

In the matter of a notice of reference between Optical Express (Southern) Ltd and Birmingham City Council, Acquiring Authority, Re: 14 Martineau Way, Birmingham

INTERLOCUTORY DECISION OF THE LANDS TRIBUNAL P H Clarke FRICS : 27th August 2003.

Introduction

1. This is a decision on interlocutory applications regarding the admissibility of evidence and for leave to lodge a particularised claim in a reference to determine compensation for the compulsory acquisition of business premises.
2. The facts can be stated quite shortly. The claimants were tenants of a shop in the centre of Birmingham acquired by Birmingham City Council ("the Council") under a compulsory purchase order for the purposes of redevelopment. The order was confirmed on 21 December 1999 and possession of the claimants' premises was taken on 7 April 2000. The Council referred the determination of compensation to this Tribunal on 26 September 2002. On 5 February 2003 Mr John Webber MRICS, then of NDI Gooch and Wagstaff, acting for the claimants, sent to Mr Anthony Chase FRICS of Gerald Eve, acting for the Council and the developers (Land Securities), a letter by fax enclosing a completed claim form (described as a "draft form of claim") and trading figures headed Birmingham Trading Contribution Statement. The letter was marked "without prejudice". Mr Chase subsequently attached the claim form and Contribution Statement to his expert report and referred to them in the report, including the amounts of compensation claimed. Following the making of the reference in September 2002 directions were given for expert reports and on 9 April 2003 the Registrar ordered points of claim by 11 June 2003. These were not lodged but expert reports were exchanged and lodged on 12 June. Two reports were put in on behalf of the claimants, by Mr Webber as to the value of the claimants' leasehold interest and by Ms Sara Fowler as to the value of the claimants' business. Mr Chase lodged an expert report on behalf of the Council dealing with both matters.
3. On 18 June 2003 I was selected by the President to hear and determine this reference. On 8 July 2003 I issued further directions, partly in response to an application by the Council made on 30 June. On 12 August the claimants lodged a witness statement by Mr Mouldsdales, the Chairman and Chief Executive of the claimants' group holding company, pursuant to these directions. On 30 July the claimants made applications for an order for the deletion of all references in Mr Chase's report to the claim and Contribution Statement sent to him on 5 February 2003 and for leave to put in a particularised claim with other consequential directions. These applications were opposed by the Council. I heard them on 13 August 2003. Mr Robin Purchas QC appeared for the claimants and Mr John Hobson QC appeared for the Council. Both helpfully lodged skeleton arguments before the hearing. I received witness statements from Mr Webber and Mr Chase. At the hearing I ruled that the fax dated 5 February 2003, the claim form and the Contribution Statement were inadmissible under the without prejudice rule and directed that Mr Chase's report be withdrawn and an amended report lodged omitting the privileged material. I also gave leave for the claimants to lodge points of claim out of time on terms of costs, with consequential and further directions. I set out below my reasons for these decisions.

Admissibility of evidence

4. Mr Purchas QC said that privilege attaches to documents that come into existence to settle a dispute. It is based partly on public policy, which encourages the settlement of disputes without litigation, and partly on quasi contract. He referred to *Rush & Tompkins Limited v Greater London Council* [1989] AC 1280 at 1291 and 1299D; *Cutts v Head* [1984] 1 Ch 290 at 306C-G and 307 B-C; *South Shropshire District Council v Amos* [1987] 1 All ER 340 at 343 and 344; *Muller v Linsley and Mortimer* [1996] 1 PNLR 74 at 77 B-C; *Unilever Plc v The Proctor & Gamble Co* [2001] 1 All ER 783 at 789-797; and *The Prudential Insurance Company of America v The Prudential Assurance Co Limited* [2002] EWCA Civ 1154 at paras 10-14.
5. Mr Purchas said that conventionally the approach is that, where a course of correspondence is marked without prejudice, the whole is privileged unless there is an express break to make the continuing correspondence open. The correspondence in this case is marked without prejudice, particularly the fax of 5 February 2003. This label covers the claim form and Contribution Statement sent with the fax. It is not possible to separate the fax from the accompanying documents (see *Unilever* at 796c). The

Council acknowledge that the fax was a genuine attempt to negotiate a settlement. It followed telephone conversations between Mr Webber and Mr Chase and can be seen as an "opening shot" in the negotiations (see *Amos*). Later there were offers of settlement by Mr Chase. The fax and accompanying documents are all covered by the without prejudice rule and are privileged from disclosure.

