



Department for Business, Energy & Industrial Strategy

Advanced Manufacturing and Services
Department for Business, Energy &
Industrial Strategy
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04 September 2020

Dear Ms Shaikh,

Thank you for contacting the Department for Business Energy and Industrial Strategy (BEIS) regarding Post Office Limited (POL), governance arrangements between BEIS, UKGI and POL and the Horizon litigation. We have dealt with your 20 requests under the Freedom of Information Act 2000 (the Act). These are detailed in the Annex to this letter.

Unfortunately, the Department is unable to comply with your requests.

Under the Act you have the right to see *recorded information* held by public authorities – that is information recorded in any form e.g. documents. It does not cover the creation of new information or enquiries such as "please explain your policy on x" or "please explain your decision to do y". A number of your requests are not requesting recorded information. For further guidance please see - <https://ico.org.uk/for-organisations/guide-to-freedom-of-information/what-is-the-foi-act/>

In addition, Section 12 of the Act relieves public authorities of the duty to comply with a request for information if the cost of dealing with it would exceed the appropriate limit.

Section 12(1) of the Act provides that "*Section 1(1) [general right of access to information held by public authorities] does not oblige a public authority to comply with a request for information if the authority estimates that the cost of complying with the request would exceed the appropriate limit*". The appropriate limit for central Government is set at £600. This represents the estimated cost of one person spending 3.5 working days in determining whether the Department holds the information, and locating, retrieving and extracting it.

The Regulations provide that the costs of answering more than one request can be added together or aggregated for the purposes of estimating whether the appropriate limit would be exceeded in relation to any one of those requests in the following circumstances:

- two or more requests for information must have been made to the same public authority;
- they must be either from the same person, or from 'different persons who appear to the public authority to be acting in concert or in pursuance of a campaign';
- the requests must relate to the same or similar information;

- they must have been received by the public authority within a space of 60 consecutive working days.

We consider that your requests fall within these circumstances, and therefore they can be aggregated. In particular, we consider that your requests relate to the same or similar information; that is information relating to POL, the Horizon court case and communication about the court case between Government Departments.

We are satisfied that the estimated costs of complying with your requests would exceed the applicable limit of £600. In considering what the estimated costs would be we have, for example, noted that some of your requests would require us to search through significant amounts of information to establish whether or not the specific information you have requested is included in the information we hold. In these circumstances we are not prepared to comply with your requests.

Under Section 16 of the Act, BEIS is obliged to provide advice and assistance to prevent your request from exceeding the cost limit noted above. Where you have requested recorded information, a number of these requests cover a number of years and request multiple documents from different sources. We advise that you prioritise the top one or two requests, along with narrowing down the time period in question and requesting specific documents. It is also worth noting that, multiple requests within a single item of correspondence are separate requests for the purpose of section 12 of the Act. You should therefore only make one or two requests per correspondence, consider prioritising the top one or two requests and narrowing down the time period in question. Finally, we should also advise that a refined request may continue to engage the cost limit under the Act, because there is no central repository housing all potential information held by BEIS relevant to your requests.

Appeals procedure

If you are dissatisfied with the handling of your request, you have the right to ask for an internal review. Internal review requests should be submitted within two months of the date of receipt of the response to your original request and should be addressed to the Information Rights & Records Unit. It would be helpful if you can tell us why you are dissatisfied with the response to your request so we may address this during the internal review.

Information Rights & Records Unit
Department for Business, Energy and Industrial Strategy
151 Buckingham Palace Road
London SW1W 9SZ
Email: FOI.Requests@beis.gov.uk

Please remember to quote the reference number above in any future communications.

If you are not content with the outcome of the internal review, you have the right to apply directly to the Information Commissioner for a decision. Complaints can be made to the Information Commissioner via their website at <https://ico.org.uk/make-a-complaint/official-information-concerns-report/official-information-concern/>.

