



SAINT HELENA AUDIT SERVICE  
External Auditors

# **Corporate Governance of the St Helena Government Group Entities**

**Performance Audit**

February 2018

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## EXECUTIVE SUMMARY

### AREAS OF NOTE

In the review of the Corporate Governance of State Controlled Entities we noted some positive features within the arrangements operating in St Helena. The following instances serve as examples of these areas:

1. SHG has in place the following oversight bodies that have the necessary legislative requirements that enable the governance of State Controlled Entities:

Body	Legislative Provisions
<b>Legislative Council</b>	Section 109 of the Constitution of St Helena, Ascension and Tristan da Cunha.
<b>Public Accounts Committee</b>	Section 69 of the Constitution
<b>Regulators</b>	Section 4 of the Financial Services Ordinance and Section 4 of the Utilities Services Ordinance
<b>Governing Bodies/ Board of Directors</b>	Section 60 of the Companies Ordinance, Articles of Association and respective Ordinances

2. The following bodies were evaluated and confirmed to be properly constituted as per the legislative requirements:

Body	Make up of Body
<b>Legislative Council</b>	Speaker, Deputy Speaker and 12 Elected Members
<b>Public Accounts Committee</b>	2 independent members and 3 elected members
<b>Regulators</b>	3 independent members - URA 4 independent members - FSRA

3. The following SCEs have appointed Governing Bodies/ Board of Directors in place as required by their respective Ordinances and the Companies Ordinance:
  - BOSH
  - Connect
  - Solomons
  - St Helena Line
  - SHHDL
  - ESH
  - SHCF
  - SHFC
4. The following SCEs held Annual General Meetings as required:
  - BOSH
  - Connect
  - SHHDL
  - Solomons
5. FSRA and URA are properly constituted as required by the Ordinances, they meet on a regular basis and prepare reports as required by the applicable Ordinances.

## AREAS FOR IMPROVEMENT

In the review of the Corporate Governance of State Controlled Entities we noted areas that require improvement as per global best practices. The following instances were identified:

1. No legislation is in place to ensure that the following SCEs' audited Annual Financial Statements, Management Letters and any other accompanying reports be laid in LegCo so that they are referred to PAC for scrutiny:
  - BOSH
  - Connect
  - SHHDL
  - SHCF
  - Solomons
  - SHL
2. Council Committees do not provide any line of accountability or exercise any oversight over the service delivery performance of SCEs through the scrutiny of non-financial information contained in the Annual Reports of SCEs.
3. No legislation is in place that will enable the establishment of regulatory authorities in the following industries where it has an interest through its SCE so as to achieve its regulatory objectives:
  - Retail
  - Automotive repairs
  - Farming
  - Fisheries
  - Currency Fund
  - Hospitality
  - Shipping
4. SHG does not exercise its ownership rights through a centralised single ownership entity or by a co-ordinating body consisting of skilled, experienced and competent members. The Attorney General is not best placed to discharge the shareholder responsibility – this role requires expertise and freedom to act without conflict.
5. SHG does not have an ownership policy or coherent strategy for all of its SCEs. More specifically it does not set documented broad mandates and objectives for its SCEs. Nor does it have reporting systems to monitor the SCE performance against mandates and objectives.
6. There is no strategic financial oversight of the SCEs in the form of a Group Finance Director role. Whilst the entities have access to operational financial management their ability to access strategic financial advice appears limited.
7. SHL has not held an annual general meeting for the past two financial periods as required by its Articles of Association which means that SHG, as beneficial owner, has not actively participated in the governance of SHL.

8. SHG does not have a documented board nomination process for its SCEs. Indeed there is no hard link between the appointed board members and SHG. SHG does not have consistent remuneration practices for its SCEs. It appears quite wrong for public officers appointed to Boards in an ex-officio or individual capacity to draw fees for their Board membership.
9. SHG does not have minimum public disclosure requirements applicable to all its SCEs.
10. SHG does not have a documented protocol/ code/ framework of corporate governance in the public sector.

## INTRODUCTION

### BACKGROUND

The Saint Helena Audit Service (SHAS) is the body that carries out financial and performance audits on behalf of the Chief Auditor.

The Chief Auditor is a statutory position required by the Constitution of St Helena (Section 110). The Chief Auditor's responsibilities are set out in the Constitution and the Public Finance Ordinance – more specifically section 29(2) of the Ordinance requires the conduct of performance audits on behalf of the Legislative Council to determine whether resources have been used with proper regard to economy, efficiency and effectiveness.

The Public Accounts Committee (PAC) is a Select Committee of the Legislative Council (LegCo). In accordance with section 69 of the St Helena Constitution and Order 23 the primary function of the Committee is to objectively scrutinise how the government spends public funds. During the Chief Auditor's consultations on performance audit topics, the PAC and other stakeholders expressed an interest in the Corporate Governance of SHG group entities.

SHG holds a controlling interest in a range of entities either by historical shareholding – in the case of Solomon and Company (St Helena) PLC, or by statutory control – in the case of Enterprise St Helena for example, or by divestment of functions – in the case of the utility provider Connect St Helena Ltd.

For some of these entities SHG may continue to make contribution to subsidise their annual operations or grant them funds or otherwise decline to take an owners dividend. Either way SHG has an ownership interest in these entities which should be exercised to ensure effective oversight and ensure these entities operate in accordance with appropriate standards of corporate governance.

### OBJECTIVES

The objective of the audit was to assess the adequacy of the mechanisms, processes, and relations currently in place to provide control and direction to entities to ensure that they are contributing to the overall attainment of SHG goals and objectives. This assessment will be done against best practices derived from currently existing global codes of Corporate Governance.

The overall aim was to add value to the current corporate governance arrangements for the SHG group entities so that they can efficiently and effectively assist SHG in attaining the island's goals and objectives.

### SCOPE

We identified and assessed all SHG controlled entities that can be considered to meet the recognition of a controlled entity as per International Public Sector Accounting Standard (IPSAS) 6, Consolidated and Separate Financial Statements. This was based on ownership of majority shareholding or where the Governor appoints the majority of the members on the entity's governing body.

We further established the current corporate governance principles in place in the controlling and directing of the SHG controlled entities through enquiries, questionnaires and research. The International Framework: Good Governance in the Public Sector published by IFAC and CIPFA was identified as the preferred code due to its public sector emphasis.

Following this, we assessed the current corporate governance practices against the Good Governance in the Public Sector framework and identified any existing gaps. Finally, we recommended areas of improvement to SHG.

## METHODOLOGY

This performance audit followed a system based approach. We examined the adequacy of the corporate governance systems and processes in place in the SHG controlled entities.

To collect audit evidence for the review, we used a range of methods:

- **Enquiries of management and those charged with governance** – Appropriate enquiries to individuals including SHG officials and SHG controlled entities directors. This was done with a combination of checklists/ questionnaires, meetings and interviews.
- **Documentation review** – Inspected a range of minutes of meetings, relevant policy documents and any other company records.
- **Assessment and evaluation** – Documented our findings and assessed against prevailing best practice. We evaluated the systems, policies and procedures in place to produce recommendations for improvement.

## REFERENCES

The following sources of reference were used for the review of Corporate Governance of SHG Entities:

- International Framework: Good Governance in the Public Sector (IFAC and CIPFA)
- OECD guidelines on Corporate Governance of State Owned Enterprises
- King III: Corporate Governance principles
- FRC: The UK Corporate Governance Code
- Protocol of Corporate Governance
- Governance Oversight role over State Owned Entities: RSA Treasury
- 2014/15 and 2015/16 Annual Financial Statements: SHG
- International Public Sector Accounting Standards

## FINDINGS

### SHG CONTROLLED ENTITIES

The SHG 2014/15 Annual Financial Statements<sup>1</sup> identified the following entities that are related parties to SHG due to varying relationships with Government:

1. Bank of St Helena Limited
2. Connect St Helena Limited
3. Solomon & Company (St Helena) PLC
4. St Helena Line Limited
5. St Helena Hotel Development Limited
6. Enterprise St Helena
7. St Helena Currency Fund
8. St Helena Fisheries Corporation
9. St Helena National Trust

The above SHG linked entities were assessed in accordance to IPSAS 6(39)<sup>2</sup>, Consolidated and Separate Financial Statements to determine if SHG control exists over the entities. The conclusion of the assessment was as follows:

Entity	Assessment outcome: controlled entity? Yes or No	Reason for controlling influence
<b>Formal Equity Interest</b>		
Bank of St Helena Limited	Yes	100% shareholding
Connect St Helena Limited	Yes	100% shareholding
Solomon & Company (St Helena) PLC	Yes	63% shareholding
St Helena Line Limited	Yes	99% shareholding
St Helena Hotel Development Limited	Yes	100% shareholding
<b>Other Power Interest</b>		
Enterprise St Helena	Yes	Statutory appointment of the Board of Directors by the Governor
St Helena Currency Fund	Yes	Statutory appointment of the Currency Commissioners by the Governor
St Helena Fisheries Corporation	Yes	Statutory appointment of the Management Board by the Governor
St Helena National Trust	No	Annex 3

<sup>1</sup> <http://www.sainthelena.gov.sh/wp-content/uploads/2013/01/Financial-Statements-2014-15-with-signatures.pdf>

<sup>2</sup> 39. In examining the relationship between two entities, control is presumed to exist when at least one of the following power conditions and one of the following benefit conditions exists, unless there is clear evidence of control being held by another entity.

