

Case Review: Quick Shortfall Analysis

Brief Details	
Claimant Name:	Mr Mark Francis Brian Kelly
Claimant Number:	352
Branch Name:	Brondeg
Branch Code:	161 642
Postmaster/Assistant:	Sub-Postmaster
Absentee:	No
Pluralist:	No
FDOS	16 January 2003
LDOS	28 July 2006
Model Type:	SPSO
Date of model change:	N/A
Branch/Operator Current Status:	Agent
Approximate shortfall value:	£13,179.97 £13,834.22 audit shortage reduced by credit TC for £654.25 for cheque error Debt increased due to legal costs to £16,836.97

Background:

Brondeg Post Office is classed as an urban office and is situated in a heavily populated residential area about 3 miles from the centre of Swansea, South Wales. It was a two position office, combined with a private business side which was stationery and cards, which then changed to DVD rentals, computers and a pet shop. (108179400/108030543). The office is now permanently closed

The Claimant's tenure was for 3.5 years between 16 January 2003 and 28 July 2006. An audit on 28 July 2006 which revealed a shortfall of £13,834.22 led to the suspension of the Claimant. On 28 July 2006 a letter was sent from Alan Knowles, Contracts & Service Manager (C&SM) to confirm that the Claimant's Contact for Services as Subpostmaster at Brondeg branch was suspended (116000002). The C&SM then received a letter from the Claimant dated 02 August 2006, admitting to the use of £6,000.00 of Post Office funds and tendering his resignation. (108179400) (not the actual letter, but information in security report)

The Claimant refused to make available the premises for a temporary Postmaster to maintain a service in the area. (207000290)

The late account debt was £13,179.97 on 22 June 2007 which increased to £16,836.97 on 04 August 2009 due to legal costs. (114000003_p51 & p95)

The Claimant's LDOS was before the migration of Horizon on Line. The date of the Horizon automation was 01 February 2000 which was prior to the Claimant's FDOS.

In the SOI the Claimant states he was appointed as Subpostmaster, his mother was Subpostmistress since 1997, and then later his father was appointed Subpostmaster. (POL employee recalls that the Claimant's parents did operate the branch prior to the transfer to him. This would suggest that this would have been as a 'family transfer' at that time.

The Business Plan indicates that the purchase of the premises was 145,000.00 purchase of stock £300.00 and an investment of £10,000.00 for the initial purchase of DVD stock for the new product offer. Additionally, there was a figure of £600.00 for Council Tax and Utilities. The information points to a capital sum of £45,000.00, gifted from the Claimant's parents. There is no detail of how the remainder of the set up cost were to be financed; however the business plan shows an amount of £850.00 p.m for the cost of finance.

The Claimant outlines that his father was the Postmaster and ran the office with his wife, he was 65 years old and GRO As a result of this the business had been run down. The Claimant had plans to promote the services, expand the retail offer and capitalise on the customer base in the densely populated area from which there was scope to increase both Post Office and retail sales. (C_0352-0000011)

Branch Operation:

The security interim reports document that the Claimant mainly ran the office with a little assistance from his wife Olga. (108179400) This is supported by evidence in the NBSC logs. Of the 94 calls, 89 of these are annotated Mark Kelly (or similar name). One of the calls is annotated as Brian on 9 June 2003 records that he is the Relief Manager, and wanting to speak to the RLM regarding a personal matter; (Claimant's father). It would seem from the logs that this was refused. (109000023)

It would also appear from branch documents that there was a staff member in branch at some point, but there are no records of assistants registered available.

Horizon was in operation for the Claimant's full tenure. The Claimant asserts that he assisted his parents; which would mean that he had also worked under the paper-based system.

Evidence points to the branch being in a poor state, this is determined by both complaints from customers and Post Office employees. Indeed, the purpose of the visit on 28 July 2006 by Fiona Griffiths (Area Intervention Manager) was to deal with a customer complaint in regard of the state of the branch. This is supported further by comments from the auditor documented in the audit report that the branch was in disarray; *'it was extremely dirty and smelly in the secure area. The floor was not visible as it was covered in papers and plastic coin bags. There were also numerous dog toys (balls and chews) which made it extremely hazardous, also every working surface was piled high with papers'*. (116000001).

