

THE POST OFFICE GROUP LITIGATION

IN THE HIGH COURT OF JUSTICE

Claim Nos HQ16X01238, HQ17X02637

QUEEN'S BENCH DIVISION

& HQ17X04248

BEFORE THE HONOURABLE MR. JUSTICE FRASER

B E T W E E N :

ALAN BATES & OTHERS

Claimants

– and –

POST OFFICE LIMITED

Defendant



ORDER FOR DIRECTIONS

at hearing on 2 February 2018

UPON the making of an order following a Case Management Conference on 19 October 2017 (the “**First CMC Order**”)

AND UPON the Court holding a hearing on 2 February 2018 pursuant to paragraph 12 of the First Case Management Order (the “**Disclosure CMC**”)

AND UPON HEARING Leading Counsel for the Claimants and Leading Counsel for the Defendant

IT IS ORDERED THAT:-

Part 18 Request

1. The Defendant shall answer the Claimants' Part 18 Request for Further Information dated 29 December 2017 and provide the information sought therein by 4pm on 9 February 2018.

Variations To First CMC Order

Selection of Lead Cases for Common Issues Trial

2. The date for the agreement or selection of Lead Cases from the pool of Potential Lead Claimants provided at paragraph 7 of the Order following the first CMC (the "**First CMC Order**") be amended to 2 March 2018.

Date for agreement of statement of facts

3. The date for filing an agreed statement of facts in relation to the Common Issues shall be extended by 5 working days to 6 July 2018.

Disclosure

General Disclosure Requirements and Pilot for the Business and Property Courts

4. Pursuant to CPR r.31.5(8)(f), further disclosure be given by the parties in stages, namely:
 - (a) as required pursuant to this Order, and
 - (b) in such further stages as may be further agreed or directed.
5. Save as otherwise specifically provided in this Order, pursuant to CPR r.31.5(7)(c), such disclosure is to be given on an issue by issue basis. Such disclosure shall be given in accordance with Model C and the draft Practice

Direction 'Disclosure Pilot for the Business and Property Courts' (the "**draft Practice Direction**"), which shall be adopted, save as follows:-

- (a) The requirements of Paragraph 5 (Basic Disclosure) be dispensed with.
 - (b) The requirement upon the parties to produce Disclosure Review Documents in accordance with paragraphs 10 and Appendix 2 of the draft Practice Direction is dispensed with, as is any further requirement imposed upon the parties relating to Disclosure Review Documents.
 - (c) For all relevant purposes, any reference in the draft Practice Direction to Disclosure Review Documents shall be taken as a reference to the Electronic Disclosure Questionnaires exchanged by the parties in accordance with paragraph 11 of the First CMC Order.
6. The parties shall comply with the agreed protocol for the production, storage and referencing of documents at Schedule 3 to this Order.
7. The disclosure to be provided by the Order shall be provided on the basis of a reasonable and proportionate search, in the light of the issues between the parties.

Requests for Disclosure

8. For the avoidance of doubt, and consistent with the provision for disclosure in stages above, following disclosure and inspection of documents in accordance with the terms of this Order, the Claimants and the Defendant may each request from the other that further searches be carried out for documents relevant to the issues listed therein and for disclosure thereof. In the event that any such request is made, the parties shall seek to agree the extent of such searches or disclosure.

Disclosure for Common Issues Trial – Individual (Stage 1)

9. The parties shall by 4pm on 28 February 2018 disclose and make available for inspection the electronic and hard copy documents which fall within the scope of Schedule 1 to this Order.

Disclosure for Common Issues Trial – Generic (Stage 2)

10. The parties shall by 4pm on 18 May 2018 provide Extended Disclosure of all electronic and hard copy documents:
 - (a) Part 1: within the categories identified in Part 1 of Schedule 2 to this Order, including the repositories of such further custodians as the parties may agree by 4pm on 8 February 2018.
 - (b) Part 2: relevant to the generic issues in the Common Issues Trial to be agreed by the parties by 4pm on 8th February, in accordance with Disclosure Model C.

