accountable to its Shareholder and to the Post Office's large and diverse group of stakeholders. It fulfils these accountabilities through regular briefings by the Chief Executive and Chief Financial Officer to the Shareholder and by the provision of its annual report and financial statements and its mid-year interim report. Of particular importance for accountability is its identification of principal risks, their impacts and mitigations, and its assurance of the existence of sound risk management and internal control systems."*

**Main Board Committees:**

69. Each standing POL Board committee was chaired by a Non-Executive Director and operated within its own agreed, documented Terms of Reference.<sup>64</sup> As highlighted to the POL Board in its Board Pack for the meeting of 23 January 2013 (see paragraph 63 above), the Terms of Reference "*follow the recommendations of the Institute of Chartered Secretaries and Administrators*". It also appears (based on a selection of documents, without having had sight of the documents

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<sup>64</sup> Reference is made in each Annual Report to the Post Office website for the Terms of Reference.

for every year) that the respective Terms of Reference were reviewed regularly (but not annually, with some review gaps of a number of years). Taking each of the main Committees in turn, as at the start of 2013 they were described as being responsible for the following (see also POL's various Annual Reports where a summary of the core Committee's work and areas of responsibility are summarised):

***Audit, Risk & Compliance Committee ("ARC"):***

70. *"The purpose of the ARC is to assist the Board of Directors in fulfilling its fiduciary responsibilities by:*

- *Contributing an independent view on the accounting, financial control and financial reporting practices of the Company.*
- *Taking all reasonable steps to ensure accurate and informative corporate financial reporting and disclosures which meet appropriate accounting and corporate governance standards.*

*Providing oversight of the company's risk management systems, operational controls and key systems."*

71. No substantive changes appear to have been made to the ARC's Purpose during this period, with the 2020 ARC Terms of Reference referring to versions 1.1 (January 2013); 1.2 (March 2014); and 1.3 (September 2015) [POL00362236].

***Remuneration Committee ("RemCom"):***

72. I have seen Terms of Reference dated January 2013, which form part of what appears to be a Board Pack dated March 2014 [POL00201984] and which state

*“The purpose of the Remuneration Committee is to recommend to the board the remuneration strategy and any changes to individual elements of the remuneration package for executive directors of Post Office Limited, members of the Executive Committee who report directly to the Chief Executive and other significant senior level appointments with comparable remuneration, as determined by the Board. Any changes in remuneration for directors of Post Office Limited must be approved in advance by the Shareholder. The remuneration of the Chairman and of non-executive directors will be set by the Shareholder.”*

**Nominations Committee (“NomCom”):**

73. *“The purpose of the Nominations Committee is to recommend the appointment of individuals to the Board, to its sub-committees and to Executive Committee positions which report directly to the Chief Executive. The Committee will also consider and, if necessary, recommend to the Board any proposals to remove or replace individuals holding office as a Director or reporting directly to the Chief Executive. It is acknowledged that the actions of the Committee will be subject always to the Articles of Association of the Company, under which any proposal for the appointment or removal of a director of the Company requires the consent of the Shareholder.”*

74. The NomCom Terms of Reference effective from November 2015 show some changes to the Purpose of the NomCom, with the introduction of specific reference to Board sub-committees, the Group Company Secretary and the First Rate Exchange Services Holdings Limited (FRESH) Board and POL subsidiary boards [POL00362234].

**Pensions Committee:**

75. *“The purpose of the Pension Committee is to make recommendations to the Board in respect of pensions and pre-retirement risk benefits provision within the Post Office Ltd and to put into effect appropriate investment strategies for the Post Office Pension Fund...on behalf of the Board and in line with the Board’s investment beliefs.”*

76. The 2014 Terms of Reference [POL00362135] have changed *“recommendations to the Board in respect of”* to be *“to provide guidance on, oversight of and authorisation...”*

