

**CONFIDENTIAL AND LEGALLY PRIVILEGED
POST OFFICE GROUP LITIGATION**

Bond Dickinson

Steering Group Meeting: 11 September 2017

DECISION: Does Post Office support the general strategy set out below?

1. THIS PAPER

- 1.1 On 19 October 2017 there will be a Case Management Conference (**CMC**). At this Court hearing, a Judge will decide on the strategic direction of the Group Litigation for the next 6 – 24 months.
- 1.2 This paper explains:
 - 1.2.1 The nature of a CMC and the Court process that may flow from it.
 - 1.2.2 The general strategic direction that we recommend is adopted by Post Office.
- 1.3 Over the next five weeks in the lead up to the CMC there will be an intensive period of engagement with Freeths, including the provision of their Reply and correspondence with Freeths on their views on the future of this litigation. It is therefore not possible to make definitive decisions on future strategy at this stage as it will ebb and flow with outside events.
- 1.4 This Paper therefore asks Post Office to approve a general direction of travel so that Bond Dickinson may take matters forward with Freeths. It is anticipated that there will then be an iterative process to refine the strategy as the CMC approaches, with regular (potentially weekly) Steering Group meetings to take more definitive and granular decisions.

2. BACKGROUND

- 2.1 A CMC is a procedural Court hearing that is held in every substantial piece of litigation. In major cases, like this one, there may be multiple CMCs. The Court or a party can call for a CMC at any time if one is needed.
- 2.2 At a CMC the Court makes procedural decisions on how a case will be progressed – these are called "directions". It does not make any substantive decisions on the merits of any particular case.
- 2.3 The Court will be looking to set out a way forward that most effectively tackles the issues in dispute. At the forefront the Court's thinking will be the need to be fair to both parties and to keep costs proportionate. Proportionately in this context means (i) proportionate to the benefit of any activity and (ii) proportionate to the overall value of the litigation.
- 2.4 A CMC is slightly more informal than a full Court hearing. A full hearing tends to be binary, with the Court adopting one side's position or the other. At a CMC there will be a more fluid discussion between Counsel on both sides and the Judge, and there will be an expectation that both parties will compromise. If no compromise can be found then the Court will make a decision.
- 2.5 The art of a CMC is in pushing for a set of directions that promotes issues which favour Post Office, whilst avoiding directions that cause Post Office to do lots of work. This needs to be balanced against the Court's overall aim of being fair and avoiding excessive cost. A reasonable proposal that is slightly tipped in Post Office's favour is generally the best way to proceed.
- 2.6 Typically, both sides bear their own legal costs of appearing at a CMC or the costs will be determined at the conclusion of the litigation.
- 2.7 At Schedule 1 is a description of the various Court processes that might be considered at a CMC. This should help define some of the terms used in this Paper and put the advice below into context.

3. FREETHS' PROPOSED DIRECTIONS

- 3.1 Freeths' proposed directions are set out in Schedule 2. These directions:
- 3.1.1 order the parties to select some Lead Cases;
 - 3.1.2 require Post Office to give very wide ranging disclosure, including giving disclosure on all aspects of Horizon, helplines, Post Office support mechanisms, suspense accounts, and investigations;
 - 3.1.3 give an open-ended permission to call expert evidence; and then
 - 3.1.4 ask for the parties to return to Court to decide on next steps.
- 3.2 We do not believe that Freeths' directions are acceptable for the following reasons:
- 3.2.1 The directions do not set out a clear way forward or have any particular objective in mind. This could cause lots of wasted work to be undertaken.
 - 3.2.2 The purpose of selecting Lead Cases is not stated. Without a purpose, it will difficult to know which cases to select in order to fairly reflect the majority of cases and this could limit the value of any precedent decision in a Lead Case
 - 3.2.3 There is a significant request for disclosure from Post Office that would (i) either be impossible to comply with because the issues in dispute are not properly defined by only generic pleadings or (ii) would be extremely expensive – we would estimate this cost at between £250k - £1m.
 - 3.2.4 There is no defined scope to the expert evidence which could lead to open-ended expert enquiries. This is not the way that expert evidence is usually ordered.
- 3.3 The one attractive feature of Freeths' directions is that they are simple, though on balance we do not believe they will be considered reasonable or constructive by the Court.

