

BRANCH SECRETARIES TRAINING COURSE REPRESENTING MEMBERS: RTU'S AND APPEALS

OHP1
NFSP BRANCH SECRETARIES' TRAINING
REPRESENTING MEMBERS
RTUs and Appeals

WELCOME

Explanation of programme
Aimed at induction of new branch secretaries
Personal Learning Objectives
Agenda for the day:

Session 1	10.00	-	11.30
Case Studies	11.30	-	12.45
Lunch	12.45	-	1.45
Session 2	1.45	-	2.45
Case Studies/Role Play Preparation	2.45	-	3.15
Tea	3.15	-	3.30
Role Play	3.30	-	4.30
Quiz	4.30	-	4.45
Review/Close	4.45	-	5.00

Handouts

INTRODUCTION

- Q. Ask who has experience of giving advice to a member facing an RTU/Appeal or of involvement in preparing or representing a member at one of these interviews?**
- Q. Ask them to share their learning objectives – Record on flip chart?**

State Course Objectives

OHP2

Course Objectives

At the end of this session you will be able to:

- Explain why it is important for an organisation to have a clear disciplinary procedure that lays down standards of performance or conduct.
- Explain the two different types of action that PON will consider when dealing with Subpostmasters who are thought to be in breach of their contract.
- Outline the Stages of the PON contract, Application procedures and the main issues for consideration at each of those stages.
- Using the case studies provided, identify the appropriate PON action. Explain the steps to be taken to prepare to represent the member and the arguments to be used at interview.
- Demonstrate through role play how to represent a member's case in an RTU interview.

Does not cover POSIS/POID interview process – Separate session

Main purposes: To understand procedure for RTUs/Appeals, when PON is likely to take action and what type of action will be taken

Stages of the Procedure

Action you need to take to prepare and represent a member

SESSION ONE

RTUs and APPEALS: PON APPROACH AND POLICY

OHP3	
RTUs AND APPEALS	
Poor Performance	
Misconduct	
Suspension	
Reasons to Urge (RTU) Interviews	
Appeals Procedure	

Disciplinary action may take a number of forms depending on the nature of the events that led to Post Office Network's decision to begin the process.

In terms of subpostmasters' contract areas to cover are:

- Poor Performance
- Misconduct
- Suspension
- Reasons to Urge (RTU) Interviews
- Appeals Procedure

DEVELOPMENT

Background

Contract Application Guidelines were agreed Autumn 1998 following lengthy negotiations between NFSP and POCL. Early half of 1990's there were a number of high profile cases that gave rise to concern about the operation of the terms of the subpostmasters contract.

Outcome of our discussions was agreement on guidelines. Unlike Post Office employees no guidelines existed on how or when to apply the procedures in the contract, therefore we could not satisfy ourselves that the Post Office were applying the procedures properly.

The intention of the 1998 guidelines is to ensure Subpostmasters, NFSP officials and Post Office Managers are all working within the same guidelines. And that Subpostmasters should be able to feel that the system is fair and will be implemented in a manner that gives them full opportunity to state their case should there ever be a need.

The guidelines work alongside the contract – our purpose today is to understand how this works.

Disciplinary Procedures

To be able to represent members effectively you need to understand the principles that should underlay any disciplinary procedures. Those principles are best explained by looking at discipline in the context of a normal employee situation.

Because Subpostmasters are self-employed, employment law is not strictly relevant. Nevertheless the principles hold good.

What I'd like to start with is a look at the reasons why an organisation should have a disciplinary procedure, what that procedure should cover and the steps of that procedure. For this session, forget the fact you are Subpostmasters and think about the principles.

Q. *What do you think would be the advantages of having a set down procedure for handling disciplinary matters?*

Q. *Clear rules are needed – Why are these necessary?*

<p style="text-align: center;">OHP4</p> <p style="text-align: center;">DISCIPLINARY RULES</p> <p style="text-align: center;">Why have them?</p> <ul style="list-style-type: none"> • Clear Rules benefit both Company and Individual • Set standards of conduct and performance at work • People know what is expected of them • Provides for fairness and consistent treatment
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A A procedure can help you deal fairly and consistently with disciplinary action, including those that may involve dismissal.

Q. *What could happen if an organisation does not do this?*

A. Risk of tribunal case if an employee feels they have not been treated fairly. In the Post Office Court Action by a subpostmaster following contract termination.

Q. *Would a subpostmaster go to an employment tribunal?*

A. No, because for employment purposes subpostmasters are self employed.

Q. *If you were a tribunal chairman or a PON Appeals manager, how would you know if the company has acted fairly?*

A. Not just about having rules but also the way they are applied. It is therefore important to have procedures. These set out the means by which:

OHP5

WHY HAVE DISCIPLINARY PROCEDURES?

Procedure is the means by which

- Rules are observed
- Standards are maintained
- Short comings are dealt with
- Need for dismissals is reduced
- People do the right thing at the right time

In a Tribunal case, the chairman will take account of whether a fair procedure was used. In our terms, an appeal is a likely outcome of a Retail Network Manager not using the contract and the guidelines properly and this would be used then to demonstrate that the member had not been dealt with fairly.

