

# Postmaster Litigation Subcommittee Board



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**MINUTES OF AN ADDITIONAL MEETING OF THE POSTMASTER LITIGATION SUBCOMMITTEE OF POST OFFICE LIMITED HELD ON TUESDAY 04 FEBRUARY 2020 AT 20 FINSBURY STREET, LONDON EC2Y 9AQ AT 12.00 HRS**

**Present:**

Tim Parker	Chairman <b>(TP)</b>
Tom Cooper	Non-Executive Director <b>(TC)</b>

**In attendance:**

Nick Read	Group Chief Executive <b>(NR)</b>
Alisdair Cameron	Group Chief Financial Officer <b>(AC)</b>
Veronica Branton	Company Secretary <b>(VB)</b>
Rodric Williams	Head of Legal – Dispute Resolution & Brand <b>(RW)</b>
Catherine Emanuel	Herbert Smith Freehills <b>(CE)</b>
Richard Watson	General Counsel – UKGI <b>(RW)</b>
Alan Watts	Herbert Smith Freehills <b>(AW)</b>

**Apologies:**

Ken McCall	Senior Independent Director <b>(KM)</b>
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**Agenda Item**

**Action**

**1. Welcome and Conflicts of Interest**

The Directors declared that they had no conflicts of interest in the matters to be considered at the meeting in accordance with the requirements of section 177 of the Companies Act 2006 and the Company's Articles of Association.

**2. Appointment of QC**

Alan Watts summarised the issues set out in the email circulated on 31 January 2020 and the decisions sought. The Subcommittee had decided at its meeting on 22 January 2020 that a new QC should be appointed to advise on the disclosure review process for the criminally convicted cases because Brian Altman QC had provided advice on an aspect of the Group Litigation in 2013.

Appointing a new QC made it more difficult to progress work on the disclosure review quickly because it would take them time to get up to speed with the facts of the case. To avoid delay, Herbert Smith Freehills had consulted with Peters and Peters and the criminal team to pull together a list of potential candidates. A number of QCs and two retired judges had been considered but it was recognised that highly qualified QCs able to start straight away were hard to find. Retired judges had built a reputation and would want to do more than sign off another's work but on the other hand would not get involved in the granular detail.

The appointment of Sir David Calvert-Smith, a retired judge, was recommended. He had not had any prior involvement with the convicted claimants' cases or the Group Litigation. In the meantime, the team were continuing to work through the issues but we wanted the QC or retired judge appointed to approve the process.

A number of points were raised, including:

- The Subcommittee needed to be assured that they were getting the best advice and there had been concern about being seen to "mark our own homework" because Brian

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Altman had provided advice on the litigation in 2013. Brian Altman’s expertise and independence were not in doubt but It was sensible, if only optically, that he should not lead on the disclosure review

- That we needed to check any potential conflicts of interest thoroughly before appointing a new QC or retired judge to lead on the disclosure review
- The Subcommittee needed a session to review the criminally convicted cases which were likely to fall into different categories in terms of risk profile etc; we needed to form a view on these cases, ideally in advance of cases being referred to the Court of Appeal. It was reported that we were targeting the end of February 2020 for feedback on the 34 cases we had identified for close review
- Our view on what we should say on the right to appeal given the Judge’s comments on the historic Horizon system was discussed. It was noted that we were in a potentially Invidious position because where cases went to appeal we had been the prosecutor in the first instance and would need to take a view on whether we should defend a particular appeal case depending on its facts. We would need to consider this issue further as we considered the individual cases and had advice on how to look at the cases from a criminal lawyer. It was noted that Post Office Limited could not resolve the criminally convicted cases, which had to go through the Court of Appeal. The Court of Appeal might chose to distinguish between cases where claimants had pleaded guilty and those who had not. Even on the lesser charge of false accounting a claimant would need to show why they had pleaded guilty originally.

The Postmaster Litigation Subcommittee **RESOLVED** that:

- As agreed at the Subcommittee meeting on 22 January 2020, Brian Altman QC should not lead on the disclosure review cases; however, there was merit in retaining him for advice, at least until the point at which it is decided which of the criminally convicted cases were be referred to the Court of Appeal (after March 2020)
- Tim Parker and Tom Cooper would speak with Sir David Calvert-Smith on 5 February 2020 before confirming his appointment
- We should inform Freeths of our decision to appoint Sir David Calvert-Smith, once confirmed.

The following actions were **AGREED**:

- The Court of Appeal process should be set out, including likely costs and timelines depending on the number of cases referred. The worst case scenario should be included (e.g. we chose not to defend any of the cases appealed and we faced claims for stigma as well as malicious prosecution)
- We needed to understand our position in relation the wider group of potential claimants so this should be set out
- The meeting scheduled for 19<sup>th</sup> February 2020 would probably not go ahead because we are unlikely to be in a position to review the criminally convicted cases at that point; confirmation of this would be provided by 14<sup>th</sup> February 2020 and a date sought to run through the cases.

Legal team

Legal team

Rodric  
Williams/  
Veronica  
Branton

4. **Date of Next Meeting:**  
18 February 2020 (subject to confirmation).

**Postmaster Litigation Subcommittee  
Board**



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Chairman

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Date