

01/2012



## Agency Changes Communiqué (ACC)



To:

From: Steve Utting  
Contract and Policy Advisor

Date: 25<sup>th</sup> June 2012

**Subject: Guidance to Post Office Ltd personnel dealing with requests from Post Office Ltd Operators to be accompanied by a friend at interview.**

**1. Executive Summary.**

Post Office Limited has stated in their contracts with Operators who they recognise as a 'friend'. This includes the National Federation of Subpostmasters who Post Office Ltd chooses at its absolute discretion to recognise and conditionally accompany Operators at interviews. Post Office Ltd does not recognise any other organisation as an organisation that can represent or accompany Operators.

NB. Where the term Operator is used, this could mean Subpostmaster or Operator; except where operators of Main and Local Post Offices do not have the same contractual rights afforded to them as Subpostmasters e.g. an appeals process.

**2. Background**

The Subpostmaster contract only refers to the National Federation of Subpostmasters as an organisation which may represent Subpostmasters.

It is Post Office Ltd's policy that, at our absolute discretion, we allow Operators to be accompanied at interviews or at appeal by a 'friend'; however it does not allow the friend the opportunity to represent the Operator. For clarification the term friend is used throughout this document and means the same as that detailed in the Subpostmaster's Contract for Services, i.e. a friend 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.

Section 18 of the Subpostmasters Contract for Services provides that:  
*'At the discretion of Post Office Ltd, which will not normally be withheld, the Subpostmaster may, if he wishes, meet a representative of Post Office Ltd to*

*discuss the allegations. He may be accompanied by a friend while doing so. The friend must be aged 18 or over and cannot be someone involved in the enquiry. The friend must be a Subpostmaster, Post Office® branch Assistant or employee of Post Office Ltd - and can be the local NFSP representative.'*

Section 19.19 of the Subpostmaster's Contract for Services provides that at an Investigation interview that:

*'A friend may only attend and listen to questions and answers. He must not interrupt in any way, either by word or signal; if he does interrupt he will be required to leave at once and the interview will progress without him.'*

Section 14.6 of the MSPO Contract provides that an Operator may:

*'Until the Subpostmaster has exercised his final right of appeal, he should not ask persons outside the Post Office to take up the case on his behalf although this does not prevent a Subpostmaster from obtaining advice from an outside person. The Subpostmaster should not detain Post Office papers or allow them out of his custody for the purpose of such consultation without the permission of the Regional Manager.'*

Additionally it should be noted that Operators of Local and Main Post Office branches are not afforded the opportunity to be accompanied by a friend at such interviews and do not have a right of appeal.

### **3. Managing approaches for accompanying an Operator.**

Any person accompanying an Operator must satisfy the criteria of who a friend may be and it is important to note that the only organisation mentioned within this description of a friend is the National Federation of Subpostmasters.

There may be the situation where a representative of another organisation who is not mentioned within this description may be able to claim to be a friend as they are, for example, a Post Office Ltd employee or Subpostmaster. The Post Office Ltd personnel conducting the interview should determine which of these criteria is met. A friend that does not meet the criteria should not be allowed to be part of the interview.

For example; an individual could not accompany the Operator at interview if they say they are attending as a representative of an organisation other than the National Federation of Subpostmasters; however they could attend if they say they are attending in the capacity of a Post Office Ltd employee.

There will be cases where the individual is a member of both the National Federation of Subpostmasters and another organisation. In that case they can only accompany the Operator in their capacity as a National Federation of Subpostmasters representative.

You may come across situations where:

- (a) requests are made by representatives who are not the National Federation of Subpostmasters, to obtain case papers, and / or

- accompany Operators either at investigation interviews, or at other interviews; or
- (b) requests to accompany an Operator are made and it is not clear in which capacity the individual is acting; or
- (c) the capacity within which an individual is accompanying the Operator changes during the process.

In order to deal with these possibilities, all Post Office Ltd personnel dealing with friends of Operators should ensure that the following instructions are adhered to:

### **3.1 Actions prior to the interview**

Prior to any interview / submission (written or personal), you should take steps in correspondence sent to the Operator to identify if a friend will be accompanying the Operator, the name of this individual and the capacity in which the friend is acting. Standard letters already ask who the friend accompanying an Operator will be; however the following wording should be used in any such letters to confirm the capacity in which they will be attending:

*'At the interview you may be accompanied by a 'friend'. The friend must be aged 18 or over and cannot be someone involved in the enquiry. The friend must be a Subpostmaster, Post Office® branch Assistant or employee of Post Office Ltd - and can be the local NFSP representative. If you wish to be accompanied by a friend then please confirm to me on your response sheet who this person will be and the capacity in which they are accompanying you.'*

- 3.1.1 Should you need to respond in writing to a person who does not meet the criteria of a friend; or advises that they are a representative of an unrecognised organisation (may be on that organisation's headed notepaper) the request should be rebutted using Letter A in Section 4.
- 3.1.2 Should you need to respond in writing to the Operator as their friend does not meet Post Office Ltd's criteria to be a friend then you should use Letter B in Section 4.

