



## OFFICE OF THE ADVISORY COMMITTEE ON BUSINESS APPOINTMENTS

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1. You approached the Committee for advice on setting up an independent consultancy.

### 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:

- 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
- an employer could make improper use of official information to which a former Minister has had access; or
- 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.

### The application

#### **Consultancy**

4. You sought the Committee's advice on setting up an independent consultancy, which will:
  - Provide insight, advice and guidance to Exec leadership on the formulation of Global governance frameworks, and the delivery of its corporate strategy and investment opportunities and risks;
  - Provide advice and guidance on creating and maintaining a strong risk management culture which incorporates responsible investing, environmental responsibility and Corporate Social Responsibility;
  - Provide insight, advice and guidance to corporate Exec leadership on the formulation of Global governance framework, and the delivery of its corporate strategy and investment opportunities and risks;

- Provide advice and guidance on creating and maintaining a strong risk management culture which incorporates responsible investing, environmental responsibility and Corporate Social Responsibility;
- General strategic advice on policy formulation

5. The Ministry of Defence (MOD) was consulted about this application. The MOD stated that as Minister for the Armed Forces you would have been involved in no deal planning but your involvement/focus would be more focussed on your area of responsibility - such as military aid to other countries. The MOD said its views do not change on the basis of your access to information re Brexit, which it does not consider to raise any specific risk. The MOD has no concerns about you setting up this consultancy.

### The Committee's consideration

#### **Independent Consultancy**

6. When considering your application to set up an independent consultancy, the Committee<sup>1</sup> took into account that you propose to set up a consultancy which is broadly defined.

7. The Committee recognises it would not be improper for you to operate a consultancy which draws on generic skills and experience you gained from your time in government. However, there are risks that arise under the Government's Business Appointment Rules, from work that will likely be related to your time in office. Given your role as Minister for the Armed Forces, you will have had oversight of operational policy that may provide an unfair advantage to companies operating in the defence sector. However, the Committee gave weight to MOD's view that there is a low risk in connection with your access to sensitive information. Further, your description of your consultancy does not specifically relate to your time in office.

8. The Committee also noted Brexit no deal planning was part of your responsibility while in office. The Committee recognised that negotiations are still ongoing, so there could be a risk, however small, you might offer an unfair advantage with regard to your insight here. Therefore, the Committee would draw your attention to the ban on use of privileged information that applies to all former Ministers. In his context, it would remind you this prevents you from advising on matters related to the UK's exit from the EU insofar as it relates to your time in office, including ongoing negotiations between the UK and other countries where it would draw on privileged insight.

9. Given your role and profile as the former Minister for the Armed Forces, there is a risk it could be perceived your contacts might assist potential clients, as you will have built a substantial network of contacts across the UK Government/ Whitehall. The Committee would like to draw your attention to the restriction on providing advice on the terms of, a bid or contract relating directly to the work of the UK Government, to mitigate the potential for unfair advantage to your clients if they apply for contracts or funding from the Government.

#### **Future commissions**

10. In particular where a consultancy is broadly defined, whether the conditions set out below can sufficiently mitigate the risks presented by any future commission you propose to take up will depend on the specific details of each piece of work. It is the Committee's experience that applications where there is a connection between the former Minister's

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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.

responsibilities in government and the area they are looking to work in outside Government, are more likely to give rise to risks under the Rules. Further conditions may be appropriate. As is usual in such cases, you will need to seek advice from the Committee for each commission you wish to accept.

11. The Committee will consider with each commission whether the restrictions below sufficiently mitigate the risk attached and will decide whether each commission is consistent with the terms of the consultancy, considering any relevant factors under the Business Appointment Rules. For example, should you seek to work on matters you had direct responsibility for in office, the Committee would consider whether a waiting period may be required. The Committee will consider such risks on a case by case basis.

**12. The Committee also advises that when seeking work and/or commissions, you should adhere to the conditions below.**

13. In accordance with the Government's Business Appointment Rules, the Committee advises this appointment to set up an independent Consultancy be subject to the following conditions:

- that you should not draw on (disclose or use for the benefit of yourself or the organisation to which this advice refers) any privileged information available to you from Ministerial office. In the context of this general provision, the Committee considers you should specifically avoid giving those you advise under your independent consultancy, or its subsidiaries, partners or clients, privileged insight into the Brexit related issues, insofar as it as it pertains to the negotiating position of the UK Government and other parties to the negotiations prior to the date upon which you left ministerial office;
- for two years from your last day in ministerial office, you should not become personally involved in lobbying the Government or the UK MOD on behalf of those you advise under your independent consultancy (including parent companies, subsidiaries and partners). Nor should you make use, directly or indirectly, of his MOD, government and/or Ministerial contacts to influence policy, secure funding/business or otherwise unfairly benefit those you advise under your independent consultancy (including parent companies, subsidiaries and partners);
- for two years from your last day in ministerial office, you should not provide advice to any company or organisation on the terms of, or with regard to the subject matter of, a bid with, or contract relating directly to the work of the UK Government, the MOD or its trading funds; and
- for two years from your last day in ministerial office, before accepting any commissions for your independent consultancy and or/before extending or otherwise changing the nature of your commissions, you 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.

14. 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.

15. 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."*

16. 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 independent consultancy as depending on the circumstances, it might be necessary for you to seek fresh advice.

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

The Rt Hon Lord Pickles

Rt Hon Mark Lancaster