Q. *How would you ensure the rules are applied correctly?*

(nb Don't switch OHP 6 on until you have given delegates an opportunity to think about this question)

OHP6

RULES AND PROCEDURES SHOULD BE:

- Written down
- Clear and unambiguous
- Non discriminatory
- Readily available
- Explained to all new people
- Reviewed periodically
- Fully understood

Q. *Apply this to Post Office Network and subpostmasters. Where are the rules? How do subpostmasters know about them?*

A. Subpostmasters Contract
Counter Operational Manual/CD-ROM
Counter News
Induction training

Q. *What do these rules/procedures cover?* [Ask participants to provide examples]

A. With luck, should be able to divide examples and write up on a flip chart into:

- Performance standards (Action likely to lead to warnings, termination by 3 months notice)
- Misconduct/Gross misconduct (Action that will result in summary termination of contract)

Q. *In your role as Branch Secretaries can you give examples of subpostmasters breaching those rules?*

Q. *What has been PON response?*

Q. *What action did PON take and what was the outcome?*

Recap

Recap before going further with questions:

- Why should an organisation have a disciplinary procedure?
- Why is it important to have clear rules?
- What sort of behaviour should the procedure cover?
- Broadly, what are the two types of breach of contract?
- Broadly, what approach would you expect PON to take to performance breaches as opposed to misconduct breaches?

Stages of the Procedure

Need to explore in more depth the stages of the procedure used by PON and appropriate use of that procedure.

Start by looking at a typical disciplinary procedure.

Q. What stages would you expect a typical procedure to contain?

OHP7	
TYPICAL DISCIPLINARY PROCEDURE	
• Formal oral warning	
• Written warning	Appeal
• Final written warning	Appeal
• Dismissal	Appeal

There are several stages to the procedure. First of all, need to establish whether you are actually in the procedure. Some organisations have a counselling stage before oral warning – these do not exist formally for subpostmasters, but there are likely to be many occasions when a Retail Network Manager will speak to a subpostmaster without it becoming a formal oral warning. Guidelines refer to Performance Discussions.

In an employer/employee context, each of the stages are used for different levels of offence:

(CONT')

Oral Warnings are used in cases of minor offences, a written note is normally kept on file and the employee is informed of the consequences of a repeat of the conduct or performance that led to the warning. A right of appeal should be provided.

Formal Written Warnings are used in cases of more serious offences or in cases of repeated minor offences. The warning will be put in writing to the employee, who will be informed of the consequences of no improvement. A right of appeal should be provided.

Final Written Warnings are used in cases of serious misconduct, where a written warning has already been given and it will be made clear that the consequences of no improvement will lead to dismissal. Again, the right of appeal

Dismissal takes two forms – with or without notice.

Dismissal with notice is only used as a final stage of the disciplinary procedure and the employee is given notice, or pay in lieu of notice. Written reasons for dismissal should be given to the employee and again, the right of appeal.

Dismissal without notice is only used for gross misconduct, it is only used after a proper investigation and no notice, or notice pay is provided. Written reasons must be given for the dismissal. A right of appeal should be provided. The important point to remember is that dismissal without notice (Summary termination) is not the same as instant dismissal – it should only take place after proper investigation, and a disciplinary hearing (the outcome of which should not be prejudged).

Turn to PON Contract Application Guidelines.

First, explain performance issues:

<p style="text-align: center;">OHP8</p> <p style="text-align: center;">PON CONTRACT APPLICATION GUIDELINES</p> <p style="text-align: center;">PERFORMANCE ISSUES</p> <p>Performance Discussions</p> <ul style="list-style-type: none">• To assist subpostmaster to improve and avoid further action <p>Written warnings:</p> <ul style="list-style-type: none">• Where oral warnings not effective• Failure to improve operational performance or properly maintain premises• Right to Appeal <p>Contract Termination</p> <ul style="list-style-type: none">• Repeated warnings• No improvement• No likelihood of reaching and sustaining standard• 3 months notice – No Appeal
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Q. *In cases you have handled on performance issues, what has been approach/outcome – has PON approach and procedure been consistent with these guidelines?*

Q. *What rights does a subpostmaster have when a written warning regarding their performance is issued?*

A. Contract Application Guidelines state that subpostmaster must be given the opportunity to provide an explanation.

Contract: Section 18, which deals with non-compliance or non-observance, states subpostmasters should be given the opportunity to provide a written explanation of conduct and allegations. The only time this might not happen is where civil or criminal proceedings are being considered and therefore it would not be useful (Misconduct issue – suspension more likely).

Section 18 – Subpostmaster has the right to meeting with Retail Network Manager, which “will not normally be withheld”

Right to be accompanied by an NFSP Official

Q. If PON accepts the explanation, what is the outcome?

- A. PON should inform the subpostmaster and in effect the written warning should be disregarded. PON will keep a record of the discussions.

If following those representations, PON decides the written warning will stand, the warning will be recorded.

Q. How many times would you expect PON to issue a written warning?

- A. This will depend on the type and nature of the problems. Any penalty should reflect the individual circumstances. However, given the ultimate outcome could be termination of contract, we would expect PON to look at how it is supporting the subpostmaster before considering written warnings or termination. On issues of management of the office, factors that may be taken into consideration could include length of service, previous record, level of training received, other support provided by PON, and any mitigating circumstances. The emphasis here should always be on correcting any shortcomings in performance by training and support. Only when all else fails, should termination be considered as a measure of last resort.

Summary termination should not be used in performance cases, only in misconduct cases. Lastly, there is no right of appeal if PON terminates the contract. This part of the procedure is therefore different to the normal employer/employee context. In the case of subpostmasters, this option should not therefore be used by PON to avoid summary termination and its associated appeals procedure. Termination in performance cases will be by three months notice, which gives the subpostmaster the time to sell.

Second area is where dishonesty is suspected and investigated - misconduct:

OHP10

PON CONTRACT APPLICATION GUIDELINES

MISCONDUCT

- Suspension
 - Subpostmaster advised
 - Remuneration withheld
 - PON Investigations
 - Temporary Subpostmaster
- 3 month review of suspension
- RTU Interview: Reinstatement/Summary Termination
- Right to Appeal

Q. *Why/When would PON suspend the subpostmaster?*

OHP11

SUSPENSION – WHY?

