

THE HIGH COURT

BETWEEN

SUSAN BYRNE

PLAINTIFF

AND

PAUL HANNON AND AN POST

DEFENDANTS

JUDGMENT of Mr. Justice Mark Sanfey delivered on the 27th day February, 2020.

Introduction

1. The application before me is an application by the plaintiff for discovery against the second named defendant. While the plaintiff originally sought seven categories of documents, an accommodation has been reached between the parties in relation to four of those categories. The remaining three categories are contentious, and are the subject of the present application.
2. As we shall see, while the motion before me is framed solely as an application for discovery, it was treated by the parties as effectively an application for discovery and production of the three contentious classes of documents. The second named defendant argues that the classes of documentation contain “highly sensitive information”, the disclosure of which would pose “a real and substantial systemic risk to the security and safety of post offices, including people working in them and any members of the public using same.” During the course of the submissions before me, it was submitted that these classes of documents attracted public interest privilege, such that the second named defendant should not be required to produce them for use in the litigation.

Background

3. The case concerns an appalling incident in which the plaintiff and her husband became embroiled on 4th October, 2011. At that time, the plaintiff worked as a post office clerk at Balbriggan sub-post office, Balbriggan, Co. Dublin. Paragraph 4(a) of the Indorsement of Claim on the personal injuries summons summarises the plaintiff’s ordeal:

“(a) On or about the 4th day of October 2011, the Plaintiff was subjected to an aggravated burglary at her home aforesaid when three masked raiders bearing firearms gained entry thereto and tied her up. Her husband was also tied up. Early the following morning, the Plaintiff’s husband was taken against his will from their home by the raiders. He was placed in a car. A dressing gown was put over his head. The Plaintiff did not know what fate awaited her husband save and except that his life was in danger. The Plaintiff was ordered to present herself at work and to fill hold-all bags supplied to her by the raiders with cash following an anticipated delivery of monies to the sub-post office later that morning. The Plaintiff was shocked, stunned and terrified. Her husband’s life was threatened. The Plaintiff felt nausea and was ill upon her arrival at work”.
4. Thankfully, the robbery of the post office did not proceed, and the plaintiff’s husband resourcefully managed to escape from his captivity. The incident was what has become

known as a 'tiger kidnapping', a particularly egregious form of robbery which, one must imagine, would be very traumatic for the victims.

5. The plaintiff has sued the first named defendant, who at the time of the incident was the postmaster of Balbriggan sub-post office. The second named defendant is An Post, which operates the national network of post offices. It is fair to say that the nature of the relationship between the second named defendant and the first named defendant is a matter of dispute, and that accordingly the question of responsibility of the second named defendant, if any, for the matters which occurred is hotly contested.
6. The plaintiff makes a range of allegations against both defendants. As regards the first named defendant, broadly speaking, the plaintiff alleges that he failed to warn her of the risks involved in taking keys home, failed to provide training or guidance regarding the risks involved in holding keys for the premises and/or safe in the post office, and failed to implement appropriate directions or guidelines directed or advised by the second named defendant.
7. As regards the second named defendant, it is important to be clear, in the context of the present application, about the nature of the allegations of the plaintiff against the second named defendant. These are set out at para. 5 of the Indorsement of Claim as follows: -
 - “(k) Further and in addition the second named Defendant failed to provide any or any adequate or sufficient training, directions or guidelines to the first named Defendant in regard to the day to day management and operation of Balbriggan sub-post office.
 - (l) Failed to carry out any or any adequate effective examination of day to day practices at Balbriggan sub-post office so as to ensure that the first named Defendant was implementing such security training, preventative measures, directions and/or guidelines as had been offered to post masters by the second named Defendant.
 - (m) Failed to ensure the first named Defendant was aware of the risk presented by “*tiger kidnapping*” to members of staff at sub-post offices around the country, including Balbriggan sub-post office.
 - (n) Failed to ensure that the first named Defendant had advised staff members at Balbriggan sub-post office in preventative measures so as to eliminate or reduce the risk of “*tiger kidnapping*” in the form of intrusion to the home, assault, threats to kill, false imprisonment or kidnapping.
 - (o) Failed to ensure that the first named Defendant offered training, directions and/or guidelines to members of staff at Balbriggan sub-post office with regard to the risks presented by burglary and theft, assault and kidnapping either from the sub-post office itself or from their homes.”