Yours sincerely,

Advanced Manufacturing and Services

Number & BEIS Ref. No.	Date Received	Request
1. FOI2020/27669	10/08/2020	<p>As part of its inquiry into the Post Office and Horizon, the Chair of the BEIS Select Committee asked its former CEO, Paula Vennells, for information concerning the involvement of UKGI officials in discussions about Horizon at Board level. In her letter of response (24th June 2020) Ms Vennells, stated:</p> <p>The UKGI directors were fully engaged in the discussions...The present UKGI incumbent director...was fully engaged on the Board, sub- committee and with ministers and lawyers at BEIS' (p17, para 60 in response to Question 16).</p> <p>i) Please can you confirm the identity of the law firm who were involved on behalf of BEIS with which the UKGI POL representative was 'fully engaged'.</p> <p>ii) Please can you confirm if a representative from this law firm gave advice or was involved in discussions which led to POL's application to recuse Mr Justice Fraser on 21st March 2019?</p> <p>iii) Please can you confirm if a representative from this law firm gave advice or was involved in discussions which led to POL's appeal against the Judge's refusal to recuse himself delivered by POL on 9th April 2019.</p> <p>iv) Did any lawyer representing the Department for BEIS attend any meetings of the POL GLO sub-Committee from the time of its inauguration in March 2018 until the conclusion of the litigation in December 2019?"</p>
2. FOI2020/28016	10/08/2020	<p>i) Please can you disclose the total legal costs to the Department for BEIS which were incurred during, and as a result of, POL's Horizon Litigation? Please can you also breakdown into expenditure per tax year?</p> <p>ii) Please differentiate between costs incurred by BEIS's legal department and those incurred as a result of engaging external specialist legal advice."</p>
3. FOI2020/28519	17/08/2020	<p>In a written response to Lord Arbuthnot on 6th July 2020 , BEIS's Parliamentary Under-Secretary, Lord Callanan made the following comment:</p> <p>'Following the Common Issues Judgment in March 2019, POL advised Ministers that it intended to change its approach to the litigation. This included changes to the POL legal team and strategy...'</p> <p>i) Please can you release correspondence and/or minutes of meetings in which POL advised the Department for BEIS and/or its UKGI representatives of the aforesaid change in legal strategy after the Common Issues Judgement of March 2019?</p> <p>ii) Please can you release correspondence and/or minutes of meetings in which the Department for BEIS and/or its UKGI representative responded to POL's information regarding the change in its legal team and strategy as a result of the Common Issues Judgement?</p>
4. FOI2020/28523	17/08/2020	<p>i) Was a Ministerial Direction ever sought by the BEIS's Accounting Officer regarding regularity, propriety, value for money or feasibility in respect of spending incurred by Post Office during its High Court Horizon Litigation?</p> <p>ii) Please can you disclose whether in response a Ministerial Direction was issued by the Department for BEIS or by the Cabinet Office in relation to spending incurred by Post Office Limited during its High Court Horizon Litigation?</p> <p>iii) If so, please can you disclose correspondence detailing the grounds on which the request was made and reasons for whether or not it was granted.</p>

