



OFFICE OF THE ADVISORY COMMITTEE ON BUSINESS APPOINTMENTS

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1. You sought advice from the Advisory Committee on Business Appointments (the Committee) under the Government's Business Appointments Rules for Former Ministers (the Rules) on an appointment you want to take up with Hutchison Ports Europe (Hutchison). The material information taken into consideration by the Committee is set out in Annex A.
2. The purpose of the Rules is to protect the integrity of the Government. As Secretary of State for Transport, you were responsible for matters affecting the transport sector and are now seeking to work with a company operating specifically in the maritime sector.
3. Under the Rules, the Committee's remit is to consider the risks associated with the actions and decisions you made during your time in office, alongside the information and influence you may offer Hutchison, based on the information provided by you and your former department.
4. The Committee considered whether this appointment was unsuitable given your former role as Secretary of State for Transport, but the Committee must also consider the information provided by the department about your specific dealings with this employer. 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 for a former Secretary of State in any other respect.
5. The Ministerial Code sets out that ministers must abide by the Committee's advice. It is an applicant's personal responsibility to manage the propriety of any appointment. Former ministers of the Crown, and Members of Parliament, 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

6. Hutchison is a Port operator with ports and terminals in 27 countries (in Asia, the Middle East, Africa, Europe, the Americas and Australasia). Its ports in the UK are: Harwich International and Harwich International (Cruise Terminal), Essex; London Thamesport,

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Kent and Port of Felixstowe. The Committee noted you met with Hutchison whilst in office as part of wider stakeholder engagement, and visited its site at Felixstowe on one occasion for a 'ground-breaking ceremony' in 2018. However, it is significant that you and your former department, the Department for Transport (DfT), confirmed no decisions were made that would have been to the benefit of direction of Hutchison alone¹. DfT also confirmed that you, at no point, requested officials to look into or make decisions on policy or investment related to Hutchison. The Committee also took into consideration that DfT's decision to upgrade railtrack into the Port of Felixstowe predates your time as Secretary of State for Transport; and DfT also made decisions to open up transport routes affecting Hutchison's competitors, therefore, making decisions that may also be seen to be to the disadvantage of Hutchison.

7. The Committee noted that, as Secretary of State, you would have had access to information that could be perceived to benefit Hutchison. However, DfT's confirmed that much of this information would have related to the transport sector generally, as opposed to specific information on the maritime sector and ports specifically. The Committee noted your affirmation you will not work on areas where you would have gleaned specific information and could be seen to be used to the unfair advantage of Hutchison. Nevertheless, the Committee considered it material that the Department confirmed you would have information related to the maritime sector in relation to planning for the impact of leaving the EU without a trade deal from your time in office.
8. DfT confirmed your assertion that your primary involvement in the maritime sector was in relation to DfT's consideration of the impact of leaving the EU without a trade deal. DfT noted your engagement focussed on short sea routes and would have meant you developed some relationships and insight into some companies, such as shipping lines, that use Felixstowe in particular (a Hutchison port in the UK). DfT's view is it is unlikely you will have gained particularly commercially sensitive information that would offer Hutchison a specific advantage. However, DfT also confirmed you would have had a strong insight into the operations at Dover because your involvement was focussed on the need to ensure critical goods continued to move in and out of the country through the short straits (such as Dover/Calais). Further, it is a policy consideration for DfT now to consider the resilience of the UK's shipping routes so it may be perceived that you will have specific knowledge or influence from your time as Secretary of State overseeing this planning.
9. The Committee took into account the time that has passed since you left office and the various changes in the Government since then. However, the negotiations on the UK's relationship with the EU are still underway. The Committee considered there were potential risks associated with your unfair:
 - a. insight into operations at Dover pre July 2019
 - b. insight into the modelling and assumptions in play during DfT's consideration of the impact of leaving the EU without a trade deal pre July 2019
 - c. access to relationships within the sector, most notably shipping companies.
10. More generally, the Committee agreed with DfT there is a perceived risk you would have influence across Government/Whitehall that could provide an unfair advantage, should, for instance, Hutchison wish to develop a relationship with the Government

¹ The Committee is aware that Hutchison's website has a news release dated 16 October 2017 which says: '*The latest enhancements to Hutchieson's Port of Felixstowe's rail connections have been given the green light by the Secretary of State for Transport*'. However, DfT confirmed that decisions in respect of the rail projects at Felixstowe in Control period 5 (which ran from 2014-2019) were taken by the previous Secretary of State at the start of the control period.

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commercially or unfairly influence Government policy (for example, in relation to Freeports).

