



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

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**BUSINESS APPOINTMENT APPLICATION: Air Marshal Sir Stuart Atha CB DSO**

1. The Committee has been asked to consider an application from Air Marshal Sir Stuart Atha (AM Sir Stuart) on taking up a role with BAE Systems plc. AM Sir Stuart was Deputy Commander Ops - Air command.
2. As Deputy Commander Operations, AM Sir Stuart was the senior warfighter in the Royal Air Force (RAF) responsible to the Chief of the Air Staff (CAS) for RAF frontline operations and responsible for the conduct of air operations at home and overseas. His duties included Chief Information Officer, Senior Operator (providing advice and support to CAS on all safety matters), and membership of the Air Force Board Executive. In the latter role, he briefed on all operational issues, front-line performance and Board-level risks.
3. The Deputy Commander Operations, works alongside another deputy to CAS, the Deputy Commander Capability, who is responsible for the strategic planning and delivery of all aspects of Royal Air Force capability including, people, equipment, infrastructure and training.
4. AM Sir Stuart's last day in post was 30 April 2019 and his last day in Crown Service was 14 October 2019.

Appointment details

**The role**

5. AM Sir Stuart sought advice on taking up the role of Vice President Military Operations for BAE Systems plc (BAES), a British multinational defence, security, and aerospace company. The company is the largest defence contractor in Europe and among the world's largest defence companies.
6. BAES has a strong commercial relationship with the UK Government and the MOD in particular. In 2017/18 the MOD spent nearly £20 billion with industry, accounting for over 40% of all UK Government procurement spend and representing the fifth biggest defence budget in the world. The size and complexity of its projects means it works closely with many suppliers - of which BAES is one (alongside Boeing, Rolls-Royce, Airbus, Lockheed Martin, Thales, QinetiQ, Leonardo, MBDA, Babcock, Serco, Capita, AWE, HP, Leidos, COBHAM, DXC, General Dynamics, Raytheon, Ultra Electronics, and KBR). For example, BAES is a key supplier to the Royal Marines on the submarine programmes and a key supplier to the Royal Air Force on the Future Combat Air Strategy and the Military Flying Training System. Further, BAES (Applied Intelligence) is a key provider of cyber security services to the UK Government.
7. AM Sir Stuart stated his role, as Vice President Military Operations, will be a full time and salaried position. He confirmed he was offered this role after he left his post following discussions about a skills and experience shortfall in the area of training.
8. AM Sir Stuart described the role as: involving the development of a strategic training solution that would initially be focused on the delivery of the UK Government to foreign Government contracts and would support Typhoon and Hawk export campaigns. In particular, this would include the delivery of the existing contract with Qatar and ongoing export campaigns to Kuwait and Finland. It would also include developing a live-synthetic training strategy to promote UK and European combat air interoperability and enhance training. He noted the role will involve the development of relationships with senior members of foreign air forces in support of the UK prosperity agenda. Given the Government to Government nature of the contracts, and the close relationship required to deliver the Qatari-UK Joint Typhoon Squadron, AM Sir Stuart said he anticipated there may be some contact with MOD, the Foreign and Commonwealth Office and the Department of International Trade officials.

#### **Official dealings in office**

9. AM Sir Stuart confirmed he met with BAES on a couple of occasions a year. Alongside other members of the RAF's Senior Leadership Team, he socialised with senior members of BAES at events like the annual Battle of Britain Service. In March 2018, he represented CAS at a dinner held in Qatar and supported by BAES to celebrate 100 year of the RAF.
10. As a member of the Air Force Board, AM Sir Stuart said he was involved in discussions about the Military Flying Training System (MFTS), of which BAES is a subcontractor (alongside Lockheed Martin and Cobham through a Joint Venture called Ascent) but the discussions he was involved in focussed on performance of

MFTS rather than commercial information. He told the Committee that his role focused on delivering the RAF front-line and he was not involved in any commercial or contractual decisions.