Customer Account: (1010519_account balances)

11.07.2006	DR	-654.25	Cheques to Processing
12.07.2006	SA	50	N S & I Deposits
12.07.2006	SA	50	N S & I Withdrawals
12.07.2006	SA	-50	N S & I Withdrawal
28.07.2006	BD	13,834.22	Central (Hardship)
28.12.2006	SA	-50	NS & I Reversal

The above table correlates with the FSC letters in regard of the outstanding amount on the account.

The £13,834.22 is the final account balance which has been settled centrally; this was later reduced by a credit for cheque processing errors £654.25.
The other entries for £50.00 on the account net to nil.

There is still £13,179.97 outstanding on the final account. This has increased to £16,836.97 due to legal costs.

Transaction Corrections: (*Relativity Table 2*)

There are 9 TCs recorded (TCs available from 2005)

Of the 9, one relates to a rem 'stuck' in the suspense account for a cash in pouch, which would have no impact on the branch account. Three are duplicates, two are contra entries.

The net impact of the TCs would create a £55.00 net debit.

Table below show the 5 Debit TCs and the Rem TC for £6,200.00:

29.11.2005	£6,200.00	Please accept immediately as this will correct the amount of 6200.00 pounds that you have as Cash In Pouches in the suspense account. This will automatically correct your branch position.
22.12.2005 Duplicate 30.01.2006	£ 20.00	This error is issued because an application to open an Investment account has been received but no X53MA has been received. This is against you and the evidence has been sent. This is for 22/09/2005
04.01.2006 Duplicate 10.02.2006	£ 40.55	Compensating TC
09.05.2006	£ 50.00	On 7.11.05 Personal Banking Lloyds Bank Cash Deposit for 50.00

Table below shows the 3 Credit TCs of which one is a duplicate

10.01.2006 Duplicate 16.02.2006	-£ 15.00	Claim TC due to failed e pay transaction date of error 17/09/05, ref H14317306
30.05.2006	-£ 40.55	Compensating TC

(Doc CCRC_108179397 p9) indicates that there was £101.00 error notice not brought to account 31 January 2005.

NBSC call log 1 February 2006 ref H14559197 is annotated as querying a TC as the Claimant had received a call from the transaction processing team about a TC. On 10 February 2006 there was a debit TC issued for £40.55 and a credit TC issued for £15.00, these correlate with the NBSC call timeline.

NBSC Call Logs: : (109000023)

There were 94 calls recorded during the Claimant's 3 year 6 month tenure. The logs reviewed are from 16 January 2003 to 28 July 2006, the first call recorded was on 27 March 2003 and the final call on 14 July 2006, the caller for both was Mark Kelly.

Year	Number of calls
2003	18
2004	38
2005	22
2006	16

The majority of calls are Client Counter Procedures requesting information and seeking advice. There are 2 calls where the Claimant has made a suggestion of how to improve procedures with remittances and mail.

There were 3 calls relating to Horizon Issues:

- 1 related to an MBS message received regarding the printer, the SPMR did not want to follow the instructions, advised to follow the instructions. (18.08.2004 H13447481)
- 1 related to the SPMR saying he may not be able to send off cash account that day as printer problems but it should be sent the following day, this was resolved; Knowledge Base at the time of the call. (05.11.2004 H13617033)
- 1 related to system problems, the screen blew up and the printer, this was resolved Knowledge Base at the time of the call.(24.08.2005 H14191093)

There were 5 calls relating to Balancing:

- 1 related to branch had remmed out 9 bags but SPMR thinks that Cashco has only taken 8, advised to reverse rem and then rem out the 8 bags if sure that that is all Cashco has taken, if not contact Cashco the next day to check.
- 1 related to a £10 shortage in a cash rem which was put in suspense; wanting to know how to remove from suspense, this was resolved Knowledge base at the time of the call.
- 1 related to how to find info on the cash account, this was resolved Knowledge base at the time of the call.
- 1 related to a customer wanting to pay 3 bills with cheque and debit card so had to reverse and now cheque line is wrong, this was resolved Knowledge base at the time of the call.
- 1 related to SPMR querying a TC which transaction processing had called about, gave the SPMR the TP telephone number to call.