8. Both defendants deny liability comprehensively. The second named defendant admits that the plaintiff was employed by the first named defendant, but denies that she was ever employed by the second named defendant, and denies that the first named defendant was ever employed by the second named defendant "or that the second named defendant ever bore responsibility for the actions of the first named defendant, either as set out in the plaintiff's Personal Injury Summons or at all, and at all material times the first named defendant acted on his own account as an independent contractor...". At para. 8 of the defence, the second named defendant expressly puts the plaintiff on proof of the specific allegations against it set out at para. 5 of the Indorsement of Claim as quoted above.

The present application

9. By a notice of motion issued on 5th March, 2019, the plaintiff sought an order pursuant to O.31, r. 12 of the Rules of the Superior Courts directing the second named defendant to make discovery of seven categories of documents. The four categories which were ultimately agreed or compromised between the parties related to training/instruction provided by the second named defendant to the first defendant and/or his employees, records relating to the first named defendant's or plaintiff's attendance at training/instruction seminars organised by the second named defendant, a record of the plaintiff's registration with the second named defendant as a key holder to the Balbriggan sub-post office and/or to a cash safe held there, and incident reports relating to tiger style kidnappings at An Post premises prior to 4th October, 2011.
10. The three categories which remain contentious, and the reasons why they were sought, were set out in the affidavit of Andrew Murnaghan, a solicitor for the plaintiff, in his affidavit of 5th March, 2019 as follows: -

"7.3 Copy "Postmasters Manual" and/or other security manuals or guidelines which were issued by An Post to postmasters during the period of five years preceding 4th October 2011.

7.3.1 Reason: See Paragraph 1 above.

[The reason given in respect of the first category was as follows]:

7.1.1 At Paragraph 3 of the Plaintiff's Personal Injury Summons, it has been alleged that An Post bore responsibility for the provision and implementation of security measures and guidelines to its network of sub-post offices around the country, including its branch at Balbriggan, Co. Dublin. The Plaintiff has also alleged failure by the Second Defendant to provide adequate or sufficient training/instruction/guidelines to the First Defendant relating to day to day management of security matters at Balbriggan sub post office (para. 5k). The Second Named Defendant has denied that it bore responsibility to the plaintiff for the actions/failures of the First Named Defendant and has placed the Plaintiff on proof of this allegation.

7.5 Records relating to inspection/supervision of security installations, fittings and/or day to day security arrangements at Balbriggan sub-post office by or on behalf of An Post for the period of one year immediately preceding 4th October 2011.

7.5.1 Reason: At para. 5(l) of the Personal Injury Summons, the plaintiff has alleged failure by the Second Named Defendant to carry out any adequate or effective examination of day to day security practices at Balbriggan sub-post office so as to ensure that the First Named Defendant was implementing security training, preventative measures, directions and/or guidelines as had been offered to postmasters by the Second Named Defendant. Moreover, such supervision or inspection might have been carried out to ensure that preventative measures, security fittings and the like were up to date and adequate. The Second Named Defendant has placed the Plaintiff on full proof of this contention and for that reason; the Plaintiff has been advised and believes it necessary to request this category of discovery.

7.7. Copy of the 'security procedures booklet' which was distributed by An Post to postmasters such as the First Named Defendant for the five year period immediately preceding the incident complained of herein on 4th October 2011.

7.7.1 Reason: The plaintiff believes and has been advised that An Post distributed a booklet containing security procedures annually or biannually during the 5 year period immediately preceding 2011 and the Plaintiff was entitled to know what guidance and advice was provided to postmasters and/or employees of postmasters and/or employees of An Post with regard to security awareness and preventative measures."

11. The second named defendant replied to Mr. Murnaghan's affidavit by means of the affidavit of Brendan Cloonan of 24th April, 2019. Mr. Cloonan is expressed in the affidavit to be "Head of An Post Security Services". At para. 5 of his affidavit he expresses the second named defendant's willingness to make discovery of certain of the categories, but states that... "the second defendant objects to the discovery of any documents or records which contain precise details of any security provisions and or any specific instructions relating to security provisions on the grounds that the said documents contain highly sensitive information, the disclosure of which would pose a real and substantial systemic risk to the security and safety of post offices, including people working in them and any members of the public using same, should the documents come into the public domain."
12. These reasons are specifically advanced in Mr. Cloonan's affidavit in relation to each of the three contentious categories. In addition, Mr. Cloonan avers in relation to the fifth category of documents – the second of the contentious categories referred to above – that the documents sought to be discovered "... are not relevant to the proceedings herein. The said proceedings relate to an aggravated burglary in a private residence, and not in a sub-post office. Further, the plaintiff has not pleaded in her personal injuries summons that there were any relevant deficiencies in the security arrangements at the

Balbriggan sub-post office at the time of the incident, the subject matter of the proceedings herein.”