**Other Board Committees:**

77. The 2013 Annual Report also notes the establishment of the Mutualisation Sub-Committee.<sup>65</sup> Its Terms of Reference [POL00362131] set out the Purpose as being to ensure *“that the work to develop proposals of the mutualisation of POL is provided with strategic direction, has the appropriate level of stakeholder involvement and has adequate support, and that mutualisation proposals are presented to the Post Office Board and Government in line with agreed requirements.”*

78. A Board minute of 10 November 2011 [POL00021502] suggests that the Mutualisation Sub-Committee was in contemplation well before separation, with

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<sup>65</sup> Page 45, Post Office Limited Annual Report and Financial Statements 2012-2013 [POL00026694]

the Chairman agreeing to the establishment of this sub-committee, with at least one Non-Executive Director on the sub-committee with a Terms of Reference to *“scope a study from first principles of the fundamental effect of mutualisation for the Business and its governance”*. Thereafter, the 2014 Annual Report states that *“during the year, the Mutualisation Sub-Committee was taken back into the Board.”*<sup>66</sup>

79. The same Board minutes of 10 November 2011 also refer to the Eagle “Board Sub-Group” which had *“agreed a negotiation mandate on 12<sup>th</sup> October 2011 which provided the basis of a proposal subsequently tabled with the Bank of Ireland”*. The same minutes also refer to the noting of the minutes of the POL Board Health & Safety Sub Committee.

80. The 2014 Annual Report notes that during the year the Board established a Financial Services Sub-Committee to *“provide guidance on, oversight of and authorisation for the development of the Post Office’s financial services”* programmes and activities<sup>67</sup>. This is replicated in the Summary to the 2015 Terms of Reference (approved January 2014 and updated in April 2015) [POL00362174].

81. I have already noted at paragraph 38 above that there appears to have been a Board Risk and Compliance Committee established in 2004. Further examples I have been made aware of from historic document searches include the following:

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<sup>66</sup> Page 53, Post Office Limited Annual Report and Financial Statements 2013/14 [POL00026716]

<sup>67</sup> Page 55, Post Office Limited Annual Report and Financial Statements 2013/14 [POL00026716]

- a. A document titled 'Business Case Guidelines', which appears to be from 2007,<sup>68</sup> includes as Appendix A the Terms of Reference for the POL Investment Committee [POL00363136]. The Terms of Reference provide: *'The Investment Committee members will be the members of the POL ET plus representatives from Group Investment Appraisal and Legal Services. The Committee will be chaired by Alan Cook.'* They further list the items the Investment Committee was required to approve, including for example budgeted investments or one-off spends of more than £250,000, commercial contracts, new products, and any increases in headcount.
- b. Board minutes of 26 March 2014 [POL00021523] state *"The Board agreed to set up a Sparrow Board Sub Committee which the Chairman would Chair and would involve the CEO, Alasdair Marnoch (Chairman of the Audit Committee) and Richard Callard. Other NEDs were invited if they wished to join."* The minutes note that the *"CEO reminded the Board of the background to Sparrow and the Initial Complaint Review and Mediation Scheme."* The March 2014 Terms of Reference [POL00304800] confirm that *"the purpose of the Committee is to make recommendations to the Board in respect of Project Sparrow and provide strategic oversight of the delivery of the project and the development of the Initial Complaints Review and Mediation Scheme."* It was made up of at least three members, including at least one independent non-executive director and the Chairman.

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<sup>68</sup> I base this understanding upon the metadata for this document which indicates a date of 11 June 2007 and the reference on p5 of the document to a 2007-08 document file.