*Power conditions*

- (a) The entity has, directly or indirectly through controlled entities, ownership of a majority voting interest in the other entity.
- (b) The entity has the power, either granted by or exercised within existing legislation, to appoint or remove a majority of the members of the board of directors or equivalent governing body and control of the other entity is by that board or by that body.
- (c) The entity has the power to cast, or regulate the casting of, a majority of the votes that are likely to be cast at a general meeting of the other entity.
- (d) The entity has the power to cast the majority of votes at meetings of the board of directors or equivalent governing body and control of the other entity is by that board or by that body.



## GOVERNANCE OVERSIGHT ROLE

State Controlled Entities (SCEs) in St Helena represent a substantial share of the Gross Domestic Product, employment, taxation and market capitalisation, and their performance is of great importance to a broad segments of the citizens and the business sector. The SCEs operate in financial services, retail, utilities, fisheries, and other areas of business, with a considerable number of them being sole service providers in their sectors.

Governance is a process and system by which an SCE is directed, controlled and held to account. Good governance of SCEs therefore is of paramount importance to ensure that island goals and objectives are met. Properly governed entities contribute positively to the St Helenian economic efficiency and competitiveness.

Good corporate governance at SCEs contributes positively to the attainment of the Government's set goals and objectives due to the following:

- Well run SCEs are profitable with a good return on investment and are therefore are able to pay dividends into the Consolidated Fund.
- SCEs which are agencies of the state help to improve the business environment so as to attract foreign direct investment and increase local investment that will create jobs, taxation, rental income, and stimulate infrastructure development.
- SCEs which are agencies can assist local businesses to increase outputs by providing funding for capital expenditure so as to improve their output and also encouraging the export of local products.
- Oversight by regulators on SCE ensures that the market confidence is maintained and pricing is fair to consumers.

Government plays the following various roles in its relationship with the SCEs:

- As an owner and shareholder it is concerned with obtaining a suitable return on investments, and ensuring the financial viability of the SCE.
- As a policymaker it is concerned with the policy implementation of service delivery.
- As a regulator it is concerned with the industry practices of SCEs, pricing structures, and the interests of consumers.

In pursuit of the appropriate governance measures, SCEs face the following distinct governance challenges:

- SCEs may suffer from undue hands-on and politically motivated ownership interference, leading to unclear lines of responsibility, a lack of accountability and efficiency losses in their operations.
- A lack of any oversight due to totally passive or distant ownership by the state can weaken the incentives of SCEs and their staff to perform in the best interest of the entity and the general public who constitute its ultimate shareholders, and raise the likelihood of self-serving behaviour by insiders.

Challenges in governance emanate from the fact that the accountability for the performance of SCEs involves a complex chain of agents, without clearly and easily identifiable, or remote, principals; these various parties have intrinsic conflicts of interest that could motivate decisions based on criteria other than the best interests of the entity and the general public who constitute its shareholders.

Accountability for the performance of SCEs involves a complex chain of multiple agents such as board of directors, shareholder, the government and the legislature. To structure this complex web of accountabilities in order to ensure efficient decisions and good corporate governance is a challenge and requires profound attention to the same three principles that are paramount for an attractive investment environment: transparency, evaluation and policy coherence.

FIGURE 1 SCE GOVERNANCE OVERSIGHT RECOMMENDED STRUCTURE

**Responsibilities:**


*Oversight through  
the various Committee  
structures*


*Macro Policy*

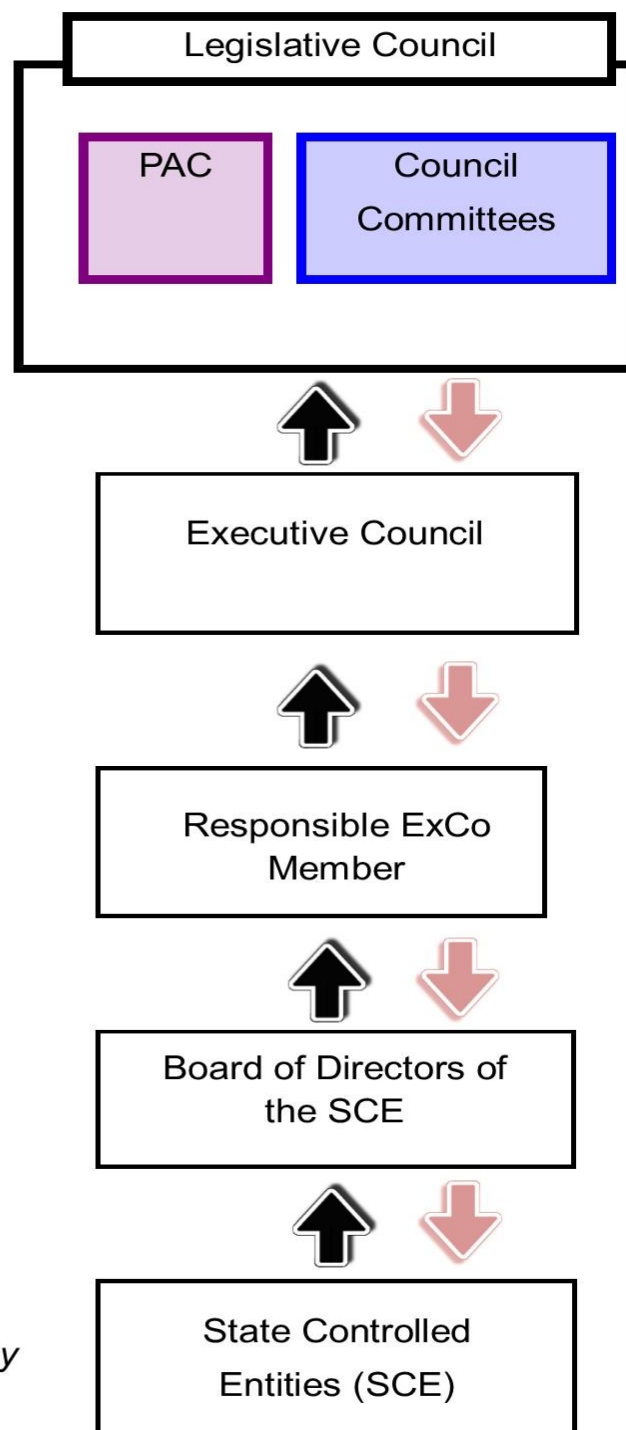
- Policy implementation*
- Stakeholders Oversight
  - Management

*Oversight and strategic  
direction for the SCE*

**Legend:**

 Current Reporting Structure

 Line of Accountability



## LEGISLATIVE COUNCIL OVERSIGHT

The SCE governance oversight role by LegCo is mainly carried out by the various committee structures. The LegCo committees, referred to as Council Committees in the Constitution, are responsible through the respective Chairpersons for policy deliberation and oversight of public service performance. In the absence of any specific SCE Committee the oversight responsibilities of Council Committees should extend to ensuring that associated service delivery targets set for SCEs are being attained. Public Accounts Committee (PAC) is responsible on behalf of LegCo for the evaluation of the proper financial management of SCEs and assessing if value for money is being derived by SHG as the controlling entity.

Legislative Council		
Adapted best practice expectation	Current framework in St Helena	Compliance assessment
Legislative Council exercises its role through evaluating the performance of SCEs by interrogating their annual financial statements including statements of service performance that may be published in an annual report. <sup>3</sup>	Constitution of St Helena, Section 109(3). <sup>4</sup>	In compliance with the governance oversight the FS lays the audited Annual Report in LegCo as documented in <b>Annex 2</b> .  St Helena’s constitution and applicable legislation does not however require other SCEs such as Solomons, BOSH, and Connect amongst others, to have their accounts laid in LegCo as a legislative requirement rather than as matters of importance.  The processes followed by LegCo, in St Helena, in governing SCEs are deemed to be only partially adequate and effective.
II. E. The ownership entity should be held accountable to the relevant representative bodies and have clearly defined relationships with relevant public bodies, including the Saint Helena Audit Service. <sup>5</sup>		
Public Accounts Committee		
The Public Accounts Committees reviews the annual financial statements of SCEs and the audit reports of the Chief Auditor. <sup>3</sup>	Constitution of St Helena, Section 69. <sup>4</sup>	PAC has functioned and discharged its responsibilities practically as detailed in <b>Annex 2</b> , which documents: <ul style="list-style-type: none"><li>• A properly constituted committee with 2 independent members and 3 Elected Members. The independent members are</li></ul>

<sup>3</sup> <http://www.treasury.gov.za/publications/other/soe/Governance%20Oversight%20Role.pdf>

<sup>4</sup> <http://www.sainthelena.gov.sh/wp-content/uploads/2017/11/Constitution-of-St-Helena-Ascension-and-Tristan-da-Cunha-2009.pdf>

<sup>5</sup> <https://www.oecd.org/daf/ca/OECD-Guidelines-Corporate-Governance-SOEs-2015.pdf>

## Legislative Council

II. E. The ownership entity should be held accountable to the relevant representative bodies and have clearly defined relationships with relevant public bodies, including St Helena Audit Service.<sup>5</sup>

Chairman and Deputy Chairman.

