



## POLICY DOCUMENT- Appointment of Temporary

**Reference information**

Policy type	Appointment of Temporary Postmaster Policy
Ref	
Date	1 <sup>st</sup> December 2014
Status	Final Version
Author	Sarah Ryan
Owner	Paul Inwood
Version authorisation date	2 <sup>nd</sup> February 2015.
Review Date	After 1 month and then 6 months after that.
Expiry Date	N/A
Key stakeholders	John Breeden / Lin Norbury (Contract Deployment Team), Paul Inwood (Agent Contracts and Policy Manager), Andy Carpenter (Contract Advisor) Jessica Madron /Rodric Williams (Legal Services) John Jenkinson (Contracts, Appeals and Administration Manager), David Sears (Temporary Postmaster Advisor), National Federation of Subpostmasters.

**Approval**

Role	Name(s)	Date
Business input	Legal services, Contract Deployment Team, Finance	
Assurance	Paul Inwood	2/2/2015
Authorised	Paul Inwood	2/2/2015

**Version control**

Version No.	Reason for issue	Date
Version 1.0	Draft	30/04/2014
Version 2.0	Draft	03/06/2014
Version 3.0	Draft	21/08/2014
Version 4.0	Draft	11/09/2014
Version 5.0	Draft	23/09/2014
Version 6.0	Draft	13/10/2014
Version 7.0	Draft	20/10/2014
Version 8.0	Draft	12/11/2014
Version 9.0	Draft	19/11/2014
Version 10	Final	02/02/2014

**SUBJECT:****PART 1****1.0 Statement**

This document sets out how Post Office Limited will appoint temporary Postmasters to operate both traditional and new model branches. It will clarify the responsibilities of the Temporary Postmaster and POL in that process, and provide internal guidance on TUPE (Transfer of Undertakings Protection of Employment) and the provisions for step-in rights.

The purpose of this policy is to provide direction as to the steps that need to be taken when appointing a Temporary Postmaster and the considerations to be made for such appointment.

**2.0 Glossary**

<b>Word/term</b>	<b>Definition</b>
<b>Postmasters</b>	Encompasses the terms Operator and Subpostmaster.
<b>Assistant</b>	An employee of a Post Office Ltd Postmaster who is registered by the Postmaster with Post Office Ltd, to deal with Post Office Ltd transactions and information.
<b>Host</b>	Agent appointed by POL who has been suspended/terminated from Operating the Post Office.
<b>Network Transformation or NT</b>	Funding committed by Government to transform the Post Office network, to include longer opening hours and more accessible branches.
<b>New Model(s)</b>	Refers to all NT models, including Local and Mains.
<b>NFSP</b>	The National Federation of Subpostmasters is an independent member's organisation, and is the only organisation recognised by POL as representing Postmasters.
<b>Operator</b>	Refers to the legal entity contracted to run a New Model Network Transformation branch.
<b>POL/We</b>	Post Office Limited
<b>Step-in</b>	Contractual obligation on an Operator of an NT model Post Office to allow POL access to the Post Office area.
<b>Subpostmaster</b>	The holder of a Subpostmaster Contract and includes the term Subpostmistress.
<b>Temporary Agent</b>	An individual or company contracted on a temporary basis to run the Post Office
<b>TUPE (Transfer of Undertakings Protection of</b>	This forms part of employment law and requires new employers to transfer existing staff of a business. The regulations protect employees enabling them to enjoy the same terms and conditions, with continuity of employment, as they had before the transfer.

<b>Employment)</b>	
<b>Valid Property Interest (VPI)</b>	A valid license to occupy the Branch Premises [giving the Operator exclusive control of the whole of the Branch Premises (including its access and provision of utilities and services) on an exclusive occupancy basis] which is terminable on not less than 1 months' notice

### **3.0 Appointment**

A Temporary Postmaster will most commonly be appointed to run a branch when the existing Postmaster (Host) is suspended or the contract has come to an end without a substantive Postmaster being found. The steps required to appoint a Temporary Postmaster can be found in the process map at the bottom of this document.

#### **3.1 Procurement of Temporary Agents**

3.2 If the reason for appointing a Temporary Postmaster is due to suspension, where possible the suspended Postmaster (Host) should be provided by POL with the names of three possible Temporary Postmasters, the Postmaster may then select one to operate the Post Office branch, subject to POL's final approval.

3.3 Where it can be avoided, family members should not be appointed to run the Post Office, this is particularly pertinent in cases involving suspected or confirmed theft, fraud or other questionable behaviour. In cases where this is unavoidable, authorisation should be sought from the Agents Contracts Deployment Manager.

