



OFFICE OF THE ADVISORY COMMITTEE ON BUSINESS APPOINTMENTS

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You asked for the Committee's advice about taking up an appointment with the Office of the Children's Commissioner for England (OCC).

The Committee's remit

It is the Committee's role to advise on any 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.

Appointment details

You are seeking to take up a role as a part-time Member of an Advisory Group to the Children's Commissioner for England. The Office of the Children's Commissioner (OCC) is independent of Government and Parliament and has powers aimed at helping to bring about long-term change and improvements for all children.

You told the Committee this is an unpaid role and you will be providing strategic advice and challenge to the Children's Commissioner and her team by way of quarterly meetings of the Advisory Board. You do not expect to have contact with Government in this role; and described your duties as:

- advising on how the powers of the Children's Commissioner can be used to best effect to promote and protect children and young people's rights, and thereby improving outcomes for children and young people in England;
- providing advice, support, scrutiny and challenge to the OCC to secure the effective delivery of its statutory responsibilities;
- advising the OCC on key issues and challenges facing children, families and the sector at large;
- acting as a 'critical friend' and sounding board for the OCC regarding policies and proposals, informing the policy and strategic priorities; and
- strengthening relationships between the OCC and the wider children's services network across the statutory and voluntary sectors as appropriate.

As an executive non-departmental public body, sponsored by DfE, the OCC has a significant working relationship with DfE. You said you held regular meetings with the Children's Commissioner in your capacity as Minister, and attended numerous stakeholder events at which the Children's Commissioner was present, often speaking on the same platform. You also stated that you were responsible for legislation relevant to the OCC and were involved in the governmental discussions on its annual budget. You noted that, in general, you had regular dealings with a wide range of organisations connected to the sector in which the OCC operates by way of meetings, speeches, events, awarding of grants and contracts, and legislation.

You stated you have no commercially sensitive information of relevance to this role.

Mr Jonathan Slater, Permanent Secretary at DfE, was contacted about this appointment. DfE confirmed that you would have been responsible for the day-to-day exercising of the Secretary of State's duties and powers with regard to the OCC; and that as Minister, you met with the current Children's Commissioner several times. (DfE stated this its relationship with the OCC is as set out in a Framework Agreement between the Department and the OCC. This makes clear what arrangements are in place for the existing relationship between the DfE and the OCC).

Expanding on this, DfE explained you had involvement in the Children and Families Act 2014, which set out the primary functions of the Children's Commissioner role. DfE noted that although you would have made decisions about the content and handling of this legislation, and about the clauses specific to the Children's Commissioner's role, this was enacted prior to the appointment of the current Children's Commissioner, Ms Longfield. Further, DfE found no evidence of any policy decisions taken by you, during her tenure, that would directly impact on your suitability to work with the OCC.

DfE stated it is not aware of you having any commercially sensitive information relating to the OCC; and the Permanent Secretary does not have any concerns with you taking up this role.

The Committee's consideration

DfE stated you had responsibility for the day-to-day exercising of the Secretary of State's duties and powers in relation to the OCC; you met with the current Children's Commissioner several times as part of your ministerial responsibilities; and that you had involvement in the Children and Families Act 2014. However, the Committee recognised that this legislation was enacted prior to the appointment of the current Children's Commissioner; your contact with the Children's Commissioner were in line with your duties at the time; and DfE considered there were no policy decisions taken by you during the current Children's Commissioner's tenure that would directly impact on your suitability to work with the OCC. Further, this is an unpaid role as an Advisory

Board Member, in statutory office for which you have a clear interest and for which your career prior to joining ministerial office is relevant. Therefore the Committee considers there is little risk that you were offered this role as a result of decisions you made whilst a Minister.

When considering whether you might offer the OCC and unfair advantage, whilst the Committee recognised the role at the OCC is related to an area for which you had responsibility as a Minister, it also took into account that:

- the nature of OCC's role is positive: safeguarding and bringing about long-term change and improvements for all children;
- your role is strictly advisory, unpaid, and you do not expect it to involve contact with Government;
- the OCC's level of independence and its clear framework agreement are set out in the Children and Families Act 2014 - meaning that mechanisms are already in place for its contact and engagement with Government;
- DfE confirmed it is not aware of you having any sensitive information relating to the OCC; and
- you have relevant experience in this area which predates your time in Ministerial office - including your time as a Family Law Barrister from 1998 to 2008, specialising in care cases.

Considering the specific circumstances in this case, the Committee considers that any inherent risks associated with you working in an area associated with your time in office are low, and are sufficiently mitigated by the conditions imposed below.

Taking into account all these factors, in accordance with the Business Appointment Rules, the Committee advises that this appointment be subject to the following conditions:

- you should not draw on (disclose or use for the benefit of yourself or the persons or organisations to which this advice refers) any privileged information available to you as a Minister;
- for two years from your last day in ministerial office, you should not involve yourself in any work that relates to securing the budget for the Office of the Children's Commissioner for England from the UK Government.
- for two years from your last day in service, you should not become personally involved in lobbying the UK Government on behalf of the Office of the Children's Commissioner for England. This is not intended to prevent you from having routine contact with Government on the activities of the Office of the Children's Commissioner for England, in line with your role as a Member of an Advisory Group as described above.

The Committee also notes that you may take up other roles which involve working with the Government in some capacity. It is not for the Committee to advise on such roles, as they cannot be reasonably considered 'outside' under the Business Appointment Rules. However, the Committee does expect that should you take up such an appointment(s), you should share this advice with the employing government department concerned, and ensure that both the OCC and the departments concerned. This is to ensure that each has considered whether any potential conflicts may arise from your involvement with the other and take any necessary, appropriate steps.

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 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.

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.

Once the appointment have 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

Mr Edward Timpson