

SPMR Appeals Panel Process V1

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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 Royal Mail Group Legal Services and external lawyers

To date, Post Office Ltd has maintained a professional, 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:

- **Subpostmaster's contract for services**
- **Operational Manuals relevant to the branch**
- **Business 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 three 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 Appeals Manager will take the role of Regional General Manager

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 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.

3.2 Training

The Appeals Training Course is a one-day course run by Senior Network Services 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 Appeal & Admin Manager, these allocations will be based on location and designed to maintain experience. Any refusal to hear an appeal will be subject to discussion with the relevant line manager – see section 6.2.

Regional Network Managers will not hear appeals where their team has been involved in the audit or training of the branch or the branch is located within their own geographical area of responsibility.

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

In 2008 there were 56 Agent appeals,

In 2009 there were 62 Agent Appeals.

In 2010 we expect this to be in the region of 70 Agent Appeals

This is equal to about four cases per Appeals Manager per year.

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 Subpostmasters 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 '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 Admin Team within 5 working days of receipt of the appeal request.

4.4. Once the Contract Admin Team has notified the Contract Advisor who the Appeals Manager will be, the Contract Advisor will then forward the completed case summary document to the Appeals Manager by email or on a CD by secure post.

4.5 On conclusion of the case the Appeals Manager will return all the papers to the Contract Admin Team in electronic format attached to the case summary document. The Contract Admin Team should check the appeal outcome for any improvement opportunities identified by the Appeals Manager. These should be notified to the relevant people concerned eg if there is an issue with the appeals process this should be referred to the Contract / Appeals & Admin Manager.

5. Responsibilities of the Contract Admin Team.

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 1 working day and feed back to appropriate line managers where cases have been declined – see section 6.2.

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. Trying to minimise travel commitments wherever possible, however Appeals Managers will be expected to travel if necessary. All case allocations will be made by forwarding the case summary to an Appeals Manager by email. A return receipt will be used to confirm delivery.

5.4. To ensure cases are normally completed within a maximum of 6 weeks of the notification received of intent to appeal the Contract Advisor decision.

If dealing with “discussion following 3 months notice of termination” that this discussion takes place within 8 weeks of the notice period being issued.

5.5 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.

5.6 To record the details of each appeal case on the Appeal Register and monitor the completion of each case. Monitor progress of each case.

5.7 Produce timely and accurate management information in the format prescribed.

6. Responsibilities of the Contract / Appeals & Admin Manager

- 6.1. To maintain and periodically update this document.
- 6.2. 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.
- 6.3. To oversee the maintenance of the Appeals performance monitoring systems.
- 6.4. 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.

7. The Rights of the Individual - principles to consider

The Subpostmaster's 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.

8. Handling an appeal

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

8.1. You will receive the case papers from the Contract Advisor in electronic format. The intention is that only those papers that are required for the appeal should be printed. Only those documents used by the Contract Advisor should be contained within the case summary document.

8.2. Read all the papers carefully to ensure that:

- They are complete
- There has been an adequate investigation
- There are no apparent procedural problems

- You decide how to deal with any problem areas

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 / South to make them aware).

8.3. Make arrangements for a date, time and location for the hearing, liaising with the NFSP Executive Officer if applicable. Also arrange assistance with note taking. (Consideration is currently being given to whether appeal hearings will be voice recorded via Dictaphone, as is the case for recruitment and suspension interviews).

8.4. 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.

8.5. 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. 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.

8.6. 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 POL's position is not compromised.

8.7. 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**).

8.8. Send the individual (and the NFSP if applicable) a copy of the hearing notes for agreement seeking any comments / amendments by a specific date.

8.9 Where necessary undertake further investigations and let the individual know the outcome.

8.10 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.

8.11. 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.

8.12. 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.

8.13. 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 final 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. 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.

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

8.15. Return all the papers electronically embedded into the case summary document and return to the Contract Admin Team. The report should cover:

- The approach taken
- Documented action prior to the appeal
- The notes of the appeal interview and any further comments made by the individual
- Details of subsequent investigations
- Conclusions reached and how
- The decision
- Copies of all correspondence
- Any identified improvement opportunities/ learning points.

8.16. 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.

9. 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.

Appendix 6.1

AGENT CASE SUMMARY		
APPEAL AGAINST SUMMARY TERMINATION OF CONTRACT		
FOR COMPLETION BY CONTRACT ADVISOR		
1.	Full Name of Subpostmaster	
2.	Office Name & Branch Code	
	Address & Postcode	
	Telephone	
3	Private Address & Postcode (If different from above)	
	Telephone	
4.	Brief Details of the Case	
5.	Details of Specific charge / s	
6.	Date of precautionary suspension	
7.	Brief summary of reasons for making decision to terminate contract for services	
8.	Date of decision to terminate contract for services	
9.	Name & telephone number of Contract Advisor	
10	Date of receipt of Appeal request from Subpostmaster	
11	Date of submission to Contract Admin Team	
FOR COMPLETION BY CONTRACT ADMIN TEAM		
11.	Date received from Contract Advisor	
12.	Appeals Manager appointed - name and date	
13.	Date case summary document emailed to Appeals Manager	
14.	Target date of case completion (6 weeks from the date the appeal request was received by CA)	
FOR COMPLETION BY APPEALS MANAGER		
15.	Date Case Completed (i.e. date of notification to appellant of outcome)	
16.	Outcome	
17.	Improvement Opportunities Identified	
18.	Subsequent Action Taken	

Please ensure that all sections of this form are completed in full and returned to the Contract Admin Team as soon as possible. A copy of this form should also be retained with the case papers.