



OFFICE OF THE ADVISORY COMMITTEE ON BUSINESS APPOINTMENTS

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BUSINESS APPOINTMENT APPLICATION: Nikki da Costa, former No.10 Special Adviser, Flint Global Ltd.

1. Ms da Costa 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 an appointment she wished to take up with Flint Global Ltd (Flint) as Specialist Partner. The material information taken into consideration by the Committee is set out in Annex A and B.
2. The purpose of the Rules is to protect the integrity of the government. As Director of Legislative Affairs at the Prime Minister's Office, Ms da Costa was responsible for providing strategic advice on parliamentary and legislative issues and she wishes to advise Flint and its clients on legislative and parliamentary process and policy and regulatory issues.
3. Under the Rules, the Committee's remit is to consider the risks associated with the actions and decisions Ms da Costa made during her time in service, alongside the information and influence she may offer Flint, based on the information provided by her and her former department.
4. The Committee considered whether this appointment was unsuitable given Ms da Costa's former role as Director of Legislative Affairs, but the Committee must also consider the information provided by the department about her specific dealings with this employer and the sector, including her previous experience in the sector before joining government. The Committee has advised that a number of conditions be imposed to mitigate the potential risks to the government associated with this appointment under the Rules; this does not imply the Committee has taken a view on the appropriateness of this appointment for a former Director of Legislative Affairs in any other respect.

5. 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 consideration of the risks presented

6. Flint provides strategic advice to business clients on policy and regulatory matters in the UK and the EU. The Committee² noted Ms da Costa did not meet with Flint in her role as Director of Legislative Affairs. The department also confirmed Ms da Costa made no decisions that were specific to Flint. Whilst there are risks associated with her joining Flint, there is no evidence she made decisions or took actions in office in expectation of this role.
7. As the former Director of Legislative Affairs responsible for advising on parliamentary and legislative issues, the Committee noted Ms da Costa had significant knowledge of privileged material around this area. It also noted she seeks to advise Flint and its clients in the general area she had involvement in - legislative and parliamentary process and policy and regulatory issues. In this regard, there is a risk her access to privileged information while in government could offer an unfair advantage to Flint and its clients. This risk is difficult to mitigate where the specific clients and projects are unknown - there is potential this work could overlap and conflict with matters she had responsibility for as Director of Legislative Affairs.
8. The Committee noted there are several mitigating factors raised by Ms da Costa and her former department, which reduce the scope of the above mentioned risks:
 - Ms da Costa was not materially involved in all Bills/legislation and her role was to drive forward the legislative programme as opposed to specifically policy development;
 - major pieces of work, including many of the Bills/legislation Ms da Costa was involved in, by their nature, are now in the public domain as they go through the legislative process;
 - information that is not in the public domain is continuing to be worked on or developed before matters are moved to the next stage, so Ms da Costa will have no sight of the next iteration of various Bills/legislation before they go to the next stage now that she is out of office;
 - the department considers there is a low risk Ms da Costa will have access to information which could provide a competitive advantage to Flint and therefore recommends the risks can be mitigated by a waiting period and standard conditions;
 - Ms da Costa is returning to her career, having gained expertise and knowledge in this sector outside of the government; and

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

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

- Flint has written to ACOBA (see Annex B) to confirm it will ensure Ms da Costa is not asked to work on matters that fall outside the Rules and confirming its work does not include lobbying or seeking to influence government in individual policy matters.
9. Whilst Ms da Costa is continuing in her long held career, she held a senior and pivotal role within government as the Director of Legislative Affairs at No.10. She is now moving to a company where she will advise on policy, regulatory issues and on legislative and parliamentary processes. There is an important distinction from advising on the policy subject matter and the general process of movement through the legislative process. However, despite the mitigating factors above, the Committee's view is there remains a risk Ms da Costa has privileged insight and influence that could be seen as offering an unfair advantage. The Committee considered the potential risks associated with her privileged access to information were most significant on matters she became involved in and had a material role in moving through the legislative programme.
10. The Committee considered there was a risk Ms da Costa will be seen to have significant influence within government due to her time at No.10. Although Ms da Costa noted she may encounter the government during wider business activity (at events and through her own personal network), it is not her intention to be involved in government work for Flint, nor to lobby the government - something she and Flint have made clear to the Committee. Flint confirmed to the Committee that it envisages no contact with the government in this role on behalf of the firm or its clients.

