

*From the Chair*



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

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You approached the Committee for advice on taking up an appointment with Klesch & Company Limited.

The Committee's role and remit

As you will be 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.

Klesch & Company Limited

You propose to take up a paid position as an Advisor to Klesch & Company Limited (Klesch).

Klesch is a global industrial company specialising in the production and trading of oil, chemicals and metals, and the trading of other global commodities and related financial derivatives.

You described your intended role at Klesch as providing strategic advice on acquisitions and development. This would be a paid appointment and would involve 1-2 days' work per month.

You said that the appointment is not likely to include contact or dealings with Government and noted that there is no defence interest involved. You explained that as Business Minister you had responsibility for refineries policy, the sector in which Klesch has a presence.

The Committee approached the Permanent Secretaries at the Ministry of Defence (MOD) and the Department for Business, Energy and Industrial Strategy (BEIS) for their views on the appointment. Both departments confirmed that they had no concerns.

BEIS made the Committee aware that you were briefed at the start of the process about Klesch's bid for Milford Haven refinery but by the time it was announced that no deal could be reached and when Ministers became more actively engaged with the bid, you were no longer Business Minister. BEIS considers that, on this basis, there is no conflict.

BEIS advised that you did not engage directly with Klesch during your time as Business Minister (discussions with Klesch at this time were held at official level and were led by HM Treasury).

#### The Committee's consideration

The Committee<sup>1</sup> noted that this appointment appears to have no connection with your position as Defence Secretary, which you held between 2014 and 2017. It observed that your proposed employer operates within the same sector in which you were involved while Business and Energy Minister, between 2012 and 2014.

The Committee considered the risk that this appointment could be seen as a reward for decisions made whilst in office. The Committee noted that you were Business and Energy Minister at the start of the process for Klesch's bid for Milford Haven refinery. However, it took into account that you did not engage directly with Klesch and by the time Ministers had become more actively engaged with the bid, you were no longer Business Minister. Ultimately the bid collapsed, which minimises further any perception of reward.

It appears that the risk of your appointment providing Klesch with an unfair advantage is low. Nearly four years have passed since you left your positions as Business and Energy Minister and the privileged information ban and extended lobbying restriction set out below should sufficiently mitigate any remaining risks in this respect.

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:

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<sup>1</sup> This application for advice was considered by Sir Alex Allan; Jonathan Baume; Baroness Browning; Lord Michael German; Baroness Helen Liddell; Dr Susan Liautaud; Richard Thomas and John Wood. Terence Jagger was unavailable.

- 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; and
- for two years from your last day in Ministerial office, you should not become personally involved in lobbying the UK Government on behalf of Klesch & Company Limited and its subsidiaries. Neither should you make use, directly or indirectly, of your contacts in Government to influence policy or secure business or funding on their behalf.

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.*"

The Committee also notes that with regard to your activities in Parliament you are subject to other rules.

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

