



OFFICE OF THE ADVISORY COMMITTEE ON BUSINESS APPOINTMENTS

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June 2021

BUSINESS APPOINTMENT APPLICATION: Paul Madden

1. Paul Madden has requested advice on taking up an appointment with ESR, as an Advisor. Mr Madden was previously British Ambassador to Japan from January 2017-February 2021.

Application Details

2. ESR is a company based in Hong Kong focused on logistics and real estate in the Asia Pacific market. It works in the building and operating of warehouses. Its website reports that, as of June 2020 the company had \$26.5 billion in assets, 18.7 million square meters of land and over 600 employees.

3. Mr Madden wishes to take up a role as an Advisor, offering advice to the organisation across its businesses in Japan and Asia Pacific. He stated this role would not involve contact with the UK Government as it would be advising on Asia Pacific matters. He stated he will be '*providing independent advice on economic, political, governmental and industrial policy matters in Asian markets*'. He also stated that the appointment may involve generic advice on working with the Japanese and possibly other Asia Pacific governments but stated this would not be drawing on any sensitive information from his time in office.

4. Mr Madden stated he had only limited contact with ESR whilst in office, such as attending a ground-breaking ceremony for one of its warehouses. He stated that he was not involved in any regulatory or policy work that would have specifically affected ESR; nor did he have any involvement in grants or contracts; nor access to any sensitive information about competitors or upcoming policy.

5. The Foreign, Commonwealth and Development Office (FCDO) confirmed Mr Madden's application details as above. It had no concerns with the appointment, confirming he had only routine contact with ESR whilst in office and did not make any policy, contractual or regulatory decisions that would have affected ESR specifically. It noted that Mr Madden was involved in the negotiation of the UK's trade deals with Japan and would have had knowledge of Brexit negotiations. However, with the conclusion of the UK trade deal negotiations with Japan and the EU the FCDO did not believe he would have access to policy, commercial or other departmental information, knowledge of which could give the prospective employer an unfair advantage. It stated that Mr Madden's appointment should be subject to the standard 6 month waiting period and should not return to the country he held post in for these 6 months.

The Committee's Consideration

6. The Committee considered that as Mr Madden had only routine contact with ESR whilst he was in office; was not responsible for any policy, contractual or regulatory decisions specific to ESR; and the Department raised no concerns, the risk that this appointment is a reward for actions taken in office is low.

7. The Committee considered the FCDO's views that Mr Madden would no longer have access to sensitive policy or commercial information. However Mr Madden may have been privy to information about Brexit negotiations from his time in office, and more general information about diplomatic affairs that could be seen to be of benefit to any company. The Committee considered the fast moving nature of negotiations; the UK has now left the EU and the trade deal negotiations with Japan were also concluded in September 2020. This means Mr Madden's stated start date will be a year after the conclusion of negotiations with Japan and 9 months after the end of the Brexit transition period (1 January 2021). This means any advantage offered by Mr Madden's access to information about these negotiations will be significantly reduced. Nevertheless, the Committee would draw Mr Madden's attention to the privileged information ban below.

8. The Committee considered that Mr Madden's UK Government and diplomatic network could be seen to constitute an unfair advantage to ESR if improperly used. It noted that Mr Madden would not have contact with the Government in this role. However, it would therefore draw his attention to the restrictions below which make it clear he must not lobby the UK Government, or become involved in bids and contracts related to the UK Government in this role.

9. The Committee also considered that Mr Madden would have extensive contacts in other governments as a result of his time in Crown service. There is a risk that this may offer ESR an unfair advantage. He is expected to exercise his own discretion on probity when working with contacts he has gained as a result of his time in office in commercial organisations and other governments, however he must not lobby any such contacts for the purposes of securing business for ESR, as the conditions below make clear.

10. Taking into account the specific facts in this case, in accordance with the Government's Business Appointment Rules, the Committee advises Madden's work with **ESR** be subject to the following conditions:

- a 6 month waiting period from his last day in post;
- he should not draw on (disclose or use for the benefit of himself or the persons or organisations to which this advice refers) any privileged information available to him as a Crown Servant. In the context of this general provision, the Committee considers he should specifically avoid giving ESR (including clients parent companies, subsidiaries and partners), privileged insight based on information from his time in Crown service into Brexit related issues, insofar as it as it pertains to UK's negotiating strategy post its departure from the EU; and
- for two years from his last day in Crown service, he should not become personally involved in lobbying the UK Government, on behalf of ESR (including parent companies, subsidiaries, partners and clients). Nor should he make use, directly or

indirectly, of his government and/or Crown service contacts to influence policy, secure funding/business or otherwise unfairly benefit ESR (including parent companies, subsidiaries, partners and clients);

- for two years from his last day in Crown service, he should not become personally involved in lobbying contacts he has developed during his time in office and in other governments and organisations for the purpose of securing business for ESR (including parent companies, subsidiaries and partners);
- for two years from his last day in office he should not advise ESR (or its parent companies, subsidiaries, partners and clients) on the terms of, or with regard to the subject matter of, a bid or contract with, or relating directly to the work of the UK Government.

11. 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.

12. 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."

13. I should be grateful if you would ensure that we are informed as soon as Mr Madden takes up this position, or if it is announced that he 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 which have not been taken up or announced, and this could lead to a false assumption being made about whether he had complied with the Rules.

14. I should also be grateful if you would ask that Mr Madden inform us if he proposes to extend or otherwise change the nature of his role as, depending on the circumstances, it may be necessary for him to make a fresh application.

15. Once this commission 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

Sam Lynch
Committee Secretariat

