



# Common Issues Trial Briefing Paper for POL Witnesses

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# 1. Executive Summary

What is the case about?

- 1.1 The case represents the culmination of a series of campaigns by disaffected postmasters and others (including a number of MPs on both sides) who believe that Post Office wrongly attributed branch losses to those postmasters and that as a result, they suffered financial and reputational harm. A theme of these campaigns is that flaws in Horizon (the in-branch point-of-sale system) were the cause of these losses.
- 1.2 The Managing Judge has determined that the case will be heard in a series of trials. The first, which is to be heard in November, will address a series of 'Common Issues' - essentially, to determine as a matter of legal construction, the proper meaning of the contract between Post Office and its agents, and whether certain additional terms should be implied into the contract.

What will be the impact of the decision?

- 1.3 Neither the Common Issues trial in November 2018 nor the Horizon Issues trial in March 2019 will address questions of breach, causation and loss - there will not therefore be any award of damages as a result of either of these trials.

How much attention will it attract?

- 1.4 While we do not expect there to be any material 'new news' to emanate from the trial, there are some reporters and media outlets who have been covering these issues over a long period, and significant interest from the group of 561 claimants.
- 1.5 Nevertheless, and consistent with the management of media around the Panorama programme in 2015, and the BIS Parliamentary Select Committee enquiry in 2015, Post Office believes that with an effective communications strategy this media interest will be short lived; and that our planned response should materially defuse any adverse impact.

## 2. Background to the Litigation

- 2.1 Transactions at Post Office counters are undertaken on the Horizon system. Post Office estimates that c50,000 people use the system each day across the network and that around half a million employees, agents or employees of agents have performed transactions on it since it was introduced in 1999.
- 2.2 In 2012 a small number of (mostly former) postmasters, under the banner of the "Justice for Subpostmasters Alliance" (JFSA) and with support from some MPs led by then MP (now Lord) James Arbuthnot, claimed Post Office's Horizon IT system had caused losses (shortfalls in physical cash against cash holdings recorded on Horizon) which they had had to make good. In some cases they had been prosecuted for these losses (usually for false accounting, theft or both) while, in other cases, they claim that it led to their contracts with Post Office being terminated causing them financial loss and other personal harm including bankruptcy, divorce and emotional distress including suicide.
- 2.3 In response to these assertions, Post Office appointed independent forensic accountants Second Sight to perform a 'top down' examination of Horizon. Second Sight issued a report in July 2013 which concluded there was no evidence of system-wide (systemic) problems with the Horizon software but identified some areas where Post Office could have done more to support individual postmasters.
- 2.4 As a result Post Office set up a Branch Support Programme which led to the introduction of important new measures in areas such as branch operation practices, processes and support. Further, in the autumn of 2013 Post Office established the 'Complaint Review and Mediation Scheme' as an avenue for postmasters and counter clerks (both former and serving) to raise individual concerns. The scheme was set up in consultation with MPs, the JFSA and Second Sight and was overseen by a working group, chaired by a former Court of Appeal Judge.
- 2.5 From 150 applicants, 136 were accepted into the scheme. Many cases were based on allegations which were vague and or not supported by the evidence and no evidence of systemic flaws in the system was found; rather the investigations (by both Second Sight and Post Office) found that the main reason for losses in the majority of cases was "errors made at the counter" by the postmaster and or their staff.
- 2.6 The process of resolving cases became challenging in an environment increasingly driven by JFSA campaigning for large financial settlements which were not justified by investigation findings, and or for the scheme to be used as a platform for overturning postmasters' criminal convictions,

which is something only the criminal courts could deliver (37 cases in the scheme involved criminal convictions).

