



OFFICE OF THE ADVISORY COMMITTEE ON BUSINESS APPOINTMENTS

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BUSINESS APPOINTMENT APPLICATION: Lee Cain, Charlesbye, Independent Consultancy.

1. Mr Cain sought advice from the Advisory Committee on Business Appointments (the Committee) under the government's Business Appointments Rules for former Crown servants (the Rules) on his proposal to establish an independent consultancy called Charlesbye. The material information taken into consideration by the Committee is set out in the Annex.
2. The purpose of the Rules is to protect the integrity of the government. Under the Rules, the Committee's remit is to consider the risks associated with the actions and decisions made during Mr Cain's time in office, alongside the information and influence he may offer his consultancy and its future clients. The Committee has advised that a number of conditions be imposed to mitigate the potential risks to the government associated with this consultancy under the Rules; this does not imply the Committee has taken a view on the appropriateness of this appointment for the former Director of Communications at No. 10 in any other respect.
3. The Rules set out that Crown servants must abide by the Committee's advice¹. It is an applicant's personal responsibility to manage the propriety of any appointment. Former Crown servants are expected to uphold the highest standards of propriety and act in accordance with the 7 Principles of Public Life.

The Committee's advice

Consultancy

4. When considering Mr Cain's application to set up an independent consultancy, the Committee² took into account that he proposes to set up a consultancy which is broadly defined as offering *'strategic counsel to CEOs and senior*

¹ Which apply by virtue of the Civil Service Management Code, The Code of Conduct for Special Advisers, The Queen's Regulations and the Diplomatic Service Code

² This application for advice was considered by Jonathan Baume; Andrew Cumpsty; Sarah de Gay; Isabel Doverty; The Rt Hon Lord Pickles; Richard Thomas; Mike Weir; Lord Larry Whitty and Dr Susan Liataud.

executives - giving advice on corporate strategy, crisis management, reputational safeguarding and effective communication campaigns'. The Committee considered the broad nature of the consultancy to raise potential risks.

5. The Committee recognised it would not be improper for Mr Cain to operate a consultancy which draws on generic skills and experience he gained from his time in government. However, there are risks that arise under the Government's Business Appointment Rules, where work is related to his time in office. Given his role as Director of Communications at No. 10, he will have had sight of a wide range of information and policy that may provide an unfair advantage to a broad range of organisations; further there are risks attached with his access to contacts within government.
6. The Committee would remind Mr Cain that he must not draw on privileged insight from his time in office, generally or more specifically - for example around the government's planning on the impact of the UK's departure from the EU - which the Committee noted he might be seen to have insight into.
7. The Committee noted his ongoing duty of confidentiality as a former Special Adviser. Further a three month waiting imposed by the Cabinet Office has put some space between his government access and his starting this consultancy.
8. The Committee considered it was possible to mitigate the general risks presented in this application by imposing conditions on the consultancy itself, including the standard condition which prevents individuals' from drawing on privileged information, noting in this context he should specifically avoid giving any of his clients privileged insight into the UK's negotiating strategy post its departure from the EU. Further conditions below include a ban on lobbying the UK Government and a restriction on providing advice on the terms of, a bid or contract relating directly to the work of the UK Government, to mitigate the potential for unfair advantage to his clients if they apply for contracts or funding from the Government.

Future commissions

9. Mr Cain will need to seek advice from the Committee for each commission he wishes to accept. Whether the conditions set out below can sufficiently mitigate the risks presented by any future commission he proposes to take up will depend on the specific details of each piece of work.
10. Given the broadly defined nature of Mr Cain's consultancy, the Committee wanted to make it clear that applications where there is a connection between his former responsibilities and the area he is looking to work in outside government, will be more likely to give rise to risks under the Rules and any such application will need close scrutiny. For example, should Mr Cain seek to provide advice on matters where he had insight or access to sensitive information in office, conditions alone may not be sufficient to mitigate the risks presented. The Committee will therefore need to carefully consider the suitability of this work, and may advise that a waiting period is required. Where

conditions and a suitable waiting period cannot appropriately mitigate the risks, the Committee may advise the work is unsuitable³ to take up within the two years the Rules apply. The Committee will consider such risks on a case by case basis.

11. The Committee also advises that when seeking work and/or commissions, he should adhere to the conditions below.

12. The Committee's advises, under the Government's Business Appointment Rules, that this appointment, to set up an **Independent Consultancy, Charlesbye**, should be subject to the following conditions:

- 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 from his time in Crown service. In the context of this general provision, the Committee considers he should specifically avoid giving his independent consultancy or its clients, 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;
- for two years from his last day in Crown service, he should not become personally involved in lobbying the UK government or any of its Arm's Length Bodies on behalf of those he advises under his independent consultancy (including parent companies, subsidiaries, partners and clients); nor should he make use, directly or indirectly, of his contacts in the government and/or Crown service to influence policy, secure business/funding or otherwise unfairly advantage those he advises under his independent consultancy (including parent companies, subsidiaries, partners and clients);
- for two years from his last day in Crown service he should not provide advice to any company or organisation 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 or any of its Arm's Length Bodies; and
- for two years from his last day in Crown service, before accepting any commissions for his independent consultancy and or/before extending or otherwise changing the nature of his commissions, he should seek advice from the Committee. The Committee will decide whether each commission is consistent with the terms of the consultancy and consider any relevant factors under the Business Appointment Rules.

13. 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.

³ Should an applicant subsequently take up or announce this work ACOBA will publish relevant information.

14. 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."*
15. As with all Special Advisers, the Committee makes this recommendation on the understanding that, if he has not already done so, Mr Cain must confirm in writing to his department that he recognises that he continues to be bound by the provisions of the criminal law (including the Official Secrets Act) which protect certain categories of information, and by his duty of confidentiality owed to the Crown.)
16. I should be grateful if you would inform us as soon as Mr Cain takes up employment with this organisation, or if it is announced that he will do so. 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 he has complied with the Rules.
17. Please also inform us if Mr Cain proposes to extend or otherwise change the nature of his consultancy as, depending on the circumstances, it may be necessary for him 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 where appropriate, refer to it in the relevant annual report.

Yours Sincerely,

Isabella Wynn
Committee Secretariat

Annex - Material information

1. Mr Cain sought the Committee's advice on establishing an independent consultancy called Charlesbye. Mr Cain said Charlesbye provides *'strategic counsel to CEOs and senior executives - giving advice on corporate strategy, crisis management, reputational safeguarding and effective communication campaigns'*.
2. The Cabinet Office provided their views on this application. It said due to the seniority of Mr Cain's official role, he would have had access to a wide range of information whilst in post that may be relevant to Charlesbye and their future clients. It said considering the seniority of the official role and the access to information that the applicant would have had, conditions banning lobbying of

HMG and reminding him of his ongoing duty of confidentiality are recommended. The Cabinet Office also said Mr Cain has already undergone a three month waiting period and work with future clients would start after this period has completed. It concluded that as this is a new consultancy firm and the client list is unknown Mr Cain should seek advice from the Cabinet Office and ACOBA once clients are established on a case by case basis.