



OFFICE OF THE ADVISORY COMMITTEE ON BUSINESS APPOINTMENTS

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BUSINESS APPOINTMENT APPLICATION: NIKKI DA COSTA

The Committee has been asked to consider an application from Nikki da Costa, former Special Adviser in the Prime Minister's office, in relation to taking up a role she has been offered with the Cicero Group, as Strategic Counsel, UK Public Affairs.

Ms da Costa was Director of Legislative Affairs at No.10 from September 2017 to November 2018. Ms da Costa's last day in Crown service was 14 November 2018.

Appointment details

Ms da Costa describes the role, of Strategic Counsel, UK Public Affairs, as working closely with Tom Frackowiak (Executive Director, UK Public Affairs) and the UK Public Affairs Leadership team '*providing political counsel to clients, upskilling of the senior team, public affairs craft, training, mentoring/coaching for team members, supporting efforts on new business and potential to run client accounts if desirable.*'

Ms da Costa notes that Cicero's clients may engage with government on specific issues; and her advice may be sought on how best to engage with government. However, she does not expect to have contact with government in this role and said that Cicero are aware of the prohibition on lobbying government that will apply to her for two years on leaving office.

Ms da Costa said she had no official dealings with Cicero whilst in office (contractual or otherwise). In relation to competitors, Ms da Costa said she met with Mark Glover the Chief Executive of another agency, Newington. This was about the merger the two industry bodies - the Association of Professional Political Consultants (APPC) and Public Relations and Communications Association (the PRCA). Ms Da Costa also confirmed she had no access to commercially sensitive information about Cicero's competitors whilst in office.

Ms da Costa noted that before joining No.10 in September 2017, her career was in public affairs. She confirmed she has worked with Cicero in the past and has known the Executive

Chairman (Iain Anderson) for a long time. Ms Da Costa also confirmed that given her career in public affairs, she has worked for other public affairs consultancies, including Newington.

Director General, Property and Ethics at the Cabinet Office confirmed Ms da Costa's application is accurate and that, as she is returning to an industry in which she previously worked, the Cabinet Office considered the appointment is unlikely to be seen as improper.

Whilst the Cabinet office noted that in her role at No.10, Ms da Costa would have had access to a wide range of information, it considered the lobbying ban would be suitable mitigation; and have no concerns about Ms da Costa taking up this role.

The Committee's consideration

The Committee¹ took into consideration that Ms da Costa has no official dealings Cicero whilst she was in office. Though she had a meeting with a competitor of Cicero's (Newington), this was about the merger of the two industry bodies, a decision for those organisations rather than government. The Committee considered there is no objective evidence Ms de Costa took actions or decisions in office at No.10 that are likely to give rise to the risk of reward in this application.

However, this application does present some risks under the Government's Business Appointments Rules. Ms da Costa is moving from a senior position within the Government to an organisation which, amongst other things, advises organisations on how best to influence government. In considering this application the Committee has carefully considered the risks present in relation to Ms da Costa's time at No.10 providing Cicero and/ or its clients with an unfair advantage.

Ms da Costa would have been privy to a range of information from across Government, in particular in relation to domestic and EU policy given her role leading on legislative and parliamentary matters. The Committee noted that as a Special Adviser, Ms da Costa is required to confirm in writing to her department that she recognises that she continues to be bound by the provisions of the criminal law (including the Official Secrets Act), which protect certain categories of information, and by her duty of confidentiality owed to the Crown.) Ms da Costa has confirmed she will not lobby the Government in this role and that Cicero are aware of this restriction under the Government's Business Appointment Rules.

Additionally, the Committee would like to draw to the attention of Ms da Costa and her future employer that the lobbying ban it has imposed includes lobbying of an indirect nature. Further, it would be inappropriate for her to use contacts she has gained in office to the advantage of Cicero or its clients.

The Committee considered it was an important factor in this application that Ms da Costa is returning to her former career in public affairs. Ms da Costa has worked in the industry for

¹ This application for advice was considered by Sir Alex Allan; Jonathan Baume; Baroness Browning; Lord Michael German; Baroness Helen Liddell; Richard Thomas; and John Wood. Terence Jagger and Dr Susan Liautaud were unavailable.

some years and left her own firm (Nikki da Costa & Associates) which provided Training and Coaching in Public Affairs in September 2017, to work at No.10.

Taking into account these factors, in accordance with the Government's Business Appointment Rules, the Committee's advice to the Permanent Secretary is that this appointment be subject to the following conditions:

- that she should not draw on any privileged information available to her from her time in Crown service; and
- for two years from her last day in service, she should not become personally involved in lobbying Government on behalf of the Cicero Consulting Limited (Cicero Group) or its clients; nor should she make use, directly or indirectly, of her Government and/or Crown service contacts to influence policy or secure business on their behalf.

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. (As with all Special Advisers, the Committee makes this recommendation on the understanding that, if she has not already done so, Ms da Costa must confirm in writing to her department that she recognises that she continues to be bound by the provisions of the criminal law (including the Official Secrets Act), which protect certain categories of information, and by her duty of confidentiality owed to the Crown.)

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."*

I should be grateful if you would let us know whether the Permanent Secretary is content to with the Committee's recommendation, and copy us into the final decision. I should also be grateful if you would ensure that we are informed as soon as Ms da Costa takes up this role, or if it is announced that she will do so (I enclose a form for this purpose). 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 da Costa complied with the rules.

Please also ensure that Cicero are made aware of the Committee's advice in this case, in line with the Department's responsibilities under the Business Appointment Rules.

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

Cat Marshall
Committee Secretariat