There is evidence all calls had a resolution at the time of the call.

Training:

- In the SOI the Claimant states that he did his initial training with his parents because he would work as a clerk. It was in this role that he undertook the initial Horizon training in 1999 when the system was introduced. This was one day of training in a hotel room. There is no evidence to support this, however the Horizon training package was a one day course for assistants with a further half day for Pmr's or for those who undertook the cash account/balancing role. On-site training and balance support was delivered by HFSOs and branches were further supported by the Retail Network team when branches went live and post go live.
- The Claimant states he attended a 5 day course (around 6 — 10 January 2003) which was held at Albany Road, a Crown Post Office at the time. Followed by a trainer who monitored how they worked in the branch for 1 week and helped with any processes that was required. The trainer was also there for a balance which had no issues. There is limited documentary evidence available, however the Claimant would have been offered the standard package at the time. Albany Road,

Cardiff was the Counter Training Office, and the Claimant's HR record indicate that he completed course training 31 December 2003, pre transfer training 14 January 2003 and on-site training 22 January 2003. Further training is listed as 31 March 2006, it is unclear what this relates to. (CCRC_108179397)

Audits:

- Security Incident log indicates that an audit was conducted on 23 June 2004, where a shortage of £2,821.74 was revealed. The notes further indicate cash inflation and false accounting. This was dealt with by Retail Line. There is no further information on this.
- NBSC logs 30 January 2006 ref H14532217 would suggest that an audit had taken place and the branch would reopen. (10900023)
- 28 July 2006 Fiona Griffiths, AIM, visited the office to investigate a customer complaint regarding the standards of the branch. Whilst there she undertook a check of the cash on hand and found there was a discrepancy of approximately £10,000.00 compared to the previous night cash declaration, she then requested an auditor to attend. The auditor attended the same day and the audit revealed a shortage of £13,834.22, which resulted in a suspension.

-£11778.97	Identified difference in cash figure
-£ 301.00	Identified difference in stock figure
-£ 654.25	Identified difference in cheque figure
-£ 1100.00	Rem shortage held in suspense
-£13834.22	Total Shortage

Evidence suggests that when the Claimant was asked to explain the discrepancy the Claimant admitted to Fiona Griffiths (AIM) to using £6,000.00 to pay a bill for the office refurbishment, but could not explain the remaining amount of the cash shortage (5,778.97). The Claimant stated he dispatched the cheques for £654.25 on 12 July 2006 but neglected to remit out from the Horizon system, this was correct and the surplus to counteract was put to late account. The suspense account held an amount of £1100.00 against rem shortage which the Claimant stated was in regard of a remittance dispatched from the branch but not received at the distribution centre, The auditor removed this from the suspense account as the Claimant was unable to provide the paperwork to support this. (116000001)

Robberies:

The branch has been subjected to several incidents during the Claimant's tenure and his parents' tenure. The security report dated 29 December 2006 and interview refer to the following incidents:

- **March 2000** -office was subject to armed attack in which the Claimant was struck by a hammer.
- **December 2002:** further attack when the Claimant was elbowed in the face.
- **November 2003:** particularly nasty incident where a concrete brick was thrown at the screen, causing injury to the Claimant's wife and a loss of £40, 000.00 to the business.(108179400)
- **November 2004:** robbery which led to the Claimant wanting a new counter installed. Initially the Claimant was found to be culpable for the loss of £7,000.00, however this decision was overturned by the Head of Area.(108030543)

NBSC call log on 02 January 2005 records a suspicious incident; the Claimant was advised to call the Police. (109000023)

Security Investigation:

Following the audit and suspension on 28 July 2006, a security investigation was opened, the case file opened on 31 July 2006 by Mike Wilcox. There was a delay to the Claimant's interview taking place and this was due to the Claimant being deemed to be unfit to be interviewed due to medication. The interview took place on 05 December 2006. (108030541)

Taped Interview/Reports:

