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8 August 2018

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Second Letter

By email only

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Our ref:  
AP6/DJP2/364065.1369  
Your ref:  
JXH/1684/2113618/1/MA

Dear Sirs

Post Office Group Litigation  
Expert's Request for Further Information (RFI) and 20 July email

We write further to our letter dated 1 August and our second letter dated 6 August.

RFI

We enclose an updated response to the RFI. Where Post Office objects to a request the reasons are set out in the response. There are three re-occurring grounds of objection that we explain in more detail below.

1. A number of Mr Coyne's requests crossover with already agreed classes of disclosure. It appears that Mr Coyne has not taken into account the fact that Stage 3 Disclosure was ordered at the CMC on 5 June. Stage 3 Disclosure was under Model C (being narrow classes of document) and related exclusively to the Horizon Issues. The scope of that disclosure was carefully negotiated between the parties and the remaining points of dispute decided by the Managing Judge.

It is not permissible for Mr Coyne to make requests for information that cut across the Order made on 5 June. His requests do this in a number of ways:

- a) Some of the requests are outright requests for documents. These are already covered by the scope of Stage 3 Disclosure or, if they go further, then wider requests for disclosure should have been sought at the 5 June CMC.
- b) Some requests are tantamount to requests for disclosure, such as asking for details of reports to Post Office. The same points in (a) apply.
- c) Some requests would effectively require a substantive disclosure exercise to be undertaken to provide the requested information and are in essence disclosure by another route as once our client had collated these documents it would be obliged to disclose them.

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The effect of these requests is to extend the scope of disclosure in ways that were not sought by the Claimants at the 5 June CMC. This is not a proper use of the procedure in CPR 35.9 as it is not designed to be a route around the normal rules on disclosure.

2. Many of the requests seek information on how often a particular situation has occurred and over what period. Post Office has made reasonable and proportionate enquiries to determine whether or not such information has already been collated or could be easily collated as part of ordinary working practices at Post Office and Fujitsu. Where that information is reasonably and proportionately available Post Office has provided it.

However, some of the requests ask for information about how often something has happened over an 18+ year period across the entire Post Office network. Where that information has not already been collated as part of ordinary practices, it would require a retrospective review of Post Office's and / or Fujitsu's activities over extended periods of time. This may well entail needing to search through large volumes of documents and data to collate the necessary information to answer the request. Such exercises are not reasonable nor proportionate and are objected to by Post Office.

3. Some of Mr Coyne's requests are outside of the scope of the Horizon Issues. While he has sought to circumvent this by arguing that any matter which ultimately has an impact on branch accounts is within scope, the Horizon Issues were the subject of much negotiation between the parties and items such as Post Office's back-office reconciliation procedures were not included in the agreed Horizon Issues (despite being originally requested by the Claimants and ultimately conceded). It is not appropriate for Mr Coyne to seek to expand the scope of the Horizon Issues through requests for information. If the Claimants / Mr Coyne believes that the scope of the Horizon Issues needs revising, this proposal should be expressly made and supported with reasons.

#### 20 July email

We also enclose a table containing Post Office's response to Mr Coyne's 20 July email pursuant to paragraph 1 of the Fifth CMC Order.

Although you have not responded to our 1 August letter, in which we asked Mr Coyne to clarify requests v), vi) and viii) (because their meaning and purpose are not clear), our client has dealt with those requests as best as it can.

You will see in our client's responses that it is working with Fujitsu to establish whether a mechanism could be created to export or provide Mr Coyne with direct access to the 220,000 Peak entries or at least some / part of them. We believe that this may assist Mr Coyne but there are serious technical barriers to doing this which are currently not possible to overcome. We will revert when we are able to do so, but in the meantime we remind you that there is an open offer for the experts to inspect the Peak system at Fujitsu's offices for a second day.

Yours faithfully

*Womble Bond Dickinson (UK) LLP*

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