

## Review Hearing of Heidi Corkhill trading as Call Support

Case reference: 185532

Applicant: Heidi Corkhill

Type of service: ICSS

### Background

1. Heidi Corkhill (“Ms Corkhill”) 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”), as a sole trader trading as Call Support.
2. On 29 November 2021, the PSA issued an Interim Measures Warning Notice under the 14th 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 unpaid revenue held by the intermediary was to be withheld. 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.
3. On 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 a set of action agreed between the parties.

### Tribunal decision 28 February 2023

4. As a result of the PSA’s investigation, an enforcement notice was served on Call Support on 22 December 2022, alleging five breaches of Code 14.
5. On 28 February 2023, the Tribunal upheld the five breaches of Code 14 against Ms Corkhill trading as Call Support and imposed the following sanctions:
  - 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
  - a formal reprimand

- a requirement that Ms Corkhill submit all categories of the Service and/or promotional material to the PSA, for compliance advice for a period of three years
  - the prohibition of Ms Corkhill 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 Ms Corkhill 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.
6. The Tribunal also recommended payment of 100% of the administrative charges, which amounted to £12,510.
  7. The Tribunal's decision of 28 February 2023 ("the Decision") was published on the PSA website on 15 March 2023.

### Review application

8. On 26 January 2024, Ms Corkhill made an application for review of the Decision under paragraph 5.10.1 of Code 15:

*"A Relevant Party or the PSA may, after a Tribunal or single legally qualified CAP member has adjudicated a case pursuant to paragraphs 5.4.7 or 5.4.8 above or made any variations, additions or substitutions to a proposed adjudication by consent pursuant to paragraph 5.5.4 above, 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."*

Paragraph 5.10.2 of Code 15 provides that:

*"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."*

Ms Corkhill 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.
9. In summary, Ms Corkhill stated that she was the victim of identity theft and that she was not aware of the existence of Call Support or the Tribunal’s decision until she was served with the Statutory Demand in July 2023. She denied having any knowledge of, or participating in, any activity relating to Call Support.
10. On 5 April 2024, the Chair of the Code Adjudication Panel confirmed that he was satisfied there were sufficient grounds for a review and 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.

### Initial hearing of the Review Tribunal

11. The Review Tribunal hearing took place on 6 June 2024 before a freshly constituted Tribunal (“the Review Tribunal”), using the paper-based procedure to review the Decision dated 28 February 2023, pursuant to 5.10.5 of Code 15:
- “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.”*
12. Ms Corkhill did not attend the initial hearing of the Review Tribunal to make oral representations. Ms Corkhill’s solicitors cited a number of written reasons for this in writing, including Ms Corkhill’s responsibilities as a carer and the level of stress she was experiencing. Ms Corkhill stated (by way of solicitor’s letter) that she did not have sufficient funds to pay for legal representation at the hearing and that she would seek to rely on the evidence she had already submitted. Ms Corkhill said she would await the outcome of the Review Tribunal’s decision.
13. The Review Tribunal considered that a review on the papers was not appropriate in the circumstances and the paper-based hearing was adjourned so that an oral hearing could take place. In exercising its discretion under paragraph 5.10.7 of Code 15 to direct an oral hearing, the Review Tribunal sought to provide all parties with an opportunity to give oral evidence. In particular, the Review Tribunal wanted to provide Ms Corkhill with a further opportunity to attend the oral hearing to explain and clarify the matters alleged in her witness statement. The matter was therefore adjourned for a two-day oral hearing to take place.

## Further evidence

14. Following the initial hearing of the Review Tribunal on 6 June 2024, Ms Corkhill provided further evidence to the PSA to substantiate her allegations of identity theft and lack of involvement in Call Support. The PSA followed its own further lines of inquiry by seeking additional information from Ms Corkhill; the third party alleged by Ms Corkhill to have committed identity theft (“the third party”); Telecoms World (the intermediary provider for Call Support); and other relevant parties.
15. Ms Corkhill provided comments on documents sent to her by the PSA. She also requested that additional evidence and submissions provided by her should be taken into account by the Review Tribunal, alongside her witness statement and a letter from the solicitors’ firm she alleged had been instructed by the third party.

## Decision to revert to a paper-based hearing

16. On 22 October 2024, the PSA made a written request to the Chair of the Review Tribunal asking for the two-day oral hearing to be vacated and the matter listed for a one-day paper-based hearing on 28 November 2024. The application was considered by the Chair of the Review Tribunal on 6 November 2024.
17. The Chair of the Review Tribunal noted that on 2 October 2024, Ms Corkhill had written to the PSA stating that *“Attending a two-day tribunal would be impossible for me”* and *“The PSA are going to have to work with the information I have provided in my witness statement, this would have been adequate for the paper hearing. I have no choice going forward, but to prioritise both my personal wellbeing ... and therefore remove myself entirely from the process”*.
18. The Chair of the Review Tribunal also noted the application to revert to a paper-based was supported by both parties and that the PSA no longer contested Ms Corkhill’s review application. The Chair of the Review Tribunal concluded that it was appropriate and proportionate for the matter to be resolved through a paper-based hearing, with the opportunity for Ms Corkhill to make oral representations.
19. Accordingly, the Chair of the Review Tribunal directed that the matter should revert to a paper-based hearing to be held remotely on 28 November 2024. Ms Corkhill was granted permission to make oral representations with one hour allocated for her to do so.

