



OFFICE OF THE ADVISORY COMMITTEE ON BUSINESS APPOINTMENTS

Room G/8, 1 Horse Guards Road, London, SW1A 2HQ

Telephone: 020 7271 0839

Email: acoba@acoba.gov.uk

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

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BUSINESS APPOINTMENT APPLICATION: Sir Richard Heaton

1. The Committee has been asked to consider an application for Sir Richard Heaton, former Permanent Secretary for the Ministry of Justice between August 2015 - August 2020. His last day in service was 31 August 2020.

Application details

2. Sir Richard sought advice on taking up an unpaid, part-time role as a Trustee for Koestler Arts. Koestler Arts is a charity supporting those in custody by encouraging them to improve their lives through participation in the arts. He stated that as Trustee on the charity board, he will be responsible 'for oversight, strategy and governance'. Given the nature of organisation, Mr Heaton has added the organisation is likely to have contact with the MoJ, for instance the department attending the organisations arts exhibitions and stated: 'It is emphatically understood on all sides that I would not be responsible for relations with MoJ'.

3. Sir Richard confirmed that he had official contact with Koestler Arts while in office, attending its arts awards as a representative of the MoJ. He stated he is also aware of two contracts held between the organisation and HMPPS (an executive agency of the MoJ): a recurring annual core grant of £75,000 and a lease/license arrangement on accommodation, the values and details of which are not known to him. He confirmed the Chief Executive of HMPPS reported to him on commercial matters, however he had no involvement in funding decisions regarding Koestler Arts, nor was he involved in the remaining contract. He also confirmed he did not have access to commercially sensitive information on competitors of the organisation while in post.

4. The Ministry of Justice and Cabinet Office were consulted on this application. The details Sir Richard Heaton provided in his application were confirmed. The following additional information was provided:

- The MOJ said 'Koestler Arts, a charitable Trust, is a highly respected organisation with a history of blending philanthropic endeavour with art appreciation, therapy and

development within Prisons. I cannot foresee any difficulties with approving this application either on the grounds of creating an avoidable conflict of interest or in some way advancing Koestler Art inappropriately through their association with Sir Richard Heaton. The organisation plays an important role in helping to support and rehabilitate prisoners which is consistent with the aims of the Ministry of Justice. In circumstances where Koestler Art may seek support from the Department for its work, sufficient controls are in place to ensure it is not advantaged in any way through this association.'

- The MOJ confirmed there is a long-standing association with Koestler via HMPPS and their grant funding relationship .
- The MOJ noted the grant funding is '*managed in accordance with the rules set out by treasury and any future decisions to continue with this or not is a matter for the MOJ regardless of the position Sir Richard Heaton may or may not hold.*
- The Cabinet Office confirmed Mr Heaton's role was both high profile and senior with access to a wide range of information; there has been no direct involvement in any decisions and therefore there is very little chance the appointment could be perceived as a reward. It noted the appropriate conditions would restrict sharing information, prohibiting lobbying and involvement in any bidding process for funding from the MoJ.
- Subject to the conditions suggested, neither department had any concerns with Sir Richard taking up this role.

The Committee's Consideration

5. The Committee¹ noted that whilst Sir Richard had official contact with the organisation, this was limited to attending its awards as the MoJ's representative. The Committee considered that while the organisation has current contact and a funding arrangement with HMPPS, which as accounting officer, Sir Richard had overarching responsibility for, the departments confirmed he had no involvement in the decisions to award funding. Additionally, the Committee agreed with the department and considered the risk this unpaid position for a charitable organisation could be seen as a reward for decisions made in post, as low.

6. The Committee noted that as the former Permanent Secretary, there are inherent risks - Sir Richard may have general access to policy and information that could be perceived to benefit any organisation within the justice sector. The Committee would draw to Sir Richard's attention the ban on using privileged information, subject to all former Crown servants on leaving post.

7. Additionally, due to his seniority as former Permanent Secretary, there is a risk Sir Richard may offer an unfair advantage to the organisation in relation to access to the contacts he gained while in service. The lobbying ban imposed below makes clear that it would be inappropriate for him to use his contacts across Government and Whitehall to the unfair advantage of the organisation, which is in line with the responsibilities of the role Sir

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

Richard describes. Further, given the funding relationship between Koestler Arts and HMPPS, the Committee has imposed a ban on providing advice on the terms of, a bid or contract relating directly to the work of the UK Government.

8. The Prime Minister accepted the Committee's recommendation, that under the Government's Business Appointment Rules, this appointment with **Koestler Arts** should be subject to the following conditions:

- that he should not draw on (disclose or use for the benefit of himself or the organisations to which this advice refers) any privileged information available to him from his time in office;
- for two years from his last day in Crown service he should not become personally involved in lobbying the UK Government or its Arms' Length Bodies on behalf of Koestler Arts (including its parent companies, subsidiaries, partners or clients).
- for two years from his last day in Crown service he should not undertake any work with Koestler Arts (including parent companies, subsidiaries, partners or clients) that involves providing advice 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 or its Arms' Length Bodies.

9. 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.

10. 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.*"

11. I should be grateful if you would inform us as soon as Sir Richard Heaton takes up this appointment, or if it is announced that Sir Richard Heaton 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 Sir Richard Heaton has complied with the Rules.

12. Please also inform us if Sir Richard Heaton proposes to extend or otherwise change the nature of appointment as, depending on the circumstances, it may be necessary for her to make a fresh application.

13. 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.

Andrea Benjamin
Committee Secretariat