



## OFFICE OF THE ADVISORY COMMITTEE ON BUSINESS APPOINTMENTS

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### **BUSINESS APPOINTMENT APPLICATION: PETER LAUENER, CB**

The Committee has been asked to consider an application from Peter Lauener, who was formerly Chief Executive of the Education and Skills Funding Agency (ESFA) and its predecessor organisations and Interim Chief Executive of the Institute for Apprenticeships.

ESFA funds all education and training in schools and post-16 providers in England, with the exception of higher education – a £63 billion budget. As Chief Executive of ESFA Mr Lauener was the Accounting Officer for this budget.

#### Appointment details

Mr Lauener informed the Committee that he applied for an advertised post to become non-executive Chair of the Newcastle College Group (NCG), a large 'not-for-profit' further education and training group employing 2,500 staff and working with 45,000 students and 8,000 businesses.

NCG is the umbrella body responsible for a group of six colleges (Newcastle, Carlisle, Kidderminster, West Lancashire, Lewisham and Southwark) and two work-based training providers, which together make up the single legal entity of NCG. This is an incorporated and publicly funded college in the further education sector. It also operates as a charity.

As Chair, Mr Lauener would convene the monthly corporation meetings; ensure that the strategy and direction of the group are set to fulfil the corporation priorities; monitor and hold to account the executive for delivery of priorities; and secure assurance and independent audit of the Corporation's use of funds.

NCG is set up with local governing bodies for each college and part of Mr Lauener's role will be to convene regular meetings of local Chairs to ensure that all entities operate within the appropriate governance framework; and to encourage a culture of learning from all parts of the organisation while retaining organisational autonomy on local delivery.

He has explained that there will be an element of local representation with other local partners such as local authorities and major employers but he has made it clear that he would not want to have any representational role with Government. As NCG is largely funded by Government it is possible that as Chair of the corporation he would be asked to attend meetings with Government if there are financial or quality concerns about the organisation's performance but this is not currently a concern and any matters are normally raised at executive rather than governance level.

The role is likely to involve one day of work per week. Mr Lauener has noted in his application that the role is remunerated at £25,000 per annum (by agreement with the Charity Commission) but he has arranged for this to be allocated to the student hardship fund of the college.

Mr Lauener has explained that NCG receives funding from a variety of funding lines, which are administered through ESFA. There are no individual contractual negotiations with providers; funds are allocated according to well-established and published funding formula and in the case of apprenticeships by success in delivering to employers. Funding for 2016-17 was £180 million. Funding is awarded annually in March on an established business cycle, with the exception of apprenticeships, for which funding is awarded by decision of levy-funded employers.

Mr Lauener has added that he has been involved as Accounting Officer in advising on the financial policy framework for the further education sector and has given evidence at the Public Accounts Committee on the financial health of the sector.

Jonathan Slater, Permanent Secretary at the Department for Education, has no reservations about this appointment. He notes that Mr Lauener has pursued this non-executive appointment after retirement and a 42-year civil service career. He is well known in the sector; has deep knowledge and is passionate about making a difference to NCG and local delivery.

Mr Slater added that Mr Lauener has recently been the CEO for the ESFA and has operated with central Government for the majority of his career – this means that he will have had access to policy and Departmental information at the most senior levels. He has in-depth knowledge of the Sector and the Civil Service. In Mr Slater's view there is no doubt that this experience will make a difference and benefit the NCG, but this could not be regarded as providing unfair advantage. He notes that the information Mr Lauener has access to would not be commercially valuable to NCG or sensitive.

#### Committee's consideration

The Committee noted that Mr Lauener is seeking to remain in the further education sector on retirement from the civil service because he wants to make use at local level of his governance experience and knowledge of the sector developed over a career focused on national policy and delivery.

Given that NCG is a recipient of ESFA funding, the Committee has carefully considered the propriety risks presented by this appointment. Importantly, this is not an area where there are individual contractual negotiations with providers; instead the Department has confirmed that funds are allocated according to published formula, or for apprenticeships, according to their success in delivering to employers. This significantly reduces the risk of this appointment being seen as a reward. It is also relevant that Mr Lauener applied for an advertised post and that he will not benefit financially from the role.

The Committee concluded that the appointment should not provide NCG with an unfair advantage. Mr Lauener is seeking to take up a governance role and has been clear with his employer that would not wish to have any representational role with Government. The Committee noted Mr Lauener's explanation that colleges operate as 'not-for-profit' entities within the same funding and assurance framework and observed that they are not therefore competitors in the same sense as commercial businesses. The Committee considers that any residual risk is mitigated by the terms of the lobbying ban set out below.

The Prime Minister accepted the Committee's advice that this appointment be subject to the following conditions:

- He should not draw on (disclose or use for the benefit of himself or the organisation to which this advice refers) privileged information available to him from his time in Crown service; and
- For two years from his last day in service, he should not become personally involved in lobbying the UK Government on behalf of Newcastle College Group or make use, directly or indirectly, of his contacts in Government and/or Crown service to influence policy or secure funding on their behalf.

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 Civil Service Code or otherwise.

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.*"

I should be grateful if you would ensure that we are informed as soon as Mr Lauener takes up this position, or if it is announced that he will do so (I enclose a form for this purpose). We shall otherwise not be able to deal with any enquiries, since we do not release information about appointments which have not been taken up or announced, and this could lead to a false assumption being made about whether he had complied with the rules.

I should also be grateful if you would ask that Mr Lauener informs us if he 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.

Once the appointment has been publicly announced or taken up, we will publish this letter on the Committee's website and include the main details of the application, together with the Advisory Committee's advice, in the regularly updated consolidated list on our website and in the next annual report.

Yours sincerely

Nicola Richardson  
Committee Secretariat

