



OFFICE OF THE ADVISORY COMMITTEE ON BUSINESS APPOINTMENTS

Room G/8, 1 Horse Guards Road, London, SW1A 2HQ

Telephone: 020 7271 0839

Email: acoba@acoba.gov.uk

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

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Dear Mr Gray,

You sought the Committee's advice on taking up a commission with CareOpinion under your independent consultancy.

Commission details

You informed the Committee this will initially be an unpaid advisory role which involves speaking at meetings or events every so often. CareOpinion have agreed to review anything beyond the above description and discuss a fee. You advised the Committee that you were approached by CareOpinion about this work, after leaving the Scottish Government.

According to their website, CareOpinion is a non-profit community interest company whose mission is to provide an online platform (where people can share their experiences of health and care) so that:

- people can share honest feedback easily and without fear
- stories are directed to wherever they can help make a difference
- everyone can see how and where services are listening and changing in response

You describe your role as consisting of regular but not necessarily scheduled contact to:

- help make connections
- Give comment on strategies/approach
- Speak at events

- Speak with groups (of Chief Officers of Health and Social Care Partnership for example)

You further advised the Committee the connections you have been asked to make will involve facilitating engagement with the Chairs and Chief Officers of the Health and Social Care Partnerships (HSPS); the Convention of Scottish Authorities; the Society of Local Authority Chief Executives; and with third sector bodies such as Community Care Providers Scotland. HSCPs are the organisations formed as part of the integration of services provided by Health Boards and Councils in Scotland. Each partnership is jointly run by the NHS and local authority to manage community health services and create closer links between health, social care and hospital services - therefore at arm's length from the Scottish Government.

You informed the Committee you had regular contact with CareOpinion as part of your role as CEO at NHS Scotland. You also said you encouraged use and uptake of CareOpinion while in post because it ran independently of NHS Scotland and permits anonymous feedback if the patient wishes - to increase the prospects of patients giving feedback.

You advised the Committee CareOpinion is used by NHS Scotland Health Boards on a paid for and contractual basis (for patient facing national Health Boards such as Scottish Ambulance Service, NHS24 and the Golden Jubilee National Hospital). However, you did not let out any contracts nor were you party to any decision. You further advised the Committee that it is for each Health Board (through its own local governance arrangements) to decide how to adopt CareOpinion and how to respond to it.

The Scottish Government identified no conflict with this role and raised no concerns with you taking up this work.

It advised the Committee that there is some closeness between CareOpinion and the Scottish Government, however this was not with you directly. In addition, the Scottish Government has procured a 3-year contract with CareOpinion via the NHS National Services Scotland for work in the NHS. While the department confirmed the work on that falls within one of the directorates for which you had oversight, it confirmed you had no direct dealings with that contract award.

The department further advised the Committee CareOpinion have been successful (twice) in a public procurement process to win the contract to provide the online feedback service for Scotland's health and care system. They confirm you were not involved in the decision making as this was carried out by National Services Scotland¹. Further, others in the department may have agreed the 'scope' but were not involved in the final decision.

The Committee's consideration

¹ NHS National Services Scotland (NSS) is a Non-Departmental Public Body which provides advice and services to the rest of NHS Scotland. Accountable to the Scottish Government, NSS works at the heart of the health service, providing national strategic support services and expert advice to NHS Scotland.

The Committee² noted this commission is consistent with the description of your consultancy which you described as offering leadership, coaching and mediation at an executive level within the public and voluntary sectors.

In your former position as DG of Health and Social Care, you were responsible for governance, oversight and decision making in relation to NHS Scotland. In addition, the Scottish Government has procured a 3-year contract with CareOpinion via the NHS National Services Scotland for work in the NHS. However, the Committee has noted that although the work carried out with CareOpinion falls within one of the directorates for which you had oversight, you had no direct dealings with that contract award.

The Committee considers any contact you had with CareOpinion while in office to be keeping in line with your role as CEO of NHS Scotland. As such, there is nothing untoward about this contact. Importantly, the role is unpaid. Therefore, the risk of this appointment being seen as a reward for decisions taken in office is low.

The Committee considers there is a risk it could be perceived your contacts gained in office might offer CareOpinion an unfair advantage. However, the Committee considers the conditions below would appropriately mitigate the risk.

You advised the Committee this work will involve facilitating discussions with Health and Social Care Partnership in order to spread the use of CareOpinion to services run locally, including by the third sector and commercial providers. Having considered the work you are to undertake; the Committee does not consider it improper for you to speak at events and even help make connections on behalf of CareOpinion with arm's length bodies and providers. This is subject to the condition that you do not use privileged access and contacts in Government to do so or speak about or endorse CareOpinion on behalf of the Scottish Government.

You also advised the Committee CareOpinion have agreed to review anything beyond the above description and discuss a potential fee. The Committee would like to remind you that you are to seek advice from the Committee before accepting any commissions and or/ before extending or otherwise changing the nature of any commission.

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

- you should not draw on (disclose or use for the benefit of himself or the organisation to which this advice refers) any privileged information available to you from your time in Crown service;

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.

- for two years from your last day in Crown service you should not become personally involved in lobbying the Scottish Government on behalf of those you advise under your independent consultancy or their subsidiaries, partners or clients, nor should you make use, directly or indirectly, of your contacts in Government and/or Crown service to influence policy or secure business of funding on their behalf;
- for two years from your last day in Crown service, you should not provide advice on the terms, or with regard to the subject matter of, a bid or contract with or directly relating directly to the work of the Scottish Government or funding provided by the Scottish and UK Government (the Committee wishes to be clear this includes the NHS and its commissioning bodies);
- you should make clear that any endorsement you give CareOpinion is your own professional and personal endorsement and not an endorsement of the Scottish Government and/or NHS Scotland
- for two years from your last day in Crown service, 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."

I should be grateful if you could let me know when you take up this commission, or if it is announced that you are to do so. This will enable the Committee to publish this letter on the Committee's website, and where appropriate, refer to it in the relevant annual report.

Yours sincerely

Tiffany Amusu
Committee Secretariat