The Committee's advice

11. Whilst Ms da Costa has gained expertise, skills and knowledge in this sector prior to joining government there remains a risk in relation to her access to information. Given this role could involve matters directly related to her time in office, the Committee considered whether it would be appropriate for Ms da Costa to advise on anything that might have fallen to her as Director of Legislative Affairs. Noting her role in office, the Committee considered this risk was acute where Ms da Costa had some influence in respect of the legislation/bill in question. Therefore, the Committee felt it was necessary to limit Ms da Costa's role with Flint to prevent her from advising on any policy and/or legislative matters which she had a material role in developing or determining whilst at No.10.
12. Ms da Costa and Flint have confirmed there will be no lobbying of government in this role, in line with the expectations set out in the Rules. However, there is a risk she could be seen to be offering Flint unfair access and influence in this role. The Committee's advice is therefore that she should have no direct engagement with government on behalf of Flint. However, the Committee took into account she may have contact outside of her role and responsibilities at Flint at social occasions and wished to state this would not preclude social contact where the it was not on behalf of Flint; nor at events where government officials are present provided Ms da Costa refrains from discussing matters on behalf of Flint and/or its clients. The Committee also advises that she must not be involved in any work

Flint may seek to take up with the government, whether commercial bids for work, or for funding (noting this is not its area of work).

13. The Committee also thought it was necessary to put a significant gap between Ms da Costa's access to information and her joining Flint. The Committee recognised the opportunity for her to offer an unfair advantage is limited, given the publication of some of this information; and that she is prevented from drawing on such information and/or advising on specific matters. However, the Committee considered Ms da Costa's appointment should be made subject to a three month waiting period from her last day in Crown service. The Committee considered this gap would have been significantly longer if Ms da Costa was not returning to her former career. However, the Committee determined that in this case, it was a major mitigating factor. The waiting period alongside the conditions below, appropriately mitigates the risks under the Rules in relation to insight derived from any information she had access to as Director of Legislative Affairs.
14. Taking into account these factors, in accordance with the government's Business Appointment Rules, the Committee's advice is this appointment with **Flint Global Ltd** be subject to the following conditions:
 - a waiting period of three months from her last day in Crown service;
 - she should not draw on (disclose or use for the benefit of herself or the organisations to which this advice refers) any privileged information available to her from her time in Crown service. In the context of this general provision, the Committee considers she should specifically avoid giving Flint Global Ltd or its client, privileged insight based on information from her time in Crown service into Brexit related issues, insofar as it pertains to the UK's negotiating strategy post its departure from the EU;
 - for two years from her last day in Crown service, she should not become personally involved in lobbying the UK government or its Arms Length Bodies on behalf of Flint Global Ltd (including parent companies, subsidiaries, partners and clients); nor should she make use, directly or indirectly, of her contacts in the government and/or Crown service to influence policy, secure business/funding or otherwise unfairly advantage Flint Global Ltd (including parent companies, subsidiaries, partners and clients);
 - for two years from her last day in Crown service she should not have any engagement on behalf of Flint Global Ltd (including parent companies, subsidiaries, partners and clients) with the UK Government;
 - for two years from her last day in Crown service she should not undertake any work with Flint Global Ltd (including parent companies, subsidiaries, partners and clients) that involves providing advice on the terms of, or with regard to the subject matter of a bid with, or contract relating directly to the work of, the UK government or its Arms Length Bodies; and

