



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

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**BUSINESS APPOINTMENT APPLICATION: Ms Rachel Shona Margaret Fletcher**

1. The Committee has been asked to consider an application for Ms Fletcher, Chief Executive of Ofwat (January 2020 - April 2021) and previously a Senior Partner at Ofgem (2014 - December 2017). Her last day in Crown Service will be in April 2021.

Appointment Details

2. Ms Fletcher sought the Committee's advice on taking up a paid, full-time, role with Octopus Energy (Octopus) - as Group Director, Policy and Regulation. Ms Fletcher describes Octopus as an energy retailer. She said the organisation is a relatively new (5 year) entrant supplier, selling only renewable energy. Octopus is a UK-based retail electricity and gas supplier specialising in sustainable energy. It was established in 2015 as a subsidiary of Octopus Group, a British asset management company. It provides an energy option for UK businesses including Arsenal FC and Marks & Spencer.
3. Ms Fletcher said her role will be to formulate the company's engagement with UK and global energy policy makers and to assist in corporate strategy. She said she expects her role to involve contact with the Government. She said this contact will involve dealings with the Department for Business, Energy and Industrial Strategy (BEIS) which sponsors energy – including at a Ministerial level - but will not involve dealings with Ofwat's sponsoring department, Defra, or its ministers. Ms Fletcher informed the Committee that Octopus has independently built a network of contacts across the Government due to it being an established, respected leader and innovator in policy areas such as Government's net zero ambitions.
4. Ms Fletcher informed the Committee while she worked with Ofgem (2014-2017), she visited Octopus' offices with some colleagues to see the way it modelled the wholesale market. Octopus also attended a small number of stakeholder group events she held with energy retailers to discuss emerging policy. She said she did not engage with Octopus directly. Ms Fletcher also confirmed that during her time at Ofwat, Octopus agreed to meet with a team within Ofwat to discuss innovation to help Ofwat consider how it could improve innovation in the water sector. She noted the CEO of Octopus has also both been at a small number of utility conferences where they shared a platform.
5. Ms Fletcher also said that whilst at Ofgem, during stakeholder group events there would have been discussion about emerging policy, for example on the price cap for

vulnerable customers. She said Octopus were directly affected by much of the policy she was in charge of setting, but did not engage directly with her on it (other than these stakeholder group events). Ms Fletcher confirmed since joining Ofwat in 2018 her regulatory work has been of no direct relevance to Octopus.

6. Ms Fletcher also confirmed she was not involved in awarding grants or contracts to Octopus, did not meet with competitors of Octopus and did not have access to commercially sensitive information affecting these competitors.
7. Ofwat countersigned this application. It confirmed the details provided by Ms Fletcher and it was aware that before joining Ofwat (at the start of 2018), she was involved with the energy sector in which Octopus operates. In her role at Ofwat, for the last three years, it confirmed she and Ofwat have had no involvement with official Ofgem dealings with its sector, and Ofwat's engagement with Ofgem (as with all sector regulators) has been to maintain a watching interest on regulatory decisions that could be relevant to water.
8. Ofwat further noted that while Ms Fletcher kept up with general developments on energy policy, which it considered she needed to do as CEO of a regulator - she did not have access to, or hold, any privileged information that would be of commercial value to Octopus' nor information that related to particular companies. Ofwat confirmed she would not have had any commercially valuable or sensitive information relating to Octopus as Ofwat has no jurisdictional involvement over energy matters and Ofwat has no relationship with Octopus.
9. Ofwat also informed the Committee that Ofgem and Ofwat meet quarterly at Chair and CEO level, and usually with other fellow regulators – Ofcom, Ofgem, ORR, CAA etc. It stated no price-sensitive information to the companies they regulate, nor policy development when it is at the sensitive stage of policy formation, would be shared. Ofwat said that any disclosure of price sensitive information would be contrary to their confidentiality obligations and risk breaching requirements of the stock exchange and financial regulation.
10. Ofwat stated the main area for overlap of interest between Ofgem and Ofwat is in network regulation (transmission and distribution in electricity and gas) because water companies have a high network component. However, Ofwat stated Octopus does not operate in networks. Further Ofwat noted water does not have separate retailers, except a small segment of business retailers in the B2B space and which is generally handled below Ms Fletcher's level. Ms Fletcher assured Ofwat she has had no dealings with Ofgem on the retail price caps and is not privy to any information on where it is looking to take retail regulation.
11. Ofwat said it can see nothing in this appointment that would be considered improper. It also confirmed that Ms Fletcher's previous private sector career was consulting in energy. It has no reservations about this appointment and in its opinion the appointment would be a positive contribution to the energy sector as a whole.
12. While Ms Fletcher continues to carry out her role at Ofwat, the Chair considered the risk was limited given the above, but that to manage the risk of any perceived conflict of interest:
  - Ms Fletcher will have no engagement with Ofgem on matters of strategy and policy, such matters will be led by Ofwat's Chief Regulation Officer (CRO);
  - she will recuse herself from any discussion of energy strategy at the UK Regulators' Network; and