- PAC examined all AFS and audit reports laid in LegCo and those referred to them because they are considered to be matters of importance by the Chief Auditor.
- PAC summoned SCE management to formal hearings to answer questions and provide information with regards to identified areas of concerns.
- PAC laid their report including recommendations on the AFS and audit reports as sessional papers in LegCo.
- PAC did not review the performance (financial and non-financial) of Solomons and SHL.

PAC is deemed to have adequate legislative provisions in place to enable it to function in line with global best practices. Furthermore for the period evaluated, its oversight governance was deemed to be effective.

## Council Committees

The Council Committee exercises oversight over the service delivery performance of SCE's and, as such, reviews the nonfinancial information contained in the annual reports of SOE's and is concerned with service delivery and enhancing economic growth.<sup>3</sup>

No related section has been Identified in the Constitution or any other applicable legislation.

SHG does not have legislative provision for the supervision of SCEs by Council Committees on behalf of SHG to ensure proper oversight.

## RECOMMENDATION

### Legislative Council

*Legislation should be amended to ensure that all SCEs' audited Annual Financial Statements, Management Letters and any other accompanying reports be laid in LegCo so that they are scrutinised by the PAC rather than brought to PAC attention by the Chief Auditor as a matter of importance.*

## Council Committees

*Legislation or otherwise terms of reference should be amended to ensure that Council Committees are able to exercise their oversight over the service delivery performance of SCEs by reviewing the non-financial information contained in the Annual Reports of SCEs.*

## REGULATORY OVERSIGHT

Regulatory Oversight is the supervision of SCEs by an independent party in order to direct and control them according to the law. Government as a regulator is concerned with the industry practices of SCEs, pricing structures, and the interests of consumers.

<b>Regulators</b>		
<b><i>Adapted best practice expectation</i></b>	<b><i>Current framework in St Helena</i></b>	<b><i>Compliance assessment</i></b>
<p>Government's role as regulator is more focused on the industry within which the SCE operates or which the SCE serves. The Regulator would concern itself with issues like pricing, consumer interest and industry issues and interest. Although the regulator is a government agency and is carrying out a government role, the relationship of a regulator with the SCE can be and should be an independent, objective, arm's length relationship with the SCE, unlike the more direct relationship that Government as shareholder and policy-maker, would have.<sup>3</sup></p> <p>III. A. There should be a clear separation between the state's ownership function and other state functions that may influence the conditions for state-owned enterprises, particularly with regard to market regulation.<sup>5</sup></p>	<p>Financial Services Ordinance, Section 4(1)<sup>6</sup>. Utilities Services Ordinance, Section 4(1).<sup>7</sup></p>	<p>SHG's state controlled entities operate in the following industries: Utilities Services; Financial Services; Retail; Automotive repairs; Farming; Fisheries; Currency Fund; Hospitality; and Shipping.</p> <p>We noted that a Utilities Regulatory Authority (URA) has been created for the Utilities Services and Financial Services Regulatory Authority (FSRA) for the financial services. We confirmed that URA and FSRA are independently constituted as required by the respective ordinances. They are both operating in a manner that we deem to be effective for their purposes. Detailed work performed is documented in <b>Annex 2</b>.</p> <p>However we did not identify any regulatory authorities for the Retail; Automotive repairs; Farming; Fisheries; Currency Fund; Hospitality; and Shipping industries.</p>

<sup>6</sup> <http://www.sainthelena.gov.sh/wp-content/uploads/2017/11/Financial-Services-Ordinance.pdf>

<sup>7</sup> <http://www.sainthelena.gov.sh/wp-content/uploads/2017/11/Utility-Services-Ordinance.pdf>

## RECOMMENDATION

*SHG should develop and implement legislation that will enable the establishment of regulatory authorities in the following industries where it has an interest through its SCE so as to achieve its regulatory objectives:*

- *Retail*
- *Automotive repairs*
- *Farming*
- *Fisheries*
- *Currency Fund*
- *Hospitality*
- *Shipping*

## EXECUTIVE COUNCIL OVERSIGHT

Executive Council as owner/shareholder is concerned with appropriate returns on investments and ensuring financial viability of SCEs. To act as an informed and active owner, the state should exercise ownership rights according to the legal structure of the SCE ideally through a single ownership entity with the necessary capacity and competencies to perform this function. The Financial Secretary is responsible for financial oversight through the Public Finance Ordinance and Financial Regulations amongst others. In addition, Government is also the policymaker, concerned with policy implementation of service delivery and acts as regulator. These responsibilities vest in ExCo as the Government policymaker, the responsible ExCo member working with the relevant Council Committee and the Service Delivery Directorate.

<i>Executive Council</i>		
<i>Adapted best practice expectation</i>	<i>Current framework in St Helena</i>	<i>Compliance assessment</i>
Executive Council as owner/shareholder is concerned with appropriate returns on investments and ensuring financial viability of SCE's. The relevant member of Executive Council acts as shareholder, while the Financial Secretary and Corporate Finance is responsible for financial oversight. <sup>3</sup>  II. D. The exercise of ownership rights should be clearly identified within the state administration. The exercise of ownership rights should be centralised in a single ownership entity, or, if this is not possible, carried out by a co-ordinating body. This "ownership entity" should have the capacity and competencies to effectively carry out its duties. <sup>5</sup>	None identified	SHG does not exercise shareholder oversight through a single ownership entity. There is a clear absence of policy direction from ExCo through the shareholder to the Board.  The closest proxy to a single ownership entity is the Great Peter Nominee as applied to SHG Solomons shareholding. Although the Attorney General attends some SCEs' AGMs, evidence cannot be found to support that SHG acts as a proactive owner as detailed in <b>Annex 4</b>

### Executive Council

I. B. The government should develop an ownership policy. The policy should inter alia define the overall rationales for state ownership, the state's role in the governance of SCEs, how the state will implement its ownership policy, and the respective roles and responsibilities of those government offices involved in its implementation. <sup>5</sup>	None identified	SHG has not developed any ownership policies which define its role in the governance of SCEs and how it will be implemented with regards to the controlling and directing of any of its SCEs.  ExCo should ensure the strategic direction of the SCE is aligned with Government policy in terms of service delivery and enhancing economic growth. This may be achieved through a Statement of Intent (SOI) or Memorandum of Understanding (MOU) serving as a formal performance agreement between the SCE and Government.
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### RECOMMENDATION

- *SHG should exercise its ownership rights and they should be clearly identified within its administration. SHG's exercise of ownership rights should be centralised in a single ownership entity, or, if this is not possible, carried out by a co-ordinating body. SHG's "ownership entity" should have the capacity and competencies to effectively carry out its duties.*
- *SHG should develop an ownership policy. The policy should define the overall rationales for state ownership, the state's role in the governance of SCEs, how SHG will implement its ownership policy, and the respective roles and responsibilities of the entity involved in its implementation.*
- *SHG should develop a system of corporate governance whereby SCEs objectives are properly aligned with Government policy as determined by ExCo on advice of the relevant member and Council Committee. The system should include a formal performance agreement between the SCE and Government in the form of a Statement of Intent (SOI) or Memorandum of Understanding (MOU).*

### BOARD OF DIRECTORS OVERSIGHT

The Board of Directors of an SCE is the governing body of that entity. The governing body retains absolute responsibility for the performance of the SCE and is fully accountable to Government as shareholder for its performance. To ensure that the governing body is effective in the attainment of the entity's objectives it has to be made up of a group of people with the right qualification, skills, experience and competence. The audit noted that all the SHG SCEs have appointed governing bodies:

- BOSH
- Connect



- Solomons
- St Helena Line
- SHHDL
- ESH
- SHCF
- SHFC

An assessment of SHGs conformity to global best practice in the oversight of its SCE Board of Directors was carried out and the detailed analysis is documented in Annex 4.

The results of the assessment highlighted that SHG as shareholder attends each SCE Annual General Meeting. However the nominee shareholder requires corporate expertise and freedom to act on the instructions of the beneficial but there appears no process to properly frame and direct the will of Government when exercising the shareholder vote.