The Plaintiff's Submissions

13. Counsel for the plaintiff attached particular significance to the averment by Mr. Cloonan in his affidavit in relation to each of the three contentious categories that they contain “highly sensitive information, the disclosure of which would pose a real and substantial systemic risk to the security and safety of post offices...”. Counsel argued that there was in effect no difference between “highly sensitive information” and “confidential information”, and submitted that confidential information or documentation could not be withheld from discovery, as it could not be privileged. Counsel asserted that the test of relevance and necessity, established in *Compagnie Financiere AET Commerciale du Pacifique v. Peruvian Guano Co.* [1882] 11 QBD 55 as affirmed by the Supreme Court in *Ryanair v. Aer Rianta* [2003] 4 IR 264, remained the standard by which discovery applications in general and the present application in particular should be judged.
14. Counsel also relied on the judgment of Barr J. in *Ryanair Limited v. Besancon* [2009] IEHC 744. That case involved an allegation of defamation arising from certain postings made by the defendant on a website in relation to an incident that had occurred involving a Ryanair flight in September 2012. The defendant sought production of an investigation report drawn up by the plaintiff into the incident. It was the contention of the defendant that the report was highly relevant to the issues that would arise for determination at trial and that it was necessary for him to be furnished with a copy in advance of the hearing. The plaintiff resisted production of the report on the basis that it was a confidential report.
15. Barr J. referred to the judgment of Kelly J. (as he then was) in *Cooper Flynn v. RTE* [2002] 3IR 344, in which Kelly J. referred with approval to the judgment of Salmon LJ in *Science Research Council v. Nassé* [1980] AC 1028 at p. 1071: -

“Since confidential documents are not privileged from inspection and public interest immunity fails, the Tribunal which for this purpose is in the same position as the High Court and the county court, may order discovery (which includes inspection) of any such documents as it thinks fit – with this proviso: ‘Discovery shall not be ordered if and so far as the court (tribunal) is of the opinion that it is not necessary either for disposing fairly of the proceedings or for saving costs’.

If the tribunal is satisfied that it is necessary to order certain documents to be disclosed and, inspected in order fairly to dispose of the proceedings, then, in my opinion, the law requires that such an order should be made; and the fact that the documents are confidential is irrelevant.

The law has always recognised that it is of the greatest importance from the point of view of public policy that proceedings in the courts or before Tribunals shall be fairly disposed of. This, no doubt, is why the law has never accorded privilege against discovery and inspection to confidential documents which are necessary for

fairly disposing of the proceedings. What does 'necessary' in this context mean? It, of course, includes the case where the party applying for an order for discovery and inspection of certain documents could not possibly succeed in the proceedings unless he obtained the order; but it is not confined to such cases. Suppose, for example, a man had a slim chance of success without inspection of documents but a very strong chance of success with inspection, surely the proceedings could not be regarded as being fairly disposed of, were he to be denied inspection. I, of course, recognise that the Tribunal, like the courts, has a discretion in the exercise of its power to order discovery. It would, however, in my view, be a wholly wrongful exercise of discretion, were an order for discovery and inspection to be refused because of the court's or the Tribunal's natural aversion to the disclosure of confidential documents notwithstanding that the proceedings might not be fairly disposed of without them."

16. Barr J. went on to comment as follows:

"27. Counsel submitted that production of this document was essential to enable the defendant to properly mount his defence to the defamation proceedings brought by the plaintiff. He stated that if the document was withheld from the defendant, this would mean that there would be a 'blind spot' at the trial of the action, whereby the defendant, the judge and the jury would all be deprived of an important investigation report which had been carried out into the incident, which was central to the postings which had been made by the defendant on the website. It was submitted that if that were to happen, that would be a very unsatisfactory state of affairs, which meant that the trial could not be fairly disposed of without giving the defendant access to this document. For these reasons, counsel submitted that the defendant had clearly established that the BI Report was relevant and necessary to his defence at the trial of the action".

