

COMMERCIALLY SENSITIVE AND PREPARED IN CONNECTION WITH MEDIATION

Initial Complaint Review and Mediation Scheme

Post Office Investigation Report

Branch Name:	Walton on Thames	Branch Code:	090023	Case Number:	M071
Applicant Name:	Mr David Yates	Status of Case:	Mediation Application	Date of Appointment:	13 Sept 1993 to 7 March 2003

Executive summary**Background**

The Applicant was the subpostmaster at the Walton on Thames branch from September 1993 to 7 March 2003. He started working for Post Office in 1979 and had worked as a counter clerk, Crown branch manager and finally a subpostmaster at Walton on Thames. He viewed himself as experienced in the business of and workings of a Post Office.

On 7 March 2003 an audit took place which revealed a cash shortage of £366,788.67. The Applicant initially claimed that the shortage was caused by a large outward cash remittance he sent the previous day not having been booked into Horizon. When asked for paperwork by the auditor to evidence the cash remittance, the Applicant admitted that the branch was in fact short in the region of £350,000 in cash.

An interview under caution took place at which the Applicant admitted to taking funds belonging to Post Office and claimed to have used the money for personal and business debts, but was unable to quantify the amount used for those purposes. He acknowledged that it was wrong and said that he had acted alone. He claimed that the shortage had 'mushroomed' over a five year period. He admitted that he concealed the loss and had also lied to auditors at previous audits to evade detection. The Applicant was prosecuted. He pleaded guilty to one count of theft and was sentenced to 3 years in prison, of which 13 months were served with 13 weeks on Home Detention Curfew. No significant shortfalls have been encountered at the Walton on Thames branch since the Applicant's contract was terminated.

Conclusion

Although there is a very limited amount of documentary evidence available, as the relevant events took place between 11 and 16 years ago, Post Office concludes that the £359,325.71 loss sustained at the branch was attributable to theft by the Applicant, as admitted by him during the audit on 7 March 2003, the interview under caution the same day and his subsequent guilty plea. A guilty plea entails an acknowledgement to the court that the defendant committed the offence (i.e. that he acted dishonestly). It is likely that, prior to entering his plea, the Applicant would have been advised of this central principle by his own lawyers.

There is no evidence of either the Applicant or his staff complaining of irregularities with Horizon at any stage during his tenure and so his complaints of a lack of competent and adequate support and inability to 'park' and investigate differences do not stand up. The Applicant admitted to losses being incurred prior to the introduction of Horizon, which is contrary to his claim in the CQR that the losses only started when Horizon was introduced.

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The Applicant's Issues		
1. The Applicant claims that the cumulative shortfall of £359,325.71 identified at audit on 7 March 2003 was caused by failings in Horizon rather than theft /fraud or user error; 2. The Applicant claims that he had no choice but to accept a guilty plea when criminally prosecuted; 3. The Applicant claims that a lack of competent and adequate support via the Post Office helpdesk or by any other means contributed to the cumulative shortfall. In particular the Applicant cites the inability to park and investigate differences, and the fact that any shortfalls had to be made good without being fully investigated as significant factors in the losses sustained. The Applicant claims £1,287,384.08 by way of compensation for his contract for services being terminated and subsequent criminal prosecution. He claims to have lost his good reputation, which in his opinion he cannot be fully compensated for.		
Case Review Actions		
<i>Summary of the information collated by Post Office</i>		
Information available from Post Office records:		
Information area	Information provided with this response	Information not available
Electronic Filing Cabinet		X
Horizon Service Desk		X
Transaction Corrections		X
Financial Dispute Resolution		X
System Connectivity		X
Branch Training Records		X
Contractual Files/records		X
Branch Audit Reports		X
NBSC Call logs	X (part records)	
Response to issues raised by Applicant		
The Applicant claims that the cumulative shortfall of £359,325.71 identified at audit on 7 March 2003 was caused by failings in Horizon rather than theft /fraud or user error Due to the age of this case (1998 to 2003) Horizon data is not available and it is not possible to attempt to show exactly how the cumulative shortfall built up by reference to accounting information. However, that sort of analysis would have been almost impossible even if accounting information had been available because the Applicant admitted at interview to inflating the amount of cash on hand at the branch and completing false cash remittances, meaning that the data inputted by the Applicant could not be relied upon.		

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The only relevant documentary evidence available is: i) a transcript of the Applicant's interview under caution on 7 March 2003 regarding the criminal allegations against him; ii) the NBSC call log for July 2000 to March 2003; iii) the audit report (**Doc 004**) and iv) the Performance Improvement Advisor (PIA) call log extract for the same period.