- Arrest
- Civil or Criminal proceedings
- Dishonesty suspected
- Public scandal
- Bankruptcy and receivership

Q. *What would you do if PON suspended a subpostmaster who had not completed their MVL schedule properly?*

A. Confirm suspension is not appropriate where performance issues are involved.

Q. What are the subpostmasters' rights in the misconduct procedure?

A. Essentially of a similar nature to those outlined for performance issues.

Contract: Section 18 states subpostmasters should be given the opportunity to provide a written explanation of conduct and allegations. The only time this might not happen is where civil or criminal proceedings are being considered and therefore it would not be useful. In misconduct cases suspension is likely, PON may be considering legal proceedings and therefore this may not happen.

Contract Application Guidelines state that the subpostmaster must be told in writing the specific charge and that summary termination might be the outcome.

Guidelines also state that the subpostmaster should have the right to attend a face to face interview with the RNM to answer the charge – this is the Reasons to Urge interview.

Section 18 of the Contract – Subpostmaster has the right to be accompanied at the RTU interview by an NFSP Official, who must not be involved in the case.

Q. In the cases you have handled, what has been approach/outcome – has PON action been consistent within these guidelines?

Appeals

This will be looked at in more detail during afternoon session on representing members.

CASE STUDIES ACTIVITY ONE

We've put together some case studies, designed to indicate the sort of action which might reasonably be taken. They are fictitious but typical cases to stimulate debate and understanding of how to deal with different situations where expected standards must be applied.

Explain case studies, then ask them to spend 10-15 (?) minutes to decide the appropriate approach:

- ***How you would expect PON to approach the office?***
- ***What action would be appropriate?***
- ***Should this involve application of the disciplinary procedures?***
- ***What would be appropriate outcome?***

Explain that one or both of the pair are to present back findings – using flipchart (if they wish to do so)

In all the case studies the Retail Network Manager should have identified the following: -

The context in which the office operates e.g. is it a large, profitable town office or a community office, has the subpostmaster been warned about standards previously, have they been recently appointed etc? (Whilst this context does not alter the standards expected, it should inform the approach that is taken e.g. does the subpostmaster have staff who need to be won over.)

The current performance of the office and the likely receptiveness of the subpostmaster.

Identify what needs to be achieved from the office in terms of meeting standards.

As a branch secretary called into represent the member you need to consider the same issues, a realistic process to follow in that case and an appropriate outcome in the members best interests. Ask the same questions:

- What is the context?
- What is current performance?
- What is PON likely to look to achieve?
- What is an appropriate outcome?

(Leave OHP on) **[nb: Need to hand out leaflet on standards to Case Studies One and Two]**

Case Study 1

Miss A is a long established subpostmistress who took over the post office in a small village in 1961. She is 72 years of age, she lives alone above the post office and is considering retirement. The post office has been for sale for 2 years.

The office opens 22 hours per week and is the smaller of two shops in the village – the bigger one being an 8 til late supermarket and off-licence. The retail side is only a couple of racks of cards and a few children's' toys – all of which are available at the general store – so she gets few sales.

Miss A always makes an effort to look smart for work though she wears several pullovers against the cold in winter. She is not against wearing her name badge, but often loses it. She doesn't, however see this as a major issue as her customers are long standing and everyone in the village knows her by name. Her name is also discernible on the fading facia.

Customer service is not a problem. The subpostmistress has time for all her customers and the interest she shows in her customers and their families is appreciated.

The presentation of Miss A's office is poor. The screen is cracked and plastered in old stickers. The area behind the counter is untidy, the merchandise is dusty and the old floor is in need of a through clean. These issues along with the dirty facia and a window covered in advertisements for local fetes and events, past and present have been raised with Miss A on a number of occasions. However, because of her age, frailty and her intention to sell little improvement has been made.

How would you expect PON to approach this office?

What action would be appropriate and should it involve application of the disciplinary procedures?

What would be an appropriate outcome?

CASE STUDIES ONE AND TWO: STANDARDS AT POST OFFICES

Explanation

PON expects that the vast majority of subpostmasters and their staff will do their best to meet expected standards. The over-riding aim should be to pro-actively support and encourage this. A major part of this has been through recognising good performance, for example by awarding lozenges. Only where this approach fails and there remains a significant gap in performance and/or a will to apply the standards, should corrective action be considered by Retail Network Managers.

Case Study 1

Suggested Response

Context

The office is a small community office and the subpostmistress is well liked by the customers. There is a danger the post office could close if she leaves. The subpostmistress has limited financial and physical resources.

Performance

Miss A is trying hard to give a good service e.g. politeness/ friendliness (with the exception of name badge) but does not have the ability.

The office is not good and is well short of the standards.

What should PON look to achieve?

1. Cleanliness to be improved
2. Take out many of the notices that have grown up over time
3. Improve decoration and screen
4. Name badge and appearance

Q. *Should PON give 3 months notice and risk closing the office?*

A. NO

Case Study 2

The sub-post office is a three-position office in an out of town housing estate where the majority of customers are on benefits and green giros.

The owner Mr B. has recently “traded up” from another office and has bought the office as an investment (he rents out the accommodation above the office). He was particularly keen on the office because post office traffic would clearly continue to grow and the retail side is profitable because of the long bus journey into town and the inclusion of videos, off licence and other convenience goods.

Mr B. sees the post office as an important service which requires respect from his customers. He therefore serves them courteously, though abruptly. This has resulted in 3 complaints from customers during the time he has been in the office. The post office is his property and his view is that it is for him to decide how it looks – he refuses to wear a name badge, nor be dictated to by the Retail Network Manager about how he should display posters. The staff normally wear jeans and t-shirts and refuse to wear their name badges because two of them have been threatened by customers.