17. In the event, Barr J. ordered production of the BI Report by the plaintiff to the defendant, subject to certain redactions in order to remove the names of persons making statements or providing information. There were also restrictions placed on the dissemination of the report, and provisions for return of the report at the conclusion of the litigation.

18. Counsel for the plaintiff relied heavily on the foregoing dicta of Barr J., submitting that his client was in the same situation as the defendant in that case, and suggested that there would also be a "blind spot" in the present proceedings if the plaintiff were not furnished with the documentation sought. Counsel argued that the documents may make it clear that his client has a strong prospect of success, and were accordingly highly relevant and necessary.

The Second Defendant's Submissions

19. Counsel for the second named defendant made it clear that it was not asserted by the second named defendant that the documents in the three contested categories do not exist. It was all but conceded that they do.

20. The second named defendant relies on its assertion that the documents “contain highly sensitive information, the disclosure of which would pose a real and substantial systemic risk to the security and safety of post offices”. That argument is used for each of the three categories. In addition, it is argued in relation to the second of the contested categories that the documents sought are not relevant as “the proceedings relate to an aggravated burglary in a private residence, and not in a sub-post office”.
21. It was submitted that, as regards the “sensitivity” argument, the averments by Mr. Cloonan as to the sensitivity and systemic risk of disclosure carry particular weight given Mr. Cloonan’s position as head of security services for the second named defendant, and should be accepted by the court in circumstances where no affidavit by a security expert is proffered by the plaintiff. As against that, it is perhaps unreasonable to expect the plaintiff, who does not have the documents, to proffer an expert to comment or speculate as to the sensitivity or systemic risk arising from disclosure of the documents.
22. The second named defendant did not seek to equate “sensitivity” with “confidentiality” in the way that counsel for the plaintiff did. Rather, it was argued that the documents in the contested categories attract public interest privilege. In that regard, counsel relied on the decision of Murphy J. in *Gormley v. Ireland* [1993] 2 IR 75. In that case, the plaintiff, who had been employed as a clerical officer by the Minister for Posts and Telegraphs, was interned in July 1957 at the Curragh Camp under or by virtue of the provisions of the Offences Against the State Act 1939. The state defendants objected to production of documents sought by way of discovery on the grounds of national security. Murphy J. accepted that the documents in question were of a sensitive nature, and accordingly held that some of the documents sought by the plaintiff were privileged.
23. Similarly, the sensitivity of the documents in the contested categories, for the reasons set out in the affidavit of Mr. Cloonan, was urged upon the court as supporting a valid claim for public interest privilege.
24. Counsel for the plaintiff did not accept that the second named defendant was entitled to privilege over the documents, and complained that the reliance on public interest privilege had not been flagged in Mr. Cloonan’s affidavit (there were in fact no written submissions in the case). Counsel reiterated the assertion that the appropriate test was that of relevance and necessity, which the plaintiff manifestly satisfied.

Analysis

25. It emerged during the hearing of the motion that the second named defendant was effectively making the case that it was entitled to public interest privilege over the three contested categories of documents, and therefore should not be required to discover them. Discovery was, for the purpose of the motion, regarded by both parties as co-terminous with production; essentially, the second named defendant argued that the documents did not have to be discovered or produced.

26. The normal procedure is that a claim of privilege is made in relation to documents listed in the affidavit of discovery. As McKechnie J. put it in the Supreme Court decision of *Keating v. RTE* [2013] IESC 22 at para. 45:

"45. It is not suggested by the Revenue that by simply asserting a claim for privilege, a person, either a party or non-party to litigation, is thereby excluded from the discovery process: that is not and never has been the situation, nor is it stated to be. Accordingly, the normal Rules of Court apply which means that all relevant documents must be listed in Part Two of the First Schedule, if privilege is sought in respect of them. Having done that, the nature both of the asserted privilege and of the document the subject thereof, must be sufficiently particularised so as to permit the court to evaluate the claim. Generalised, non-specific details will not suffice: *O'Brien v. Minister for Defence & Ors.* [1998] 2 ILRM 156 at p. 159. In the vast majority of cases, it is only via this procedure that the privilege issue will be determined."