11. In relation to his involvement in policy/ access to information more generally that may offer commercial insight to BAES, AM Sir Stuart noted his role was focused on delivery of frontline operations. As such, he told the Committee his focus was on the challenges posed by foreign actors and ensuring the RAF was delivering on operations in real time, and as directed by the Government, rather than on the development of future strategy.

12. AM Sir Stuart described his contact with defence contractors as below:

- Airbus - he was involved in some discussions focussed on platform capability (not contractual issues) in relation to the A400M programme (airlifters) and the satellite communications with regard to 'Reaper' (remotely piloted planes). He said Airbus does not compete with BAES and on Typhoon, they are partners with BAES.
- Lockheed Martin - regarding the F35 Lightning (aircraft). He told the Committee these conversations were focused on delivery of the F35 to the RAF and did not include discussions on contracts or commercial arrangements.
- Ascent - as a member of the Air Force Board, he discussed the delivery of the MFTS which is designed and delivered by Ascent Flight Training Ltd, a joint venture between Lockheed Martin and Cobham. As a result, he met on one occasion with Cobham regarding Military Flying Training System performance. (BAE Systems supports Ascent's delivery of the Military Flying Training System, via the provision of aircraft.)

13. F35 Programme - The RAF has two fast-jet combat aircrafts in service, the new Lightning (F-35 Joint Strike Fighter) and Typhoon. The F35 is led by the US, with participation from the UK, Italy, Netherlands, Australia, Canada, Denmark, Norway and Turkey and aims to deliver multi-role attack aircraft capable of operating from land and sea to nations all over the world. In relation to the F35 programme, AM Sir Stuart noted his involvement focussed on ensuring that the RAF was ready to receive and then to employ the aircraft with trained pilots. He noted his primary relationship had been military to military, both the US Marine Corps and US Air Force, and has centred on proposed aircraft deployments. There are some sensitive aspects of the F35 programme which are protected by the Official Secrets Act. Further, he noted that, as BAES is an F35 Tier 1 partner, there are people already with BAE Systems who understand the F35 capability and have much deeper understanding of the programme than he has.

14. Future Combat Air Systems (FCAS) - The publication of UK's Combat Air Strategy (the Strategy) in July 2018 sets out the Government's ambition to develop a new combat air system by the mid-2030s. The RAF has two fast-jet combat aircrafts in

service, the new Lightning (F-35 Joint Strike Fighter) and Typhoon - referred to above, which will leave service by 2040. FCAS is aimed at maintaining the UK's place as a world leader in the combat air sector. The Government and industry have pledged £2bn over the next decade in FCAS and the UK hopes to export any future combat air system. The Strategy announced the creation of Team Tempest, an **'innovative Government-industry partnership'** to deliver the FCAS. This includes BAE Systems, MBDA, Leonardo and Rolls-Royce and MOD personnel. The Minister for Defence Procurement launched an open day in March 2019 for industry.

15. AM Sir Stuart noted that whilst FCAS is relevant in the future, **'...it has no direct relationship with the RAF's frontline actions today or indeed what it will be doing for at least the next 10 years.'** He confirmed he had no involvement in the formulation and delivery of FCAS. As such, he does not consider he has any access or insight to relevant information that is not in the public domain. Therefore he told the Committee he offers BAES no FCAS related information that would be new to them.

### **The MOD's view**

16. The MOD Business Appointments Panel considered AM Sir Stuart's application and confirmed the information he provided, including that AM Sir Stuart has not had access to particularly sensitive commercial information, as his focus has been on operations. However, the MOD confirmed it has a significant contractual relationship with BAES and also works alongside BAES in export campaigns on a non-contractual basis, in pursuit of UK national interests.

17. The MOD provided the following information:

- AM Sir Stuart was one of two Deputy Commanders, as part of the RAF's senior leadership and a member of the Air Force Board. His role was to lead the delivery of the RAF's day-to-day operational capability. This included responsibility for capability planning and delivery, programming and training (and responsibility for managing relationships with their industry suppliers sat with the other Deputy Commander).
- As an Air Force Board member, he would have been involved in Board-level discussions and provided general advice in relation to issues surrounding the MOD's supplier base. Further, as BAES is the supplier of a significant proportion of the RAF's equipment and support, it is inevitable that AM Sir Stuart would be known to BAES. However, he had no recent commercial dealings with BAES and therefore, the MOD considered this post could not reasonably be perceived as a reward for decisions taken in office. Further, the MOD said he has not had any recent dealings with any competitor companies in areas for which they compete with his proposed role for BAES.

