

Filed on behalf of the: Defendant
Witness: Mr A. Parsons
Statement No.: Seventeenth
Exhibit: AP17
Date Made: 31 May 2019

Claim Nos: HQ16X01238, HQ17X02637 & HQ17X04248

THE POST OFFICE GROUP LITIGATION

IN THE HIGH COURT OF JUSTICE

QUEEN'S BENCH DIVISION

B E T W E E N:

ALAN BATES AND OTHERS

Claimants

AND

POST OFFICE LIMITED

Defendant

**SEVENTEENTH WITNESS STATEMENT OF ANDREW PAUL
PARSONS**

I, Andrew Paul Parsons of Oceana House, 39-49 Commercial Road, Southampton,
SO15 1GA WILL SAY as follows:

Introduction

1. I am a partner at Womble Bond Dickinson (UK) LLP (**WBD**), solicitors for the Defendant (**Post Office**) in the above proceedings. I am duly authorised by Post Office to make this statement.
2. I make this witness statement in response to the Honourable Mr Justice Fraser's Order that Post Office provide a short witness statement setting out the chronology of events from 10 April 2019 to 23 May 2019 in relation to Dr Worden's Further Supplemental Report (**Dr Worden's Third Report**), as explained to the Court by Post Office's Leading Counsel on 23 May 2019.

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3. Some of the discussions and exchanges referred to in the chronology below took place on a without prejudice basis. I have touched lightly on such matters so that the chronology can be followed but without waiving without prejudice privilege over any such matters.
4. The facts set out in this statement are within my own knowledge or, if they are outside my knowledge, I have explained the source of my information or belief. There is now produced and shown to me a paginated bundle of true copy documents marked "Exhibit AP17". All references to documents in this statement are either (i) references to documents within the trial bundle for the Horizon Issues Trial, in the format {Bundle/Tab/Page} or (ii) references to pages of Exhibit AP17.
5. On 10 April 2019 WBD wrote to the Claimants' solicitors, Freeths LLP (**Freeths**) {H/255.5/1} to inform the Claimants of Dr Worden's intention to produce a very short supplemental report summarising a more focussed analysis of the Peaks, OCPs, OCRs and MSCs. Within this letter WBD also explained that neither Post Office nor its legal team had requested this further work and confirmed that Dr Worden had decided to undertake this further work pursuant to his understanding of his duty to the Court.
6. During the hearing on 11 April 2019 (day 12, page 114), Mr de Garr Robinson QC, Leading Counsel instructed by Post Office in the Horizon Issues Trial, informed the Court that Dr Worden had recently realised that there is a new way of looking at the evidence in this case which, in his view, could greatly assist the Court in deciding Horizon Issues 1, 12 and 13. Mr de Garr Robinson also informed the Court this analysis adopted an approach of focussing on those Peaks, OCRs, OCPs and MSCs which mention the FAD codes of one or more of the Claimants' branches and would include two separate exercises as follows:
 - 6.1 Dr Worden's view was that, where a detected bug affected the accounts of any branch, the Peak relating to that bug was likely to have mentioned the affected branch's FAD code and typically would mention a sum of money involved too. In light of this, Dr Worden intended to perform a search of all of the Peaks which mention the Claimants' branches during the relevant Claimant's period of tenure with a view to this assisting the Court in relation to Horizon Issue 1, being to what extent it is likely that bugs have affected branches.
 - 6.2 Performing a review of the OCPs, OCRs and MSCs with a view to finding those which mention the Claimants' branches during the relevant Claimant's period of tenure. As this yields a limited number of OCPs, OCRs and

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MSCs, this enables an assessment and analysis of Horizon Issues 12 and 13, namely how often the remote access facility exercised was and what effect it had.

