



**OFFICE OF THE ADVISORY COMMITTEE ON BUSINESS APPOINTMENTS**

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**BUSINESS APPOINTMENT APPLICATION: Michael Driver CB, former Senior Responsible Owner, Borders Programme at the Department for Health and Social Care between February 2021 - September 2021; Acting Permanent Secretary at the Ministry of Justice between August 2020 - January 2021 and Chief Financial Officer between April 2016 - August 2020. Appointment with the Royal Institution of Chartered Surveyors (RICS).**

1. Mr Driver sought advice from the Advisory Committee on Business Appointments (the Committee) under the government's Business Appointments Rules for former Crown servants (the Rules) on an appointment he wished to take up with the Royal Institution of Chartered Surveyors (RICS) as Chair of the Audit Committee. The material information taken into consideration by the Committee is set out in the annex.

2. The purpose of the Rules is to protect the integrity of the government. Under the Rules, the Committee's remit is to consider the risks associated with the actions and decisions made during an applicant's time in office, alongside the information and influence a former Crown servant may offer the Royal Institution of Chartered Surveyors. The Committee has advised that a number of conditions be imposed to mitigate the potential risks to the government associated with this appointment under the Rules; this does not imply the Committee has taken a view on the appropriateness of this appointment in any other respect.

3. The Rules<sup>1</sup> set out that Crown servants must abide by the Committee's advice. It is an applicant's personal responsibility to manage the propriety of any appointment. Former Crown servants are expected to uphold the highest standards of propriety and act in accordance with the 7 Principles of Public Life.

**The Committee's consideration of the risks presented**

4. Mr Driver stated the RICS is a *professional body enforcing professional standards in the development and management of land, real estate, construction and*

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<sup>1</sup> Which apply by virtue of the Civil Service Management Code, The Code of Conduct for Special Advisers, The Queen's Regulations and the Diplomatic Service Code

*infrastructure*'. The Committee<sup>2</sup> noted the Ministry of Justice (MOJ) has no direct contractual relationship with RICS, though as it is a trade body, the department may have staff qualified to RICS standards or members of the profession. However, Mr Driver did not meet with or make any decisions specifically on RICS or its competitors. The Committee considered the risk of this appointment being offered as a reward or decisions made in post as low.

5. The MOJ noted the inherent risks associated with access to information in government service. It further advised Mr Driver established influence and a network from his time in post that could provide an unfair advantage should they be used for the organisation. However, Mr Driver has been out of these roles for some time, moving to become Interim Permanent Secretary in August 2020 before moving to assist DHSC in February 2021.

### **The Committee's advice**

6. The Committee agreed with the department that there are limited risks associated with this non-executive role on the Audit Committee of a professional body. There is no specific overlap with his time in office. The department highlighted Mr Driver's influence and the network he has established from his time in Crown service, including within the related sector. The Committee imposed the lobbying ban which prevents him using such contacts to the unfair advantage of RICS.

7. To address the risk associated with information Mr Driver may have gained, the Committee applied conditions preventing his use of privileged information or advising on a bid or contract with the government and due to the nature of the organisation, have applied the aforementioned conditions to include RICS's members.

8. Taking into account these factors, in accordance with the government's Business Appointment Rules, the Committee advises this appointment with the Royal Institution of Chartered Surveyors be subject to the following conditions:

- he should not draw on (disclose or use for the benefit of himself or the persons or organisations to which this advice refers) any privileged information available to him from his time in Crown service;
- for two years from his last day in Crown service, he should not become personally involved in lobbying the UK government or any of its Arm's Length Bodies on behalf of Royal Institution of Chartered Surveyors (including parent companies, subsidiaries, partners, clients and members); nor should he make use, directly or indirectly, of his contacts in the government and/or Crown service contacts to influence policy, secure business/funding or otherwise unfairly advantage Royal Institution of Chartered Surveyors (including parent companies, subsidiaries, partners, clients and members); and

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<sup>2</sup> This application for advice was considered by; Richard Thomas; Mike Weir; Larry Whitty; Isabel Doverly; Sarah de Gay and The Rt Hon Lord Pickles. Andrew Cumpsty, Jonathan Baume and Susan Liataud were unavailable.

- for two years from his last day in Crown service, he should not provide advice to Royal Institution of Chartered Surveyors (including parent companies, subsidiaries, partners, clients and members) on the terms of, or with regard to the subject matter of, a bid with, or contract relating directly to the work of the UK government or any of its Arm's Length Bodies.

