

From the Chair



OFFICE OF THE ADVISORY COMMITTEE ON BUSINESS APPOINTMENTS

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You approached the Committee about taking up a commission with Intuitive Surgical under your independent consultancy.

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.

Commission details

You wish to take up a role with Intuitive Surgical as chair of the UK Advisory Board. You told the Committee your role on the UK Advisory Board is to:

- help Intuitive Surgical develop its corporate strategy in the UK
- advise on how to build public confidence in minimally invasive surgical platforms and future diagnostic tools
- provide senior strategic counsel to the senior leadership in the UK
- provide external relations advice when appropriate
- comment on Intuitive Surgical UK's commercial strategy

You informed the Committee this is a paid, part-time role and you were approached by Intuitive Surgical when you stood down from office.

You informed the Committee you were not involved in any decisions that influenced the environment for the kind of robotic surgery platform and devices that Intuitive Surgical make. You said you were more generally involved in policy making on the use of innovation in the NHS; and you do not have access to any commercially sensitive information about your prospective employers or its competitors.

DHSC was consulted regarding this appointment and confirmed there is a contract between the NHS and Intuitive Surgical. However, DHSC has no oversight of this.

DHSC do not believe you are privy to knowledge that would give Intuitive Surgical an unfair advantage. In particular it noted that since the publication of the 'Sector Deal 2'¹, relevant policy is now available in the public domain.

The department further confirmed you had no contact with Intuitive Surgical during your time in office; and had no specific dealings with the NHS in relation to the procurement and the use of surgical robots in the NHS.

The Committee's consideration

The Committee² notes this commission is consistent with the description of your consultancy which you described as a strategy and research consultancy in the fields of business, health, life sciences and education. Given this company operates in an area which is closely related

¹ The Life Sciences Sector Deals will help ensure new pioneering treatments and medical technologies are produced in the UK, improving patient lives and driving economic growth. The second Sector Deal, published in December 2018, highlights the progress made over the last year and includes new commitments from government and industry.

² This application for advice 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 Liautaud was unavailable.

to your time as a Health Minister, the Committee has carefully considered whether the conditions that apply to your independent consultancy sufficiently mitigate any risks which arise under the Government's Business Appointment Rules.

The Committee notes while Intuitive Surgical have a contract with the NHS, DHSC has no oversight of this. In addition, you had no contact with Intuitive Surgical while in office, nor responsibility for the NHS's procurement of surgical robots in general. The Committee also took into account that you said you were not involved in any specific policy in relation to the use of robotics, in the NHS (as opposed to innovation more generally, which you were involved in), and your former department has no concerns about you taking up this work. Therefore, the Committee considers the risk of this appointment being seen as a reward for decisions made in office is low.

The Committee considers there is a risk it could be perceived your contacts and information gained whilst in ministerial office might offer an unfair advantage to Intuitive Surgical. DHSC have confirmed it does not believe you have access to information that would be of unfair benefit to Intuitive Surgical and specifically that DHSC confirmed that specific policy has now been made public. However, given how closely related the work of his organisation is to your time in office, and the wide access to information you would have had, there is a risk you could be seen to offer an unfair advantage to Intuitive. In the circumstances, the Committee considers the conditions below, alongside a six month wait would appropriately mitigate the risk you could be seen to offer Intuitive Surgical an unfair advantage by virtue of your time in office.

In accordance with the Government's Business Appointment Rules, the Committee advises your work with Intuitive Surgical be subject to the same conditions as your independent consultancy:

- 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 UK Government on behalf of any of your clients or those you advise, nor should you make use, directly or indirectly, of your Government and/or Whitehall contacts to influence policy or secure business or funding on behalf of your clients;
- for two years from your last day of service you should not undertake any work as a consultant that involves providing advice to any company or organisation on the terms of a bid or contract relating directly to the work of the UK Government and the NHS; and
- for two years from your last day in ministerial office, before accepting any commissions and or/before extending or otherwise changing the nature of any commission, you should seek advice from the Committee. The Committee will decide

whether each commission is consistent with the terms of your consultancy and consider any relevant factors under the Business Appointment Rules.

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 Lords.

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

The Baroness Browning

The Lord O'Shaughnessy