

# IN CONFIDENCE

## **Conduct Management New Model Agreements: Process and Policy Guidelines.**

### **1. Introduction and background.**

At times intervention will be required when an operator of a new model agreement has failed in their execution of the agreement and intervention is required by POL to rectify this failure.

This process document provides guidance to Contract Advisors (CA) on the possible options which are available to rectify failures in the operation of POL agreements. They are not intended to provide the outcome or cover every scenario that may arise. The process to be followed is detailed on the embedded document below; please make sure that all of these documents are used in conjunction with one another when managing these cases.

### **2. Conduct Management Decision Making Flowchart**

Please use this flowchart with the guidelines below.



Case Summary  
Flowchart NT v3.5 21

### **3. Narrative to support decision making.**

**In all cases of conduct management the individual office agreement specific to the branch must be referenced before any decision is made.**

#### **Box 1. Agreement Breach identified at branch.**

At any time during the lifetime of an agreement POL could identify a breach of this Agreement that may result in further action being taken by POL.

The breach could be identified to the CA in a number of ways i.e. An audit, Branch Standards intervention, Contract Admin Team etc.

#### **Box 2. Is Suspension Warranted**

The first thing the CA needs to do when a possible breach has occurred is to identify the severity of the breach. To do this the CA must first identify the agreement type and how POL has contracted with the operator (i.e. Company/ Individual/ Partnership). (Available through Branch Standards Sharepoint

site)

A sharepoint entry must be made under the office name. If there is no existing file then a new one should be created.

**Go to Box 9,** save proforma to sharepoint site

### **Box 3. Suspension considered**

Once the CA has established the severity of the breach they need to consider whether a suspension is required. The CA should gather as much information as possible in the time they have to make a timely decision (Audit may be on site and awaiting a response), The attached sheet should be used to assist in deciding the course of action required. Other decision making criteria may be considered at this stage which is contained within the policy.

#### **Suspension Summary to be inserted**

Suspension is not normally required in most circumstances.

If the CA feels that the breach is serious enough to warrant a precautionary suspension, and where further investigation may be prejudiced without that suspension, and / or where there is a significant asset and / or reputational risk, then the CA will need to send the Precautionary suspension proforma to the appropriate ACDM with all the relevant information for concurrence.

If suspension is not being considered after completion of the attached proforma it should still be sent to the ACDM for concurrence.

If the ACDM does not respond within 1 hour then attempts should be made to contact the alternative ACDM or Head of Network Services for a decision.

### **Box4. Suspension Authorisation Decision**

No further action can be taken by the CA until a decision has been made by the ACDM

### **Box 5. Suspension Notification**

If the suspension is authorised by the ACDM then the CA  
V3.56 29052014

should contact the operator and inform them of the suspension. At this point the CA should ascertain the availability of the premises for use by a temporary operator.

Note:-It may not always be the case that suspension will be the result of audit. Go to box 7q if defund required.

#### **Box 6. Temporary Spmr Process**

*Process/Policy to be added*

The CA should then contact the temporary agent manager (David Sears) and continue to follow the process.

#### **Box 7. Defund**

If there is no audit team on site then consideration should be given to arranging an audit to coincide with the suspension. This should be arranged via Network Support

#### **Box 8. Operator Suspension**

The operator must be notified of the suspension immediately and **Letter B1.Notification of suspension** should sent out within 24 hours of the suspension.

The appropriate model specific **Letter B2 (Local) or B3 (Mains). Consequences of suspension** should also be sent at this time.

These letters should be saved to sharepoint where the office file should be updated.

The completed suspension rationale with the ACDM sign off should be sent to all relevant parties within 24 hours of the suspension.

**Goto Box 10**

#### **Box 9. Letter informing operator of Investigation**

**Letter A1 Notification of Investigation** should be sent to the operator informing them of a possible breach in their agreement. No indication of possible outcome should be communicated at this stage.