### **4.0 Security and acceptance**

4.1 Temporary Postmasters must pass the telephone interview prior to appointment. In addition, they should undergo financial checks through the use of credit reference agencies (including company checks, if relevant) and a Criminal Records Bureau check. It is the responsibility of the Temporary Agent Advisor to ensure that these checks are completed prior to appointment and at 12 monthly intervals thereafter. This should be managed through the HR Assistant Checks team. The Temporary Postmaster must meet the cost of the CRB checks and any cost incurred by POL in checking their financial viability both on appointment and every 12 months thereafter. If the Temporary Agent Advisor is unable to complete these checks prior to appointment, the final decision to appoint rests with the Agents Contracts Deployment Manager.

4.2 Any refusal to agree to these checks being carried out or a failure to pass to POL's satisfaction will result in the potential Temporary Postmaster not being appointed or if already in post, their Agreement will be terminated. It is the responsibility of the Temporary Postmaster to inform POL of any changes to their financial circumstances or otherwise whilst in post. This is a contractual obligation.

### **5.0 Types of appointment**

### **5.1 Temporary Appointment to Local and Main branches**

If the Temporary Postmaster is operating a Local Post Office, they must have exclusive use of the premises, unless the format allows for the security of all cash, stock, mail and other security items e.g. fortress format in high risk sites. Once the above checks have been completed, if the Temporary Postmaster is operating a new model branch, they should be provided with a Local or Main Temporary Agreement which can be found at the bottom of this document. This must be signed and returned by the Temporary Postmaster prior to commencing any work at the Branch, however if that is not practical, the Temporary Agent Advisor may choose to exercise their discretion taking into account the circumstances so that service is not disrupted.

If the decision to appoint without a signed contract is taken, the Temporary Postmaster must be advised by the Temporary Agent Advisor that if the signed Agreement is not received within 14 days, POL will review their suitability which may include removal from the Branch. A date 14 days hence should be diarised to check receipt of the contract.

5.2 If the appointment is of a company, the usual appointment process (above and at the bottom of this document) should be followed. If the company is less than three years old or if it is otherwise deemed necessary as a result of the financial checks, 2 Personal Guarantors will be required. The Temporary Agent Advisor should approach the company and ask them to suggest suitable personal guarantor/s. Please refer to the Guarantors policy found at the bottom of this document for the full process that must be followed and the requirements. It is the responsibility of the Temporary Agent Advisor to ensure that Personal Guarantors are obtained. If the company refuses to provide personal guarantor/s, or is unable to, the issue should be referred to the Agents Contracts Deployment Manager. The final decision of whether to proceed without guarantors rests with the Agents Contracts Deployment Manager in consultation with the Finance Team following an assessment of financial risk and the legal team following an assessment of legal risk.

5.3 If the Temporary Agent is applying for a permanent appointment through Network Transformation it may be not necessary to conduct all checks. Clarification should be sought from the Agents Application Team and Tim Dance (Finance Performance Manager) to confirm if further checks are required or whether they have already been completed.

### **5.4 Temporary Appointment of Subpostmasters**

If a Temporary Postmaster is operating a Traditional Branch, they should be issued with the Temporary SPMR contract, found at the bottom of this document. This must be signed and returned before the commencement of any work at the branch, however the comments at 5.1 above should be noted regarding the practicality of that. There have been some changes to the existing Temporary SPMR contract. Please use the version found at the bottom of this document.

### **6.0 Payments to the premises host.**

6.1 Once a Temporary Postmaster has been identified by POL and accepted by the premises Host, the Temporary Postmaster should be encouraged to reach an agreement with the Host regarding the financial costs towards the rent of the premises and utilities. POL is not obligated to become involved in those arrangements nor should POL offer to become involved in those negotiations. Additionally, the Temporary Postmaster should be encouraged to reach agreement in writing with the premises Host and a copy should be provided to the Temporary Agent Advisor and kept on file.

6.2 The Temporary Postmasters should be paid in accordance with the type of contract they are operating and should pay to the Host the agreed proportion of the fees directly. Eg Local and Main Temporary Postmasters should be placed on fully variable pay.

## **7.0 Provision of Service and Notice**

7.1 If the Temporary Postmaster is operating a Local/Main branch, in order that POL can make adequate provisions for service, the Temporary Postmaster must give a minimum 4 weeks' notice if they wish to terminate the Local/Main Temporary Postmaster agreement.

