



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

Room G/8, 1 Horse Guards Road, London, SW1A 2HQ

Telephone: 020 7271 0839

Email: [acoba@acoba.gov.uk](mailto:acoba@acoba.gov.uk)

Website: <http://www.gov.uk/acoba>

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1. You approached the Committee about taking up an appointment as a Partner at Buckthorn Partners.

The Committee's role and remit

2. It is the Committee's role to advise on the conditions that should apply to appointments or employment under the Government's Business Appointments Rules for Former Ministers (the Rules), which apply to former Ministers for two years after they leave office. The Rules seek to counter suspicion that:

- a. the decisions and statements of a serving Minister might be influenced by the hope or expectation of future employment with a particular firm or organisation;
- b. an employer could make improper use of official information to which a former Minister has had access; or
- c. there may be cause for concern about the appointment in some other particular respect.

3. When the Committee considers applications, it must have in mind that Government has judged that it is in the public interest that former Ministers with experience in Government should be able to move into business or into other areas of public life, and to be able to start a new career or resume a former one. It is equally important that when a former Minister takes up a particular appointment or employment, there should be no cause for any suspicion of impropriety.

4. It is not the Committee's role to pass judgment on whether an appointment is appropriate or suitable in any other regard.

Appointment Details

5. You seek to take up an appointment as a Partner with Buckthorn Partners (Buckthorn), which you describe as a '*fund manager investing in energy - related services businesses*'.

## *From the Chair*

Buckthorn invests in companies that provide products, services and technology to companies that develop and produce energy sources. Buckhorn told the Committee that since its formation in 2014, it has invested exclusively in oil and field services companies (businesses that provide products, services and technology to oil and gas companies that own and develop oil and gas assets).

6. You informed the Committee you intend to join Buckthorn in a paid, part-time role involving 4 days of work per month, as a Partner in the firm, involved in:

- considering new acquisitions, including: identifying future acquisitions based on strategic assessment, strategy, long term objectives of the fund and assessing due diligence on potential acquisitions;
- oversight and management of the companies in the Fund's portfolio; assisting in the process of supporting and mentoring businesses acquired to deliver growth targets; including assisting with management teams and the portfolio businesses; and
- relations with established and potential investors.

7. You stated the role is unlikely to involve the Government.

8. You informed the Committee the firm is formed of four partners, two of whom you have worked with in past business ventures. You previously worked with Mr Mark Chaician (Managing Partner of Buckthorn) at a US wind energy company, Clipper Windpower Ltd and became friends. You also explained you know Lord Moynihan (Chairman) from university; were Chairman of his Constituency Conservative Association when he was an MP (1983-1992) and have previously run two businesses together, focusing on oil and gas. You were asked to join Buckthorn after leaving the Government.

9. You stated you were not involved in commercial or contractual decisions regarding the company while in office; nor involved in policy development or decisions regarding Buckthorn other than '*...the overarching interest which the Treasury maintains in all sectors of the UK economy*'.

10. Whilst you did not meet with Buckthorn in an official capacity in office, you told the Committee you met with the Chairman socially. You said that, on one occasion, you discussed a paper Buckthorn had produced on decommissioning in the North Sea, titled '*The Age of Abandonment*'. Following this, you were sent a copy which you passed onto the Treasury for analysis as it raised some '*...interesting issues relevant to HMT regarding maximising Exchequer revenues from remaining North Sea reserves*'. The Committee specifically raised with you, the company and the Permanent Secretary of Her Majesty's Treasury's (HMT) the issue of the paper prepared by the company.

11. You and Buckthorn confirmed the company was a stakeholder with regard to HMT's consideration of the issue of 'abandonment' regarding the oil and gas industry. Alongside the report above, Buckthorn confirmed representatives from HMT met with the firm in early 2017 to understand its perspectives as part of the overall engagement process.

12. HMT and the Deputy Secretary to the Cabinet were contacted on your application. The Committee was informed that:

## *From the Chair*

- During 2016, Buckthorn's report '*The Age of Abandonment*', on how to revitalise the North Sea, was considered by HMT as part of its consideration on what the Government could do to improve decommissioning efficiency, including assuming liabilities.
- Only one recommendation from this report was formally taken forward by HMT (and was already being considered internally), which related to allowing purchasers of oil and gas assets to access the seller's tax history (transferable tax history), in order to facilitate the transfer of mature assets.
- HMT confirmed it was involved in wide engagement with the sector on late life asset tax issues with other members of the industry in 2015, prior to you becoming Chancellor.
- Formal consultation on the policy was subsequently announced in 2017 and the policy was later legislated for in the Finance Act 2019.
- On other policy matters, HMT said there were no major policy decisions that directly benefited the energy sector as a whole, though it noted:
  - The Government announced an Offshore Wind Sector deal that signalled the government's intention to continue to provide support for the sector in the form of subsidies (Contracts for Difference), paid for by bill payers. You agreed to this but the policy responsibility was the Secretary of State in the Department for Business Energy and Industrial Strategy, your sign-off was routine as part of the write-round process.
  - You were aware of the Government's draft Energy White Paper, which was not published. HMT confirmed the Government's thinking has moved on from here and the information in the paper of July 2019 seen by you now is out of date.
- HMT said it is unlikely that your involvement in the big picture issues of the energy market, (for instance, net zero, large scale nuclear projects etc) would give an unfair advantage to this specific company.
- The Deputy Secretary to the Cabinet confirmed there was nothing in relation to your time in Cabinet that the Committee should be aware of in relation to this appointment.

13. HMT's Permanent Secretary has no concerns with you taking up this role, in particular, HMT said it did not consider anybody could reasonably suggest that you took any action in office with the expectation of a role with Buckthorn after leaving office.

