

IN CONFIDENCE

Managing shortages at Audit (Traditional Branches/NT Converters): Process and Policy guidelines.

1. Introduction and background.

At times intervention will be required when an agent of a Traditional Contract has failed in their execution of the contract 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 Traditional Contracts.

It is 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 cases.



Trad Case Summary
Flowchart V2.6 19051

2. Narrative to support decision making.

Box 1. Agreement Breach identified at branch.

At any time during the lifetime of the Agents Contract, POL could identify a breach of this Contract 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.

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

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

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awaiting a response),

The following criteria must all be considered along with any other factors relevant to the case when making a suspension decision:

- (a) Risk to POL funds;
- (b) Risk to POL brand or reputation;
- (c) The source of any risk and if the risk can be mitigated i.e. whether the Operator or Subpostmaster himself is thought to pose a risk, or whether the risk is limited to some or all of the Assistants*. For example the Operator may have been completely unaware of the circumstances leading to an Escalation Event, perhaps because they were absent.
- (d) Impact of suspension on customers and clients;
- (e) If someone has suffered loss or damage as a result of the suspected/confirmed breach, the identity of that injured party i.e. whether damage is limited to POL, or whether customers or clients have also been damaged;
- (f) Whether the Agent has cooperated following discovery of the Escalation Event including whether there has been any attempt by the Agent to cover it up;
- (g) Any relevant information provided by the Agent as part of an informal discussion/ telephone conversation/ written explanation. (It is for the Contract Advisor to exert their judgement in each individual case to ascertain whether the circumstances and reasons given are pertinent to the reasons for suspension.)

The attached sheet should be used to assist in deciding the course of action required.

Suspension Sheet to be inserted

Suspension is not normally required in most circumstances.

Box 3. Suspension Considered

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.

The CA will need to send the Precautionary suspension proforma to the appropriate ACDM with all the relevant information. This can be done by phone if more appropriate and timely

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

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 confirmed by the ACDM

Box 5. Suspension Notification

If the suspension is authorised by the ACDM then the CA 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 7 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 a suspension letter should sent out within 24 hours of the suspension.

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

The completed suspension rationale must be sent to the ACDM and also saved to sharepoint.

CAT should be informed and an ABC form completed.

Sharepoint will contain a list of all relevant parties to be notified of the suspension.

Temporary Debarment form should also be completed.

Box 9. Information collection

All relevant information pertinent to the breach should be collated and analysed before a decision is made whether to proceed with a charge letter.

To assist in the collation of this information the CA may if they think it is required have a fact finding discussion with the Agent. This discussion is not formal and should not be recorded.

Following the thorough investigation and / or informal discussion, it will be necessary to determine whether there has been a breach in the contract that would result in a charge letter being sent to the agent. A charge letter should only be considered where the breach is such that only serious action is suitable.

Box 10. Is Agent Suspended

If after a full investigation the CA decision is to proceed with a charge letter then the CA must first check if the agent is suspended before proceeding in sending out the charge letter.

Box 11. Precautionary Suspension

If the Agent is not suspended then the CA must first Precautionary Suspend the Agent before proceeding with a charge letter. The CA must go back to Box 3 and complete the suspension process.

Box 12. Charge Letter

The CA sends a letter notifying the agent of the charges against them, this should include reference to the appropriate section of their contract. The letter will also confirm the RTU hearing details i.e. date (14 days from date of letter) and time and it will also offer the agent the opportunity to respond to the charges in the form of a written submission. (This should be received by the date allocated for the RTU Hearing.)

The letter to the agent offers them the opportunity to bring a "Friend" this must be in line with the latest "Friends at Work Policy" (ACC0112 Friends Accompanying Operators Policy)

which can be found on the Agents Contract an Policy Team Sharepoint site. It also notifies them that the meeting will be recorded.

Box 13. RTU/Written Submission

Before the RTU hearing takes place the agent may offer their “Resignation To Avoid Termination”. If this happens proceed to Box 18.

If the RTU proceeds then the CA should record this meeting in line with “ACC0308 Producing interview notes using voice recording equipment”, They should also check that any friend present meet the criteria laid out in “ACC0112 Friends Accompanying Operators Policy”

At the start of the RTU the CA should clarify that the Agent understands charges and the purpose of the RTU Meeting.

Once the RTU has taken place or as written submission received and before any further course of action is decided the CA must have considered the following ten 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 four outcomes is decided:-

- 1:- Summary Termination
- 2:- Suspended Termination
- 3:- 3 Months' Notice
- 4:- Reinstatement with Conditions
(Underperformance)
- 5:- 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 (5) 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.

Box 14. 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.

