



OFFICE OF THE ADVISORY COMMITTEE ON BUSINESS APPOINTMENTS

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You approached the Committee about taking up an appointment as an Independent Non-Executive Director at Equine Welfare Board of the British Horseracing Association.

The Committee's role and remit

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:

- a) 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
- b) an employer could make improper use of official information to which a former Minister has had access; or
- c) there may be cause for concern about the appointment in some other particular respect.

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.

It is not the Committee's role to pass judgment on whether an appointment is appropriate or suitable in any other regard.

Appointment details

You told the Committee that you were approached to take up an appointment as an Independent Non- Executive Director on the Equine Welfare Board of the British Horseracing Association (BHA). This is a paid appointment requiring a work commitment of 1-2 days of work per month. You describe your role on the Equine Welfare Board as:

- To assist in leading the development of a strategic plan for Equine welfare; and
- To be asked for strategic advice on public affairs matters, particularly around managing public opinion on welfare matters

In your application you noted this appointment may involve contact with government. However, it is unlikely to involve DCMS as Equine Welfare sits within the remit of the Department for Environment, Food and Rural Affairs (DEFRA).

The Department for Digital, Culture, Media & Sport (DCMS) was consulted regarding this appointment.

DCMS confirmed it has responsibility for horseracing policy. It made the Committee aware of the main policy issues relate to the statutory levy that bookmakers pay to the Horserace Levy Board, who use it for the benefit of horseracing. It advised the Committee that the BHA is the representative body for government relations on behalf of key racing stakeholders including racehorses, trainers, owners and jockeys. The department also confirmed DCMS ministers and officials meet with BHA on occasion to discuss regulation, governance and finance for the sport.

The department also advised the Committee you met with BHA regularly during your time as Minister for Sport and attended one race meeting at their invitation to meet with and discuss jockey welfare, talk through the racing safeguards for problem gamblers and see levy funded facilities.

Specifically, in relation to the horseracing levy, DCMS confirmed BHA is a stakeholder in his process, and its Chief Executive sits on the Levy Board. DCMS noted it had announced the horseracing betting levy would be reformed prior to your term in office and both you and the then Secretary of State, determined the rate of the Horserace Betting Levy should be set at 10% and extended to offshore online websites. (It was previously set at 10.75% and only applied to British bookmakers). DCMS confirmed other factors which influenced the determination of the rate included responses to public consultation (including those from the BHA), meetings with key stakeholders (including the BHA and betting companies) and discussions with the European Commission (as State aid approval was required for the Levy rate and scheme).

The department confirmed responsibility with equine welfare sits within DEFRA. While DCMS ministers and officials receive updates on BHA policies and progress to enhance equine welfare, from DEFRA officials and from the BHA, the Government's position on such policies is determined by DEFRA. DCMS considered it unlikely it would need to have direct discussions with the BHA's Equine Welfare Board, as the lead contact would be with DEFRA.

The Committee's consideration

The Committee¹ noted there is an indirect overlap between your time in office and your proposed role. Your ministerial responsibilities included involvement in the reform of the Horserace Betting Levy, which impacts on the sport and a process in which BHA are stakeholders. However, the Committee took into account that you did not have sole

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

responsibility for determining the levy; and factors which influenced the determination of the rate included, responses to public consultation (including but not limited to those from BHA), meetings with stakeholders and discussions with the European Commission. In light of this, and that this work was announced prior to your time in office; the Committee considered the risk this role would be seen as a reward for you time in office as low.

The Committee noted your role as an Independent Non-Executive Director as set out above is unlikely to involve direct contact with your former department. The Committee notes your role within BHA, as described above, is limited to Equine Welfare and not directly related to your previous role at DCMS. The Committee is aware DCMS ministers may receive updates on policies and progress to enhance equine welfare, but that equine welfare sits within DEFRA and this is where any limited contact you may have with the Government would likely sit. The Committee considered any contact you may have with DEFRA in this regard would not be improper.

However, the Committee noted there is a risk you could be perceived to offer an unfair advantage to BHA in relation to wider horseracing issues, should you seek to have contact with DCMS on BHA's behalf. The Committee would therefore like to draw your attention to the lobbying ban which makes clear you should not make use of your contacts in Government/Whitehall to seek to provide BHA with an unfair advantage.

Taking into account the specific facts in this case, in accordance with the Government's Business Appointment Rules, the Committee advises the appointment 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 as a Minister; and
- for two years from your last day in Ministerial office, you should not become personally involved in lobbying the UK Government on behalf of British Horseracing Association. Whilst this would not preclude limited contact with DEFRA in keeping with your role on the Equine Welfare Board, it would not be appropriate for you to have contact with the UK Government on other BHA related matters. Nor should you make use, directly or indirectly, of your Government and/Whitehall contacts to influence policy or secure funding on its 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 or otherwise.

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."*

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.

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, 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 you had complied with the Ministerial Code. Similarly, I should be grateful if you would inform us if 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.

Once this 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.

The Baroness Browning

Ms Tracey Crouch MP