



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

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You asked for the Committee's advice about taking up an appointment as a Non-Executive Director at the Scottish Council for Development and Industry.

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.

**Non-Executive Director at Scottish Council for Development and Industry (SCDI)**

Appointment details

You stated your role at SCDI is unpaid and part-time. You will provide advice on how best SCDI can promote and support the growth of Scotland's economy. SCDI is an independent, economic development network, seeking to influence Government and key stakeholders,

with the aim of creating sustainable economic growth for Scotland. It is non-political and not-for-profit, and is funded by members' voluntary subscriptions.

You confirmed you have no commercially sensitive information about SCDI or its competitors and that you are unaware of any contractual relationship with Government. You said direct contact with Government is unlikely, but you anticipate encountering Ministers and officials from your former department more generally, not least in your role as a Member of the House of Lords. Further, you attended stakeholder events organised by the Scotland Office in your capacity as a Minister; had meetings with the former Chief Executive of SCDI to discuss the development of City Deals in Scotland; and had regular engagement with Scottish stakeholders who operate in an equivalent public policy space.

The Cabinet Office Permanent Secretary confirmed that you did not have decision-making, regulatory or funding influence in relation to SCDI and that you have no commercially sensitive information which could benefit the organisation. He also noted that SCDI is independent of Government and is conduit for business and wider opinion, through which it seeks to represent members' views to Government.

#### The Committee's consideration

This appointment is broadly with the same area for which you had responsibility whilst in office, and the Committee noted that as a result, you did have contact with SCDI whilst in office. However, it considered it important that you did not have decision-making or regulatory control relevant to SCDI. In addition, this is an unpaid role. Taking this into account, the Committee has no concerns this appointment could reasonably be seen as a reward.

Further, the Committee considered whether there is a risk that SCDI will gain an unfair advantage as a result of you becoming a Non-Executive Director. It considered any potential risk is low as you stated you do not expect to have contact with Government in this role, and Cabinet Office has confirmed you hold no particularly relevant information. However, given the purpose of SCDI includes seeking "*to influence and inspire Government and key stakeholders;*" and that you will have some ongoing contact with Government through your role in the House of Lords, the Committee decided to apply a lobbying ban to this appointment which makes clear that use of contacts from within government for the benefit of SCDI would be inappropriate.

Taking into account these factors, in accordance with the Government's Business Appointment Rules, the Committee advises 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; and
- for two years from your last day in Ministerial office, you should not become personally involved in lobbying the UK and Scottish Governments on behalf of

Scottish Council for Development and Industry, its partners or subsidiaries. Nor should you should make use, directly or indirectly, of your contacts in the UK and Scottish Governments to influence policy or secure funding on behalf of Scottish Council for Development and Industry, its partners or subsidiaries.

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 employment with these organisations, 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 roles as, depending on the circumstances, it may be necessary for you 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.

The Baroness Browning

The Right Honourable Lord Dunlop

