

**From:** Gideon Cohen <[REDACTED]>  
**To:** 'Amy Prime' <[REDACTED]>, Tom Beezer <[REDACTED]>  
**Cc:** David Cavender <[REDACTED]>, Andrew Parsons <[REDACTED]>  
[REDACTED], Stephanie Wood <[REDACTED]>, "Dave Panaech"  
<[REDACTED]>, Anthony Grabiner <[REDACTED]>  
**Subject:** RE: timing of readiness for recusal [WBDUK-AC.FID26896945]  
**Date:** Wed, 20 Mar 2019 09:42:47 +0000  
**Importance:** Normal  
**Inline-Images:** image001.png; image002.png; image003.png

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Amy,

After discussing with DCQC and AGQC, the counsel view is that we should put in a short WS. I am going to strip down the version you very helpfully sent over, and send back an amended draft which hopefully can be finished off today/ early tomorrow.

Accordingly, I won't send over a marked-up App Notice.

Best

Gideon

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**From:** Amy Prime [mailto:[REDACTED]]  
**Sent:** 20 March 2019 08:38  
**To:** Gideon Cohen; Tom Beezer  
**Cc:** David Cavender; Andrew Parsons; Stephanie Wood; Dave Panaech; Anthony Grabiner  
**Subject:** RE: timing of readiness for recusal [WBDUK-AC.FID26896945]

Gideon

Thank you.

I think (although not having discussed with Tom) that we will be guided by Counsels' thoughts on whether a witness statement should be filed with the application or not. It would however be helpful if we could see what the beefed up Application Notice would look like, even if in rough draft / bullet points.

Is this something which you could put together this morning?

Kind regards

Amy

**Amy Prime**

Solicitor

Womble Bond Dickinson (UK) LLP

d: **GRO**  
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**From:** Gideon Cohen [mailto:**GRO**]  
**Sent:** 19 March 2019 23:18  
**To:** Amy Prime; Tom Beezer  
**Cc:** David Cavender; Andrew Parsons; Stephanie Wood; Dave Panaech; Anthony Grabiner  
**Subject:** RE: timing of readiness for recusal [WBDUK-AC.FID26896945]

Amy,

Been going over this. I think it will be incredibly useful as a treasury of useful material.

The immediate question to consider, following discussion with AGQC (cc'ed), is whether we should be putting in a WS at all. Interested to know what others' views are on that.

If not, I think we will have to beef up the Application Notice a bit to spell out our key contentions, at least by listing the areas in which the Judge made improper findings.

Best

Gideon

Gideon Cohen  
Barrister

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From: Amy Prime

GRO

Sent: 19 March 2019 22:00

To: Gideon Cohen; Tom Beezer

Cc: David Cavender; Andrew Parsons; Stephanie Wood; Dave Panaech

Subject: RE: timing of readiness for recusal [WBDUK-AC.FID26896945]

Gideon

Please find attached a very rough draft of the witness statement, which includes the "back story".

We have been through all the CMC Skeles and transcripts to locate relevant material – the only thing missing is anything which is contained in the transcripts for the CIT which we are checking tomorrow. I however inserted the sections which were in David's note

The structure of the witness statements is then as follows:

o Section 1: Background – very short introduction. Query how much procedural detail we want to include in this section. If this document is more aimed at Court of Appeal (on the assumption that the judge will not recuse himself) then we may want to include more detail, or potential an Annex with a chronology. We would welcome your thoughts on this.

o Section 2: Scope of Common Issues Trial. This includes all relevant quotes from the numerous CMCs are which the scope of witness evidence has been discussed. Each CMC is in separate section and it runs through them in chronological order.

