



OFFICE OF THE ADVISORY COMMITTEE ON BUSINESS APPOINTMENTS

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You sought the Committee's advice about taking up a role at Mansfelder Kupfer Und Messing GmbH.

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.

It is not the Committee's role to pass judgment on whether an appointment is appropriate or suitable in any other regard.

Appointment details

You sought the Committee's advice on taking up an appointment with Mansfelder Kupfer Und Messing GmbH (MKM). This role will be paid and part-time; and you stated you would be reinstated to a role you previously held before becoming a Minister.

From the Chair

MKM, acquired by Copper 1909 Bidco GmbH in 2013, is an international company, headquartered in Germany, which manufactures primary and semi-finished (semis) products made of copper and copper alloys. MKM's website states that the company also offers brass sheets and plates; as well as custom solutions for industry and system engineering.

MKM has several subsidiaries, one of which is MKM Mansfelder Copper Ltd which is specifically for the sale of copper semis in the UK, Ireland and South Africa. MKM has multiple competitors and MKM Mansfelder Copper Ltd, specifically, appears to have several competitors within the UK such as: Aurubis; Metelec; Amari Copper Alloys; and Lawton Copper Tubes.

You stated you would be a Board Member at MKM, to advise on the organisation's operations. You said you do not expect to have contact with Government in this role.

You confirmed you had no official dealings with MKM, or its competitors, whilst you were in office; and that you are not aware of a relationship between MKM or your former Department, the Department for Exiting the European Union (DExEU). You also stated you had no access to commercially sensitive information about any competitors of MKM whilst in ministerial office.

DExEU confirmed it has not engaged directly with MKM; that it does not have an established relationship with this organisation; and that you had no official dealings with MKM whilst you were in ministerial office.

DExEU stated that as Secretary of State, you would have had access to information which was sensitive and not in the public domain. Whilst DExEU explained this would have been very broad, given the nature of DExEU, it noted this information could be seen to have potential to offer an advantage. However, DExEU also stated that some of this information is no longer sensitive and/ or is in the public domain; and given the time that has passed since you left ministerial office, and the emerging nature of policy in this area, the Department is satisfied it is unlikely to provide an unfair advantage to your potential employers.

The Committee's consideration

DExEU confirmed to the Committee¹ you had no official dealings with MKM whilst you were in ministerial office; and that it has not engaged with the organisation. In addition, the Committee took into account that you stated you will be returning to a role you held before you took up your ministerial role. Therefore, the Committee considered the risk you were offered this role as a reward for decisions you made whilst in office, is low.

The Committee noted you held a prominent role in Government as a key negotiator on Brexit. Given MKM is an international organisation headquartered within the EU and operating in the UK, it carefully considered the risk you could be seen to offer an advantage to your future employer, given the ongoing Brexit negotiations.

DExEU stated you would have had access to information during your time in ministerial office, which could be seen to have potential to offer an advantage to future employers.

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

From the Chair

However, DExEU considered the risk is low because some of this information is no longer sensitive and/ or is in the public domain; the time passed since you left ministerial office; and the emerging nature of policy in this area.

The Committee recognised there is potential for the perception of unfair advantage when any former Cabinet Minister takes up a role outside Government; and especially in this case, given your former position with responsibility for Brexit negotiations - which are ongoing. However, the Committee also took into account the published draft Withdrawal Agreement; and that negotiations are fast evolving. It considered the time that has passed since you left office means it is reasonable to conclude that much of the information you had access to has either since become public, or will no longer be relevant as the process of exiting the EU progresses. Therefore, this risk will continue to reduce over time as policy and negotiations move on. In the circumstances, the Committee considered this risk would be sufficiently mitigated by imposing a condition that prevents you from advising MKM on Brexit related matters for 12 months from your last day in post as Secretary of State for Exiting the EU.

The Committee also noted the contacts you will have gained across Government/ Whitehall from your time in ministerial office and therefore, imposed the lobbying ban below which makes it clear that any use of these contacts to unfairly advantage your prospective employer, would be inappropriate.

In accordance with the Government's Business Appointment Rules, the Committee advises this appointment be subject to the following conditions:

- that you should not draw on (disclose or use for the benefit of yourself or the organisations to which this advice refers) any privileged information available to you from your time in ministerial office;
- for 12 months from your last day in ministerial office, you should not advise Mansfelder Kupfer Und Messing GmbH, or its subsidiaries, on Brexit related matters;
- for two years from your last day in ministerial office you should not become personally involved in lobbying the Government on behalf of Mansfelder Kupfer Und Messing GmbH, or its subsidiaries, nor should you make use, directly or indirectly, of your contacts in Government to influence policy or secure business on behalf of Mansfelder Kupfer Und Messing GmbH, or its 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."

The Committee also notes that in addition to the conditions imposed on this appointment, there are separate rules in place with regard to your role in the House of Commons.

From the Chair

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 has been publicly announced or taken up, we will publish this letter on the Committee's website, and where appropriate, refer to it in the relevant annual report.

The Baroness Browning

The Rt Hon David Davis MP