- 2.7 Post Office has never publicly discussed the detail of the individual cases that were put forward (we promised confidentiality) and were therefore constrained in its ability to fully counter some of the media and Parliamentary criticisms generated by the JFSA's campaigning, which centred on some undoubtedly sad, but highly selective, histories of a small number of cases.
- 2.8 In the spring of 2015, following completion of all of our investigations, Post Office took the decision to offer mediation for all cases which remained in the scheme except those that had been subject to a previous court ruling. This accelerated the scheme and also ensured that the commitments made to applicants at the outset were met.
- 2.9 The JFSA encouraged applicants not to take part in mediation but nevertheless 50% of cases where a mediation took place were resolved. Mediations were overseen by the Centre for Effective Dispute Resolution (CEDR).
- 2.10 Although a total of 41 applicants to the scheme were able to resolve their complaints, the JFSA was not satisfied with the outcome and continued its campaign against Post Office.
- 2.11 In recent years, the focus of the complaints by postmasters has expanded from issues with the Horizon IT system, to the alleged "unfairness" of the contract between Post Office and postmasters. Despite significant lobbying by the JFSA of Parliament and through the media, Post Office's position has not altered, and considers that these disputes are now best resolved through the Courts.
- 2.12 In February 2016 it was reported that a group of postmasters had secured funding for group legal action and in April 2016, a High Court claim was issued against Post Office.
- 2.13 In March 2017, following a preliminary public High Court hearing, a Group Litigation Order was made, following which statements of case were filed by the claimants and Post Office setting out their "generic" cases (i.e. as apply to the entire group of claimants). At a subsequent Case Management Conference ('CMC') in October 2017, the Managing Judge appointed to oversee the Group Litigation, Mr Justice Peter Fraser, determined that the litigation would proceed in at least three stages:
  - (i) a 20 day 'Common Issues' trial starting on 5 November 2018, the purpose of which is to determine issues common to all the claimants, focussing on the legal relationship between Post Office and postmasters, the proper interpretation of certain terms in the standard contracts Post Office enters into with postmasters, and whether further

terms proposed by the claimants should be implied into those contracts;

- (ii) a second 20 day trial starting on 11 March 2019 on 15 "Horizon Issues" concerning technical aspects of the Horizon accounting system used in Post Office branches, which will be determined primarily on expert evidence (as opposed to individual users' experiences); and
- (iii) one or more further trials which would address issues of causation, loss and damages. On 27 September 2018 Mr Justice Fraser suggested that hearing time would be made available in May 2019 for such a further trial, the scope of and timetable for is currently under consideration and has not yet been agreed.

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### 3. Key Issues at the Common Issues Trial

- 3.1 The Common Issues trial will not address issues of breach, causation or loss. Instead, the trial will determine the correct legal relationship between Post Office and its agents:

*"It has been set down for the express purpose of determining a list of 23 Common Issues in the context of Group Litigation, involving 561 Claimants who contracted with Post Office over a period of many years. The trial is to be conducted by means of Lead Claims. Six have been selected. But the Common Issues are not directed to determining the specific cases of the Lead Claimants alone. Rather, the Common Issues were defined by the Court, with the agreement of the parties, as generic issues "relating to the legal relationship between the parties" being Post Office and wider group of 561 Claimants, whose engagements spanned around 20 years."*<sup>1</sup>

- 3.2 The claimants have sought to have implied into the contract a further 21 terms (see appendix A) and which would imply a range of additional duties including – most importantly, a duty to investigate branch losses and determine their cause before requiring an agent to repay them.
- 3.3 The most important Common Issues concern the liability of agents for "losses". The claimants argue that Post Office needs to show that a postmaster's actions have caused Post Office to suffer a net economic detriment, not just that a branch's accounts ostensibly show a shortfall. Post Office's position is that if a shortfall is shown in the branch's accounts then, absent any cogent evidence to the contrary, the postmaster is liable for that shortfall given they are responsible for conducting the transactions recorded in those accounts, and for the Post Office cash and other assets used.
- 3.4 Post Office has accepted that two additional terms are implied into the postmaster contracts which are necessary for their operation, but which obviate the need to imply the 21 terms sought by the claimants. Post Office's additional terms are that each party would:
- (i) refrain from taking steps that would inhibit or prevent the other party from complying with its obligations under or by virtue of the contract; and

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<sup>1</sup> Quoted from the Claimants' skeleton argument ahead of the Case Management Conference to be heard on 10 October 2018.