6. In reply to Mr Hobson's submission regarding the Contribution Statement and the reference thereto in Ms Fowler's expert report, Mr Purchase said that the Statement referred to in that report is not the same Statement as that sent to Mr Chase in February 2003. (Later in the hearing Mr Purchase agreed to a direction requiring the claimants to send a copy of the Statement referred to in Ms Fowler's report to the Council.)
7. Mr Hobson QC said that there is no disagreement as to the law. It is accepted that privilege may attach to documents which are produced for the purpose of a genuine attempt to compromise a dispute. But the claim form and Contribution Statement do not fall within this category. Since March 2000 the Council have been seeking audited accounts from the claimants, but to no avail. Mr Chase first made contact with Mr Webber in November 2002. Negotiations did not take place in 2001 and 2002. It cannot be said that there were negotiations before February 2003. Mr Chase requested accounts in November 2002 and January 2003 and this information was provided by the fax of 5 February. That fax was marked without prejudice and is not referred to in Mr Chase's report: he refers only to the claim form and Contribution Statement. He was entitled to do this because the material referred to was not submitted in the context of any negotiations. None were taking place. The material was simply the factual basis for the claim which Mr Chase had been seeking for more than two years. At the time of Mr Chase's report this was the only material which had been provided by the claimants in support of their claim.
8. Mr Hobson said that this is a bizarre application at this stage in the reference having regard to Ms Fowler's report which refers to the Contribution Statement although it is not included in her report. It appears to be the basis of her assessment of the value of the business. There has therefore been a waiver of privilege. A distinction should be drawn between the claim form and the Contribution Statement. Mr Hobson later conceded that the claim form (including the claim figures) should be deleted from Mr Chase's report but not the Contribution Statement.

Decision

9. The law is not in dispute: it is the application of law to the facts which is in issue. The principle underlying the without prejudice rule is clearly explained in the judgment of Robert Walker LJ in *Unilever* at 789f:- "In *Rush & Tompkins Ltd v Greater London Council* [1988] 3 All ER 737 at 739-740, [1989] AC 1280 at 1299. Lord Griffiths said:

*'The 'without prejudice rule' is a rule governing the admissibility of evidence and is founded on the public policy of encouraging litigants to settle their differences rather than litigate them to a finish. It is nowhere more clearly expressed than in the judgment of Oliver LJ in *Cutts v Head* [1984] 1 All ER 597 at 605-6, [1984] Ch 290 at 306: 'That the rule rests, at least in part, on public policy is clear from many authorities, and the convenient starting point of the inquiry is the nature of the underlying policy. It is that parties should be encouraged so far as possible to settle their disputes without resort to litigation and should not be discouraged by the knowledge that anything that is said in the course of such negotiations (and that includes, of course, as much the failure to reply to an offer as an actual reply) may be used to their prejudice in the course of the proceedings. They should, as it was expressed by Clauson J in *Scott Paper Co v Drayton Paper Works Ltd* (1927) 44 RPC 151 at 156, be encouraged freely and frankly to put their cards on the table ... The public policy justification, in truth, essentially rests on the desirability of preventing statements or offers made in the course of negotiations for settlement being brought before the court of trial as admissions on the question of liability. The rule applies to exclude all negotiations genuinely aimed at settlement whether oral or in writing from being given in evidence.'*

This well-known passage recognises the rule as being based on at least in part on public policy. Its other basis of foundation is in the express or implied agreement of the parties themselves that communications in the course of their negotiations should not be admissible in evidence if, despite the negotiations, a contested hearing ensues."

