



OFFICE OF THE ADVISORY COMMITTEE ON BUSINESS APPOINTMENTS

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BUSINESS APPOINTMENTS APPLICATION: MR JULIAN KELLY

1. It was announced in October 2018 that Mr Julian Kelly, former DG Nuclear at the MOD's Defence Nuclear Organisation was to leave the MOD and take up a post as NHS Chief Financial Officer. He took up that post in April 2019.

2. The Committee was asked to consider an application retrospectively, please accept my apologies for any inconvenience the delay in responding to this request has caused.

Application details

3. Mr Kelly's role as NHS Chief Financial Officer was described as providing system leadership to the NHS in delivering best value and financial sustainability.

4. Mr Kelly's application explained that his role as DG Nuclear meant he had official dealings and responsibilities for defence contractors, including: AWE, Babcock, Rolls Royce, BAE and Thales. However, Mr Kelly confirmed he had no official dealings (contractual and non-contractual) with the NHS, nor was he responsible for anyone who did, whilst in post at the MOD.

5. The MOD Business Appointments Panel told the Committee it had no concerns about this appointment. The MOD noted that although Mr Kelly had access to commercially sensitive information on various companies in his role at the MOD, these were defence related and there was no overlap with the role at NHS England (companies included: AWE, Babcock, Rolls Royce, BAE and Thales).

6. The MOD noted it has had some limited commercial interaction with NHS England. The most recent contract, valued at £1.2M, was for provision of health services to defence, and ended some years ago, in March 2015. The MOD also noted there had been some

non-contract payments for the provision of other health services over the previous two financial years had been worth around £155k. These arrangements were administered by Joint Forces Command and the MOD confirmed Mr Kelly had no involvement in these, or any other official dealings with NHS England.

7. The MOD considered that because Mr Kelly is joining a public sector organisation the risk of perception of his use of contacts or knowledge of the UK MOD for the improper benefit of his employer was low.

Consideration

8. I would like to register the Committee's concern that this appointment was announced before completing the Government's Business Appointments process. The Government's Business Appointment Rules for Civil Servants (the Rules) specify that individuals should not accept or announce a new appointment/ offer of employment before advice has been received; and that retrospective applications will not normally be accepted. In such cases the Committee is constrained from considering applications fully and freely; and in a manner that will command public confidence if an appointment has already been announced and/ or taken up.

9. The Committee recognised the MOD consider the risks attached to this appointment are low, given Mr Kelly joined a public sector organisation, unrelated to his time at the MOD. While the Committee agreed these factors reduce the risks generally associated with applications, the Committee was mindful that risks under the Government's Business Appointment Rules can still arise in public sector appointments. The purpose of the Rules is to ensure that such issues are appropriately considered, and appropriately mitigated where necessary, before individuals sign up to a new organisation. The announcement made no mention of the Business Appointments process and in the circumstances, the Committee has refused to provide advice.

10. The Committee would like to draw to the attention of the MOD and Mr Kelly, the relevant sections of the Government's Business Appointment Rules which make it clear that in taking up an outside appointment, individuals must not make improper use of information they have had access to, nor make use of privileged access and contacts to lobby the UK Government.

11. The Committee will also take this opportunity to remind the MOD and Mr Kelly that whilst an individual remains subject to the Business Appointment Rules (for senior Civil Servants, the Rules apply for two years on leaving office), they must seek and await full and final advice before accepting, announcing or starting any new role.

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