Membership appointments to SCE boards are not made in a consistent and coordinated manner by the Government as shareholder/owner on advice of a specialist SCE appointments committee. Non-executive Director appointments were noted to be made in the name of an individual and not made ex-officio to the role holder. Accordingly there is no direct reporting line into government as a beneficial owner save for the shareholder at the AGM.

Collectively the SCEs are responsible for the stewardship of significant public capital and resources and yet there is limited strategic finance leadership across these bodies. Any involvement by the Financial Secretary or Assistant Financial Secretary is either in competition with their other roles or being taken by those officers in their capacity as personal appointments. The entities themselves have operational finance officers but there is a clear lack of strategic finance direction at Board level. There appears no current equivalent to the 1990s position of Finance Director to the Parastatals.

Further exceptions to expected practice were noted in the following regards:

- SHL has not held annual general meeting for the past 2 financial periods as required by its Articles of Association which means that SHG, as beneficial owner, has not actively participated in the governance of SHL
- SHGs agreement with the Crown Agents to provide services to SHL has not been renewed on annual basis since it was signed on 25 November 1999
- SHG does not have a board nomination process for its SCEs
- SHG has not set broad mandates and objectives for its SCEs
- SHG has not implemented reporting systems to monitor the broad mandates & objectives
- SHG has not defined minimum public disclosure requirements applicable to all its SCEs
- SHG has not developed and implemented consistent remuneration practices for its SCEs and specifically dealing with remuneration for those board members holding public office

## RECOMMENDATION

- *SHG must ensure that the Annual General Meetings for the 2014/15 and 2015/16 financial years for the St Helena Line be held as a matter of urgency.*

- *SHG must update its agreement with the Crown Agents on the services provided, and updating the Director to be nominated as well as the fees for the member.*
- *SHG should develop and implement a board nomination processes for SCEs so as achieve well-structured, merit-based and transparent boards, and ensure that SHG interest is represented through making direct appointment to each SCE board either as Chairman or Director as appropriate.*
- *SHG should develop and implement a process of setting and monitoring of broad mandates and objectives for SCEs, including the financial targets, capital structure objectives and risk tolerance levels.*
- *SHG should develop and implement reporting systems that allow SHG to regularly monitor, audit and assess SCE performance, and oversee and monitor their compliance with applicable corporate governance codes.*
- *SHG should develop a disclosure policy for SCEs that identifies what information should be publicly disclosed, the appropriate channels for disclosure, and mechanisms for ensuring quality of information.*
- *SHG should develop remuneration policy guidelines for SCE boards that fosters the long- and medium-term interest of the entity and can attract and motivate qualified professionals.*
- *SHG should set clear policy on the attendance and remuneration of public officers serving on public boards in an ex-officio capacity and that any directors' fees should accrue to the revenues of St Helena Government.*
- *SHG should establish a role of Government Director who would sit on each SCE board to provide strategic oversight and financial leadership on behalf of SHG.*

## PRINCIPLES FOR GOOD GOVERNANCE IN THE PUBLIC SECTOR

Application of the principles of Good Governance in the public sector (State Controlled Entities) ensures that the beneficial shareholder creates a framework which provides for effective corporate governance and optimum public benefit. The International Framework: Good Governance in the Public Sector by IFAC/CIPFA has been issued to provide the necessary guidance for government shareholders for their public sector entities.

A summary of the principles recommended by the above mentioned framework for SHG SCEs:

<sup>8</sup>*Governance comprises the arrangements put in place to ensure that the intended outcomes for stakeholders are defined and achieved.*

*The fundamental function of good governance in the public sector is to ensure that entities achieve their intended outcomes while acting in the public interest at all times.*

*Acting in the public interest requires:*

- A. Behaving with integrity, demonstrating strong commitment to ethical values, and respecting the rule of law.***
- B. Ensuring openness and comprehensive stakeholder engagement.***
- C. Defining outcomes in terms of sustainable economic, social, and environmental benefits.***

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<sup>8</sup> <http://www.cipfa.org/policy-and-guidance/standards/international-framework-good-governance-in-the-public-sector>

***D. Determining the interventions necessary to optimize the achievement of the intended outcomes.***

***E. Developing the entity's capacity, including the capability of its leadership and the individuals within it.***

***F. Managing risks and performance through robust internal control and strong public financial management.***

***G. Implementing good practices in transparency, reporting, and audit, to deliver effective accountability.***

FIGURE 2 PRINCIPLES FOR GOOD GOVERNANCE IN THE PUBLIC SECTOR



Figure 2 illustrates how the various principles for good governance in the public sector relate to each other. Principles A and B permeate implementation of principles C to G. Figure 2 also illustrates that good governance is dynamic, and that an entity as a whole should be committed to improving governance on a continuing basis through a process of evaluation and review.

The core, high-level principles characterizing good governance in the public sector set out above bring together a number of interrelated concepts. Principles C to G are linked to each other via the so called “plan-do-check-act” cycle.

The audit identified that SHG has not issued or adopted a Governance framework/code/protocol for its state controlled entities that therefore are public sector entities. A recommendation was made and accepted in the 2012/13 Audit Management Letter that SHG develops a Code of Corporate Governance for itself based upon the International Framework:

Good Governance in the Public Sector published by IFAC/CIPFA. Equally the framework provides a suitable standard for application to the State Controlled Entities.

The following SHG controlled entities were assessed on their compliance to IFAC/CIPFA International Framework on Good Governance in the Public Sector:

- BOSH
- Connect
- Solomons
- SHHDL
- ESH
- SHCF
- SHFC

At the time of the start of the assessment, St Helena Line was set to demise upon cessation of passenger services and disposal of RMS St Helena within the FY 2016/17. Based on this it was agreed not to include SHL in the self-evaluation.

Annex 5 provides a high level assessment results obtained from the SCEs' self-evaluation and with limited validation from the Audit Office. The self-assessment notes the principles that each SCE complies with in the expected governance processes. Of prime concern is the fact that no protocol/code/framework of corporate governance has been issued by SHG to provide guidance to SCEs in St Helena.

Deficiencies were identified in most of the SCEs per best practice which covered the overarching principles such as Ethical Leadership and Corporate Citizenship, Board of Directors, Audit Committees, Governance of Risk, Governance of Information Technology, Internal Audit, Governing Stakeholder Relationships, and Integrated Reporting and Disclosure. The table below summarises those key areas from the assessment where SCE governance arrangements were non-compliant with expectations of the Code.

**FIGURE 3 PRINCIPAL AREAS OF NON-COMPLIANCE GROUPED BY THEME**

<b>1</b>	<b>Ethical leadership and Corporate Citizenship</b>
	Ensure that measurable corporate citizenship programmes are implemented
	Ensure that management develops corporate citizenship policies.
	Ensure that ethical risks and opportunities are incorporated in the risk management process
<b>2</b>	<b>Boards and Directors</b>
	Elect a chairman on an annual basis.
	Assess the chairman's ability to add value, and his performance against what is expected of his role and function yearly
	Ensure a succession plan for the role of the chairman.
	Subject to a rigorous review of his/her independence and performance by the board, any independent non-executive directors serving more than one term.
	Ensure that they are permitted to remove any director without shareholder approval.
	Ensure that a nominations committee is in place to assist with the process of identifying suitable members of the board.
	Ensure that a formal induction programme is established for new directors

	Ensure that continuing professional development programmes are implemented
	Ensure that directors receive regular briefings on changes in risks, law and the environment.
	Ensure that the Secretary/Company Secretary assists with the evaluation of the board, committees and individual directors.
	Determine its own role, functions, duties and performance criteria as well as that for directors on the board and the board committees to serve as a benchmark for the performance appraisal.
	Ensure yearly evaluations should be performed by the chairman or an independent provider.
	Ensure that the results of performance evaluations should identify training needs for directors.
	Ensure that an overview of the appraisal process, results and action plans should be disclosed in the annual report.
	Ensure that the nomination for the re-appointment of a director should only occur after the evaluation of the performance and attendance of the director.
	Ensure that the organisations establish risk, nomination and remuneration committees
	Ensure that Organisations adopt remuneration policies aligned with the strategy of the organisation and linked to individual performance.
	Ensure that non-executive fees comprise a base fee as well as an attendance fee per meeting.
	Ensure organisations issue a remuneration report.
	Determine the remuneration of executive directors in accordance with the remuneration policy put to shareholders vote.
<b>3</b>	<b>Audit Committees</b>
	Ensure that the audit committee should provide a summary of its role and details of its composition, number of meetings and activities, in the annual report.
<b>4</b>	<b>The Governance of Risk</b>
	Comment in the annual report on the effectiveness of the system and process of risk management.
	Ensure that its responsibility for risk governance should be expressed in the board charter.
	Set the levels of risk tolerance once a year.
	Set limits for the risk appetite.
	Ensure that its responsibility for risk governance should be expressed in the board charter.
	Ensure that a policy and plan for a system and process of risk management should be developed
	Ensure that the induction and ongoing training programmes of the board should incorporate risk governance.
	Ensure that its responsibility for risk governance should manifest in a documented risk management policy and plan.
	Ensure that the risk committee should consider the risk management policy and plan and monitor the risk management process
	Ensure that the risk committee should have as its member's executive and non-executive directors, members of senior management and independent risk management experts to be invited, if necessary.
	Ensure that the risk committee should have a minimum of three members
	Ensure that the risk committee should convene at least twice per year.
	Ensure that the performance of the committee should be evaluated once a year by the board.
	Ensure that the designated Chief Risk Officer should be a suitably experienced person who should have access and interact regularly on strategic matters with the board and/or appropriate board committee and executive management.

