



OFFICE OF THE ADVISORY COMMITTEE ON BUSINESS APPOINTMENTS

G/7 Ground Floor, 1 Horse Guards Road SW1A 2HQ

Telephone: 020 7271 0839

Email: acoba@acoba.gov.uk

Website: <http://www.gov.uk/acoba>

July 2020

1. You approached the Committee about taking up an appointment as an External Advisor to Ryse Hydrogen Limited (RHL).

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 informed the Committee you were seeking to join Ryse Hydrogen Limited as an External Advisor. RHL is a manufacturer of hydrogen distribution and dispensing assets as well as renewable-powered electrolysers. It is currently working on producing hydrogen fuel for buses.

6. RHL does not have any current relationship with the NIO or the Government however they have in the past worked with TfL to provide London with hydrogen buses. You informed

the Committee that the CEO of RHL, Jo Bamford, also owns Wrightbus, a Northern Irish bus production company (who work with RHL in producing hydrogen buses) and Wrightbus continues to have a relationship with the NIO as part of its broader programme of engagement with business in Northern Ireland. Wrightbus was bought by the Bamford Bus Company in October 2019. Mr Bamford has publicly expressed a desire to gain Government funding to aid in the development of a new fleet of hydrogen buses for the UK.

7. You stated your role would be to provide advice on the development and expansion of the business. You stated this role would not involve any contact with your former department or the Government more widely. You confirmed you had no contact with RHL whilst in office, however did note you met with Jo Bamford after he acquired Wrightbus and in late January to discuss Wrightbus' growth plans. You said you had no access to sensitive commercial or policy information relevant to RHL and that you had not been involved in any policy or contractual decisions that would have affected them whilst you were in office.

8. The NIO confirmed your application details, including that you had a meeting with Mr Bamford about Wrightbus' growth on 30 January 2020. NIO confirmed it has no contractual relationship with RHL, nor is it in any ongoing discussions with RHL. The NIO also confirmed had no role in the takeover of Wrightbus by the Bamford Bus Company. It stated you did not have access to any sensitive policy or commercial information from your time in office and had not awarded any contracts to RHL or developed/decided on policy that may affect the company.

9. The Cabinet Office was also consulted on your time as a Cabinet Minister. It confirmed that you would no longer have access to any commercially sensitive information from your time in the Cabinet. I also confirmed that you would have been in Cabinet when policy decisions on the 'Road to Zero Strategy' were made (including the expansion of green infrastructure, reductions in vehicle emissions and encouraging the uptake of zero-emission cars, vans and trucks). It noted this would have benefitted an organisation operating in this area (this policy is in the public domain).

The Committee's consideration

10. The Committee considered that, as you met with Mr Bamford whilst in office to discuss the Wrightbus takeover, its growth plans and how NIO could support, there is a risk that this appointment may be perceived as a reward for actions taken in office. However, you did not meet with Mr Bamford until after the Bamford Bus Company's takeover of Wrightbus; the NIO played no role in the takeover; and it confirmed there were no policy, regulatory or contractual decisions taken by you whilst in office that affected RHL. It is particularly relevant that although Mr Bamford has said publicly that he will be seeking government funding in relation to a hydrogen bus fleet, this was not within your ministerial portfolio and you made no relevant decisions in office. Therefore, the risk this appointment was offered as a result of decisions made for actions taken in office is low.

11. The Committee considered the risks associated with your access to sensitive information from your time in office, including that which you would have been privy to as a member of the Cabinet. The NIO confirmed that you did not have access to sensitive policy or commercial information from your time in office. The Cabinet Office noted you were present for policy decisions surrounding the Government's ongoing decarbonisation approach. The Committee noted this policy (The Road to Zero Strategy) is already in the public domain and the Cabinet Office confirmed that you do not have access to sensitive policy or commercial information from February when you last attended Cabinet. Further, as your ministerial role was not directly related to renewables or hydrogen energy and there has been nearly 5 months since you were in office. Therefore, your access to sensitive

information is unlikely to construe an unfair advantage. The Committee would however draw your attention to the conditions below which would prevent you from using any privileged information you may have had access to.

12. As a former Minister and member of the Cabinet, there are inherent risks with the contacts you have gained in office. However you have stated that you will not have contact with the Government and this role will be advisory. The Committee would therefore draw your attention to the lobbying ban below which makes it clear that it would be improper to make use of your contacts (directly or indirectly) to the unfair advantage of your employer.

13. The Committee noted that Mr Bamford has expressed an aim to procure Government funding for a hydrogen bus fleet, the conditions below prevent you from advising on the subject matter of a Government bid or contract, to mitigate the risk you may provide an unfair advantage in any negotiations the RHL may be involved in on this matter.

14. Under the Government's Business Appointment Rules, the Committee advises this appointment be made 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, including the Northern Ireland Executive, on behalf of Ryse Hydrogen Limited (including parent companies, subsidiaries, partners and clients; which for this purpose should be considered to include the Bamford Bus Company and WrightBus). 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 Ryse Hydrogen Limited (including parent companies, subsidiaries, partners and clients; and including the Bamford Bus Company and Wrightbus); and
- for two years from your last day in office you should not advise Ryse Hydrogen Limited (or its parent companies, subsidiaries, partners and clients; and including the Bamford Bus Company and Wrightbus) 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 or Northern Ireland Executive.

15. 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 as a member of the House of Commons.

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 Ministerial Code/Civil Service Code or otherwise.

17. 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.*"

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. 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 Rt Hon The Lord Pickles

The Rt Hon Julian Smith MP