

## Review Hearing of Heidi Corkhill trading as Call Support

Case reference: 185532  
Applicant: Heidi Corkhill  
Type of service: ICSS

### Background

1. Heidi Corkhill trading as Call Support (“the Applicant”) was the subject of an investigation by the Phone-Paid Service Authority (“PSA”) for providing an Information, Connection and Signposting Service (“ICSS”) to UK consumers (“the Service”).
2. The concerns regarding the Service were first highlighted to the PSA by way of a complaint received on 4 March 2020. By 2 April 2022 the PSA had received 161 complaints about the Service. The nature of the complaints received were that consumers were misled into using the Service, that they were not made aware of the costs of the Service, and that they were unaware that it was a premium rate call connection service, as well as expressing concerns regarding the customer service they had received when trying to raise complaints about the Service.
3. A sample of complaints have been provided below:

*“Although I was made aware of the call charges my call got cut off 3 times after being on hold. Giving me a bill totalling £56.32 and still no answers”*

*“I phoned the DWP for my husband, I rang the 09 number I did not realise that it was a expensive charge, I did not spk to anyone and they cut me off, I thought they were really busy, so I rang again the same happened again, and I spoke to nobody, a day later a lady from bt phoned me and told me abt the charge at this point I was very distressed as we don't have much money”*

*“Hi I was trying to sort out all the issues with the death of my uncle on behalf of my auntie and thought this number was for hmrc to get a coding to open a bank account for her. I phoned this number was on hold, then a women answered then got cut of so tryed to phone again got cut off before anyone answed. Then was looking at my bt account and saw £90. 71 on it I can't afford to pay this on top of my normal bill”*

4. On 29 November 2021, the PSA issued an Interim Measures Warning Notice under the 14<sup>th</sup> edition of the Code of Practice (“Code 14”). On 3 December 2021 the application was considered by a Tribunal, and the Tribunal directed that the Service was to be suspended. The Tribunal also determined that the unpaid revenue held by the intermediary was to be withheld, up to the sum of £935,000. The Tribunal concluded

that the directions were proportionate and justified, when balanced against the very serious nature of the apparent breaches and the need to achieve the sanctioning objective of credible deterrence.

5. The Applicant instructed legal representative, who began corresponding with the PSA regarding the Service and the issues of non-compliance. On the 13 July 2022 the PSA withdrew the Direction for the suspension of the Service as a number of concerns regarding the Service had been addressed due to an set of action, agreed between the parties.

6. On 28 February 2023 the Tribunal considered the case brought by the PSA against Heidi Corkhill trading as Call Support. The PSA raised the following breaches:

- Rule 2.3.1 – Fair and Equitable
- Rule 2.2.7 – Pricing
- Rule 2.3.2 – Misleading
- Rule 2.6.1 – Complaint Handling
- Paragraph 4.2.3 – Failure to provide information

7. The Tribunal upheld all the breaches alleged and concluded that overall, the case was to be regarded as very serious. The Tribunal imposed the following sanctions:

- a formal reprimand
- a requirement that the Merchant submit all categories of its services and/or promotional material to the PSA, for compliance advice from the PSA for a period of three years. Any compliance advice given by the PSA was to be implemented within 14 days to the satisfaction of the PSA. The PSA may require payment of a reasonable administrative charge by a relevant party for compliance advice it provides pursuant to this subparagraph.
- a requirement that the Merchant is prohibited from providing or having any involvement in any PRS or promotion for one year, starting from the date of publication of the Tribunal decision.
- a requirement that the Merchant must refund all consumers who claim a refund for the full amount spent by them on the Service, within 30 days of their claim, save where there is good cause to believe such claims are not valid, and provide evidence to the PSA that such refunds have been made
- a fine of £1,150,000 broken down as follows:

Breach 1 - Rule 2.3.1 – Fair and equitable - £250,000

Breach 2 - Rule 2.2.7 – Pricing prominence and proximity - £250,000

Breach 3 - Rule 2.3.2 – Misleading - £250,000

Breach 4 - Rule 2.6.1 – Complaint handling - £150,000

Breach 5 - Paragraph 4.2.3 - Failure to provide information - £250,000.

The Tribunal also recommended payment of 100% of the administrative charges, which amounted to £12,510.00.

8. The decision of 28 February 2023 was published on the PSA's website on 15 March 2023.

## Review application

9. On 26 January 2024, the Applicant sought a review of the Tribunal's Decision of 28 February 2023. The Applicant served a witness statement and accompanying exhibits ("the application").
10. The PSA served its response, dated 29 February 2024, with supporting documents.