- (ii) provide the other party with such reasonable cooperation as was necessary to the performance of that other's obligations under or by virtue of the contract.

- 3.5 Witness evidence at the Common Issues trial will refer to Post Office's standard practices for contracting with new postmasters, and the circumstances of 6 'Lead Claimants'. This evidence should address what the parties understood about the contract and running a Post Office branch prior to entering into the contract. Witness statements' will not be read out in Court, and the Judge has stipulated a maximum of half a day for cross examination of each witness. There are 6 witnesses for the claimants, and 14 for Post Office.
- 3.6 To date, the claimants have only generically stated the remedies they are seeking from the Group Litigation, and in particular have not quantified the level of the financial damages they are seeking from Post Office.

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## Appendix A: Common Issues (including terms to be implied in to the contract by the Claimants)

### ***Agreed pursuant to §2 of the First CMC Order***

*References to Subpostmasters in this Schedule are to Subpostmasters who were subject to either (1) the Subpostmaster Contract ("**the SPMC**"), or (2) the Network Transformation Contract (local branch or main branch types) ("**the NTC**").*

### **Relational Contract**

- (1) Was the contractual relationship between Post Office and Subpostmasters a relational contract such that Post Office was subject to duties of good faith, fair dealing, transparency, co-operation, and trust and confidence (in this regard, the Claimants rely on the judgment of Leggatt J in Yam Seng Pte v International Trade Corp [2013] EWHC 111)?

**[GPOC 63, Defence 103]**

### **Implied terms**

- (2) Which, if any, of the terms in the paragraphs listed below were implied terms (or incidents of such implied terms) of the contracts between Post Office and Subpostmasters?

Post Office is required:

(1) to provide adequate training and support (particularly if and when the Defendant imposed new working practices or systems or required the provision of new services);

(2) properly and accurately to effect, record, maintain and keep records of all transactions effected using Horizon;

(3) properly and accurately to produce all relevant records and/or to explain all relevant transactions and/or any alleged or apparent shortfalls attributed to Claimants;

(4) to co-operate in seeking to identify the possible or likely causes of any apparent or alleged shortfalls and/or whether or not there was indeed any shortfall at all;

(5) to seek to identify such causes itself, in any event;

(6) to disclose possible causes of apparent or alleged shortfalls (and the cause thereof) to Claimants candidly, fully and frankly;

(7) to make reasonable enquiry, undertake reasonable analysis and even-handed investigation, and give fair consideration to the facts and information available as to the possible causes of the appearance of alleged or apparent shortfalls (and the cause thereof);

(8) to communicate, alternatively, not to conceal known problems, bugs or errors in or generated by Horizon that might have financial (and other resulting) implications for Claimants;

(9) to communicate, alternatively, not to conceal the extent to which other Subpostmasters were experiencing relating to Horizon and the generation of discrepancies and alleged shortfalls;

(10) not to conceal from Claimants the Defendant's ability to alter remotely data or transactions upon which the calculation of the branch accounts (and any discrepancy, or alleged shortfalls) depended;

(11) properly, fully and fairly to investigate any alleged or apparent shortfalls;

(12) not to seek recovery from Claimants unless and until:

- a. the Defendant had complied with its duties above (or some of them);
- b. the Defendant has established that the alleged shortfall represented a genuine loss to the Defendant; and
- c. the Defendant had carried out a reasonable and fair investigation as to the cause and reason for the alleged shortfall and whether it was properly attributed to the Claimant under the terms of the Subpostmaster contract (construed as aforesaid);

(13) not to suspend Claimants:

- a. arbitrarily, irrationally or capriciously;
- b. without reasonable and proper cause; and/or
- c. in circumstances where the Defendant was itself in material breach of duty;

(14) not to terminate Claimants' contracts:

- a. arbitrarily, irrationally or capriciously;
- b. without reasonable and proper cause; and/or

c. in circumstances where the Defendant was itself in material breach of duty;

(15) not to take steps which would undermine the relationship of trust and confidence between Claimants and the Defendant;

(16) to exercise any contractual, or other power, honestly and in good faith for the purpose for which it was conferred;

