

Advice to the Prime Minister from the Independent Adviser on Ministers' Interests about the Chancellor's outside interests

1. I have been asked by the Prime Minister to advise on the Chancellor's adherence to the requirements of the Ministerial Code in respect of his declarations of interest. While I have hitherto been satisfied with the Chancellor's adherence to the requirements of the Ministerial Code, I have approached this exercise with an open mind and reviewed the material held by the office of Independent Adviser as well as requesting further information from HM Treasury and the Chancellor.
2. Chapter 7 of the Ministerial Code sets out the standards expected of Ministers in the handling of their private interests. It describes the process by which they should first properly declare their interests, and then receive advice. Ministers are expected to take that advice into account when arranging their affairs.
3. The overriding principle, as set out at paragraph 7.1 of the Code, is that *'Ministers must ensure that no conflict arises, or could reasonably be perceived to arise, between their public duties and their private interests, financial or otherwise'*. At paragraph 7.2, the Code makes clear that *'It is the personal responsibility of each Minister to decide whether and what action is needed to avoid a conflict or the perception of a conflict, taking account of advice received from their Permanent Secretary and the independent adviser on Ministers' interests.'*
4. The Ministerial Code stipulates that, on appointment to each new office, Ministers are required to complete a declaration of all interests which might be thought to give rise to a conflict. The declaration should also cover interests of the Minister's spouse or partner and close family, which might be thought to give rise to a conflict. Ministers are responsible for the accuracy and completeness of their declarations.
5. By virtue of section 41 of the Constitutional Reform and Governance Act 2010, all Members of Parliament and sitting peers are automatically deemed to be resident and domiciled in the UK for tax purposes. In addition, the declaration that Ministers complete asks them to confirm that their tax affairs are up to date.
6. The declarations that Ministers provide are treated in confidence. This is important as it allows for the fullest possible disclosure even where matters may not necessarily be relevant. The declaration is first considered by the Permanent Secretary of the relevant department. Following their consideration and any immediate advice they offer, the declaration is passed to the Independent Adviser on Ministers' Interests.

7. The role of the Independent Adviser is to provide advice on the arrangement of a Minister's personal affairs so as to be able to meet the principle in paragraph 7.1 of the Code. Paragraphs 7.6 to 7.8 of the Code set out some of the steps that may be advised so that interests that are retained can be managed in a way which does not give rise to a conflict of interest. For the point of emphasis, it is not the role of the Independent Adviser to comment upon, bless, or otherwise offer a view upon the wider wisdom of a private interest beyond whether it presents a conflict of interest.
8. The Ministerial Code requires that a statement covering relevant interests be published twice yearly. This takes the form of a List of Ministers' Interests. As set out in the preamble to the document each time it is published, the List does not include every interest that a Minister has declared; it is not a register. Rather, it provides information about those interests, including of close family, which are, or may be perceived to be, directly relevant to a Minister's ministerial responsibilities. It also provides details of charities where a Minister is a trustee or patron.
9. One role of the Independent Adviser is to advise on what is necessary to publish, as directly relevant, within the List. While there may be interests of close family of a Minister that might be thought to give rise to a conflict with their ministerial responsibilities, it is also important to consider their right to a degree of privacy over their affairs. Accordingly, interests which are not directly relevant or on consideration do not in fact give rise to a conflict, but may give rise to public comment, are not within the scope of the List.
10. In relation to the specific issues that I have been asked to advise upon, the Chancellor was first appointed as a Minister of the Crown in January 2018 as the Parliamentary Under-Secretary of State at the then Ministry of Housing, Communities and Local Government. He provided then a declaration of his interests in line with the process in the Ministerial Code. A List of Ministers' Interests was next published in March 2019. On appointment as Chief Secretary to the Treasury in July 2019 a new declaration of interests was provided. A List of Ministers' Interests was published on 4 November 2019. In February 2020 he was appointed as the Chancellor of the Exchequer and subsequently re-endorsed the declaration provided as the Chief Secretary to the Treasury. A List of Ministers' Interests was published in July 2020 and again in May 2021. An updated declaration of interests was provided ahead of the publication of the List of Ministers' Interests in November 2021.
11. Recent media reporting, and subsequent statements from the Chancellor, have put into the public domain a number of interests held by the Chancellor and by his wife, Ms Murty. Allegations have been made that these have not been declared in

line with the requirements of the Ministerial Code or that these give rise to conflicts of interest. These interests are namely:

- a. The Chancellor's blind management arrangement (published in each of the Lists since November 2019);
- b. The Chancellor's possession of a US Permanent Resident Card (known as a Green Card) until October 2021;
- c. Ms Murty's tax treatment as being non-domiciled for UK tax purposes; and
- d. Ms Murty's shareholding in Infosys Limited.

12. All of the interests outlined above were declared by the Chancellor in his declaration of interests in 2018. All, with the exception of the US Permanent Resident Card (examined below in paragraphs 14-17), were restated in every subsequent declaration. As set out at paragraph 8 above, declaration is not the same as publication in the List.

The blind management arrangement

13. Blind management arrangements are longstanding mechanisms for protecting ministers in the handling of their interests. They ensure Ministers are not involved in decisions on the management, acquisition or disposal of items in the arrangement and do not have live knowledge of the contents of such arrangements. The Chancellor has confirmed that he does not have live knowledge of the contents of the arrangement nor influence or control over the management of his investment. I am therefore satisfied that the existence of such an arrangement does not give rise to a conflict of interest. The Chancellor's actions cannot be said to be coloured with any knowledge of the impact that it might have on his personal interests and ministerial office does not preclude holding of financial or other assets per se. This arrangement therefore represents the 'alternative steps' as set out in paragraph 7.7 of the Ministerial Code.