At the moment, we are included far more detail / quotes then I think are necessary but for now have included everything so as you have visibility of the material there is.

o Section 3: Scope of disclosure. This contains the relevant quotes from the CMCs on 2 Feb and 22 Feb 18 at which the scope of disclosure was limited by the Judge. Again, we have included more material than necessary so as you have visibility.

o Section 4: Common Issues Judgment. This section needs completing once we have decided which parts of the judgment are going to be concentrated on. Subject to views, I have suggested the key areas should be:

§ Witnesses - Criticisms of POL's witnesses which is going to have an impact on future trials;

§ Findings - Findings which have been made but where full disclosure or evidence has not been given since the finding is outside of CIT. Emphasise on point that judge has caused this issue by the way in which he ordered staged trials and Model C disclosure. Show that biased as stuck with these decisions going forward.

§ PGQC XX - Examples where he has not stopped PGQC with out of scope XX.

§ Disclosure - Examples where narrow disclosure and then made findings on this – ie. helpline and Horizon investigations features.



One other question to consider – do we want to include stuff in the witness statement which has happened in the HIT? For example, POL being asked to do a witness statement for disclosure of audit reports, but no pushing over the lack of Cs disclosure; and I am sure Owain will be able to provide us with other example which show the bias has continued into Trial 2.

Once you have had a chance to look at this, it might be helpful to have a call to discuss the plan for finalising this - I am conscious this is a very rough document and will need quite a lot of polishing.

Many thanks  
Amy

Amy Prime  
Solicitor  
Womble Bond Dickinson (UK) LLP

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t:


e:   
  
 <mailto: >

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From: Gideon Cohen [mailto:  
Sent: 19 March 2019 21:21  
To: Tom Beezer  
Cc: Amy Prime; David Cavender; Andrew Parsons; Stephanie Wood  
Subject: Re: timing of readiness for recusal [WBDUK-AC.FID26896945]



On 19 Mar 2019, at 20:28, Tom Beezer <[GRO]<mailto:[GRO]>>> wrote:

All

Jane at POL is wanting an update on timing of readiness for recusal if the button is pressed tomorrow.

Could each of you comment on what I set out below (and what I do set out below is just my understanding of where we are, so do correct at will...)...:

- Letter to Freeths – Amy is doing that. Yet to be done, but is only short.

- Application Notice. Gideon. Done I believe?

Stephanie has done a draft, on which I have commented. Stephanie, once you are happy with it, could you please circulate?

- Draft Order. Done I believe. I think I have seen a copy.

Yes, circulated on Sunday. Please let me know if any comments.

- Draft witness statement. Work in progress. Amy P is collating the back story (quotes from hearings etc) and then Amy and Gideon to bully that into a first draft. Realistic for tomorrow ?

Difficult to comment on timings until I've seen a draft. More fundamentally, spoke about this to Tony today. His view was that we might want to hold this back for the hearing, and not put in a WS at all. That would involve beefing up the App Notice slightly.

- Skeleton Arg'. David, Gideon – where is that sitting and how far off a draft to AGQC are we ?

I spent much of today drafting it with AGQC. We are well advanced - and anyway we will obviously not be putting this in with the application notice.

Are there any other bits I have missed ?

If POL said "yes" tomorrow when would we serve Freeths and Judge ? When do we think we will try an engineer the hearing to be ? Friday ? Next week ?

Won't be Friday, because it will be contested and the other side will want to put in a skeleton argument. I think back end of next week would be the very earliest.

Also, we need to think REALLY carefully about ensuring that Lord Grabiner is available to do the hearing. Andy P says this Judge is very much of the "do it when I say" camp and not when Counsel is free.

David, Gideon – how can we ensure that lord Grabiner will be free for the hearing ? Is that a note from him to the Judge ? Is that something the Clerks sort out ?

Have you spoken to the clerks?

All thought gratefully received.

Jane wants me to send her a timing update early tomorrow morning.

T

Tom Beezer  
Partner  
Womble Bond Dickinson (UK) LLP

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m:

t:

e:   <mailto: >

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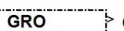
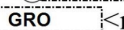


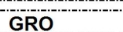
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