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DRAFT 1

21 August 2013

PROPOSED APPROACH TO DEALING WITH SUBPOSTMASTER BREACHES

This paper has been prepared by Post Office Ltd Legal Services following discussions with Angela van den Bogerd and Craig Tuthill.

Introduction

The proposals set out in this paper will not require changes to be made to the Subpostmaster Contracts.

At all the stages outlined below POL will seek to have meaningful dialogue with the subpostmaster.

The process set out below explains:

- the decision that needs to be made at each stage,
- the basis on which the decision should be taken and
- the relevant POL decision maker.

Process

1. Intervention Flags – certain events will trigger intervention by POL.
 - Decision 1: has an Intervention Flag occurred?
 - Decision maker: [?]
2. Subpostmaster Support – in all cases where an intervention flag has occurred, POL will consider whether this is the appropriate intervention. Subpostmaster support could be training, a visit to discuss how to improve.
 - Decision 2: is subpostmaster support the appropriate intervention and what should it consist of?
 - Decision maker: [contract advisor?]
3. Further Investigation of issues and circumstances– in all cases where an intervention flag has occurred POL will also consider whether this is the appropriate intervention (either as well as or instead of subpostmaster support). This will involve further investigation by POL of any performance issues identified as a result of one of the following events: an intervention flag, providing Subpostmaster Support , a branch audit, or any other event which leads POL to

IN CONFIDENCE

DRAFT 1

21 August 2013

believe there may be concerns over the subpostmaster's running of the branch. It will involve looking at relevant circumstances as well as the actual performance issues.

- Further investigations will be carried out by [contract advisors].
 - Decision 3: is further investigation necessary or appropriate?
 - Decision maker: [contract advisor?]
4. Subpostmaster Suspension – once POL has decided that further investigation is needed, a decision will also need to be taken on whether to suspend the subpostmaster. POL will not suspend unless either (i) further investigation is likely to be difficult or impossible without it or (ii) there is a significant risk to POL brand or POL cash/stock unless the subpostmaster is suspended. [In reaching a decision POL will take into account the factors listed at stage 7 below].
- Decision 4: should the subpostmaster be suspended?
 - Decision maker: [John Breeden/Lin Norbury].
5. Contractual Action- if the further investigation provides evidence that the subpostmaster has breached an obligation of the Subpostmaster Contract, POL must decide whether this is sufficiently serious that it gives POL the right to summarily terminate.
- Decision 5: does the investigation provide evidence that the subpostmaster has breached the contract and if it does, does this give POL the right to terminate the contract summarily?
 - Decision maker: [?].
6. Final/Formal Written "Warning" or Suspended Termination- if the decision is made that POL has the right to terminate the contract summarily, POL will consider whether either a final/formal written warning or suspended termination is appropriate, taking into account all relevant factors including as POL thinks fit:
- i. Risk to POL funds
 - ii. Risk to POL brand
 - iii. Effect of termination on customers
 - iv. Effect of termination on subpostmaster
 - v. Any relevant information provided by the subpostmaster.

IN CONFIDENCE

DRAFT 1

21 August 2013

- Decision 6: is a final/formal written warning or suspended termination appropriate and if so on what conditions will this be offered to the subpostmaster? Conditions might include repayment of any missing POL cash/stock and/or subpostmaster support being taken up.
 - Decision maker: [John Breeden/Lin Norbury].
7. Other contractual action- If decision 5 above is that POL does **not** have the right to summarily terminate but there has still been a breach of the Subpostmaster Contract, POL will consider taking other contractual action, for example issuing a written “warning” which would inform the subpostmaster of the areas in which he needs to improve his performance and could also offer subpostmaster support.
- Decision 7: even if POL does not have the right to summarily terminate, should other contractual action be taken and what should it be?
 - Decision maker: [?]
8. Appeals process- where POL has summarily terminated a subpostmaster the appeals process will run in the same way as currently, although the changes to earlier stages in the process should lead to fewer appeals.
- Decision 8: whether to allow a subpostmaster’s appeal against summary termination?
 - Decision maker: [?]

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