



**BRIEFING PAPER: Electronic Documents Questionnaire**

**1. ELECTRONIC DOCUMENTS QUESTIONNAIRE**

- 1.1 The CMC Order requires Post Office and the Claimants to exchange Electronic Documents Questionnaires (**EDQs**) by Wednesday 6 December 2017.
- 1.2 The EDQ is a Court document that asks a series of questions about the scope, extent and most suitable format for the disclosure of 'electronic documents'. It is designed to provide the Court and the Claimants with information about the electronic documents held by Post Office.
- 1.3 'Electronic documents' is interpreted very broadly and means any document held in electronic form, including emails, word-processed documents, databases and metadata. It also includes any such documents held on portable devices such as memory sticks and mobile phones, as well as documents stored on servers and back-up systems.
- 1.4 Matters covered by the EDQ include: the extent of the search for documents (eg the date range the search should cover and the individuals whose repositories should be searched), the different types of relevant documents (eg Word documents, PDFs, emails, etc.), the possible methods of searching (eg keyword searches) and potential problems with the accessibility of electronic documents.
- 1.5 The EDQ does not commit Post Office to giving disclosure but provides a factual basis on which disclosure of documents can be discussed and hopefully agreed, failing which the Court will make such disclosure Orders as it sees fit.

**2. PREPARING POST OFFICE'S EDQ**

- 2.1 Preparation of the EDQ has been a detailed process involving input and approval from key members of Post Office, along with assistance from Fujitsu and Advanced Discovery.
- 2.2 Relevant individuals and teams filled out questionnaires in relation to the matters covered by the EDQ. We then held calls with those individuals/teams to discuss and work through their responses, with the responses then cross-checked against the parties' pleadings. This information was synthesised into the witness statement submitted by Post Office for the CMC.
- 2.3 Since then, we have covered this ground again with the business, holding calls with each business area, Fujitsu and Post Office IT teams. This has been to double check our understanding and to make sure we pick up less important locations of documents that were not needed for the CMC witness statement. This information has been collated into the EDQ (the latest draft is attached). At the time of writing, the draft EDQ is with Rodric and Mark for comment and approval.
- 2.4 This process has enabled us to provide a generous amount of information within the EDQ in order to assist (and be seen to be assisting) the Court in making further directions as to disclosure. Given the Claimants' contention that they hold relatively few relevant documents compared to Post Office, it is important that Post Office is seen to be assisting the Court in understanding the vast extent of the documents it holds.

**3. NEXT STEPS ON DISCLOSURE**

- 3.1 Following submission of the EDQ we will need to discuss with Freeths which documents should be extracted from Post Office's IT systems (in addition to those already extracted) and how they should be filtered and reviewed for relevant material. Before doing this, there is a wider strategic question about the purpose for which disclosure is being given. We are seeking advice from Counsel on this point and will submit to Post Office shortly a further proposal on this topic.
- 3.2 The likely outcome of the discussions with Freeths is that the Claimants will request disclosure of a significant number of documents, informed by the details we have provided in the EDQ. This is an inevitable consequence of producing the EDQ, but an unavoidable one. Whether the Court will support the Claimants will depend on us being able to show that the Claimants' requests will require disproportionate effort and also being able to provide an attractive alternative for the Court to consider.
- 3.3 Should the parties not reach agreement on disclosure, there will be a Court hearing to consider disclosure issues in late January / early February 2018.

# Electronic documents questionnaire

(Civil Procedure Rules Practice Direction 31B)

**WARNING:** Unless the court makes some other order, the answers given in this document may only be used for the purposes of the proceedings in which the document is produced unless it has been read to or by the court or referred to at a hearing which has been held in public or the Court gives permission or the party who has completed this questionnaire agrees.

**Please read the notes at the end of this form before completing the questionnaire**

## Part 1 – Your disclosure

### General Comment

The Claims in this litigation are very broad and the generic pleadings produced by the Claimants so far provide only limited details on those claims. This litigation therefore has the potential to touch on nearly all aspects of Post Office's business and the volume of disclosable documents may be enormous.

In this Electronic Disclosure Questionnaire, Post Office has sought to provide a holistic view of the documents and databases under its control and which appear, at this stage, to be relevant to this litigation. It may be that a further or revised EDQ is required as the issues in dispute are further particularised and refined.

