



OFFICE OF THE ADVISORY COMMITTEE ON BUSINESS APPOINTMENTS

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BUSINESS APPOINTMENT APPLICATION: MS MARY STARKS

1. The Committee has been asked to consider an application from Ms Mary Starks, former Executive Director at Ofgem between September 2018 - September 2020, on taking up an appointment with Flint Global.
2. Ms Starks's last day in post was 10 September 2020.

Application Details

3. Ms Starks seeks to work with Flint Global (Flint) as a Partner. On their website it states: *'we help our clients succeed in an increasingly complex world, managing risk and creating opportunity. We provide advice at the point where government and business meet, offering an authoritative perspective on both. We are experts in policy, political analysis, regulation and competition'*. It operates in a number of markets, both nationally and overseas. The consultancy was co-founded by Ed Richards, former Chief Executive of Ofcom; and Sir Simon Fraser, Managing Director at Flint, who was former Permanent Under-Secretary of the Foreign and Commonwealth Office from August 2010 to July 2015.
4. Ms Starks described her role as advising clients, predominantly businesses and investors, across a range of sectors such as retail; sport; pharmaceuticals; media and technology, on strategic questions, including policy, competition and regulation. Ms Starks noted there are specific areas that she may work on with clients that may be Ofgem regulated, such as smart meters, offshore wind, the creation of more flexible energy markets, but should not cause conflict given Ofgem taking a standard setting as opposed to disciplinary role. She said this work may involve supporting businesses regulated by Ofgem where the interest of Ofgem/the Government and energy businesses are aligned, such as work on net zero achievements and plans. She stated she would not work that could be deemed to cause contention with Ofgem/Government interests, such as that on price controls, enforcement cases or other disputes. She stated the role may include contact with the Government, in that Flint advises on policy, regulation.

5. Ms Starks stated she did not have any official dealings with Flint or their competitors while in post; and noted there is no relationship between Flint and Ofgem therefore she was not involved in awarding contracts or funding to Flint.
6. Ms Starks said she considered her access to information in office was likely to become out of date within 6 months, though she recognised the perception risk associated with her working on matters she had some involvement with, in particular the retail price cap and RII02¹ policy.
7. Ofgem was consulted regarding this application. Ofgem confirmed the details Ms Starks provided. In addition it stated:
 - *'The Applicant was a senior member of Ofgem's Management and an Executive Member of GEMA (the independent Energy Regulator, for which Ofgem provides executive support) and as such would have been party to discussions on future Policy. However, this is an area of rapidly changing Policies, and any knowledge would quickly become outdated and therefore irrelevant for these purposes.*
 - *There is talk of an Energy White Paper being published in the coming months but this has been anticipated for many months, and its content is constantly evolving so any knowledge the Applicant might have had on potential subject areas will be outdated. The document will in any case be published into the public domain.'*
8. Ofgem stated no reservations on Ms Starks taking up this appointment, and agreed with her that the sensitivity of her access to information would reduce significantly having left office. However, it noted the risks with unknown clients: *'The Applicant's new employer is a consultancy active in a number of sectors...It is suggested that the Applicant seek permission from Ofgem in advance of accepting any instructions from Companies in the energy space which she believes might give rise to any form of conflict.'*

The Committee's consideration

9. The Committee² noted Ms Starks had no official dealings with Flint and was not involved in any funding or contractual dealings with Flint. Further, there is no relationship between Ofgem and Flint. Therefore the risk is low that this role was offered as a reward for actions taken while in service.
10. As former Executive Director of Ofgem, the Committee noted she would have had access to privileged information relating to future regulation and policy which may be seen to offer an unfair advantage to Flint and its clients operating within the energy sector. The Committee carefully considered the extent of this risk due to Ms Starks's role in GEMA and having been party to discussions about future energy related policy, additionally, the real and perceived risk of the information she holds in relation to the

¹ RII02 (Revenue=Incentives+Innovation+Outputs) is an Ofgem regulatory framework to ensure UK gas and electricity networks deliver consumer value for money, limiting network charges using five-year price control mechanisms. The draft determinations, covering 2021 - 26, encompass investment proposals targeted at delivering emissions-free green energy in line with the UK's targets to reach net zero greenhouse emissions by 2050.