10. Mr Hobson said that the without prejudice rule does not apply to the fax of 5 February 2003 and accompanying documents because they were not submitted in the context of any negotiations. He subsequently conceded that the fax and the claim form, including the figures of claim, are privileged but not the Contribution Statement, which is factual material. Quite simply, he said, negotiations were not taking place in February 2003. I look first at the position at that time. Were negotiations in progress? There was clearly litigation. The claimants' leasehold interest had been compulsorily acquired and they had an entitlement to compensation from the date of entry in April 2000. Compensation had not been agreed. The Council referred "the question of disputed compensation" for determination by this Tribunal under section 6 of the Compulsory Purchase Act 1965. In this case possibly all three of the alternative requirements under that section existed: failure to submit a claim or to treat with the acquiring authority and no agreement on the amount of compensation. Negotiations to settle a claim for compensation are an essential part of compulsory purchase procedure, even without a reference to the Lands Tribunal.
11. Mr Webber said in his witness statement that he was instructed in November 2001 to assist the claimants in progressing their claim and that, over the next year, he was in the process of trying to negotiate a settlement with Mr Chase. Mr Chase, in his witness statement, however, denied this and said that his first contact with Mr Webber was on 12 November 2002, when Mr Webber telephoned him to say that he was acting for the claimants. Whatever is the true position it is clear that Mr Webber and Mr Chase were talking to each other from November 2002, after the reference to this Tribunal and before the fax of 5 February 2003.
12. Mr Chase's note of the telephone call on 12 November 2002 records that Mr Webber said that he was acting for the claimants and enquired as to what was needed. Mr Chase replied that "a claim would help – with supporting information by way of accounts." Mr Webber will "get on to it asap." On 29 November Mr Chase telephoned Mr Webber to say that Land Securities would like to settle as soon as possible. There may be an opportunity to make an offer on the basis of trading accounts without too much further probing and detailed questions, provided the amounts are considered reasonable. Mr Webber said that he understood and will chase his clients for the information. This was followed by a letter from Mr Chase to Mr Webber dated 2 January 2003, not marked without prejudice. It refers to the telephone conversation of 29 November. He enquired as to a claim or at least the trading accounts and then said that the "window of opportunity" to settle the claim quickly had now been lost but he was anxious to make some progress, bearing in mind that the deadline for submission of experts reports is now only a few weeks away. On 9 January Mr Chase spoke to Mr Webber on the telephone who told him that he was waiting for final trading accounts and hoped to get the claim off next week.
13. I now consider the letter of 5 February 2003. It was sent by fax by Mr Webber to Mr Chase. It is marked "*without prejudice*" and the number of pages (including cover) was 8, (as noted on the first page). It is as follows:- "*Please find a draft form of claim.*

There are in effect only two elements to the claim being the value of the leasehold interest and the value of the total extinguishment of the business.

The £- is the profit rent up to the next review. The £- is – YP times the adjusted net profit. The attached figures from the client show the contribution statement of the store. There are different elements to the breakdown. I am letting you have exactly what I have in my possession to show you the parameters.

Please call to discuss."

Attached was a Form of Claim prepared by, and returnable to, Birmingham City Council, which was completed and dated August 2002. Mr Webber or his firm were not entered under "name and address of surveyor". Figures for the value of the claimants' interest and for disturbance respectively were given. Also attached was a list of trading figures headed "Birmingham Trading Contribution Statement 1 April 1997 – 31 March 2000 Comparison".
14. There then followed a telephone conversation on 11 February. Mr Chase's note states that he told Mr Webber that receiving the claim etc at this late state placed him in a difficult position: no time to

negotiate as it is necessary to prepare his expert report. But he has been instructed to offer £ – with a sum on top for fees. Mr Webber agreed to put the offer to his clients. Mr Webber also made a shorter note recording "£ – all in – may move up slightly but only a little."

15. On 25 February Mr Chase sent an e-mail to Mr Murdoch of the claimants, at his request, summarising the position and confirming the offer made on 11 February with an explanation as to how it was calculated. Near the end of the e-mail is the following paragraph:- *"Strictly 'without prejudice', I may as I mentioned have a little leeway on this for, say, fees and notional closure costs. I must however press you for a response this morning; I have continually been delaying the writing of my report to the Tribunal in anticipation of a response to the offer but I really will have to write it this afternoon and tomorrow in view of the instruction from Land Securities."*

This e-mail is not otherwise marked without prejudice.

16. Finally, in this sequence, I refer to a letter dated 28 March 2003 from Mr Chase to Mr Murdoch. It is headed without prejudice. It opens by recalling that they spoke on 25 February *"regarding the compensation payment which my clients were, at that time, prepared to offer"* and to the e-mail referred to above. The letter then continues:- *"In fact the position has moved on a little since I last discussed this with you. In my Expert's Report to the Lands Tribunal I have expressed the opinion that the amount of compensation properly payable is £– to which interest should be added at the statutory rates; I calculate the interest to equate to approximately 13½ %, and accordingly my clients would be prepared to make a compensation payment now, to settle this matter by agreement, at a sum inclusive of interest of £–. I would also be prepared to recommend to my clients that they pay any reasonable surveyors' fees which you have incurred to date, but not including any costs relating to the reference to the Lands Tribunal and the work arising from that."*

This does of course represent some improvement on the figure which I put to you when we last spoke and I should be grateful if you kindly let me know as soon as possible whether you would now be prepared to accept this."

