



OFFICE OF THE ADVISORY COMMITTEE ON BUSINESS APPOINTMENTS

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Dr Philip John Rycroft CB

The Committee has been asked to consider an application from Dr Philip Rycroft, former Permanent Secretary at the Department for Exiting the EU (DExEU), who sought advice on setting up an independent consultancy.

Dr Rycroft's last day in Crown service was 29 March 2019. As Permanent Secretary, he had responsibility for leading the department in all its work on the Government's preparations for Brexit (DExEU is responsible for the negotiations to leave the EU and establishing the future relationship between the UK and EU). Dr Rycroft was previously Second Permanent Secretary at the DExEU from March to October 2017, and in both roles he has maintained his role as Second Permanent Secretary at the UK Governance Group, Cabinet Office where he led the group, responsible for constitutional and devolution issues; a role he first took up in 2015).

Appointment Details

Dr Rycroft wishes to set up an independent consultancy to provide strategic advice to businesses and other organisations on constitutional and devolution issues; and on British politics, government policies and on the functions of government and the civil service. As well as commissions, he told the Committee he may also carry out ad-hoc speaking engagements and similar pieces of work. Dr Rycroft made it clear to the Committee that he would not take on any work that would involve being engaged in lobbying of the Government *'in any shape or form'*.

Dr Rycroft previously informed the Committee he had contact with many businesses whilst in post. He said this was part of DExEU's outreach on Brexit related issues, such as informing businesses of Government's policy and seeking the views of businesses.

The Cabinet Office and his former department, DExEU, advised they had no proprietary concerns about Dr Rycroft setting up an independent consultancy. Neither department had

any concerns about Dr Rycroft setting up a consultancy on British Politics, the functioning of the Government and related matters. However, it was noted that the risks attached to the businesses he had contact with in office, and in relation to the wide access of information he would have been privy, will depend on the work he takes on and who it is for. The Cabinet Office suggested the Committee may wish to recommend that he should not advise clients on bids and contracts related to HMG for a period of time and to seek advice from the Committee on any new commissions - in particular where he is providing advice to companies he previously dealt with whilst in post. DExEU noted any conditions attached should seek to ensure Dr Rycroft has not had official dealings or access to information that could provide an improper advantage; and it is made clear he must not draw on privileged/sensitive information and is made subject to the usual two year ban on lobbying.

The Committee's Consideration

When considering Dr Rycroft's application to set up an independent consultancy, the Committee¹ took into account he proposes to work on matters closely related to his time in office: providing advisory work on constitutional and devolution issues; and on British politics, government policies; and on the functions of government and the civil service.

Therefore, the work he takes up may be connected to his time in office. It is the Committee's experience that applications where there is a connection between former Crown servants' responsibilities in the Government and the area they are looking to work in outside Government, are more likely to give rise to risks under the Government's Business Appointment Rules. The Committee considered the potential risks under the Rules would be particularly great where it could be considered he had official dealings with the employer/organisation in office; or where he had significant dealings with the sector, or responsibility for policy that could be considered relevant.

Dr Rycroft will need to seek advice from the Committee for each commission he wishes to accept, and where there is any crossover with his time in office, the Committee will seek information from the Government (usually his former department), to determine the risks in each case. Whether the conditions set out below can sufficiently mitigate the risks presented by any future commission will depend on the specific details of each piece of work. Further restrictions may be appropriate.

However, the Committee considered it was possible to mitigate some of the risks presented in his application by imposing specific conditions on the consultancy itself, before advising on individual commissions, as and when Dr Rycroft brings them to the Committee.

As is usual in such applications, in addition to the standard condition which prevents individuals' from drawing on privileged information, the Committee considered it would be appropriate to impose a ban on advising on the terms of a bid or contract relating to the work of the UK Government; and the extended lobbying ban. This limits the risks Dr Rycroft could be seen to offer an unfair advantage with regard to any dealings with the UK Government his future clients may have.

Dr Rycroft is the former Permanent Secretary at the department responsible for overseeing negotiations to leave the EU; and establishing the future relationship between the UK and

¹ This application for advice was considered by Sir Alex Allan; Johnathan Baume; Baroness Browning; John Wood; Terence Jagger; Richard Thomas. Dr Susan Liataud was unavailable.

EU. The Committee considered there is risk here is that businesses in general could be seen to benefit from his involvement in this, in particular given the area of work his consultancy focuses on. It would be consistent with other cases the Committee has advised on to apply a specific condition that prevents him advising on matters related to the UK's exit from the EU. The Committee noted that whilst this limits his work, there are other matters of UK policy; regulation; politics; and matters within government where, subject to the conditions below, he could advise on with limited scope for conflict. Advice that would draw on his wide range of skills and experience in government, rather than on his privileged access.

As is usual in other similar applications, in addition to the standard condition which prevents Dr Rycroft from drawing on privileged information, the Committee agreed with the Cabinet Office that the consultancy should be made be subject to a ban on advising on the terms of a bid or contract relating to the work of the UK Government; and that the lobbying ban should make clear that it would be inappropriate for him to use contacts he made in Government to the advantage his clients.

Dr Rycroft is not yet clear on who he will be working with. **When seeking work and/or commissions, Dr Rycroft is advised to adhere to the conditions below.**

Under the Government's Business Appointment Rules, the Prime Minister accepted the Committee's advice that Dr Rycroft's independent consultancy should be subject to the following conditions:

- 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 in Crown service, he should not become personally involved in lobbying the UK Government on behalf of his clients, or their partners or subsidiaries; nor should not make use, directly or indirectly, of his contacts in Government and/ or Crown service to influence government policy, or secure business or funding on their behalf;
- for two years from his last day in Crown service, he should not undertake any work as a consultant that involves providing advice to any company organisation on the terms of, or with regard to the subject matter of, a bid with or contract relating directly to the work of, the UK Government;
- for two years from his last day in Crown service, he should not undertake any work as a consultant that involves providing advice to any company or organisation on on Brexit related issues, insofar as it as it pertains to the negotiating position of the UK Government prior to the date upon which you left Crown service, whether generally or regarding trade negotiations; and
- for two years from her 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. (This does not apply for *one-off*

speaking engagements, but he should seek the Committee's advice if in doubt of the nature of the work and whether it first this description).

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 Rycroft's consultancy is live, or if it is announced that he will be made live soon (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 Rycroft informs us if he proposes to expand or otherwise change the nature of his consultancy or these commissions as, depending on the circumstances, it may be necessary for him to make a fresh application.

Once Dr Rycroft's consultancy is live and/or he has announced this is the case, we will publish this letter on the Committee's website and in the relevant annual report.

Yours sincerely

Catriona Marshall
Committee Secretariat