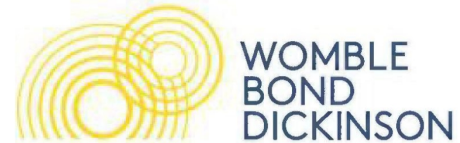


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20 March 2018

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Dear Sirs

### The Post Office Group Litigation Potential Lead Claimants and Factual Matrix

We refer to your second letter of 2 March 2018 enclosing the Claimants' draft factual matrix statement ("Draft Statement").

Having reviewed the Draft Statement, we are concerned that it is not consistent with the guidance given on two occasions by the Managing Judge, and that the scope of the evidence you propose to lead is far wider than that admissible for the construction of the agreements and determination of the Common Issues.

The Draft Statement seeks to introduce evidence outside the required scope and on matters that cannot be matrix of fact because they relate to the operation of the parties' agreement after it was made, rather than what was agreed between them. For example only:

- "...Claimants who contacted the Helpline were in any event required to settle any disputed amounts centrally..." (entry 19);
- "...on occasion the Defendant has detected that Horizon generated errors which caused the appearance of shortfalls..." (entry 40);
- "... the Defendant effected, recorded and managed the reconciliation of transactions effected by the Claimants" (entry 41);
- "The Defendant in fact sought recovery from Claimants for apparent shortfalls" (entry 45).

Further, the factual matrix should contain only facts agreed by the parties or positively asserted by one side and disputed by the other. We note that 26 out of the 46 matters included in the Draft Statement are not statements of fact but questions or issues: for example, "*whether any Subpostmaster has ever been able to establish to the Defendant's satisfaction that an alleged shortfall was the result of a Horizon bug or error*" (entry 39). Even if this were material to the construction of the relevant contractual terms (which is not accepted), the Claimants must have a positive case on this issue for it to be admissible matrix of fact for the construction of the parties' agreements, not least because the alleged fact has to have been known to the Claimants at the relevant time for it to be material to the construction of the agreements.

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We will therefore be producing a draft factual matrix statement which we believe to be consistent with the Managing Judge's guidance and the orthodox position on admissible matrix of fact evidence for the construction of agreements. To assist the production of this draft, and hopefully also avoid the need for further judicial assistance on this issue, could you please revisit your Draft Statement in light of our comments above, and provide for our consideration a revised version by 4pm on Tuesday 27 March 2018.

Yours faithfully

WOMBLE BOND DICKINSON (UK) LLP

**Womble Bond Dickinson (UK) LLP**