(17) not to exercise any discretion arbitrarily, capriciously or unreasonably;

(18) to exercise any such discretion in accordance with the obligations of good faith, fair dealing, transparency, co-operation, and trust and confidence;

(19) to take reasonable care in performing its functions and/or exercising its functions within the relationship, particularly those which could affect the accounts (and therefore liability to alleged shortfalls), business, health and reputation of Claimants;

**[GPOC, para 64; Denied at Defence, paras 104-106]**

(20) to recover and/or seek to recover any alleged shortfalls within a reasonable time of discovery or the date by which, with reasonable diligence, Post Office could have made such a discovery.

**[Reply, para. 96.1]**

(The implied terms admitted at Defence para 105 are agreed)

If the terms alleged at GPOC, paras 64.16, 64.17, 64.18 and/or 64.19 (i.e. (16), (17), (18) and/or (19) above) are to be implied, to what contractual powers, discretions and/or functions in the SPMC and NTC do such terms apply?

**Supply of Goods and Services Act 1982**

Did Post Office supply Horizon, the Helpline and/or training/materials to Subpostmasters (i) as services under "relevant contracts for the supply of services" and (ii) in the course of its business, such that there was an implied term requiring Post Office to carry out any such services with reasonable care and skill, pursuant to section 13 of the Supply of Goods and Services Act 1982?

**[GPOC para 63A, Defence, para. 104]**

**Onerous or unusual terms**

Were any or all of the express terms in the GPOC paragraphs listed below onerous and unusual, so as to be unenforceable unless Post Office brought them fairly and reasonably to the Subpostmasters' attention?

para 51.1 and 51.3 (rules, instructions and standards);  
para 52.1 and 52.3 (classes of business);  
para 54.1 and 54.3 (accounts and liability for loss);  
para 56.1.a. and 56.2.a (assistants);  
para 60.1 and 60.3 (suspension);  
para 61.1 and 61.3 (termination).  
Para 62.1 and 62.3 (no compensation for loss of office)

**[GPOC, para 66; Defence, para. 108]**

If so, what, if any, steps was Post Office required to take to draw such terms to the attention of the Subpostmaster?

**[GPOC, para. 66; Defence, para. 108(2)]**

### **Unfair Contract Terms**

Were any or all of the terms at paragraph (5) above unenforceable pursuant to the Unfair Contract Terms Act 1977?

**[GPOC, paras. 67-68; Defence, para. 109; Reply, para. 49]**

### **Liability for Alleged Losses**

What is the proper construction of section 12, clause 12 of the SPMC?

What is the proper construction of Part 2, paragraph 4.1 of the NTC?

**[GPOC paragraph 49 and 55; Defence, paras 93-94]**

### **Agency and Accounts**

#### **Post Office as agent**

Was Post Office the agent of Subpostmasters for the limited purposes at GPOC paragraphs 82 and 83?

**[Defence, paras 124-125]**

If so, was the Defendant thereby required to comply any or all of the obligations at GPOC paragraph 84?

**[Defence, para 126]**

Subpostmasters as agents

Was the extent and effect of the agency of Subpostmasters to Post Office such that the principles of agency alleged at Defence 91 and 93(2) and (3) applied as Post Office contends?

**[Defence paras 90-91; Reply, paras 59-60]**

Did Subpostmasters bear the burden of proving that any Branch Trading Statement account they signed and/or returned to Post Office was incorrect?

**[Defence, paras 69(3) 183; Reply, paras 64 and 92]**

**Suspension and Termination**

Suspension

- (14) On a proper construction of the SPMC and NTC, in what circumstances and/or on what basis was Post Office entitled to suspend pursuant to SPMC Section 19, clause 4 and Part 2, paragraph 15.1 NTC?

**[GPOC, paras 32-3, 49, 60, 64, 13 and 99; Defence, paras 66-72, 99 and 142]**

Summary Termination

- (15) On a proper construction of the SPMC and NTC, in what circumstances and/or on what basis was Post Office entitled summarily to terminate?

