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Second Letter

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By email only

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Dear Sirs

**The Post Office Group Litigation  
Mediation**

We write in response to your letter of 21 December 2018.

**1. Mediator**

Thank you for your proposals on the mediator to be appointed. We should be grateful if you could explain your objections to Mr Marsh and Mr Howell-Richardson who both are well-placed and have suitable experience, with Mr Howell-Richardson seemingly having the greatest experience of conducting mediations in group litigations.

In response to your proposed mediators, we would prefer not to use Mr Kallipetis based on prior experience of mediating with him. We have not used Mr Flint or Mr Wood. Please could you provide some further detail as to why you consider them to be appropriate, your experience of them and, in particular, their experience of mediating group litigation.

**2. Timing**

Paragraph 14 of the Second CMC Order requires the parties to use "*reasonable endeavours to attend a mediation as soon as practicable after receipt and consideration of the Judgment on the Common Issues*". The Claimants are proposing that a mediation does not take place until after the Horizon Issues Trial judgment has been handed down. As you note in your letter, this would delay any mediation from February 2019 to around June 2019. Your proposal is based on your belief that a mediation after the Horizon Issues trial will have more utility. We do not however understand you to be saying that a mediation in February is not possible or of no benefit to the parties in seeking to resolve or narrow the issues in dispute.

Given the number of issues in dispute it is unlikely that these proceedings will be resolved at a single mediation. A mediation in February 2019 would set a foundation for future mediations and, at the least, allow the parties to understand each other's position with more clarity.

In any event, the Court has ordered the parties to mediate. It is quite possible for the parties using their reasonable endeavours to hold that mediation before the Horizon Issues Trial and therefore comply with the Court's order. We also remind you of paragraph 24 of the First CMC Order which states in relation

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to mediation that: "...any party not engaging in any such means proposed by another must serve a witness statement giving reasons within 21 days of that proposal...". The Managing Judge is therefore expecting the parties to cooperate on mediation and settlement.

### 3. Next Steps

Nevertheless, given your concerns about the utility of a mediation now, it may be useful for the matter to be reviewed by a mediator and his views sought on the best way to proceed. We therefore propose that the parties appoint a mediator now (this first step appears to be common ground) and invite his views on when a mediation may most usefully be held. If the mediator recommends that the mediation should be deferred to later then this can be communicated to the Managing Judge so that he can see that the parties are constructively progressing alternative dispute resolution routes. Please let us know if you agree or if not, why not.

Please respond to this letter by 14 January 2019 providing the required information about the proposed mediators and your provisional dates of availability. Thank you in advance for your cooperation.

Yours faithfully

A handwritten signature in black ink that reads "Womble Bond Dickinson (UK) LLP". The signature is written in a cursive, flowing style.

**Womble Bond Dickinson (UK) LLP**