What is apparent from the documentary evidence available is that the Applicant did not cite Horizon as the cause of the very large cash shortage identified on 7 March 2003 at any time during the audit, the investigation or the prosecution process. Nor is there any evidence of the Applicant ever making a claim during his tenure that soon after Horizon had been installed (11 July 2000), he found unexplained losses occurring. Further, no significant shortfalls have been encountered at the branch since the Applicant's contract was terminated.

On commencement of the audit on 7 March 2003, the auditor asked the Applicant for a balance snapshot. A balance snapshot is a method of extracting data from Horizon to reveal the level of cash and stock on hand at the branch. The snapshot revealed that cash in the sum of £410,345.67 should have been on hand at the branch. The auditor then asked the Applicant to provide the branch's cash declaration for the previous day, Thursday 6 March 2003. A physical check of cash on hand should be completed on a daily basis and declared on Horizon so as to identify any variance between the amount of cash that should be held in branch according to the branch's accounts on Horizon and the amount of cash that is in fact physically present in the branch. The previous day's cash declaration indicated that £43,566.00 was physically present in the branch, revealing that cash totalling £366,779.67 was missing from the branch.

When asked for an explanation for the significant variance, the Applicant initially claimed to have despatched a cash remittance out the previous day, but claimed not to have entered it yet onto Horizon.

By way of explanation, a remittance can be either classed as inward or outward depending on whether cash/stock is being received by the branch from Post Office or vice versa. An outward remittance in this case relates to the branch returning cash to the local Cash Centre. The outward remittance is logged into Horizon by the subpostmaster sending it before being delivered to the Cash Centre. The Applicant claimed that the cash was in-transit when the auditor was present (in other words it had physically left the branch) but he had not yet booked it on to Horizon.

The auditor then asked to see the Applicant's 'cash in transit' collection receipt, which indicated that the last collection was a day earlier than claimed on 5 March 2003. The auditor requested further information from the Applicant in order to check the amount of cash remitted on that day. The Applicant claimed that he could not find the paperwork to confirm this. At this stage, the Applicant informed the auditor that no remittance had been despatched the previous day and that the audit would probably result in a shortage of approximately £350,000.00. The total loss revealed at audit was £359,325.71.

It should be noted that the explanations given by the Applicant both at the audit and during the security investigation that led to his prosecution were inconsistent and changed over time. For example, as referred to below the Applicant at one stage admitted to inflating cash figures for 6 months, but at other stages admits to having done so for more than 5 years.

Prior to the audit on 7 March 2003, the branch had been audited on two previous occasions (23 May 2002 and 15 November 2002). At these audits, the cash remittances out logged at the branch do not appear to have been verified by the auditors and so no irregularities were identified. However, following the audit on 15 November 2002, a detailed review of the Applicant's cash remittances took place. It appears that discrepancies were identified at this stage, either because no record of particular remittances were found at the Cash Centres or the information did not correlate.

At that time, branches submitted a paper based balance ledger (known as Cash Account) to Finance Service Centre (FSC) which detailed all receipts in and payments out in addition to cash and stock declared on hand. Associated documents would also be submitted to FSC along with the Cash Account.

Cash Centre information would also feed into FSC in order to settle with clients, monitor cash holdings and

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detect risk. Due to the age of the case it is not possible to say with any certainty what exactly transpired in respect of the 2002 audits and why the large shortfall was not identified at an earlier stage, but it appears (at least in respect of the November 2002 audit) to be because no cross check had taken place to verify whether the cash remittances out that the Applicant had logged at the branch had actually been delivered to the Cash Centre. This would have allowed the Applicant to remove cash from the branch without detection.

A criminal investigation was instigated immediately upon discovery of the large loss at the 7 March 2003 audit and the Applicant was interviewed the same day. A copy of the transcript of the Applicant's interview is available (**Doc 001**).

The Applicant was interviewed under caution by a Post Office investigator under the Police and Criminal Evidence Act (PACE). The Applicant had the right to legal representation and a 'friend' (i.e. National Federation of Subpostmasters' (NFSP) representative). However, he chose not to have anyone else present with him at interview.

