

THE POST OFFICE GROUP LITIGATION

Claim No. HQ16X01238, HQ17X02637
& HQ17X04248

IN THE HIGH COURT OF JUSTICE
QUEEN'S BENCH DIVISION

BEFORE: The Hon. Mr Justice Fraser

B E T W E E N:-



ALAN BATES & OTHERS

Claimants

- and -

POST OFFICE LIMITED

Defendant

SEVENTH CMC ORDER

UPON hearing Leading and Junior Counsel for the Claimants and Leading Counsel for the Defendant at an adjourned Case Management Conference on 12 February 2019

IT IS ORDERED that: -

List of Issues

1. The issues to be determined at the Further Issues Trial referred to in paragraph 1 of the Order dated 31 January 2019 are those set out in the List of Further Issues in **Part A of the Schedule** to this Order (the "**Further Issues**").
2. The Lead Claimants whose claims shall be tried for the purposes of determining Further Issue (1), as to limitation, and by reference to whose claims Further Issue (2) is to be determined, are those identified in **Part B of the Schedule** to this Order.

Disclosure for Further Issues Trial – Stage 4 Disclosure

3. Any initial disclosure sought by either party in respect of Further Issue 1 (to be known as "**Stage 4 Disclosure**") shall be given as follows:

- 3.1. By 4pm on 1 March 2019, either party may make a request for Extended Disclosure, in accordance with Model C of Practice Direction 51U CPR, of categories of documents in respect of the Further Issues insofar as they relate to the case of each party particularised in their generic statements of case.
- 3.2. By 4pm on 15 March 2019, the party from whom disclosure is sought shall respond to any such request, identifying the extent of their agreement to comply with it, the reason(s) in paragraph 6.4, PD51U CPR for any refusal to do so, and any alternative proposals it considers would comply with that paragraph.
- 3.3. In the event the parties are unable to agree the Extended Disclosure to be given under this paragraph, either party may request that a disclosure CMC be listed for the grant of appropriate further orders for Stage 4 Disclosure.
- 3.4. By 4pm on 26 April 2019 the parties shall disclose and make available for inspection any hard copy and electronic documents it is agreed or ordered are to be disclosed in accordance with the requirements of this paragraph.

Limited Individual Statements of Case

4. In respect of each selected Lead Claimant, in relation to the Further Issues:
 - 4.1. by 4pm on 15 May 2019, the Lead Claimants shall file and serve Individual Particulars of Claim on the Further Issues:
 - a. on Further Issue (1), for Mrs Stubbs and Mr Abdulla, particularising the Defendant's alleged breaches and their case on limitation including in relation to those breaches;
 - b. on Further Issue (2), for Mrs Stubbs and Mr Abdulla (above) and Mr Bates and Mrs Stockdale, particularising the basis upon which their losses are claimed;
 - 4.2. by 4pm on 17 June 2019, the Defendant shall file and serve Individual Defences thereto;
 - 4.3. by 4pm on 8 July 2019, the Lead Claimants shall file and serve any Individual Replies.

- 4.4. By noon on 15 July 2019, the parties shall seek to agree the selection of breaches to be tried at the Further Issues Trial for the purposes of determining Further Issue (1). Any outstanding dispute as to the selection may be determined at the CMC referred to in paragraph 7 of this Order.

Individual Disclosure for Further Issues Trial – Stage 5 Disclosure

5. The parties shall give further disclosure of documents in relation to Further Issue 1 (to be known as “Stage 5 Disclosure”), as follows: -
- 5.1. By 4pm on 8 July 2019, either party may request Extended Disclosure, in accordance with Model C under Practice Direction 51U CPR, of categories of documents in respect of the issues that arise on the individual statements of case filed and served pursuant to paragraph 4 of this Order.
- 5.2. By 4pm on 15 July 2019, the party from whom disclosure is sought shall respond to any such request, identifying the extent of their agreement to comply with it, the reason(s) in paragraph 6.4, PD51U CPR for any refusal to do so and any alternative proposals it considers would comply with that paragraph.
- 5.3. In the event the parties are unable to agree the Extended Disclosure to be given in accordance with this paragraph, any outstanding dispute may be resolved at the CMC listed under paragraph 7 of this Order.
- 5.4. By 4pm on 6 September 2019, the parties shall disclose and make available for inspection any hard copy and electronic documents it is agreed or ordered are to be disclosed in accordance with the requirements of this paragraph.

Witness statements

6. By 4pm on 13 September 2019, the parties shall file and serve any witness statements upon which they intend to rely at the Further Issues Trial, in relation to Further Issue 1 only.

