

### **Sub Postmaster and Commercial Litigation Protocol**

#### **Client**

Bond Pearce must only accept and act upon instructions received from an authorised client or member of the Royal Mail Legal Services team as set out at Annex 1, unless expressly instructed otherwise by the Legal Services representative (LSR). The LSR will be Mandy Talbot.

#### **Case Opening**

##### **1. Sub Postmaster Claims**

The client will aim to send to Bond Pearce within 5 working days of a decision to outsource the claim the case file which will include the following to the extent that they are available:

- (i) the contract together with an acknowledgement of appointment.
- (ii) the letter before action and/or court proceedings;
- (iii) the client's unique case reference;
- (iv) documentation in support of the FOSACs report and other relevant documentation;

##### **2. Commercial Litigation Cases**

The client will aim to send to Bond Pearce within 5 working days of receipt of a letter of claim and/or court proceedings and/or decision to pursue a claim, a summary of issues, contact names and addresses and a copy of the case file which may include the following:

- (i) the letter before action and/or court proceedings;
- (ii) the client's unique case reference;
- (iii) witness statements;
- (iv) relevant documents including those held electronically;
- (v) a summary and chronology of events to include instructions in relation to details of amounts and dates of any offers to settle or interim payments; and
- (vi) instructions in relation to claims against third parties to include details of financial claims.

#### **Conduct of the case by Bond Pearce**

Upon receipt of the new instructions Bond Pearce shall:-

- (i) provide the client with a unique reference number for the claim;
- (ii) allocate the case to a caseholder and advise the client of the caseholder's identity within 3 working days of receipt of the claim quoting Bond Pearce's and client's unique reference numbers;

- (iii) enter into correspondence with the claimant/defendant and any third party solicitors, the court and all other interested parties;
- (iv) process all correspondence within 10 working days of receipt or any shorter timescale agreed;
- (v) notify the client and all lay and expert witnesses of a court hearing date within 3 working days of receipt of the notice of hearing;
- (vi) seek authority from the LSR to incur exceptional expenditure of over £300 including counsel's fees;
- (vii) send to the client an initial letter of advice in email form if at all possible copied to the LSR, which should not, other than in exceptional circumstances, exceed 2 pages in length. The letter of advice should briefly set out the salient facts of the case give an initial view on liability and quantum, details of further investigations which must be carried out, and advice as to the next steps, to include achieving an economic settlement;
- (viii) on completion of the allocation questionnaire provide a costs estimate and timetable for trial;
- (ix) if Bond Pearce considers that the instructions from the client and the steps proposed by the client are not in the interests of or may have adverse commercial consequences for Royal Mail, Bond Pearce should before acting on the instructions inform the LSR in writing or by email and discuss the matter explaining why they do not advise this course of action to be taken and thereafter report to the client the position agreed with the LSR;
- (x) adhere to the Royal Mail's criteria in relation to reporting on sensitive cases; and
- (xi) consider whether the case is or could be sensitive to Royal Mail.

#### **Expert Reports**

1. Bond Pearce may agree the joint (by claimant and defendant) instruction of an expert in all fast track and multi track cases, and is authorised to appoint a sole expert if such instruction will materially benefit Royal Mail's defence or prosecution of the claim.
2. In cases where Bond Pearce instructs a sole agent Bond Pearce shall first obtain the LSR's written consent before disclosing the expert evidence to the claimant, defendant or third party.
3. Bond Pearce must seek authority from the LSR before incurring the cost of obtaining any other expert evidence over £300.
4. Wherever possible Bond Pearce will undertake the searches of the following registers: electoral roll, county court judgements, land registry, Companies House and carry out an Experian report.

#### **Counsel**

Bond Pearce is authorised to brief counsel for applications, trials and assessments of damage provided such advice will be less than £300. Bond Pearce shall not otherwise instruct counsel except where special circumstances apply, eg complexity, novelty, high value and then only with the client's prior written authority.

#### **Significant/Sensitive Cases**

Bond Pearce shall notify the client and the LSR of all significant and sensitive cases. Such cases include:-

- (i) stress/bullying/harassment;
- (ii) cases that raise important new or emerging issues of law;

- (iii) cases where a Member of Parliament or government department is taking active involvement with the case;
- (iv) cases where the Chief Executive or Chairman of Royal Mail or the Managing Director of one its businesses is taking active part in the case;
- (v) cases on which Bond Pearce is specifically requested to report to the LSR;
- (vi) cases where the outcome may have national implications for Royal Mail or one or more of its businesses;
- (vii) cases where the total value is in excess of £500,000; and
- (viii) cases that have been reported to the Press Office.

