

womblebond Dickinson.com



28 May 2019

Second Letter

Freeths LLP
100 Wellington Street
Leeds
West Yorkshire
LS1 4LT

By email only

Womble Bond Dickinson (UK) LLP

Oceana House
39-49 Commercial Road
Southampton
SO15 1GA

Tel: **GRO**
Fax: **GRO**
DX: 38517 Southampton 3

GRO
Direct: **GRO**

Our ref:
AP6/AP6/364065.1369
Your ref:

Email: james.hartley@ **GRO** imogen.randall@ **GRO**

Dear Sirs

**Post Office Group Litigation
Horizon Issues Trial - Further supplemental report of Dr Worden**

We refer to your letter of 24 May 2019.

Dr Worden has been waiting for some time for substantive engagement from Mr Coyne on the analysis and conclusions contained in his third report and, as and when Mr Coyne makes his position clear, both sides will have a clearer understanding of what use, if any, is to be made of the report. However, in the event that there is no further agreement between the experts, our client does not intend to seek permission to adduce Dr Worden's third report in evidence, with all the consequences that this usually entails. Thus, it does not intend to adduce the report in Dr Worden's examination in chief or rely on the report as evidence in its closing submissions.

You also ask us whether our client intends to put the report, its conclusions or the analysis on which it is based to Mr Coyne. We confirm that our client does not intend to use Mr Coyne's cross examination as a means of adducing the report by the back door, for example by putting the report's conclusions to him. However, ways of analysing the evidence by reference to samples may be explored with Mr Coyne, which we note was the approach that Dr Worden adopted in the report. And we obviously cannot legislate in advance for the answers which Mr Coyne gives in cross examination and the follow up questions which may be generated by those answers.

Obviously, Dr Worden's report reflects Dr Worden's views. Should your Counsel ask him questions in cross-examination that covers the same ground as the report, it may be that Dr Worden's answers will refer to the analysis or conclusions expressed in the report. To do otherwise could potentially mean him giving an untruthful answer. That may then necessitate our client putting corresponding questions to Dr Worden in re-examination or commenting in closing submissions on his evidence given in cross-examination. Please can you confirm whether your client intends to refer to the report in your client's cross-examination of Dr Worden.

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Yours faithfully

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