27. McKechnie J. went on to say:

"46. That being said however, there is also no doubt but that on a discovery motion the court has an inherent jurisdiction to refuse the application on the basis that its entire purpose, namely access to relevant evidence capable of aiding or defeating a particular claim, can never be achieved in the face of a privilege plea which inevitably must succeed. Before holding however that the normal process can be abridged in this way and that privilege can ground a refusal for a discovery order as distinct from an inspection order, the court will have to be satisfied that such plea permits of no other possible result. For if it should or might, the court will not refuse to grant a discovery order on such grounds. To view the situation otherwise would be to conflate distinct steps in a two-tier process which involve addressing different questions and determining different issues. Accordingly, when the matter is raised at this stage of the process, the first enquiry must be to determine whether success on the plea is unavoidable. It is only if it is, that an affidavit as to documents will not be required."

28. In the present application, in response to the plaintiff's motion for discovery, the second named defendant submitted at the hearing that the documents in the three disputed categories attracted public interest privilege. While Mr. Cloonan's affidavit objects to discovery of the three disputed categories, it is clear when one reads his affidavit that what he was objecting to was not so much discovery of these documents in the sense of their being listed in an affidavit of discovery, as inspection and production of those documents. Likewise, the reasons given in Mr. Murnaghan's affidavit on behalf of the plaintiff for discovery of these three categories of documents relate to the necessity to have access to the documents, and are therefore directed towards inspection and production as much as discovery.

29. In the circumstances, and given that the parties were each, in their affidavits and in submissions to the court, approaching the motion on the basis that any documents which

were ordered to be discovered would be available to the plaintiff for inspection and use at trial, I decided that, rather than insisting that the parties not conflate the issues of discovery and production and limiting the argument between the parties as to what should or should not be discovered, the pragmatic approach would be to deal with the motion on the basis on which the parties had approached it, and deal with the central dispute between the parties as to whether or not a claim for public interest privilege by the second named defendant defeated what was effectively a claim for discovery and production of the documents in the disputed categories. This approach, while not strictly consistent with the approach set out by McKechnie J. in *Keating*, at least had the advantage of limiting further costs and delay in the matter, as well as being in accordance with the approach adopted by the parties.

30. The principles relating to public interest privilege were set out in the seminal decision of the Supreme Court in *Murphy v. Dublin Corporation* [1972] 1 IR 215 and restated in *Ambiorix v. Minister for Environment (No. 1)* [1992] 1 IR 277. The principles are summarised by Finlay C.J. at p. 238 of *Ambiorix* as follows:

- “1. Under the Constitution the administration of justice is committed solely to the judiciary by the exercise of their powers in the courts set up under the Constitution.
2. Power to compel the production of evidence (which, of course, includes a power to compel the production of documents) is an inherent part of the judicial power and is part of the ultimate safeguard of justice in the State.
3. Where a conflict arises during the exercise of the judicial power between the aspect of public interest involved in the production of evidence and the aspect of public interest involved in the confidentiality or exemption from production of documents pertaining to the exercise of the executive powers of the State, it is the judicial power which will decide which public interest shall prevail.
4. The duty of the judicial power to make that decision does not mean that there is any priority or preference for the production of evidence over other public interests, such as the security of the State or the efficient discharge of the functions of the executive organ of the Government.
5. It is for the judicial power to choose the evidence upon which it might act in any individual case in order to reach that decision.”

31. Having set out these principles in *Keating*, McKechnie J. said at para. 36:

- “36. In the implementation of these principles the following practice has developed:
- (i) in general, where competing interests conflict the court will examine the text of the disputed document and determine where the superior interest rests: it will carry out this enquiry on a case-by-case basis;
 - (ii) this exercise may not always be necessary. On rare occasions, it may be possible for the court to come to a decision solely by reference to the

description of the document as set out in the affidavit; that is, without recourse to an examination of the particular text of the document itself (*Breathnach* p. 469);

