

01/2011



Agency Changes Communiqué (ACC)



To: Contract Advisors
HR Service Centre

CC: Distribution List

From: Paul Williams
Restrictions Advisor

Subject: Family Transfers

1. Introduction & Purpose

In circumstances where a Subpostmaster divorces, or resigns due to age or ill health *and* indicates that he/she will no longer play a part in the day to day running of the Post Office® branch, it has been Post Office Ltd's established practice to allow branches to transfer to a close family member without advertising the vacant position.

In such circumstances we expect the Subpostmaster to be able to demonstrate that the transfer was of a non-commercial nature (i.e. would not result in any financial gain to either party).

Equally where a subpostmaster dies in service, the business' practice has been to allow the branch to transfer to a suitable family member, subject to the resolution of the estate / any probate issues.

The last instruction about this approach was ACC 72/2002 and there have been many changes in the network and Post Office Ltd itself since then. This ACC replaces ACC 72/02 and sets out current policy and gives guidance about where and when it would be appropriate to allow a family transfer to proceed.

2. Background and policy

The family transfer concession is best summarised as a supportive gesture towards a Subpostmaster who has previously provided service to an acceptable standard. A family transfer will often be associated with a sudden crisis, such as serious illness, but can also be a consequence of less traumatic circumstances, such as retirement.

Last Communiqué: 10/2010 Managing Performance
11/2010 Application Enrolment and Identity (AEI); Agent
Contracts (ii) Changes to appointment letters to
recognise AEI.

Acceptable reasons for a family transfer request to be made are:

- Death of the Subpostmaster.
- Serious illness (normally the Subpostmaster, but they may wish to care for a relative).
- Divorce – could also include situations in which an unmarried couple split up.
- The subpostmaster chooses to retire (please note that we do not impose a retirement 'age' on our agents).

Having received a request for a family transfer, the basic criteria for judging whether it would be appropriate to allow the concession remain as follows:

1. The performance at the branch has been conducted satisfactorily.
2. The entire premises including any Mailwork facility are satisfactory and conveniently situated, enabling the office to remain 'on site'.
3. The relative to whom it is proposed to transfer the appointment is eligible and suitable.

Please note that if a Subpostmaster who has had his/her contract for services summarily terminated or who has resigned to avoid summary termination of the contract requests a family transfer, the request should be **rejected** and the consequent vacancy advertised in the normal manner. Similarly, any request from a suspended subpostmaster should be disregarded until the issue behind the suspension is resolved. Equally, if a subpostmaster has been given three months notice by Post Office Ltd as a consequence of their poor performance, business at the branch could not have been conducted satisfactorily and so a family transfer would not be appropriate. The subpostmaster's family member(s) would be free to apply along with anyone else interested and their application would be judged on its own merits.

Post Office Ltd has never sought to provide a definitive list of "eligible" family members that meet our criteria. Individual family circumstances differ widely and social structures continue to change and evolve. We would therefore continue to expect those dealing with requests from Subpostmasters to adopt a common sense approach to the definition of "close family member".

It is also vital to remember that family transfers are not intended to apply if there is a commercial arrangement between the incoming and outgoing Subpostmasters. In the past there has been much confusion about what constitutes a commercial transaction. As with other aspects of this type of case, it is not possible to provide an absolute definition as the variation between individual the circumstances of individual families are almost limitless.

The most likely indicator of a commercial transaction would be that money changed hands from one party to the other. However there is a need to be careful when applying this test as in some cases movement of funds will be a direct consequence of the circumstances that led to the request for a family transfer. To give some examples of situations which are likely to be acceptable:

- **Death:** There may be more than one beneficiary of the deceased subpostmaster's estate and so, as one example, the incoming subpostmaster may need to "buy out" his/her siblings interests in the property and business.
- **Divorce:** As part of the divorce settlement, the parties may need to split the assets and so the incoming may need to make some sort of payment to the outgoing subpostmaster
- **Retirement:** A Subpostmistress who lives on the premises and who is retiring may have to sell the branch to her son/daughter if she is to realise her investment and move home.

However a Subpostmaster selling his branch to a brother or cousin is more likely to be a normal commercial transaction and so the application should be processed as such.

3. Personal Service

Subpostmasters are agents and not employees of Post Office Ltd and it is important that we continue to take an arm's length approach to the management of individual Subpostmasters. One of the strongest legal tests of this arm's length approach has been that a Subpostmaster is not obliged to render personal service within his Post Office branch.