- A taped interview took place at the Public Defender's Office, Swansea on 05 December 2006. Present was the Claimant, Mike Wilcox, and Gary Thomas, interviewing officers, Wendy Lewis, Accredited Police Station Legal Representative. Interview commenced at 13.33pm and concluded at 14.16pm. (108030543 Duplicates 108179395/396)
- Following the interview Mike Wilcox completed Interim Reports dated 13 December 2006 (Personnel 108030534/108030537), 14 December 2006 (Dup. 108179405), and 15 December 2006 (Dup.108179398), 29 December 2006 (Legal 108179400) and 02 April 2008 (114000003 p120-123)

Reason for delay of interview until 5 December 2006

DATE	Contact	Comments
01.08.2006		Letter to PMR inviting to an Interview
02.08.2006	PMR	Call re availability dates
07.08.2006	Wendy Edmunds	Call to book legal representative and provisionally book interview date for 15.08.2006 at Public defender offices. (PDO)
08.08.2006		Letter to PMR and Legal rep re-interview date
10.08.2006	Wendy Edmunds	Call regarding PMR, doctor says unfit for interview due to medication
14.08.2006	Wendy Edmunds	Received doctor's letter regarding medical condition. Review by doctor in one months' time.
20.09.2006	Wendy Edmunds	Call to PDO re update on health of Mr Kelly. Will phone back.
25.09.2006		Received letter from PDO stating a request to the doctor has been made.
10.10.2006		Received copy of doctor's letter from PDO stating a further 4 weeks should see him fit for interview.

The Claimant's explanation to the audit discrepancies:

The Claimant was asked to explain the audit shortage of £13,834.22 which was conducted on 28 July 2006. He replied *'I can't account for all of it, I'll be honest right now'*. The Claimant was aware that this was not allowed under the terms of the contract. The Claimant was then asked to explain the other £7,000.00 of the shortage in the audit. Records indicate that he stated that £200.00 was in connection with the smoke and dye

notes which had previously exploded. £500.00 was relating to a currency order, which had not been paid for by a customer. £634.25 (£654.25 on audit report) was in connection with cheque discrepancies. £1,100.00 was in connection with a discrepancy held in suspense. The Claimant could not explain the other £5000.00 and denied taking it. The previous BTS for 31 May 2006 to 29 June 2006 had a discrepancy of £15.29, however the Claimant confirmed "he completed it and it was correct minus the £6000.00 which he put in as cash". Another £5,000.00 had gone since BTS and audit on 28 July 2006. (108030543)

£6000.00 Urban re-invention grant scheme:

Records indicate that the Claimant asserted that he was entitled to a redevelopment grant from the Post Office so he could update security (after the robberies) and the counter at the office.

The Claimant admitted that in May 2006 he took £6,000.00 from Post Office monies to pay for the work that he had done in the office, he did so, because he had a letter from the Post Office saying they would pay it back. The Claimant refers to "We had a big argument about it." The work had been completed by E A Smart, and the Claimant was being chased for payment for the works carried out. The Claimant stated that he intended to sort out the payment over the Bank Holiday, however because of his ill health this did not happen. He sent receipts to Post Office but they disputed the payment due to a carpet being included in the price which was not part of the agreement.

Mike Wilcox then asked where the Claimant got the money from to pay Mr Smart and he replied "in May from the Post Office, he paid the cash into his bank account and then wrote a cheque out for the bill".

Following the interview Mike Wilcox made enquires with the section regarding grants. In 2004 the Claimant had been authorised a grant for £8300.00 under urban improvement plan as part of Network Reinvention. In April 2006 the Claimant submitted invoices for £7,206.00 (£1880 electric door opener and £5,326 new counter). However, as he had not submitted photographic evidence of the improvements and had not signed the acceptance letter, the documentation was returned to him for correct completion on 24 April 2006. The Claimant failed to return this. Had the Claimant carried out the terms of the grant and provided Post Office with the necessary documentation and photographic evidence, then the amount of £7,206 would have been paid to the Claimant at the time of the submission had this been correct. (108179400).

(NBSC call log records on 16 February 2004 a request for contact as the office is due to close the following day (Network Reinvention). (109000023)

Query concerning a Customer's NS&I deposits

On 8 August 2006, Fiona Griffiths, AIM received an email regarding a customer query re NS&I deposits. NS&I were contacted and sent the customer's account details. On 22 August 2006 a witness statement was taken from the customer. It was alleged deposits made between 21 November 2005 and 8 June 2006 totalling £1,288 had not been recorded by NS&I and the Claimant had retained the book.