17. In my judgment, this sequence of telephone conversations, letters and e-mails shows that there were negotiations to settle a dispute in progress in February 2003. In November 2002 (if not before) Mr Webber and Mr Chase were in contact and Mr Chase was urgently seeking a claim and trading accounts to enable him to make an offer. On 29 November Mr Chase stated that Land Securities would like to settle and make an offer and on 5 February 2003 Mr Chase received the information requested and then made offers to settle on 11 and 25 February and 28 March. Furthermore, there was in existence litigation to determine the dispute in the form of a reference to this Tribunal. Mr Chase in his witness statement (para 10) says:- *"... whilst it might conceivably be strictly correct to say that, from November 2002, John Webber and I were 'attempting' to negotiate a settlement, no negotiations had actually taken place before the fax dated 5th February 2003 and attachments were sent."*

I do not think, that it can be said that negotiations only started after 5 February 2003. That would be putting too narrow an interpretation on the word "negotiations". In my view, the negotiations started in November 2002 when Mr Chase requested a claim and supporting information and referred to the wish of Land Securities to make an offer and reach a settlement.

18. Mr Hobson argued that the without prejudice label on the fax of 5 February did not extend to the Contribution Statement, which was supporting information. I do not agree. I accept Mr Purchas's submission that the without prejudice label extended to the whole of the fax (8 pages as stated on the front) and that it is not possible to divide the whole document into two parts, privileged and not privileged. In *Unilever* Robert Walker LJ said (at 796c):- *"... the without prejudice rule is founded partly on public policy and partly in the agreement of the parties. They show that the protection of admissions against interest is the most important practical effect of the rule. But to dissect out identifiable admissions and withhold protection from the rest of without prejudice communications (except for a special reason) would not only create huge practical difficulties but would contrary to the underlying objective of giving protection to the parties, in the words of Lord Griffiths in *Rush & Tompkins Ltd v Greater London Council* [1988] 3 All ER 737 at 740, [1989] AC 1280 at 1300: 'to speak freely about all issues in the litigation both factual and legal when seeking compromise and, for the purpose of establishing a basis of compromise, admitting certain facts.'"*