The sub-post office is clean inside but the frontage is in need of a redecoration or at least a thorough clean.

How would you expect PON to approach this office?

What action would be appropriate and should it involve application of the disciplinary procedures?

What would be an appropriate outcome?

Case Study 2

Suggested Response

Context

Just in or just outside largest 6000?
Important post office with good growth potential
Potentially attractive to new buyer
Negative view of standards

Performance

Poor in terms of politeness – issues of style and personality
Name badge not worn
Frontage dirty

What should PON look to achieve?

1. Politeness is an issue and needs resolving
2. Frontage
3. Name badge

How would they do this? What action is PON likely to take?

Explain clearly that below standard and can't be rude to customers.
Name badge? Continued complaints?

Case Study 3

Mr C has been a subpostmaster for the last fifteen years. He took over the Post Office on a family transfer when his father, who had run the office for about thirty years, retired. His parents have both died and he lives alone, over the Post Office, having been divorced for a number of years. He is 48 years old and has one daughter who is married with a young family.

The Post Office is located in a small village and has a retail shop attached which generates an income of approximately £5000 per annum. The only other outlet in the village is a pub.

The Post Office opened standard hours until August 2000 when by mutual agreement the office reverted to community status and now opens 33 hours a week at a salary of £5351.21.

Prior to Christmas 2000 Mr C was invited to an Horizon training session. He could not pass the competency test at this time and the Retail Network Manager arranged for him to have two further sessions of training. To date he has still not been able to obtain a certificate of competency.

Shortly after this Mr C was taken into hospital. The Retail Network Manager arranged for the office to be kept open with a relief Subpostmaster. When this Subpostmaster went into the office he found that Mr C had not completed a Cash Account for the previous 5 weeks.

The Retail Network Manager at this stage contacted Mr C's daughter and was informed that Mr C was suffering from dementia. The daughter was asked if she could run the office but as she has a small family this was not possible. The Retail Network Manager suggested that the best course of action to take would be for Mr C to tender his resignation then the office could be advertised and sold on at the current premises.

No resignation was forthcoming and as the Retail Network Manager had no one at that time to relieve she sent in the Auditors, temporarily closing the office and transferred the work to a nearby office, informing Mr C of her decision.

Although the Auditors had removed the cash and stock from the office they overlooked the Zip-Zap machine and on coming out of hospital Mr C proceeded to take in transactions using this machine. It was a number of weeks before the Retail Network Manager was made aware of this and it caused a number of problems that needed to be sorted out. Following this incident the Retail Network Manager spoke once again to Mr C daughter regarding the resignation and sale of the business but

was told that her father wanted to carry on running the shop and would not offer the premises for sale.

How would you expect PON to approach this office?

What action would be appropriate and should it involve application of the disciplinary procedures?

What would be an appropriate outcome?

Case Study 3

Suggested Response

Context

The office is in a small rural community
There is a danger that no Post Office services would be available to the community when the Office closes
The postmasters health is a vital factor in this case

Performance

Up until recently over all quite good
Well liked and respected by customers

What should the Retail Network Manager look to achieve?

Whether the Subpostmaster could successfully run the office given his health problems.
Where to site office if present one closes.

In this case, in view of the fact that Mr C's condition would appear to make it difficult for him to continue to run the office, that he has still not passed his aptitude test with the Horizon system and he does not appear to want to tender his resignation voluntarily what action would you take if the Retail Network Manager feels she has no option but to terminate his contract?

Do you think that the Retail Network Manager has done enough to help the Subpostmaster? What further action could the Retail Network Manager take? What would be the outcome of the action taken by the Retail Network Manager?

How would they do this/What action is PON likely to take?

Should take advice regarding illness and possible prognosis. May consider approaching local pub to see if any interest in moving Office to that location.

Case Study 4

Mr D and his wife run a very small Sub Post Office with an associated retail shop selling groceries, newspapers, sweets, etc. It is the only shop in a very small village and the nearest shop to it is located about six miles away.

The Post Office opens 15 hours a week at a salary of £4380. The shop which is open from 7am to 9pm made only £4000 last year.

The office was automated about 18 months ago. Both the subpostmaster and his wife passed the certificate of competency and seemed quite comfortable with the system on a day to day basis.

A problem arose in the office when a shortage that had legitimately been carried in the suspense account was inadvertently doubled up when the Postmaster attempted to remove it on receipt of an error notice. The Retail Network Manager was informed and after a considerable delay visited the office to put matters right. It then came to his notice that the office had been having a number of problems and that the Balance in the office had been fluctuating wildly, both over and short. The overall outcome being that a shortage of £1293.30 was showing against the office. The Retail Network Manager gave permission for the shortage to be carried whilst checks were carried out. The resulting checks showed that the subpostmaster had been making mistakes with the Horizon system e.g. he had not been recording personal finance on the Horizon system at all. It also showed that the postmaster had overstated Pension and Allowance dockets in the sum of £1866.78 [these going back to 1997]. The Retail Network Manager has now requested the Subpostmaster to make good the shortage of £3160.08.

From discussion with the Subpostmaster it would appear that he has a problem with the Horizon system in that he cannot see a correlation between the day to day operation of the system and the end result of what he is inputting into the system e.g. he does not pull off a balance snapshot to assess the performance of the office nor does he have any idea how to go into the log to check for discrepancies. It has been suggested that both he and his wife undergo further training but he is reluctant to do this as he does not think it is necessary.

How would you expect PON to approach this office?

What action would be appropriate and should it involve application of the disciplinary procedures?

What would be an appropriate outcome?