- (iii) in all cases however (and this is the crucial point) it will be for the examining court to both make the decision and to decide on what material is necessary for that purpose; and finally
 - (iv) in performing this exercise, no presumption of priority exists as between conflicting interests."
32. Many of the cases in which the *Ambiorix* principles were applied concerned documentation generated by state entities. However, I do not think that the assessment of the public interest depends on the nature of the body from whom the documents are being sought. As Finlay C.J. stated in *Burke v. Central Independent Television plc*, unreported, Supreme Court, 3rd March 1994 at p. 5:
- "...the function of this Court ... is to resolve a conflict between two aspects of the public interest so as to perform the judicial function of deciding upon what evidence in the interests of justice the Court should act in this case for the purpose of reaching a decision."
33. The second named defendant operates a nationwide network of post offices. It is asserted that the documents sought contain "highly sensitive information, the disclosure of which would pose a real and substantial systemic risk to the security and safety of post offices, including people working in them and any members of the public using same...". This wording is used by Mr. Cloonan in relation to each of the three disputed categories. It is submitted that the public interest of the security and safety of post offices, the people who work there and other parties such as customers using them outweighs any right of the plaintiff to what would otherwise be relevant and necessary documentation which might advance the plaintiff's case or damage that of the second named defendant, and that, in these circumstances, the claim of public interest privilege over such documents must succeed.
34. Having heard the submissions of both parties, I formed the view that, notwithstanding that no listing of the documents had taken place in a formal affidavit of discovery, and having regard to what Mr. Cloonan had to say in his affidavit about the disputed categories, a claim of public interest privilege could exist in respect of the categories sought. In the circumstances, I informed the parties that I considered that the appropriate approach was to follow the practice set out by McKechnie J. in *Keating* as set out above, and examine the text of the disputed documentation to determine where the superior interest rested.
35. The parties indicated their agreement to this approach, and to a period of eight weeks within which the second named defendant would compile and furnish to the court the documentation in question. The second named defendant's solicitors duly complied with this requirement, and a volume comprising the documents under the three disputed categories was furnished to the court.

36. Having examined those documents in the light of the established principles, and in particular the principle that public interest privilege must be determined by reference to the circumstances in which the plea is made, I set out below the following conclusions.
37. One document was furnished in category 7.3 referred to at para. 10 above. This was an undated "Postmaster's Manual". The manual states in its introductory paragraph that "...the rules in this book contain the general regulations of An Post applicable to postmasters at sub-offices...the rules should be carefully studied and applied, and the postmaster should see that his/her subordinate officers are acquainted with the instructions affecting their respective duties". While the manual contains much that is not relevant to the present case, it does contain a section on "security". Having considered the contents of the manual, I am satisfied that it is relevant to the matters at issue in the case, and that its discovery is necessary for the fair disposal of the case.
38. The manual is certainly a confidential and sensitive document. However, I am satisfied that there is at this stage no significant risk that disclosure of the information contained in it will cause a "real and substantial systemic risk to the security and safety of post offices, including people working in them and any members of the public using same...", as suggested by Mr. Cloonan. The document, while undated, predates the incident the subject of the proceedings, and parts of the document at least may in fact be of considerably greater antiquity. In this regard, there is a notation on the bottom of the title page of the "security" section which states: "Iris an Phoist 2/9/92".
39. In the circumstances, I am satisfied that this "Postmaster's Manual" should be discovered and that it does not attract public interest privilege.
40. Only one document was proffered in relation to category 7.5 referred to at para. 10 above. This was an invoice dated 7th December, 2010 which appears to relate to an intruder alarm upgrade that was undertaken at Balbriggan sub-post office. This document appears to me to be neither relevant to the allegations against the second named defendant, nor necessary for the fair disposal of the proceedings. Accordingly, it is not appropriate to order discovery of this document.
41. In relation to category 7.7 referred to at para. 10 above, the second named defendant has proffered a document entitled "Security Procedures Handbook for Retail Sub-Post Offices". I am informed that this document dates from "2006". The front page is marked "Confidential". It contains a preface entitled "An Post Security Statement", which is as follows:

"An Post is fully committed to supporting postmasters to ensure the safety and security of all its staff, contractors, visitors, customers and company assets by ensuring that all retail locations have both physical and electronic security systems to an appropriately high standard. An Post provides clear and concise documented security procedures which are intended to provide efficient and effective instructions on the operational requirements of its cash handling and retail operations".