**[GPOC, paras 34-37, 61, 64 and 99; Defence, paras 66-72, 100, 104-106 and 142]**

Termination on Notice

- (16) On a proper construction of the SPMC and NTC, in what circumstances and/or on what basis was Post Office entitled to terminate on notice, without cause?

**[GPoC, paras 49, 61 and 64, Defence para. 100]**

**True Agreement**

- (17) Do the express written terms of the SPMC and NTC between Post Office and Subpostmasters represent the true agreement between the parties, as to termination (in this regard, the Claimants rely on *Autoclenz v Belcher* [2011] UKSC 41)?

**[GPOC, paras 50, 69-71; Defence, paras 86, 110-112]**

- (18) If not, was the “true agreement” between the parties as alleged at GPOC, para. 71?

**[GPOC, para. 71; Defence, para. 112]**

### **Compensation for Loss of Office**

- (19) On a proper construction of the SPMC and NTC, where Post Office lawfully and validly terminated a Subpostmaster’s engagement, on notice or without notice for cause, was the Subpostmaster entitled to any compensation for loss of office or wrongful termination?

**[See GPOC, para. 62; Defence, para. 101]**

- (20) On a proper construction of the SPMC and NTC, in what, if any, circumstances are Subpostmaster’s breach of contract claims for loss of business, loss of profit and consequential losses (including reduced profit from linked retail premises) limited to such losses as would not have been suffered if Post Office had given the notice of termination provided for in those contracts?

**[GPOC, para. 131; Defence, para. 171; Reply, paras 81-82]**

### **Subsequent appointments**

- (21) On a proper construction of the SPMC and NTC, what if any restrictions were there on Post Office’s discretion as to whether or not to appoint as a Subpostmaster the prospective purchaser of a Subpostmasters’ business?

**[GPOC, para. 62; Defence, para 102]**

### **Assistants**

- (22) Did SPMC section 15, clause 7.1; NTC, Part 2, clauses 2.3 and 2.5 and/or any of the implied terms contended for by the parties and found by the Court purport to confer a benefit on Assistants for the purposes of section 1 of the Contracts (Rights of Third Parties) Act, and if so which of these terms did so?

**[See GPOC, para. 74; Defence, para. 116; Reply, para. 92]**

- (23) What was the responsibility of Subpostmasters under the SPMC and the NTC for the training of their Assistants?

**[See GPOC, para. 56; Defence, para. 95(4); Reply, para. 92]**

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## Appendix B: Background to the 6 lead claimants

### Alan Bates

**Branch:** Craig-y-don Post Office® Branch, 21 Queens Road, Craig-y- don, Llandudno, LL30 1AZ

**Dates of service:** 7 May 1998 to 5 November 2003

**Loss claimed:** At least £1,140,000 for loss of investment and earnings until retirement

**Contract model:** Standard Subpostmasters Contract 1994

#### **Background:**

Alan Bates took over the Craig-y-don branch on 7 May 1998. The Horizon system was introduced to the branch in October 2000 as part of its roll out across the Post Office network. Mr Bates claims that he experienced discrepancies fairly regularly following the introduction of Horizon, and that he was unable to find the cause. Some small amounts were written off by Post Office. Mr Bates did not make good any shortfalls. He began rolling over discrepancies at the end of each week instead of making good the shortfalls and resetting the branch to zero as instructed. In April 2003 a Post Office network manager became aware of this. He told Mr Bates to cease this practice and to make good the outstanding loss but Mr Bates did not do so. Post Office warned Mr Bates that failure to keep the accounts as required and not making good losses put his contract at risk. By August 2003 the position had not changed. On 5 August 2003 Post Office terminated Mr Bates' contract by giving him 3 months' notice in accordance with its terms. Mr Bates' final day of service was 5 November 2003. Mr Bates never repaid the loss (£1,000).

#### **Key allegations made:**

Mr Bates claims, in addition to the generic complaints made by all Claimants, that:

- When Horizon was introduced it limited his ability to investigate and remedy shortfalls. He claims transaction corrections directly affected his branch accounts.
- He alleges that Post Office knew Horizon was causing errors not just in his branch but elsewhere across the network.
- Post Office refused his requests to provide additional Post Office and non-Post Office services in his branch.

