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**From:** Jane MacLeod [GRO]  
**Sent:** Fri 15/03/2019 7:27:36 AM (UTC)  
**To:** Jane MacLeod [GRO]  
**Subject:** Fwd: Litigation Options - CONFIDENTIAL AND SUBJECT TO LEGAL PRIVILEGE.

Dear Tim and Tom

As flagged on the aboard call on Tuesday, we have sought further advice on appeals and as to whether we had grounds to request the judge to recuse himself on the grounds of bias.

We sought advice from Lord Neuberger who stepped down last year as the President of the Supreme Court (and as such he was the highest judge in the U.K.). We sought his views on:  
- appeal options (including grounds), and whether Mr Justice Fraser Common Issues judgement demonstrated grounds on which we could apply for him to recuse himself.

The test for recusal is .....

As you will see, while there is further work to be done on appeal, Lord Neuberger comments favourably on appeal prospects, and states that he believes we have reasonable grounds to seek a recusal decision, and further suggests that by not doing so, we may adversely impact our prospects to argue (prejudicial conduct)

I have set out below the proposed process and timetable ....this suggests that we should make the decision urgently - preferably not later than Monday .

The risks with this strategy are:

In the meantime I propose today to brief Lord Gribner to act on the recusal application. Should the Board decide not to proceed, then we can withdraw the instructions, however he will need reading in time, so this parallel track will minimise delay.

Tim, this is clearly a board decision and we would need to give the Board time to consider the option, however we would like to convene a call over the weekend or on Monday at the latest to discuss this proposal. Lord Neuberger is available for a conference call to discuss his views, although he is in Argentina, so there are some time considerations. Once he has read in, and assuming he agrees with Lord Neuberger, I expect Lord Gribner would also be available for a call.

Tom, you have previously counselled us that any appeal should be discussed with the shareholder - please advise how we progress this as a matter of urgency?

Lord Neuberger advice - which is focussed on recusal, but which briefly mentions appeal prospects, is attached.

Jane MacLeod  
Group Director Legal, Risk & Governance

Post Office

GRO

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**From:** Alisdair Cameron [GRO]  
**Sent:** Thursday, March 14, 2019 10:54 pm  
**To:** Jane MacLeod  
**Subject:** RE: Litigation Options - CONFIDENTIAL AND SUBJECT TO LEGAL PRIVILEGE.

I think that's right, share this paper with Tom and Tim straight away and request a call. Thanks, Al



**Alisdair Cameron**  
**Chief Finance & Operating Officer**

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GRO

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**From:** Jane MacLeod [GRO]  
**Sent:** 14 March 2019 21:56  
**To:** Alisdair Cameron [GRO]  
**Subject:** Litigation Options - CONFIDENTIAL AND SUBJECT TO LEGAL PRIVILEGE.

Al,

Apologies for the delay in getting this to you.

Attached is the opinion from Lord Neuberger, and set out below are the legal steps that we would need to go through for an appeal on recusal grounds (this has been reviewed by the Counsel team). As you will see, it will take a few days to get the application before the Court, so a governance timetable that facilitates a go/no go decision on Monday (preferably) would be ideal.

In the meantime, I propose to instruct Lord Grabiner in the morning (Friday) on the recusal application. We can withdraw the instructions if the Board/shareholder don't wish us to proceed, however if we don't get started with him tomorrow, then we will lose time next week.

As you will see, we can set up a call with Lord Neuberger and/or Lord Grabiner, although ideally I would suggest this will be easier to arrange if it is with the Board Litigation sub-committee rather than the full Board.

Subject to your thoughts, we should brief the Chairman and then Tom C tomorrow, so that we can get their steer on whether we want to press ahead with this, and if so how we set up a board call over the weekend.

Given the time, let's talk first thing.