The Committee's advice

11. The Committee² recognised that you describe your role, while subject to the Government's Business Appointment Rules, as being limited to:
 - Hutchison's emerging environmental strategy, which you said is aimed at reducing the carbon footprint of, and air quality impacts of its UK and European operations; and
 - Hutchison's plan to *'deepen its relationships with and establish partnership working with regional bodies in the UK, such as Local Enterprise Partnerships'*.
12. You confirmed to the Committee you will not give advice on any matters relating to Brexit; nor Hutchison's commercial maritime activities in the UK outside the environmental field, nor the commercial activities of other ports in the UK. You said you would be using general skills and experience gained from your time in government and more widely in the transport sector before you entered ministerial office, to offer your advice. The Committee has advised the specific conditions below, that are in keeping with your description of the work you will carry out.
13. Because of the specifically narrow focus of Hutchison's commercial activity; and that as Secretary of State you had broad involvement in planning for the impact of leaving the EU without a trade deal - which is now of potential relevance to all UK port operators, the Committee also felt it was necessary to put a significant gap between your access to information and you joining Hutchison. The Committee recognised the opportunity for you to offer an advantage is limited, given DfT note the details of assumptions and modelling will likely now be different to those prior to your departure from office in July 2019; and you are prevented from drawing on such information and/or advising on said matters by the conditions below. You note you do not plan to take this role up until Autumn 2020, more than 12 months after you left office which the Committee considered to be a long enough gap to significantly reduce the possible benefit of any information you had access to as Secretary of State for Transport.
14. The Committee has determined this gap, alongside the conditions below, appropriately mitigate the risks you may offer an unfair advantage with regard to your insight; and in particular where this has a bearing on Hutchison's operations in the roll-on, roll-off market segment on short sea routes.
15. You confirmed you accept the Committee's advice and that you will abide by the conditions below - as required by the Ministerial Code. Under the Government's Business Appointment Rules, the conditions applied to your appointment are as follows:
 - 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 or in any capacity in which you continue to work with the UK Government or any of its Arms' Length Bodies;

² This application for advice was considered by Sir Alex Allan; Jonathan Baume; Dr Susan Liataud; The Rt Hon Lord Pickles; Richard Thomas; Mike Weir; and John Wood. Lord Larry Whitty was recused.

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- for two years from your last day in Ministerial office, you should not become personally involved in lobbying the UK Government on behalf of Hutchison Ports Europe (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 Hutchison Ports Europe (including parent companies, subsidiaries, partners and clients);
 - for two years from your last day in Ministerial office, you should not provide advice to Hutchison Ports Europe 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;
 - for two years from your last day in Ministerial office, your role will be limited to providing advice on environmental strategy and on working with regional bodies in the UK. You should not become involved in, or advise Hutchison Ports Europe (including parent companies, subsidiaries, partners and clients) on its UK operations on matters related to your work as Secretary of State on planning for the impact of leaving the EU without a trade deal. For the avoidance of doubt this includes matters involving:
 - current or prospective roll-on, roll-off operations;
 - shipping companies which are current or prospective clients of Hutchison's UK ports;
 - Hutchison's competitors in the UK (all other UK ports);
 - the UK Government's potential plans for trading relationships consequent on the UK leaving the EU
14. The Committee also notes that in addition to the conditions imposed on this appointment, there are separate rules in place with regard to your role as a member of the House of Commons.
15. 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.
16. 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." This Rule is separate and not a replacement for the Rules in the house
17. You must inform us as soon as you take up employment with this organisation(s), or if it is announced that you 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 you had complied with the Rules and the Ministerial Code.
18. Please also inform us if you propose to extend or otherwise change the nature of your

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role as, depending on the circumstances, it may be necessary for you to make a fresh application.

19. 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.

The Rt Hon Lord Pickles

The Rt Hon Chris Grayling MP

Annex A - the material information

The role

1. You seek to join Hutchison as a Strategic Advisor to the Board, a paid, part-time role. You informed the Committee you were offered the role at a social event with Clemence Cheng, a personal contact you met in office and Executive Director of Hutchison Ports Europe, once you left office. You note you first had dealings with Hutchison in 2002 when you visited its operations in Hong Kong as a member of the relevant Select Committee.
2. You told the Committee that as a former Minister you are aware of your duties to protect privileged information on any subject. You confirmed the role is internal and will not involve any contact with Government ministers or officials and will not take part in any lobbying of Government. YOU said your role would be limited to advising in two areas: Hutchison's emerging environmental strategy, which you said is aimed at reducing the carbon footprint of, and air quality impacts of its UK and European operations; and Hutchison's plan to '*deepen its relationships with and establish partnership working with regional bodies in the UK, such as Local Enterprise Partnerships*'. You said that whilst you are subject to the Business Appointment Rules, you will explicitly not give advice on any matters relating to Brexit; nor Hutchison's commercial maritime activities in the UK outside the environmental field, and also exclude any advice on the commercial activities of other ports in the UK.
3. Whilst you recognised the Committee would want to limit your work to avoid any perception you offer an unfair advantage to Hutchison, you do not consider you have any information that would offer them with a competitive advantage. You also noted the level of change that had taken place in the last 12 months, including a change of administration, significant changes in Government policy and the public health crisis.
4. You told the Committee you have a background in transport from before you became Secretary of State, having worked substantively in transport during your consultancy career before becoming a minister. Further, as an MP you were asked to join the relevant Parliamentary Committee given your interest and experience in the area. You also confirmed you would not consider working in any areas which you had significant involvement in from your time as Secretary of State, such as the expansion of Heathrow Airport and also the UK passenger rail sector. You see this role differently as it is narrowly defined in an area you had little involvement with during your time as Secretary of State for Transport.