19. However, even if I am wrong, and negotiations were not in progress on 5 February 2003, I would find that the fax and accompanying documents of that date comprised "*an opening shot*" in the negotiations and are still privileged under the decision in *South Shropshire District Council v Amos*. In this case the council made a discontinuance order under section 51(1) of the Town and Country Act 1971 in respect of premises occupied by Mr Amos. Following confirmation he made a claim for compensation. On 14 October 1981 his agent wrote to the district valuer (acting for the council) a letter advising him of his appointment, referring to a forthcoming meeting and stating that a detailed claim would then be submitted. The letter was not marked without prejudice. At the meeting the claimants' agent produced a 20-page claim with supporting submissions headed without prejudice. This did not lead to agreement or a reference to the Lands Tribunal. After further correspondence the claimant's agent wrote to the district valuer a without prejudice letter on 21 May 1982 enclosing an amended claim also marked without prejudice. Further unsuccessful negotiations followed and the matter was then referred to this Tribunal. The member ruled that the two claims should not be admitted in evidence. On an originating summons under section 12(6) of the Arbitration Act 1950, the High Court then ruled that the two documents be admitted. On appeal the Court of Appeal held them inadmissible.
20. Parker LJ (giving the judgment of the court) said (at 344c):- "*Bearing in mind the original expressed intention to negotiate, the fact that there was a dispute in existence, that it is common practice for such claims to be the subject of negotiation before the parties resort to a reference to the Lands Tribunal, and that the document was clearly marked 'Without Prejudice', we have no hesitation in concluding that those words should be given their ordinary effect. The position with regard to document B is in our view plainer. It was clearly written in the course of negotiation and was accompanied by a letter which was itself headed 'Without Prejudice'. Both documents are in our view inadmissible.*"
- He then said (at 344e):- "*In order to avoid any possibility of future unnecessary disputes about such matters we conclude by stating that we agree with the judge (a) that the heading 'Without Prejudice' does not conclusively or automatically render a document so marked privileged, (b) that, if privilege is claimed but challenged, the court can look at the document so headed in order to determine its nature and (c) that privilege can attach to document headed 'Without Prejudice' even if it is an opening shot. The rule is, however, not limited to documents which are offers. It attached to all documents which are marked 'without prejudice' and form part of negotiations, whether or not they are themselves offers, unless the privilege is defeated on some other ground ..."*
21. My conclusion is therefore that the fax dated 5 February 2003, and the attached claim form and Contribution Statement are inadmissible under the without prejudice rule. Mr Chase's report must be withdrawn and an amended report lodged excluding all references to the privilege material. An order to this effect was made on 13 August 2003.
22. I acknowledge that Mr Chase was in a difficult position in February 2003 due to the claimants' failure, nearly three years after possession by the Council, to lodge a claim and supporting documents. The deadline for lodging his expert report was approaching. The only information on which Mr Chase could base his figure for disturbance was attached to a without prejudice communication. With hindsight, it can be seen that, having regard to this unsatisfactory situation, the Council should have applied to the Tribunal for a direction requiring the claimants to lodge a fully supported claim, with a reply and only then the exchange of expert reports. Where a reference is made to the Tribunal, and allocated to the standard procedure for case management by the Registrar, the Tribunal is unaware of the position between the parties as to the settlement of compensation and any negotiations that may have taken place. A standard direction is first issued for expert reports and, particularly where only the value of land is in dispute, this is usually sufficient to set the reference in motion. In many cases the parties have been in negotiation before the reference and are aware of each other's case. Where, however, no, or no sufficient, claim has been made, and particularly where disturbance is claimed, where the amount of loss and supporting evidence are wholly within the knowledge of the claimants, then it will often be necessary for an application for directions to define the issues and provide for full disclosure and evidence, including evidence of fact.

Claim

23. On 9 April 2003 (as amended on 11 April) the Registrar ordered the claimant to file and serve points of claim by 11 June 2003. None were served but on 12 June expert reports were lodged and exchanged by Mr Webber (as to the value of the claimants' leasehold interest) and by Ms Fowler (as to the value of the claimants' business). These reports set out the amounts claimed with supporting expert evidence. On 12 August a witness statement of Mr Mouldsdale was lodged by the claimants. On 30 July the claimants applied for an order that a fully particularised claim be lodged with consequent directions, varying some of the directions made on 8 July. At the hearing of this application Mr Purchas said that the evidence of Mr Webber would not require amendment but the evidence of Ms Fowler, as to the value of the business, will require amendment in the light of Mr Mouldsdale's evidence. The Council oppose this application.
24. Mr Purchas said that the claim is proceeding on an incorrect basis. The claimants recognise that the absence of a particularised claim is unsatisfactory, particularly in respect of items of personal loss. Ms Fowler is on holiday and therefore an additional period is sought to enable such a claim to be provided. A claim for disturbance arising out of the extinguishment of a business should be based on personal loss, assessed with hindsight as a result of the dispossession. In these circumstances, and notwithstanding the premise in Ms Fowler's report that the loss cannot be less than market value, it is unsatisfactory that this report does not address the factual evidence of loss now to be found in Mr Mouldsdale's witness statement. Mr Purchas conceded that Mr Mouldsdale could have advised Ms Fowler of these matters when she prepared her report. Ms Fowler dealt with the market value of the claimants' business in her report but the basis of compensation for disturbance is value to the owner. A further report is required from Ms Fowler to assist the Tribunal to determine compensation on the correct value to owner basis. If this application is granted, no change will be required to the claim for land value in Mr Webber's report, but Ms Fowler will need to revise her report and a further claim may be made for fees incurred due to the acquisition. Other usual claims, such as loss on forced sale of stock, will not be made. In arriving at a decision on the application the Tribunal should have regard to the overriding objective that cases should be dealt with justly and fairly.
25. Mr Hobson, in opposing the application, said that the claim is proceeding correctly and the further directions requested are not warranted. The directions of 8 July would, if complied with, now enable the claim to be considered expeditiously. The Council have been continuously frustrated by the claimants' delay in pursuing their claim. They did not comply with the Registrar's order to file points of claim by 11 June 2003 but instead lodged two expert reports which set out for the first time the basis of claim. The application is therefore wholly unjustified. The absence of a fully particularised claim is due to the claimants' default. Their claim is, however, now fully set out in the reports lodged. The proper course is for the Council's experts to respond to the claimants' reports in accordance with the order of 8 July. If the claimants' experts wish to add to their reports they may apply to do so. It is clear that Ms Fowler's report has assessed the value of the claimants' business on the correct value to owner basis.

