

From the Chair



OFFICE OF THE ADVISORY COMMITTEE ON BUSINESS APPOINTMENTS

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28 April 2017

You asked for the Committee's advice about becoming Editor of the London Evening Standard.

The Committee's role and remit

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.

It is not the Committee's role to pass judgment on whether it is appropriate for MPs to have other jobs, the time commitment involved or the level of remuneration. These issues are for Parliament to manage, and ultimately, for the electorate to judge. Neither is it for the Committee to comment on any potential conflicts between one outside appointment and any other(s) a former Minister may take up. Any such conflicts that may arise must be resolved by the employing organisation(s).

We are aware that other bodies are considering the wider issues relating to MPs outside interests: the Committee on Standards in Public Life is currently carrying out a [review](#) of the issue of the 'reasonable limits' for paid employment for MPs outside Parliament; and there is an on-going review of the MPs Code of Conduct by the Parliamentary Committee for Standards. However, the Committee notes that you have announced that you will not be standing for re-election in the June 2017 General Election and will cease to be an MP on 3 May.

In view of the above, the Committee's focus, in considering your application, was specifically on whether your proposed role as Editor conflicts in any respect with your previous Ministerial position and obligations in accordance with the Government's Business Appointment Rules.

Like many applications that come before the Committee, this application presented a range of issues for consideration and required the Secretariat to seek further information from a number of sources to ensure the Committee had the detail it needed to properly consider your application and formulate its advice. The Secretariat received a response to the last of its requests for information on 21 April. Whilst the Committee notes the urgency with which you made the application, the Committee must take the time necessary to consider the detail in each individual case.

Your role with the Evening Standard

You stated in your application that your position would be paid and would involve working for four mornings per week. You would be responsible for the editorial content of the paper on a daily basis. You would also be responsible for managing the budget of the paper. You noted that your appointment is likely to include contact with Government: "I am likely to interact with other politicians as any newspaper editor would. I do not expect to have any interaction with the Treasury or the Government on issues specific to the regulation or commercial practices of the business behind the paper."

You said that during your last two years in office as a senior Government Minister, you periodically met with journalists from the Evening Standard and, very occasionally, with the owner. This was always to discuss political affairs. You confirmed that you did not discuss any grants or contracts. You met with other newspapers in a similar capacity.

The timing of your application

You submitted your application on 13 March. The Committee considers it to be a matter of regret that your appointment as Editor was announced by the Evening Standard on 17 March, just days later and before the Committee had an opportunity to make the necessary enquiries, consider your application, and provide its advice. You informed the Committee that you had no involvement in the timing of the announcement, which you assured the Committee was made by your prospective employer due to your appointment becoming known to other media organisations. The Committee also notes that the press statement issued by the PR firm working for ESI Media (parent company of the Evening Standard) stated: "As required of former ministers, Mr Osborne is seeking the advice of the Advisory Committee on Business Appointments on his appointment."

However the Committee is very concerned that despite the press statement noting you were still seeking the Committee's advice, you subsequently signed a contract of employment with the Evening Standard on 20 March - without having received the Committee's advice. It was not appropriate for you to do so. You did not disclose any intention to do so to the Committee when you originally submitted your application, nor have you provided an

explanation for this during the course of the Committee's consideration. This is not in compliance with the Business Appointment Rules, which state that former Ministers 'must abide by the advice of the Committee' – advice which you were yet to receive.

Departmental advice

The Committee sought advice from Tom Scholar, Permanent Secretary of your former Department, HM Treasury (HMT), about your role. Mr Scholar made the following points:

- You made no decisions while Chancellor that could have directly benefited the Evening Standard.
- This role gives rise to no potential or actual conflicts of interest in respect of your official dealings during your time as a HMT Minister. In his view, when Chancellor, you had no official dealings or influence on policy that could have affected the Evening Standard. He also directed the Committee to the Department for Culture, Media and Sport (DCMS) for its views.
- He raised no concerns in relation to your former role as an HMT Minister. However, he noted that it was likely the appointment would attract attention and controversy.

Prior to reaching its position on this application, the Committee sought further information from HMT on two charity campaigns supported by the Evening Standard that received support from HMT from LIBOR fines and in which you had personal involvement. Namely: £3m to the Homeless Veterans' Christmas Appeal, committed in December 2014 and £1.5m to the Great Ormond Street Hospital Appeal, committed in November 2015.