- c. The POL governance structure chart from 2014 in paragraph 89 refers to a Post Office Advisory Council having a dotted line report into the POL Board.
- d. Board minutes of 29 January 2018 [POL00021553] state that: *“The Board NOTED the update [on Postmaster Litigation] and RESOLVED to establish a sub-committee for the purposes of monitoring the development in and strategy for the litigation. The members of that sub-committee would be the Chairman, Ken McCall and Tom Cooper (once appointed as a director, also being the Shareholder Representative). JM was requested to provide the committee members with details of the key dates mandated by the Court so that appropriate time could be scheduled for the sub-committee to be briefed.”* This committee was called the Postmaster Litigation Sub-Committee. The Terms of Reference of the Postmaster Litigation Sub-Committee include the Group Chief Executive and Chief Finance & Operating Officer as members in addition to those above. The Committee was *“established to receive legal advice on the Post Office’s Defence in the Group Litigation as it proceed[ed] to final resolution.”<sup>69</sup>* It is understood that the Postmaster Litigation Sub-Committee was replaced in 2020 by the CCRC (Criminal Cases Review Commission Board Committee).
- e. In addition, documents reviewed in preparing this witness statement contain reference to a number of further historic Board sub-committees. These include:

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<sup>69</sup> Terms of Reference of the Postmaster Litigation Sub-Committee [POL00280346]

- i. Health and Safety Sub-Committee (November 2008 and February 2009);
- ii. the Annual and Interim Report Sub-Committee (from June 2011 to July 2015);
- iii. the RMG Sister Sub-Committee (March 2012);
- iv. the Funding Sub-Committee (November 2013);
- v. the Annual Report and Accounts Sub-Committee;
- vi. the Credit Card Sub-Committee (January and February 2019);, and
- vii. the Panther Sub-Committee (May 2018 only). I understand that this project related to bill payments.

Based on my current understanding of the above committees, the subject matter of the committees was not related to a matter of interest to the Inquiry as outlined in the Terms of Reference and/or the Completed List of Issues.

82. The 2015 Annual Report has the following diagram setting out the Board Committees, information flows and their interplay with the business for the purposes of governance as at March 2015:<sup>70</sup>

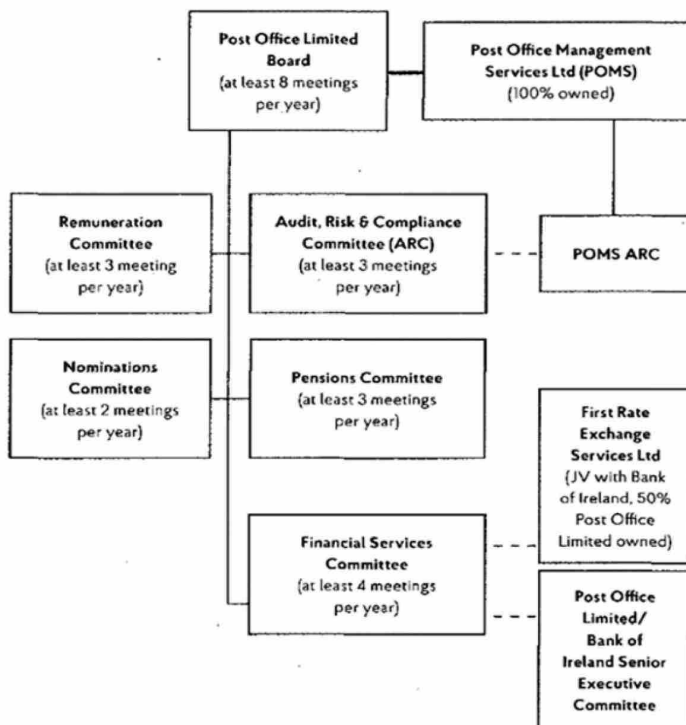
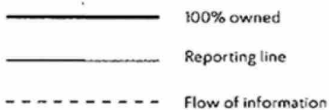
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<sup>70</sup> Page 38, Post Office Limited Annual Report and Financial Statements 2014/15 [POL00317841]

## Board committees

To assist in the execution of its corporate governance responsibilities, the Board has established a governance structure which includes the following committees: Audit, Risk and Compliance; Financial Services; Nominations; Pensions; and Remuneration.

The Board delegates certain authorities to its Committees, according to their respective Terms of Reference.