4. OVERALL POST OFFICE STRATEGY

- 4.1 There are no silver bullets in this case that will dispose of all the claims in one go. There are also few issues that are truly common to nearly all the Claimants other than Horizon and the standard postmaster contracts (albeit that these are two critical issues – see further below). Most other issues turn on the specific features of a particular case eg. training, helplines / support, contract termination, debt recovery, etc.
- 4.2 This leads us to the view that, in the fullness of time, Post Office may need to address each of the 522 claims individually given the diversity of their circumstances. Taking every case to a full conclusion through the litigation process is unattractive as it would take years and the costs would be extremely high.
- 4.3 We believe the better solution is to try to force the Claimants into a collective position where they will either abandon the claims or seek a reasonable settlement. It should be remembered that the claims are financially supported by Freeths (whose fees are at least partially conditional on winning), a third party funder and insurers. Without this support these proceedings would not have been possible. All three entities will likely have the power to pull their support if the merits of the case drop below a certain level. Our target audience is therefore Freeths, the funder and the insurers who will adopt a cold, logical assessment of whether they will get a pay-out, rather than the Claimants who may wish to fight on principle regardless of merit.
- 4.4 To try to force the Claimants into a position where they give up or settle, we recommend a three-pronged approach:

- 4.4.1 Attack the fundamental basis of the Claimants' claims, being their attempts to imply new terms into the standard postmaster contracts ("Weaken the foundation").
- 4.4.2 Look to strike out weak claims so to reduce the number of Claimants ("Thin the herd").
- 4.4.3 Bring down over-inflated claim valuations ("Reduce the exposure").

Weaken the foundation

- 4.5 As noted above, there are two issues that are common to many Claimants: Horizon and the postmaster contracts. A judgment in Post Office's favour on either point would have a significant impact on the merits of many Claimants' claims.
- 4.6 We have considered whether to address upfront the challenges to Horizon. If Post Office could prove that Horizon was robust, this would take away a key strand to the Claimants' case. It is also a truly universal issue given that Horizon was, at any given time, the same for all postmasters. We can however see three difficulties with this route, the first of which we believe is insuperable:
 - 4.6.1 The Claimants cannot just point the finger at Horizon with no legal basis for their complaints. They need to ground their claims in the postmaster contracts by showing that there was some legal obligation on Post Office to maintain Horizon to a certain standard. Determining the level of that standard is important eg. does it need to be reasonably reliable? Very reliable? Completely error free? Offer a good user experience? Have sufficient safeguards against user error? Without clear legal thresholds to be met, an expert cannot give an opinion on whether that threshold has in fact been met.
 - 4.6.2 The above points also mean that we do not know exactly what disclosure and evidence is required, which could lead to very wide disclosure being given at a very high, and potentially wasted, cost. Expert evidence on Horizon will also be very expensive. This lends weight to tackling another issue first.
 - 4.6.3 Horizon has evolved over time meaning that in reality several parallel enquiries will be needed into Horizon at different points in time.
 - 4.6.4 It may be possible to limit the Horizon questions to Horizon Online, and not need to address old Horizon, if Post Office is successful on the limitation issues (see below).
- 4.7 We therefore favour focussing on the true meaning of the postmaster contracts as the first substantive issue to address in this litigation.
 - 4.7.1 This will help set the legal foundation on which to determine many other issues including Post Office's obligations in relation to Horizon, training, support, etc.
 - 4.7.2 It will help establish who, Post Office or postmaster, has the primary duty to determine the root cause of a loss in a branch. This is an issue of utmost importance as it will shift the evidential burden to one party or the other.
 - 4.7.3 The issue of the postmaster contracts can be addressed without the need for expert evidence, though we still believe that significant disclosure and witness evidence will be needed.
 - 4.7.4 A good result on this topic will send a clear message to other (non-Claimant) postmasters as to what is required under their contracts.
- 4.8 This approach is not without limitations and risks.
 - 4.8.1 On Post Office's best case it accepts that it had some responsibilities to support postmasters, albeit to a lower standard than that sought by the Claimants. Winning the

contractual arguments will therefore leave the Claimants with still viable, albeit much more difficult, claims.