Jane

LITIGATION PROCESS & TIMETABLE FOR RECUSAL APPLICATION

- 1) [*Optional but recommended*] POL (through WBD) engage with the QC who is likely to be instructed to make recusal application ASAP (if one is made) to get QC "*warmed up*" to application, arguments to be deployed and (potentially) to speak to POL Board if needed, as the person who would in fact be the mouthpiece of POL. **Timing:** Friday for choice of QC and delivery of papers.
- 2) Assuming a QC is to be "*warmed up*" David Cavender QC to brief on background as fully as possible. **Timing:** Friday.
- 3) POL to decide if it is to make a recusal application. **Timing:** By (say) Monday.
- 4) POL Board may wish to speak to Lord Neuberger as part of their decision making process. The Clerks at OEC have confirmed that is possible and have contact numbers for Lord Neuberger as needed. **Please NOTE** Lord Neuberger is not in South Africa as we had understood, but in South America (Argentina) which is currently **3 hours behind us**.
- 5) As soon as decision to make application has been made (if that transpires) Freeths & Judge to be put on notice. Suggested "appropriate" notice period is one day (or more if decision made earlier than early next week). Freeths put on notice by letter from WBD (or possibly Counsel to Counsel) and the Judge by a note between the Clerks? **Timing:** early next week once decision to proceed made.
- 6) Gideon (at OEC) to be instructed to be Junior to chosen QC. **Timing:** Friday, if "warm up" route followed.
- 7) QC & Gideon prepare Application Notice and Skeleton for recusal application. This work could **start now** if we follow the "warm up" route.
- 8) Application is made first half of next week at 10am during the Horizon trial. Thereafter there are variables:
  - a. Judge may agree. Unlikely but possible. HIT trial is adjourned there and then and POL appeals the CIT findings and (if successful) we re-list CIT & HIT.
  - b. Judge may pass matter to another judge to hear. Unlikely.
  - c. Judge refuses (likely) and POL takes that refusal to Court of Appeal asap. That could be same day (possible but unlikely) or at that same week at some point if CofA recognise urgency.
  - d. CofA may agree with recusal application. If so, POL appeals the CIT findings and (if successful) we re-list CIT & HIT.
  - e. CofA may refuse recusal application in which case HIT rolls on.

Please note in any scenario where HIT is adjourned then there will be possible increased costs consequences for Claimants that POL could bear if it is ultimately unsuccessful.

**Possible outcomes of recusal application:**

- a) It is successful and HIT adjourned then appeal of CIT goes ahead and new judge is put in place for remaining aspects of trials.
- b) It is unsuccessful (at first request and CofA) then it is likely that Fraser is cross but he is also aware the CIT appeal is progressing which includes the "procedural unfairness" assertion. Possible impact in that scenario is Fraser is more cautious as to behaviours to (possibly) POL's benefit.
- c) The theoretical downside to a recusal application is that it fails and that Fraser remains the judge at Trial 3 which will require multiple findings of fact. Findings of fact are more tricky to appeal and this is a point to be cognisant of.



**Jane MacLeod**

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**From:** Tom Beezer GRO  
**Sent:** 14 March 2019 13:08  
**To:** Jane MacLeod GRO  
**Cc:** andrew.parsons GRO Amy Prime GRO  
**Subject:** RE: QCs [WBDUK-AC.FID26896945]

Jane

Please see attached "recusal note" from Lord Neuberger.

This has just been received. I am reading it now.

T

**Tom Beezer**

Partner  
Womble Bond Dickinson (UK) LLP

d: GRO  
m:  
t:  
e:

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**From:** Tom Beezer  
**Sent:** 14 March 2019 11:53  
**To:** Jane MacLeod GRO  
**Cc:** Andrew Parsons; Amy Prime

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**Subject: QCs**

Jane

A short e mail to check we are "at one" on forward facing actions. As I see it the running order is as follows:

- We get Neuberger QC recusal comment/advice this eve'
- If 'a runner' we need to decide between Grabiner QC & Mark Howard QC. That decision could be made tomorrow or early next week. From e mails I sense that you are leaning towards MHQC
- We then instruct the QC who would "do" the recusal advocacy (assuming they too concur with the Neuberger view of the world)
- Alongside the above work stream we will also get input from Neuberger QC over Common Issues appeal at some point next week (I hope. That is the timeframe I'll push for)
- We then take decisions next week (post Neuberger QC advice) over steps in Common Issues appeal (as to who/when etc).

No reply needed to this unless you have a different view.

T

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