Case Study 4

Suggested Response

Context

The office is in a small rural community.
There is a danger that no Post Office service would be available to the community if the Post Office closed.
There is the ongoing problem of the Postmasters ability to successfully cope with the wider issues of the Horizon system and also the implications of the repayment of losses.

Performance

Poor in terms of overall handling of the Horizon system.
Poor in the overall running of the office from a balancing point of view.

What should the Retail Network Manager look to achieve?

Retraining needs to be considered.
Repayment of losses.

How would the Retail Network Manager do this? What action is PON likely to take?

The Retail Network Manager is not pressing the point about retraining too hard at the moment, but is more concerned about the repayment of the outstanding loss. The Retail Network Manager will be looking to recover the losses over the shortest time scale possible.

The Retail Network Manager is conscious of the fact that if he presses too hard that the Subpostmaster will resign and as there appears to be nowhere else in the village to resite the Post Office that no service would be available to customers who would face a long journey to the next village.

Do you think that the Retail Network Manager has done enough to help the Subpostmaster?

What further action could the Retail Network Manager take?

What would be the outcome of the action taken by the Retail Network Manager?

CASE STUDY 5

MRS E is the Subpostmaster at a busy rural office, which is about 3 miles from the nearest small town. She took on the appointment in March 1995. The property is leasehold and Mrs E took it on although she knew that the local Housing Association would be demolishing the building within the next couple of years.

A year after taking on the appointment, the building was demolished and the local Housing Association provided a temporary portacabin whilst the new premises was being prepared. In November 1996, Mrs E moved to the new Post Office. A new Post Office counter was installed, which cost £3,200. Mrs E also invested in new retail equipment for the retail business, which cost £8,700. The new Post Office has 2 counter positions, the remuneration for the office is £21,400. The retail turnover is approximately £2500 per week and is open during the evening to catch passing trade.

In 1999, Mrs E took maternity leave and during her absence her father agreed to work full time in the office. Mrs E completely trusted her father and he had in fact been working in the office on a part time basis for 18 months before she went on maternity leave. To cover her absence, Mrs E trained one of the staff that normally worked in the shop to work behind the counter. She decided not to train her up to do the balance but to use her during busy periods and as cover for her father in an emergency.

Initially, Mrs E still completed the Balance, but after the baby was born she spent less time in the office. She therefore agreed with her father that he would complete the Cash Account each week.

A few months later, an audit was carried out at the post office and a shortage of £4601.20 was found. Her father then told her that he was having financial problems and he had put a cheque in for £2700 for bills he had paid at the post office, but which he knew he could not cover.

How would you expect PON to approach this office?

What action would be appropriate and should it involve application of the disciplinary procedures?

What would be an appropriate outcome?

Case Study 5

Suggested Response

Context

Busy rural office, open full time.
Retail business open for longer.
Subpostmaster appears to be financially secure

Current performance

The Post Office is run properly and there have been no reported problems during her appointment so far.

What is PON likely to look to achieve?

POID Interview for both Mrs E and the father.
Possible summary termination of contract following investigation and RTU interview.

What is an appropriate outcome?

Should the subpostmaster's contract be terminated?

Case Study 6

Mr F runs a three counter position office in a small town. The remuneration at the office is £47,500. He was appointed in October 1993. His wife runs the retail side of the business, which is reasonably profitable, having been newly refurbished in 1998. The couple have taken out an additional loan for £15,000 to pay for the refurbishment, which they will have to pay back over 10 years. Their existing mortgage on the property is £125,000. They are hoping to pay back the additional loan within 5 years because the retail side is growing all the time. Infact, the loan may well be paid back by the end of the year.

The subpostmaster is very popular with the customers as he is is always friendly and helpful and the business is run well. The QPA record is excellent. The couple employ one full time member of staff to serve behind the counter, who is the Clerk in Charge in the subpostmaster's absence. Four part time staff are also employed in the office.

In August 2000, the office was audited as a result of a number of discrepancies that had been noticed in the Pension and Allowance addlists that were sent from the office. After the audit, Mr F was interviewed by the Investigation Team and asked about the discrepancies. Mr F was shocked by the discovery but did his best to answer all the questions that had been asked by the Investigation Officers.

The investigation revealed that all the discrepancies occurred on a Tuesday, which was one of the days that Mr F took a half day. It was also noticed that the alterations were not done in his handwriting. The totals in the daily cash book (table 066 Pensions and Allowances Paid) showed no sign of being altered in any way. The discrepancies amounted to £6695.50.

During the audit, the audit team also found that some of the £10 bundles that were kept in the safe had some of the notes missing, as did some of the £20 notes. This amounted to a further shortage of £4,650.

How would you expect PON to approach this office?

What action would be appropriate and should it involve application of the disciplinary procedures?

What would be an appropriate outcome?

Case Study 6

Suggested Response

Context

Busy urban office
Popular subpostmaster
Thriving retail business

Current performance?

QPA excellent
Growing Post Office income

What is PON likely to look to achieve?

Suspension and investigation
Possible charge - should this be false accounting, misappropriation of Post Office monies or theft?
What if PON only makes a charge of discrepancies in the Pensions and Allowances and further discrepancies found during the audit in August 2000? Is this sufficient?

What is an appropriate outcome?

Should PON reinstate, subject to proper management controls?

CASE STUDIES ACTIVITY 2

After first activity is completed, ask each of groups to consider what they would look for/action they would take to represent the member used in the case study effectively?

Give 5 - 10 minutes for each of same pairs to do follow on activity. Then to be asked to share their thoughts with the rest of the group.

Q.1 What should Branch Secretary look to do to represent member effectively and obtain outcome in their best interests?

Q.2 What steps would you take in preparing to defend the member and what arguments would you put forward to represent the member in an interview?