## Substantive hearing of the Review Tribunal

20. The substantive hearing of the Review Tribunal took place by way of a paper-based hearing on 28 November 2024.

## Preliminary issues

21. The Tribunal asked the PSA to confirm that copies of all relevant documentation had been sent to Ms Corkhill and that she was aware of the paper-based hearing and her right to attend.
22. The PSA confirmed that Ms Corkhill had been provided with all relevant documents and notified of her right to attend the hearing and make oral representations. The PSA further confirmed that Ms Corkhill had acknowledged her right to attend the hearing but she had declined, saying she wanted her submissions and the evidence she had provided to be considered by the Review Tribunal during its deliberations.
23. The Review Tribunal was satisfied that the relevant documents had been served on Ms Corkhill and that she had been notified of the Tribunal hearing and had chosen not to attend. The Tribunal was satisfied that, in all the circumstances, it was fair to proceed with the hearing.
24. The Review Tribunal proceeded to carry out its review of the Decision in accordance with paragraph 5.10.7 of Code 15:

*“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.”*

The Tribunal noted the provisions of paragraph 5.10.8 of Code 15 which provides that:

*“The Tribunal may*

- (a) confirm, vary or rescind a determination or any part of it, and substitute such other finding as it considers appropriate; and/or*
- (b) confirm, vary or rescind any sanction imposed by a determination. For the avoidance of doubt, the Tribunal may impose a greater sanction than that imposed by the original Tribunal or single legally qualified CAP member, provided that such a sanction is permissible under paragraph 5.8.5 above. The Tribunal is not in any case subject to the*

*limitations that apply to a single legally qualified CAP member under paragraph 5.8.3 above;"*

### **Submissions and documents**

25. The Review Tribunal considered submissions and documentation from both the PSA and Ms Corkhill. These documents included:
- the original enforcement notice
  - the Decision of 28 February 2023
  - Ms Corkhill's review application dated 26 January 2024
  - the PSA's response to Ms Corkhill's review application dated 29 February 2024
  - the decision of the Chair of the Code Adjudication Panel to grant Ms Corkhill's review application dated 5 April 2024
  - the decision of the Review Tribunal dated 6 June 2024 to direct an oral hearing
  - the decision of the Chair of the Review Tribunal dated 6 November 2024 to vacate the oral hearing and revert to a paper-based hearing
  - the witness statement of Ms Corkhill, correspondence from Ms Corkhill and her solicitors, evidence provided by Ms Corkhill and submissions made by her
  - witness statements, documents and submissions from the PSA, including the Statement of Case and Updated Statement of Case
  - witness statements and evidence from third parties provided by the PSA.

### **Parties agreed position**

26. The Review Tribunal noted that both parties now agreed that the Decision had been based on a material error of fact and should be rescinded.

### **The PSA's updated position**

27. The Review Tribunal also noted that the PSA had updated its original Statement of Case and in the Updated Statement of Case, the PSA had invited the Review Tribunal to rescind the Decision and Sanctions imposed on Ms Corkhill on the basis there had been a material error of fact pursuant to 5.10.2(a) of Code 15. The Review Tribunal acknowledged that submissions and evidence in relation to the following points supported this view:
- instruction of solicitors and representation at the original Tribunal hearing
  - interaction between Call Support and Telecoms World
  - Call Support email account
  - mobile phone number used by Call Support.

## **Instruction of solicitors and representation at the original Tribunal hearing**

28. The Review Tribunal considered Ms Corkhill's submissions that the solicitor's firm which represented Call Support in relation to the Tribunal hearing on 28 February 2023 had been instructed by the third party, rather than Ms Corkhill. The PSA confirmed that the solicitor's firm in question had advised the PSA that it had taken the usual steps to verify Ms Corkhill's identity using an online service and that individuals at the firm had received emails purporting to be from Ms Corkhill. However, no solicitors at the firm had ever met, video called or spoken with Ms Corkhill but they had met the third party on a number of occasions via video call.
29. The Tribunal also considered Ms Corkhill's submissions that she knew nothing about the Tribunal hearing on 28 February 2023 and that she had not authorised the third party to attend on her behalf. The PSA noted that an application had been made by the solicitor's firm to the Legal Chair of the Tribunal, requesting that the third party be allowed to attend the hearing. This application had been granted allowing the third party to appear at the hearing to make oral representations on behalf of Ms Corkhill trading as Call Support. The PSA accepted that within the application, the contact details provided (email address and mobile number) were those of the third party, not Ms Corkhill. The third party then appeared at the Tribunal hearing to provide oral representations. Ms Corkhill did not attend.
30. The Review Tribunal noted the PSA's acceptance that the cumulative impact of this was that Ms Corkhill was absent from the original Tribunal hearing, she may not have had any knowledge of the proceedings as she had not been providing instructions to the solicitor's firm and as such, she would not have been notified of the hearing. Consequently, the Decision would not only have been reached in Ms Corkhill's absence, but with Ms Corkhill having no knowledge of the proceedings taking place. Furthermore, the third party's attendance precluded the Tribunal from considering whether it should exercise its discretion in relation to proceeding in Ms Corkhill's absence. The Tribunal had considered that the Ms Corkhill's presence was substituted by that of the third party. The PSA accepted that this amounted to a material error of fact.