- From Board discussions, he would have had access to some information concerning the performance of other suppliers (though specific investment decisions are not made by the Board).
- The MOD noted AM Sir Stuart '**...would have been well aware of most aspects of the Military Flying Training System**'.
- In relation to the risk associated with his involvement in the F35 programme and MTFS, the MOD said any information he has in relation to MTFS would be known across the enterprise (Ascent), and that he would be prevented from using his privileged information from F35 (and noted this was covered by the Official Secrets Act). The MOD recommended the conditions imposed make it clear that AM Sir Stuart is prevented from drawing on his access to sensitive information about the F35 programme.
- Therefore though there may be perception concerns, the MOD's view is that it would be hard for competitors to reasonably object, given BAES is involved in part of the enterprises they already either run or are also a part of - though it may not have access to all the sensitive information. The MOD did note there may be risks, particularly around his involvement in relation to contact with the MOD in relation to FCAS on behalf of BAES.

18. The MOD considered the risk this appointment could be perceived to give unfair access to commercially sensitive information about competitors is low. While the MOD normally restricts individuals from using contacts in foreign governments developed during Crown service to generate business, it said that supporting BAES to win business from overseas governments is '...in accordance with government direction'. The MOD does not consider competitors could object in relation to AM Sir Stuart's potential work on international Government to Government export campaigns, as BAES would be leading a UK Government supported campaign.
19. Therefore, the MOD considered someone with deep operational experience and a profile such as AM Sir Stuart being involved in the Government to Government sales should be seen as being in pursuit of an economic priority of the UK Government. However, The MOD said risks arise as a result of AM Sir Stuart's seniority and the nature of BAES, as a large defence contractor. In particular it noted that AM Sir Stuart should not immediately become involved in the FCAS/Tempest related programme. Further, the MOD suggested the Committee make clear that the standard condition which prevents his use of privileged information should be amended - to make it clear includes any sensitive information regarding the F35 or FCAS programmes to which he had access by virtue of his role at the MOD. These measures are designed to ensure there is no perception of unfair advantage in relation to his seniority and his work on MOD matters that BAES has a commercial interest in.

20. The MOD further recommended AM Sir Stuart should be prevented from using his contacts within the Government to the unfair advantage of BAES (but noted this should not preclude contact with the UK Government in relation to sales to overseas Governments); and that he should be prevented from advising on bids and contracts with the MOD outside of the export to foreign governments.

### **The Committee's Consideration**

21. AM Sir Stuart was part of the RAF's senior leadership and a member of the Air Force Board. Given BAES operates squarely in the Defence industry and is a major supplier to the RAF (and the MOD generally), the Committee agreed with the MOD there are risks under the Government's Business Appointment Rules which must be carefully considered, and appropriate mitigations be applied.

- **Under the Government's Business Appointment Rules, the Committee must consider if there might be cause for reasonable concern that '...a civil servant might be influenced in carrying out his or her official duties by the hope or expectation of future employment with a particular firm or organisation, or in a specific sector...'**

22. The Committee noted the MOD's view that AM Sir Stuart would have been known to BAES due to his role and seniority. However, the MOD confirmed AM Sir Stuart has had no recent commercial dealings with BAES and it is relevant that responsibility for managing relationships with the RAF's industry suppliers sat with the other Deputy Commander working alongside AM Sir Stuart, under the Chief of the Air Staff. Whilst there is a closeness as a result of BAES being a significant operational partner, there is no evidence that he made decisions in office in expectation of this role.

- **Under the Government's Business Appointment Rules the Committee must have regard to whether there is a risk of an employing organisation gaining improper advantage or exploiting privileged access to contacts in Government or sensitive information.**

23. The Committee took into consideration that AM Sir Stuart's role in Government to Government export/sales would support a significant economic priority of the UK Government. The Committee agreed with the MOD that he has the relevant skills, experience, knowledge and influence with foreign governments to be considered highly suitable for the role. However, with that comes significant risks under the Government's Business Appointment Rules.