	Disclose its view on the effectiveness of the risk management process in the annual report.
<b>5</b>	<b>The Governance of Information Technology</b>
	Assume the responsibility for the governance of IT and place it on the board agenda.
	Ensure that an IT charter and policies are established and implemented.
	Ensure that an Information Security Management System is developed and implemented.
	Approve the information security strategy and delegate and empower management to implement the strategy.
	Ensure that the risk committee should ensure IT risks are adequately addressed.
<b>6</b>	<b>Compliance with Laws, Rules, Codes and Standards</b>
	Ensure that compliance should be a regular item on the agenda of the board.
	Disclose details in the annual report on how it discharged its responsibilities to establish an effective compliance framework and processes.
	Consider establishing a compliance function.
	Ensure that a legal compliance policy, approved by the board, has been implemented by management.
	Ensure that management should establish the appropriate structures, educate and train, and communicate and measure key performance indicators relevant to compliance.
	Ensure that the annual report should include details of material or often repeated instances of non-compliance by either the organisation or its directors in their capacity as such.
	Ensure that an independent, suitably skilled compliance officer may be appointed.
<b>7</b>	<b>Internal Audit</b>
	Ensure that the internal audit charter should be defined and approved by the board.
	Ensure that the CAE should have a standing invitation to attend Executive /Senior Management meetings.
	Ensure through the Audit Committee that the CAE should develop and maintain a quality assurance and improvement programme.
<b>8</b>	<b>Governing Stakeholder Relationships</b>
	Disclose in its annual report the nature of the organisation's dealings with the stakeholders and the outcomes of these dealings.
<b>9</b>	<b>Integrated Reporting and Disclosure</b>
	Perform an annual review of compliance with its declared code of corporate governance and publish the results of that review in an annual governance statement within the annual report and accounts

Good corporate governance can remove mistrust between different stakeholders, reduce costs of capital and improve performance but at the same time its failure can have disastrous effects on the entity, market and also national economy. An identified lack of the above mentioned principles at SCEs could lead to the following performance symptoms which were identified in many failed global entities eg. Enron, Worldcom, Tyco etc:

- Inadequate risk management could lead to the SCEs not achieving their goals or objectives.
- Governing Bodies that do not have a balanced membership that includes people with the finance, legal, operations experience may lack the necessary expertise to address emerging strategic risks required to ensure that the entity meets its goals/objectives.
- Governing Bodies' performance must be evaluated to ensure that the Chairperson and members are performing their duties as required

- SCEs require a suitably qualified compliance officer to ensure that the organisation complies with all the required laws and regulations and updates the board on upcoming changes to legislation and how they may impact the business.
- A weak internal audit function will not be able to provide management and the Board with the necessary assurance that ensures that the organisation's objectives are attained.

## RECOMMENDATION

*SHG as parent should develop and implement a protocol/ code/ framework of governance in the public sector based upon the CIPFA/IFAC framework of Good Governance in the public sector that takes into consideration the different sizes of entities that can be found on the island eg. Corporates, Statutory bodies, etc. The developed framework/ protocol /code must address the above identified issues as well as the following issues to improve oversight:*

- *Directors: Nomination, Appointment, Induction, Training, Support, and Performance evaluation.*
- *Governing Body: Makeup, Structure, Board committees, Terms of references, Number of meetings, Performance evaluation etc.*
- *Audit Committee: Makeup, Terms of reference etc.*
- *Risk Management: Policy documents developed and implemented.*
- *Chief Executive Officer responsibilities and Independence of the Chair of the Board.*
- *Succession Planning: Board and Senior Management level.*
- *Strategic Planning, Monitoring and Evaluation of SCE key performance indicators.*
- *Annual Governance Statement: Annual Issuance.*



## CONCLUSIONS

We summarise the following key issues that have been highlighted in our observations:

1. SHGs State Controlled Entities were identified from the 2014/15 draft Financial Statements and were validated based on IPSAS 6. The following entities satisfied the control test under IPSAS 6: BOSH, Connect, Solomons, St Helena Line, SHHDL, Currency Fund and Fisheries Corporation. However the same review also determined that the St Helena National Trust has sufficient autonomy such that the control test was not met and accordingly was excluded from the SHG controlled entities note 25.
2. SHG has not issued any Corporate Governance protocols/codes/framework to its controlled entities to adopt and assist in the directing and controlling of them. Indeed no express statutory provisions are in place for the proper oversight governance by Executive Council and Council Committees for the SCEs. However some legislation has governance mechanisms that are helping in providing oversight such as the Legislative Council, Public Accounts Committee, Regulators and Governing Bodies.
3. Regulators have been appointed for the Financial and Utilities Services but no regulation is taking place in the following industries Retail; Automotive repairs; Farming; Fisheries; Currency Fund; Hospitality; and Shipping where government has an interest.
4. We noted that all SHG SCEs have properly approved governing bodies and they have held annual general meetings except for SHL which has not held the past 2 financial periods as required by its Articles of Association. This means that SHG, as beneficial owner, and major shareholder has not actively participated in the oversight governance of SHL.
5. SHG, does not set broad mandates and objectives for its SCEs, has not implemented reporting systems to monitor performance, and does not have a minimum public disclosure requirements applicable to all its SCEs. Similarly SHG has not established proper board nomination process for its SCEs and has not developed and implemented consistent remuneration practices for its SCEs
6. SHG does not have a system where Council Committees can exercise oversight with regards to the service delivery (non-financial targets) of SCEs.
7. We have also noted that the shareholder for a number of entities being vested in the Attorney General. SHG ownership rights should be centralised in a single ownership entity in the form of a specialist nominee company, or, by some other co-ordinating body.
8. SHG does not have an ownership policy which defines the overall rationales for state ownership, the state's role in the governance of SCEs, how SHG will implement its ownership policy, and the respective roles and responsibilities of the entity involved in its implementation.
9. Crucially there is no strategic coordination of the state controlled entities. Membership appointments to SCE boards are frequently in the name of an individual and not made ex-officio to the role holder. Accordingly there is no direct reporting line into government as a beneficial owner save for the shareholder at the AGM.



10. Moreover these entities are responsible for the stewardship of significant public capital and resources and yet there is limited strategic finance leadership across these bodies. Any involvement by the Financial Secretary or Assistant Financial Secretary is either in competition with their other roles or being taken by those officers in their capacity as personal appointments. The entities themselves have operational finance officers but there is a clear lack of strategic finance direction at Board level. In our view there is a clear role for a Government Director who would sit on each SCE board to provide strategic oversight and financial leadership on behalf of SHG.

## CLOSING REMARKS

This performance audit report has been prepared in pursuance of the Chief Auditor's responsibilities under section 110(1)(a) of the Constitution of St Helena and section 29(2)(a) of the Public Finance Ordinance.

The matters included in the report came to our attention during the conduct of the performance audit procedures. The nature and scope of the procedures are as per the engagement letter and it does not constitute an audit of the financial records in accordance with International Standards on Auditing.

In closing I would like to thank the officials at SHG and the State Controlled Entities for their cooperation and assistance during the audit.

A handwritten signature in black ink, appearing to read 'Phil Sharman', is positioned above the printed name and title.

