

Subpostmaster Appeals Panel Process

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1. Introduction

These guidelines have been produced for new and existing Appeals Managers.

The purpose of these guidelines is:

- To clarify who will be involved in the Appeals process and their responsibilities
- To outline the support available from Legal Services and external lawyers (the decision to take external advice is made by Legal Services)

To date, Post Office Ltd has maintained a professional, impartial, reliable and unbiased approach to appeals and consequently our legal track record is very good. These guidelines aim to help you to maintain our current quality standards and should be read together with the relevant procedural document such as:

- Subpostmasters' contract for services (appropriate to the contract type)
- Operational Manuals relevant to the branch
- Business and/or Operational standards

2. Types of Appeal

2.1 Subpostmaster Appeal Panel members are required to hear appeals made by Subpostmasters against summary termination of their contract for service.

2.2 The Agents Contracts Deployment Managers North & South or an authorised Contract Advisor hear appeals made by Subpostmasters against the level of culpability following a robbery or burglary.

2.3 There is no right of appeal against the termination of a contract with 3 months notice. Subpostmasters are entitled on termination of contract by 3 months notice to have a "conversation" with the Regional General Manager regarding their situation. In these instances an Agents Contracts Deployment Manager will take the role of Regional General Manager. The north manager will handle requests from the south and vice versa. The Network Services National Support Manager will also be available to handle these requests but will not be the first person the case is allocated to.

2.4 Appeals can be heard relating to the following contract types:

- Scale Payment Sub Office (SPSO)
- Modified Sub Post Office (MSPO)
- Community Contract

Although there are great similarities between these contract types, care must be taken as paragraph / section numbering differs.

3. The Appeals Manager Role

3.1 Appointment of Appeals Managers

Senior managers from within Network Service & Transformation will be selected to be Appeals Managers.

When new Appeals Managers are needed, the Head of Network Services National Support Manager with the support of the Network Services and Transformation Lead team will approach the potential Appeals Managers to identify those with the correct skills and attributes to join the panel. The Appeals Training course is not available through the PDP process.

All Appeals Managers who are members of the Subpostmaster Appeal Panel must be Senior Managers at band 3a or above and will not be required to undertake employee appeals.

3.2 Training

The Appeals Training Course is a one-day course run by Senior Network Services and Support Managers. The course is intensive and involves a significant amount of practical work including a variety of case studies.

Following appointment new Appeals Managers will receive mentoring and performance feedback from experienced Appeals Managers as part of their induction process.

3.3 Commitment

Each Appeals Manager can expect to be asked to hear a minimum of 4 appeals per year. These will generally be geographically close to their normal work area, although the appeal could be for any area within the United Kingdom. A list of allocations will be maintained by the Contract Appeals & Admin Manager and these allocations will be based on location and designed to maintain experience. A conversation should be held between the Contract Appeals & Admin Manager and the identified Appeals Manager prior to the case being allocated formally.

The guidelines which the allocation team will follow state that:

1. The only acceptable reason for not taking on a case is where the Appeal Manager is about to take extended leave (two weeks or more).
2. Appeals are not to be allocated to an Appeal Manager whilst they are absent on leave (annual / sick).
3. Appeals are allocated on a rotational basis with appeals being allocated to the manager at the top of the list and once the appeal has been accepted the manager then moves to the bottom of the list.
4. The Contract Appeals & Admin Manager will have a conversation with the Appeal Manager gaining their commitment to hear the case before despatching the case summary.
5. Regional Network Managers will not hear appeals where their team has been involved in the audit or training of the Agent/branch or the when branch is located within their geographical area of responsibility.

6. No Appeal Manager should be allocated a new case until they have completed any case they are currently progressing
7. When an appeal is allocated, the Appeal Manager's line manager is to be copied in so they are aware of an individual's workload.