83. The 2016 Annual Report notes that “during 2015/16 the Board reviewed its committee structure. The proposals resulting from this review were to dissolve two committees: Financial Services and Pensions. Following dissolution financial services and pensions risk is now considered by the Audit, Risk and Compliance Committee (ARC) as part of a consolidated risk approach. In considering the implementation of these changes, the Board reviewed and revised the ARC’s terms of reference and membership to ensure that members had sufficient expertise and experience, particularly in financial services. A formal arrangement was also put in place for the POMS ARC to report into the Post Office ARC”<sup>71</sup>. The Board subsequently maintained the three committees of ARC, RemCom and NomCom for the remainder of the Relevant Period.

<sup>71</sup> Page 20, Post Office Limited Annual Report and Financial Statements 2015/16

84. The funding arrangements that were in place for POL could be seen as an additional layer of governance during the Relevant Period. For example, BIS previously gave POL instructions via an 'Entrustment Letter' as a form of compliance with the EU's legislative requirements on State Aid – although these are no longer used, I have seen a number of historic versions.<sup>72</sup> POL's current Funding Agreement (which I will address in my second statement) superseded these Entrustment Letters. The Entrustment Letters contained legally binding overarching ministerial instructions entrusting POL with the provision of services of general economic interest and in public service. For example, the Entrustment Letters contained instruction to meet certain access requirements (with annexes which specified these requirements in further detail <sup>73</sup>), including to ensure that most of the UK population be within a relatively short distance from a Post Office outlet. The Entrustment Letter operated together with POL's Funding Agreement, which also specifies POL's obligations to the Secretary of State to provide services of general economic interest. The most recent version of an Entrustment Letter I have sighted is dated 16 April 2018.<sup>74</sup>

***Executive Committee:***

85. The Executive Committee (“**ExCo**”) is described as being *“the most senior management body and is made up of the Chief Executive and each of her direct*

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<sup>72</sup> 28 March 2006 [POL00362922], 31 January 2007 (unsighted), 8 November 2007 (unsighted), 24 March 2010 [POL00362924], 25 October 2010 [POL00362108], 18 March 2012 [POL00362100], 25 November 2013, [POL00362169], 25 January 2015 [POL00362161], 30 March 2017 [POL00362220], and 16 April 2018 [POL00362098]

<sup>73</sup> For example, the 2018 Entrustment Letter contains two Annexes specifying the services of general economic interest to be provided by Post Office branches (such as processing benefits and identity document applications), and the contracts POL had to deliver (including the list of organisations POL had entered into contracts with)

<sup>74</sup> I have also seen older versions of the Funding Agreement dated 24 March 2010 [POL00362247], 25 October 2010 [POL00362107], 26 November 2013 [POL00362099], and 27 January 2015 [POL00362162]

*reports supported by some business unit heads who report to members of the Executive Committee. The ExCo works within the delegated authorities established by the Board. The ExCo implements the strategy agreed by the Board and monitors business performance and development at a day-to-day level*<sup>75</sup>. It is also worth noting that the CEO, CFO and Company Secretary attended both Board and ExCo meetings, which *“facilitates and strengthens the communication channels between the senior leadership team and the Board and its committees.”*(See footnote 91 for the source)

86. The ExCo Terms of Reference of February 2015 [POL00362165] highlight that it is *“not a sub-committee of the Board but forms the most senior leadership team which is accountable to the Board for the day to day operations of the Post Office. It is responsible for delivering performance measured against the corporate objectives set by the Board and agreed with its Shareholder, the Department for Business, Innovation & Skills, through its Shareholder Executive (“ShEx”).”*

87. In addition, the ExCo is responsible for *“producing the strategy and operating plans and budgets for approval by the Board and ShEx.”* The 2016 Terms of Reference [POL00362180] then add *“and delivering these plans”* to this responsibility.