The Claimant confirmed all amounts have been credited through Horizon and National Savings had phoned him to say they have received money but no accounting documentation. He offered up the reason he didn't send off the documentation was his illness and couldn't manage it; he also said he was happy to hand over the book. Following the interview, Mike Wilcox and Gary Thomas took Mr & Mrs Kelly to Brondeg Post Office and the NS&I savings book plus various other accounting documents were handed to them. Mike Wilcox secured the documentation from January 2006 to July 2006

which had not been dispatched to NS&I Glasgow. Documentation was found to have been bundled into daily/weekly transactions and on some occasions by the Horizon transaction slip, thus showing the transactions had been accounted for, this documentation was then dispatched to NS&I so that the customer's account could be reconciled. Horizon data was ordered to confirm these transactions. The Claimant also handed over a bundle of Green Giro cheques and paid Postal Orders which were proper to w/e 29.03.2006 and a bundle of obsolete Postal Orders withdrawn from sale on 03.05.2006. (108179400/108030543)

From the above, it is concluded that the Claimant admitted to falsifying the branch account for £6,000.00 but denied doing so for the remainder of the shortage. However, a review of Horizon data, in particular the cash declaration of 27 July 2006 for £51,004.06 would indicate that either the £5,000.00 had disappeared on the morning of the 28 July 2006 or the Claimant inflated his cash on 27 July 2006. (108179400/108030543)

The investigation into the NS&I issue found that the Claimant had entered the transaction on Horizon, so there was no further liability on this matter and the customer's account was dealt with.

As the office was in such an appalling state, Mike Wilcox requested the Business Development Manager (BDM) visit the branch and secure any further documentation which was proper to the Post Office.

Although Post Office Security team considered there to be sufficient evidence to support charges of false accounting on the £6,000 for one balance period ending 29th June 2006, it was also considered that a further interview may not help enquiries.

- **03 January 2007:** memo from Jason Collins, Casework Advisor to Royal Mail Group, Criminal Law Team, stated that after the outcome of enquires in Mike Wilcox report (pages 7 to 10 and 16) together with taped interview (pages 11 to 15). It is a Business unit recommendation that prosecution should be pursued provided there is sufficient evidence to do so.
- **19 January 2007:** memo Rob Wilson, Head of Criminal Law to Investigation Team stated: *'in my opinion the evidence is insufficient to justify prosecution in relation of the theft of £6,000.00. My view is that it would be difficult to establish that Mr Kelly was acting dishonestly bearing in mind the background of the authorisation grant and his inability to comprehend that Post Office Ltd would have consented to him withdrawing the money'. 'In relation to a potential charge of false accounting, a prosecution is likely to be unsuccessful in my view for the following reasons:*

- 1. Mr Kelly is described as backward. His resignation letter certainly demonstrates that he has some difficulty with literacy.*
- 2. It is noted that the office was in an appalling state with only one branch trading statement being located. There were a number of in payments that had been processed on Horizon but where the supporting documentation had not been forwarded to the appropriate customer. This does indicate his incompetence as opposed to his dishonesty.*
- 3. I note that a number of violent robberies took place at the office. These have undoubtedly had an impact on Mr Kelly's mental state and that of his wife. Clearly he sought assistance from his Doctor after the visit from the Area Intervention Manager but despite this my view is that a Jury will be sympathetic to his predicament.*

Bearing in mind the above factors, my view is that there is little prospect of convicting Mr Kelly at trial. I would not recommend a criminal prosecution'.

- **30 January 2007:** memo from Jason Collins to Mike Wilcox stated the National Investigation manager Tony Utting having read Royal mail Group Criminal Law Team advice agreed there should be no further legal action taken against the Claimant.
- **1 February 2007:** Case Closed; final outcome – offender identified no prosecution and Procedural & Organizational failings – Nil failings attributable to Post office.