Post Office does not believe that it would be reasonable or proportionate to disclose all the documents in all the sources identified below. It proposes, as has been agreed by the Claimants, that following the exchange of the EDQs the parties discuss the purposes and topics for which further disclosure is sought and seek to narrow the sources from which disclosure is provided. The parties can then also discuss further search criteria and keywords that might be applied to those source documents so to filter down to those that are truly relevant.

### Extent of a reasonable search

#### Date range and custodians

1. **What date range do you consider that your searches for Electronic Documents should cover ('the date range')?**

In relation to documents which relate to individual Claimants (as per Question 6), disclosure to be limited to electronic and hard copy documents created between 6 months before the Claimant's first date of service with Post Office and (a) 6 months after the Claimant's last date of service, or (b) 6 December 2017 (whichever is earlier).

A number of the Claimants are currently postmasters who continue to generate documents which are relevant. An end date of 6 December 2017 has been selected so as to ensure further extractions of Post Office documents after this date are not required. Post Office believe it is reasonable and proportionate (given the issues with extraction of data explained below) to set an end date.

Please see Appendix A to this Electronic Disclosure Questionnaire for the date ranges of each Claimant. **[Appendix being finalised by Beth / Joel]**

In relation to "generic" documents, disclosure to be limited to electronic and hard copy documents created between 1 January 1999 and 31 July 2017.

Attachments to emails which do not fall within the above date ranges should be disclosed where the parent email falls within the data range.

2. Identify the custodians or creators of your Electronic Documents whose repositories of documents you consider should be searched.

**Note** - Include names of all those who may have or have had custody of disclosable documents, including secretaries, personal assistants, former employees and/or former participants. It may be helpful to identify different dates for particular custodians.

Please see Appendix B of this Electronic Disclosure Questionnaire for a list of Key Teams and Custodians. [Pete/Amy finalising Appendix B for custodians].

As at 1 October 2017, Post Office had 4,965 contracted employees. These work from around 320 different offices and locations, with 461 of Post Office's employees either working from home or are field-based, meaning that they have no fixed office base. Consequently, Post Office will have potentially relevant documents spread amongst a significant number of people and different locations. The list of Key Teams and Custodians at Appendix B is limited to those teams and individuals who from the generic pleadings appear to be relevant to the issues in dispute. Post Office considers it reasonable and proportionate to limit its search to the custodians listed.

### Communication

3. Which forms of electronic communication were in use during the date range (so far as is relevant to these proceedings)?

**Note – Column D** - State the geographical location (if known). Consider (at least) servers, desktop PCs, laptops, notebooks, handheld devices, PDA devices, off-site storage, removable storage media (for example, CD-ROMs, DVDs, USB drives, memory sticks) and databases.

**Note – (i) email** - Consider all types of e-mail system (for example, Outlook, Lotus Notes, web-based accounts), whether stored on personal computers, portable devices or in web-based accounts (for example, Yahoo, Hotmail, Gmail).

**Note – (ii) Other** - For example, instant messaging, voicemail, VOIP (Voice Over Internet Protocol), recorded telephone lines, text messaging, audio files, video files.

A	B	C	D	E
Communication	In use during the date range? (Yes/No)	Are you searching for relevant documents in this category? (Yes/No)	Where and on what type of software/ equipment/ media is this communication stored?	(a) Are back-ups or archives of this communication available; and  (b) if so, are you searching the backups or archives?
i) E-mail	Yes	Yes	(a) Until [X], Post Office used Lotus Notes.  [Where is Lotus notes stored – in EFC?]  (b) From [X] onwards, Microsoft Outlook – Post Office's servers.  Emails are either	[To discuss with POL IT]

A	B	C	D	E
			<p>stored in a custodian's account or a shared team account.</p> <p>[Stored in archiving?]</p> <p>[Volume of each custodians email account and team accounts?]</p>	
ii) Other (provide details for each type)	(a) Skype Instant Messaging (b) SMS (c) Voicemail (d) Recorded calls	(a) No (b) No (c) No (d) Yes	(a) to (c) – No (d) Databases identified in Question 5.	The archiving of documents depends on the databases in which they are stored. A response to this question is therefore provided in Question 5.

### Electronic Documents

4. Apart from attachments to e-mails, which forms of Electronic Documents were created or stored by you during the date range?