7.2 Conversely, POL must give a minimum 7 days' notice to a Temporary Postmaster in order to terminate their agreement. It should also be noted that the Local and Main Temporary Agreement affords POL the opportunity to terminate the Temporary Agreement immediately if there is a serious breach of the Agreement.

7.3 If the Temporary Postmaster is operating a Traditional branch, either party must give at least 7 days written notice to terminate.

7.4 There is no requirement for POL to take a Temporary Postmaster (of either a New Model or Traditional branch) through the conduct or performance process.

## **8.0 Subsidy payments to Temporary Postmasters**

It is recognised that there may be instances where POL will decide to provide Temporary Postmasters with subsidy payments to assist them with running a branch. These payments will not be offered as a matter of course and will be decided on the facts of each case. If a subsidy payment is considered necessary, the Temporary Postmaster Advisor should contact Chris Howard (Remuneration Development Manager) in order that an assessment can be made. The Agents Remuneration team will take into account several factors including the following:

- Branch staff costs (is the branch over staffed?)
- Can Temporary Postmaster or Host renegotiate rent?
- Has the Postmaster got a good retail offer? (Can they alter offering, are they meeting needs of customers etc.)
- Has Temporary Postmaster or Host attended Breakthrough Programme and/or retail awareness workshops?
- Can the Host re-finance?



In addition to collating this information, the Agents Remuneration team will complete a review of the branches profit and loss accounts. The Field Change Advisor (FCA) should complete a POL Subsidy Review and Authorisation Form (at the bottom of this document) and send it to Mick Graham (Agency Remuneration Manager) for approval. This will require the sign off of Nick Beal (Head of Agents' Development & Remuneration) and Jim Lockwood (Finance Performance Manager) who will make a decision to either approve or decline the Subsidy payment. The Subsidy Authorisation will be approved *only* when the FCA has exhausted all other areas of financing the office.

### **9.0 Tax status**

Individual Temporary Subpostmasters remuneration is subject to employment taxes (PAYE/NIC.). Local and Main Temporary Postmasters are self-employed and operate under the VAT regime. This information is subject to HMRC final agreement.

### **10.0 Suspension of Host**

If the reason for appointment of a Temporary Postmaster is due to suspension, Operators of Local and Main Models are obligated under their agreement at their own cost and expense to promptly take all steps to enable Post Office Ltd to maintain access for Customers to the Products and Services POL offers.

### **11.0 Termination of Host (Step in and POL's rights)**

11.1 POL's right of 'Step-in' should only be used as a last resort and where other methods of recovering service have not been successful. Step – in can only be applied once an Operator has been terminated. Operators of Main model branches are contractually obliged to allow POL access to the Post Office area if their Agreement has been terminated; this is referred to in the Agreement as 'Step-in'. Any other similar arrangements that is not as defined in the Agreement i.e. 80/20 split of fees, is not 'Step-in'.

11.2 POL will pay a fee to the Host for each day of the Step-in Period. The Temporary Agent Advisor and Contracts Advisor should liaise with the Agent Remuneration team to ensure the correct information is communicated to the Temporary Postmaster.

11.3 The fee will be calculated by dividing the total Fees earned in the last 12 calendar months prior to the start of the Step-in Period by 365 days (or where the Agreement is less than 12 months old, by the number of days in the calendar months from the Start Date to the date immediately prior to the beginning of the Step-in Period) and by dividing the resulting amount by 5. This fee will be paid by Post Office Ltd to the Host monthly in arrears. Step-in is only applicable where the fees paid to the branch are split 80% to the Temporary Postmaster and 20% to the Host as prescribed in the Agreement. If either party is paid more than the specified 80/20, this is not step in. POL can only contractually enforce step-in for a maximum of 12 months, it is therefore imperative that a Temporary Postmaster is in post for as short period as possible and a permanent solution is found.

11.4 The fees to be paid should be communicated to the terminated Postmaster through the contract breach template letters appropriate to the circumstances (with/without suspension).

11.5 Step in does not apply to Local or Traditional Models, but as stated above where possible, agreement should be sought from the Host to allow a Temporary Postmaster to run the Post Office in order to maintain service.

### **12.0 Making payments if Host is suspended or terminated**

12.1 If the Host and Temporary Postmaster cannot reach a private agreement, and POL is required to pay the Host directly for use of his premises, payments made to Hosts cannot be made through the usual HR SAP channel once a Temporary Postmaster has been appointed to the branch.

