

UK Government
InvestmentsDepartment for
Business, Energy
& Industrial Strategy

Date: 17 July 2019
 Director General: Mark Russell
 Lead Official: Stephen Clarke / Tom Aldred
 Lead Official Telephone: **GRO**

Recipient	To Note / Comment	To Approve / Decide
Kelly Tolhurst	X	
Special Advisors	X	
Permanent Secretary	X	

OFFICIAL SENSITIVE
POST OFFICE FRAMEWORK DOCUMENT: INFORMATION-SHARING PROVISIONS

Summary

1. You asked for us to bolster information-sharing arrangements with Post Office Ltd (POL). We are implementing this through a new Framework Document that will also govern the wider relationship between Shareholder and company. The draft information-sharing provisions are attached (*Annex A – Information Sharing Provisions*). These work in tandem with POL's Articles of Association to give the Shareholder far-reaching powers to request information on any subject and to oblige POL to report periodically on financial, strategic, branch and litigation issues as well as proactively to share information on key strategic or policy issues with the shareholder. These provisions have not yet been agreed with POL.

Timing

2. Routine. We will continue to work with POL to finalise the Framework Document prior to the end of the parliamentary recess period.

Recommendation

3. We recommend that you note the contents of this submission and the draft information-sharing provisions to be included in the Framework Agreement.

Background

4. In response to your concerns over the flow of information from POL to BEIS, we are working with POL to bolster current information-sharing and reporting arrangements. A Framework Document, which all Partner organisations are required to have anyway to define and govern the relationship between company and Shareholder, is the appropriate vehicle for delivering these improvements. We will also work with both POL and your office to ensure that these enhanced information-sharing arrangements operate effectively in practice.
5. Historically, POL's governance framework has consisted primarily of: its Articles of Association; the Entrustment Letter, which is an overarching ministerial instruction entrusting POL with the provision of certain services of general economic interest across a branch network that meets minimum national access criteria; the Funding Agreement, governing the use of BEIS funding for the period 2018 to 2021; and the oversight exercised by the Shareholder Representative NED on POL's board.

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6. POL has never had a Framework Document, which has left some governance gaps and a lack of clarity over POL's information-sharing obligations. The new Framework Document will address this by formalising and timetabling good governance practices such as board effectiveness reviews, chair appraisals, chair letters, shareholder meetings and CEO accountability arrangements, as well as bolstering information-sharing. POL's Framework Document will follow the approach set out in HM Treasury's Managing Public Money (MPM), which states that for corporates like POL it should be "adapted to suit the corporate context while delivering public sector disciplines". The Framework Document will also be consistent with POL's wider governance framework and its new corporate structure.

New information-sharing provisions in the Framework Document

7. We have drafted information-sharing provisions for inclusion in the Framework Document (*Annex A – Information Sharing Provisions*). These provisions work in tandem with POL's Articles of Association to give the Shareholder far-reaching powers to request information on any subject and to oblige POL to report periodically on financial, strategic, branch and litigation issues as well as proactively share information on key strategic or policy issues with the Shareholder. It is worth highlighting:
 - **The Shareholder's wide-ranging right to information (Paragraph 14.1):** the Framework Document reinforces the Shareholder's legal right under the Articles of Association to "request such information in relation to the affairs of the group... as it may consider necessary or desirable". The Framework Document makes clear that the Shareholder (BEIS) may either make such requests itself or via its representative (UKGI) and use this information as needed provided that due care is taken.
 - **The onus on POL to proactively share information on key strategic or policy issues with the Shareholder (Paragraph 14.1).** We have inserted this into the Framework Document following your request to strengthen information-sharing.
 - **POL's obligations to report to the Shareholder (Paragraph 15):** POL is obliged to report quarterly on: its performance against the targets and budgets set out in its Strategic Plan; the performance of its branch network against the service and branch access requirements set out in the Entrustment Letter; any active litigation and any threatened or reasonably anticipated litigation.
 - **Specific information-sharing protocols for litigation cases (Paragraph 16):** for any substantial piece of litigation involving POL, the Shareholder and POL commit to agreeing a litigation protocol to ensure the flow of information to the Shareholder while safeguarding POL's legally privileged information. Such a protocol is already in place for the ongoing group litigation *Alan Bates and Others v Post Office Limited* (*Annex B – Group Litigation Protocol*). POL and UKGI Legal have just agreed a new protocol for an employment tribunal case under which postmasters are claiming worker status (*Annex C – Worker Status Litigation Protocol*).
 - **Freedom of information (Paragraph 16):** the Framework Document also covers how information will be handled in respect of Freedom of Information requests, making clear that requests of BEIS or UKGI may also cover information held by POL. POL can make representations where it feels that its interests might be prejudiced by disclosure but BEIS and UKGI retain sole discretion on whether to disclose information.



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Next steps

8. The final version of the Framework Document, including the information sharing provisions attached to this submission, will be submitted for Shareholder and HM Treasury approval once POL's Board has approved it.

Contributors

9. BEIS Post Office Policy Team have been consulted on this submission. This advice does not have parliamentary handling implications.

Annexes

- A. Information-sharing provisions in Framework Document.
- B. Group Litigation Protocol.
- C. Worker Status Litigation Protocol.