**Note – Column D** - State the geographical location (if known). Consider (at least) servers, desktops and laptops.

**Note – Electronic images** - For example, .pdf, .tif, .jpg.

**Note – Other** - For example, PowerPoint or equivalent, specialist documents (such as CAD Drawings).

A	B	C	D	E
Document Type	In use during the date range? (Yes/No)	Are you searching for relevant documents in this category? (Yes/No)	Where and on what type of software/ equipment/ media are these documents?	(a) Are back-ups or archives of these documents available, and (b) if so, are you searching the back-ups or archives?
Please see Appendix C				

**Databases of Electronic Documents**

5. In the following table identify database systems, including document management systems, used by you during the date range and which may contain disclosable Electronic Documents.

A	B	C	D	E
Name	Brief description	Nature of data held	Are you disclosing documents held in this database? (Yes/No)	Proposals for provision of relevant documents to or access by other parties to this litigation
Please see Appendix D for the databases on which Electronic Databases are stored. For completeness, Appendix E contains information on the storage of hardcopy documents.				

**Method of search****Key words**

**Note** - Where Keyword Searches are used in order to identify irrelevant documents which are to be excluded from disclosure (for example a confidential name of a client or customer), a general description of the type of search may be given

6. Do you consider that Keyword Searches should be used as part of the process of determining which Electronic Documents you should disclose? ☒ Yes ☐ No

If Yes, please provide details of –

(1) the keywords used or to be used (by reference, if applicable, to individual custodians, creators, repositories, file types and/or date ranges); and

**Generic Documents**

As addressed in Womble Bond Dickinson's letter of 24 November 2017, Post Office proposes that following exchange of the EDQs the parties discuss the topics on which further disclosure is sought and seeks to agree appropriate key words for these topics.

**Claimants' Documents**

In relation to documents that specifically refer to a Claimant, Post Office proposes to apply the following key words to identify documents which are relevant to a Claimant:

(Claimant's First Name or Claimant's Last Name) AND (Branch Name or Branch Code or Company Name)) or Mediation Case Number.

For example, a document which included the terms "Alan" or "Bates" and "Craig-y-don" or "461614" would be identified as a document which is relevant to Alan Bates, as would a document including the term "M137".

This is subject to the assumption that the number of documents deemed to be keyword responsive is not disproportionate or unreasonable. These keywords will be considered further after the data has been extracted, keywords applied and discussion with the Claimants' legal advisors.

(2) the extent to which the Keyword Searches have been or will be supplemented by a review of individual documents.

All documents and their family members deemed to be keyword responsive will be individually reviewed to determine their relevance (and to redact or remove any material that is legally privileged).

This is subject to the assumption that the number of documents deemed to be keyword responsive is not disproportionate or unreasonable to be individually reviewed. This will be determined after the data has been extracted, keywords applied and discussion with the Claimants' legal advisors.



**Other types of automated searches**

7. Do you consider that automated searches or automated techniques other than Keyword Searches (for example, concept searches or clustering) should be used as part of the process of determining which Electronic Documents you should disclose? ☒ Yes ☐ No

If Yes, please provide details of –

(1) the process(es) used or to be used (by reference, if applicable, to individual custodians, creators, repositories, file types and/or date ranges);

This will be reviewed once the potentially responsive material has been collected, indexed and an overview has been obtained as to whether keywords will be appropriate. Again, that review will include discussion with the Claimants' legal advisors.

(2) the extent to which the processes have been or will be supplemented by a review of individual documents; and

Documents identified as potentially relevant by any searches will be subject to a review.

(3) how the methodology of automated searches will be made available for consideration by other parties.

This is something that will be considered in due course once a view has been reached as to what searches or techniques are appropriate.

8. If the answer to Question 6 or 7 is 'Yes', state whether (a) attachments to e-mails (b) compressed files (c) embedded files and (d) imaged text will respond to your Keyword Searches or other automated search.

Yes, Post Office proposes that documents which would not be responsive are converted into an OCR document so as to be responsive to keywords.

Documents which cannot be converted to OCR (such as call recordings), will be subject to manual review. This is subject to the assumption that the number of documents is not disproportionate or unreasonable to be individually reviewed. This will be determined after the data has been extracted, keywords applied and discussion with the Claimants' legal advisors.

9. Are you using or intending to use computer software for other purposes in relation to disclosure? ☒ Yes ☐ No

If Yes, please provide details of the software, processes and methods to be used.

Subject to the issue of proportionality it is envisaged that having collected the data it will be indexed, non-searchable files containing text will be OCR'd and a fully searchable database of the material will be prepared – with any documents that cannot be included being identified.