- for two years from her last day in Crown service, she should not advise Flint or its clients on work with regard to any policy and/or legislative matters in which she had a material role in developing or determining as Director of Legislative Affairs at No.10.
15. 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 Ministerial Code or otherwise.
 16. 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." This Rule is separate and not a replacement for the Rules in the house.
 17. As with all Special Advisers, the Committee makes this recommendation on the understanding that, if Ms da Costa have not already done so, she 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.
 18. Ms da Costa must inform us as soon as she takes up employment with this organisation(s), or if it is announced that she 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 she has complied with the Rules.
 19. Please also inform us if Ms da Costa proposes to extend or otherwise change the nature of her role as, depending on the circumstances, it may be necessary for her to make a fresh application.
 20. Once the appointment(s) 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 A - Material information

The role

1. Ms da Costa seeks to join Flint in a part-time, paid role as a Specialist Advisor.
2. Ms da Costa said Flint provides strategic advice to business clients on policy and regulatory matters in the UK and EU. According to their website, Flint is a business advisory company focusing on business, politics, government and policy. The website 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.'* Flint's website also states that *'members of our multi-national team have experience of working at the most senior levels in European governments, the EU Commission, regulatory agencies, competition bodies and the private sector'*.
3. Ms da Costa said she will offer strategic advice to Flint clients in different sectors on policy and regulatory issues and on legislative and parliamentary process, as well as politics and the Conservative Party. Ms da Costa noted she would *'...make a distinction between advising on [the policy of bills] and the process these bills will go through in parliament (which is generalised and not specific nor specialist privileged knowledge).'* She said she will provide this advice across Flint's client base and will also take on a management role on a limited number of individual client accounts. She said she will contribute to the training and development of Flint staff.
4. Ms da Costa said there is likely to be contact with officials in the course of broad business activity, such as networking and external engagement, and social interaction - particularly given her social network includes a number of government officials. She confirmed her role will not involve direct or indirect lobbying, nor use of her contacts in government on behalf of Flint or its clients.
5. Flint also confirmed Ms da Costa's role will not need to have direct professional contact with people in No10 Downing Street or elsewhere at the heart of government to fulfil her role; and that Flint does not lobby government or seek to influence individual policy matters on behalf of its clients (see Annex B).

Ms da Costa's dealings in office

6. Ms da Costa confirmed she did not meet with Flint in her role as Director of Legislative Affairs and did not make any policy or contractual decisions specific to Flint. Nor did she meet with competitors of Flint.
7. Ms da Costa said her role in office focuses on ensuring manifesto commitments and the Prime Minister's priorities which require legislation are honoured during the course of the parliamentary term. She said she provided strategic advice on parliamentary and legislative issues, and a political feel for how the Conservative Parliamentary Party will respond on issues as they emerge - with

the aim of avoiding parliamentary battles emerging on the floor of the House of Commons. She said her long term work focuses on the immediate parliamentary session, and the parliamentary session ahead, and short term work on handling imminent rebellions. Ms da Costa noted she did not get involved in the detail nor have any material role in the development of the majority of the underlying policy. As the Director of Legislative Affairs she confirmed her role was to deliver the programme and ensure they get on to the statute books.

8. Ms da Costa said all legislation for the current session (the second session) was announced in the Queen's Speech, and the vast majority of Bills have now been introduced to Parliament or announced in significant detail. Although there were exceptions, she said she was confident that there was little that would not be in the public domain by the time she planned to take up post at Flint in September.
9. Ms da Costa said planning for the third session has only just commenced, and the Leader of the Commons has written to departments asking for their bids. Their returns are requested by 10 September - after she has left- and as such she will not see these nor be involved in the prioritisation process for this session. She said long term planning, outside of issues requiring legislation, has been limited since January and she has not been privy to these discussions.
10. In terms of short term work, she said due to the summer recess creating a significant gap and being relatively close to the start of the session, the vast majority of bills have not reached amending stages, and government has not started looking at concession strategies. She is therefore not privy to privileged information on how the government might react if an issue emerges in parliament. Such work is done usually in the month preceding the key parliamentary moment.

