



OFFICE OF THE ADVISORY COMMITTEE ON BUSINESS APPOINTMENTS

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You sought the Committee's advice about taking up a role at J.C. Bamford Excavators Ltd.

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 J.C. Bamford Excavators Ltd (JCB) as an External Adviser. The role will be paid and part-time.

JCB is a manufacturer of construction equipment and is headquartered in the UK, producing products across the world (including in the EU) for numerous purposes, including for excavation; government and defence use; and waste and recycling. JCB appears to have several connected service companies including JCB Insurance Services Limited.

You stated your role as an External Adviser to the JCB Group of Companies will be to inform the senior team on external issues that may impact the business. You said you do not expect to have contact with Government in this role.

You confirmed to the Committee you had official dealings with JCB whilst in office - that you attended roundtable discussions (with business in the construction and engineering sectors) at which JCB representatives were present; and met with JCB to discuss the Department for Exiting the European Union's (DExEU) policy on businesses. You also confirmed that at roundtable discussions such as these, competitors of JCB would also sometimes be present (such as Caterpillar).

Additionally, you had a private meeting with Lord Anthony Bamford (Chairman) and Graeme Macdonald (CEO) of JCB whilst you were Secretary of State. DExEU reported no officials were present and you confirmed this was a private meeting. You told the Committee discussions centred around Brexit, and the various issues JCB and associated companies may face in relation to this, and was therefore similar in nature to discussions you also held as Secretary of State with business in general (as above). You said future employment opportunities were not discussed in any way, and at that time you would have had no expectation that you would be free to undertake such employment.

You are not aware of any relationship, contractual or otherwise, between JCB and DExEU; and confirmed you had no access to commercially sensitive information about any competitors of JCB.

You also said you have no prior involvement in this sector; but noted that Lord Bamford is a prominent supporter of the Conservative Party and that you previously met with him in that context.

Your former Department, DExEU, confirmed it engages with manufacturing firms, including JCB, through various stakeholder channels; and that you attended meetings and events, at which JCB has been present, about the Government's approach to the negotiations and its aspirations for the future relationship were discussed. DExEU stated you made no decisions, whilst in office, that would have affected JCB or its competitors.

In addition, DExEU stated that as Secretary of State, you may 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 Committee you held several events/ meetings at which JCB and its competitors were present during your time as Secretary of State. The Committee also noted and you confirmed you met with Lord Bamford and Graeme Macdonald of JCB privately to discuss similar matters. DExEU told the Committee it engaged extensively with manufacturing firms generally to discuss matters such as the Department's approach to negotiations and its aspirations for the future relationship, not solely with JCB. Whilst you were responsible for general policy decisions that would have affected business in general, DExEU confirmed the information you had access to was broad; and none of your decisions were specific to JCB. There is no evidence here to suggest you were offered this role as a result of decisions you made in your capacity as Secretary of State and therefore, the Committee considered the risk this role was offered to you as reward, is low.

The Committee noted you held a prominent role as a key negotiator on Brexit. Given JCB is an international organisation, it carefully considered the risk you could be seen to offer an advantage to your future employer, given the ongoing Brexit negotiations.

The Committee took into account that DExEU stated that whilst you may have had access to information as Secretary of State that could be seen to have the potential to offer an unfair advantage, given the length of time passed since you left office, and that some of this information is no longer sensitive or in the public domain, it is unlikely to provide an unfair advantage to your potential employers. However, the Committee recognised there is potential for the perception of unfair advantage, given your former role with responsibility for Brexit negotiations - which are ongoing. The Committee took into account the published draft Withdrawal Agreement; that Brexit negotiations are fast evolving; and that the passage of time since you left ministerial office lessens the relevance of any information to which you were privy. The Committee considered this risk of unfair advantage will continue to reduce as these negotiations move on and therefore, in the circumstances, it considered this risk would be sufficiently mitigated by imposing a condition that prevents you from advising JCB on Brexit related matters for 12 months from your last day in post as Secretary of State for Exiting the EU.

Whilst you stated you do not expect to have contact with Government in this role, the Committee also noted the contacts you will have gained across Government/ Whitehall from your time in ministerial office. The Committee 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:

- 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 J.C. Bamford Excavators LTD, or its partners or subsidiaries, on Brexit related matters; and
- for two years from your last day in ministerial office you should not become personally involved in lobbying the Government on behalf of J.C. Bamford Excavators LTD, or its partners or subsidiaries, nor should you make use, directly or indirectly, of your contacts in Government to influence policy or secure business on behalf of J.C. Bamford Excavators LTD, or its partners or subsidiaries.

From the Chair

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.

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