#### **Box 10. Information collection**

All relevant information pertinent to the breach should be collated and analysed. This part should be carried out in conjunction with box 11 and it may require several calls/meetings with the operator before all the information required is collected. **Letter A3 (Operator not Suspended)/Letter B5 (Operator Suspended) Informal meeting** should be used at this time to invite the operator to any

informal meeting

**Box 11. Further investigation with the Operator**

The CA should communicate with the operator by phone or informal face to face meetings to ascertain any relevant information the operator may have as to the cause of the breach. Following the thorough investigation and / or informal discussion , it will be necessary to determine whether there has been a breach and what remedial action could be applied in the case, if necessary Any such action must be corrective and not punitive, unless the breach is such that only serious action is suitable

Before any final course of action is decided the CA must have considered the following areas:

- a) Impact and on-going risk to POL funds
- b) Impact and on-going risk to POL brand and reputation
- c) Effect of termination on customers
- d) Effect of termination on the Agent
- e) Any relevant information provided by the Agent including any mitigation presented
- f) Direct involvement or responsibility of the Agent in the actions which led to the breach
- g) Impact of the breach (as distinct from the proposed termination) on customers, suppliers and partners
- h) Identity of the injured party (if any) who has suffered loss or damage as a result of the breach, and whether this party is POL, customers or clients
- i) Agent's history i.e. service length and record, previous written directions/warnings etc.
- j) Legal advice

This information should all be considered before one of the following three outcomes is decided

1:- Remedial Action

2:- 6/12 months' notice given

### 3:- Termination

### 4:- No Further Action

The Contracts Advisor must show their detailed reasoning of the evidential points and advice in (a) to (j) above and explain why one outcome of (1) to (4) above had been preferred and why others had been discounted.

There should be no 'starting point' in that consideration that begins with one particular outcome as opposed to others, and where one or more criteria had been 'weighted' the reasoning for that needs to be made clear.

If the operator is suspended and the investigation exceeds 42 days then **Letter A2 (Operator not Suspended)/Letter B4 (Operator Suspended) Investigation taken longer than anticipated** should be sent

This box should flow back and forward with box 10 until enough info is collated.

#### **Box 11a. ACDM Sign Off**

The CA must submit their decision rationale to the ACDM. The ACDM will confirm the course of action which will be taken by the CA.



#### **This is where the process splits to Remedial Action, Termination or No Action**

#### **Box 12. No action required**

If after thorough investigation it is felt that no further action is required then the case should proceed to closure. The operator should be notified of this outcome using **Letter A4 (Operator not Suspended)/Letter B6 (Operator Suspended) No further Action**. The normal actions regarding future risk would be followed at this point.

#### **Remedial Action Process**



### **Box 13. Remedial Action**

In most cases the course of action will be remedial and not termination.

### **Box 14. Previous Remedial Action**

Before any remedial action is taken sharepoint should be checked for any additional remedial action that the operator has been asked to undertake and whether these remedial actions have been completed. If there has been no more than one remedial action within the last 24 months then you should move to **Box 16** of the process

### **Box 15. More than 2 previous remedial actions**

If this is the third or more remedial action issued to the operator within a rolling 24 month period then further action is required before a final decision is made on the appropriate outcome of the case. **Box 18**

### **Box 16. Remedial Action Letter**

After a full investigation, if the CA decides that remedial action is appropriate then **Letter A5 (Operator not Suspended)/Letter B8 (Operator Suspended)** must be sent to the operator stating what Remedial Action is required and the Timescale for completion of the Remedial Action (14 Days). If it is unfeasible for the remedial action to be completed within 14 days then an action plan must be agreed with the operator for the completion of the remedial action and the timescales involved within 14 days. NB Timescale must be Realistic, Achievable and Measurable.

If the remedial action is completed before the remedial action letter is sent then the action still needs to be recorded and the letter sent.

### **Box 17. Operator allowed to continue to operate the branch.**

If the operator has been reinstated after suspension with Remedial actions then **Letter B7 Reinstatement with conditions** should be sent. The CA should also ensure that CAT and Temp Spmr Manager are notified. Goto **Box 22**

### **Box 18. Discussion with the operator.**

If this is the third or more remedial action an informal face to face discussion should take place between the CA and the operator to ascertain why the Operator is having difficulty in fulfilling their agreement. **Letter A3 (Operator not Suspended)/Letter B5 (Operator Suspended) Informal**

**meeting** This discussion should be positive and look at a proactive approach by POL and the Operator to getting the Branch operating within the terms of the agreement. However it should be noted that this may be the third time that this operator has been spoken with and the appropriate tone should be taken.