Phil Sharman  
Chief Auditor for St Helena

28 February 2018

## RECOMMENDATIONS

No	Recommendation	Priority
1	Legislation should be amended to ensure that all SCEs' audited Annual Financial Statements, Management Letters and any other accompanying reports be laid in LegCo so that they are scrutinised by the PAC rather than brought to PAC attention by the Chief Auditor as a matter of importance.	MEDIUM
2	Legislation or otherwise terms of reference should be amended to ensure that Council Committees are able to exercise their oversight over the service delivery performance of SCEs by reviewing the non-financial information contained in the Annual Reports of SCEs.	MEDIUM
3	SHG should develop and implement legislation that will enable the establishment of regulatory authorities in those service sectors where it has an interest through its SCE so as to achieve its regulatory objectives.	MEDIUM
4	SHG should exercise its ownership rights and they should be clearly identified within its administration. SHG's exercise of ownership rights should be centralised in a single ownership entity, or, if this is not possible, carried out by a co-ordinating body. SHG's "ownership entity" should have the capacity and competencies to effectively carry out its duties.	MEDIUM
5	SHG should develop an ownership policy. The policy should define the overall rationales for state ownership, the state's role in the governance of SCEs, how SHG will implement its ownership policy, and the respective roles and responsibilities of the entity involved in its implementation.	MEDIUM
6	SHG should develop a system of corporate governance whereby SCEs objectives are properly aligned with Government policy as determined by ExCo on advice of the relevant member and Council Committee. The system should include a formal performance agreement between the SCE and Government in the form of a Statement of Intent (SOI) or Memorandum of Understanding (MOU).	MEDIUM
7	SHG must ensure that the Annual General Meetings for the 2014/15 and 2015/16 financial years for the St Helena Line be held as a matter of urgency.	HIGH
8	SHG must update its agreement with the Crown Agents on the services provided, and updating the Director to be nominated as well as the fees for the member.	HIGH
9	SHG should develop and implement a board nomination processes for SCEs so as achieve well-structured, merit-based and transparent boards, and ensure that SHG interest is represented through making direct appointment to each SCE board either as Chairman or Director as appropriate.	MEDIUM
10	SHG should develop and implement a process of setting and monitoring of broad mandates and objectives for SCEs, including the financial targets, capital structure objectives and risk tolerance levels.	MEDIUM

No	Recommendation	Priority
11	SHG should develop and implement reporting systems that allow SHG to regularly monitor, audit and assess SCE performance, and oversee and monitor their compliance with applicable corporate governance codes.	MEDIUM
12	SHG should develop a disclosure policy for SCEs that identifies what information should be publicly disclosed, the appropriate channels for disclosure, and mechanisms for ensuring quality of information.	MEDIUM
13	SHG should develop remuneration policy guidelines for SCE boards that fosters the long- and medium-term interest of the entity and can attract and motivate qualified professionals.	MEDIUM
14	SHG should set clear policy on the attendance and remuneration of public officers serving on public boards in an ex-officio capacity and that any directors' fees should accrue to the revenues of St Helena Government.	MEDIUM
15	SHG should establish a role of Government Director who would sit on each SCE board to provide strategic oversight and financial leadership on behalf of SHG.	MEDIUM
16	<p>SHG as parent should develop and implement a protocol/ code/ framework of governance in the public sector based upon the CIPFA/IFAC framework of Good Governance in the public sector that takes into consideration the different sizes of entities that can be found on the island eg. Corporates, Statutory bodies, etc. The developed framework/ protocol /code must address issues identified in the "Principles for good governance in the public sector" section of this report as well as the following issues to improve oversight:</p> <ul style="list-style-type: none"> <li>• Directors: Nomination, Appointment, Induction, Training, Support, and Performance evaluation.</li> <li>• Governing Body: Makeup, Structure, Board committees, Terms of references, Number of meetings, Performance evaluation etc.</li> <li>• Audit Committee: Makeup, Terms of reference etc.</li> <li>• Risk Management: Policy documents developed and implemented.</li> <li>• Chief Executive Officer responsibilities and Independence of the Chair of the Board.</li> <li>• Succession Planning: Board and Senior Management level.</li> <li>• Strategic Planning, Monitoring and Evaluation of SCE key performance indicators.</li> <li>• Annual Governance Statement: Annual Issuance.</li> </ul>	MEDIUM

#### DEFINITION OF PRIORITIES

<b>HIGH</b>	Immediate risk of error, loss of cash or other assets or significant non-compliance with relevant Ordinances or regulations. Action should be taken on these within 2 months.
<b>MEDIUM</b>	Issues identified which would improve the quality of governance, financial reporting and/or internal control systems. Action should be taken on these within 6 months, or by the end of the next financial reporting period, whichever is the earliest.

## ANNEX 1 ACRONYMS

<b>AFS</b>	Annual Financial Statements/Accounts
<b>AGM</b>	Annual General Meeting
<b>BOSH</b>	Bank of St Helena Limited
<b>CAE</b>	Chief Audit Executive/Internal Audit Manager/Internal Auditor
<b>CIPFA</b>	Chartered Institute of Public Finance & Accountancy
<b>Connect</b>	Connect St Helena Limited
<b>Constitution</b>	Constitution of St Helena, Ascension and Tristan da Cunha
<b>ESH</b>	Enterprise St Helena
<b>ExCo</b>	Executive Council
<b>FS</b>	Financial Secretary
<b>FSRA</b>	Financial Services Regulatory Authority, and
<b>IFAC</b>	International Federation of Accountants
<b>IPSAS</b>	International Public Sector Accounting Standards
<b>LegCo</b>	Legislative Council
<b>OECD</b>	Organisation for Economic Co-operation and Development
<b>PAC</b>	Public Accounts Committee
<b>SCE</b>	State Controlled Entities
<b>SCOPA</b>	Standing Committee on Public Accounts and is equivalent to the Public Accounts Committee.
<b>SHAS</b>	St Helena Audit Service
<b>SHCF</b>	St Helena Currency Fund
<b>SHFC</b>	St Helena Fisheries Corporation
<b>SHG</b>	St Helena Government
<b>SHHDL</b>	St Helena Hotel Development Limited
<b>SHL</b>	Saint Helena Line Limited
<b>SOE</b>	State Owned Enterprise
<b>Solomons</b>	Solomon and Company (St Helena) PLC
<b>St</b>	Saint
<b>URA</b>	Utilities Regulatory Authority

## ANNEX 2 DETAILED OVERSIGHT ANALYSIS

### LEGISLATIVE COUNCIL OVERSIGHT PROCESS

SCE should be subjected to appropriate procedures of political accountability and these should be disclosed to the general public. The procedures of political accountability should ideally be documented in the state ownership policy. The process includes the Legislative scrutiny which involves PAC and the Council Committees as well as members of Executive Council and Governing Body oversight.

### LEGISLATIVE COUNCIL PROCESS

St Helena is governed within a democratic system where the people of St Helena elect members of the public to represent them in Legislative Council (LegCo). The Legislature makes laws for the peace, order and good government of St Helena. The Legislature of St Helena consists of Her Majesty the Queen and the Legislative Council<sup>4</sup>.

The Legislative Council consists of: <sup>4</sup>

- A Speaker
- A Deputy Speaker
- Twelve Elected Members, and
- Three (non-voting) Ex-Officio members namely, the Chief Secretary, Financial Secretary and Attorney General.

Section 61 of the Constitution provides for meetings of the Legislative Council. Further details regarding the regulation and conduct of meetings are set out in the Standing Orders of the Legislative Council made in accordance with Section 68 of the Constitution. The St Helena Legislative Council endeavours to meet at least four times per year.

Sessional Papers are reports and papers which are tabled in the LegCo and deposited with the clerk of councils. These papers include Bills for Ordinances, annual financial reports of the St Helena Government and various other entities (e.g. Enterprise St Helena, the St Helena National Trust, St Helena Fisheries Corporation, etc).

In accordance with section 109(3) of the Constitution, the Financial Secretary is to lay the audited annual statement of accounts and its attachments before LegCo. The reports that are laid shall be deemed to have been referred to the Public Accounts Committee (PAC) as soon as it is ordered to lie on the table. After scrutiny of the reports, PAC is then to report back to LegCo on how the public purse has been spent, with or without recommendations. LegCo may then adopt the PAC report and request the responsible Member of Executive Council (ExCo) to advise LegCo of the action proposed to be taken by SHG in respect of the report within a given timeline.

The below is the LegCo oversight assessment:

Entity under scrutiny	Date Sessional Paper Laid in LegCo	LegCo Sessional Paper after PAC scrutiny	Sessional Paper and Motion tabling in LegCo	PAC reporting form
<b>BOSH</b>	Not required to be laid	SP35/2016	18 July 2016	With Recommendations
<b>ESH</b>	12 February 2016	SP35/2016	18 July 2016	With Recommendations
<b>Connect</b>	Not required to be laid	SP35/2016	18 July 2016	With Recommendations
<b>SHHDL</b>	Not required to be laid	SP35/2016	18 July 2016	With Recommendations
<b>SHCF</b>	Not required to be laid	SP35/2016	18 July 2016	With Recommendations
<b>SHFC</b>	12 February 2016	SP35/2016	18 July 2016	With Recommendations
<b>Solomons</b>	Not required to be laid	None	None	Not Applicable
<b>SHL</b>	Not required to be laid	None	None	Not Applicable

The table above assessed the oversight process that has taken place with regards to the different SHG SCEs. Whilst we have identified that the ESH and SHFC are laid at LegCo and referred to PAC for scrutiny, all the other SCEs do not have any legislative requirement to be laid in LegCo and are being referred to PAC by the Chief Auditor as a matter of importance as provided for in Standing Order 23.

Furthermore we noted that no scrutiny of the performance (financial and non-financial) of Solomons and SHL was performed by PAC as is normally expected for SCEs.