In addition, it is proposed that a litigation review database (kCura Relativity) will be used to maximise the efficiency of the review exercise

**Potential problems with the extent of search and accessibility of Electronic Documents**

**Note** - See Practice Direction 31B, which refers to the following matters which may be relevant: (a) the number of documents involved; (b) the nature and complexity of the proceedings; (c) the ease and expense of retrieval of any particular document; (d) the availability of documents or contents of documents from other sources; and (e) the significance of any document which is likely to be located during the search.

10. Do any of the sources and/or documents identified in this Electronic Documents Questionnaire raise questions about the reasonableness of the search which ought to be taken into account? ☒ Yes ☐ No

If Yes, please give details.

(a) Sharepoint

Post Office has already engaged a third party e-disclosure provider to forensically extract and preserve potentially relevant documents from SharePoint. This was a considerable project requiring input from ComputaCenter (Post Office's IT supplier that manages access to SharePoint), as well as internal input from Post Office's data and information security teams, IT team and owners of the SharePoint sites. During this extraction a number of issues were encountered and these may re-occur during future extractions.

- Due to the security permissions being setting up in a granular manner (enabling access to one area of SharePoint does not enable access to other areas) there were and may be further issues creating a user account for the third party e-disclosure provider which enables an appropriate level of access for documents to be forensically extracted.
- Once access to SharePoint was obtained, Nuix (the collection tool) was unable to communicate with SharePoint.
- The above matters have now been resolved but similar difficulties may be faced with further extractions from SharePoint.

(b) Transaction and event data:

As addressed in Womble Bond Dickinson's letter of 22 November 2017 (a copy of which is enclosed at Appendix F), Post Office has been informed by Fujitsu that there are a vast number of fields available in the database which hosts the transaction and event data and that over time these fields have changed. Post Office therefore proposes it would be reasonable and proportionate that the data is filtered so that it only includes those fields which relate to transactions and events which would affect a branch's accounts.

To disclose the unfiltered Data would require it to be extracted in a .txt format (rather than in .xlsx which can be read by Excel) and converted into a readable format. Further, the unfiltered data would be between 10GB and 1000B of data per branch per month depending on the size of the branch and the activity in that branch during the month. This compares to the 1 MB of data per month in the filtered format. The hosting of 400 months of unfiltered data by Post Office's third party e-discovery partner would cost between £100,000 and £1 million per a month.

The Claimants have not yet responded on this proposal and it will therefore be discussed between the parties following exchange of the EDQs.

## (c) Proprietary databases:

A number of the databases used by Post Office are proprietary databases which require proprietary software to review the data in an intelligible format. These databases are not set up for mass extraction of data and where it is not possible to extract documents in their native format, then it is proposed that the documents are (where possible) exported to commonly used software such as Excel. Further, responsibility for these proprietary databases during the relevant period has been passed between companies and Post Office is reliant on the third parties for the transfer of this data between systems and the assistance of third parties to access this data.

## (d) Other:

It is not anticipated that there will be other problems but until the extraction of documents begins it is impossible to guarantee this.

11. Are any documents which may be disclosable encrypted, password-protected or for other reasons difficult to access, or do you have any reason to believe that they may be? ☒ Yes ☐ No

If Yes, please state which of the categories identified at Questions 3, 4 and 5 above are affected, and your proposals for making them accessible.

**Note** - For example, back-ups, archives, off-site or outsourced document storage, documents created by former employees, documents stored in other jurisdictions, documents in foreign languages.

Please see Appendix C. A number of the documents contain coding information that, while often intelligible from the text, would need to be viewed in its native program to see the intended format.

12. Are you aware of any other points in relation to disclosure of your Electronic Documents which require discussion between the parties? ☒ Yes ☐ No

If Yes, please give details.

As addressed above, there is a need to agree search terms, filtering of transaction and event data, process for exchanging documents and the extent of disclosure which is to be provided in relation to "generic documents". These matters shall be discussed between the parties following exchange of EDQs.

### Preservation of Electronic Documents

13. Do you have a document retention policy? ☒ Yes ☐ No

If Yes, please give details

The majority of the Post Office's documents are retained for a period of 7 years, however the specific document retention policies depend on the type of document and team. Please see Question 5 for further information.

When an employee ceases to be an employee of Post Office, their laptops are re-distributed within the business [are emails and OneDrives kept?]

14. Have you given an instruction to preserve Electronic Documents? ☒ Yes ☐ No

If Yes, when did you do so?

Yes, 20 April 2016 and 12 May 2017.