Any refusal to hear an appeal will be subject to discussion with the relevant line manager – see section 5.12

3.4 Removal from the agents appeal panel

1. Permanent removal

If an individual is in a role that prevents them from fulfilling the required commitment of hearing an average of two appeals a year and no more than four appeals then they should be removed from the Appeals Manager list – this would however then put them back on the business wide employee appeals panel. To be removed an individual should speak to their line manager who should then contact the General Manager Network Services and Transformation. The General Manager should inform the Contract Appeals & Admin Manager if a decision is made for permanent removal of an individual from the panel.

2. Temporary removal

There is an opportunity to be removed from the panel for a short time, if an individual is for example working on a business time critical piece of work for an identified period (e.g. six weeks because of a major report). This dispensation can only be granted by the General Manager, Network Services and Transformation and cannot be applied for after an appeal is allocated. If the General Manager grants dispensation the Contract Appeals & Admin Manager should be notified and be supplied with the dates of exemption. This facilitates the proper management of the appeal process and our aim for all appeals to be dealt with as quickly as possible, but also the objective that an appeal should be completed within six weeks of allocation consistent with the need for thorough consideration and investigation

Agents Contracts Deployment Managers will not form part of the Subpostmaster Appeals Panel.

In 2008-09 there were 56 Agent appeals,
In 2009-10 there were 62 Agent appeals.
In 2010-11 there were 38 Agent appeals.
In 2011-12 there were 35 Agent appeals

The aim is to allocate 2 appeals per manager per year and not more than 4. **However Appeals Managers will be expected to hear as many appeals as necessary subject to demand.**

4. Responsibilities of the Contract Advisor

When the Contract Advisor who has awarded the penalty of summary termination of a Subpostmaster's contract for services receives an appeal request, he/she has the following responsibilities:

4.1. To immediately notify the Contract Admin Team of an appeal request by emailing the agent case summary (Appendix 6.1). The e-mail should include the Subpostmaster Appeal case for allocation, branch name, branch code and postcode in the subject title.

4.2. To acknowledge the appeal request in writing and reassure the Subpostmaster that they will be contacted as soon as possible by a member of the Subpostmaster Appeals Panel.

4.3. To collate all the relevant papers in electronic format and attach them to the case summary document. Forward the case summary document to the Contract Appeals & Admin Manager within 5 working days of receipt of the appeal request.

4.4. The Contract Appeals & Admin Manager will provide the Contract Advisor with the name of the Appeals Manager allocated to the case and forward the completed case summary document to the Appeals Manager by email or on a CD by secure post. If not already included in the Case Summary document a transcript of the RTU notes will be sent separately. On receipt of these notes, the Appeals Manager must embed them within the Case Summary document.

4.5 On conclusion of the case the Appeals Manager will return all the papers to the Contract Appeals & Admin Manager in electronic format embedded within the case summary document. The Contract Appeals & Admin Manager will check the appeal outcome for any improvement opportunities identified by the Appeals Manager and ensure that the Case Summary is completed to the required standard using the "Minimum Standards Checklist". Any improvement opportunities should be notified to the relevant people concerned e.g. if there is an issue with the appeals process this should be referred to the Contract Appeals & Admin Manager.