HMT also provided details about the process and governance relating to the award of LIBOR funds to charitable sources. The information provided included the following:

- As part of the Budget each year, you selected various charities and awarded grants of several million pounds.
- These decisions were made following an application process and on the advice of civil servants within HMT, who first carried out appropriate due diligence and assessment, though ultimately the decisions rested with you.
- The applications were assessed against the publically announced scope for LIBOR grants; the governance of the charity concerned; and the ability of the charity to deliver the project and ensure value for money.
- During the period in question (2012-2015) around £621m was committed in LIBOR grants.
- It is not uncommon for media outlets to champion or lead applications for LIBOR funding. For example, Southampton Children's Hospital was supported by the Southern Daily Echo.
- To put these decisions into context, HMT provided the Committee with the following examples of grants awarded to similar charities made in the same year as the GOSH grant:
 - Manchester Children's Hospital - £1.1m
 - Sheffield Children's Hospital - £ 0.7m
 - Birmingham Children's Hospital – 0.7m
 - Southampton Children's Hospital – £2.0m
 - Mesothelioma - £5.0m
- The LIBOR grant process is currently being audited by the NAO with the report due for publication at the end of June.

The Committee also asked HMT about advertising spend with the Evening Standard and the governance arrangements underpinning newspaper advertising expenditure. Following a trawl of HMT systems, HMT did not identify any spending on advertising with the Evening Standard. Even if HMT did spend money on this, they noted it was highly unlikely that you were involved in making decisions on this type of spending and HMT found no evidence to suggest that you did.

The Committee also sought advice from Sue Owen, Permanent Secretary at DCMS given the nature of your appointment. Ms Owen made the following points in response:

- As a Treasury minister, you did not have policy responsibility for press regulation, although HMT agreed public funding for the Recognition Panel (up to Autumn 2017).
- As Chancellor and a senior member of the Cabinet you would have been privy to the Government's position on high profile policy issues affecting the press. However, it has been 9 months since you left Government.
- She noted that you have stated that as Editor you will not have contact with Government on matters relating to press regulation. However, the Committee might want to consider putting in place a more formal arrangement for a fixed period of time given your previous position in Government.
- Whilst politicians regularly write newspaper articles, this appointment (as Editor) was likely to generate some controversy.

The Committee's consideration

When considering your application the Committee took into account the following factors:

- Whilst you had contact with the Evening Standard when you were a Government Minister, as you did with other newspapers, you informed us that these meetings were to discuss the then current political situation. This was confirmed by the Permanent Secretary at HMT.
- The Committee considered whether your decisions with regard to the charitable donations might be perceived as having been motivated by the hope or expectation of future employment because the Evening Standard indirectly benefited from HMT's backing of its charitable campaigns. In particular, the Committee is mindful of the fact that you and the Evening Standard will have received positive publicity from the award of these funds. However, it accepts the confirmation from the Permanent Secretary that the decisions to award money to the Evening Standard appeals were made following an application process; on the advice of civil servants within HMT; and amounted to a small percentage of the overall pot of funding HMT committed to charities from LIBOR fines. It is also relevant that these decisions were made some time ago when your future role at the Evening Standard was unlikely to have been in contemplation.
- The Permanent Secretary at HMT sees no reason why your time in office would give rise to a conflict of interest in taking on this role.
- The Committee is mindful of the potential interest the Evening Standard may have in the vast array of information you were privy to as a member of the Cabinet and as Chancellor. Whilst the Committee notes the Permanent Secretary has no concerns

about the role in relation to your time as Chancellor, it is concerned that given the specific nature of the role as Editor, there is a risk that your knowledge acquired in office could provide some advantage to the Evening Standard. However, the Committee notes that nine months have passed since you left Government and the value of privileged information you had access to in Government will have decreased over this time. Further, following further enquiry from the Committee on how you would deal with this potential issue, you confirmed both:

- that you would adhere to the requirement not to make use of any privileged information you had access to as a Minister; and
 - while this is not currently a term of your engagement, you said you would be willing to make your employment contract with the Evening Standard subject to such requirement.
- You also told us that you do not expect to have any interaction with the Government on press regulation.
 - As Chancellor you were responsible for HMT which, as DCMS noted, approved funding for the Press Recognition Panel (PRP), as per the outcome of the Leveson Inquiry - which found that there should be an organisation set up to oversee press regulation.
 - The Permanent Secretary at DCMS has confirmed that you did not have responsibility for press regulation.

The Committee has concluded that there is no evidence to suggest that decisions you made in office were made in contemplation of this appointment. Furthermore, under the Government's Business Appointment Rules, the Committee can advise that certain conditions should be imposed to mitigate the potential risk of your time in office providing the Evening Standard with an unfair advantage. Therefore, 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:

- 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;
- you should, as you have indicated, immediately obtain an amendment of your contract to ensure that your employment by the Evening Standard is subject to the above condition and confirm to the Committee that such an amendment has been made;
- you should have no contact with Government on matters relating to press regulation; and
- for two years from your last day in ministerial office you should not become personally involved in lobbying the Government on behalf of the Evening Standard or its parent company ESI Media, or with regard to matters with which they are concerned; or make use, directly or indirectly, of your contacts in Government to influence policy or secure business on behalf of the Evening Standard or ESI Media or with regard to matters with which they are concerned.

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.”*

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 George Osborne MP