14. The Committee followed up with Buckthorn to ask about the impact of HMT's policy on transferable tax history and Buckthorn said that '*HMT decisions on North Sea oil and gas taxation subsequent to [its engagement with Buckthorn] had no impact on any business in which Buckthorn had invested, subsequently invested in, nor any business in*

## *From the Chair*

*which Buckthorn was at the time or is currently contemplating an investment.'* Buckthorn also noted that the UK Continental Shelf is a mature hydrocarbon basin and '*... it is this maturity, combined with the significant fall in oil prices since 2014, that is driving increased decommissioning activity....Changes to fiscal policy in relation to oil and gas production that are referenced by the committee were intended to prolong the producing life of UKCS fields, not to hasten their abandonment.'* Whilst Buckthorn told the Committee it would caution against quantifying the effects of transferable tax history, it did not disagree there were potential indirect impacts on the wider related industry activity that affects oil field services businesses.

### The Committee's consideration

15. When considering this application, the Committee<sup>1</sup> took into account this appointment is broadly connected to your role in office. As Chancellor, you were responsible for raising revenue through taxation, borrowing, controlling public spending and all fiscal and monetary policy, which affects all sectors. The Committee carefully considered the risk around your approval of the policy to release access to seller tax assets (transferable tax history). Buckthorn and HMT both noted the creation of the policy was a wider industry ask, following considerable consultation with the industry.

16. Buckthorn told the Committee the introduction of this policy has not directly impacted its business or the companies it had, and would, invest in. However, the Committee considered it is likely there would be some indirect impact if its business is connected by companies which do benefit, which it considered likely. However, it notes Buckthorn's view that any indirect benefit is too far removed to adequately quantify.

17. The Committee noted HMT's view that it has no concerns and the Permanent Secretary's confirmation that he does not consider it could be reasonably suggested that you took any action in office with the expectation of a role with Buckthorn after leaving office. The Committee accepted these assurances. The Committee is also mindful that any Chancellor inevitably makes decisions in office that impact widely on almost all business sectors.

18. The Committee noted that due to your seniority and position, you would have had access to information that could be perceived to be of benefit to Buckthorn. However, it agreed with HMT that information gained on the big picture issues of the energy market (for instance net zero, large scale nuclear projects etc) and general information relating to the impact of Brexit regarding investments would be unlikely to provide an unfair advantage to Buckthorn now. However, the Committee would draw your attention to the ban on using privileged information from your time in office to mitigate any inherent risks here.

19. Further, the Committee considered there could be a perception risk this role is seen to conflict with your time in office with regards to Buckthorn and its clients' interests in taxation policy. Therefore, the Committee has imposed a condition that prevents you from advising Buckthorn, or the firms it invests in, on issues relating to taxation policy (and in

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<sup>1</sup> This application for advice was considered by Sir Alex Allan; Jonathan Baume; Baroness Angela Browning; Terence Jagger; Richard Thomas; Mike Weir; Lord Larry Whitty and John Wood. Dr Susan Liautaud was unavailable.

*From the Chair*

particular on issues relating to tax reliefs on the decommissioning of North Sea assets). The Committee understands this is entirely in keeping with your role and that you have no intention to provide such advice.

20. The Committee considered that due to your standing, there is a possibility you would have influence across Government/Whitehall that could provide an unfair advantage should for instance, Buckthorn wish to develop their relationship with Government commercially or unfairly influence Government policy. The ban on advising on bids and contracts and lobbying the Government below make it clear it would be inappropriate for you to use your influence unfairly on behalf of your new employer.

21. The Committee's consideration also took into account that over six months has passed since your last day in Ministerial office; and that you are returning to a sector you have significant previous experience in. In the circumstances, the Committee considered the conditions applied below sufficiently mitigate the risks in this case; without a further waiting period.

22. In accordance with the Government's Business Appointment Rules, the Committee advises your appointment with Buckthorn Partners be subject to the following conditions:

- that you should not draw on (disclose or use for the benefit of yourself or the organisation to which this advice refers) any privileged information available to you from Ministerial office. In the context of this general provision, the Committee considers you should specifically avoid giving Buckthorn Partners, or its subsidiaries, partners or clients, privileged insight into the Brexit related issues, insofar as it as it pertains to the negotiating position of the UK Government and other parties to the negotiations prior to the date upon which you left ministerial office, whether generally or regarding fiscal matters;
- for two years from your last day in Ministerial office, you should not become personally involved in lobbying the UK Government on behalf of Buckthorn Partners (including parent companies, subsidiaries, partners and clients); nor should you make use, directly or indirectly, of your contacts in the Government and/or Ministerial contacts to influence policy, secure business/funding or otherwise unfairly benefit Buckthorn Partners (including parent companies, subsidiaries, partners and clients);
- for two years from your last day in Ministerial office, you should not advise Buckthorn Partners (including parent companies, subsidiaries, partners and clients or those) or the firms it invests in, on issues relating to taxation (including issues relating to tax reliefs on the decommissioning of North Sea assets); and
- for two years from your last day in Ministerial office, you should not undertake any work as a Partner that involves providing advice to any company organisation 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.

23. 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

*From the Chair*

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 Civil Service Code or otherwise.

24. 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.”*

25. I should be grateful if you would inform us as soon as you take up this role, or if it is announced that you will do so, either by returning the enclosed form or by emailing the office at the above address. 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 you had complied with the Rules and the Ministerial Code.

26. Please also inform us if you propose to extend or otherwise change the nature of your role as, depending on the circumstances, it may be necessary for you to make a fresh application.

27. Once the appointment 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.

The Rt Hon Philip Hammond

The Baroness Browning