5. FOI2020/28527	17/08/2020	<p>With regard to POL's Horizon controversy, it has been reported that the Department for BEIS's decision to conduct a review (as opposed to a judicial inquiry), and the terms of that review, were agreed after communications between the Department and No 10. (See link below).</p> <p>Please can you release correspondence between the Department for BEIS and No 10 in which this decision was considered and agreed?</p>
6. FOI2020/28530	17/08/2020	<p>According to BEIS's 2016-17 Annual Report:</p> <p>'The Department's senior management and governance structures have an up-to-date view on POs' [Partner Organisations'] risks and performance through close working between the Portfolio Office and the Partnerships Team. All POs provide regular assurance assessments that are reviewed internally, with relevant issues escalated through the Performance and Risk Challenge Panel, the Performance, Finance and Risk Committee and the Audit and Risk Assurance Committee' (BEIS Annual Report 2016-17, p68).</p> <p>i) Please can you confirm if and when the financial/reputational/strategic risks posed by Post Office's Group Litigation were escalated to BEIS's Performance and Risk Challenge Panel?</p> <p>ii) Please can you confirm if/when the financial/reputational/ strategic risks posed by Post Office's Group Litigation were escalated to BEIS's Finance and Risk Committee?</p> <p>iii) Please can you confirm if/when the financial/reputational/ strategic risks posed by Post Office's Group Litigation were escalated to BEIS's Audit and Risk Assurance Committee?</p>
7. FOI2020/28532	17/08/2020	<p>i) Please can you confirm if/when the financial/reputational/ strategic risks posed by POL's Horizon High Court Litigation were escalated to the Executive Committee chaired by the BEIS Accounting Officer, Alex Chisholm?</p> <p>ii) Please can you confirm if/when the risk of Post Office's Horizon High Court Litigation were escalated to the BEIS Board? Is the current status of Post Office Limited currently regarded as High Risk by the BEIS Board with regard to its Historical Shortfall Scheme, investigations into over 900 previous prosecutions related to potentially flawed Horizon evidence and active litigation at the Appeals Court?</p> <p>iii) When was the BEIS Advisory Legal Team (or Government Legal Department when the BEIS Advisory Legal Team was transferred) first consulted with regard to the POL Horizon High Court Litigation? Does the Government Legal Department currently have active involvement in Post Office's activities regarding the Horizon Litigation?</p>
8. FOI2020/28533	17/08/2020	<p>In its 2017-18 Annual Report, BEIS acknowledges the 'Limited' GIAA rating it received the previous year with regard to its framework of governance, risk management and control.</p> <p>[A 'Limited' assurance rating is defined as having 'significant weaknesses in the framework of governance, risk management and control such that it could be or could become inadequate and ineffective'. See here, p66, para 9 and ref 17 at bottom of page)].</p> <p>In the 2017-18 Annual Report BEIS goes on to identify remedial action for improvements include a focus on increasing consistency of risk management and on partner organisation relations. These include the introduction of systems to 'improve the line of sight into partner organisations' and a 'new methodology to engage and work with partner organisations' (As above, p72, para 2 & 8).</p>

		<p>i) Please can you release information which indicates whether BEIS's relationship with Post Office Limited or UKGI was identified in the 2016-17, or subsequent, GIAA audits as needing improvement?</p> <p>ii) Please can you release documentation which details systems which were implemented to improve the 'line of sight' into Post Office Limited or UKGI in response to GIAA recommendations?</p>
9. FOI2020/28535	17/08/2020	<p>The 2016-17 BEIS Annual Report cites an internal audit recommendation that improvements would be gained from 'developing the relationship model to reinforce the lines of accountability so that there is clear authority to take action when required; and ensuring framework documents, memoranda of understanding and similar documents are up-to-date, accurate and reviewed regularly' (see pg 67, para 5).</p> <p>i) Please can you confirm whether any internal audit, GIAA or otherwise, identified Post Office Limited or UKGI as entities which lacked a Framework Document/Memorandum of Understanding with BEIS?</p> <p>ii) What actions were suggested as a result and when were they implemented?</p>
10. FOI2020/28537	17/08/2020	<p>According to the Department for BEIS's Audit & Risk Assurance Committee Terms of Reference (p3):</p> <p>'The Committee will, in consultation with the Department's Accounting Officer and the Directors of Finance and Commercial, establish appropriate arrangements to identify the Arm's Length Bodies and Partner Organisations with the greatest potential to impact the Department's objectives and its consolidated financial statements'.</p> <p>i) When and how regularly did BEIS's Audit & Risk Assurance Committee engage directly with POL or with UKGI to assess the control environments, risk management framework and escalation practices at POL with regard to its Horizon issues?</p> <p>ii) Was a higher level of scrutiny exercised by this Committee, in consultation with the Department's Accounting Officer, in response to the publication of a report by Forensic Investigators Second Sight in April 2015 or by the announcement of the Group Litigation Order v POL in March 2017?</p> <p>iii) How regularly were reports from POL's Group Litigation Subcommittee delivered directly, or via UKGI, to BEIS's Audit & Risk Assurance Committee?</p>
11. FOI2020/28538	18/08/2020	<p>During its High Court Horizon Litigation, Judge Fraser originally asked POL to report its legal costs to the Court at £250k intervals, but POL costs rose so rapidly he had to adjust the reporting interval to £500k:</p> <p>At what intervals was it decided that POL would report its legal costs to BEIS/UKGI and was this reporting interval ever adjusted to accommodate the high rate of expenditure?</p>
12. FOI2020/28604	19/08/2020	<p>Subsequent to its oral evidence session of 3rd February 2015 regarding the Post Office Mediation Scheme and Horizon IT system, the BIS Committee Chair wrote to the department's Secretary of State. Recommendations of the Committee included:</p> <p>'We believe that your Department should have a copy of Second Sight's final thematic report on the operation of the Horizon system...It is my understanding that, now their investigations have concluded, Second Sight are expected to destroy the documents they hold following their investigations. In PMQs on 11th March, the Prime Minister recognised that this was a potentially serious issue. IN ORDER TO ENSURE AN EFFECTIVE AUDIT TRAIL IS MAINTAINED, COPIES OF THESE DOCUMENTS SHOULD BE LODGED WITH BIS IN CASE THEY</p>