Statement of Facts for ‘factual matrix’ for determination of Common Issues

11. By 4pm on 2 March 2018, the Claimants shall serve upon the Defendant a draft statement of the factual matrix on the basis of which they will submit that the contractual relations between the parties fall to be construed, as a matter of law, at the Common Issue Trial.
12. By 4pm on 6 April 2018, the Defendant shall serve upon the Claimants a draft statement of the factual matrix on the basis of which they will submit, as a matter of law, at the Common Issue Trial, identifying the extent to which they agree the statement served by the Claimants in accordance with paragraph 11 above.

13. By 4pm on 4 May 2018, the parties shall either file at Court either:

- (a) a single set of facts that the parties agree may form the basis upon which such issues of contractual interpretation will fall to be determined; or
- (b) a single document setting out the extent of agreement, if any, and the facts to be relied upon by each party for that purpose.

ADR

14. The parties shall use their reasonable endeavours to attend a mediation as soon as practicable after receipt and consideration of the Judgment on the Common Issues to attempt to resolve (or at least narrow) the dispute by way of mediation.

15. For the avoidance of doubt, paragraph 24 of the First CMC Order shall apply to any party who does not engage in mediation.

Agreement of issues for further substantive trial

16. The parties shall seek to agree discrete common issues relating to the Horizon IT system, that are capable of determination at the hearing listed pursuant to paragraph 34 First CMC Order.

Adjournment of this Disclosure CMC

17. Save for grant of the directions set out in this Order, this Disclosure CMC is adjourned to a further hearing to take place on 22nd February 2018 with a time estimate of 2.5 hours, for the following purposes:

- (a) to resolve any dispute between the parties as to the matters to be

agreed pursuant to paragraph 10 of this Order;

- (b) to consider issues agreed or proposed to be determined at the hearing listed by paragraph 34 of the First CMC Order, and make appropriate further orders for that trial.

Costs

- 18. The costs of this Disclosure CMC shall be Common Costs in the case.

Liberty To Apply

- 19. The parties shall have liberty to apply in respect of any provision in this Order.

Dated this 2nd day of February 2018

SCHEDULE 1**Stage 1 Disclosure: Common Issues – Potential Lead Claimants**

| BRIEF DESCRIPTION OF ISSUE | EXTENDED DISCLOSURE MODEL¹ | SOURCES | SEARCH CRITERIA² |
|---|--|--|---|
| <u>Disclosure by the Claimants</u> Preliminary disclosure by Potential Lead Claimants excluding quantum/damages documents. (In addition to those documents disclosed pursuant to First CMC Order) | D | <ol style="list-style-type: none">1. Potential Lead Claimants' email accounts.2. Electronic documents held on Potential Lead Claimants' laptops / PCs.3. Hardcopy documents held by the Potential Lead Claimant.4. All other documents under the control of Potential Lead Claimants (including without limitation those in the possession of other custodians) subject to proportionality) | Initial search terms to include: <ul style="list-style-type: none">- Assistant- Audit- Branch- Contract- Helpline- HOL- Horizon- Loss- "Make good"- NBSC |

¹ Save where otherwise indicated, Extended Disclosure by Model D shall not include disclosure of 'Narrative Documents' as defined in Appendix 1 to the draft Practice Direction

² Keywords are not case sensitive and searches shall be run with Boolean operators where indicated

| BRIEF DESCRIPTION OF ISSUE | EXTENDED DISCLOSURE MODEL ¹ | SOURCES | SEARCH CRITERIA ² |
|---|--|---|--|
| | | | <ul style="list-style-type: none"> - Notice - "Post Office" - POL (in caps) - PO (in caps) - "Settle centrally" - Shortfall - Suspen* - TC - Terminat* - Training - "Transaction correction" - (Branch Name) - (Branch Code) - (FSC Code) - (Mediation Case Number) |
| <u>Disclosure by Post Office</u> Preliminary disclosure of | D | 5. SharePoint sites: ³ a. All documents extracted by Post Office as referred to at Part 1, section 10 of Post | (Claimant's First and Last Name) OR (Claimant's First Name or Claimant's |

