



## OFFICE OF THE ADVISORY COMMITTEE ON BUSINESS APPOINTMENTS

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July 2020

### **BUSINESS APPOINTMENT APPLICATION: Sarah Cox**

1. The Committee has been asked to consider an application for Sarah Cox, former Chief Operating Officer at Ofgem from May 2016 to March 2020. Her last day in service was 31 March 2020.

#### Application Details

2. Smart DCC is a consulting, digital services and software business. Smart DCC specialises in the provision, development and integration of Smart Meter infrastructure in the UK. It is a wholly owned subsidiary of Capita. It was granted the licence to build and manage a centralised network for Smart Meter data in 2013 by the Department for Energy and Climate Change, now part of the Department of Business, Energy and Industrial Strategy (BEIS).

3. Ms Cox would be providing programme assurance to Smart DCC to help with the establishment of its Smart Meter infrastructure. The aim of the project is to create a common Smart Meter platform which all energy suppliers can use to communicate and support the development of a smart grid. Ms Cox stated she would be assisting in delivering key infrastructure programmes on behalf of BEIS and bringing a stronger rigour to their delivery. Smart DCC would need to report to Ofgem and BEIS on the progress of this project. Ms Cox has said it is likely she will be involved in meetings giving status updates and flagging risks/issues.

4. Ms Cox stated that Smart DCC were occasionally reported on at Gas and Electricity Markets Authority (GEMA) meetings and that the Chair and previous CEO of Smart DCC attended an informal GEMA discussion at Ofgem in late 2016/early 2017. She stated that she was not involved in any regulatory work that would have affected Smart DCC. Ms Cox

stated she was not involved in any commercial decisions relating to Smart DCC and did not have any responsibility for people who did. She stated she did not have any involvement in grants or contracts. She also stated she did not have any sensitive information about competitors and that due to the nature of Smart DCC being the only provider of the centralised data platform there was no conventional commercial competition.

5. Ofgem confirmed Ms Cox's information stating that she had not had access to policy or information that could give the employer an unfair advantage. It added though Ms Cox may have met with Smart DCC in office it was only under a reporting context and that as Smart DCC operates as a regulated monopoly it was unlikely that Ms Cox would offer an unfair advantage. It did not believe the appointment could be viewed as a reward for actions taken in office.

### The Committee's Consideration

6. The Committee<sup>1</sup> considered that Ms Cox had contact with Smart DCC but only in the context of hearing their progress reports. Further, the decision to award the BEIS and Ofgem contract was made in 2013, three years before Ms Cox joined Ofgem and Ofgem have confirmed that she has not been involved in any commercial decisions relating to the company since then. Therefore the Committee considered the risk that this appointment be a reward for decisions taken whilst in office to be low.

7. The Committee considered Ms Cox's role in Ofgem means there is a risk that she may offer an undue advantage to the company given her access to sensitive information whilst in office. The Committee considered that any risks are partly mitigated by Smart DCC's work being with Government and the nature of its work being designed to deliver a BEIS objective. As Smart DCC operates as a regulated monopoly, Ms Cox is also less likely to offer unfair advantage by providing information about competitors, and Ofgem has registered no concerns. The Committee saw no evidence of significant risk associated with her access to information specifically, but would draw her attention to the privileged information ban which would prevent Ms Cox from sharing any information she may have access to.

8. Ms Cox stated that Smart DCC would be looking to assist in other BEIS led programmes so the Committee considered that there is a risk she might offer an advantage if consulted on the nature of these programmes. The conditions below would prevent her from offering an unfair advantage to Smart DCC in the instance in which they try to tender for a new Government contract. As Ms Cox will be working on a previously agreed Government contract the Committee wished to make it clear the ban applies to any future bids or contracts and any amendments or renegotiations of the current contract.

9. The Committee noted the inherent risk that Ms Cox's contacts and network within Ofgem would offer Smart DCC an advantage, particularly given Ms Cox's proposed contact with government. Her influence with her former Department may be seen to impact decisions made with regard to the future of Smart DCC. The Committee did however recognise that

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<sup>1</sup> This application for advice was considered by Sir Alex Allan; Jonathan Baume; Dr Susan Liautaud; The Rt Hon Lord Pickles; Richard Thomas; Mike Weir; Lord Larry Whitty and John Wood.

the Government has selected Smart DCC to deliver the contract based on the restrictions and scrutiny agreed by BEIS and Ofgem. The Committee therefore did not view it as inappropriate for Ms Cox to play a part in participating in the reporting process to the regulating body as she will be ensuring the efficient operation of a company aiming to fulfill a Government contract. The conditions below make it clear contact with Government in line keeping with her role as described would not be improper. However, the Committee would emphasise that Ms Cox should not seek to have contact with Government on matters that are not directly in relation to her role providing programme assurance. It would not, for example, be appropriate for Ms Cox to have contact with Ofgem on any regulatory work.

10. The Prime Minister accepted the Committee's advice that under the Government's Business Appointment Rules, this appointment with **Smart DCC** should be subject to the following conditions:

- You should not draw on (disclose or use for the benefit of yourself or the persons or organisations to which this advice refers) any privileged information available to you as a Crown servant; for two years from your last day in office;
- You are permitted to be in contact with the UK Government to report the work of Smart DCC to Government in keeping with your role and where it is aligned with Government policy, and nothing more. To be clear, you must not make use, directly or indirectly, of your Government and/or contacts to influence policy, secure funding/ business or otherwise unfairly benefit the Smart DCC (including parent companies, subsidiaries, partners and clients). You should not become personally involved in lobbying the UK Government on behalf of Smart DCC (including parent companies, subsidiaries, partners and clients). For the avoidance of doubt this would include engagement with Ofgem on regulatory matters;
- for two years from your last day in office you should not advise Smart DCC or its partners or clients on the terms or subject matter of any future bid, contract or contract renegotiation with, or relating directly to the work of, the UK Government or its arm's length bodies.

11. 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."

12. I should be grateful if you would inform us as soon as Ms Cox takes up this appointment, or if it is announced that Ms Cox 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 Ms Cox has complied with the Rules.

13. I would be grateful if you would ask that Ms Cox informs us if she proposes to change the nature of appointment, and in particular if she proposes to take on a more

substantive role, as, depending on the circumstances, it may be necessary for her to make a fresh application.

14. Once the appointment has been publicly announced or taken up, we will publish this letter on the Committee's website and in the relevant annual report.

Yours sincerely

Sam Lynch  
**Committee Secretariat**