Box15. Decision To Terminate

If the decision of the CA is **not** to terminate then The CA should proceed to Box 27.

If the decision of the CA is to terminate then the CA should proceed to Box 16.

Box 16. Termination Type

The CA will have agreed the type of Contract Termination with the ACDM and will proceed along the appropriate course of action.

Box 17. Has Agent Resigned?

The CA must check with CAT to ensure that the Agent has not resigned before a Termination letter is sent. Once the letter is sent the Agent can no longer Resign To Avoid Termination.

Box18. Summary Termination Letter

The correct Summary Termination letter must be sent out. There are two letters available, one where the Agent has not signed an NT Agreement and is operating a Traditional Contract, and another which must be used if the Agent has signed a NT Agreement (Convertor) but is still operating under their Traditional Contract.

Box 19. Resignation to Avoid Termination

An Agent may resign at any time during the conduct process up to the point of the Termination of Contract letter being sent by the CA. The resignation should be acknowledged with letter 2B and in line with The “Resignation To Avoid Termination Policy” which is available on the Agents Contract and Policy Team sharepoint site.

In all cases the resignation will be accepted without prejudice to any rights or claims Post Office Ltd may have under the Agents contract or in law. Furthermore, the same conditions and consequences that apply in the case of terminations, will also apply to the resigning Agent.

Box 20. Three Months’ Notice

Three Months’ Notice can be used by a CA to terminate an Agents Contract. In conduct cases where an Agent has been suspended this notice would normally be given in “Lieu” This means the Agent would be paid three months remuneration but would not be expected to be back operating the branch. The Agent has no right of appeal to three months’ notice.

Box 21. Is Agent Appealing

Once an agent has been sent a Summary Termination Letter, they have 14 days in which to register their intention to appeal against the CA’s decision.

If the agent is not appealing go to box 25.

Box 22. Agent Appealing

If the Agent takes up their right of Appeal the CA must acknowledge this with letter 2D, The Agent Appeals Manager must be notified immediately, all documents and a transcript of the RTU should be sent to the nominated appeals manager within 5 days.

Box 23. Appeal Decision

Once the CA has been informed of the Appeals Managers

decision they must inform the Agent of the Outcome.

Box 24. Appeal Decision Notification

The CA should send Letter 2D to the Agent informing them of the outcome of the Appeal Decision.

Box25. Letter 2C

This letter should be sent as soon as it is known that the Agent is not Appealing the termination decision.

Box 26. Suspended Termination

If suspended termination is considered in any case, legal advice should always be taken (via email to the Agent Contract and Policy Development Manager.) This is because there is a significant risk that if other contractual action is not taken promptly, the right to terminate for the breach may be lost and/or the breach may become accepted under the contract as adequate performance for which no remedy is available to POL.

Whilst immediate termination may be appropriate and/or necessary in circumstances where there is a substantial risk to POL cash and stock, the use of suspended termination may be appropriate in some circumstances. Suspended termination would allow the Agent to continue running the branch.

This approach should be used in exceptional circumstances and may be considered appropriate where there is a clear breach of contract, and an action or omission by the Agent does warrant immediate termination but evidence is presented that suggests there is low impact of the breach (as distinct from the proposed immediate termination) on customers, suppliers, partners and low culpability (e.g. absent Subpostmaster/Operator and Assistant theft). In this instance, the CA should consider immediate termination of the contract but suspend that termination for a period of 12 months.

Furthermore, the Agent must comply with whatever conditions the Contracts Advisor determines, be that attendance for re-training, exclusion from a branch of named Assistants/managers and/or improvements to internal monitoring processes. These would not be designed as a punishment but as a means of rectifying weaknesses without which risk to Post Office cash, stock or reputation could continue. The Agent must agree not to repeat the breach in question.

If further breaches are committed in the 12 month period the CA should assess the seriousness of the most recent breach in isolation from the previous breach. If both breaches are of a similar nature or if the second breach is itself a breach for which the contract could be immediately terminated, the CA and ACDM may decide to consider terminating the Agent's contract with immediate effect. Legal advice should always be sought before doing so.

If The Agent is terminated they would have right of appeal.

Box 27. Agent Reinstated

If the CA decision is to not proceed with a termination then the CA should reinstate the Agent. A reinstatement letter should be sent to confirm the Agents reinstatement.

Box 28. Underperformance Process

If further action is required then this should be notified to the agent at the point of reinstatement and the case moved to the Underperformance process Box 29.

Box 29. Underperformance Process

Move case to the Underperformance Process

Box 30. Case Closed

If the case is completed ensure all documentation is on sharepoint and the case is closed.