9. By 'privileged information' we mean official information to which a Minister or Crown servant has had access as a consequence of his or her office or employment and which has not been made publicly available. Applicants are also reminded that they may be subject to other duties of confidentiality, whether under the Official Secrets Act, the Ministerial Code or otherwise.

10. The Business Appointment Rules explain that the restriction on lobbying means that the former Crown servant/minister "should not engage in communication with government (ministers, civil servants, including special advisers, and other relevant officials/public office holders) – wherever it takes place - with a view to influencing a government decision, policy or contract award/grant in relation to their own interests or the interests of the organisation by which they are employed, or to whom they are contracted or with which they hold office."

11. Mr Driver must inform us as soon as he takes up employment with this organisation(s), or if it is announced that he will do so. We shall otherwise not be able to deal with any enquiries, since we do not release information about appointments that have not been taken up or announced. This could lead to a false assumption being made about whether he has complied with the Rules.

12. Please also inform us if Mr Driver proposes to extend or otherwise change the nature of his role as, depending on the circumstances, it may be necessary for him to make a fresh application.

13. Once the appointment(s) has been publicly announced or taken up, we will publish this letter on the Committee's website, and where appropriate, refer to it in the relevant annual report.

Yours Sincerely,

Andrea Benjamin  
**Committee Secretariat**

## **Annex - Material information**

### The role

1. Mr Driver stated the RICS *is a globally recognised professional body. Everything, RICS does is designed to effect positive change in the built and natural environments. Through its respected global standards, leading professional progression and trusted data and insight, it promotes and enforces the highest*

*professional standards in the development and management of land, real estate, construction and infrastructure*. Its website states it is a globally recognised professional body and with over 134,000 highly qualified trainees and professionals in 'every significant financial market', *'we are ideally placed to influence policy and embed our standards within local marketplaces in order to protect consumers and businesses. In doing so, we can innovate and progress the development of spaces and places so they are fit for future generations, in addition to the challenges faced in the present'*.

2. Mr Driver seeks to join as a paid, part time Chair of its Audit Committee. He said: *'This is a pivotal moment in time for RICS, and the organisation has been searching for an experienced chair to lead its Audit Committee through a critical phase of change and development. That person was required to have an appropriate accounting qualification and have deep personal experience of audit and risk and the judgement and confidence required to recommend and implement solutions. They would also be a resilient senior professional with maturity of judgement and a diplomatic style and be able to instil trust and confidence quickly.'*

*The role includes:*

- *Chairing the RICS Audit Committee.*
- *Reviewing the role, Terms of Reference and ways of working of the Audit Committee to ensure that RICS has a committee that is fit for purpose, poised to anticipate a broad range of risks, and ensures that RICS meets and is seen to meet its legal, regulatory and other obligations.*
- *Being part of a dedicated team working to influence the ongoing development of RICS and its culture, to ensure that our organisation is placed on the front foot for members and stakeholders.*
- *Reporting directly to Governing Council which is the Institution's governing body and is populated by members, the majority of whom have been elected by the membership.'*

3. He does not expect his role to involve contact with government.

#### Dealings in office

4. Mr Driver stated he did not meet with, have any specific information about or make specific decisions on RICS or its competitors while in post.

#### Department Assessment

5. Mr Driver left his role at the MOJ to work as the Senior Responsible Owner, Borders Programme at the Department for Health and Social Care in September 2021. This role has no known overlap with his time at DHSC.

6. Mr Driver left the MOJ in January 2021. The MOJ provided their views on this application. It confirmed the details above and added:

- *'We have no direct contractual relationship with RICS, however as a trade body we do have staff who may be qualified to RICS standards or*

*members of the profession. This does not give rise to any conflicts of issues from a commercial perspective'*

- As head of the finance function across HMG, Mr Driver was part of the wider functional leadership team with other Director Generals. The grants programme is set by HMT and administered by finance. Also, that Mr Driver has been influential internally and is well networked across the board.
- The MOJ noted this is a professional, non-exec role that is not linked to the finance process or part of government.
- It noted the risks that are associated with using information, data or insights during the course of this employment with the MOJ and as Head of the Finance Function
- As such, the department recommended the application should the standard conditions preventing using privileged, commercial or contractual information or lobbying contacts gained in post to the unfair advantage of RICS be applied.