5. Responsibilities of the Contract Appeals & Admin Manager

- 5.1. To maintain the list of Appeals Managers on the Subpostmaster Appeals Panel, including details of their availability and past performance for management purposes.
- 5.2. To allocate appeals to Appeals Managers within 2 working days and feedback to appropriate line managers where cases have been declined – see section 5.12.
- 5.3. To ensure the Appeals Manager is totally independent. This means that they have no previous connection to the case or the individual involved in the appeal. For Regional Network Managers the branch must not be within the geographical area that they cover and no members of their team should have been involved in the audit or training of the branch. Whilst the Contract Appeals & Admin Manager will try to minimise travel commitments wherever possible, Appeals Managers will be expected to travel if necessary.
- 5.4 To send the case summary to an Appeals Manager by email. A return receipt will be used to confirm delivery. To send a voice recorder for use during the appeal and monitor return.
- 5.5. To ensure cases are normally completed within a maximum of 6 weeks of the notification received of intent to appeal the Contract Advisor decision. Implement follow up procedures to monitor progress of the case. The same timescale will apply to discussions following 3 months notice of termination.
- 5.6 To notify the Contract Advisor via template e-mail of the name of the appointed Appeals Manager and the date they agreed to take up the case. Complete the relevant section of the case summary document.
- 5.7 To record the details of each appeal case on the Appeal Register held on the Agents Deployment Team SharePoint site and monitor the progress and completion of each case.
- 5.8 Produce timely and accurate management information in the format prescribed to the Agents Deployment Team Manager, North.
- 5.9 The Contract Appeals & Admin Manager should check that all documents relating to the appeal are embedded in the decision document returned by the Appeal Manager using the Minimum Requirements Checklist.
- 5.10 Distribute voice recording equipment and maintain a log of who has equipment at any time so all equipment is fully accounted for.
- 5.11 To maintain and periodically update the Agent Case Summary file.
- 5.12 To respond to all queries about any aspect of the appeals process including contact with line managers when there is a refusal to hear an appeal.
- 5.13 To oversee the maintenance of the Appeals performance monitoring systems.
- 5.14 Working with the Agents Contracts Deployment Manager North undertake the following actions
- To implement any identified improvement opportunities at a national level.
 - To liaise with Legal Services to ensure legal compliance, communicating all relevant information to the Appeals Managers and the Contract Admin Team.
 - To initiate, when required, new Appeals Manager Training courses.
 - To keep all Subpostmaster Appeals Managers up to date with important information / legal developments.

- Consider methodology required for periodically reviewing appeal cases for conformance with the appeals process and overall consistency of decision making.

6. The Rights of the Individual – principles to consider

The Subpostmasters' contract for services fully documents the rights of the individual.

Appeals Managers are reminded that there are *rules of natural justice*, which must be considered when carrying out the appeal, and which require that:

- The individual should know the case against them. This means that the charge must be specific and the evidence against them made known to them.
- The individual should have the chance to state their case.
- There must be no bias in the appeals proceedings.

7. Handling an appeal

These are the essential steps you will take when handling an appeal:

7.1 You will receive the case papers from the Contract Appeals & Admin Manager in electronic format. The intention is that only those papers that are required for the appeal should be printed. The case summary file should contain all documents used by the Contract Advisor.

7.2 Read all the papers carefully to ensure that:

- They are complete
- There has been an adequate investigation
- There are no apparent procedural problems
- You can decide how to deal with any problem areas early in the process.

Incomplete files should be returned to the Contract Advisor for either full completion or an explanation as to why papers/documents are missing (you would normally copy in the Agents Contracts Deployment Manager North or South and the Contract Appeals & Admin Manager to make them aware).

7.3 Make arrangements for a date, time and location for the hearing, liaising with the “friend” if applicable.

7.4 Write to the individual inviting them to the appeal hearing enclosing an explanation of the appeals procedure. An Appeal Hearing can either be face to face or undertaken by written submission.

7.5 The individual may be accompanied by a friend who must be:

- Aged 18 years or over; and
- a Subpostmaster; or
- a Post Office® branch Assistant; or
- an employee of either Post Office Ltd;
- and can be the local NFSP representative.

It is Post Office Ltd’s policy that, at our absolute discretion, we allow individuals to be accompanied at appeals by a ‘friend’; however it does not allow the friend the opportunity to represent the individual.

Note: “Friends” representing any other organisations must not be permitted to attend the appeal interview. Full guidance about how to deal with “friends” at interviews is contained within ACC 01/12.

7.5 Be sympathetic to any reasonable request for an adjournment to an alternative date. However it is important to complete the appeal as quickly as possible and within the 6 week target. Only in exceptional circumstances would an appeal hearing be adjourned longer than 14 days. If the appellant is finding it difficult to attend they should be offered the opportunity to enter a written appeal instead.

