

*From the Chair*



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

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You approached the Committee for advice about taking up an appointment as Non-Executive Chairman of Avanton Ltd.

The Committee's role and remit

As you are aware, 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; or
- 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.

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.

Non-Executive Chairman, Avanton Ltd

You informed the Committee that you have been offered an appointment as Non-Executive Chairman of Avanton Ltd (Avanton).

You described Avanton as a newly established company developing high quality homes in the London area.

You explained the role will be paid, will involve approximately one day per month, and is not likely to include any contact or dealings with your former Department or Government more generally.

You informed the Committee that you had no contact with the company during your last two years in office and are not aware of any relationship, contractual or otherwise, between Avanton and the Ministry of Defence (MOD).

You stated in your application that you had overall responsibility for Defence Estates Strategy but had no meetings with any individual property companies. You said that Avanton has no interest in any defence sites.

You explained that you would be using your previous experience in property development to help grow and expand Avanton's business. Between 1994 and 2012 you were at various times Development Director of three related businesses – Quality Care Homes PLC (care homes), Bannatyne Fitness Ltd (health clubs) and Just Learning Ltd (day nurseries) – where you had responsibility for finding and developing property sites.

Avanton and Weinbergers Investments Ltd are sister companies, owned by Mr Omer Weinberger.

The Committee approached the Permanent Secretary for the MOD about the role. The MOD confirmed that to the best of their knowledge:

- You had no contact with Avanton Ltd or Weinbergers Investments Ltd in the last two years of your role as Secretary of State for Defence.
- You had no contact with any individual property companies in the last two years of your role as Secretary of State for Defence.
- MOD, and in particular the Defence Infrastructure Organisation, which leads for the MOD on estate management, has no contractual relationship with Avanton Ltd or Weinbergers Investments Ltd.
- You would not have acquired any commercially sensitive information that could be perceived as giving an unfair advantage to your prospective new employer.
- You would not have acquired any specific information on estate planning which could be perceived as giving an unfair advantage to your prospective new employer.

While you have stated your prospective employer has no interest in acquiring defence sites, the MOD recommended imposing restrictions on commercial activity for your new employer to cover the eventuality that this should change.

The Permanent Secretary for the MOD has no concerns about the appointment.

#### The Committee's consideration

The Committee has considered the tests set out in the Business Appointment Rules, which are, in summary, whether an appointment could reasonably be seen as a reward for decisions made in office and whether there is a risk of an appointment providing an employer with an unfair advantage by virtue of the information or contacts to which a former Minister has access.

The Committee has concluded that there is no basis for viewing this appointment as a reward for decisions made in office. Avanton is a newly established company, incorporated

in June 2017 and the MOD has no contractual relationship with it or Weinbergers Investments Ltd. The MOD has also confirmed that you had no contact with Avanton or any other individual property companies during your last two years in office.

The Committee has concluded that the risk of your appointment affording Avanton an unfair advantage is low. In reaching this view the Committee acknowledged that whilst you had responsibility for Defence Estates Strategy, the company does not work in the defence sector and your role will not involve contact with Government. It placed weight on the assessment from the MOD that you would not have acquired any commercially sensitive information or specific information on estate planning which could be perceived as giving an unfair advantage to your prospective employer. However, to mitigate any propriety risks that might arise were Avanton to seek to acquire defence sites in future, it has imposed a condition on your appointment precluding you from providing advice on the terms of or with regard to the subject matter of a bid or contract relating directly to the work of the MOD or its trading funds, property and estates.

As a former Cabinet Minister, you are subject to a standard three-month waiting period before taking up any outside appointment.

Taking into account the specific facts in this case, in accordance with the Government's Business Appointment Rules, the Committee advises the appointment be subject to the following conditions:

- a three month waiting period from your last day in Ministerial office;
- 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 your time in ministerial office;
- for two years from your last day in Ministerial office, you should not become personally involved in lobbying the UK Government on behalf of Avanton Ltd, Weinbergers Investments Ltd, their partners or clients. Neither should you make use, directly or indirectly, of your contacts in Government to influence policy or secure business on their behalf; and
- for two years from your last day in Ministerial office, you should not provide advice on the terms of or with regard to the subject matter of a bid or contract relating directly to the work of the MOD or its trading funds, property and estates.

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 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 inform us as soon as you take up this appointment, 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 Ministerial Code. Similarly, I should be grateful if you would inform us if you propose to extend or otherwise change your role with the organisation as depending on the circumstances, it might be necessary for you to seek fresh advice.

Once this 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.

The Baroness Browning

Rt Hon Sir Michael Fallon MP