Case Management Conferences and Pre-trial Review

7. A Costs and Case Management Conference shall take place on 23 July 2019, [*time estimate 1 day*] for the purposes of:

- 7.1. considering if, and to what extent, any supplemental IT expert evidence is necessary for the cases of Mrs Stubbs and Mr Abdulla for resolution of Further Issue (1) and:
 - a. determining whether to grant permission to the parties to adduce and rely upon the same; and
 - b. if so, grant of directions with respect to such expert evidence;
- 7.2. resolving any outstanding disputes as to Extended Disclosure under paragraph 5 of this Order (as to Stage 5 Disclosure);
- 7.3. reviewing, refining and approving the issues selected for the purposes of determining Further Issues (1) and (2) at the Further Issues Trial and/or resolving any outstanding disputes as to the same; and
- 7.4. costs management in accordance with paragraphs 18 to 20 of this Order.
8. A further Case Management Conference shall take place on 18 September 2019 [*time estimate 2.5 hours/1 day*] for the purposes of:
 - 8.1. resolution of any outstanding dispute as to disclosure as at that date; and
 - 8.2. any further outstanding matter relating to the Further Issues Trial.
9. The parties shall notify the Court by 5pm on 18 July 2019 as to whether the Costs and Case Management Conference referred to in paragraph 7 is effective, or should be vacated. The parties shall inform the Court 7 days before any further CMC listed pursuant to this Order as to whether the hearing is effective, or should be vacated.
10. The parties shall each lodge skeleton arguments and draft order(s) by 12pm, 2 clear days before any CMC referred to in this Order, setting out the directions to be sought by them at that hearing.
11. The parties shall liaise with one another and co-operate regarding documents that it will be necessary to put before the Court at any CMC referred to in this Order. Such documents to be contained in a separate paginated hearing bundle, and to be lodged by 4.30pm, 2 clear days before the CMC.

12. There shall be a Pre-Trial Review and further Case Management Conference listed on 17 October 2019, time estimate 1 day.

Identification of Issues for further trials

13. To prepare for future trials after the Further Issues Trial, the parties shall take the steps below to identify possible issues for determination at future trials ("**Further Trial Issues**") and a pool of potential Test Claimants ("**Test Claimants**").
14. The pool of potential Test Claimants shall be selected so to reflect, as far as reasonably practicable, the material factual circumstances and legal claims raised by the wider group of Claimants in this Group Litigation.
15. The parties shall discuss and seek to agree a document setting out the features and characteristics which the potential Test Claimants should have to comply with paragraph 15 above ("**the Selection Criteria**").
16. By 4pm on 9 July 2019, either the agreed Selection Criteria shall be filed with the Court or the parties shall notify the Court that they will need to be determined at the CMC listed for 23 July 2019 ordered in paragraph 7 above.
17. By 4pm on 4 September, each party shall produce a list of up to 15 Claimants who they propose could be Test Claimants in line with the agreed or ordered Selection Criteria and a list of the Further Trial Issues that they propose be determined at future trials.

Costs and Costs Management

18. At the Costs and Case Management Conference referred to in paragraph 7 above, the parties' costs budgets shall be reviewed in accordance with the terms of the Consent Order dated 27 April 2018 (the "**Costs Consent Order**").
19. In accordance with the requirements of paragraph 11 of the Costs Consent Order:
 - 19.1. by 4pm on 2 July 2019, the parties shall file and exchange updated costs budgets;
 - 19.2. by 4pm on 16 July 2019, the parties shall file and exchange budget discussion reports in respect of those updated costs budgets.

20. The updated budgets to be filed and served shall be:
 - 20.1. produced in the same format as costs budgets that have previously formed the subject of Costs Management Orders in these proceedings; and
 - 20.2. updated to include the parties' incurred and estimated costs, as at 2 July 2019, for the Further Issues Trial, distinguishing those costs from the costs of the Common Issues and Horizon Issues Trials.

General Matters

21. Common costs in the case.
22. The parties shall have liberty to apply in respect of any provision of this Order.

DATED this 12th day of February 2019

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Claimants

- and -

POST OFFICE LIMITED

Defendant

SCHEDULE 1
TO THE SEVENTH CMC ORDER

PART A: ISSUES FOR DETERMINATION

Further Issue (1): Limitation

In respect of identified alleged breaches of contract and/or alleged acts of tortious wrongdoing (together, "alleged wrongdoing"), which the Defendant alleges to be time barred:

- (a) whether the alleged wrongdoing in fact occurred; and if so,*
- (b) whether the relevant period of limitation is postponed pursuant to sections 32(1)(a) (deceit), 32(1)(b) and 32(2) (concealment), and/or 32(1)(c) (mistake) of the Limitation Act 1980, such that the claim in respect of the alleged wrongdoing is not time barred.*

1. The determination of **Issue (1)** will require factual evidence from the two Lead Claimants identified in Part B, below, to be heard.

Further Issue (2): Measure of Loss

In any case where a Claimant's contract's termination may be determined to have involved a breach of duty by Post Office, what is the correct measure of loss?

2. **Issue (2)** will be determined in relation to the losses alleged by the four Lead Claimants identified below in Part B, on agreed assumed facts.
3. The determination of **Issue (2)** will not require factual evidence to be heard.

PART B: LEAD CLAIMANTS

Issue (1) - Limitation

4. The claims of the following existing Lead Claimants should be tried for the purposes of determining **Issue (1)**, above:
 - 4.1. Pamela Stubbs; and
 - 4.2. Naushad Abdulla.

Issue (2) – Measure of Loss

5. The measure of loss, **Issue (2)**, shall be determined in relation to the claims made by the Lead Claimants above and:
 - 5.1. Alan Bates; and
 - 5.2. Elizabeth Stockdale.