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Second Letter

For the Attention of Mr J Hartley
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By email only

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Our ref:
AP6/AP6/364065.1369
Your ref:
IFR/1803/212876/1/ER

Dear Sirs

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

We refer to paragraph 3 of the CMC Order requiring the parties to each select up to 6 Potential Lead Claimants.

So as to ensure that the Potential Lead Claimants are representative of the Claimants as a group and cover the Common Issues, we are currently considering the features and characteristics which the Potential Lead Claimants will need to reflect. For example, we believe that it is necessary to have at least one Claimant who was party to an NT Contract and one Claimant who was a party to the 1994 Contract. By contrast, it does not presently seem to us that any of the Common Issues are likely to require a distinction between Horizon and Horizon Online and the Claimants included in the group would not need to have used both systems.

We invite you to comment on the two examples that we give above and to set out the features which you believe should be represented in the Potential Lead Claimants. This may then allow us both to ensure that the Lead Claimants ultimately selected to go to trial are appropriate, bearing in mind Post Office has little information on the nature of a great many of the Claimants' claims.

We would also be grateful if you would confirm the extent of the factual matrix evidence on which the Claimants intend to rely. As explained by our Counsel at the CMC, the factual matrix set out in your response to Request 8 of Post Office's Request for Further Information stated that "*all facts pleaded, including those at paragraphs 9, 12-39, 41-45 and 81*" of the Amended GPOC would be relied upon as factual matrix. If the factual matrix is this broad it would include:

- Horizon, including its introduction in 2000 and subsequent amendment in 2010, how it processes data and the alleged limitations of the system (paragraphs 12 to 17 of the Amended GPOC).
- The ability of postmasters to investigate shortfalls (paragraphs 14.3, 17, 19.3 and 35.4 of the Amended GPOC).
- The methods by which postmasters made good losses and the ability to dispute these (paragraphs 19.2 & 19.3 of the Amended GPOC).

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- The use of transaction corrections (paragraphs 18 & 35.6 of the Amended GPOC) and branch trading statements (paragraphs 19, 35.2 & 36 of the Amended GPOC).
- The relationship between Fujitsu and Post Office and the role of Fujitsu (paragraphs 20 to 21 of the Amended GPOC).
- The existence of software coding errors, bugs or defects in Horizon and the need to rebuild data (paragraphs 23 to 25 of the Amended GPOC).
- The operation of the Helpline (paragraph 29 of the Amended GPOC).
- Whether when signing off branch trading statements *"the Claimants acted under unfair and / or illegitimate pressure from the Defendant and / or had no realistic practical alternative but to act as they did. They therefore acted under economic duress and / or due to (or in response to) unconscionable dealing by the Defendant."* (paragraph 37 of the Amended GPOC).
- The operation of suspense accounts (paragraphs 38 to 39 of the Amended GPOC).
- Various breaches of contract and other fiduciary / tortious duties (paragraphs 28 and 30 to 32 of the Amended GPOC).

Inclusion of these types of issues will significantly broaden the evidence needed for trial and would influence which Claimants should be selected in the initial pool of Claimants.

Putting to one side our view that your clients' approach to pleading factual matrix is wrong (as to which our client fully reserves its position, including as to costs) please confirm whether you intend to rely on the full scope of factual matrix set out in your Further Information and in particular whether you will indeed seek to rely on the matters set out above. The parties will need to be disciplined in this matter given that the reliance on inadmissible evidence would cause significant wasted cost and is likely to disrupt the timetable.

It would be appreciated if a response to this letter could be provided by 8 November 2017 so that our client can take these points into consideration when selecting potential Lead Claimants.

Yours faithfully



Womble Bond Dickinson (UK) LLP