88. As mentioned above, it is difficult to identify and/or validate specific operational execution of these governance parameters via documentation, including

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<sup>75</sup> Page 45, Post Office Limited Annual Report and Financial Statements 2012-2013 [POL00026694]

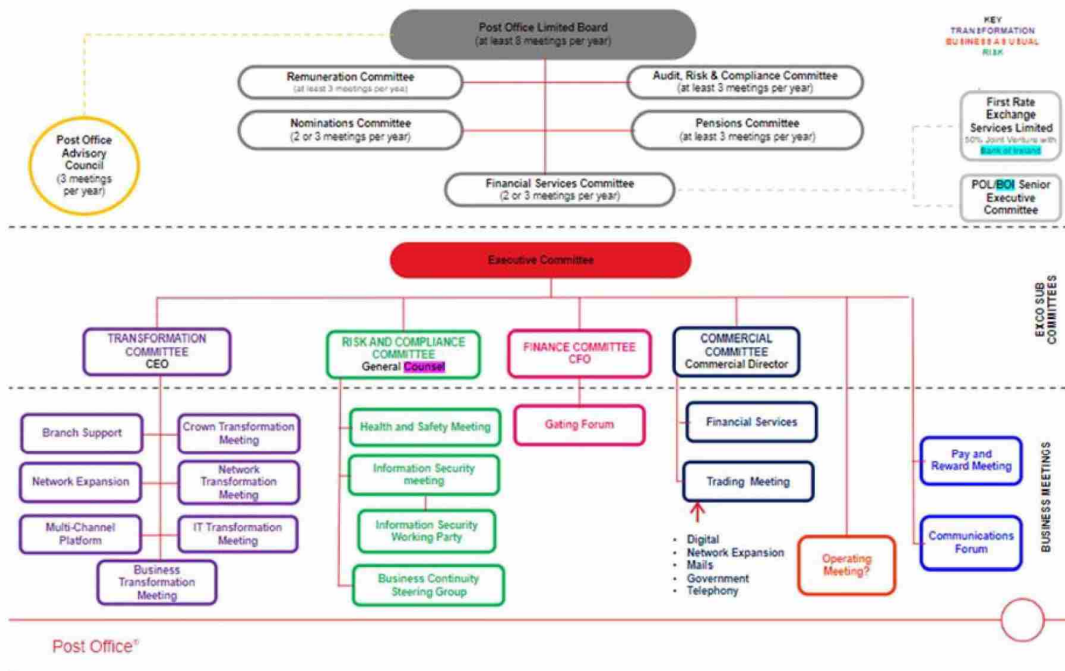
stakeholder engagement activity. One example can be seen from the Board minutes of 26 March 2014 where the *“CEO reported that she and the Chairman had had a positive meeting with Vince Cable, Secretary of State, and Jenny Willott, Minister for Employment Relations and Consumer Affairs. Richard Callard, who also attended, agreed that the positive messages had been well received”*.

89. As can be seen from the structure chart in paragraph 65, a number of Executive Committee sub-committees were proposed in preparation for separation. In addition, from the structure chart below which is understood to be from June 2014, other Executive Committee sub-committees appear to have been formed at particular points in time in order to enable the Executive Committee to *“fulfil its decision-making and oversight”*, whilst also providing *“empowerment and enabling delegated responsibility across the business”<sup>76</sup>*. Their role in the governance

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<sup>76</sup> Quotes taken from Risk and Compliance Committee meeting dated 20 March 2014, where Paper 5 outlined ExCo Sub-committees Governance Performance Review (regarding risk management and including risk as part of their decision-making process) - [POL00302864]

framework of POL is taken as read for the purposes of this Statement, without further elaboration on their terms of reference.