#### **Reason for termination:**

- Mr Bates was liable for the discrepancies in his accounts and instead of settling his liabilities and resetting the balance in his branch to zero every week he rolled the discrepancies into the following week's accounts in breach of operating procedures. He also failed to make good any losses.
- Post Office became aware of this around April 2003 and instructed the Claimant to desist but he refused to do so. Post Office warned Mr Bates that his practice put his contract at risk.

## Naushad Abdulla

**Branch:** Charlton Post Office Branch®, 10-12 Charlton Church Lane, SE7 7AF

**Dates of service:** 24 January 2007 to 8 May 2009

**Loss claimed:** At least £285,000 for (wrongly) repaid shortfalls, loss of investment and earnings during suspension and post termination and consequential losses (such as sale of his house due to unemployment)

**Contract model:** Modified Subpostmasters' Contract

### Background:

Mr Abdulla's parents ran a Post Office branch during the early to mid-1990s. The Branch opened on 25 January 2007. On 6 April 2009 an audit, conducted in Mr Abdulla's absence on holiday, identified a shortfall of £4,905.19. The audit revealed that he had an undated personal cheque for £2,500 and mutilated notes which were overstated by the same amount. Mr Abdulla was immediately suspended as the auditors suspected false accounting.

Mr Abdulla has admitted in his claim that he adopted a practice of keeping an undated cheque in the till to cover any shortfalls. However, he had indicated in his accounts that the relevant amount was held within the branch in the form of cash. This meant that until the false accounting was discovered, Mr Abdulla had free use of this money that ought to have been paid to Post Office.

### Key allegations made:

Mr Abdulla claims, in addition to the generic complaints made by all Claimants, that:

- Due to shortfalls occurring regularly, he adopted a practice of keeping an undated cheque in the till to cover the amount of shortfalls. He claims that this was a common practice adopted by the previous Branch postmaster and staff.

- In his post suspension interview, he was told that if he made good the shortfall, which had reduced to £3,926.31, then he would be reinstated as postmaster. This did not happen.

**Reason for termination:**

- Post Office wrote to Mr Abdulla on 14 April 2009 identifying the breaches of his contract and stating that he had misused funds and falsely accounted.
- A post suspension meeting was held on 30 April 2009. Mr Abdulla admitted to falsifying accounts and failing to make good shortfalls that had occurred previously.
- On 8 May 2009 Mr Abdulla was summarily terminated due to misuse of funds and false accounting.

Mr Abdulla appealed the decision at a hearing on 23 June 2009 but the decision was upheld.

Louise Dar

**Branch:** Lenzie Post Office Branch®, 118 Kirklintiloch Road, Lenzie, Glasgow

**Dates of service:** 19 November 2014 to 27 March 2017

**Loss claimed:** Roughly £3,709,000 for repayment of shortfalls, loss of investment, loss of earnings during suspension and post termination impact on business revenue

**Contract model:** Network Transformation Contract

**Background:**

Ms Dar opened the Branch in her existing business premises on 19 November 2014.

On 15 July 2015 an audit was conducted and found shortfalls of £10,423.96 relating to amounts of cash, cheques and foreign currency. Ms Dar was suspended. Post Office informed Ms Dar that during investigation they had found deliberate falsification of the accounts by the user of the Horizon ID of Ms Sohi. Ms Dar dismissed Ms Sohi, her assistant. She later confirmed that the discrepancy with the foreign currency was unexplained and she was responsible for it. She alleged that she must have misplaced the money. Post Office reinstated Ms Dar and the branch reopened on 28 August 2015, on the basis that Ms Dar repaid the shortfalls and adhered to some specified Post Office procedures. Monthly deductions were taken from Ms Dar's remuneration for the shortfall sum of £7,302.52.

On 17 May 2016 another shortfall of £2,252.84 was identified. Post Office's auditor thought the cause was irregular accounting procedures. Ms Dar repaid the shortfall.