## The Applicable Code Provisions

11. The provisions of the 15<sup>th</sup> Edition of the PSA's Code of Practice ("Code 15") relevant to the application for a review are detailed below:

### 5.10.1

*A Relevant Party or the PSA may,....., apply for a review of any determination (including a Decision but excluding an approved adjudication by consent under paragraph 5.5.4 above) before a differently constituted Tribunal.*

### 5.10.2

*Such an application will set out, in writing, the grounds for a review. A determination may be reviewed on one or more of the following grounds:*

- a. *the determination was based on a material error of fact;*
- b. *the determination was based on an error of law;*
- c. *the Tribunal or single legally qualified CAP member reached an unjust determination due to a material error of process in respect of procedures set out in the Code and/or Procedures published by the PSA from time to time; and/or*
- d. *the Tribunal or single legally qualified CAP member came to a determination that no reasonable person could have reached.*

### 5.10.3

*Other than in exceptional circumstances, an application for a review must be made within 10 working days of the publication of the relevant determination and must include all relevant supporting information and/or evidence. If an application for a review is brought after the deadline has expired, the Relevant Party must in its request explain the exceptional circumstances for its delay.*

### 5.10.4

*The PSA may respond to any application for a review and may provide any relevant supporting information and/or evidence. Having received a request for review, the Chair of the CAP (or another legally qualified member of the CAP where the Chair is unavailable or has sat on the original Tribunal) will consider the grounds of the application and any response*

received from the PSA and decide whether there are reasonable grounds to conclude that the review has merit.

#### 5.10.5

*If it is decided that there are reasonable grounds to conclude that the review has merit, a differently constituted Tribunal (or in the case of a determination made by a single legally qualified CAP member, a Tribunal not including that CAP member) will carry out a review of the Decision, as soon as practicable.*

#### 5.10.7

*The Tribunal will consider all documentation and evidence produced at the original Tribunal and will determine the review on the papers, unless on the application of the Relevant Party in accordance with paragraph 5.7.9 above, or of its own motion, the Tribunal decides to convene an oral hearing. Where an oral hearing is convened the Tribunal may consider evidence not produced at the original Tribunal where such an application is made by the Relevant Party in accordance with any directions issued by the Chair of the Tribunal under paragraph 5.7.11 above. Where the Tribunal conducts the review on the papers it may, at its sole discretion, invite the Relevant Party or the PSA to make oral representations to clarify any matter.*

### Parties' submissions

12. The Applicant applied for a review on the following grounds:

- the determination was based on a material error of fact
- the determination was based on an error of law, and
- in making the determination, the Tribunal acted unreasonably.

13. The Applicant asserted that there were exceptional circumstances that allowed for the application to be considered outside of the timeframe provided for under paragraph 5.10.3 of Code 15.

14. In summary, the Applicant sought a review as she stated that she was the victim of identity theft by her estranged husband, Mr James Stephenson, from whom she separated in October 2022. Additionally, the Applicant asserted the following:

- she was not aware of the existence of Call Support or the Tribunal's decision until she was served with the Statutory Demand (relating to the financial penalty) in July 2023.
- she denied having any knowledge of, or participating in, any activity relating to Call Support
- she denied instructing a legal representation in relation to any proceedings concerning the PSA
- that her husband, James Stephenson, corresponded with the PSA purporting to represent her or pretending to be her

- that any time bars for filing an application for review should be waived as she was not aware of the decision and once she became aware, she did not have the background to the decision and her husband's conduct to allow for her file her application within 10 days
- she raised a number of other matters including the failure by the PSA to establish her identity at the time of the registration of Call Support, during its operation, during the investigation and the procedures which led to the Tribunal
- she has been the victim of fraud which would have given her a complete defence to the alleged breaches
- that the elaborate cover up by her husband has denied her the fundamental right to be heard or to defend herself against the allegations
- she has a compelling body of evidence to support her application for the review, and
- that the right to a fair hearing and advancing her defence (pursuant to Article 6 ECHR) trump other considerations.

15. The PSA's position was set out in its response and, in summary, put forward the following points:

- the PSA acknowledged that the application raised a number of matters that were not known to the PSA or the Tribunal at the time of the Decision made on 28 February 2023
- however, the PSA asserted, that the version of events advanced by the Applicant in her statement were not accepted and there is a possible alternative interpretation of her account
- the PSA set out the points which undermined the Applicant's account, namely, £1.8m passing through a joint account held in both the Applicant's name and James Stephenson
- signatures on interim consent orders which bear a similarity to the Applicant's signature on her passport and driving license
- the failure to mention James Stephenson, her husband, as the perpetrator of the fraud, to her own solicitors.