42. The introduction to the handbook commences by stating as follows:
- “This handbook is intended as a convenient reference for postmasters engaged in the provision of post office services. Postmasters shall mean either male or female person, contracted to provide retail and mail services on behalf of An Post. It should be read in conjunction with the specific written security procedures agreed with your regional office. While not all of it may be relevant to your particular office, you will find it useful in assessing the risks and taking measures to reduce the likelihood of security breaches/robberies. The information contained in this handbook is confidential and should not be divulged to anyone other than your staff”.
43. The handbook covers a range of security procedures, most of which relate to security matters concerning the operation of the post office itself. There is a brief section devoted to “Hostage/Tiger Kidnap.”
44. Having perused this handbook, I find that there is little of relevance in it to the allegations made against the second named defendant. The section on “Hostage/Tiger Kidnap” does not, in my view, contain any information which, if disclosed, would pose a “real and substantial systemic risk to the security and safety of post offices, including people working in them and any members of the public using same”, should the documents come into the public domain.
45. I am fortified in this conclusion by the fact that this booklet was issued some fourteen years ago. I was furnished with a “Security Procedures Handbook” from 2013 for comparison purposes, although I am not aware if this is the latest iteration of the Security Procedures Handbook issued to retail post offices. In this handbook there is also a section on “Hostage/Tiger Kidnap”. It is clear from a perusal of this handbook that the 2006 procedures, to the extent that they are set out in the 2006 handbook, have been substantially revised and augmented in the 2013 handbook, to the extent that the 2006 handbook could not reasonably be regarded as setting out present An Post policy in relation to hostage/tiger kidnappings.
46. There can be no doubt that, if the plaintiff is not permitted to have access to the 2006 handbook, she is significantly hampered in her ability to establish what training, directions or guidelines were given by the second named defendant to the first named defendant in relation to security measures generally and in relation to tiger kidnapping in particular, to the point where she may not be able to establish her case against that defendant at all.
47. In all the circumstances, I am of the view that the 2006 handbook is relevant to the matters at issue and necessary for the fair disposal of the case. I find that the booklet does not attract public interest privilege. However, I will permit redaction of the phone number to which reference is made in section 29 (p. 19) of the booklet, should the second named defendant deem that appropriate.

48. To the extent that the booklet refers generally to the security systems and training in relation to post offices, these are of some relevance to the issues in this case as they demonstrate the level of training and information, and the implementation of security systems, which An Post put in place and communicated to postmasters at retail offices prior to the incident the subject of the proceedings. These details will assist in establishing the context in which security arrangements regarding tiger kidnapping were made and communicated to postmasters, and the adequacy or otherwise of those arrangements. I am therefore not disposed to order redaction of the other sections of the handbook, which, as I have mentioned, is at this stage fourteen years old and has been superceded by at least one further handbook.
49. However, the handbook is undoubtedly a confidential document, and contains information which, notwithstanding that the handbook has been superceded by a subsequent edition, may be sensitive and which requires some protection from general dissemination.
50. Accordingly, I will make an order pursuant to O. 31, r. 12 of the Rules of the Superior Courts directing the second named defendant to make discovery of
- (i) the "Postmaster's Manual" issued by An Post to postmasters during the period of five years preceding 4th October, 2011; and
 - (ii) the "An Post Retail Sub-Offices Procedures Handbook" of 2006.
51. I will also make an order permitting the redaction by the second named defendant of the telephone number to which reference is made on p.19 of the said "An Post Retail Sub-Offices Procedures Handbook" of 2006.
52. As I have indicated, although the application before me is not an application for production in its terms, it has effectively been treated as such, the parties having conflated the concepts of discovery and production in the course of their submissions. Accordingly, I will merely indicate at this stage that I would expect, as a condition of production, that the plaintiff and the solicitor dealing with the matter on his behalf would each undertake to the court to restrict sight of the documents in respect of which I have ordered discovery to themselves, counsel, and any expert witness who it is intended may give evidence at the hearing. The plaintiff's solicitors should further undertake that the report will be used for the purpose of providing legal advice to the plaintiff and for the purpose of the hearing of these proceedings, and for no other purpose. Any expert witness given access to the report should likewise undertake only to use the documents for the purpose of the proceedings, and for no other purpose.
53. The parties may wish to agree that these orders be incorporated in the court's order notwithstanding that no formal order for inspection or production is being made. In any event, I will hear the parties as to the precise form of order and give liberty to apply in case there is a practical difficulty.