



OFFICE OF THE ADVISORY COMMITTEE ON BUSINESS APPOINTMENTS

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You have retrospectively asked the Committee to consider the contractual relationship you have entered into with The Telegraph newspaper pursuant to the Government's Business Appointment Rules following your resignation of ministerial office.

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 an appointment is appropriate or suitable in any other regard.

The appointment

You informed the Committee that The Telegraph asked you to return to the arrangement you previously had with them. You confirmed you have signed a 12 month contract to write articles for the Telegraph Media Group Limited. This will include writing a weekly column for

a period of 46 weeks; being available for public appearances and podcasts; and writing other articles - which will be decided on an ad hoc basis between you and the Editor.

Timing of your application

You resigned as a Minister on 9 July.

It became public knowledge you would be taking up a role when The Telegraph started to advertise your *'new weekly column'* on the weekend of 14 and 15 July 2018.

You have confirmed that you signed a contract with The Telegraph on 12 July 2018, yet the Committee did not receive your application until 26 July 2018.

The Committee considers it to be unacceptable that you signed a contract with The Telegraph and your appointment was announced before you had sought and obtained advice from the Committee, as was incumbent on you on leaving office under the Government's Business Appointment Rules.

The Rules apply by virtue of the Ministerial Code, paragraph 7.25 of which states that:

'On leaving office, Ministers will be prohibited from lobbying Government for two years. They must also seek advice from the independent Advisory Committee on Business Appointments (ACoBA) about any appointments or employment they wish to take up within two years of leaving office. Former Ministers must ensure that no new appointments are announced, or taken up, before the Committee has been able to provide its advice. To ensure that Ministers are fully aware of their future obligations in respect of outside appointments after leaving office, the Business Appointment Rules are attached at Annex B. Former Ministers must abide by the advice of the Committee which will be published by the Committee when a role is announced or taken up.'

Failure to seek advice before The Telegraph made public you would be taking on this work and before signing a contract was a failure to comply with your duty to seek advice.

The Government has confirmed that all ministers are asked to sign the Ministerial Code on entering ministerial office. Further, in January 2018, the Ministerial Code was updated and Ministers were required to confirm in writing that they had read the Code and understood their obligations under it.

Additionally, your former department, the Foreign and Commonwealth Office (the FCO) confirmed that Sir Simon McDonald, Permanent Under Secretary and Head of the Diplomatic Service, wrote to you on 9 July about your duties upon resignation as Foreign Secretary. This letter stated that former Ministers are required to seek advice from the Committee on any appointments or employment they wish to take up within two years of leaving office. You stated this letter did not reach you until after you had signed the contract with The Telegraph.

Consideration

The Government's Business Appointment Rules for former Ministers specify that retrospective applications will not normally be accepted. To fulfil the remit given to it by Government, the Committee needs to be able to consider an application fully and freely before offering its advice. It is impossible to do this in a way that will command public confidence if an appointment has already been announced and/or taken up. Moreover, the Rules state there is a minimum three-month waiting period for former Ministers before the

expiration of which ministers should not take up outside appointments. The Committee¹ sees no reason why the minimum three month waiting period should not have been observed in this case and considers that your entering into this appointment within a few days of leaving office without seeking the advice of the Committee was a breach of the Rules.

In all the circumstances, the Committee refuses to provide retrospective advice for this appointment.

The Committee raised the issue of your appointment with your former department.

The FCO noted that, under normal circumstances a former Minister seeking advice on becoming a columnist would be subject to standard conditions, including a requirement not to draw on material to which they had access during their time in ministerial office.

The Committee raised this issue with you following the submission of your retrospective application. You have since confirmed:

- you will not *'make use of any privileged information that [you] may have had access to as a Minister and/or member of Cabinet'*;
- that while this is not currently a specific term of your engagement, there is a clause in your contract which prevents you from using third party information you do not have consent to use; and
- you would be willing to ask the Telegraph Media Group to add a specific clause precluding the use of privileged information to your contract.

The Committee notes your assurances and anticipates that – to reflect what you have accepted - your contract will indeed be amended to include an explicit clause confirming that you will not make use of any privileged information that you may have had access to as a Minister and/or member of Cabinet. The Committee also reminds you that 'privileged information' includes all official information to which you had access whilst in ministerial office and which has not been made publicly available.

The Committee will also take this opportunity to remind you that advice should be sought on all appointments within two years of you leaving office, paid or unpaid, before they are taken up or announced.

We will publish this letter on the Committee's website, and refer to it in the relevant annual report.

The Baroness Browning

Rt Hon Boris Johnson MP

¹ This application was considered by Sir Alex Allan; Jonathan Baume; Baroness Angela Browning; Lord Michael German; Terence Jagger; Baroness Helen Liddell; Richard Thomas and John Wood. Dr Susan Liataud was unavailable.