- 4.8.2 There are dozens of sub-issues that are connected to the postmaster contracts, including the factual context against which postmasters enter into those contracts and the specific terms of those contracts and what they mean. There are also a number of different types of postmaster contract. There is therefore unlikely to be a binary win/lose outcome, with Post Office being successful on some points and losing others.
- 4.8.3 Moreover, the Claimants' arguments on the postmaster contracts are not without merit. There is a chance that they might be successful, in which case Post Office would be left in a very difficult commercial position (see our previous advice on possible worst case outcomes).
- 4.9 Overall, there is no risk free way to proceed and it is inevitable that we will need to address the contractual issues at some stage. We therefore believe it is best to address these issues at the outset.

Thin the herd

- 4.10 Having reviewed the Schedules of Information received from the Claimants we have identified various types of Claimant that might be facing procedural problems that could see them struck out without needing to address the substance of those claims. For example:
- 4.10.1 Claimants who are dissolved companies.
- 4.10.2 Claimants who are companies incorporated after they are said to have been engaged as postmasters.
- 4.10.3 Claimants who are bankrupt or deceased.
- 4.11 The above issues are not insurmountable and Freeths could rescue these claims if they took the correct procedural steps. It is however quite proper that they address these points now, as would be the case in any other piece of litigation.
- 4.12 There are also around 110 claimants who have previously entered into settlement agreements with Post Office and at least 80 Claimants who, on face value, are time-barred. Typically, these types of claim would be subject to early applications to strike them out. We cannot yet form a view on the merits of striking out these claims as these points will turn on what Freeths say in their Reply (due on 20 September). However, we can envisage calling at the CMC for more information to clarify why these claims should not be struck out.
- 4.13 It should also be noted that limitation may become a very important issue in relation to the challenges against Horizon. The effect of striking out claims for limitation could mean that all the surviving claims will necessarily have to arise from events after April 2010. In early 2010, Post Office moved from Old Horizon to Horizon Online. Winning the limitation points may therefore limit (and perhaps avoid altogether) the need for an inquiry into Old Horizon, which would be a very difficult exercise given that that system is now extinct.
- 4.14 Finally, there are various claims that, on their own facts, appear so weak that they could be struck out. For example, [GRO] claim has already been heard by the High Court and it is potentially an abuse of process to hear the claim again in the Group Action. In the claims of [GRO] [GRO] they admit that [GRO] stole money from Post Office, that he was convicted of theft and they are not claiming malicious prosecution.
- 4.15 The downside with the above approach is that it is piecemeal. It will require lots of satellite issues to be run in parallel. The Court may not want to adopt this approach as it may see it being very burdensome for the Court to manage (and Judges are very conscientious about the use of Court resources). It may also cause Post Office to incur costs on matters that only have a micro

effect, as it could be said that striking out one claim amongst 522 is not going to change the overall dynamic of this case.

- 4.16 Despite these drawbacks, we believe this is the correct way to proceed:
- 4.16.1 On average each Claimant is claiming around £200k, so striking out even one claim is of material benefit.
 - 4.16.2 Collectively, the above measures could drive out a material number of claims.
 - 4.16.3 Most importantly, it sends a message to Freeths that Post Office will not allow weak and poorly presented claims to survive in this litigation.
 - 4.16.4 Some early victories might shake the confidence of the Claimants, their funder and insurers.
 - 4.16.5 The Claimants are trying to portray themselves as having been oppressed by Post Office. Getting some of the weakest and most unattractive claims in front of the Managing Judge at an early stage, especially those where there is clear theft or dishonesty, might re-balance the Judge's views on the general fairness of this case.
- 4.17 Side Note: Nearly all the malicious prosecution claims and all the cases involving a convicted Claimant are vulnerable to being partially or fully struck out. This is because the usual rule is that the convictions need to first be overturned in the criminal Courts before proceedings can be advanced in the Civil courts. However, in light of the ongoing CCRC inquiry we believe that the Court would be minded to stay (or pause) these claims until that inquiry is complete before taking a decision on whether to let them proceed or strike them out.