		<p>ARE NEEDED IN FUTURE'</p> <p>(Emphasis in original letter of 17th March 2015, p2)</p> <p>i) Please can you reveal if a copy of Second Sight's final report was retained by the department?</p> <p>ii) Does the department still hold the report and if not, when was it destroyed?</p>
13. FOI2020/28612	19/08/2020	<p>The Justice For Sub postmasters Alliance is to present a case to the Parliamentary Ombudsman requesting his/her investigation into the oversight of the Department for BEIS of the Post Office during its Horizon controversy.</p> <p>i) Please can you release the Retention Schedule of the Department for BEIS with regard to the retention period of information and documentation which may be pertinent to this investigation including: internal and external audit reports with supporting documents and data; risk assurance documentation, investigations and findings of irregularity; correspondence with Post Office Limited, UKGI, the Cabinet Office, HM Treasury and the Comptroller and Auditor General?</p> <p>ii) Please can you identify if this schedule covers data previously owned by the Department for BIS?</p> <p>iii) Has the Permanent Secretary of BEIS suspended the usual process of archiving and destruction of such material and if not, when will such a suspension be implemented so that any relevant evidence will not be destroyed?</p>
14. FOI2020/28744	21/08/2020	<p>In its 2012-13 Annual Report the Department for BIS announced its programme of Triennial Reviews in response to the Public Bodies Reforms designed in 2011 for a 'fit for purpose Partner Organisation landscape'.</p> <p>BIS Annual Report 2012-13, p47</p> <p>i) How many Triennial Reviews has Post Office Limited been subject to, when were they carried out?</p> <p>ii) Please can you publish their findings, in particular recommendations regarding the shareholder relationship, internal and external audit, risk management, board effectiveness, information management, risks of IT obsolescence, or Horizon issues.</p> <p>iii) What actions were implemented by the department and POL as a result of areas for improvement identified in the Triennial Reviews?</p> <p>iv) Please can you publish the Partner Organisation Assessment made by BIS of Royal Mail Holdings and/or the Post Office in 2011?</p> <p>(Annex C of the above report classifies Royal Mail Holdings, Post Office's parent company as a Partner Organisation, p277)</p> <p>(The 2012-13 Guide to BIS published by the department categorises both POL and Royal Mail as Partner Organisations, p68)</p>
15. FOI2020/28746	21/08/2020	<p>i) Please can you reveal costs to the department for the services of UKGI with respect to its shareholder management of Post Office Limited on behalf of BEIS (per financial year since its inception in 2016)?</p> <p>ii) To what VFM assessment is UKGI subject with regard to the services it provides to the department, who conducts this assessment and how regularly?</p>
16. FOI2020/29010	26/08/2020	<p>Replying to Lord Arbutnot during a 11th June 2020 Lords debate, BEIS's Parliamentary Under-Secretary of State Lord Callanan revealed the Government</p>