2014 Governance Structure <sup>77</sup>:

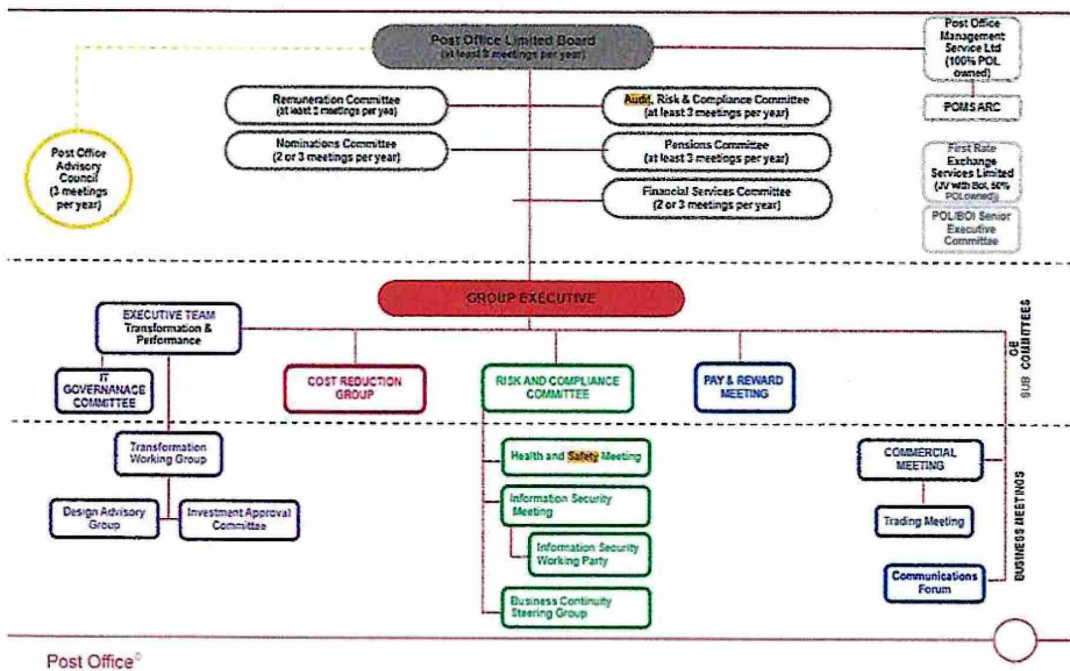
90. Additional sub-committees of the Executive Committee were set up and/or disbanded following 2012 and prior to 2020. By way of example, the 2015 Annual Report states that the “Group Executive is supported by four Committees: Transformation; Cost Reduction; Risk and Compliance; and Pay and Reward”<sup>78</sup>. This is reflected in the following POL Governance Structure chart believed to be dated February 2015<sup>79</sup>:

<sup>77</sup> POL Governance Structure chart [POL00205459]

<sup>78</sup> Page 43, Post Office Limited Annual Report and Financial Statements 2014/15 [POL00317841]

<sup>79</sup> [POL00362163]

# Post Office Limited Governance Structure



## Statement of Truth

I believe the content of this statement to be true.

Signed: **GRO**

Dated: 20 February 2024

**APPENDIX 1****PREVIOUS COMPANY NAMES****1. Postal Services Holding Company Limited**

<b><u>Name</u></b>	<b><u>Period</u></b>
<b><u>The Post Office Group plc</u></b>	<b><u>12 December 2000 – 4 January 2001</u></b>
<b><u>Consignia plc</u></b>	<b><u>4 January 2001 – 26 January 2001</u></b>
<b><u>Consignia Holdings Public Limited Company</u></b>	<b><u>26 January 2001 – 4 November 2002</u></b>
<b><u>Royal Mail Holdings PLC</u></b>	<b><u>4 November 2002 – 11 September 2013</u></b>
<b><u>Postal Services Holding Company plc</u></b>	<b><u>11 September 2013 – 12 December 2013</u></b>
<b><u>Postal Services Holding Company Limited</u></b>	<b><u>Reregistered as a private co. - 12 December 2013</u></b>

**2. Royal Mail Group Limited**

<u>Name</u>	<u>Period</u>
<u>Consignia Public Limited Company</u>	<u>29 January 2001 – 4 November 2002</u>
<u>Royal Mail Group PLC</u>	<u>4 November 2002 – 30 March 2007</u>
<u>Royal Mail Group Limited</u>	<u>Reregistered as a private co. - 20 March 2007</u>

### 3. Post Office Limited

<u>Name</u>	<u>Period</u>
<u>Post Office Counters Limited (POCL)</u>	<u>13 August 1987 – 1 October 2001</u>
<u>Post Office Limited (POL)</u>	<u>1 October 2001 – to date</u>

