



OFFICE OF THE ADVISORY COMMITTEE ON BUSINESS APPOINTMENTS

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BUSINESS APPOINTMENT APPLICATION: DR NIEL KEMPSON

The Committee has been asked to consider an application from Dr Niel Kempson, former Director General for Technology at the Government Communications Headquarters (GCHQ).

Dr Kempson's last day in post was 23 August 2018 and his last day in Crown service will be 31 December. He has confirmed that he has not been and does not expect to be undertaking any work-related duties between these dates (apart from essential administration associated with leaving Crown service).

Responsibilities in office

Dr Kempson was responsible for science and technology, including research through system development to operational support and management.

He told the Committee his main commercial responsibilities were ensuring that there was a fit-for-purpose commercial strategy and the correct governance processes were followed. He stated he did not get involved in the specification, evaluation, selection or award stages for new contracts. Nor was he part of the ongoing management and assessment of existing contracts (unless exceptionally, he was engaged as an escalation route).

He explained that, as with most departments, there is a well-established regime of delegated authorities for spending public money. The vast majority of the spending is carried out at working level. To ensure that this is done sensibly, there is a well-established set of governance arrangements requiring the budget-holder (typically a project manager), commercial procurement and commercial legal teams all to verify that proposed spend is covered by an approved business case and a sound procurement proposal. A small subset of the procurement activities will require more senior approval. At DG-level, he was engaged in the approval process when the amount crossed the threshold requiring board attention. He explained that at this level, the key tests for his approval were: is there an approved business case (passing the five HMT tests) and are the budget-holder, procurement and legal departments all content with the proposed spend.

Appointment details

Dr Kempson proposes to establish an independent consultancy and take up a commission with Protection Group International.

Independent consultancy

Dr Kempson described his independent consultancy as offering strategic advice on risk, primarily in the areas of cyber security and the exploitation of data and technology. He stated he would not take on work that involves representing the interests of clients to Government.

Commission with Protection Group International

Dr Kempson wishes to accept a commission with Protection Group International (PGI). He said he would offer strategic level consultancy as a PGI contracted consultant, to both corporate clients and foreign governments. He said all of the latter would be done with the visibility and engagement of the Department of International Trade and respective local government missions.

He also told the Committee that some PGI engagements are supported by HMG funding, aimed at maximising UK cyber security exports. Dr Kempson further confirmed there is no intention for him to be involved in the bidding for funding from HMG, in his proposed engagement with PGI. His role would be limited to the PGI delivery team.

Committee's consideration

The Committee noted that as DG with responsibility for science and technology, Dr Kempson oversaw the procurement of a high volume of contracts relating to projects to develop new capabilities.

When considering this application the Committee took into account that Dr Kempson's procurement responsibilities were primarily to ensure there was a fit-for-purpose commercial strategy and the correct governance processes were followed. He explained that the vast majority of spending is carried out at working level but there is a small subset that will require more senior approval; and he was engaged in the approval process when the amount crossed the threshold requiring board attention. His application also set out the objective tests that he applied in each case, which include ensuring that the budget-holder, commercial procurement and commercial legal teams were all content with the proposed spend. Importantly, Dr Kempson stated that he was not involved in the specification, evaluation, selection or award stages for new contracts. Nor was he part of the ongoing management and assessment of existing contracts (unless exceptionally, as an escalation route). All these details were confirmed by GCHQ.

Dr Kempson had regular contact with his board-level equivalents at several companies while in office. He has been clear that he does not consider any of these companies as competitors to his consultancy or PGI. He also said he does not hold privileged information about them and GCHQ has endorsed the information he provided in his application form.

As with all consultancies, the Committee will need to consider each commission on a case by case basis to appropriately consider any potential risks under the Government's Business Appointment Rules; and provide assurance that appropriate conditions are imposed in mitigation, where required.

The Committee considered the risk it will be perceived that Dr Kempson secured the commission with PGI as a reward for decisions made while in office is low. He has had limited contact with PGI - one meeting to make an introduction, to discuss national security matters and he had

peripheral involvement in a potential arrangement, three years ago and which may or may not have been taken to contract.

The Committee recognised there is a potential risk that Dr Kempson could be seen to offer PGI an unfair advantage through the information he had access to. However, as DIT and GCHQ have previously explained to the Committee, in the context of applications from other senior Crown servants, the cyber security landscape is changing rapidly. The Committee considered it would be inappropriate for Dr Kempson to advise on bids for HMG funding; and he has said there is no intention for him to do so - his role will be limited to being part of the PGI delivery team. The restriction on advising on bids or contracts set out below precludes such activity in any case. The Committee has also imposed an extended lobbying ban preventing Dr Kempson from making use of his contacts, directly or indirectly, to influence policy or secure business or funding for his clients.

The Prime Minister accepted the Committee's advice that Dr Kempson's independent consultancy and commission with PGI be subject to the following conditions:

Consultancy and commission

- that he should not draw on (disclose or use for the benefit of himself or the organisations to which this advice refers) any privileged information available to him from his time in Crown service;
- for two years from his last day of service he should not become personally involved in lobbying the UK Government on behalf of those he advises under his independent consultancy or their subsidiaries, partners or clients. Nor should he make use, directly or indirectly, of his Government and/or Crown Service contacts to influence policy or secure business or funding on their behalf;
- for two years from his last day in Crown service, he should not provide advice to any company or organisation on the terms of, or with regard to the subject matter of, a bid or contract relating directly to the work of the UK Security and Intelligence Agencies; and
- for two years from his last day in Crown service, before accepting any commissions and or/before extending or otherwise changing the nature of any commission, he should seek advice from the Committee. The Committee will decide whether each commission is consistent with the terms of the 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."

I should be grateful if you would ensure that we are informed as soon as Dr Kempson takes up these appointments, or if it is announced that he will do so (I enclose a form for this purpose). We shall otherwise not be able to deal with any enquiries, since we do not release information

about appointments which have not been taken up or announced, and this could lead to a false assumption being made about whether he had complied with the rules.

I should also be grateful if you would ask that Dr Kempson informs us if he proposes to expand or otherwise change the nature of his consultancy or the commission as, depending on the circumstances, it may be necessary for him to make a fresh application.

Once Dr Kempson has announced or taken up any of the appointments above, we will publish this letter on the Committee's website, and where appropriate, refer to it in the relevant annual report.

Yours sincerely

Nicola Richardson
Committee Secretariat