³ Subject to any technical limitations on extracting data within the time available.

| BRIEF DESCRIPTION OF ISSUE | EXTENDED DISCLOSURE MODEL ¹ | SOURCES | SEARCH CRITERIA ² |
|--|--|--|---|
| <p>documents that relate to a Potential Lead Claimant.</p> <p>(In addition to those documents disclosed pursuant to the First CMC Order)</p> | | <p>Office's EDQ</p> <ul style="list-style-type: none"> b. Agent Application Team c. Contract Advisors d. Relationship Manager e. Recruitment team <p>6. Electronic Filing Cabinet (as provided by Royal Mail to Post Office)</p> <p>7. Contract Advisor hardcopy files</p> <p>8. Email accounts of:</p> <ul style="list-style-type: none"> a. John Breeden (Contract Advisor Team Leader) b. Lin Norbury (Contract Advisor Team Leader) c. Craig Tuthill (Contract Advisor Team Leader) d. Andrew Carpenter e. Agent Applications team mailbox f. Scheduling & Admin team mailbox g. Current agent debt team mailbox h. Former agent debt team mailbox i. Branch Support Services mailbox | <p>Last Name)</p> <p>AND</p> <p>(Branch Name or Branch Code or Company Name or Trading Name or Mediation Case Number)</p> <p><u>Which would include these examples:</u></p> <p>"Alan Bates"</p> <p>"Alan" and "Craig-y-don"</p> <p>"Bates" and "461614"</p> <p>"Bates" and "M137"</p> |

| BRIEF DESCRIPTION OF ISSUE | EXTENDED DISCLOSURE MODEL ¹ | SOURCES | SEARCH CRITERIA ² |
|-------------------------------|--|--|------------------------------|
| | | j. Andrew Kenny (Branch Support Services) k. Anne Allaker (Branch Support Services) l. Support Services Resolution mailbox | |

SCHEDULE 2

Stage 2 Disclosure: Common Issues

Part 1: Common Issues - Further Lead Claimant Disclosure

| ISSUE FOR DISCLOSURE | MODEL FOR DISCLOSURE ⁴ | SOURCES OF DOUCMENTS | KEYWORDS ⁵ |
|--|-----------------------------------|--|---|
| <u>Disclosure by Post Office</u> Further disclosure of documents that refer to a Lead Claimant. | D | <ol style="list-style-type: none"> 1. The email accounts of custodians to be agreed by the parties in accordance with paragraph 10(a) of this Order. 2. All SharePoint sites (and which have not already been included in Stage 1 Disclosure)⁶ 3. NBSC documents in N:Drive 4. Legal and Security Team L: Drive 5. Remuneration and Application teams documents in the T: Drive. | (Claimant's First and Last Name) OR (Claimant's First Name or Claimant's Last Name) AND (Branch Name or Branch Code or Company Name or Trading Name or Mediation Case Number) <i>Which would include these examples:</i> "Alan Bates" |

⁴ Save where otherwise indicated, Extended Disclosure by Model D shall not include disclosure of 'Narrative Documents' as defined in Appendix 1 to the draft Practice Direction.

⁵ Keywords are not case sensitive and searches shall be run with Boolean operators where indicated.

⁶ Subject to (i) any technical limitations on extracting data within the time available and (ii) the parties using their reasonable endeavours to narrow the scope of data to be extracted to those sources that are likely to hold proportionate volumes of relevant documents.

| | | | |
|--|--|--|--|
| | | | "Alan" and "Craig-y-don" "Bates" and "461614" "Bates" and "M137" |
|--|--|--|--|