In the past there have been examples of family transfers being requested, simply because the Subpostmaster/Subpostmistress did not actually work in the branch, but their spouse or other close relative did. Presented with such requests, some Post Office Ltd managers may have taken that view that it was easier to deal with the contractual/management issues if the Subpostmaster is on site and authorised a family transfer.

It is important that we do not compromise the agent status of subpostmasters. We should not, therefore, seek to transfer the contract to a family member simply because it appears to be more convenient to Post Office Ltd to have the subpostmaster working at the branch.

Equally if we were approached by a Subpostmaster to transfer the office to a family member for convenience sake, we should refuse for the reason that they are not required to render personal service.

4. Applying the Policy

The following paragraphs give some guidance on the practical application of the policy at commercial branches.

4.1 Considering Requests

First the reason for the request must meet the broad criteria against which any requests for a family transfer should be measured and these are set out above. If the purpose for making the request is unclear, or seems outside the factors outlined above, the Subpostmaster should be asked to explain the reasons behind the request. Whilst a degree of flexibility is called for, business policy should normally be adhered to, even if it appears that there is no commercial gain to be made from the transfer. There may be Income Tax implications that we would not be aware of (nor should we seek to be). It is also possible that the Subpostmaster may want to transfer the office in order to avoid or even precipitate bankruptcy, so each case should be looked at carefully before any agreement is given.

4.2 Conditions of Appointment

However, if the reason for the transfer does appear to be acceptable, then the premises and candidate can be considered using the given criteria above. Assuming that the premises, previous management of the branch and candidate are acceptable, any offer of appointment should include Conditions of Appointment (COA). As with any new appointment appropriate COA should be put in place when a family transfer takes place and Post Office Ltd can use this opportunity to ensure that business policies are followed. Examples of appropriate COA could include:

- Opening hours to meet business policy [i.e. core hours are implemented].
- Branch to meet "Branch Standards" requirements.
- Any breaches of the Restrictions Policy to cease.

The Contract Advisor should consider setting these and any other necessary conditions subject to the normal parameters in place when setting COA. However, in particularly traumatic circumstances, such as following the sudden death in service of a Subpostmaster, a degree of caution and sympathy should be exercised. To avoid any subsequent allegations of unprofessional behaviour or heavy-handedness it would also be wise to allow some time for the next of kin to come to terms with events before making any temporary arrangements permanent.

There may be cases where, had a normal vacancy occurred, Post Office Ltd would have sought to change the status of a branch e.g. from full time to Community. In the event that a Family Transfer is requested by the incumbent agent, any such proposed changes can be considered and discussed with the incoming agent. As a general rule, status changes as part of a Family Transfer would be implemented by agreement, rather than by being imposed. This is especially important when dealing with traumatic circumstances where we do not want to act, or be accused of acting, in an uncaring manner.

4.3 Premises and Third Party Arrangements

When considering a Family Transfer, it is important that the ownership and control of the premise in which the Post Office branch and any associated retail business is understood.

In normal circumstances it would be expected that the incoming subpostmaster would have full control of the premises, in order that they can discharge all of the obligations contained in the Subpostmasters Contract. Where the outgoing subpostmaster has had control of the entire premises, we would expect the incoming agent to have the same degree of control. As an example, it would not, be acceptable for one family member to be appointed as the subpostmaster whilst another assumed control of the premises or retail business.

In the event that the incoming subpostmaster was proposing to continue an existing third party arrangement, it is important that the Contract Advisor understands their nature, is quite clear as to who has control of the premises and records this in the appointment papers.

4.4 Summary Termination and Termination on three months Notice.

As should be clear from the contents of Section 2 above, if it has become necessary to terminate a Subpostmaster's contract either summarily or by three months notice, a Family Transfer should not be used to avoid the termination process.

5. Process

The application process for Family Transfers is already clearly defined within the Subpostmaster's Recruitment Process and you should refer to those documents should you require information.

Where the family member put forward has no previous experience of working in the Post Office branch, the Contract Advisor should ensure that the interview process establishes that the candidate does demonstrate the skills and experience required to run one of the branch in question. If the candidate clearly is not suitable, we do not have to make an offer appointment.

6. Input to this ACC

This ACC has been produced with input from Michael Haworth, John Breeden, Paul Inwood and the team at the HRSC Farnworth, in particular Sara Kingsley, Sharon Bohanna and Lee Kelly, and their valuable contributions are very much appreciated.

7. Next Steps and Contact

If you need any further information or if you require clarification on any other point, please contact the author.

Paul Williams

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