**Index to First Witness Statement of Rachel Scarrabelotti on behalf of Post Office Limited**

	<b><u>URN</u></b>	<b><u>Document Description</u></b>	<b><u>Control Number</u></b>
1.	POL00362143	Royal Mail Holdings plc Report and Accounts Year Ended 26 March 2006	POL-BSFF- 0190653
2.	POL00327606	Post Office Counters Ltd Memorandum and Articles of Association - 1987	POL-BSFF- 0163351
3.	POL00362929	POCL Annual Return made up until 3 June 2001	POL-BSFF- 0191018
4.	POL00362928	POL Annual Return up until 3 June 2003	POL-BSFF- 0191017
5.	POL00362155	Royal Mail Holdings plc Accounts 2002-2003	POL-BSFF- 0190665

6.	POL00026694	POL Annual Report and Financial Statements 2012-13	POL-0023335
7.	POL00362176	Postal Services Holding Company Limited Annual Report & Financial Statements Year ended 30 March 2014	POL-BSFF-0190686
8.	POL00317841	POL Annual Report and Financial Statements 2014/15	POL-BSFF-0155891
9.	POL00242920	POL Annual Report and Financial Statements 2015/16	POL-BSFF-0080983
10.	POL00362930	BIS Press Release dated 13 October 2015	POL-BSFF-0191019
11.	POL00026839	POL Annual Report and Financial Statements 2016-2017	POL-0023480

12.	POL00259704	POL Annual Report and Financial Statements 2017-2018	POL-BSFF-0097767
13.	POL00026927	POL Annual Report and Financial Statements 2018-2019	POL-0023568
14.	POL00327606	POL's Articles of Association (1987)	POL-BSFF-0163351
15.	POL00327607 POL00327608	POL's Articles of Association (2001)	POL-BSFF-0163352 POL-BSFF-0163353
16.	POL00362335	Minutes of POCL Board of Directors – 14 March 2000	POL-BSFF-0190845
17.	POL00327609	POL's Articles of Association (2002)	POL-BSFF-0163354
18.	POL00327610	POL's Articles of Association (2007)	POL-BSFF-0163355

19.	POL00327611	POL's Articles of Association (2009)	POL-BSFF- 0163356
20.	POL00362101	Company Secretary Note (November 1999)	POL-BSFF- 0190611
21.	POL00021475	Minutes of Consignia plc Board of Directors – 10 April 2001	POL0000008
22.	POL00363168	Consignia plc Executive Board paper dated September 2001	POL-BSFF- 0191170
23.	POL00362103	Consignia plc Board – Governance of POL – January 2002	POL-BSFF- 0190613
24.	POL00363132	New Product Group March 2007	POL-BSFF- 0191175
25.	POL00362149	Consignia Holding plc Accounts year ending 31 March 2002	POL-BSFF- 0190659

26.	POL00021415	Audit Committee meeting in March 2001	POL-0018045
27.	POL00363167	Minutes for POL Risk & Compliance Committee meeting - June 2004	POL-BSFF-0191189
28.	POL00362104	POL Board Paper – November 2010	POL-BSFF-0190614
29.	POL00362221	Minutes of POL Board – 3 November 2010	POL-BSFF-0190731
30.	POL00362150	Royal Mail Holdings plc Annual report year ending 27 March 2005	POL-BSFF-0190660
31.	POL00363129	Proposal for the POL Executive Committee meetings dated 12 October 2001	POL-BSFF-0191172
32.	POL00362144	Royal Mail Holdings plc Annual report year ending 28 March 2004	POL-BSFF-0190654

33.	POL00021497	Minutes of POL Board – 20 October 2008	POL0000030
34.	POL00021498	Minutes of POL Board – 20 October 2008	POL0000031
35.	POL00327612	POL's Articles of Association (2012)	POL-BSFF- 0163357
36.	POL00327613	POL's Articles of Association (2013)	POL-BSFF- 0163358
37.	POL00362126	Post Office Leadership Meeting Update Paper – 30 April 2012	POL-BSFF- 0190636
38.	POL00362125	Post Office Leadership Meeting Update Paper	POL-BSFF- 0190635
39.	POL00362127	POL Board Terms of Reference dated January 2013	POL-BSFF- 0190637
40.	POL00027557	POL Board materials for meeting of 23 January 2013	POL-0024198

