



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

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1. You approached the Committee seeking 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.

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

**Consultancy**

5. You sought the Committee's advice on setting up an independent consultancy. It will provide advice in the below areas in which you have expertise and have contacts who would work with you as they need expertise in this area. The areas you are looking to work in will include:

- Commercial
- Financial

## *From the Chair*

- Regulatory
- Political
- Infrastructure
- Healthcare
- Economic

6. The Department for Health and Social Care (DHSC) were contacted regarding your application. DHSC confirmed it did not have any concerns with you operating your consultancy as described.

### The Committee's consideration

7. 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 a broadly defined area, drawing on generic skills and experience. The Committee considered that, generally, this poses no particular risks of impropriety under the Government's Business Appointment Rules. However, the Committee observed that the risks under the Rules can only be adequately considered and assessed in relation to the individual commissions you go on to take up under the consultancy. Nevertheless, the Committee considered there are some general areas of potential conflict it is possible to mitigate.
8. 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 of State at DHSC, you will have had oversight of policy that may provide an unfair advantage to companies operating in the health sector. However, the Committee gave weight to DHSC's view that it had no concerns with you setting up your consultancy as described.
9. Further, given your role as Minister 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 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, for example, should you seek to advise on matters or regulations that you had direct responsibility for in office, the Committee would consider whether a**

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<sup>1</sup> This application for advice was considered by Sir Alex Allan; Jonathan Baume; Dr Susan Liataud; Richard Thomas; Mike Weir; Lord Larry Whitty and John Wood. I recused myself from this application in line with ACOBA's published Code of Practice. This letter contains the Committee's advice, arrived at without my input and which I am sending in my capacity as Chair of the Committee.

**waiting period may be required.** The Committee will consider such risks on a case by case basis. 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 also advises that when seeking work and/or commissions, you should adhere to the conditions below.**

12. 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:

- 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 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 those you advise under your independent consultancy (including parent companies, subsidiaries, partners and clients); nor should you make use, directly or indirectly, of your contacts in the Government and/or Crown service to influence policy, secure business/funding or otherwise unfairly advantage those you advise under your independent consultancy (including parent companies, subsidiaries, partners and clients);
- for two years from your last day in 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 or contract with, or relating directly to the work of the UK Government; 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.

13. 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.

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

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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.

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

Stephen Hammond MP