

**POSTMASTER GROUP ACTION
CONFIDENTIAL AND LEGALLY PRIVILEGED**

Steering Group Meeting: 5 October 2016

DECISION: *Should Post Office allow Freeths access to Second Sight?*

1. SUMMARY:

Freeths want to discuss their clients' case with Second Sight, despite Second Sight being contractually bound to Post Office to maintain confidentiality and privilege.

Bond Dickinson has corresponded with Freeths to identify the scope of the proposed discussions, and now needs to confirm whether or not Post Office will grant access.

Bond Dickinson propose granting access pursuant to a Protocol to be negotiated between Freeths, Post Office and Second Sight, the key points of which would be:

- Freeths may only communicate with Ian Henderson;
- Freeths shall not request any documents from Second Sight, any such requests to be addressed to Bond Dickinson;
- Freeths and Second Sight cannot discuss information which relates to criminal prosecutions or civil law proceedings;
- The information can only be used for the purposes of the claim against Post Office and can only be provided to Claimants and witnesses;
- If privileged material is provided to Freeths, Post Office reserves its right to prevent it being relied upon; and
- Freeths are to be liable for Second Sight's costs.

2. ADVANTAGES OF ALLOWING ACCESS:

- Post Office can claim it is acting reasonably and cooperatively, and is not seeking to conceal matters. This should strengthen Post Office's position before the Court.
- Allowing access avoids Freeths applying to the Court for Order which grants access (which would more than likely be a successful application).
- Providing access under an agreed protocol provides Post Office with some control over the information passed from Second Sight to Freeths.
- Given that Post Office does not have a strong argument for preventing access, providing access will enable the parties to focus on more contentious areas of dispute.
- Counsel agrees that access should be granted.

3. DISADVANTAGES OF ALLOWING ACCESS:

- Post Office cannot monitor or control completely the communications between Second Sight and Freeths or the information they exchange, with a risk that privileged or commercial sensitive information is exchanged. This risk can be mitigated through the Protocol.
- Second Sight may provide Freeths with information which leads Freeths to raise matters of little or no relevance to these proceedings.
- The material which was originally obtained from postmasters may be the subject of confidentiality obligations owed / covered by data protection law. This risk can be mitigated through the Protocol.

4. RECOMMENDATIONS:

Post Office allow Freeths access to Second Sight governed by the terms of the Protocol.