Your dealings in office

5. You informed the Committee you would have had contact with Hutchison and its Director Executive Clemence Cheng at a series of pan-industry meetings chaired by the Maritime Minister. Also, at roundtable events which Hutchison would have attended. You also attended a 'ground-breaking' photo opportunity at Felixstowe Port which is owned by Hutchison. You noted this type of event was part of the normal routine for a Secretary of State and something you did regularly including at other ports.
6. You said you had involvement in the maritime sector, however this was mainly regarding the consideration of the impact of leaving the EU without a trade deal - relating to shipping companies; Dover Ports; and shaping the 2050 Maritime strategy, which is currently in the public domain.

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7. You noted your former department's work on upgrading railtrack into the Port of Felixstowe, though stated this decision was made prior to you joining the Department. Additionally, you said any broad decisions made from your time in office regarding opening up routes to ports could be argued as being in the interests of Hutchison's competitors and not Hutchinson (as the decisions related to opening up other transport routes relevant to its competitors).
8. You confirmed you had no involvement in developing strategy and policy on freeports, which sits with HM Treasury and was introduced after you left ministerial office.
9. The Department for Transport (DfT) were contacted regarding your application. The information provided included the following:
 - You attended the following events at which Hutchison were present, amongst other stakeholders:
 - ❖ 03/11/2016 – BPA Conference (British Ports Association)
 - ❖ 15/03/2017 – Clemence Cheng & Christin Salbaing, Hutchison Ports
 - ❖ 10/01/2018 – ABP Trade Resilience Forum (associated British Ports)
 - ❖ 26/02/2019 – Ports Roundtable – BPA and UKMPG (The United Kingdom Major Ports Group Ltd)
 - ❖ 04/07/2019 – Port of Tyne Innovation Hub launch and Regional Roundtable
 - **Regarding general Maritime policy** - DfT noted Maritime Ministerial activity was '*very much*' led by the Parliamentary Under Secretary of State (Rt Hon. Sir John Hayes MP and Nusrat Ghani MP). As Secretary of State, you would have remained aware of maritime issues, however you had limited direct involvement. The Maritime Directorate at DfT also confirmed that you did not ask them to consider port policy or activity that would have benefited Hutchison alone.
 - **Regarding the Maritime 2050 strategy** - DfT noted this is a strategy for the UK and takes into account the wider context that, at the time it was drafted, the UK was preparing to leave the EU. The purpose of Maritime 2050 is to set out a long-term strategy for the growth of the UK maritime sector. DfT said it was overwhelmingly led at Ministerial level by the Maritime Minister and it did not consider your involvement would have afforded you access to any particular sensitive information. It also noted this information is now in the public domain.
 - **Regarding the Dover Trust Port** - DfT said you would have gained significant awareness of the operations of Dover including the financial risks it faced under the cross Whitehall reasonable worst-case assumptions for a 'no-deal' Brexit. However, matters have moved on and DfT did not consider you would now have access to commercially sensitive information that would offer an advantage. However, DfT considered your involvement here means you would have knowledge that may be perceived to offer insight or influence with regard to 'no-deal' planning. DfT noted that though work on future negotiations are likely to be different, similar assumptions and modelling may be necessary for planning for the end of EU transition period.
 - **Regarding the Port of Felixstowe - owned by Hutchison** you were not a Minister at DfT for the determination and decisions signed off on projects relating to Felixstowe (DfT also noted the Rail Minister would have made the majority of decisions on such matters). Further, during your time as a Minister at DfT there were decisions undertaken for rail projects, relevant to Hutchison in so far as they related to relevant transport networks. Decisions to include overall investment in the pipeline was made during your time in office, however

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the next stages of business case development, including any decision to agree to build were yet to be made.

- On other relevant aspects, including that of your involvement in Freeports, Lower Thames Crossing (LTC), and Road Investment Strategy (RIS) Futures, DfT confirmed that you would not have had significant information on these, and/or such information is currently in the public domain. Regarding freeports, DfT confirmed this was an HMT initiative.
- **Overall** - DfT confirmed that as Secretary of State for Transport you would have had access to information regarding maritime policy and held ultimate responsibility for the political strategic direction for the Department. It noted it is possible that an advisory role at one of the UK's major port operators could lead to the perception concerns. DfT recommended that you should not lobby or have formal access to Department for Transport officials or Ministers and said it may be prudent to apply a waiting period given the possible perception issues noted above.