41.	POL00362178	POL Board Terms of Reference dated February 2015	POL-BSFF-0190688
42.	POL00362191	POL Board Terms of Reference dated July 2016	POL-BSFF-0190701
43.	POL00363141	POL Board pack for 22 January 2016	POL-BSFF-0191184
44.	POL00363144	POL Board meeting minutes January 2016	POL-BSFF-0191187
45.	POL00362124	POL Governance Structure April 2012	POL-BSFF-0190634
46.	POL00362236	POL Audit, Risk & Compliance Committee Terms of Reference 2020	POL-BSFF-0190746
47.	POL00201984	POL Remuneration Committee Terms of Reference January 2013	POL-BSFF-0040047

48.	POL00362234	POL Nominations Committee Terms of Reference November 2015	POL-BSFF- 0190744
49.	POL00362135	POL Pensions Committee Terms of Reference 2014	POL-BSFF- 0190645
50.	POL00362131	POL Mutualisation Committee Terms of Reference 2013	POL-BSFF- 0190641
51.	POL00021502	Minutes of POL Board dated 10 November 2011	POL0000035
52.	POL00026716	POL Annual Report and Financial Statements 2013/14	POL-0023357
53.	POL00363136	Business Case Guidelines 2007	POL-BSFF- 0191179
54.	POL00362174	Financial Services Sub- Committee Terms of Reference April 2015	POL-BSFF- 0190684

55.	POL00021523	Minutes of POL Board dated 26 March 2014	POL0000056
56.	POL00304800	Sparrow Sub-Committee Terms of Reference March 2014	POL-BSFF- 0142850
57.	POL00021553	Minutes of POL Board dated 29 January 2018	POL0000086
58.	POL00280346	POL Postmaster Litigation Sub-Committee Terms of Reference October 2015	POL-BSFF- 0118409
59.	POL00362922	Entrustment Letter dated 28 March 2006	POL-BSFF- 0191011
60.	POL00362924	Entrustment Letter dated 24 March 2010	POL-BSFF- 0191013
61.	POL00362108	Entrustment Letter dated 25 October 2010	POL-BSFF- 0190618
62.	POL00362100	Entrustment Letter dated 18 March 2012	POL-BSFF- 0190610

63.	POL00362169	Entrustment Letter dated 25 November 2013	POL-BSFF- 0190679
64.	POL00026694	Entrustment Letter dated 25 January 2015	POL-0023335
65.	POL00362220	Entrustment Letter dated 30 March 2017	POL-BSFF- 0190730
66.	POL00362098	Entrustment Letter dated 16 April 2018	POL-BSFF- 0190608
67.	POL00362247	Funding Agreement dated 24 March 2010	POL-BSFF- 0190757
68.	POL00362107	Funding Agreement dated 25 October 2010	POL-BSFF- 0190617
69.	POL00362099	Funding Agreement dated 26 November 2013	POL-BSFF- 0190609
70.	POL00362162	Funding Agreement dated 27 January 2015	POL-BSFF- 0190672

71.	POL00362165	Executive Committee Terms of Reference February 2015	POL-BSFF-0190675
72.	POL00362180	Executive Committee Terms of Reference 2016	POL-BSFF-0190690
73.	POL00302864	Paper of Risk and Compliance Committee dated 20 March 2014	POL-BSFF-0140914
74.	POL00205459	POL Governance Structure 2014	POL-BSFF-0043522
75.	POL00362163	POL Governance Structure as at February 2015	POL-BSFF-0190673
76.	POL00363131	Royal Mail Group Board Minutes December 2002	POL-BSFF-0191174
77.	POL00253282	Prosecution Policy January 2016	POL-BSFF-0091345