On 3 February 2017 a shortfall of £6,870.85 was identified at audit. Ms Dar had not carried out a cash and stock check for around 2 weeks, and was suspended with immediate effect.

**Key allegations made:**

Ms Dar claims, in addition to the generic complaints made by all Claimants, that:

- She relied on Post Office's investigation which suggested the discrepancies found in July 2015 were due to deliberate falsification and inflation of accounts by her assistant, Ms Sohi, for which she was held responsible for.
- She had no access to Horizon during her periods of suspension in July 2015 and May 2016 so could not look into what happened and why there was a shortfall.
- From her experience with systems similar to Horizon, the programme was basic and based on older technology than she expected.

**Reason for termination:**

- A meeting with Ms Dar took place on 3 March 2017 in which she could not explain (or pay for) the shortfall of £6,870.85. This fact, combined with the fact that there had been two other substantial shortfalls within 18 months, led Post Office to believe that Ms Dar was not operating her branch properly.
- Post Office terminated her appointment on 27 March 2017 in view of her repeated failures to properly account for Post Office cash and stock, and her failure to be able to explain or make good the last shortfall.

Elizabeth Stockdale

**Branch:** Sandsacre Post Office® Branch, Wheatley Drive, Bridlington, East Yorkshire, YO16 6TN

**Dates of service:** 8 May 2014 to 16 September 2016

**Loss claimed:** At least £65,000 for (wrongly) repaid shortfalls and loss of investment / earnings

**Contract model:** Network Transformation Contract (Local Post Office® Branch, On Site Variant, Post Office Limited Cash)

**Background:**

Ms Stockdale operated the Sandsacre Post Office Branch from 8 May 2014. She alleges that the first shortfall she suffered took place shortly after opening while a Post Office trainer was providing support in branch. Post Office's position is that this is incorrect. Mrs Stockdale subsequently declared (and partly repaid) further shortfalls during the period October 2014 to August 2015. She then continued to experience shortfalls after this date but did not declare them to Post Office.

Eight months later, on 27 April 2016, Ms Stockdale declared the further shortfalls, totalling at that point £18,891.47. The growing shortfalls in the Branch prompted Post Office to audit the Branch. An audit was carried out on 13 May 2016 and identified an undeclared shortfall of cash and stock in the sum of £7,917.09, in addition to the sums that were already outstanding before the audit. In total, including sums declared on 27 April 2016, the further shortfall found at audit, and sums outstanding before these events, there was a total shortfall of £28,693.84.

Ms Stockdale was suspended by Post Office on the day of the audit. After an investigation, her contract was terminated by Post Office for breach of contract on 16 September 2016.

#### **Key allegations made:**

Ms Stockdale claims, in addition to the generic complaints made by all Claimants, that:

- She had no confidence that Post Office would assist her to discover the reason for apparent shortfalls so she stopped declaring them and kept paper records instead.
- She was never able to identify the cause of the shortfalls. Although she requested help from Post Office numerous times, this was never forthcoming.
- Post Office staff visited her branch numerous times following shortfall declarations however they could never identify the cause of the shortfall.

#### **Reason for termination:**

- The undeclared loss found at the audit indicated that Ms Stockdale had been falsifying her accounts to conceal the loss. Ms Stockdale admitted false accounting in meetings and calls with Post Office, and at a formal interview on 19 August 2016.
- Ms Stockdale's contract was terminated on 16 September 2016 due to falsification of her accounts, failing to act honestly, and failing to pay sums due to Post Office by the due date, in breach of her contract.

Pamela Stubbs



**Branch:** Barkham Post Office Branch®, 50 Bearwood Road, Wokingham, RG41 4SY

**Dates of service:** 23 September 1999 to 12 August 2010

**Loss claimed:** Roughly £67,000 for payments of shortfalls, loss of earnings post termination, and loss of investment

**Contract model:** Standard Subpostmasters Contract 1994

**Background:**

Mrs Stubbs took over as postmaster in September 1999 when her husband, the previous postmaster, passed away. Mrs Stubbs has been an assistant at the Branch since 1987.