## **Interaction between Call Support and Telecoms World**

31. The Review Tribunal considered an email provided by Ms Corkhill dated 11 February 2021 from Telecoms World to the third party. In the email, Telecoms World asked the third party for Ms Corkhill's ID documents, bank statement and a utility bill (i.e. DDRAC documentation) and asked for the documentation to be dated 2018. Ms Corkhill said these documents had been requested without her knowledge and she suspected that Telecoms World had asked for the documents to be dated 2018 to make it appear that they had been received when the Call Support account with Telecoms World was originally created in 2018. Ms Corkhill also pointed out that Telecoms World had contacted the third party rather than her for this information. It

was Ms Corkhill's assertion that this suggested the third party had set up and operated Call Support, rather than her.

32. As part of its further investigation, the PSA had contacted Telecoms World for additional information about interactions between Telecoms World and Call Support. The representative from Telecoms World confirmed that he had never met with or spoken to Ms Corkhill. Ms Corkhill stated that she had never heard of the representative from Telecoms World until she became aware of the PSA's investigation and that she had never met him, spoken with him on the phone, or had any other communication with him.

### **Call Support email account**

33. The Review Tribunal considered invoices for Wix.com provided by Ms Corkhill. One of these related to the registration and creation of the mailbox service for Call Support and the email address info@callsupport.uk.com dated in June 2018. The documentation showed this as being registered to the third party. Ms Corkhill said this proved the third party had registered, owned and, therefore controlled all emails the PSA received from the Call Support's email address.
34. The PSA had provided evidence to demonstrate that Ms Corkhill's personal email address (and the Call Support email address) had both been used by Ms Corkhill, to communicate with the PSA in relation to the investigation into Call Support. The PSA had suggested it was unlikely that Ms Corkhill had not seen any unusual activity relating to Call Support on her personal email account. The PSA considered that the more likely explanation was that Ms Corkhill was aware of the correspondence going in and out of her personal email account.
35. Ms Corkhill asserted that the third party had access to her personal email address and that such access was routinely obtained by the third party via a shared computer. Ms Corkhill said this meant that the third party would have been able to send, receive, delete and/or forward emails from Ms Corkhill's personal email address without her knowledge.
36. The PSA prepared a schedule outlining its communication with Call Support during the investigation and in the lead up to the Tribunal hearing on 28 February 2023. This demonstrated that a significant amount of the correspondence between the PSA and Call Support had been sent to/from the Call Support email address, rather than Ms Corkhill's personal email account. Correspondence from the Call Support email account had been signed off either as being from "Heidi" or the third party. The PSA stated that in the circumstances, it could not safely draw any conclusions from the use of Ms Corkhill's personal email address and therefore, in light of supplementary evidence provided by Ms Corkhill, the PSA would not seek to assert a positive case in respect of the use of Ms Corkhill's personal email account being indicative of her knowledge of the PSA investigation and/or proceedings.



## **Mobile phone number used by Call Support**

37. The Review Tribunal noted the PSA's submissions that the third party's mobile number was used to make test calls of the Service in the period of operation of Call Support. The third party's mobile number was also repeatedly supplied by Telecoms World to the PSA as the mobile number belonging to Call Support. This was also the mobile number (alongside a landline number) the PSA held on file as belonging to Ms Corkhill. This further highlighted the third party's role in Call Support.

## **PSA's submissions in light of updated position**

38. After considering all the additional evidence, the PSA came to the view that the Service provided by Call Support was, at the very least, jointly run by the third party and Ms Corkhill or by the third party alone. As the PSA's presentation of the case to the Tribunal on 28 February 2023 was based on Ms Corkhill being solely responsible for running Call Support, the PSA accepted that it had made an error of fact and that the evidence subsequently received by the PSA (from both Ms Corkhill and third parties) suggested that Ms Corkhill was not solely responsible for the breaches of the Code (if at all). The PSA accepted that the Decision of 28 February 2023 was therefore based on a material error of fact.

## **Review decision**

39. The Review Tribunal was satisfied, on the balance of probabilities, that the Decision of 28 February 2023 was based on a material error of fact. In accordance with paragraph 5.10.8 of Code 15 the Tribunal decided to rescind the Decision of 28 February 2023 and rescind all sanctions imposed by that Decision.