

*From the Chair*



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

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1. You approached the Committee about taking up an appointment as a Non-Executive Director at the Royal Cornwall Hospitals NHS Trust.

The Committee's role and remit

2. It is the Committee's role to advise on any 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.
3. 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.
4. 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.

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

#### Appointment Details

6. You wish to take up an paid, part-time role as a Non-Executive Director at the Royal Cornwall Hospitals NHS Trust (the Trust). The website states the Trust is the main provider of acute and specialist care services in Cornwall and the Isles of Scilly. It serves a population of around 430,000 people. The Trust employs approximately 5,000 staff and has a budget of approximately £380 million. The Trust has teaching hospitals status as part of the Peninsula College of Medicine and Dentistry and University of Exeter Medical School.

7. The Non-Executive Director appointments officer at NHS England and NHS Improvements emailed us the description of your proposed role. It stated you will work alongside other non-executives and executive directors as an equal member of the board. You will share responsibility with the other directors for the decisions made by the board and for success of the organisation in leading the local improvement of healthcare services for patients. You confirmed you do not expect to have contact with Government in this role.

8. You confirmed you had no official dealings with the Trust as a Minister. Further, you are not aware of any relationship between the Trust and your former department, the Department for Work and Pensions (DWP); and had no dealings with its competitors, nor access to commercially sensitive information about competitors.

9. However, you did state you were involved in making a decision that has provided funding from the DWP to The Cornwall & Isles of Scilly LEP for a pilot programme aimed at removing barriers to people with long term health conditions being employed by small and medium sized businesses. You stated this pilot is led by the business community and the health and care system are stakeholders in this pilot and indirectly might benefit from reduced demand on NHS and care services.

10. You also informed the Committee that as the MP for Truro and Falmouth you visited the Trust. You stated that you took up constituents' concerns with Senior Management at the Trust and also raised concerns of the Trust to the Health Minister and department for Health. You confirmed that this contact aligned with normal constituency MP matters.

11. The Permanent Secretary at the Department for Work and Pensions (DWP) was consulted and confirmed to the Committee that it does have a relationship with the Trust. It stated it made payments in 2018/2019 and 2019/2020 to the Trust. However, it stated all payments were routine transactions made by the business for operational reasons. It stated these transactions would not require ministerial approval and as such you would not have been involved in this process at all. It further said many NHS trusts would receive similar payments and they relate to the Compensation Recovery Scheme (recovers social security benefits in certain compensation cases and NHS costs in certain injury cases), European Health Insurance Cards, and the Access to Work scheme (helps disabled people or people

with physical or mental health conditions improve their working conditions). These payments were not for commercial services, the Trust was not providing any service to the department in return for the money.

12. DWP said it had no evidence of you being involved in relevant policy affecting the Trust; noting even if your policy involvement was related in some way to the Trust, on it would have been nationwide and therefore would have affected all Trusts. It clarified that you did not have access to any privileged information that could unfairly benefit the Trust.

13. DWP confirmed you agreed funding of the pilot programme but stated the lead partnership was between the Cornish local authority and Cornwall and the Isles of Sicily LEP. It further confirmed a grant funding mechanism was used and the named responsible body was the local authority. So this did not directly benefit the Trust.

14. DWP confirmed it has no concerns about you taking up this appointment with the Trust.

#### The Committee's consideration

15. When considering your application, the Committee<sup>1</sup> considered whether this appointment could be perceived as a reward for decisions taken in office. You confirmed that you did not meet with the Trust while in office nor were you involved in policy decisions specifically affecting the Trust. Although there is a funding relationship between the Trust and DWP, these were not commercial payments and as it does not require ministerial approval you were not involved in these funding decisions. Further, the pilot programme she was involved in funding did not involve the Trust and was led by the the business community and local authorities. As such, the Committee did not consider it could reasonably be perceived you were offered this Non-Executive Director role as a reward for decisions made or actions taken in office.

16. The Committee also noted that while you were not directly involved in policy development there are generic risks potentially attached to your former role as Minister for Disabled People, Health and Work. It could be perceived you had access to sensitive information that may be of interest and relevance to the Trust. However this is mitigated by the amount of time that has passed since you were in office (12 months) reducing the risk that the information you were privy to would provide the Trust with an unfair advantage. The Committee put weight in the DWP's statement you do not have information that could unfairly benefit the Trust. Any remaining risk is sufficiently mitigated by the privileged information ban which prevents all former ministers from drawing on privileged information.

17. The Committee noted that 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 Government/Whitehall to the unfair advantage of the Trust. The Committee would also like to

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<sup>1</sup> Sir Alex Allan; Jonathan Baume; Baroness Angela Browning; Richard Thomas; Mike Weir; Lord Larry Whitty and John Wood.

draw your attention to the ban on providing advice on a bid or contract relating directly to the work of the UK Government, including with regard to funding, to mitigate the risk you may offer an unfair influence in the Government's funding decisions in the future.

18. Taking into account these factors, in accordance with the Government's Business Appointment Rules, the Committee advises this appointment with Royal Cornwall Hospitals NHS Trust be subject to the following conditions:

- that you should not draw on (disclose or use for the benefit of yourself or the organisations to which this advice refers) any privileged information available to you from your time in Ministerial office;
- for two years from your last day in Ministerial office, you should not become personally involved in lobbying the UK Government on behalf of Royal Cornwall Hospitals NHS Trust (including parent companies, subsidiaries and partners). Nor should you make use, directly or indirectly, of your government and/or Ministerial contacts to influence policy, secure funding/business or otherwise unfairly benefit Royal Cornwall Hospitals NHS Trust (including parent companies, subsidiaries, partners and clients); and
- for two years from your last day in office you should not advise Royal Cornwall Hospitals NHS Trust or its partners or clients 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 UK Government.

19. 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.

20. 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.*"

21. 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 House of Commons; and 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.

22. I should be grateful if you would inform us as soon as you take up this role, 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 Rules and the Ministerial Code.

23. Please also inform us if you propose to extend or otherwise change the nature of your role as, depending on the circumstances, it may be necessary for you to make a fresh application.

24. Once the 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

Sarah Newton