12.2 Instead the Host must invoice POL using the template found at the bottom of this document, and the finance team will need to set the Host up as a 'Vendor' in order to make the payments.

12.3 In order for this to happen, the Temporary Agent Advisor will need to complete the Vendor Template Form at the bottom of this document and email it to Procurement psc [GRO] to request the Host be set up as a Vendor and obtain a Vendor code. The Procurement team will then send to the Host a Corporate Social Responsibility Form; this must be completed by the Postmaster and returned to Procurement before any payment will be made. This is a legal requirement. For reference, this form is at the bottom of this document. The Temporary Agent Advisor is responsible for ensuring this form is completed and returned by the Host to ensure the process remains efficient.

12.4 Once the Temporary Agent Advisor has been provided with a Vendor Code, they should request for a requisition to be raised through Brian Kirk (Agents Pay, Team Support) using the template requisition form found at the bottom of this document. The Temporary Agent Advisor must ensure all required fields are completed, before sending to Brian Kirk.

12.5 Once the requisition has been raised this will electronically pass to the Finance Performance Analyst [Preeti Singh] and when authorised electronic notification will be received by Accounts Payable, who will then raise a purchase order (a copy of which will be sent to the Temporary Agent Advisor) to enable the Host to invoice POL for the requisite amount.

12.6 The Temporary Agent Advisor should send a letter to the Host (which can be found at the bottom of this document) which includes a copy of the Purchase Order and Invoice template. It is then the Hosts responsibility to complete and return the invoice by 2<sup>nd</sup> of every month to tracy.bannister [GRO] (Invoice Processing Manager). The Host will then be paid their proportion of fees monthly in arrears.

12.7 When a permanent solution is found the Contract Admin Team must ensure this is communicated to Brian Kirk (Agents Pay Team Support), the Contracts Advisor, the Finance Performance Analyst and Accounts Payable to ensure the payments cease.

### **13.0 Offsetting Debt following suspension/termination**

13.1 In the event that a Temporary Postmaster is appointed as a consequence of financial irregularities, or financial irregularities become apparent, and POL seek to recover an amount from the Host because the Host owes money to POL, POL may deduct any daily fees due to the Host from any amount due to POL. These fees can only be offset where POL are paying fees to the Host directly. Therefore POL will be unable to offset debt if the Host and Temporary Postmaster reach their own private arrangement.

13.2 The amount and frequency of such deductions is at the discretion of POL and may be negotiated with the Host. Authority to consider negotiated payments should be sought from the Agent Debt Team, who will have the final decision.

13.3 In order for the deductions to occur, the Contracts Advisor should contact the Agent Debt Team to advise them of the required deductions. The Finance Performance Analyst (Preeti Singh) will then provide the Agent Debt Team (Kish Brown) with the general ledger code to ensure the deductions are appropriated to the accurate cost centre.

#### **14.0 Transfer of undertakings Protection of Employment (TUPE)**

**This information is provided for internal background information only. Do not provide any opinion or advice as to whether or not TUPE may or may not apply in any case. Temporary Postmasters must be advised to seek independent legal advice prior to appointment.**

14.1 TUPE means the “Transfer of Undertakings (Protection of Employment) Regulations” The regulations apply to organisations of all sizes and protect employees’ rights when the business they work for transfers to a new employer. The TUPE Regulations apply when a business is sold and / or transferred; activities are outsourced, or brought back in-house.

14.2 The impact of TUPE means that Employees from the newly-acquired business or contract will transfer automatically to the incoming employer. Their terms and conditions of employment and continuity of service are preserved and transfer at the same time and they also receive certain protections around dismissal and redundancy. This means they take their length of service with them as if they had always worked for the incoming employer.

14.3 Following a transfer employers may seek to change terms and conditions, but working out when, how and if changes can be made is difficult, and employers seeking to vary terms and conditions may still face legal challenge.

14.4 When a Temporary Postmaster takes over from the Host, the staff who work for the Host are often included in that transfer. It is therefore imperative that the Temporary Postmaster is advised to seek independent legal advice prior to signing their Temporary Agreement as they become solely responsible for any employment law challenges that may occur. Specifically, they must ensure that the pay and conditions remain the same as under the Host, and that they are able to fund any changes they



intend to make to the workforce including redundancy pay and pensions provisions. This is particularly important if the staff share their time between the Post Office and Retail area of the business.

14.5 It is important to note that the new pension provisions do apply to the employees of Temporary Postmasters. Where employees are transferring under TUPE and who either participate or have the right to participate in the transferor's occupational pension scheme, the transferee is required to provide some form of minimum pension protection.