Sessional Paper 35/2016; the report to LegCo on the PAC Formal meeting held on the 10<sup>th</sup> and 11<sup>th</sup> of May 2016 and in camera session held on 22<sup>nd</sup> of March 2016 was tabled in the 18 July 2016 LegCo meeting with recommendations on the SCEs' audited financial statements except for Solomons and SHL.

## COMMITTEE PROCESS

### PUBLIC ACCOUNTS COMMITTEE PROCESS

As a Select Committee of LegCo in accordance with section 69 of the Constitution and Standing Order 23, the PAC's function is statutory. The PAC is protected to act independently and is not subject to the directions and control of the Governor, the ExCo or any other body or authority. It has power to call any Government official to give evidence orally.

PAC's primary function is to objectively scrutinise and report back to LegCo how the government spends the public purse. This is done by reviewing SHG and its entities' annual reports that contain their annual financial statements and performance reports. The following are processes that have been evidenced:

- As required by section 69, PAC is made up of the 2 independent members and 3 Elected Members. The PAC is holding meetings twice a month so as to handle its workload.



Minutes of PAC meetings were inspected for 2013/14 & 2014/15 financial years appointed and the following members were confirmed:

Position on Committee	Name	Status
<b>Chairman</b>	Mr Cyril Gunnell	Independent member
<b>Deputy Chairman</b>	Mr Stedson Francis	Independent member
<b>Member</b>	Hon. Dr. Corinda Essex	Elected Member of LegCo
<b>Member</b>	Hon. Cyril George	Elected Member of LegCo
<b>Member</b>	Hon. Wilson Duncan	Elected Member of LegCo

\*Mr Stedson Francis resigned as an independent member of the PAC in February 2017 and he was replaced by Mr Mark Yon.

- PAC held formal hearings in May and October 2016 and an in camera session in March 2016, and their reports were prepared and laid in LegCo as sessional papers in compliance with the constitutional arrangements. The following entities' affairs were scrutinised:

Date of Formal Hearing	Entities attending formal hearings	Reported to LegCo
<b>22 March 2016</b>	BOSH – Annual Report	Sessional Paper 35/2016
<b>10 &amp; 11 May 2016</b>	SHHDL – Annual Report Connect – Annual Report ESH – Annual Report SHFC – Annual Report SHCF – Annual Report	
<b>3 October 2016</b>	SHG – Annual Reports, Performance reports and other matters	Sessional paper 43/2016 Sessional paper 44/2016

## REGULATORY OVERSIGHT PROCESS

The legal and regulatory framework for SCEs should ensure a level playing field and fair competition in the marketplace when SCEs undertake economic activities. A clear separation between the state's ownership function and other state functions that may influence the conditions for state controlled entities, particularly with regard to market regulation. When the state plays a dual role of market regulator and owner of SCEs with economic operations the state becomes at the same time a major market player and an arbitrator.

Government's role as regulator is more focused on the industry within which the SCE operates or which the SCE serves. The Regulator would be interested in issues like pricing, consumer interest and industry issues and interest. Although the regulator is a government agency and is carrying out a government role, the relationship of a regulator with the SCE can be and should be an independent, objective, and at an arm's length relationship with the SCE, unlike the more direct relationship that Government as shareholder and policy-maker, would have.

Entity	Industry	Regulator
BOSH	Financial Services	FSRA
Connect	Utilities Services	URA

Entity	Industry	Regulator
Solomons	Retail, Financial Services, Farming, Automotive sector, Hospitality	FSRA and none for the other industries
St Helena Line	Shipping	None identified
SHHDL	Hospitality	None identified
ESH	Financial Services	FSRA
SHCF	Currency Fund	None identified
SHFC	Fisheries	None identified

In performing our audit work we identified that SHG has 2 regulators being the:

- Financial Services Regulatory Authority (FSRA), and
- Utilities Regulatory Authority (URA)

The FSRA has been constituted in accordance with the Financial Services Ordinance<sup>6</sup> which came into effect on the 3<sup>rd</sup> of November 2008. The FSRA was established to ensure that a legal framework is in place to facilitate the provision of licences for financial services:

- Mr Christopher Duncan – Financial Services Supervisor/Chairman
- Mr Gavin Barlow – Member
- Mr Anthony Green – Member
- Mr Angelo Berbotto - Member

The authority is properly constituted as per the applicable ordinance and consists of independent members only.

The FSRA holds its meetings on a regular basis and the following dates is when meetings were held:

- 8 May 2015,
- 10 July 2015,
- 20 November 2015,
- 2 March 2016,
- 14 July 2016,
- 14 October 2016, and
- 2 February 2017.

The reports that are produced by the FSRA are presented to the Governor as required by the ordinance but are not made available for public consumption.

On 1 April 2013 the Utility Services Ordinance 2013<sup>7</sup> came into force. The Ordinance established the URA and created a legal framework to facilitate the provision of licenses for private sector utility services. The URA is made up of the following independent members:

- Mr John MacRitchie - Chairman
- Mr Paul Hickling - Member
- Mr Stedson Francis - Member

The authority is properly constituted as per the applicable ordinance and consists of independent members only.

The URA holds its meetings on a regular basis and the following dates is when meetings were held:

- 9 March 2015,
- 28 October 2015,
- 15 February 2016 and
- 23 November 2016.

The URA publishes an annual report<sup>9</sup> and the main purpose of this annual reporting is to inform the public of the level of services being delivered by Connect, and to provide oversight on the services being provided by Connect. This aim is to ensure that Connect improves the quality of the services it provides to the public.

The regulatory oversight of the utilities and financial services are adequate and satisfactory. However from a general outlook SHG has not established regulatory authorities to provide oversight with regards to the retail, automotive repairs, farming, fisheries, hospitality and shipping industry

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<sup>9</sup> <http://www.sainthelena.gov.sh/wp-content/uploads/2012/08/URA-Report-on-USP-2015-16-1.pdf>

## ANNEX 3 ST HELENA NATIONAL TRUST

St Helena National Trust (SHNT) is disclosed in St Helena Government (SHG) 2014/15<sup>1</sup> Annual Financial Statements note 25 as an entity controlled by SHG as per the International Public Sector Accounting Standard (IPSAS) 6 Consolidated and Separate Financial Statements<sup>10</sup> however various issues have been raised by stakeholders if indeed SHNT is a controlled entity.

The objective of this assessment is to determine if as per the provisions of IPSAS 6 and the St Helena National Trust Ordinance, SHNT is a controlled entity based on the practical arrangements in place.

### The St Helena National Trust

The St Helena National Trust was established by Ordinance (Ordinances 10 of 2001 & 2 of 2008) to be an independent, 'not-for-profit' organisation, launched on 21st May 2002, the 500th anniversary of the discovery of the island, with the following purposes:

- To promote the appreciation, protection and enhancement of St Helena's unique environmental and culture heritage.
- To acquire and hold in perpetuity land of natural beauty or buildings and objects of historic or cultural interest for the benefit of people today and of future generations.
- To give the people of St Helena stake in the future of their unique environmental and cultural heritage.
- To provide opportunities for enjoyment, education, recreation and spiritual refreshment.

### Trust Objectives

The SHNT is a community based charity established under ordinance (St Helena National Trust Ordinance 2001 (2008)). It is enabled to:

- Acquire, hold and dispose of property;
- Enter into contracts;
- Do all things necessary for the purposes of its functions;
- Sue and be sued in its corporate name; and
- Authorise documents to be signed on its behalf by officers or members of the Trust.
- The SHNT is administered through a Council consisting of 13 members who oversee its management and are responsible for its assets.

### Establishing Control

Control is the power to govern the financial and operating policies of another entity to benefit from its activities. Control consists of two parts which are (1) Control of the financial and operating policies and (2) Benefits must be obtained from that control.

### Assessing if Control Exists

#### 1. Control of the Financial & Operational Policies

SHNT is a not-for-profit organisation formed through the St Helena National Trust Ordinance and therefore SHG does not hold a shareholding in the organisation as there are no shares that have been issued. Therefore as per IPSAS 6(28(a)) there is no expectation that SHG will benefit financially from the activities of the entity through the distribution of surpluses/dividends since it is not a shareholder.

<sup>10</sup> <http://www.ifac.org/system/files/publications/files/ipsas-6-consolidated.pdf>

## **2. Control through Majority Vote**

As per section 12(b)<sup>11</sup> of the St Helena National Trust Ordinance, the Governor in Council is permitted to appoint two council members out of the permissible fourteen members. The majority of the members on the council are not appointed by SHG and therefore SHG cannot use the Council to direct SHNT's work to achieve its objectives.