### Inspection

15. Subject to re-consideration after receiving the responses of other parties to this Electronic Documents Questionnaire, (a) in what format and (b) on what media do you intend to provide to other parties copies of disclosed documents which are or will be available in electronic form?

Please see Appendix G which sets out the Post Office's proposals made to the Claimants on 14 November 2017. This matter will be discussed between the parties following the exchange of EDQs.

16. Subject to re-consideration after receiving the responses of other parties to this Electronic Documents Questionnaire, do you intend to provide other parties with Disclosure Data electronically?

If Yes, in what format and on what media?

See 15, above. The format and media / method of delivery will be agreed with the other party and could involve USB stick or hard drive or sftp transfer - depending on volumes and what is agreed.

17. Insofar as you have available or will have available searchable OCR versions of Electronic Documents, do you intend to provide the searchable OCR version to other parties? ☒ Yes ☐ No

**Note** - There is no requirement that you should obtain OCR versions of documents, and this question is directed only to OCR versions which you have available or expect to have available to you. If you do provide OCR versions to another party, they will be provided by you on an 'as is' basis, with no assurance to the other party that the OCR versions are complete or accurate. You may wish to exclude provision of OCR versions of documents which have been redacted.

If No, why not?

N/A

## Part 2 - The disclosure of other parties

### The extent and content of their search

18. Do you at this stage have any proposals about the date ranges which should be searched by other parties to the proceedings? ☒ Yes ☐ No

If Yes, please provide details.

Same as Question 1.

19. Do you at this stage have any proposals about the custodians or creators whose repositories of documents should be searched for disclosable documents by other parties to the proceedings? ☒ Yes ☐ No

If Yes, please provide details.

**Note** - Include names of all those who may have or have had custody of disclosable documents, including secretaries, personal assistants, former employees and/or former participants. It may be helpful to identify different dates for particular custodians.

As raised with the Claimants on 30 May 2017, Post Office proposes that the following custodians should be within scope for searching:

- (a) Claimants;
- (b) Claimant's accountants / financial advisors;
- (c) Claimant's previous lawyers;
- (d) Claimant's insolvency practitioners (where applicable);
- (e) Claimant's estate agents (where Claimant is seeking to claim loss of investment)
- (f) HMRC / Claimant's tax advisors;
- (g) Claimant's medical advisors (where Claimant is seeking to claim personal injury);
- (h) other business advisors;
- (i) Claimant's branch managers or assistants;
- (j) Claimant's family member (where Claimant is seeking to claim for losses caused to them).

20. Do you consider that the other party(ies) should disclose all available Metadata attaching to any documents? ☒ Yes ☐ No

If Yes, please provide details of the documents or categories of documents.

**Note** - 'Metadata' is information about the document or file which is recorded in the computer, such as the date and time of creation or modification of a word-processing file, or the author and the date and time of sending of an e-mail. The question is directed to the more extensive Metadata which may be relevant where for example authenticity is disputed.

Disclosure is sought of all available files in their native format together with a load file indexing that material and holding the key metadata fields – in the same way as is contemplated for disclosure by Post Office as outlined in our response to Question 15 above.

#### Proposals for the method to be adopted for their searches

21. Do you at this stage have any proposals about the Keyword Searches, or other automated searches, which should be applied by other parties to their document sets? ☒ Yes ☐ No

If Yes, please provide details.

As stated at Question 12 above, this is something that will need to be discussed and agreed in due course.

#### Inspection

22. Subject to re-consideration after receiving the responses of other parties to this Electronic Documents Questionnaire, (a) in what format and (b) on what media do you wish to receive copies of disclosed documents which are or will be available in electronic form?

(a) The format in which the documents were created.

(b) The media / method of delivery will be agreed with the other party and could involve USB stick or hard drive or sftp transfer - depending on volumes and what is agreed.

23. Subject to re-consideration after receiving the responses of other parties to this Electronic Documents Questionnaire, do you wish to receive Disclosure Data electronically? ☒ Yes ☐ No

If Yes, in what format and on what media?

See response to Question 22 above.

**STATEMENT OF TRUTH**

\*[I believe] [The [claimant] [defendant] believes] that the facts stated in the answers to this Electronic Documents Questionnaire are true.

\*I am duly authorised by the [claimant] [defendant] to sign this statement.

Full name \_\_\_\_\_

Name of legal representative's firm \_\_\_\_\_

Signed \_\_\_\_\_

Position or office held  
(if signing on behalf of firm or company) \_\_\_\_\_

Date \_\_\_\_\_

*\*delete as appropriate*

