



**OFFICE OF THE ADVISORY COMMITTEE ON BUSINESS APPOINTMENTS**

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Dear Mr Gray,

1. You sought the Committee's advice on taking up a commission with NHS Highlands under your independent consultancy.
2. You informed the Committee this is a paid role involving approximately 4 mentoring sessions. You also informed the Committee you were approached by the Deputy HR Director of NHS Highland on behalf of its CEO.
3. You informed the Committee NHS Highlands has taken receipt of a detailed report about bullying within the Board, and its CEO is seeking urgent assistance in developing a response. As such, you were approached for coaching in May 2019, after leaving office. The Committee understands NHS Highlands to be managed by a Board of Executive and Non-Executive Directors and accountable to the Scottish Government.
4. You informed the Committee you had no line management responsibility for Health Board HR Departments as this was carried out locally. However, you did routinely oversee the process. (The Committee notes there are three factors in the appointment of a Chief Executive to a Board: the person must be employed by the Board in the role of Chief Executive; the Permanent Secretary, acting on the advice of the Chief Executive of NHS Scotland (in this case, you) then appoints them as the Accountable Officer of the Board; and finally the Chief Executive is appointed to the Board by Scottish Ministers.)
5. Additionally, you told the Committee that NHS Highlands were at Level 4 on the NHS Scotland Ladder of Escalation, and therefore operating under your direction. The governance surrounding the escalation of health boards. sets out the decision to move a Board to Stage 3 or 4 is made by the Health and Social Care Management Board (HSCMB). You chaired the HSCMB which consisted of 12 other members

from specialities across Health. Decisions to escalate a Board to Stage 4 or 5 are made public, as this was.

6. The Scottish Government identified no conflict with this role, confirming the governance process you described for the appointment of the Chair; and that NHS Highlands were at level 4 of the escalation ladder. The Scottish Government raised no concerns with you taking up this work and said it did not consider you would offer this NHS Board and advantage over any other.

#### The Committee's consideration

7. The Committee<sup>2</sup> 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.
8. The Committee took into account that you oversaw appointments of NHS Highlands CEO's. Whilst you were not on the panel that led to the appointment, you were required to approve the appointment of a Board's Accountable Officer. In addition, NHS Highland were accountable to you for the escalation process and any decisions to escalate a board to stage 4 are made by the HSCB and made public.
9. Your former department confirmed there are specific governance structures in place around these decisions and has no concerns about the process here. Any involvement in these decisions was transparent and in line with due process. The Committee did not consider it was reasonable these decisions could be perceived as having been taken in the expectation of coaching work on leaving office. It is also relevant that you were approached in May, after leaving office, about this work.
10. Given your seniority and access to contacts, it could certainly be perceived there is a risk of unfair advantage. The Committee agreed with the Scottish Government's view that you do not offer a competitive advantage as such in relation to access to policy information. However, the Committee would like to remind you that it would be improper for you to be involved in any funding discussions as your contacts and 'inside' knowledge would likely offer an unfair advantage. As such, the Committee would also draw your attention to the ban on providing advice on the terms, or with regard to the subject matter of, a bid or contract relating directly to the work of the Scottish Government.
11. In accordance with the Government's Business Appointment Rules, the Committee advises your work with NHS Highlands be subject to the same conditions as your independent consultancy:

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<sup>2</sup> 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.

- You should not draw on (disclose or use for the benefit of yourself or the organisation to which this advice refers) any privileged information available to you from your time in Crown service;
- 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 relating directly to the work of the Scottish Government or funding provided by the Scottish Government (the Committee wishes to be clear this includes the NHS and its commissioning bodies);
- 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 his consultancy and consider any relevant.

13. 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.

14. 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."*

15. 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**