During the interview, the Applicant admitted the following:

- A cash shortage at the branch had been building up over a 5 year period, which started with error notices, but *'slowly mushroomed'*.
- The Applicant inflated the cash on hand figure at the end of each accounting week to cover up the loss in the branch accounts so that a balance would be achieved without any shortage being revealed.
- The Applicant had *'taken to pay staff or ...you know the business wasn't doing as well as it should be'*. The Applicant had also taken money for his own expenses. He claimed to have acted alone and that no one else knew. The Applicant's assistant was later interviewed and ruled out as a suspect.
- The Applicant stated that the loss had grown gradually but a total loss approaching £350,000 had been concealed for the last 6 to 7 months (which is inconsistent with his admission that the shortage had been building up over a 5 year period). The Applicant stated that there had not been *'any big jumps'* but that the *'amount kept building up'*. Given this statement and the large size of the loss, it seems more likely that the shortfall had been accruing over a 5 year period and indeed as noted below the Applicant was charged with theft over a period of 5 years.
- The Applicant had falsified accounts by transacting false outward remittances to conceal losses, which went undetected for the reasons detailed above.
- The Applicant made little attempt to pay the money back.
- The Applicant confirmed that he understood the accounting process for dealing with shortages and error notices (now known as Transaction Corrections). By way of explanation, error notices are an accounting adjustment issued by FSC which are designed to correct accounting errors made in branch that have been reported to Post Office or that Post Office has become aware of. They impact on the branch balance by causing a discrepancy for the value issued which is intended to offset the amount of the error.
- The Applicant stated that he'd been working for Post Office since 1979, and regarded himself as experienced and conversant with all areas of a Post Office.

It appears that efforts were made to recoup the loss via the civil recovery route but due to the age of the case no records exist as to the amount recovered, if any. The Applicant claims that he repaid Post Office approximately £41,000 using sums borrowed from a friend. This cannot be verified due to lack of Post Office information available.

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Conclusion

Post Office's findings are that the Applicant stole sums totalling £359,325.71 from Post Office and concealed this theft for at least six months and possibly as long as five years. Although audits took place in May and November 2002, the Applicant's wrongdoing was not detected. It is not possible to say exactly why this was the case due to the age of the case and inconsistencies in the Applicant's version of events, but it appears to have been because no cross check had taken place to verify whether the cash remittances logged by the Applicant were delivered to the Cash Centre. At no time during the 7 March 2003 audit, the interview with Mr Posnett or the ensuing prosecution process did the Applicant claim that the losses were caused by Horizon errors. Further, the Applicant admitted that the shortfall had been building up since 1998 (which is well before Horizon was introduced on 11 July 2000) so his claim that the differences started to occur a few weeks after Horizon was introduced does not stand up to scrutiny.

The Applicant claims that he had no choice but to accept a guilty plea

The Applicant admitted to theft and false accounting during the cautionary interview. Although he initially told the auditor what amount would be missing and after initially trying to explain it by claiming that the discrepancy related to an unprocessed cash remittance out, he later admitted to the auditor that he had been submitting fake cash remittances in order to falsify the accounts. There is no evidence to indicate that the Applicant blamed Horizon at any point during the 7 March 2003 audit at which his criminal behaviour was first discovered, or during the cautionary interview, or at any time throughout the post-interview investigation and prosecution process.

During the cautionary interview the Applicant was made aware of his right to remain silent, his right to seek advice from a solicitor and his right to have a friend present at the interview, but he nevertheless chose to respond to questions and declined to have a solicitor or friend present.

The Applicant admitted to the theft and false accounting over a period of five years at interview and pleaded guilty to one count of theft in the Crown Court. He was sentenced and received a three year custodial sentence. At the court hearing the Applicant was represented by his own barrister and solicitors. Prior to entering his guilty plea it is likely that he would have been advised that, in pleading guilty, he necessarily admits to having dishonestly taken POL money without permission or authority and unlawfully applying that money to his own use, all with the intention of not repaying that money.

Conclusion

There is no evidence to suggest that the Applicant had no choice but to accept a guilty plea. The Applicant had legal representation at the time he entered his guilty plea and the circumstances surrounding the plea are a matter between the Applicant and his legal advisors.

The Applicant claims there was a lack of competent and adequate support via the Post Office helpdesk or by any other means thereby leaving the differences unresolved. The Applicant claims there was an inability to park and investigate differences, and that he had to make good the differences without these being fully investigated

Due to age of this case there is no information available relating to the Applicant's error notices from 1998 to 2003, correspondence relating to error notices or other information that would enable any discrepancies at the branch to be more forensically investigated.

Post Office NBSC call log for the period 13 July 2000 to 31 March 2003 has been obtained **Doc 002** refers and reveals that 125 calls were made to NBSC. 79 'H' calls were received and 46 'Q' calls were made.