Together the **"Further Analyses"**

7. Following Mr de Garr Robinson's explanation of the Further Analyses to the Court, the Court made an Order for the parties' experts to have at least one further meeting to seek further agreement on the Horizon Issues by 4pm on 3 May 2019 {C7/51/1}.
8. The experts then engaged in a series of without prejudice emails and telephone discussions. I do not set these all out in full below so as not to waive without prejudice privilege, but only highlight in summary the key steps so that the chronology of events can be seen.
 - 8.1 On 11 April 2019, Dr Worden provided his current workings on the Further Analyses to Mr Coyne on a without prejudice basis.
 - 8.2 On 25 April 2019, Dr Worden provided, on a without prejudice basis, a draft Further Supplemental Report to Mr Coyne by email (**Draft Report**).
 - 8.3 On 29 April 2019, Dr Worden provided, also on a without prejudice basis, the draft appendices to his Draft Report by email to Mr Coyne.
9. On 3 May 2019 {H/272/1}, WBD wrote to Freeths to advise the Claimants of Post Office's views towards Dr Worden's Third Report in that:
 - 9.1 Post Office was not at that point minded to apply for permission to rely on the Peak based analysis that is relevant to Horizon Issue 1.
 - 9.2 In relation to the OCP, OCR and MSC based analysis relevant to Horizon Issues 12 and 13, Post Office's preliminary view was that this could assist the Court as it provides a conclusion that has not previously been articulated and would require limited additional work.
 - 9.3 In light of the above, Post Office was considering whether to make an application to rely on the OCP, OCR and MSC based analysis and invited Freeths to share the Claimants' views on how these matters should be handled pending the next expert meeting.
10. On 7 May 2019, Freeths wrote two relevant letters to WBD as follows:

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- 10.1 In their Second Letter that day {H/274/1} Freeths requested that WBD provide *"copies of any scripts/ search parameters that Worden has used and/ or has had access to, in order to search for the relevant Peaks, OCRs, OCPs and MSC logs"*
- 10.2 In their Third Letter {H/275/1 – H/275/4}, Freeths substantively responded to WBD's letter of 3 May 2019 and stated amongst other things that:
 - 10.2.1 They were unable to respond and share the Claimants' views on the relevant next steps without referring to the content of the Draft Report.
 - 10.2.2 They were seeking an explanation as to what Post Office and its expert would be inviting the Court to consider and to find in relation to Dr Worden's Third Report and the Further Analyses.
11. On 10 May 2019 {H/278/1 – H/278/2}, WBD responded to Freeths' Third Letter of 7 May 2019 and stated that:
 - 11.1 The Draft Report had been provided to Mr Coyne on a without prejudice basis and that, while the details of the draft should not be referred to in open correspondence, the parties were able to share their initial thoughts about the way forward in this respect.
 - 11.2 WBD had already set out Post Office's current thinking within its letter of 3 May in an attempt for the parties to proceed with a co-operative approach.
12. I understand from Dr Worden that the experts held a further without prejudice telephone discussion on 15 May 2019.
13. The following day, on 16 May 2019, Dr Worden provided a copy of his Third Report to Mr Coyne by email on an open basis, noting that:
 - 13.1 He would be sending his Third Report to the Court shortly, but not before Wednesday (being 22 May 2019) to give Mr Coyne time to consider his response.
 - 13.2 In Dr Worden's view, a brief joint statement between the experts, either before or after 22 May 2019, would then be possible.
14. I understand from Dr Worden that the date of 22 May 2019 was selected because he understood that Mr Coyne was due to go on holiday on 22 May for a week. Dr Worden therefore wished to allow as much time as possible for the experts to discuss his Further Analyses before Mr Coyne went away, whilst balancing this against his belief that he was obliged to update the Court on his opinions in good

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time before the Horizon Trial re-started. He therefore decided to send his report to the Court on 22 May, being the day that Mr Coyne left on holiday.

15. On Friday 17 May 2019 Freeths wrote to WBD {H/283/1 – H/283/2} noting that, amongst other matters, they continued to see difficulty with engaging in discussions without a copy of Dr Worden's Third Report being available on an open basis.
16. It appears that Freeths became aware later that day that the Third Report had already been provided to Mr Coyne on an open basis the previous day and so wrote again on 17 May 2019 {H/285/1 – H/285/2} to clarify their earlier letter, including asking whether Post Office would be making an application to rely on Dr Worden's Third Report and, if so, when such an application would be made.
17. On Monday 20 May 2019 {H/287/1}, Freeths wrote to WBD requesting "*copies of any scripts/ search parameters that Worden has used and/ or has had access to, in order to search for the relevant Peaks, OCRs, OCPs and MSC logs*".
18. On 21 May 2019 (sent by email at 10:51) {H/289/1}, WBD responded to Freeths' letters of 17 May 2019 to confirm that:
 - 18.1 Our understanding from Dr Worden was that the experts would be speaking early that week, before the report was sent to the Court by Dr Worden. In light of this, we said that it would be appropriate for the parties to wait to see to what extent the experts agreed or disagreed before any decisions were taken in relation to Dr Worden's Third Report.
 - 18.2 Notice of Dr Worden's intention to produce his Third Report had been given to the Claimants at the earliest opportunity so that the parties could discuss it with the aim of producing an agreed position and that my firm remained hopeful that an agreed position could be reached.
19. In a separate letter on 21 May 2019 {H/290/1}, WBD responded to Freeths' letter of 20 May 2019 in which they requested "*copies of any scripts/ search parameters*" which form the basis of the Further Analysis. My firm's letter noted that:
 - 19.1 The Claimants' request cut across the without prejudice correspondence that took place between the experts on 30 April and 1 May 2019 and that WBD hoped that it would not become necessary to refer to those without prejudice exchanges in open correspondence.