Cases in categories iii – vii should be reported on occurrence. All should be reported at monthly intervals with updates as appropriate.

The significant/sensitive case report must be submitted to the LSR and Royal Mail client in the form set out at Annex 2.

### **Public Relations**

The Press Office should be notified in all cases which are of:

- (i) strategic importance to Royal Mail;
- (ii) have implications for Royal Mail which go beyond the boundary of the individual case;
- (iii) have a value or potential value in excess of £250,000;
- (iv) are likely to be reported anywhere in the local or national press;
- (v) is likely to be of interest to Royal Mail senior management;
- (vi) any case going to trial, 7 days before but before the date of the trial;
- (vii) Bond Pearce will prepare the first draft of any press release for authorisation by Clare Wardle.

The Press Office contact details are set out in Annex 3.

### **Funds for Payment of Third Party Costs and Receipts from Third Parties**

1. Bond Pearce will pay all disbursements below £300 from office account and include the expense in the monthly invoice.
2. Requests for funds for payment of third party costs in excess of £300 (including expert and counsel fees) must be made in writing to the appropriate client selected from the list set out in Annex 1 (or any substitute notified in writing by Royal Mail from time to time) on Bond Pearce's headed note paper at least 5 working days before payment is required, signed by the caseholder.

Each request must include at least the following information:

- (i) the name of the person claiming payment;
- (ii) the nature of the third party costs claimed;
- (iii) the amount requested in words and figures;
- (iv) the name of the person or organisation to whom Bond Pearce proposes making payment of the requested funds;
- (v) whether the payment is an interim or final payment;

- (vi) the client reference;
- (vii) any reference and/or code Bond Pearce requires Royal Mail to use when remitting the funds (up to a maximum of 16 digits) to enable Bond Pearce to identify receipt of the BACS payment.

2. All approved payments of requested funds will be made by Royal Mail using BACs into Bond Pearce's client account as notified by Bond Pearce to Royal Mail from time to time.

3. Bond Pearce shall remit to the appropriate Royal Mail client all monies received by Bond Pearce from third parties on behalf of Royal Mail by means of a cheque accompanied by the following information:

- (i) the reason for the payment;
- (ii) the name of the payer;
- (iii) the client reference; and
- (iv) Bond Pearce's reference.

4. All cheques sent to Royal Mail or to third parties must be sent Special Delivery or an equivalent secure delivery service that is able to provide confirmed delivery of the item to the address by means of a signature

#### **Costs**

1. Whenever an order for costs is made against Royal Mail as a result of Bond Pearce's failure to comply with a court order, and whenever indemnity costs are ordered or agreed against Royal Mail, Bond Pearce shall provide a written report to the LSR explaining the background to the case and the reasons why such costs were ordered and/or agreed.
2. Subject to the two exceptions below Bond Pearce is authorised on behalf of all clients to settle third party legal costs without having to obtain prior instructions from the client department. The two exceptions are as follows:-
  - (i) Bond Pearce shall not agree to pay the third party's legal costs and disbursements whenever general damages are less than £5,000 unless specifically agreed by the client.
  - (ii) The case is likely to go to a costs assessment, in which case the firm should provide a full report to the client and seek instructions with regard to the conduct of the assessment.

#### **Case Closing**

Upon completion of a case Bond Pearce must return to the client all original papers together with a case closing report in the form set out at Annex 4, including a succinct summary of any learning points arising out of the action. In the case of significant/sensitive cases Bond Pearce must send the details of the learning points to the LSR.

#### **Reports**

Bond Pearce shall provide to the LSR, the client the reports set out at Annex 5, or such other reports as Royal Mail may reasonably request from time to time.

#### **File Audit/File review**

Bond Pearce is required to undertake every 6 months a performance file review of no less than 3 randomly chosen cases per caseholder of all Royal Mail cases, in accordance with the questionnaire at Annex 6.

Copies of the questionnaires, together with details of levels of compliance and non-compliance must be sent to the LSR within 28 days of the file review being undertaken.

In addition, Royal Mail reserves the right to undertake random file reviews and file audits.

#### **Training**

Bond Pearce will provide at least one training session per year for clients, free of charge and lasting up to one day, at the client or LSR's request.

### **Complaints**

Complaints will be made in the first instance to the caseholder or responsible partner at Bond Pearce, and can be escalated to the LSR and client partner at Bond Pearce if not resolved.