- any board-to-board engagement between Ofwat and Ofgem will be led by Ofwat's Chair and CRO, rather than Ms Fletcher as CEO.
13. Ofgem was also consulted on this application and it confirmed it's view was there was no risk of this appointment being seen as a reward for any decisions taken whilst at Ofgem. It stated the main policy issues affecting Octopus were all taken forward and settled by Ms Fletcher's successor and as a result it confirmed she does not have access to sensitive information. Ofgem informed the Committee it did not have any concerns in Ms Fletcher taking up this appointment.
  14. The Department for Environment, Food and Rural Affairs (DEFRA) as the sponsor department for Ofwat also commented on this application and informed the Committee it was satisfied there would be no conflict between her time in office and Octopus' business interests.

### The Committee's Consideration

15. When considering this application, the Committee<sup>1</sup> took into account this appointment has no direct connection with Ms Fletcher's most recent role in Crown service. It also noted that while she had official dealings with matters affecting Octopus whilst she was at Ofgem, and met with them on one occasion, this was several years ago. More recently, Ofwat has had interaction with Octopus, though limited to a discussion on innovation generally. It is also relevant to the Committee's consideration that Ms Fletcher is returning to an area of business where she worked before joining Crown service. The Committee considered there is no reason it might be perceived this appointment is a reward for decisions made or actions taken from her time in office.
16. While the Committee noted she had worked for Ofgem before joining Ofwat, she left this post 3 years ago and Ofgem have confirmed Ms Fletcher has no access to sensitive information still relevant to Octopus. The Committee noted she would have had access to privileged information which may be seen to be of general use to any regulated company she chooses to join. However, the Committee gave weight to the information provided by Ofwat about the level of information seen by Ms Fletcher - which would have been high level and would not be specific to a particular company. The Committee would draw Ms Fletcher's attention to the condition below which prevents the use of privileged information.
17. The Committee considered that given Ms Fletcher's seniority and profile as a regulator in the UK, there are risks associated with her network of contacts and influence across the Government and in the regulatory sector. Ms Fletcher has stated she is likely to have contact with the Government in her with Octopus given it is a significant stakeholder of BEIS and is regulated by Ofgem. There is no direct conflict with her most recent time in office and the Committee notes her previous experience in energy. The Committee determined any such contact should be limited to reporting factually on the activities of Octopus, or where the Government (including Ofgem) has sought Octopus' views (for example, during stakeholder engagement or consultation). It noted Octopus already has a framework and network in place for such contact. However, the Committee would emphasise she should not personally seek to influence government policy, or Ofgem's decisions as the regulator, and it would not be appropriate for her to initiate such contact. The conditions imposed below reflect this.

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

18. Although this application has been made before Ms Fletcher has left her role at Ofwat, the Committee is prepared to provide advice now, especially in light of the steps Ofwat is taking (set out at paragraph 12) to manage real or perceived risks her involvement in the UK Regulators Network may offer. However, the Committee wishes to make clear its advice is provided on the basis of the information provided. If Ms Fletcher should become aware of any change of circumstances relevant to her application and this advice, in the gap between receiving this advice and taking up this role, she should revert to the Committee for further advice.
19. Under the Government's Business Appointment Rules, the Prime Minister has accepted the Committee's advice that Ms Fletcher's role with **Octopus Energy** should be subject to the following conditions:
- that she should not draw on (disclose or use for the benefit of herself or the organisation to which this advice refers) any privileged information available to her from Crown service;
  - for two years from her last day in Crown service, she is permitted to factually report to the Government and its Arm's Length Bodies on the activities of Octopus Energy. However, discussion with the UK Government and its Arm's Length Bodies more widely should only be at their specific request, and limited to that request, as she is prevented from becoming personally involved in lobbying the UK Government on behalf of Octopus Energy (including parent companies, subsidiaries, partners and clients). During any contact, she is expected to observe acceptable standards of probity, consistent with the behaviour required as a former Crown servant and must not make use, directly or indirectly, of her contacts to influence government policy, secure government funding or otherwise unfairly advantage Octopus Energy (including parent companies, its subsidiaries, partners and or clients);
  - for two years from her last day in Crown service, she should not provide advice to Octopus Energy on the terms of, or with regard to the subject matter of, a bid with, or contract relating directly to the work of the Government and its Arm's Length Bodies.
20. 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.
21. 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.*"
22. I should be grateful if you would inform us as soon as Ms Fletcher takes up employment with this organisation, or if it is announced that Ms Fletcher 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 Ms Fletcher has complied with the Rules.

23. Please also inform us if Ms Fletcher proposes to extend or otherwise change the nature of her role as, depending on the circumstances, it may be necessary for her 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.

Yours Sincerely,

Isabella Wynn  
**Committee Secretariat**