Reduce the exposure

- 4.18 The Claimants have very poorly valued their claims so far. Certain heads of loss (eg. stigma damages) have not been valued at all, whilst others appear to have been overstated (over 65% of the Claimants are claiming personal injury which seems very unlikely). On average each Claimant is seeking around £200k, but this figure is deeply unreliable and subject to a very wide margin of error.
- 4.19 To be able to settle any litigation, the first thing that needs to happen is to establish what is being claimed. At present, we do not have reliable information on this point and so even contemplating a settlement is not possible. We therefore believe that Post Office should ask the Court to order the Claimants to value their claims more completely and with more precision (as we have been asking them to do for nearly 18 months).
- 4.20 This may cause the claim values to initially go up rather than down. Although this seems counter-intuitive, one first needs to pin down the heads of losses and their values, before they can be chipped away – even if that means increasing the values in the short term.
- 4.21 Once heads of loss are established, there are then a number of points of law that need to be addressed in relation to loss, in particular whether certain types of loss can arise from certain heads of claims (eg. can stigma damages be recovered in a breach of contract claim? Can loss of earnings be claimed beyond the contract notice period under the postmaster contracts?). Our recommendation is that the Court should be asked to address these points at the same time as addressing the contractual issues. If successful on these points, this should have the outcome of striking down or restricting certain heads of loss.
- 4.22 An important incidental benefit of pressing the Claimants on quantum is that it may influence the Court's thinking on proportionately. At £200k per Claimant, the claim value is, on the face of it, north of £100m. At that level, there is scope for the Court to order wide ranging directions without fear of them being disproportionate. If we can bring the claim value down, the Court may be more reluctant to order Post Office to give lots of disclosure or allow lots of expert evidence.

5. PROPOSED DIRECTIONS

5.1 In light of the above, it is recommended that Post Office adopts a more sophisticated approach to the CMC than that proposed by Freeths. The exact scope of the directions cannot yet be set as these will turn on Freeths' Reply and general attitude to the CMC. However, the broad thrust of the directions could be along the following lines:

5.1.1 Strike-outs:

- (a) Those claims that are procedurally unsustainable are struck out (assuming that Freeths cannot remedy them before the CMC).
- (b) Orders are made for Freeths to provide more information in relation to time-barred and settled cases. This will allow Post Office to determine the merits of applying to strike out these claims.

5.1.2 A preliminary issues trial be ordered on contractual and quantum issues:

- (a) The parties agree a list of issues for preliminary determination.
- (b) Around 20 cases are selected as Lead Cases for the purpose of addressing the preliminary issues.
- (c) Limited disclosure is given by both sides in relation to these cases. Note – that the document preservation work done already means that we have many of these documents in the data room already.
- (d) The parties plead out individual pleadings for each Lead Case.
- (e) The parties select 5 - 10 Lead Cases to go to trial.
- (f) There be another CMC to determine the need for witness evidence and the steps to trial.

5.1.3 Claim valuation

- (a) Orders are made for the Claimants to better value their claims, including potentially providing medical reports to justify personal injury claims.

5.2 The risk with this approach is that it is very intricate. It may be that the Court simply thinks it too complicated to implement. This will depend in part on Freeths' attitude. If they are broadly supportive (and we note that they have already indicated a willingness to discuss preliminary issues), then this should be achievable. If they contest every point, then this will be a hard sell. We also repeat the point above about CMCs being a forum for compromise and it may be that the Court settles on directions somewhere between the parties' preferred positions.

5.3 The two areas of greatest contention will be:

5.3.1 **Disclosure.** Our proposed disclosure orders are significantly narrower than what Freeths want, being limited to only Lead Cases. They will argue that Post Office holds all the relevant information and this case cannot be holistically addressed until that information is flushed out.

