



OFFICE OF THE ADVISORY COMMITTEE ON BUSINESS APPOINTMENTS

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1. You approached the Committee for advice on taking up an appointment as a Non-Executive Director at Spectrum Internet.

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, part-time position involving one day of work per month as a Non-Executive Director for Spectrum Internet. You state this role will be an advisory role and you do not expect this role to involve contact with the Government.

6. Spectrum Internet is a fibre optic network developer. Its website states it is dedicated to bringing Spectacular Fibre Broadband to businesses, homes and communities across the UK. It is one of the registered providers for the Gigabit Broadband Voucher Scheme (a UK government scheme, funded by a pot of £67m and aims to provide vouchers worth up to £3000 for businesses or £500 to residents to help with the costs of connecting to "full fibre" broadband).

7. You advised the Committee you had no official contact with Spectrum Internet; nor were you involved in relevant policy development, commercial or contractual or decisions regarding the business. However, you noted the company received a grant in 2014 for the purpose of joining the Cardiff Internet Exchange. You said you had occasional meetings with BT over the years but no specific meetings with competitors and you confirmed you had no access to commercially sensitive information about any competitors.

8. The Permanent Secretary at the Welsh Government was contacted about this application. The Welsh Government confirmed you did not meet with Spectrum while in office, nor its competitors and had had no record of formal meetings with BT. It did confirm there were a number of policy decisions in relation to broadband that could affect businesses with an interest in this area. However, though you would have been aware of this policy and your office copied into relevant information, you were not actively involved in the decisions as First Minister. Further, the Welsh Top-Up to the UK Government, Gigabit Broadband Voucher Scheme, a grant contribution to pay towards upgrading business broadband to a high-speed capable connection, was introduced after you left office.

9. In relation to funding specific decisions, the Department confirmed the grant you refer to was paid by the Cardiff Council, rather than the Welsh Government; and noted that it further stated that Spectrum received funding through the Access Broadband Cymru Scheme. This scheme provides grants to fund or part-fund the installation costs of new broadband connections for homes and businesses in Wales and the Broadband Support Scheme (predecessor of the Access Broadband Cymru Scheme). The Welsh Government states your office was copied into the ministerial advice seeking approval for expenditure. However, it states the recipient companies (including Spectrum) were not named in this ministerial advice.

10. The Permanent Secretary has no concerns about you taking up this appointment.

The Committee's consideration

From the Chair

11. When considering your application, the Committee¹ considered whether this appointment could be perceived as a reward for decisions taken in office. Both you and the Permanent Secretary confirmed you did not meet with Spectrum internet while in office. The Committee took into account the Welsh Government's whilst you were aware of and sighted on decisions affecting Spectrum, including with regard to funding, these were neither specific to Spectrum, nor were you the decision maker. The Committee therefore considered the risk this appointment could be seen as a reward for decisions taken in office is low.

12. The Committee considered, as First Minister, there is a risk you may be seen to confer an unfair advantage to Spectrum Internet due to your access to sensitive information in general, for example, information on policy that affected companies operating in the broadband sector. However, this is not a concern of the Welsh Government and the time that has passed since you left office (over a year) significantly reduces the risks attached to your access to sufficiently up to date information. This remaining risk is appropriately mitigated by the conditions below, which include a ban on using privileged information gained in office.

13. The Committee also 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 Spectrum Internet. The Committee would also like to draw your attention to the ban on providing advice on bids and contracts relating to the work of the Welsh Government, including with regard to future funding Spectrum Internet may seek.

14. In accordance with the Government's Business Appointment Rules, the Committee advises this appointment as a Non-Executive Director at Spectrum Internet be subject to the following conditions:

- that 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 Ministerial office;
- for two years from your last day in Ministerial office, you should not become personally involved in lobbying the Welsh Government on behalf of Spectrum Internet (including parent companies, subsidiaries, partners and clients); nor should you make use, directly or indirectly, of your contacts in the Government and/or Ministerial office to influence policy, secure business/funding or otherwise unfairly advantage Spectrum Internet or its members (including parent companies, subsidiaries, partners and clients); and
- for two years from your last day in Ministerial office you should not advise Spectrum Internet on terms of, or with regard to the subject matter of, a bid or contract relating directly to the work of the Welsh Government.

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

From the Chair

15. 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.

16. 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.*"

17. The Committee also notes that in addition to the conditions imposed on this appointment, there are separate rules in place with regard to your role in the National Assembly for Wales.

18. 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.

19. 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.

The Baroness Browning

Mr Carwyn Jones AM