### **Box19. Operators Capability**

Before any final course of action is decided the CA must have considered the following areas:

- k) Impact and on-going risk to POL funds
- l) Impact and on-going risk to POL brand and reputation
- m) Effect of termination on customers
- n) Effect of termination on the Agent
- o) Any relevant information provided by the Agent including any mitigation presented
- p) Direct involvement or responsibility of the Agent in the actions which led to the breach
- q) Impact of the breach (as distinct from the proposed termination) on customers, suppliers and partners
- r) Identity of the injured party (if any) who has suffered loss or damage as a result of the breach, and whether this party is POL, customers or clients
- s) Agent's history i.e. service length and record, previous written directions/warnings etc.
- t) Legal advice

This information should all be considered before one of the following three outcomes is decided

- 1:- Remedial Action
- 2:- 6/12 months' notice given
- 3:- Termination

The Contracts Advisor must show their detailed reasoning of the evidential points and advice in (a) to (j) above and explain

why one outcome of (1) to (3) above had been preferred and why others had been discounted.

There should be no ‘starting point’ in that consideration that begins with one particular outcome as opposed to others, and where one or more criteria had been ‘weighted’ the reasoning for that needs to be made clear.

The CA should complete the attached Decision Rationale to assist in the decision making process.



Decision  
Rationale.doc

The CA should only go down the termination route when there is a total loss of confidence by POL in the operator’s ability to fulfil the terms of their agreement.

#### **Box 19a. ACDM Sign off**

The CA must submit their decision rationale to the ACDM. The ACDM will confirm the course of action which will be taken by the CA.

### **Termination Process**

#### **Box 20. Termination**

Termination is used when there is a material breach of the Operator’s agreement, this breach would be non-remedial and or an accumulation of minor breaches which have resulted in a loss of confidence in the Operators ability to meet the terms of their agreement. This should always only be considered as the last resort.

However before committing to a termination a suspended termination may be considered appropriate, this may be considered where there is a clear breach of contract, and an action or omission by the Subpostmaster/Operator does warrant summary termination but evidence is presented that suggests there is low impact of the breach and low culpability (e.g. absent Subpostmaster/Operator and assistant theft).

Suspended termination should not be used if the Operator has gone through the extended Remedial Action route i.e. **Box 19**

#### **Box 21. Suspended Termination Letter**

**Letter!!** should be used when Suspended Termination is the action decided. This letter should be stored on sharepoint.



### **Box 21a, Conditions of Suspended Termination**

If there are Remedial Actions a part of the suspended termination then the CA should follow the process to Box 16

### **Box22. Failure to complete a remedial action**

The CA should diarise when the remedial action should be completed and further checks to ensure the action has taken place should be carried out before the case is closed.

Failure by the operator to complete the remedial action should be treated as a further breach and the remedial action process should be followed again from box 13 with this new breach treated as a further remedial action.

### **Box 23. Decision to Terminate**

Consideration must be given to asset risk before a termination letter is sent. If the operator is not suspended then suspension may be considered prior to termination letter being sent as a precautionary measure. Go to box 3 if suspension is required.

### **Box 23a. Termination Letter**

Once the final decision to Terminate has been taken **Letter A8 (Operator not Suspended)/LetterB12 (Operator Suspended) Immediate Termination of Agreement** should be sent to the operator confirming this course of action.

**Letter A10(Local)/ Letter A11 (Mains) (Operator not Suspended)/LetterB14(Local)/LetterB15 (Mains)(Operator Suspended) Consequence of Termination** Should also be sent at this point

### **Box 24. 6/12 Months' Notice**

Where the CA has come to a decision to Terminate after several Remedial Actions have been tried and there is a total loss of confidence in the Operators ability then the appropriate notice as detailed in the Operators Agreement should be given to terminate the contract. This should only be used when the risk to POL asset is negligible. **Letter A9 (Operator not Suspended)/Letterb13 (Operator Suspended) Notice to Terminate**

### **Box 25. Case Closed**

All paperwork must be saved into sharepoint at all times and checked before the case is closed.