14.6 It should further be noted that if an employer transfers some or all of its employees to a new employer under TUPE, the transferring employees will be treated as working under a "new contract" and the transferee employer will need to make an assessment of whether they would now qualify for auto-enrolment at the transfer date.

14.7 If the transferred worker is eligible for auto-enrolment on the transfer date, he or she must be automatically enrolled into the pension scheme operated by the transferee employer.

14.8 However, if the scheme proposed by the employer in order to meet its TUPE requirements is also a qualifying scheme, the employer will not need to automatically enrol the worker. If the scheme used to meet TUPE requirements was not a qualifying scheme, the employer must use a different qualifying scheme to meet their auto enrolment duties.

### **15.0 Requests for TUPE indemnities**

15.1 There have been occasions when Temporary Postmasters have requested a TUPE indemnity. The legal and financial implications of indemnifying Temporary Postmasters from their employment responsibilities are vast. The Contract Advisor must complete the pro-forma at the bottom of this document setting out the current liabilities at the branch and once complete send it to Chris Howard, Remuneration Development Manager, before an indemnity will be issued. The pro-forma and subsequent decision must be retained in the branch file.

15.2 Indemnities will not be offered as a matter of course, only once a request is received from a Temporary Postmaster and each case will be decided on its facts by the Head of Network Development.

### **16.0 Valid Property Interests.**

16.1 It is accepted that it is unlikely that a Temporary Postmaster will have a valid property interest in the premises within which they are operating the Post Office. However, where possible the Temporary Postmaster should try to reach an agreement with either the owner or landlord of the premises. All of the following options are acceptable to POL, and the Temporary Postmaster should take independent legal advice before becoming involved in any property contract.

16.2 One option is for the Temporary Postmaster to become a service tenant. The terms would be at the discretion of the landlord but at the very least the Temporary Postmaster should obtain a short term tenancy for a specified period, with a specified notice period.

16.3 The Temporary Postmaster could also obtain a license to occupy, though this would not give exclusive possession or control.

16.4 An alternative but less desirable option for POL that would only be acceptable if there was a risk of loss of service at the branch would be a tenancy at will terminable immediately on notice by either party. This could be implied or in writing.

16.5 Evidence of a VPI (if obtained) should be provided by the Postmaster to the Contract Advisor and retained on file.

### **17.0 Breakthrough programme**

17.1 The Breakthrough Programme encourages and supports Postmasters to increase and/or maintain sales within the branch. There is both offsite and in branch support and training led by POL.

17.2 All Postmasters of Main branches should be encouraged to attend the Breakthrough Programme if they are in situ for longer than 8 weeks. The Contracts Advisor should liaise with the Agency Sales team to ensure Temporary Postmasters attend. It is the responsibility of the Contracts Advisor to ensure the training is arranged and attended by the Temporary Agent.

### **18.0 Procurement**

How POL manage changing future procurement regulations is being examined and will be communicated as part of a separate document.

### **19.0 Temporary Agreements**

The appropriate Agreement should be issued dependent on the branch model.

The temporary Local and Main agreements can be found at the bottom of this document.

The temporary Subpostmaster contract can also be found at the bottom of this document for non NT branches.















### **20.0 Related policies**

Contract breach policy

Guarantors policy

## **PART 2**

### **12.0 Standard letters and documents**

Document name	Document
TUPE Indemnity	 TUPE indemnity agreement.doc
Temp Local Agreement (Preface and standard conditions)	 _AGREEMENT_28019600(16)_TEMPORAR\  _AGREEMENT_28019910(21)_TEMPORAR\
Temp Main Agreement (Preface and standard conditions)	 _DOC_28809688(10)_TEMP Mains (Temp c  _DOC_28809755(8)_TEMP Mains (Temp of
Temp SPMR contract	 Temp SPMR contract.doc
Invoice Template	 Invoice template for vendor payments.doc
POL subsidy review and authorisation form	 POL subsidy review and authorisation form
Appointment of temp agents process	To follow
Letter to Postmaster with invoice template and purchase order included	 Letter to Agent enclosing invoice tem
Vendor template request form *Companies *Individuals and partnerships	 POL Vendor Request for COMPANIES ONLY  POL Vendor Request for INDIVIDUALS and
Corporate Social Responsibility Form	 Corporate Social Responsibility Form.d
Requisition Form	 Requisition Form - annotated.doc
TUPE what advice – what to do if a claim arises	 TUPE Advice if claim arises.docx