Case Study 1

Issues to Consider

Do you need to identify the longer term plans for the sub-post office? Is a sale imminent and should you try to help her with this? If not, how much improvement would be acceptable? What would be best for member?

Case Study 2

Issues to Consider

How much improvement is PON likely to insist on? What does member wish to achieve, given likely outcome if continues to disregard standards and object to PON asking him to do so?

Case Study 3

Issues to Consider

Speak directly with daughter. Explain the possible implications of termination of contract i.e. no financial benefit to father if office can not be sold on.

Possible loss of Post office service to community.

Difficulty in view of fathers health in keeping even the shop open.

Ask daughter to persuade father to voluntarily resign.

Provided a voluntary resignation is forthcoming, persuade Retail Network Manager to withdraw termination letter and advertise at present location.

Case Study 4

Issues to Consider

Do you need to ask Retail Network Manager for sight of all appropriate paper work relating to losses to ascertain whether losses are in fact genuine?

Need to ascertain whether Subpostmasters record on dockets has caused concern in the past.

Find out if any disciplinary action is to be taken over losses.

Speak to Retail Network Manager regarding repayment terms for losses. What would be best for Member.

Suggest that retraining be given. Need to persuade Member that this would be in his best interest.

Case Study 5

Issues to Consider

Should the subpostmaster pay back the loss and be reinstated on condition that office is properly managed and her father dismissed from employment?

Assuming she is innocent, should she have her contract terminated because of the dishonesty of a member of her staff?

Should the Retail Network Manager accept the explanation that she knew nothing of her father's financial problems?

Case Study 6

Issues to Consider

Assuming the subpostmaster's contract is summarily terminated, has PON investigated thoroughly or are they just looking for a scapegoat?

There is no evidence to suggest that Mr F is responsible for the discrepancies.

CONSOLIDATION (End of Session 1)

Summarise main points that have been covered and ask questions to check understanding and reinforce learning points.

Summary Why an organisation has disciplinary rules and procedures

Stages of a typical procedure and when each type of warning is used.

PON Procedure, the difference between performance cases and misconduct cases

Subpostmasters' rights at each stage

Appropriate use of the procedure in the light of your experience.

Ask if there are any questions?

Questions to check learning points

**Q. Penalties – when would a performance discussion/oral warning be used by PON? And why?
How would this be used?**

A. In cases of minor offences
Aid to improve performance
Avoid need for further action

Q. Name some examples of the action you'd expect PON to take and whether this would involve the use of the disciplinary procedure.

Q. Penalties – In what circumstances would you expect a written warning to be issued? Examples?

A. Not complying with or not observing rules
Failure to improve operational performance
Failure to properly maintain premises
Aim to improve performance

Q. What rights does a subpostmaster have when a written warning is issued?

A. Guidelines: Opportunity to provide explanation

Contract: Section 18, which deals with non-compliance or non-observance, states subpostmasters should be given opportunity to provide a written explanation of conduct and allegations. The only time this might not happen is where civil or criminal proceedings are being considered and therefore would not be useful.

Section 18 – right to meeting with Retail Network Manager, which “*will not normally be withheld*”

Q. What factors would cause PON to consider termination of contract by 3 months notice?

A. Repeated Warnings
Subpostmaster not likely to reach or sustain expected standard

Q. Is there a right of appeal?

A. No – therefore last resort.

If it is appropriate, put OHPs back on to reinforce learning of main procedure.

SESSION 2

REPRESENTING A MEMBER AT AN RTU INTERVIEW

INTRODUCTION

Purpose of this session is to explore the steps to be taken to prepare to represent a member in an interview. Primarily, focus of the session will be on the RTU interview. We will go back to the case studies and develop them further by considering the process of putting together the member's case and the arguments to be used at interview. Then to practice those arguments in a role play where we will ask each of you to take on a role as the member, branch secretary or retail network manager.

Emphasis on a practical session to consider the process of preparing and then representing the member – designed to improve confidence in practical skills required as Branch Secretary in representing members effectively.

DEVELOPMENT

One of issues looked at earlier in session was the subpostmasters rights under the terms of the contract when PON initiates action.

Q. *Can you recall what they were?*

OHP 13

WHAT ARE SUBPOSTMASTERS' RIGHTS?

Performance

- Subpostmaster should be given an opportunity to provide a written explanation of their conduct and PON allegations made against them
- Contract provides for subpostmaster to meet Retail Network Manager at their discretion, which "will not normally be withheld"
- Subpostmaster has the right to be accompanied at the interview by an NFSP Official, who must not be involved in the case.

OHP14

WHAT ARE SUBPOSTMASTERS' RIGHTS?

Misconduct

- Subpostmaster must be told in writing the specific charge and that summary termination might be the outcome.
- Subpostmaster should have the right to attend a face to face interview with the RNM to answer the charge – the Reasons to Urge interview.
- Subpostmaster has the right to be accompanied at the RTU interview by an NFSP Official, who must not be involved in the case.

Reasons to Urge interviews normally involve alleged dishonesty and potentially may lead to summary termination of the contract. We therefore now need to look next at what PON is required to do when an RTU is to be held.

Q. *How would you expect them to inform the member that the interview is to take place and what should the member be told?*

OHP15

WHAT SHOULD PON SAY?

- State the specific charge
 - Adequate notice of the RTU interview
 - Outcome could be Summary Termination
 - Subpostmaster can receive all relevant information
-
- Contract Application Guidelines say PON letter should state “*clearly in writing the specific charge (for example, misappropriation of Post Office monies) made against him*”. It is not sufficient to call an RTU based on a loose definition like loss of confidence.
 - Subpostmaster should be given adequate notice of the meeting (Guidelines state 7 days notice) and know it is a disciplinary hearing
 - In cases where PON is considering summary termination, the RTU letter “*must make clear that as a consequence of a decision by PON the outcome in relation to this charge could be summary termination of contract.*”
 - Guidelines state the “*subpostmaster can request and receive all information relevant to the charge*”.