² This application for advice was considered by Sir Alex Allan; Jonathan Baume; Dr Susan Liataud; The Rt Hon Lord Pickles; Richard Thomas; Mike Weir; Lord Larry Whitty and John Wood.

retail price cap and RII02 policies. However, the Committee gave weight to Ofgem's view that *'this is an area of rapidly changing Policies, and any knowledge would quickly become outdated and therefore irrelevant for these purposes'* and that any knowledge within forthcoming publications she may have been privy to have moved on and will be made public.

11. However, Ms Starks was privy to discussions on sensitive information, and the Committee is not aware of exactly when relevant information she gained will be placed in the public domain. There is a risk it could be perceived her access to information, contacts and influence might assist Flint unfairly. The Committee also noted that without knowing the nature of potential clients that Ms Starks may provide advice to, there are unknown risks should she become involved in matters related to her time at Ofgem. However, the Committee agreed with Ofgem and Ms Starks that it is areas such as price controls, enforcement investigations/decisions and other disputes which are likely to be the areas of high risk, where it would be perceived 'inside' insight or influence would be most unfair. This is not the case should Ms Starks advise clients in relation to matters aligned with Ofgem/Government policy. Therefore, whilst the Committee deemed it necessary, as well as the privileged information ban, to add a restriction which prevents Ms Starks from advising Flint in relation to Ofgem disputes and price controls, it considered there was less risk attached to matters associated with businesses achieving the path to Net Zero. The conditions below reflect this. However, Ms Starks' considered there may be other matters that do not conflict with her time in office and she is free to return to the Committee for further advice on such pieces of work. Ms Starks must provide reasons for the exception and the Committee will consider any relevant factors under the Government's Business Appointment Rules.
12. Additionally, the Committee noted, there is an inherent risk it could be perceived that her contacts and knowledge may unfairly benefit Flint and its clients in relation to influencing the UK government or Ofgem. It considered it would be inappropriate for her to make contact with the Government, or advise on a bid or contract in relation to the UK Government or Ofgem, reflected by the conditions below.
13. Taking into account these factors, in accordance with the Government's Business Appointment Rules, the Prime Minister accepted the Committee recommendation that this appointment with Flint Global be subject to the following conditions:
 - that she should not draw on (disclose or use for the benefit of the organisation to which this advice refers) any privileged information available to her from her time in Crown service;
 - for two years from her last day in Crown service, she should not become personally involved in lobbying the UK Government or Ofgem on behalf of Flint Global (including clients, parent companies, subsidiaries and partners), nor should she make use, directly or indirectly, of government/Whitehall contacts to influence policy, secure funding/business or otherwise unfairly advantage Flint Global (including client parent companies, subsidiaries and partners);
 - for two years from her last day in Crown service she should not provide advice to Flint Global (including parent companies, subsidiaries, partners and clients), in relation to the terms of a bid with, or contract relating directly to the work of the UK Government or Ofgem; and

- for two years from her last day in Crown service she should not become involved in, or advise Flint Global (including clients, parent companies, subsidiaries and partners), on any work it undertakes on Ofgem regulated matters.
14. 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.
 15. 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."
 16. I should be grateful if you would inform us as soon as Ms Starks takes up employment with this organisation, or if it is announced that Ms Starks 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 Ms Starks has complied with the Rules.
 17. Please also inform us if Ms Starks proposes to extend or otherwise change the nature of her role as, depending on the circumstances, it may be necessary for you to make a fresh application.
 18. Once the appointment has been publicly announced or taken up, we will publish this letter on the Committee's website and in the relevant annual report.

Yours sincerely

Andrea Benjamin
Committee Secretariat