### **Regulatory/Legislative Considerations with regard to Control**

SHNT is formed by the St Helena National Trust Ordinance and Section 14 states that, the Governor in Council is able to make regulations for SHNT with regards to its business and operations. However paragraph 37(a) of IPSAS 6 states that 'Governments and their agencies have the power to regulate the behaviour of many entities by use of their sovereign or legislative powers. Regulatory and purchase powers do not constitute control for the purposes of financial reporting'. Therefore SHG does not have control as (i) the scope of any regulation is restricted under the Ordinance and (ii) IPSAS is clear that regulation does not constitute control.

### **Economic Dependency with regard to Control**

SHNT is not dependent on SHG for funding – a contribution of £17k is provided to assist with corporate headquarters function but is less than 10% of total revenues. Accordingly SHNT is therefore economically independent. SHNT therefore has the ultimate power to govern its own financial or operating policies and accordingly is not controlled by SHG as per IPSAS 6 paragraph 37(b).

### **Conclusion**

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Based on the work performed, SHNT is not a controlled entity of SHG as per the provisions of IPSAS 6 and accordingly does not need to be recognised in the financial statements Note 25 or as a related party in Note 24.

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<sup>11</sup> 12 (2) (b) Two members appointed by the Governor in Council from persons who are members of the Trust

## ANNEX 4 STATE CONTROLLED ENTITIES GOVERNING BODIES

Governing bodies of SCEs should have the necessary authority, competencies and objectivity to carry out their functions of strategic guidance and monitoring of management. They should act with integrity and be held accountable for their actions.

SCE Governing Body/Boards are expected to perform the following:

- Be assigned a clear mandate and ultimate responsibility for the entity's performance.
- Effectively carry out their functions of setting strategy and supervising management, based on broad mandates and objectives set by the government. They should have the power to appoint and remove the CEO and should be able to set executive remuneration levels that are in the long term interest of the entity.
- The composition should allow the exercise of objective and independent judgement. All board members should be nominated based on qualifications and have equivalent legal responsibilities.
- Independent board members should be free of any material interests or relationships with the entity, its management, other major shareholders and the controlling entity that could jeopardize their exercise of objective judgment.
- Mechanisms should be implemented to avoid conflicts of interest preventing board members from objectively carrying out their board duties and to limit political interference in board processes.
- The Chair should assume responsibility for boardroom efficiency and, when necessary in coordination with other board members, act as the liaison for communications with the state ownership entity.
- If employee representation on the board is mandated, mechanisms should be developed to guarantee that this representation is exercised effectively.
- Board should consider setting up specialised committees, composed of independent and qualified members, to support the full board in performing its functions, particularly in respect to audit, risk management and remuneration. The establishment of specialised committees should improve boardroom efficiency and should not detract from the responsibility of the full board.
- SCE boards should, under the Chair's oversight, carry out an annual, well-structured evaluation to appraise their performance and efficiency.
- Develop efficient internal audit procedures and establish an internal audit function that is monitored by and reports directly to the board and to the audit committee or the equivalent corporate organ.

Entity	An appointed Board of Directors is in place at the SCE
BOSH	Yes
Connect	Yes
Solomons	Yes
St Helena Line	Yes
SHHDL	Yes
ESH	Yes
SHCF	Yes
SHFC	Yes

To ensure that the board meets the above stated expectations, the state is encouraged to act as an informed and active owner and should exercise its ownership rights according to the legal structure of their SCE. The prime responsibilities of SHG as pro-active shareholder/owner therefore include:

1. Representation at general shareholders meetings and effectively exercising voting rights;
2. Establishing well-structured, merit-based and transparent board nomination processes in fully- or majority-owned SCEs, actively participating in the nomination of all SCEs' boards and contributing to board diversity;
3. Setting and monitoring the implementation of broad mandates and objectives for SCEs, including financial targets, capital structure objectives and risk tolerance levels;
4. Setting up reporting systems that allow SHG to regularly monitor, audit and assess SCE performance, and oversee and monitor their compliance with applicable corporate governance standards;
5. Developing a disclosure policy for SCEs that identifies what information should be publicly disclosed, the appropriate channels for disclosure, and mechanisms for ensuring quality of information;
6. Establishing a clear remuneration policy for SCE boards that fosters the long- and medium-term interest of the entity and can attract and motivate qualified professionals.
7. Ensuring effective strategic financial management, stewardship and accountability for the use of public resources.

A high level assessment was performed on the current SCE boards based on the available information, this is our assessment on the compliance with the set requirements:

Entity	Pro-Active Shareholder/Owner Expectation assessment						
	1	2	3	4	5	6	7
BOSH	Yes 17/11/2015	No	No	No	No	No	No
Connect	Yes 21/01/2016	No	No	No	No	No	No
Solomons	Yes 23/09/2015	No	No	No	No	No	No
St Helena Line	No*	No	No	No	No	No	No
SHHDL	Yes 17/02/2016	No	No	No	No	No	No
ESH	&	No	No	No	No	No	Yes
SHCF	@	No	No	No	No	No	Yes
SHFC	#	No	No	No	No	No	Yes

**Legends:**

1	SHG was represented at the general shareholders meetings.
2	SHG has established a well-structured, merit-based and transparent board nomination processes in fully- or majority-owned SCEs, actively participating in the nomination of all SCEs' boards and contributing to board diversity.
3	SHG has set broad mandates and objectives for the SCEs.
4	SHG has set up reporting systems that allow them to regularly monitor, audit and assess SCE performance, and oversee and monitor their compliance with applicable corporate governance standards;
5	SHG has developed a disclosure policy for SCEs that identifies what information should be publicly disclosed, the appropriate channels for disclosure, and mechanisms for ensuring quality of information;

6	SHG has established clear remuneration policy for SCE boards that fosters the long- and medium-term interest of the entities and can attract and motivate qualified professionals.
7	SHG ensures effective strategic financial management, stewardship and accountability for the use of public resources
Yes	Evidence exists that this is occurring.
No	No evidence was provided by SHG to validate that these processes are occurring.
&	No AGM is held for ESH as it is not a company. As per section 10 of the ESH Ordinance, the financial statements were signed by the Chair of the Board on 09/12/2015 and laid at LegCo on 12/02/2016.
@	No AGM is held for SHCF as it is not a company but a fund. As per section 22 of the Currency Fund Ordinance, the financial statements were signed by the Chairperson on 30/11/2015 and as from May 2016 the Ordinance has been amended to require the accounts be laid in LegCo
#	No AGM is held for SHFC. As per section 15 of the Fisheries Corporation Ordinance, the financial statements were signed by the Chair of the Board on 09/12/2015 and laid at LegCo on 12/02/2016.

*\* SHL has not held annual general meeting for the past 2 financial periods as required by its Articles of Association*

*SHG's agreement with the Crown Agents to provide services to SHL has not been renewed on annual basis since it was signed on 25 November 1999. The services addressed in the letter does not stipulate who the shareholder's representative in the event of an annual general meeting or special meeting and also does not give Crown Agents the mandate where the company is going to be moving to.*



## ANNEX 5 CORPORATE GOVERNANCE SELF-ASSESSMENTS BY SCE

### SCEs self-evaluation against Principles of Corporate Governance – High Level Summary

Principles of Corporate Governance		BOSH	Connect	Solomon	SHHDL	ESH	SHCF	SHFC
<b>A</b>	<b>Behaving with integrity, demonstrating strong commitment to ethical values, and respecting the rule of law.</b>							
1	Behaving with integrity							
2	Demonstrating strong commitment to ethical values							
3	Respecting the Rule of Law							
<b>B</b>	<b>Ensuring openness and comprehensive stakeholder engagement.</b>							
1	Openness							
2	Engaging Stakeholders effectively, including individual citizens and service users							
3	Engaging comprehensively with Institutional stakeholders							
<b>C</b>	<b>Defining outcomes in terms of sustainable economic, social, and environmental benefits</b>							
1	Defining Outcomes							
2	Sustainable economic, social and environmental benefits							
<b>D</b>	<b>Determining the interventions necessary to optimize the achievement of the intended outcomes.</b>							
1	Determining interventions							
2	Planning Interventions							
3	Optimising achievements of intended outcomes.							
<b>E</b>	<b>Developing the entity's capacity, including the capability of its leadership and the individuals within it.</b>							
1	Developing the entity's capacity							
2	Developing the entity's leadership							
3	Developing the capability of individuals within the entity							

Principles of Corporate Governance		BOSH	Connect	Solomon	SHHDL	ESH	SHCF	SHFC
<b>F</b>	<b>Managing risks and performance through robust internal control and strong public financial management.</b>							
1	Managing Risk							
2	Managing Performance							
3	Robust Internal Control							
<b>G</b>	<b>Implementing good practices in transparency, reporting, and audit, to deliver effective accountability</b>							
1	Implementing Good practices in Transparency							
2	Implementing good practices in Reporting							
3	Assurance and Effective Accountability							

**Legend:**

	75% - 100% compliant with the principles
	50% - 74 % compliant with the principles
	25% - 49% compliant with the principles
	Less than 25% compliant with the principles
	Not Applicable