



OFFICE OF THE ADVISORY COMMITTEE ON BUSINESS APPOINTMENTS

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March 2020

BUSINESS APPOINTMENT APPLICATION: LIEUTENANT GENERAL SIR MARK POFFLEY KCB OBE

1. The Committee has been asked to consider an application from Lieutenant General Sir Mark Poffley, former Deputy Chief of Defence Staff at the Ministry of Defence (MOD), on taking up a commission under his independent consultancy.

Commission details - KBR

2. KBR is a consultancy company which operates globally, offering a number of services: technologies; engineering; cyber security; human performance and readiness; modelling, programme information and training; programme management, and operations as well as construction, revamps and conversions. Its website states KBR '*partner with government and industry clients to provide purposeful and comprehensive solutions with an emphasis on efficiency and safety*'. It also works in investor relations and is a global provider of professional services and technologies across the asset and program lifecycle within government solutions and energy sectors. It is a major supplier of the MOD and it bought Carillion's share and the previously joint venture with Carillion - Aspire Defence, to support the Army Basing Programme within the UK, providing facilities management support services with delivery across the Salisbury Plain Training Area and at Aldershot (in a contract over £1.1 billion).

3. Lt Gen Sir Mark sought advice on carrying out paid, commissioned (part-time) work with KBR, providing advice on how to build an international network beyond the UK. He noted this work would be at strategic level discussing future trends. Lt Gen Sir Mark confirmed this work will be international facing he will not have any contact with the UK MOD.

4. Lt Gen Sir Mark informed the Committee he had some involvement in policy decisions by way of providing advice on military capability across the Department. He also said that as a member of the investment approvals committee, either he, or his

staff had dealings with defence companies to understand their products. He said he had no direct contractual dealings generally (and not with those he sought to take up commission with), nor responsibility for anyone who did. However, Lt Gen Sir Mark said that as a key planner on military capabilities he or his staff provided advice on military products and may have had some broad contact with KBR in this regard.

5. The MOD Business Appointments Panel considered Lt Gen Sir Mark's application and confirmed the information he provided. The MOD said that as part of the investment approvals committee he was responsible for assessing capability requirements against the Department's policy, although he was not alone in that responsibility. The MOD suggested that he might have been exposed to information in the context of UK contracts (but not international) that would give the prospective employers an advantage in the UK in the short term. However, it noted '*...much of this was around political intent and the new and rather dynamic political context suggests that much of the thinking he was exposed to has now evolved.*'

6. KBR has a contractual relationship with the MOD, and the MOD said it would be recognised that Lt Gen Sir Mark worked in the policy setting arena but he '*...was not seen as the individual who could secure any contractual commitment*'. The MOD confirmed he was not responsible for commercial or contractual decisions regarding KBR, and it has no evidence he was involved in any specific procurement exercises involving the company.

7. The MOD recommended his commission be subject to restrictions in line with his independent consultancy including that he should be prevented interacting with UK MOD; and for 12 months he should be prevented from being involved in advising on military capabilities in the UK Defence market activity - to mitigate the risk of perception he could be perceived to give an unfair advantage through access to his contacts in the UK MOD or through the key role he played in setting the department's strategy on setting military capability requirements.

The Committee's consideration

8. The Committee¹ considered this commission to be consistent with the terms of Lt Gen Sir Mark's independent consultancy, described as providing advisory services to international governments and other international entities on how to develop coherent military capabilities for the future.

9. The Committee took into consideration that as Deputy Chief of Defence Staff, he was responsible for ensuring that the MOD programme met its objectives and that any programme put forward by the Department met these objectives. His involvement in policy development and decisions on products is likely to have had some relevance to KBR's work. Given the MOD has had a contractual relationship with the company, the Committee carefully considered whether this work could be considered as a reward for decisions made during his time in office.

10. The Committee took into consideration that the MOD has no evidence of specific dealings with the company commercially and confirmed he made no specific decisions regarding KBR. Lt Gen Sir Mark suggested it is possible he or his team would have had broad dealings with them regarding military capabilities generally. The Committee considered there was no evidence this role could reasonably be perceived

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

as a reward for decisions or actions taken while he was in office.

11. When the proposed work relates to an individual's time in office there are inherent risks associated with the sensitive information they may have had access to. Given Lt Gen Sir Mark's role, the Committee considered it was likely he would have had access to privileged information and made strategic decisions relevant to KBR's work in broad terms. Further, the Committee recognised his potential influence as the former Deputy Chief of Defence Staff, including the contacts he will have gained within the MOD/Whitehall and with foreign governments. It may be perceived he could offer KBR an unfair advantage in this regard. The conditions attached to his consultancy below prevent him from using any access to information and contacts to the unfair advantage of KBR.

12. The Committee took into account the MOD's confirmation it had no concerns about his taking up this role and its view there is no specific risk it is concerned about with regard to his access to sensitive information; though he should be prevented from advising on military capabilities UK Defence market activity for 12 months. The Committee agreed that the possibility of his offering an unfair advantage to KBR in this regard was the greatest risk, though it did not agree with the MOD that this risk is sufficiently mitigated after 12 months. In the circumstances, the Committee decided to impose an additional condition on his work with KBR to prevent his advising in the UK Defence market, though it notes this entirely in keeping with Lt Gen Sir Mark's intention to work only on international matters. Further as KBR's clients are unknown, it has also imposed a condition which prevents him from advising KBR's clients where it involves working on matters he had specific involvement with in office.

13. The Committee considered the time that has passed since he left crown service (11months) and since he last had contact with the MOD (14 months, when he was left his role as Deputy Chief of Defence Staff) is a significant mitigating factor, reducing the risks associated with the information he would have access to and its likelihood to provide the company with an unfair advantage. In the circumstances, the Committee considered the 11 months that have passed since he left office is an appropriate gap and no further waiting period is necessary.

14. The Secretary of State for Defence accepted the Committee's advice that this commission with **KBR** be subject to the conditions which were applied to his independent consultancy (and the additional two conditions which follow below):

- 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 Crown service;
- for two years from his last day of service he should not become personally involved in lobbying the UK Government on behalf of his clients (including parent companies, subsidiaries and partners); 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 or otherwise unfairly advantage;
- for two years from his last day in Crown service, he should not become personally involved in lobbying contacts he has developed during Crown service, within other Governments and organisations, for the purpose of securing business for his independent consultancy, its subsidiaries, partners or clients;
- for two years from his last day in Crown service, he should not provide advice to any company or organisation on the terms of, or with regard to the subject matter of, a bid or contract with, or relating directly to the work of, the MOD or

- its trading funds; and
- for two years from his last day in Crown service, before accepting any commissions for his independent consultancy and or/before extending or otherwise changing the nature of his commissions, 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.

15. In addition, the Committee considered this commission with **KBR** be subject to the following two conditions:

- **for two years from his last day in Crown service, he should not advise KBR on the UK Defence market; and**
- **for two years from his last day in Crown service, he should not advise KBR or its clients on work with regard to any policy he had specific involvement or responsibility for as Deputy Chief of Defence Staff whilst at the MOD, or where he had a relationship with the company or organisation during his time as Deputy Chief of Defence Staff on behalf of the MOD**

16. 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.

17. The Business Appointment Rules explain that the restriction on lobbying means that the former Crown servant "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."

Yours sincerely

Catriona Marshall
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