24. There is a considerable relationship between BAES and the MOD and BAES will continue to bid for future work with the MOD. There is risk that BAES may look to gain insight from employing the former Deputy Commander Ops - Air Command, that it could not otherwise gain and which may provide an commercial advantage in particular with regard to (but not limited to) RAF specific contracts such as Tempest

(FACS) and the current F35 programme. This includes his access to information only he can know, for example, how the RAF's operation works as of his last day in post, providing significant insight into what is required for the future; and his possible access to sensitive information about the performance of competitors given his operation dealings.

25. The Committee took into consideration the MOD's view that his access to sensitive information that would be of benefit to BAES is limited, primarily as his role was operationally focussed, as opposed to commercially focussed. However, the closeness between the work BAES seeks to deliver on behalf of the MOD (Tempest and F35, both now and in future) and AM Sir Stuart's insight into the RAF's operation is a significant factor in the Committee's consideration.
26. On balance, the Committee agreed with the MOD, the outward focussed nature of AM Sir Stuart's proposed role would not be considered improper subject to various restrictions below to limit the potential for him to offer an unfair advantage. In particular, limiting the role to that which he describes and which benefits UK industry aligned to MOD and government policies. Specifically, his working on government to government sales and the associated training system; and preventing him from working on matters that relate to commercial opportunities within the UK MOD, including FCAS/Tempest.
27. However, it considered that his senior rank in the RAF means it is appropriate for there to be a significant gap between leaving his role as Deputy Commander Ops - Air Command and taking up the appointment with BAES. On balance the Committee formed the view that a 12-month waiting period would be appropriate, to put a gap between his access to information and his taking up the role. The Committee noted that AM Sir Stuart was asked and agreed to stay on due to an operational necessity to cover his post, until his successor was in place, resulting in a delay in his leaving service and a delay in his ability to take up accrued leave. For the period between 30 April 2019 and 14 October 2019, AM Sir Stuart remained in service but outside of the RAF (and the MOD) as he was no longer Deputy Commander Ops - Air Command.
28. Under the Government's Business Appointment Rules, the Secretary of State for Defence accepted the Committee's advice that AM Sir Stuart's appointment should be subject to the following conditions:
  - a 12 month waiting period from his last day in post;
  - 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. In the context of this general provision, the Committee considers he should specifically avoid giving BAE Systems privileged insight into sensitive information concerning the F-35 programmes

to which he had access by virtue of his role as Deputy Commander Ops Air Command;

- for two years from his last day in Crown service he should not undertake work with BAE Systems on the Future Combat Air System/Tempest;
- for two years from his last day in Crown service, he should not become personally involved in lobbying the UK Government or the UK MOD on behalf of BAE Systems or its partners, or trading funds. Nor should he make use of, directly or indirectly, of his contacts in Government and/or Crown Service to influence policy, secure funding/business, or to otherwise unfairly benefit BAE Systems. This is not intended to preclude him from liaising with the UK MOD and the UK Government more widely to support the onward sale of BAE Systems' products to foreign Governments through Government to Government arrangements;
- for two years from his last day in Crown service he should not undertake any work as an advisor that involves providing advice to BAE Systems the terms of, or with regard to the subject matter of, a bid with or contract relating directly to the work of, the UK MOD or its trading funds. This would not preclude SA from advising on contracts, potential contracts or marketing related to foreign government export campaigns; nor would it preclude him from working on training systems related to exports to foreign governments

29. 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 or otherwise.

30. 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."

31. I should be grateful if you would ensure that we are informed as soon as AM Sir Stuart takes up this position, or if it is announced that he will do so (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.

32. I should also be grateful if you would ask that AM Sir Stuart informs us if he proposes to extend or otherwise change the nature of his role as, depending on the circumstances, it may be necessary for him to make a fresh application.

33. 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.

Catriona Marshall  
**Committee Secretariat**