7.6 An impending prosecution of a Subpostmaster should not hold up the appeal as this is a separate legal process to the appeal. If however there is any doubt, guidance should be obtained from the Agents Contracts Deployment Manager who will work with Legal Services to ensure that the position of Post Office Limited is not compromised.

7.7 Appeal hearings should be recorded using recording equipment supplied by the Contract Appeals & Admin Manager. Note takers should not be used unless recording equipment is

unavailable. A transcription service is available and if a transcript of the recording is required, contact the Contract Appeals & Admin Manager for instruction.

7.8 Hold the appeal being sympathetic, but neutral, to the individual. Ensure the individual and their representative has copies of any relevant papers. Your role is to gather sufficient evidence to enable you to reach a reasoned decision. You should not attempt to defend the original decision as you are taking a fresh and impartial look at the case. You should establish the basis for the appeal and also what aspects of the original hearing are in / not in dispute.

7.9 Send the individual (and the “friend” if applicable) an encrypted copy of the recording for agreement, seeking any comments / amendments by a specific date.

7.10 Where necessary undertake further investigations and inform the individual of the outcome.

7.11 Ensure the individual has the opportunity to comment upon any new evidence that arises as a result of the further investigations by a specific date.

7.12 Weigh up all the evidence, record conclusions and make a reasoned decision on the ***balance of probabilities***. Your thought process in reaching the decision should be fully documented.

7.13 If the charge is found to be substantiated, examine the gravity of the misconduct and any mitigating evidence, document the logic and decide on a reasonable penalty in line with the Subpostmaster’s contract for services.

7.14 An Appeals Manager can find the case against the individual proven, but disagree with the original penalty. In such circumstances, your options are to:

- Uphold the decision to terminate their contract for services
- Uphold the decision to terminate their contract for services but with three months notice
- Reinstate their contract for services with or without penalties e.g. with a written warning, final written warning and reinstatement subject to the repayment of any losses.

It is not the Appeals Managers role to determine what happens to the branch or how losses are recovered (but you can indicate losses should be repaid as a condition of re-appointment). This is the role of the Contract Advisor who will contact the Subpostmaster once the appeal has been completed.

The decision of the Appeals Manager is final. There are no further internal processes to contest an appeal decision.

7.15 Notify the Subpostmaster of your decision in writing. They need to be given reasons as to why you have reached your decision, but there is no requirement to defend it to them.







7.16 Return all the papers electronically embedded into the case summary document and voice recording on CD to the Contract Appeals & Admin Manager. The report should cover:

- The approach taken
- Documented action prior to the appeal
- The voice recording on CD and any further notes or comments made by the individual
- Details of subsequent investigations
- Conclusions reached and the decision rationale
- The decision letter which will also including the rationale for decision
- Copies of all correspondence received and sent
- Improvement opportunities for the Contract Advisor/other departments.

7.17 A copy of the decision letter and personal improvement opportunities / learning points should be sent to the Contract Advisor, copied to their line manager when the case is finalised. Notify the Contract Appeals & Admin Manager of any improvement opportunities which affect national processes.

8. Cases Proceeding to Employment Tribunals

Tribunals are for dealing with disputes between employers and employees, workers or certain office holders and do not apply to Subpostmasters. Occasionally, however, a Subpostmaster will lodge a tribunal claim on the contention that he/she is an employee or worker. There is now settled case law that Subpostmasters are not employees or workers who work under a contract for service. In these instances, Legal Services or their external suppliers/agents will take the necessary steps to defend such claims.

Useful Documents		
Agents Case Summary	Containing all the information for the case and the appeal.	 Case summary file
Invitation to appeal	To be sent by Appeals Manager	 Appeal Invite Letter
Explanation of appeals process	To be sent with the invitation letter	 Explanation of Appeals Process
Outcome of appeal	To be sent by Appeals Manager	 Decision Letter
Decision Rationale Document	For use by the Appeals Manager	 Decision Rationale Document
Minimum requirements checklist	For use by CAT to check the completeness of the case returned by the Appeals Manager.	 Minimum Requirements Checkli