5.3.2 **Horizon.** The above proposal does nothing to advance the debate around Horizon. Given that Horizon is a central issue it could be seen as odd that it is not addressed. Counsel is particularly concerned about this point and it may be that Post Office will need to offer something on Horizon (in terms of disclosure, further information and/or experts).

The difficulty with addressing Horizon is that Freeths have no understanding of the technical aspects of the system. They are therefore not in a position to agree narrowed down directions in relation to Horizon – they don't know what they don't know and so have asked for everything. It may be that we have to build in some form of iterative approach to educating Freeths on the workings of Horizon.

6. RECOMMENDATION

- 6.1 As noted at the start of this Paper, the situation between now and the CMC is in flux and predicting the course of events is difficult. A timetable of milestones is set out in Schedule 3.
- 6.2 It is recommended that Post Office supports the broad thrust of the above strategy, giving Bond Dickinson instructions to advance these matters with Freeths and delegating to Rodric Williams day-to-day authority to manage the detail of these dealings.
- 6.3 Should events depart materially from the above, then the matter will be brought back to the Steering Group for further consideration.

**CONFIDENTIAL AND LEGALLY PRIVILEGED
POST OFFICE GROUP LITIGATION***Bond Dickinson***Steering Group Meeting: 11 September 2017****SCHEDULE 1: DESCRIPTION OF COURT PROCESSES**

The procedural steps that may be taken up to trial can vary significantly but certain common actions tend to be taken in every case. These are summarised below in the order that they are typically undertaken.

1. Pleadings

- 1.1 These are written statements of each party's legal position. Freeths have already prepared a Generic Particulars of Claim (**GPOC**) and Post Office has prepared a Generic Defence. Freeths will shortly lodge a Generic Reply (due 20 September).
- 1.2 It is possible to request **Further Information** on a party's position in order to clarify points that are not clear in the pleadings. We have done this previously on a few narrow points in the GPOC. Freeths have done the same on the Generic Defence.
- 1.3 As this is a Group Action, there may also be further pleadings on individual cases.

2. Disclosure

- 2.1 Disclosure is the process of locating relevant documents and providing copies to the other parties. Except for privileged material, all relevant documents need to be disclosed, whether they support or harm Post Office's position. Determining what is relevant is done by reference to the issues set out in the pleadings.
- 2.2 The major challenge with disclosure exercises is cost. Modern IT systems store millions of documents and sifting through these to find relevant ones can be very expensive.
- 2.3 The usual order for disclosure is that a party must undertake a "*reasonable and proportionate search*" for relevant documents and the Court takes this requirement very seriously which often creates the need for a forensic document retrieval exercise. However, the Court has the power to order disclosure in different ways such as ordering:
 - 2.3.1 disclosure at an earlier or later stage in the litigation process;
 - 2.3.2 iterative disclosure and searching in stages; or
 - 2.3.3 disclosure of particular categories of documents or against particular issues.
- 2.4 By crafting more bespoke and narrower disclosure orders, the costs of disclosure can be reduced. However, this is often a contentious point and the scope of disclosure can be fiercely contested.

3. Witnesses

- 3.1 A key source of information used by a Court is the recollections of those involved in the dispute. Witnesses give evidence of facts that they witnessed first-hand, often to fill in blanks in document trails or to explain the provenance of documents that might otherwise be taken out of context.
- 3.2 Witnesses present their evidence by preparing witness statements setting out their recollections and are then cross-examined in Court at trial.
- 3.3 Witnesses are not allowed to give opinions on technical matters. This is the role of experts.

4. Experts

- 4.1 Experts are engaged to give opinions on technical issues. They differ from witness in that they will typically have had no prior involvement in the matters at hand and therefore rely on the facts

found in pleadings, disclosed documents and witness statements. They also have additional duties to the Court to provide their opinions in a full and transparent manner.