Actions Taken to Retrieve monies owed: (11400003)

Post Office took steps to recover the outstanding debt. There is numerous correspondence in relation to this. Letters/emails to the Claimant and the lawyers acting on Post Office's behalf. These include, instructing High Court Enforcement Office (HCEO) to attend Mr Kelly's property; Land Registry report and so forth. The first letter in the bundle is one to the Claimant dated 22 June 2007 in regard of the outstanding debt. The last correspondence is on 2 August 2011; this is an email from Bond Pearce asking FSC if they wanted the debt to be pursued further.

The full dates and brief details of the actions to recover are in the embedded document; detail of which has been taken from the documents reviewed.



Action to Recover
Monies.docx

Summary:

It is evident that the branch has suffered a number of incidents over a long period of time, prior and during the Claimant's tenure, which was no doubt frightening. To this end it would seem that Post Office treated the Claimant fairly, even when initially the branch was found to be culpable on one occasion; this was overturned by the Head of Area.

Further, evidence points to the Claimant being treated lightly on 24 June 2004 when an audit showed that there was cash inflation and false accounting for £2,821.74 in branch. Indeed, although this was initially passed to security, the case was passed to the Retail Line to deal with.

Further evidence points to a warning letter being sent to the Claimant, as he had rolled branch losses, again falsifying the account. (108179400/Sharepoint)

When the Claimant wanted to update the branch, an offer in excess of £8,000.00 was made from the Network Reinvention Grant fund. It was only when the Claimant failed to comply with the requirements that the grant was not paid out. This was state aid government money which meant Post Office were required to administer the grant under tight controls. It is not understood why from a grant being authorised in 2004 that the Claimant took supposedly until 2006 to try to sort out?

On the basis of solely the above, there is no evidence that the Claimant was treated unfairly or to suggest that Post Office did not comply with processes throughout his tenure.

In the Interim report Mike Wilcox states that during the interview the Claimant "distracts quite a few times regarding previous robberies at the office and his illness". The illness that he apparently sought medical help for after the audit findings on 26 July 2006? Is there any evidence of an illness prior to this?

It is evident that the Brondeg branch was a complete mess, this is borne out by both customers and post office employees. Is this the reason that the Claimant failed to submit photographic evidence as there is nothing pointing to a dispute over payment for a carpet. Further, the working conditions, and customer environment impacted on both post office and customers. Failure to dispatch the office documentation impacted on customers as can be seen in the NS&I example. The need for duplicate error notices to be sent due to the Claimant's failure to deal with the matters impacted Client, customer and post office. Cheque errors he knew about 16 days before the audit, not taking money from customer for their foreign currency, rem shortage in suspense which was disallowed because he could not produce the paper work as it was lost, smoke & dye damaged notes which nothing had been done about all point a lacksodaical approach. Yet, the Claimant was not slow to offer suggestions to Post Office on how things should be done. (0352-0000001-0000008)

The above suggests incompetence and this is borne out by the Criminal team at the time the security case was ongoing. However, there are elements of the above, which do not suggest incompetence, rather an apathetic attitude coupled with the possible creation of a smoke screen to avoid detection.

Personal Thoughts

I am not convinced that this is wholly incompetence; more apathy which is evident for the numerous comments on the state of the branch but also the Claimant has had the wherewithal to both inflate cash on more than one known occasion and use the suspense account for further advantage, so as above is this a potential smokescreen.

The entry into suspense, the cash declaration from the night prior to audit suggests that the Claimant was aware of the further shortage. If what he says in regard of taking on the NFSP role, then his application to do so would have been considered by other Pmrs who would surely want an individual who were both competent and articulate to a point and able to negotiate on their behalf.

I note that the reference to the quality of the resignation letter as of low standard, although this is not available, this does not seem to be evident in the business plan, albeit this is a basic one?

Note: On the audit report the auditor says that Mrs Kelly moved some papers and found 21X£5.00 PO saving stamps with a value of £105.00, these were accepted by Mrs Griffiths and a receipt given. As the auditor had cleared the loss from the branch, she dispatched the stamps to the stock centre by special delivery and asked for them to be offset against the loss settled centrally. There is no evidence of this on the Customer Account.

Analysis completed by:	Karen Derbe
Date of completion:	09.02.2018