		<p>had been aware of, and had taken information from, forensic accountants Second Sight's investigations into Horizon:</p> <p>i) Please can you release communications, if any, between the department's Accounting Officer and POL/ShEx/UKGI in which assurance was sought as to the regularity and propriety of Post Office's General Suspense Account and multiple individual suspense accounts which were highlighted as matters of concern by Second Sight in 2015 and estimated to be in excess of £150m?</p> <p>(Second Sight Briefing Report Part Two, April 2015, p5-6, point 2.18-2.19)</p>
17. FOI2020/29158	27/08/2020	<p>i) Please can you confirm how many personnel currently make up the Post Office Policy team within BEIS?</p> <p>According to BEIS's Parliamentary Under-Secretary of State, Lord Callanan, speaking in a Lords Debate of 25th February 2020, the government has strengthened its mechanisms of oversight over POL 'including expanding the BEIS Post Office policy team that works closely with UKGI in holding the Post Office to account at an official level'.</p> <p>ii) Please can you identify when this expansion was effected?</p> <p>iii) Please can you release figures to indicate how many people made up this team in the years since it was created?</p> <p>iv) Is this the only BEIS team with responsibility for oversight of POL?</p>
18. FOI2020/29236	27/08/2020	<p>According to the BEIS Audit and Risk Committee Terms of Reference:</p> <p>'The Committee shall engage with the chairs of the corresponding committees of those high-impact organisations with a view to forming an opinion as to whether their control environments, risk management frameworks and escalation practices provide the Department with the requisite line of sight into their activities' (see Terms of Reference below, p3, 'Arm's Length Bodies/Partner Organisations').</p> <p>i) Did BEIS's Audit and Risk Committee engage with the chair of POL's Audit, Risk and Compliance Committee or with POL's Risk and Compliance Committee after the Department received the report of 2015 Second Sight which raised serious concerns over POL's Horizon IT system?</p> <p>ii) Has BEIS's Audit and Risk Committee engaged at any time with the chair of POL's ARC or RCC with regard to POL's control environment, risk management or escalation practices? If so, when?</p> <p>iii) Please can you release minutes and a list of attendees of BEIS's Audit and Risk Committee meetings in which risks pertaining to POL's Horizon issues and/or POL's Group Litigation were discussed since 2012?</p> <p>iv) Please can you confirm that reports from the above meetings were circulated to the Accounting Officer and Board of BEIS as per the Audit and Risk Committee Terms of Ref (p1, 'Reporting')?</p>
19. FOI2020/29677	02/09/2020	<p>Please can you supply the working protocol documents which existed between UKGI and the department relating to Post Office Limited and Postal Services Holding Company from 1st April 2016 up to the present day in all updated versions?</p>
20. FOI2020/29779	04/09/2020	<p>According to BEIS's monthly all-spending data (see below, transactions 280549-285874) a total of 17 payments were made to the Government Legal Department between 6th-29th March 2019 for services described as 'Litigation and Government Legal Department-Legal Services and Advice Agency'. These total £106,806 and include single payments of £34,975 and £28,587. The payments coincide with the period of the handing down of the Common Issues Judgement</p>

during Post Office Limited's High Court Litigation and its subsequent application to recuse the presiding High Court judge.

i) Please can you release documentation to confirm whether all or some of these payments relate to the High Court Litigation in which BEIS's Partner Organisation Post Office Limited was engaged at the time?

A later entry in [BEIS's all-spending data](#) indicates a further single payment of £20,585 to the Government Legal Department on 6th December 2019. This is also described as 'Litigation and Government Legal Department-Legal Services and Advice Agency (See below, transaction 323595) and it corresponds with the timing of the mediation and out-of-court settlement in which Post Office Limited was engaged prior to the release of the Horizon Issues Judgement in December 2019.

ii) Please can you provide documentation to confirm whether this payment relates to BEIS's activities surrounding Post Office Limited's mediation, settlement and High Court litigation?

iii) Please can you identify the supplier of Litigation and Government Legal Department Services and Advice whose name and whole postcode is withheld in the all-spend documents (transaction 286979, £5,456 of 4th April 2019: transaction 287008, £946 of 4th April 2019 and transaction 326372, £1,035 of 18th December 2019)?