### **3.2 Actions required at the interview**

At the commencement of the recorded interview the interviewer should use the standard script in ACC 0308 for conducting interviews and ask all of those attending to identify themselves and in which capacity they are attending i.e. contracts advisor, note taker, Subpostmaster, Post Office Ltd branch assistant, Post Office Ltd employee, National Federation of Subpostmasters representative.

Should the respondent indicate that they intend to accompany the Operator in a capacity that does not meet the criteria to be a friend; or in their capacity as a representative of an organisation which is not recognised by Post Office Ltd; or indicate that they are not willing to answer your question by stating the capacity in

which they are seeking to accompany the Operator; you should suspend the interview.

At that juncture you should make it clear that the friend can no longer be involved in the process unless the friend is prepared to inform you that the capacity in which they are accompanying the Operator meets Post Office Ltd's criteria. If they do so verbally this should be recorded as part of the interview and a written note should be made also.

If the friend is unable to meet these criteria you will then need to inform the Operator and their friend that it will not be possible to proceed with the interview with the friend present unless the friend can meet Post Office Ltd's friend criteria. The Operator will need to decide:

- 3.2.1 to continue with the interview without a friend; or
- 3.2.2 they wish to accept one further opportunity to present their case with or without an acceptable friend; or
- 3.2.3 to allow you to make a decision in the matter without further input from the Operator.

If you are pressed for an explanation, you can state our position by saying:

*'An Operator can only be accompanied by a friend who meets Post Office Ltd's criteria and [Y] does not meet those criteria.'*

Or;

*'Post Office Ltd does not recognise [X] as an organisation that can represent Operators and therefore does not allow persons acting as a [X] representative to accompany Operators in that capacity.'*

If pressed further for an explanation you should say that you have no further comment to make in that matter.

If it is claimed that Operators have 'workers' rights to union representation you can say that Post Office Ltd Operators are not recognised as workers as held by an Employment Appeals Tribunal.

### **3.3 Changes during the interview**

There will be cases where it is clear that the capacity within which the individual is accompanying an Operator changes during the course of engagement with the individual i.e. they may say initially that they are accompanying the individual as a Post Office Ltd employee, and then after that it may become clear that they are acting as a representative of an unrecognised organisation. At that juncture you should make it clear that they can no longer be involved in the process unless they are prepared to inform you that the capacity in which they are accompanying the Operator moves away from a representative of an unrecognised organisation to one of the options above in Section 2. If they do so verbally this should be recorded as part of the interview and a written note should be made also.



If the individual does not comply with this request then the meeting/hearing should be suspended immediately, and you should make it clear to the Operator that

matters cannot proceed with the individual concerned present. You will then need to allow the Operator to decide whether:

- 3.3.1 to continue with the interview without a friend; or
- 3.3.2 they wish to accept one further opportunity to present their case with or without an acceptable friend; or
- 3.3.3 to allow you to make a decision in the matter without further input from the Operator.

The decision made by the Operator should be included in correspondence to the Operator following the completion of the meeting/hearing.

#### 4. **Standard letters.**

Letter A	Letter to friend who does not meet the criteria to be a friend.	 A - Operators Friend - Reply to Friend.doc
Letter B	Letter to an Operator whose friend does not meet the criteria to be a friend.	 B - Operators Friend - Reply to Operator.c

#### 5. **Next Steps**

Post Office Ltd employees who handle interviews with Operators when they may be accompanied by a friend need to ensure that all letters, documents and scripts are updated to reflect the advice contained within this document.

#### 6. **Parties Consulted.**

The following people were consulted with regards to the design and implementation of this policy communication, and I am very grateful for their input into this;

John Breeden, Lin Norbury, Sabrina Jethwa.

#### 7. **Further advice.**

Should you require further advice / support in this matter in the first instance you should contact John Breeden or Lin Norbury.

Further guidance can be obtained from Steve Utting, Contract and Policy Advisor.

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