- 4.2 The key issue for expert evidence in this case is whether Horizon is robust or not. This is a question of opinion not of fact and therefore evidence from a suitably qualified and independent expert will be required on this question at some stage.
- 4.3 Experts give evidence by producing reports, conferring with the opposing party's expert to agree common ground where possible and are then cross-examined at trial.
- 4.4 Expert evidence is often very costly. First, high-quality experts charge for their time. Second, the complex subject matter of an expert's report takes significantly more time to prepare than a witness statement.
- 4.5 Given this cost, the Court will only order expert evidence where necessary and like to define tightly the questions on which an expert's opinion is required.

5. Trial

- 5.1 Having pleaded out each party's case, collated all the relevant documents, captured the evidence of witnesses and drawn up expert reports, all this evidence will be tested in Court through cross-examination. Barristers will also make both written and verbal submissions on points of law and the conclusions that should be drawn from the evidence.
- 5.2 The role of the judge is to determine whose evidence he prefers being weighing up its credibility. When giving judgment, a Judge will make determinations of fact (where facts are disputed) and then go on to decide the legal consequences of those facts.
- 5.3 The usual course is for there to be a single trial of all issues in one go. In very large cases the Court may breakdown the issues into categories and deal with them iteratively through multiple smaller trials. This is called a split trial or trial of preliminary issues. This route is adopted where there may be issues which if determined early may:
 - 5.3.1 be addressed with only minimal evidence needed (thereby saving time and cost);
 - 5.3.2 resolve the whole case one way or the other;
 - 5.3.3 set the foundation for other enquiries (eg. sometimes one needs to determine the true meaning of a contract before deciding on whether the contract has been breached).
 - 5.3.4 reduce the amount of disclosure or evidence needed by disposing of some issues early; or
 - 5.3.5 allow the Court to make better targeted procedural orders for disclosure and evidence.
- 5.4 Where a preliminary issues trial is ordered, the Court will typically tailor the directions it gives in relation to disclosure, witnesses and experts so to align with the preliminary issues that have been selected.
- 5.5 Although this route sounds attractive, it can cause delay and duplication of effort eg. by having to do two disclosure exercises rather than one. Courts are therefore wary of the potentially superficial benefits of preliminary issues trials and will need to be convinced of their merit.

6. Lead Cases

- 6.1 A feature that is specific to Group Litigation is the use of a small group of Lead Cases rather than trying to move forward all cases simultaneously. By selecting a small number of Lead Cases, disclosure and evidence can be limited to those cases thereby saving time and cost.

- 6.2 The Court can make decisions on those Lead Cases which should set precedents for all other cases. The use of Lead Cases however needs to be used with caution as it may be that not all the cases in the Group Litigation are analogous to the Lead Cases, and a precedent decision will not be binding on cases that can be factually differentiated from a Lead Case.
- 6.3 It should be remembered that Group Litigation is not a class action. It is an efficient mechanism for moving forward many similar cases in a coordinated manner. However, Post Office is still, in reality, facing 522 individual claims that will ultimately need to be addressed individually on their facts.

SCHEDULE 2: FREETHS' DIRECTIONS

THE POST OFFICE GROUP LITIGATION

Claim No. HQ16XO1238

IN THE HIGH COURT OF JUSTICE

QUEEN'S BENCH DIVISION

BEFORE Mr Justice Fraser

19 October 2017

BETWEEN:

ALAN BATES & OTHERS

Claimants

- and -

POST OFFICE LIMITED

Defendant

Claimants' draft ORDER

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

IT IS ORDERED THAT:-

TRIAL OF PRELIMINARY ISSUE

1. *[For the parties and the court to consider in the light of the Generic Defence]*

LEAD CASES

2. In respect of the selection of Lead Cases: -

- a. By [date], the Claimants' solicitors and the Defendants solicitors' shall each select [20] individual claims which will together form the pool of [40] Claimants from which Lead Cases will be selected.
- b. By [date], the parties do provide standard disclosure of documents relating to the pool of Claimants identified above.