The US Permanent Resident Card

14. A US Permanent Resident Card ("the Card") allows the holder to live and work permanently in the United States. It imposes a number of obligations on the holder, including a requirement to comply with US law and to file tax returns in the United States¹. The obligation to pay tax in other jurisdictions does not provide an inherent conflict with the duties of a Minister of the Crown (especially in light of Section 41 of the Constitutional Reform and Governance Act as described above). Under the tax treaty between the UK and the USA, in some circumstances tax paid in the

¹<https://www.uscis.gov/green-card/after-we-grant-your-green-card/rights-and-responsibilities-of-a-green-card-holder-permanent-resident>

USA can be off-set against UK tax liabilities for those resident in the UK, and vice versa.

15. The fact of the Chancellor's possession of the Card formed part of the declaration made when he first became a Minister, following his appointment as Parliamentary Under-Secretary of State at the then Ministry of Housing, Communities and Local Government. Holding the Card was not relevant to the role and the obligations it required of the holder (at paragraph 14 above) are not in conflict with holding ministerial office. Adherence to any requirements for holders of the Card are a matter solely for that individual to ensure, rather than for consideration through the ministerial interests process.
16. Considering the Card against the specific responsibilities of the Chancellor's ministerial offices subsequent to his first role, I do not consider that its possession would constitute an inherent conflict of interest. Being subject to the obligations imposed by the Card in his personal life could not reasonably be said to be in tension with the faithful discharge of his duties as Chief Secretary to the Treasury or as Chancellor of the Exchequer.
17. To test whether there were any explicit instances where individual decisions could have given rise to a conflict, I asked HM Treasury to search for whether in either ministerial office specific policy or tax decisions were taken which would have affected holders of the Card. They have confirmed that searches have found no such evidence. In particular the tax treaty between the UK and the USA dates back to 2003 and has not been amended in the period that the Chancellor has served as a Minister at HM Treasury.
18. While having initially been declared, on appointment to ministerial office at HM Treasury the fact of the Card was not repeated in the declaration. The Chancellor has explained that this was based on his previous understanding of the relevance of the Card. In light of the above analysis I am satisfied that this was an appropriate course of action. In doing so I note that, at the point of considering ministerial travel to the USA, he informed the department that he possessed the Card in case it should give rise to any material issue. He also discussed the matter with the relevant authorities in the United States and, as a result of those discussions, decided that it would be appropriate at that point to relinquish the Card.

Non-Domiciled Tax Status

19. The tax status of the spouse and close family of a Minister at HM Treasury is potentially of relevance to their role. However, it should be noted that all those in that situation will have tax obligations, whether VAT, income tax or other forms of tax. Some of those forms will affect a smaller group of the population than others,

but again there is no inherent conflict in such a situation. In these circumstances, and taking into account Ms Murty's rights to privacy, it has not been considered necessary for this interest to be specifically published in the respective Lists of Ministerial Interests.

20. Again, I have wished to test with HM Treasury whether there have been any specific circumstances which could have given rise to a conflict of interest. As a result of that testing, I am aware of two occasions which merit further explanation in this context.
21. There was one instance in which HM Treasury searches identified the potential for a conflict to have arisen. This was in connection with a policy development process about incentivising inward investment. In those circumstances, the Chancellor was assiduous in immediately reminding his Permanent Secretary of his declaration and seeking advice on the proper arrangements that should be put in place to avoid any conflict of interest. I am satisfied that appropriate steps were taken, including plans for the full involvement of another minister in taking decisions of substance. In the event, the policy process did not conclude with proposed changes, so the steps were purely precautionary.
22. The second instance relates to the development of a measure, announced in the October 2021 Budget and ultimately legislated for in the Finance Act 2022, which introduced a new tax regime for asset holding companies (AHCs). This measure was part of a wider, two-year review of the UK asset management industry, led by the financial services group in the Treasury, reporting to the Economic Secretary. It included a tightly defined and limited change to the tax treatment of a specific category of non-domiciled individuals. This was recommended by officials after public consultation. While the Chancellor gave his approval for the recommended package to be included in the Budget, the policy making process was led by the Economic Secretary. The Chancellor has given assurances that the measure itself had no bearing on Ms Murty's interests, and that she is unaffected by the change.
23. Therefore, in both instances, no conflict arose as a result of Ms Murty's non-domiciled tax status.

Infosys Shareholding

24. I have also considered Ms Murty's existing shareholding in Infosys Limited, an Indian multinational information technology company of which Ms Murty's father was a founder. I am satisfied that this shareholding has been properly declared.
25. Whilst Infosys Limited has contracted with certain organisations in the wider UK public sector, they have not contracted with HM Treasury during the time that the

Chancellor has held ministerial office in the department. No conflict of interest, real or perceived, has therefore arisen between this interest, held by Ms Murty, and the Chancellor's public duties as a Minister of the Crown. In these circumstances, and taking into account Ms Murty's rights to privacy, it has not been considered necessary for this interest to be specifically published in the respective Lists of Ministerial Interests.

Conclusions

26. I advise that the requirements of the Ministerial Code have been adhered to by the Chancellor, and that he has been assiduous in meeting his obligations and in engaging with this investigation.
27. In reaching these judgements, I am confined to the question of conflicts of interest and the requirements of the Ministerial Code. My role does not touch on any wider question of the merits of such interests or arrangements.

April 2022