



OFFICE OF THE ADVISORY COMMITTEE ON BUSINESS APPOINTMENTS

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The Rt Hon The Lord Hammond of Runnymede
By email

1 September 2021

Dear Philip

I understand from the ACOBA secretariat that publication of the Committee's correspondence yesterday was held back from publication, on the basis you were seeking advice on possible legal action, including an injunction to prevent publication. You subsequently responded, as copied below.

I would like to make it clear it is for the Committee to determine whether a breach of its advice has occurred. My letter to you was a final decision letter having carefully considered the circumstances of your direct engagement with the Second Permanent Secretary at HM Treasury in July 2020. Having done so, the Committee determined this was not consistent with its advice, nor in keeping with the purpose of the Rules.

In this case, the Committee recognised it was not a blatant and deliberate attempt to breach the Rules. I asked the government to take this into consideration when copying our correspondence to the Cabinet Office. Nonetheless, as set out in my letter of 31 August, your contact raised a reasonable concern that direct engagement with the Second Permanent Secretary at HMT was only made available to OakNorth as a direct result of your time as Chancellor.

The Committee has no intention of preventing all contact with an applicant's former department in all future advice offered. Under the Rules, whilst contact would usually be contrary to the purpose of the Rules, this is not always the case. For example, there may be times when the government requests such contact, or where contact is in an open and transparent format that cannot reasonably be misconstrued as lobbying. In this case, the risk arose due to the significant overlap between your

role and responsibilities in office (Chancellor of the Exchequer), the employing organisation (a bank) and a direct email to a senior Treasury official.

In line with the Committee's policy of transparency, the Committee's correspondence dated 31 August 2021 will be published on our website today, 1 September 2021.

As your email below was received after the Committee's decision, it would not normally publish this correspondence. However, the Committee recognises your disagreement with its decision and understands that you might wish to put your views on ACOBA and this particular decision into the public domain. The Committee has no objection should you decide to publish the whole of our correspondence. We would be willing to put this correspondence, along with supporting documents, on the Committee's website alongside all previous exchanges.



The Rt Hon Lord Pickles

Correspondence from Lord Hammond to Lord Pickles, 31 August 2021

Dear Eric

Thank you for sharing your draft letter of today's date in response to mine of 16th August.

Your letter acknowledges that you have "no doubt" that I acted in the sincere belief that my contact with my former department was within the rules. Whilst I am grateful for that acknowledgement that my action was taken in good faith, the question is not whether *I believed* my action to be compliant, but whether it was, *in fact*, compliant. On that question, I am perplexed by your letter and the conclusion you reach.

You acknowledge that I have correctly recited in my letter the restriction that was placed upon me by ACOBA when I took up the appointment in question. That restriction, in so far as it relates to contact with my former department, is clear, and precisely defined. It prevents me, quite rightly, from lobbying the UK Government or from seeking to use my contacts to "influence policy or *secure business* on behalf of OakNorth or its partners". I have explained in my letter why my email to HMT did not, in my view, breach this condition, having regard to the circumstances of a pro bono offer to the government, since its purpose was neither to "influence policy" nor to "secure business".

Your letter does not dispute that my contact was compliant with the conditions ACOBA imposed on me, but asserts that it was "an unwise step" to contact a senior

official and goes on to assert that “there are instances in which direct engagement with an applicant’s former department is simply not appropriate within the spirit of the government’s rules”, without giving any proper or detailed reasoning for that position. I have subsequently learned from a conversation with your office this morning that it is ACOBA’s intention to change the wording of the restrictions contained in *future* advice to prevent *all* contact with a former department on behalf of a client.

I realise that ACOBA is under a lot of pressure to demonstrate that it is not “toothless”, but it is a public body, subject to a requirement to act reasonably when making findings following an investigation of an alleged breach. The clear conclusion of your own analysis is that no breach of the conditions occurred. If you wish to make general observations about the adequacy or otherwise of the conditions that your own Committee imposed on me, you are of course free to do so, but you must either acknowledge that those restrictions were complied with - or assert that they were not.

In my view, a reasonable person would be entitled to interpret your draft letter as implying that I was in breach of the conditions to which I was subject at the time. I explained in my letter of 16th August why I do not believe that to be the case and you have not contradicted me. Rather, you describe my action as "not appropriate", but stop short of claiming that I was in breach of the restrictions.

What is appropriate or inappropriate is ultimately a matter of individual judgement; the question for ACOBA - the sole question that the Committee should be addressing - is whether or not there was a breach of the terms of the advice. Whatever changes you plan to make in the future, the benchmark against which you must assess compliance in this case is the set of conditions that were imposed, by ACOBA, in this case. You cannot move the goalposts; I am entitled to have my actions judged by ACOBA on the basis of my compliance with the restrictions that ACOBA imposed on me in the specific advice letter that it sent to me concerning my engagement with OakNorth.

I do not accept that there could be any "reasonable concern" that my email contact with HMT on 24th July 2020 amounted to a breach of the conditions of the ACOBA advice I received. The restrictions of the condition are clear and I have complied with both the letter and the spirit of them. It is also clear from the facts that I did not obtain any "privileged access" for OakNorth to HMT - the meeting had already taken place (without any intervention by me) and Charles Roxborough's email confirms he was already aware of OakNorth's generous offer to Government and that the Department was actively considering it.

In the circumstances I must ask you to withdraw the draft letter and re-craft it to focus specifically on the only question that is relevant here: were the ACOBA restrictions, imposed upon me in respect of my engagement with OakNorth, breached by my sending the email of 24th July 2020?

Yours sincerely

Philip Hammond