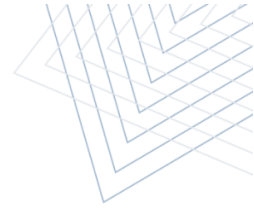
Department Assessment

11. The Cabinet Office confirmed the details provided by Ms da Costa and confirmed it has no relationship with Flint.
12. It said as a senior member of the No.10 political team, Ms da Costa's role at No.10 included providing advice to the Prime Minister on the legislative programme and parliamentary matters. Therefore, she would have had access to legislative and parliamentary policy/ programmes that would be relevant to Flint and its client base. The Queen's speech programme was announced in June and the next programme will not have been finalised, therefore the specific policy information Ms da Costa will have been party to will mainly now be in the public domain.
13. The department confirmed there was limited information that is not yet in the public domain. It further said that in respect of any information not yet in the public domain (such as information in respect of upcoming bills on planning, animal welfare, NI legacy, procurement and product security and telecoms), her

knowledge would no longer be sensitive by November. In this regard, the Cabinet Office noted one bill was being reconsidered following the consultation process; another was undergoing the consultation process and she had not seen the analysis of the responses or what will follow; and the others were planned for autumn introduction and therefore the information she had been privy to would then be in the public domain.

14. The Cabinet Office confirmed her last day in Crown service was 6 August 2021 at which point Ms da Costa no longer had access to information, government IT etc.
15. The Cabinet Office said in light of the above, the expertise and seniority of the applicant and the type of role the applicant expects to undertake at Flint Global, there were risks attached to this application under the Rules. It considered the undertaking that she is not expected to be in contact with No10 or other central government areas helps to mitigate some of the risks.
16. The Cabinet Office recommended the standard conditions and a waiting period of 3 months should apply. It noted it would have advised a 6 month wait had it not been for the fact that the majority of the specific sensitive information she will have been party to is in the public domain.

Annex B - Correspondence from Flint



Catriona Marshall,
The Advisory Committee on Business Appointments

Thursday 29th July 2021

Dear Catriona,

Flint Global: Nikki da Costa

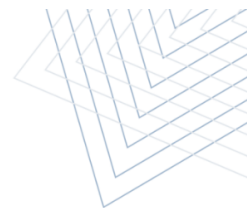
As you are I believe aware we have invited Nikki da Costa to join Flint Global as a part time partner (a role we describe as specialist partner) in September 2021. I understand that Nikki has applied for ACOBA clearance.

Flint is a business advisory company established in 2015. The Managing Partners are me and Ed Richards. We offer our clients strategic and substantive advice to help them understand and navigate policy, regulatory, political, and economic issues that affect their commercial interests. We do not lobby government politicians or officials on behalf of our clients or represent them in seeking to influence individual policy decisions. Our aim is to help them understand and engage constructively with the processes of policy making and regulation. Our clients are established corporates across several sectors, with interests covering areas such as trade, regulation, investment, and sustainability.

Nikki's role in Flint will be to help us provide first class advice, drawing on her long experience in both the private and public sectors. Her contribution will cover the processes of government and parliament, and how decisions concerning business are made and may be affected by political considerations in the Conservative party and more widely. Nikki will also take on a management role as part of the Flint leadership team and will draw on her coaching background to contribute to the training and development of Flint staff.

We fully understand and respect the requirements of ACOBA. Flint has been operating for six years and several of our team, including myself, have been through the ACOBA process. In this time there has never been any example, or suggestion, of a member of Flint infringing the letter or spirit of the rules. We attach great importance to our individual and collective reputation for probity and integrity, which is at the heart of the Flint brand.

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In this respect, we will take care not to ask Nikki da Costa to undertake any activity that might be, or be perceived to be, inappropriate in view of her recent position in government. We do not envisage that Nikki will need to have direct professional contact with people in No10 Downing Street, or elsewhere at the heart of government, to fulfil her role with us. Nikki is aware that she will need to be careful as part of her normal social and personal contact to ensure these remain strictly social. We are aware of the rules and guidance governing the behaviour of consulting firms in respect of such contacts and follow them scrupulously. Nor do we envisage that Nikki would draw on privileged information in her work with us. What our clients will value is her judgement and guidance based on the experience she has acquired over time.

I hope that this letter provides clarity and reassurance about the role Nikki will take on with Flint.

Yours sincerely,

A handwritten signature in black ink, which appears to read "Simon J. Fraser".

Sir Simon Fraser
Managing Partner