- c. By [date], the parties do seek to agree [16] Lead Cases from the pool of Claimants aforesaid. Any disagreement on any question of lead case selection shall be determined at the next CMC.
- d. Further directions in relation to Lead Cases to be given at the next CMC.

DISCLOSURE

3. The Defendant do provide standard disclosure in stages, initially limited to documents relating to the following matters:
 - a. the Horizon system architecture (documents which evidence the overarching systems architecture are obviously essential for our expert to understand the operation of the Horizon system);
 - b. bugs, errors or defects in the system which were or may have been the cause of discrepancies or alleged shortfalls attributed by the Defendant to any of the Claimants [GPOC §22]
 - c. the operation of the helpline [§29-30];
 - d. the conduct of investigations [§31];
 - e. training policies and practices [§64.1, 65];
 - f. Post Office suspense account(s) [§38-39].
 - g. documents delivered up by Second Sight following termination by the Defendant of Second Sight's contract for services.
4. In respect of the above documents: -
 - a. The Defendant do provide disclosure thereof by 4pm on [date].
 - b. By 4pm on [date], the Claimants must make any request to inspect the original of, or to provide a copy of, any such document.
 - c. Any such request, unless objected to in writing, must be complied with within 14 days of the request.
 - d. Disclosure of electronic documents shall be in accordance with the protocols to be agreed between the parties.

EXPERT EVIDENCE

5. Each party has permission to adduce expert evidence of an IT expert in relation to the operation and accuracy of the Horizon system ("**IT expert evidence**").
6. *[Agreement for initial inspection and testing by IT Expert]*
7. Prior to the next CMC, the parties shall co-operate and seek to agree further Directions in relation to expert evidence (including the number and disciplines thereof, issues which they will address, and any appropriate or necessary tests, inspections, sampling or investigations).

NEXT CMC

8. There be a further CMC on [date] 2018.

ALTERNATIVE DISPUTE RESOLUTION

9. At all stages the parties must consider settling this litigation by any means of Alternative Dispute Resolution (including Mediation); any party not engaging in any such means proposed by another must serve a witness statement giving reasons within 21 days of that proposal; such witness statement must not be shown to the trial judge until questions of costs arise.

CUT OFF DATE

10. *[To discuss whether the cut-off date for claims to be entitled to be entered onto the Group Register be should be extended.]*

COSTS MANAGEMENT

11. The parties regularly report their costs to each other and to the Court, as they pass the following milestones: £500,000, £750,000, £1 million and any increment of £250,000 thereafter.

COSTS

12. Costs of this CMC be [costs in the case].
13. Costs of the Defendant's Application dated 26 July 2016, reserved by the Consent Order dated [8 February 2017], be [costs in the case].

SCHEDULE 3: TIMETABLE

Deadlines set by the Court and which are immovable are in red

Date	Action
Mon 11 Sept	Steering Group meeting to consider general CMC strategy.
w/c 11 September	<ul style="list-style-type: none"> • Prepare Post Office's proposed directions and a draft letter to Freeths (to be sent after the Reply is received). • Scope out witness evidence needed to support our directions so that BD can begin preparing it. • Draw up any strike out applications (if any)
Wed 20 Sept	Generic Reply due from Freeths
Thurs 21 / Fri 22	<ul style="list-style-type: none"> • Possible Steering Group meeting to update on current position. • Finalise Post Office's draft directions and send to Freeths for comment.
Mon 25 / Tues 26 / Wed 27	Prepare draft Skeleton Argument for use at the CMC.
Friday 29	Proposed deadline for Freeths to respond to Post Office's draft directions.
w/c 2 October	<ul style="list-style-type: none"> • Finalise Skeleton Argument and Witness Statement • Possible further correspondence with Freeths
Wed 4 October	Steering Group meeting to approve final CMC strategy
Thurs 5 October	Costs statements to be exchanged
Mon 9 October	Deadline for Case Summary, draft Directions and Skeleton Arguments to be filed with the Court
Wed 11 October	CMC bundle to be filed with the Court
Mon 16 October – Wed 18 October	Counsel under brief preparing for CMC
Thurs 19 October	CMC (1 day)