Q. *If there has been a POID interview beforehand, what additional evidence will be available?*

A. 1998 agreement with the NFSP that following interviews by POSIS the investigation report, plus a transcript of the POID interview tape will be provided to line managers dealing with the disciplinary issue arising from the investigation/interview for onward transmission to the subpostmaster and their trade union representative

Q. What is your role as the member's representative?

A. Main aims To ensure the member has had a fair hearing – it is Branch Secretaries role to make sure this happens.

To obtain best outcome for member, given circumstances of the case – that does not always mean reinstatement, but it might mean time to sell.

**Q. Would you follow a set procedure in preparing a case?
Would a checklist be helpful?
What do you need to consider when preparing to represent a member?**

(Use Flipchart to record suggestions?)

OHP 16

PREPARING FOR AN RTU

- Need adequate time to prepare
 - Has PON investigated promptly and established all the facts?
 - Ensure you see any evidence PON is using in supporting its allegations before the interview.
 - Make notes on the facts and statements made by any of parties involved
- Keep the case confidential

Q. What if member only asks for assistance the day before the interview?

A. Ask for the interview to be put back for you to prepare – if possible.

Notes should consist of Dates, times, places, amounts, procedures
Meet the member and/or ask them to put their version of events in writing to you.

In terms of POID investigations, use the transcripts and the reports provided by the Investigation Manager. It can be time consuming to wade through these but worth it because it enables you to prepare better

Q. *Having done the preparation you should have the facts – according to PON, according to the member and also from your own research (POID Tapes etc). What do you do next?*

Need to identify the issues

OHP 17

THE RTU INTERVIEW

Identify the Issues

- Assess strengths and weaknesses
- Answer the RTU charge
- Is the charge appropriate?
- What is the best possible outcome for the member?

Assess the strengths and weaknesses of the PON case and the member's case.

Go back and read the Reasons To Urge letter carefully – you need to answer the charge, not prove the member innocent or guilty.

Burden of proof is not down to you. However if you believe you have proof of innocence, bring it in.

Ask yourself the question – in the light of the evidence put forward, is this charge appropriate? [e.g. would not expect a PON to call someone in for a performance discussion and then terminate their contract]

Q. *What if you believe the Post Office case is proven beyond reasonable doubt in your mind?*

A. Be honest and inform the member, especially if reinstatement will be impossible.

Q. *What should you then aim to do if you are trying to represent the members in their best interests?*

A. Ask yourself the question what is the best possible outcome for this person?
Ask the member the same question.

Q. *What should you do if you don't believe that summary termination is appropriate given the circumstances of the case? Should you go for time to sell? Or reinstatement?*

A. Be realistic. Identify issues and likely outcome. This can only be decided on a case by case basis.

Q. *Once you have identified the issues, need to gather the information together to present the case. How would you do this?*

OHP 18

PRESENTING THE CASE

- Diary of events
- Arguments to be used in defence
- Record all relevant facts
- Challenge charge where evidence supports defence
- What is best practice?
- Was the member following correct procedure?

Ask yourself:

- Have I considered all the options?
- What are likely outcomes?
- What is the outcome that the member would prefer? Or at least be prepared to settle for?
- Is there common ground for the most likely option?
- What if? – Ask yourself 'What if?' because it gives you the chance to think something through from a different perspective, i.e. What if PON is wrong? What if more evidence emerges?

Q. What should you aim to do in your arguments?

- A. Establish doubt
Develop alternative scenarios
Try to obtain a fair agreement

Finally, once you are face to face with the Retail Network Manager, what are the do's and don'ts of an RTU interview?

Q. *Need to remember that the Retail Network Manager you will be making representations to is the same person that you will be negotiating with on behalf of others. How should you deal with the Retail Network Manager?*

A. Need to build a relationship that is based on respecting the other persons view point and establishing with the Retail Network Manager that your Federation input or view is valid.

Need to maintain credibility – therefore have to accept that a fair outcome may mean that you will not be able to achieve reinstatement. However, you may be able to secure time to sell.

Always need to remember a fair outcome has to be consistent with maintaining the NFSP's profile in the community, integrity, etc.

Q. *In terms of personal approach to interview, what skills will be brought into play on your part?*

OHP 19

THE DO'S AND DON'TS

- Need to retain NFSP credibility
 - Be Firm and assertive, but not aggressive
 - Be Factual
 - Stay calm – do not allow yourself to lose control of the situation through anger or frustration
- Follow your prepared notes

- Q. Finally, What would be your response if you were in the middle of the RTU and PON suddenly introduces fresh evidence OR, having written one charge into the RTU letter, then start to discuss other issues that are not relevant to the charge?**
- A.** Stop the interview.
State reason
Ask for RTU to be reconvened.
Ask for a fresh charge and supporting evidence to be supplied
Tell them you need adequate time to prepare.

FINALLY, THE APPEALS PROCEDURE

OHP 20

THE APPEALS PROCEDURE

- Appeal may be in writing or through face to face interview
- 10 days to appeal
- Appeals Manager from National Appeals Panel
- Appeal Hearing within six weeks

Subpostmasters who wish to appeal against a decision to summarily terminate their contract can do so in writing or through a personal interview.

Subpostmasters have 10 days in which to request the appeal from the date of the termination letter.

If the subpostmaster decides to appeal against termination, the case will be referred to an Appeals Manager who is on the National Appeals Panel and who will be from a different part of PON.

Appeal should be heard within six weeks.

