



OFFICE OF THE ADVISORY COMMITTEE ON BUSINESS APPOINTMENTS

G/7 Ground Floor, 1 Horse Guards Road SW1A 2HQ

Telephone: 020 7271 0839

Email: acoba@acoba.gov.uk

Website: <http://www.gov.uk/acoba>

March 2019

You asked for the Committee's advice about taking up an appointment with Business News Wales.

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 wish to take up a part time (paid) appointment as a consultant at Business News Wales Ltd. You described this role as consultant for one day a month on business development and writing one article a month. You do not expect to have any contact with government in this role.

Business News Wales is an independent Welsh publishing business which describes its aims as to:

- provide a voice for all Welsh publishing businesses; and
- showcase the best of Welsh businesses to both the internal Welsh market but also those businesses looking to invest in Wales.

You confirmed to the Committee that whilst you had no official dealings with Business News Wales whilst in office, you are aware they have a loan from Finance Wales, an arm's length organisation of the Welsh Government (you said you were not involved in that funding decision).

Departmental assessment

The Permanent Secretary at the Welsh Government was contacted about this application, who confirmed the Welsh Government has a relationship with Business News Wales, as follows:

- a sponsorship agreement with Business News Wales that aims to promote awareness of the services of Business Wales (an arm of the Welsh Government which provides advice and guidance to existing and start up businesses).
- the Development Bank of Wales (formally Finance Wales) has invested in Business News Wales. The Permanent Secretary added that: *'...Although wholly owned and financed by Welsh Government, the Development Bank is subject to a framework agreement with clear governance, accounting and management arrangements. Welsh Ministers do not take part in day-to-day operational matters, commercial matters, or decision-making within the Development Bank or its subsidiaries.'*

The Permanent Secretary also confirmed you had no involvement in, or influence over, these matters and you had no relationship with Business News Wales while in office. Further, she noted that whilst as First Minister you had *'overarching responsibility for the devolved policy responsibilities of the Welsh Government'*, you had no direct responsibility for the relevant sector or for the Welsh Government's relationship with Business News Wales.

The Committee's consideration

The Committee¹ noted you held the most senior position in the Welsh Government as First Minister. Whilst you had overarching responsibility for all devolved policy, the Welsh Government told the Committee you had no direct influence or responsibility for the relationship between the Welsh Government and Business News Wales; and confirmed you had no official dealings with them in office. Further the Permanent Secretary confirmed the governance arrangements at the Development Bank of Wales mean Ministers do not take part in decision making. As such, the Committee consider the risk this appointment could be seen as a reward for decisions or actions taken in office is low.

The Welsh Government noted this role is not directly related to your time in office. As such, the Committee consider the risk of you offering an unfair advantage to your new employer as a result of the information you were privy to is low, given all former Ministers are subject to a condition which prevents the use of privileged information gained in Ministerial office.

However, given your seniority and influence as the former First Minister, it could be perceived there is a risk of unfair advantage in relation to your contacts gained whilst in post. The Committee therefore imposed the lobbying ban below, to make it clear that the use of your contacts across the Welsh Government to the unfair advantage of Business News Wales would be inappropriate. The Committee also imposed a condition to make it clear you should not become involved in providing advice on bids or contracts your new employer has, or may have, with the Welsh Government.

Further the Committee considered time that has passed since you left office is relevant in this case. The Government's Business Appointment Rules for Former Ministers states that a waiting period of three months will be expected when the former Minister was a member of Cabinet, and may also be applied to other former Ministers if the Advisory Committee believes this to be warranted by the circumstances of the individual case. The Committee considered that, as the former First Minister of Wales, given your seniority and the wide access to information you had in office, a similar waiting period would be appropriate mitigation.

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:

- a waiting period of three months from your last day in ministerial office
- 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 two years from your last day in Ministerial office; you should not become personally involved in lobbying the Welsh Government, nor should you make use,

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

- directly or indirectly, of your government and/or Ministerial contacts to influence policy or secure business/funding; and
- for two years from your last day in office you should not advise Business News Wales on the terms of, or with regard to the subject matter of, a bid or contract relating directly to the work of the Welsh Government.

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 National Assembly for Wales.

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 where appropriate, refer to it in the relevant annual report.

The Baroness Browning

Mr Carwyn Jones AM