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- 19.2 WBD would ask Dr Worden to provide on an open basis the program that he had developed to search for relevant documents.
20. Later on 21 May 2019 (sent by email at 21:35) {H/292/1 – H/292/2}, Freeths wrote to WBD expressing its concerns about their expert engaging with Dr Worden's Third Report and also to request again copies of any scripts / search parameters relevant to Dr Worden's Further Analysis.
21. In parallel with the above correspondence, I understand from Dr Worden that the experts again spoke by telephone on 21 May 2019. I further understand from Dr Worden that it was not made expressly clear between the experts whether this was an open or without prejudice call, so out of prudence I do not comment further on the contents of this call in this statement.
22. On 22 May 2019 (at 15:25), Dr Worden sent his Third Report to the Court. It was sent on 22 May 2019 because Dr Worden understood that Mr Coyne had gone on holiday that day and he did not anticipate any prospect of material progress between the experts for another week. His covering email to the Court {H/296/2-H/296/3} provided that:
- 22.1 The further work in his Third Report was done at his own instigation and not prompted by Post Office or its lawyers.
- 22.2 In Dr Worden's opinion, this work led to a material change in his opinions and that he believed he was obliged to inform the Court of those changes.
- 22.3 A draft version of the report was provided to Mr Coyne on 25 April and a final version provided to him on 16 May.
- 22.4 When cross-examined on the Horizon Issues, Dr Worden noted the he may need to refer to the Third Report as it was now part of his opinion.
- 22.5 His understanding was that Post Office was not intending to make any application to rely on the report.
23. At 15:28 (pages 1 – 2 of Exhibit AP17), Dr Worden forwarded his email to the Court on to Mr Coyne and Mr Hartley of Freeths.
24. Following Dr Worden's email to the Court, WBD wrote to Freeths later that day {H/294/1} and this letter stated amongst other matters that:
- 24.1 WBD's understanding from Dr Worden was that it was Mr Coyne's intention to discuss Dr Worden's Third Report when he returned from holiday on Wednesday (29 May 2019) and that we would encourage Mr Coyne to

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engage substantively with Dr Worden as soon as possible, given that he had had Dr Worden's Further Analyses for nearly a month.

24.2 Dr Worden has sent his Third Report to the Court as he believed it was unlikely there would be any progress between the experts over the coming week and that he believed that he has a duty to update the Court on his opinions.

24.3 Post Office did not intend to make an application to rely on Dr Worden's Third Report but would keep an open mind should the experts make substantive progress.

24.4 The Claimants' request for copies of scripts / search parameters could create an impression that the relevant search program had not been previously offered by Dr Worden to Mr Coyne. My firm invited Freeths to review the without prejudice correspondence between the experts and reconsider whether they wished to maintain that position. Nevertheless, we confirmed that Dr Worden would provide the search program to Mr Coyne now.

25. By email on 22 May 2019 (which was actually sent shortly before the above letter) (page 3 of Exhibit AP17), Dr Worden provided Mr Coyne with the search program he had used to identify documents for the basis of the Further Analyses.

26. The Court will already be aware of the emails sent by the Managing Judge's clerk on the afternoon on 22 May 2019 which led to this matter being raised at the hearing on 23 May 2019 and an Order being made for this statement.

STATEMENT OF TRUTH

I believe that the facts stated in this witness statement are true.

Signed: **GRO**

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B E T W E E N:

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Defendant

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ALAN BATES AND OTHERS

Claimant

SEVENTEENTH

**WITNESS STATEMENT OF ANDREW
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