Part 2: Common Issues – Generic Disclosure

Disclosure to be given pursuant to paragraph 10(b) to the Order

SCHEDULE 3

Agreed Protocol

| AGREED PROTOCOL FOR THE EXCHANGE OF ELECTRONIC DATA | |
|--|---|
| Elevate and Advanced Discovery to liaise regarding the protocol for exchanging documents | Agreed |
| <i>Disclosure List</i> | |
| Documents sorted into chronological order, with any attachments listed directly below their parent. The documents for each Claimant are grouped together and any "generic" documents (disclosed by Post Office) should be grouped separately. The Disclosure List shall contain the fields set out below. | Agreed |
| Disclosure Date will be presented as DD/MM/YYYY | Agreed |
| Claimant number as per the Claim Form (those documents relating to more than one Claimant will be marked as Generic) | Agreed |
| Document reference number – each document is assigned a unique Disclosure ID eg POL-0000001 / C-001-000001 | Agreed |
| Claimants will give their own disclosure, even if this means disclosing duplicate copies of documents across multiple Claimants | Agreed, deduplication within a subset of documents allocated to each Claimant will be used. |

| AGREED PROTOCOL FOR THE EXCHANGE OF ELECTRONIC DATA | |
|--|--------|
| Disclosure Attached To - The Disclosure Attached To number for a family document is inherited from the Disclosure Number of the parent document. | Agreed |
| Sort Date – DD/MM/YY HH:MM | Agreed |
| Document Date – DD/MM/YY HH:MM | Agreed |
| Document Subject / Title to be included (including meta data) | Agreed |
| File Name | Agreed |
| Document Type – to be based on the file signature | Agreed |
| Author to be included | Agreed |
| Recipients to be included | Agreed |
| CC to be included | Agreed |
| BCC to be included | Agreed |
| MD5 Hash Value to be included | Agreed |
| Redacted – Yes/No | Agreed |

| AGREED PROTOCOL FOR THE EXCHANGE OF ELECTRONIC DATA | |
|--|--------|
| <i>Format of Exchange</i> | |
| Documents to be disclosed in their native format, with the exception of those which have been redacted, along with the metadata | Agreed |
| <p>The production shall be delivered on appropriate encrypted disk media, and comprise the following:</p> <ul style="list-style-type: none"> • A DATA folder containing: <ul style="list-style-type: none"> Metadata load file with selected metadata fields Image load file (Opticon format) • A NATIVES folder containing documents produced in native file format • An IMAGES folder containing documents produced in PDF format • A TEXT folder containing extracted/OCR text files for all files | Agreed |
| Hard copy documents scanned as a PDF image to be scanned black & white (or with colour if necessary). OCR text file to be provided and manually coded with the information above | Agreed |
| Redacted documents to be marked with either a white out or cross hatched white out box with the words "redacted" and exchanged in PDF format. | Agreed |

| AGREED PROTOCOL FOR THE EXCHANGE OF ELECTRONIC DATA | |
|--|--------|
| <i>Method of Exchange</i> | |
| Data to be exchanged by way of Data Exchange File in a .dat file format, with standard concordance default delimiters | Agreed |
| Where it is not reasonable or proportionate for a category of hardcopy documents to be electronically disclosed, then inspection is to be given by way of physical inspection (method of inspection to be agreed between the parties). | Agreed |



DATED the 2nd day of February 2018

HQ16X01238, HQ17X02637 AND HQ17X04248

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QUEEN'S BENCH DIVISION

THE HONOURABLE MR. JUSTICE FRASER

BETWEEN:

ALAN BATES AND OTHERS

-v-

POST OFFICE LIMITED

ORDER

Freeths LLP,

1 Vine Street

London W1J 0AH

Ref: JXH/VN/1684/2113618/1

Solicitors for the Claimants

Bond Dickinson

DX 38517 SOUTHAMPTON

Ref: GRM1/AP6/364065.1369

Solicitors for the Defendant

c.c. Clerk of the Lists

If you have a query with this Order please contact Stephen Jones on telephone no. GRO outside the Court sitting times of 10.30am to 1.00pm and 2.00pm to 4.30pm. Please address any correspondence to the Queen's Bench Associates' Department, Room WG04, The Royal Courts of Justice, Strand, London WC2A 2LL DX 44450 Strand.