In 2000 to 2001, Mrs Stubbs had problems with power outages at the Branch which caused the Horizon system to crash and reboot. There were discrepancies in the Branch accounts which Mrs Stubbs believed were due to the power outages over this period of time equating to around £1,000. These shortfalls were made good by her.

Following the power supply issue there were no major issues with shortfalls until late 2009 when the Horizon equipment was relocated to a portacabin due to redevelopment works at the branch premises. A significant number of shortfalls occurred and payment of these was requested. In the spring of 2010, Mrs Stubbs wanted to advertise the Branch for sale and had a prospective purchaser. On 12 May 2010 Mrs Stubbs sent in her letter of resignation. One final audit was conducted on 8 June 2010 following Mrs Stubbs resignation which found a shortfall of £4,837.87. Mrs Stubbs was suspended the same day and remained suspended until her resignation took effect.

**Key allegations made:**

Mrs Stubbs claims, in addition to the generic complaints made by all Claimants, that:

- There was no appointment process and that she never received a copy of the Standard Subpostmasters Contract.
- She was unable to identify the cause of apparent shortfalls from the information she had access to using Horizon.
- The discrepancies in the branch accounts in 2000/2001 were due to power outages which caused the Horizon terminal to crash and reboot.
- The Horizon terminal was relocated to a porta cabin during Branch refurbishment in 2009. Following this move she experienced shortfalls in her Branch accounts so there must be some correlation between the two.

**Reason for resignation:**

- On 12 May 2010 Mrs Stubbs sent a letter of resignation to Post Office noting she had two individuals whom were interested in purchasing the Branch.
- Post Office believed that Mrs Stubbs or her assistants were the cause of the losses in her branch; those losses being exacerbated by the move to the porta cabin whose unfamiliar surroundings created an increased risk of manual error when conducting transactions.

**Mohammad Sabir**

**Branches:** Cottingley Post Office® Branch, 4 The Parade, Cottingley, BD16 1RP;  
Crossflatts Post Office® Branch, 33A Keighley Road, Bingley

**Dates of service:** 9 September 2006 to 2 October 2009 (Cottingley)  
11 October 2006 to 2 October 2009 (Crossflatts)

**Loss claimed:** At least £95,000 for (wrongly) repaid shortfalls and loss of investment/ earnings

**Contract model:** Standard Subpostmasters Contract 1994

**Background:**

Mr Sabir became postmaster of Cottingley on 9 September 2006 and Crossflatts on 11 October 2006. Mr Sabir claims that from 2008 he experienced discrepancies in the accounts for Cottingley which created an apparent surplus when a Lottery scratchcard was sold. An audit of Cottingley conducted by Post Office branch on 10 August 2009 revealed a shortfall of £4,878.36 which primarily related to scratchcards. The number of lottery scratch cards recorded as being in stock was greater than the number of actual stock. Due to the shortfall at Cottingley, an audit of Crossflatts was carried out the following day, revealing a small (immaterial) surplus. Mr Sabir was suspended from both branches and, after an investigation, both his contracts were terminated.

**Key allegations made:**

Mr Sabir claims, in addition to the generic complaints made by all Claimants, that:

- He requested further training on the Horizon system but Post Office told him they could not spare the resources. He alleges that the training he was provided with was inadequate.
- From 2008 he claims that a surplus of cash was created when scratch cards were sold and that he removed this surplus and placed it in the branch safe.



When the audit uncovered a shortfall he presented the cash immediately and wrote a cheque for the remaining outstanding amount. He therefore tries to claim that there was no real shortfall.

**Reason for termination:**

- The shortfall of £4,878.36 discovered at audit on 10 August 2009 had been disguised by inflating the figure for declared Lottery scratchcards in the branch accounts.
- At interview on 1 October 2009, Mr Sabir admitted that he had knowingly been overstating figures in his accounts to conceal losses.
- Post Office summarily terminated Mr Sabir's contracts of both branches on 2 October 2009 due to 'falsification of the branch trading account by inflating the declared lottery scratch cards on hand figure and failure to make good of losses without delay

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