Decision

26. I am not persuaded that Ms Fowler's report on the value of the claimants' business has been prepared on an incorrect basis and that I require a further report to assist me on the correct value to owner basis. It is clear from various parts of Ms Fowler's report that she was aware that compensation for disturbance is assessed on the basis of value to the owner and not market value (see paras 1.8, 1.9 and 1.14). Her conclusion, putting a value on the claimants' business, is that the value to the claimants was not substantially greater than market value. The true position is, in my view, that the claimants do not now wish to be bound by the figures in her report. I believe that this is due to their failure to give full consideration to their claim during the three-year period since they were dispossessed. The claimants' solicitors stated in a letter to the Tribunal dated 30 July 2003 that this application was made following Mr Purchas's advice on the claim.
27. I regard this application as essentially an application to amend the claim for the value of the business, as set out in Ms Fowler's report, and to amend the evidence in support of that claim. It cannot truly be

said to be an application to put in a particularised claim two months out of time. However, I agreed to the application, although with great reluctance, for two reasons. First, a hearing date has not yet been fixed and the directions of 8 July provide for further steps in the procedure leading to a hearing, including further expert reports. The addition of a further step, by the lodging of a particularised claim, will not materially delay the fixing of a hearing date. Second, the prejudice to the Council by the further delay can be dealt with by an award of costs, now, and if justified, in the costs of the reference. Accordingly, I have allowed the application. The claimants are required to serve on the Council and lodge with the Tribunal a particularised claim by 3 September 2003, on terms that the claimants shall, in any event, pay the Council's wasted and additional costs in consequence of this direction and their failure to comply with the order dated 9 April 2003, such costs, if not agreed to be the subject of a detailed assessment on the standard basis by the Registrar of the Lands Tribunal. This direction and consequential directions regarding expert reports, meetings of experts, etc have been included in an order dated 13 August 2003.

Costs

28. At the conclusion of the hearing I dealt with the costs of the pre-trial review under the two headings of admissibility of evidence and the particularised claim. Mr Purchas submitted that the claimants have been successful in both applications. They should have their costs of the evidence application but he conceded that, having regard to the circumstances of the second application, each party should bear their own costs. An award of costs against the successful claimants on the second application would not be justified. Accordingly, I should award the claimants half their costs of this hearing. Mr Hobson said that the Council should receive their costs for both applications. Both are due to the failure by the claimants to lodge a claim with supporting documents.
29. The claimants have been successful in both applications. As to the admissibility of evidence application, I agree with Mr Purchas that they should have their costs. This matter was raised between solicitors before the application was made to the Tribunal and, in my view, should have been conceded on behalf of the Council. I cannot accept Mr Hobson's submission that the Council should receive their costs of this application in which they were unsuccessful. As to the application regarding a particularised claim, this is without merit and has been made necessary by the failure of the claimants to comply with the Registrar's order of 9 April. Mr Purchas has conceded that the claimants should not receive their costs. As to Mr Hobson's submission that the Council should receive their costs, the application having been successful, I do not think that I should go further and award costs against a successful applicant, bearing in mind that I have allowed the claim on terms that the claimants pay the Council's wasted and additional costs in consequence of the order and their failure to comply with the Registrar's order of 9 April 2003. Accordingly, I have ordered that the Council shall pay the claimants' costs of this pre-trial review in so far as they relate to the application regarding the admissibility of evidence, such costs, if not agreed, to be the subject of a detailed assessment on the standard basis by the Registrar of the Lands Tribunal. There shall be no order for costs in respect of the remainder of the pre-trial review.

Mr Robin Purchas QC instructed by DLA, solicitors, for the claimants

Mr John Hobson QC instructed by Nabarro Nathanson, solicitors, for the acquiring authority