



OFFICE OF THE ADVISORY COMMITTEE ON BUSINESS APPOINTMENTS

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1. You approached the Committee about taking up an appointment as a Visiting Professor for the Department of Law & Criminology at Aberystwyth University.

The Committee's role and remit

2. As you will be aware, 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.

3. 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.

4. It is not the Committee's role to pass judgment on whether an appointment is appropriate or suitable in any other regard.

The Application

5. You sought the Committee's advice on taking up a paid and part-time position as a visiting professor for the Department of Law & Criminology at Aberystwyth University, which is unlikely to include contact or dealings with the Welsh Government.

6. You advised the Committee you had no official dealings with Aberystwyth University whilst in office but did attend a number of events with/at Aberystwyth University. You further stated you had no official dealings with any competitors of Aberystwyth University; nor were you involved in policy or contractual decisions that would have affected Aberystwyth University (which you noted sits with the department of the appropriate Minister). Further, you told the Committee that funding for universities is a matter for the appropriate arms' length body.

7. The Permanent Secretary at the Welsh Government was contacted about this application. The Welsh Government confirmed you attended five events/meetings with Aberystwyth University between 2014 and October 2018. As First Minister, the Welsh Government noted you will have been involved in cabinet discussions involved, in a broad sense, in decisions affecting all Welsh Universities including Aberystwyth University. However, it also confirmed your involvement as the First Minister will have been one of indirect oversight, and on the same basis as your overall oversight of all Welsh Government responsibilities. Therefore, whilst you would have been aware of aspects of policy towards universities from your time in office, given it has almost been a year since you left office, it is unlikely that this would confer an advantage to Aberystwyth University.

8. In relation to funding, the Permanent Secretary confirmed the Higher Education Funding Council for Wales (HEFCW) is responsible for funding higher education. Further, that ministerial involvement in awarding funding to HEFCW is minimal; and the majority of other grant funding for Aberystwyth comes from European funding and other grants, all of which have well established corporate governance procedures in place. The Permanent Secretary confirmed there is no evidence of your involvement or approval of any grant.

9. The Permanent Secretary does not have concerns about this appointment and further stated the role of a visiting professor would be a natural fit given your previous training at Aberystwyth University, and your general interest and expertise in law.

The Committee's consideration

10. When considering your application, the Committee¹ considered whether this appointment could be perceived as a reward for decisions taken in office. You confirmed you had no official dealings with Aberystwyth University, but did attend events at/with Aberystwyth University throughout your time in office. These events were in keeping with your role as the First Minister. The Permanent Secretary confirmed you had no specific involvement in policy, over and above the involvement and oversight you would have had in all Welsh Government matters. Further, the Welsh Government confirmed funding decisions in relation to universities lies with an arms' length body (HEFCW), with no involvement from the First Minister. The Committee therefore considered the risk this appointment could be seen as a reward for decisions taken in office is low.

11. The Committee noted there is a possible risk of unfair advantage in relation to access to the contacts you gained while in ministerial office. The lobbying ban imposed below makes clear that it would be inappropriate for you to use your contacts across the Welsh Government to the unfair advantage of Aberystwyth University. The Committee would also like to draw your attention to the ban on providing advice on the terms, a bid or contract relating directly to the work of the Welsh Government, including with regard to funding.

12. The Committee also noted it could be perceived that you may confer unfair advantage to Aberystwyth University given your access to sensitive information, including for example, unannounced policy. However, the Welsh Government confirmed your involvement in any policy would have been in an oversight capacity, in line with your overall oversight of all Welsh Government responsibilities. The Permanent Secretary did not consider you had access to information that was likely to provide an unfair advantage to the University. The Committee agreed that, given 11 months have now passed since you left your role as First Minister, it is likely this information would either be in the public domain or has since been updated. The remaining risk is appropriately mitigated by the conditions below, which include a ban on using privileged information.

13. In accordance with the Government's Business Appointment Rules, the Committee advises this appointment as a Visiting Professor for the Department of Law & Criminology at Aberystwyth University be subject to the following conditions:

- 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 Ministerial office;
- for two years from his last day in Ministerial office, he should not become personally involved in lobbying the Welsh Government on behalf of Aberystwyth University, nor should he make use, directly or indirectly, of his government and/or Ministerial contacts to influence policy or secure funding on behalf of the Aberystwyth University or any other part of Aberystwyth University; and

¹ This application for advice was considered by Sir Alex Allan; Jonathan Baume; Baroness Angela Browning; Lord Michael German; Terence Jagger; Richard Thomas; Dr Susan Liataud; Lord Larry Whitty; Mike Wier and John Wood.

From the Chair

- for two years from his last day in office he should not advise Aberystwyth University on the terms of, or with regard to the subject matter of, a bid with, or contract relating directly to the work of the Welsh Government.

14. 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.

15. 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.*"

16. 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.

17. 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.

Mr Carwyn Jones

The Baroness Browning