Doc 002 shows two types of calls; 'H' and 'Q' call in column B of the Excel spread sheet. 'H' calls refer to the branch calling NBSC for assistance. The call log reveals that the Applicant called on three occasions in October and November 2000. These calls relate to: i) a balancing issue on Horizon; ii) a remittance out barcode that would not scan properly; and iii) advice on the Horizon upgrade implementation. No further calls were made

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regarding the new Horizon system, errors or losses emanating from Horizon. The remaining calls relate to ordinary product, ordering or process advice.

“Q” calls refer to calls made by Post Office-employed specialist performance improvement advisors (PIA), who contacted branches to ensure that transactional documents and processes were properly completed and adhered to.

The “Q” calls log at **Doc 002** shows that almost all of the 46 calls made to the Applicant related to error notice irregularities or non-submission of accounting information such as Cash Accounts. **Doc 003** is an addendum dealing with the various PIA enquiries. It is important to note that the Applicant had ample opportunity to bring any irregular losses or anomalies to the attention of the PIA at the time. The log reveals that he never took this opportunity.

A call made to the Applicant on 1 May 2002 relates to ‘5 to 11 errors in period 12’. The following annotation was completed by the PIA, *‘errors spoke to SPMR, (sub postmaster) who said he apologises for any inconvenience caused by these errors and said greater care will be taken in the future. He appreciated our intervention as it helps him to understand his mistakes’.*

Another PIA annotation, dated 18 December 2002, relating to week 23/02 transactional information reveals: the Applicant *‘always says he can’t find them or never received them’*. *‘Escalated to Elaine Wright’*. It appears that Elaine Wright was tasked to visit the Applicant in order to determine the reason for the non-conformance and / or obtain the missing accounts / documents. Elaine Wright was a retail line manager at the time and had at the time been in that post for 5 years. Her role involved the supervision of a number of Post Offices within a defined geographical area; ensuring that business objectives are met in the area of sales, accuracy, mystery shopper, etc. Due to the age of this case, there is no record to confirm whether or not Elaine Wright visited the branch or what the outcome of that visit was.

During the Applicant’s tenure, Post Office operated a system of paper based error notices which was reviewed and reconciled by FSC, who would deal directly with subpostmasters. For instance, if a subpostmaster had made a mistake regarding a giro deposit, (i.e. had entered an incorrect value or had not submitted the transactional documents), the relevant department would issue a paper based error notice. Supporting evidence would be provided with the error notice to help the branch understand the error made in branch. If the branch had any queries in relation to this, they could contact FSC to gain further clarity. Discrepancies relating to the error could be held in the branch suspense account where it could be held until enquiries into the discrepancy were concluded. It could then be removed by processing an error notice by or making the discrepancy good.

The ‘settled centrally’ function was only introduced in 2005, and relates to a Horizon system function which allows subpostmasters to ‘park’ losses or gains rather than making them good straightaway at the end of a trading period, if for example they do not agree with the discrepancies, are awaiting an error notice or wish to make a shortfall good via deductions out of their monthly remuneration. During the Applicant’s tenure, this process would have been paper based and in all likelihood, an FSC administrator would have corresponded with the Applicant.

During this period, despite the numerous calls in to NBSC and the PIA calls to the Applicant, he never complained about error notices and ‘parking’ and investigating shortfalls.

It is important to note that the Applicant was a competent subpostmaster with many years’ experience as a Post Office counter clerk, Crown Office manager and finally a subpostmaster. The Applicant would have been fully conversant with Post Office processes. The operating procedures at Crown branches are largely the same as those at agency branches.

Counter Operations Manuals were provided to every branch within Post Office network. A weekly newsletter known as the ‘Counter News’ was also available at the time and sent to every branch in the network. This detailed any operational updates and guidance.

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Due to the age of this case, there is no information available regarding the extent of the Applicant's training. As such, it is not possible to confirm whether the Applicant received the standard subpostmaster training at the time. It is possible that he did not receive bespoke subpostmaster training given his experience and as he used to work at the branch while it was still a Crown Office, and so he would have been well versed in counter clerk and its back office accounting duties.

Conclusion

There is no evidence to suggest that the Applicant did not have competent and adequate support from Post Office or that any perceived inability on his part to investigate discrepancies contributed in any way to the shortages incurred. The Applicant was very experienced and well versed in the support processes provided by Post Office, and would have received the same support as other branches. It is evident that the Applicant did use NBSC regularly and support was provided from his line manager. However, there is no evidence of him using Post Office support functions to report any issues with Horizon.

Reference Documents

Reference Number	Description
001	M071_POL_001_Taped Transcript_AD
002	M071_POL_002_NBSC call log July 2000 to March 2003_AD
003	M071_POL_003_PIA call log extract_AD
004	M071_POL_004_Audit Report_AD