### Review Application decision

16. The application was considered by the Chair of the Code Adjudication Panel who made the following observations:

- the concession made at paragraph 41 of the PSA responses was rightly made and significant. Paragraph 41 stated,

*"The absence of Ms Corkhill's involvement in those proceedings, coupled with her denial of running Call Support does give rise to the possibility that the Decision of the tribunal was based on a material error of fact, namely the service was in fact run by Mr James Stephenson and that Ms Corkhill's*

*involvement was to a lesser extent, or service was run completely without Mrs Corkhill's knowledge that she was being held out as the trading entity".*

- even without the concession, on the balance of probabilities, the Chair of the Code Adjudication Panel was satisfied, on the basis of Applicant's evidence, that, if as asserted, she has been the victim of identity theft or fraud, then he should exercise his discretion in allowing this review.
- was, also satisfied that there were exceptional reasons to waive the strictures of Code 15 in relation to the time limit of 10 days to file the application given that the case involves serious allegation of fraud.
- took account of the entirety of the evidence and submissions from both parties.
- made it clear that no finding of fact was made, nor any judgement made on the credibility or otherwise of the Applicant.
- the Chair of the Code Adjudication Panel, having taken the material before him, at its highest, was satisfied that the grounds for a review were made out.

17. The Chair of the Code Adjudication Panel directed that the matter should be reheard by a freshly constituted Tribunal, unless the parties felt that the original Tribunal was better placed to deal with the matter.

### **Review Tribunal**

18. The review hearing took place using the paper-based procedure, before a freshly constituted Tribunal on 6 June 2024.

### **Preliminary issue**

19. As a preliminary issue, the Tribunal considered the matter of service and whether to proceed in the absence of the Applicant.

20. The Tribunal noted the letter from the solicitors representing the Applicant in linked proceedings, dated 25 April 2024, where it was stated that "*Ms Corkhill does not intend to appear at the session to provide oral representations in person or be represented.*" The Tribunal also noted that the solicitors and the Applicant were informed that the Hearing was rescheduled to 6 June 2024. The Tribunal were satisfied that the Applicant was aware of the hearing and had chosen not to attend. On this basis the Tribunal was satisfied that the Applicant had been properly served. The Tribunal concluded that it ought to proceed in the absence of the Applicant.

### **Parties' Submissions**

21. The investigator attended the hearing on behalf of the PSA. In response to questions from the Tribunal, the PSA confirmed that the identification checks were conducted in the form of voter role cross referencing, along with the identification information

provided by the intermediary to the PSA. The intermediary provided the PSA with the identification documents submitted on behalf of the Service, in the form of the Applicant's passport, driving licence and council tax bill. The PSA stated that identification documents were not provided to the PSA at the point of registration, they were provided to the intermediary.

22. The PSA asserted that attempts were made to contact the Applicant directly, via telephone. On one occasion the call that was made went to voicemail. A call was then received from the same telephone number, provided to the PSA upon registration. The caller on that occasion was James Stepheson.
23. The Tribunal enquired whether there was any requirement on the PSA to speak directly to the Applicant and the PSA stated there was not. The PSA asserted that Code 14 and the accompanying guidance placed requirements on the intermediary under the due diligence, risk assessment and risk control ("DDRAC") obligations to know their client, as it is the intermediary that contracts with Merchant Providers.
24. The PSA confirmed that there was no record of anyone ever speaking to the Applicant directly, which the Tribunal found unusual. The PSA asserted that the email address registered with the PSA during the registration process was the email address that was used as an alternative contact method. Emails were received from that email address to the PSA.

### **Review Tribunal's decision**

25. The Tribunal noted the following:
  - the signature on the interim consent order is similar to that detailed on the Applicant's driving licence and her passport
  - the Applicant has raised allegations of what could amount to fraud in a witness statement consisting of 100 paragraphs
  - while the Service was operated in a way that was not compliant with Code 14, the Tribunal needs to be satisfied whether the Applicant fell within the definition detailed at paragraphs D1.9 and D1.10 of Code 15
  - the Applicant has raised serious allegations against Mr James Stephenson, who made representations before the original Tribunal, and, Mr Stephenson ought to be given an opportunity to respond to these allegations
  - the evidence provided by the Applicant needed to be tested and properly ventilated, and the paper-based hearing was not the appropriate forum to do so.
26. Based on the considerations detailed above the Tribunal concluded that, in accordance with the discretion afforded to them under paragraph 5.10.7 of Code 15, the matter should proceed as an oral hearing.

27. The matter was therefore adjourned for the oral hearing to take place, which would provide all parties with an opportunity to provide oral evidence, and, the Applicant with a further opportunity to attend and provide oral evidence to the Tribunal, explaining and clarifying on the matters alleged within her witness statement.