Subpostmaster should be informed of outcome within two weeks of hearing unless additional enquiries are required, in which case an interim reply will be sent. If new information is produced that is relevant to the charge, the subpostmaster will be informed.

Q. Have any of you had any experience of conducting an appeal?

Q. Contract Application Guidelines state that the appeal is a complete rehearing of the case and looks at the charge that has been made. When should an appeal be considered?

(Record answers on a flipchart?)

Q. What issues should be considered if an appeal is being considered?

A. Very similar to the issues considered for the RTU interview.

If we go back to Case Study 6 that was investigated earlier, (remind them of the case?) lets assume that the charge made by PON was Pension and Allowance discrepancies and futher discrepancies discovered in a later audit.

Q. Would you consider an appeal against summary termination of the contract? What would be the basis of the appeal?

A. No substantive evidence to prove the subpostmaster was involved in the Pension and Allowance discrepancies.

Add Listings manually altered by another member of staff. Daily Cash Book totals not altered.

Charge not specific - should have been phrase differently, eg appropriation of Post Office monies, false accounting, theft?

Should subpostmaster be reinstated, subject to proper management controls at the office?

Should PON offer advice or assistance to determine who took the money? Should the subpostmaster terminate the contracts of all the staff?

ROLE PLAYS

Using the case studies that were considered earlier, the next session is to practice those arguments in a role play where we will ask each of you to take on a role as the member, branch secretary or retail network manager.

This is a practical session to provide practice in the process of preparing and then representing the member – designed to improve confidence in practical skills required as Branch Secretary in representing members effectively.

Ask groups to divide up into two groups of four or three groups of three and for each to take a part. Give 30 minutes, then for each group to report back on the main points of the preparation and presentation and to feed back what went well, what did not go so well. Or, 15 minutes preparation plus 10 minutes presentation in front of rest of group.

Suggest that one of the groups takes Case Study 6 and conducts it as an appeal.

nb: If one of the case studies has not been used, use it for role play if there are delegates present who have more experience and want an alternative case.

Feedback after role play is essential and may take longer than role play itself – this is most important aspect of checking learning process so allow 20-30 minutes.

CONSOLIDATION (End of Session 2)

Summarise main points that have been covered and ask questions to check understanding and reinforce learning points.

Summary Representing Members

Subpostmasters' Contractual rights when PON initiates action

What should PON tell the subpostmaster?

Branch Secretaries role in representing members

Aiming for the best possible outcome for the member

Preparing for the RTU interview

Identifying issues for the defence

Presenting the Case

Do's and Don'ts of the Interview

Appeals Procedure – When and Why

Ask are there any Questions?

FINAL SESSION

Ask questions to check learning using a quiz to test understanding and recall of main learning points for whole course.

Reinforce any issues that arise.

END OF SESSION

Put back on OHP on Course Objectives to restate what has been covered during the course.

POST COURSE MONITORING

Explain post course approach to support for new Branch Secretaries in preparing and representing members.

Explain intention to set up learning logs for each Branch Secretary to ensure 2-way communications on identifying their training needs, recording course attendance and evaluation of achievements/progress.

REVIEW

Ask participants to complete evaluation questionnaire and for their reaction to the session.

FINAL QUIZ (Brigend: 20 April 2001)

1. What would PON use a performance discussion for?
2. {Name 2 circumstances in which PON would issue a written warning?
{
3. {
4. Name one of a Subpostmaster's contractual rights when a written warning is issued?
5. {Name 2 types of breach of contract that would ultimately lead to
{termination by 3 months' notice?
{
6. {
7. Name one of the factors that would cause PON to consider termination by 3 months' notice?
8. Is there a right of appeal following termination by 3 months' notice?
9. {There are 4 rights that a Subpostmaster has when called to an RTU
{for a misconduct offence – name 2 of them?
{
- 10 {
- 11 How much notice is PON required to give a Subpostmaster of an RTU interview? (Adequate, eg, 7 days)
- 12 If there has been a POID interview beforehand, what is the Subpostmaster entitled to receive?
- 13 Branch Secretary has 2 main aims in representing a member at an RTU. Name one?

FINAL SESSION QUIZ

Performance Cases

1. {In performance cases name the 2 examples of the type of breach
{of contract that could ultimately lead to contract termination by 3
{months' notice?
{
2. {
3. What would PON use a performance discussion for?
4. In what circumstances would you expect PON to issue a written
warning?
5. State one of Subpostmaster's rights when a written warning is
issued?
6. Is there a right of appeal following termination by 3 months' notice?

Misconduct Cases

7. {There are 4 rights that a Subpostmaster has when called to an
{RTU for a misconduct offence – name 2 of them?
{
8. {
9. If there has been a POID interview beforehand, what is the
Subpostmaster also entitled to receive?
10. Branch Secretary has 2 main aims in representing a member at an
RTU. Name one?

Appeals

11. How long does a Subpostmaster have to lodge an appeal following
summary termination of the contract?
12. How long would you expect it to take from the date of Summary
Termination for an Appeal Hearing to be conducted?

QUIZ

DATE

Name

VENUE.....

1. {
 {
 {
2. {

3.

4.

5.

6.

7. {
 {
 {
8. {

9.

10.

11.

12.

POST COURSE ADMINISTRATION AND MONITORING

1. Return to Kate copy of:
 - completed course attendance record,
 - completed learning objective form, and
 - evaluation questionnaires

2. Post Course Monitoring

Coaching New Branch Secretaries:

Ask new Branch Secretaries to prepare cases in writing

Review these with Branch Secretaries before interview

Attend interview alongside Branch Secretary

Review and feedback after interview

Please keep copies of paperwork and your coaching notes for subsequent evaluation with Kate.