



OFFICE OF THE ADVISORY COMMITTEE ON BUSINESS APPOINTMENTS

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1. You approached the Advisory Committee on Business Appointments (the Committee) under the government's Business Appointments Rules for former ministers (the Rules) seeking advice on taking up an appointment as an Honorary Professor at the University of Edinburgh. The material information taken into consideration by the Committee is set out in 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 time in office, alongside the information and influence a former minister may offer University of Edinburgh.
3. The Ministerial Code sets out that ministers must abide by the Committee's advice. It is an applicant's personal responsibility to manage the propriety of any appointment. Former ministers of the Crown, and Members of Parliament, are expected to uphold the highest standards of propriety and act in accordance with the 7 Principles of Public Life.

The Committee's advice

4. When considering this application, the Committee¹ took into account this role as Honorary Professor is unpaid². Generally, the Committee's experience is that the risks related to unpaid roles are limited. The purpose of the Rules is to protect the integrity of the government by considering the real and perceived risks associated with former ministers using privileged access to contacts and information to the benefit of themselves or those they represent; and to mitigate the risks that individuals may make decisions or take action in office to in expectation of rewards, on leaving government. These risks are significantly limited in unpaid cases due to the lack of financial gain to the individual.

¹ This application for advice was considered by Jonathan Baume; Andrew Cumpsty; Sarah de Gay; Isabel Doverty; Dr Susan Liautaud; The Rt Hon Lord Pickles; Richard Thomas; Mike Weir; Lord Larry Whitty.

² By unpaid the Committee means that no remuneration of any kind is received for the role. Applicants must declare where it is agreed or anticipated they may receive remuneration or some other compensation at some stage in the future.

5. The Committee took into account that you met with the University while in government and attended events or lectures the University held. However, the Committee noted the department's comments that you did not make any specific decisions affecting the University. Given the above and the unpaid nature of this role, the Committee considered there was no evidence to suggest you were offered this role as a reward for actions or decisions taken in office.

6. Given your role in government was high profile there is a risk you had access to a wide range of highly sensitive information. However, the Committee noted you are subject to strict obligations of confidentiality and any disclosure of this information would be a breach of the Law Officer Convention. Further, the unpaid nature of this appointment limits the real and perceived risk of individuals making improper use of information they had access to while in office for their personal benefit.

7. As above the Committee recognised that the risks in this unpaid appointment are limited. The Committee did not consider this appointment raises any particular proprietary concerns under the government's Business Appointment Rules. The standard conditions below, preventing you from drawing on your privileged information and using your contacts to the unfair advantage of their new employer, will sufficiently mitigate the risks in this case.

8. Although this application has been made before you have left government the Committee is prepared to provide advice now. However, the Committee wishes to make clear its recommendation is made on the basis of the information provided. If you should become aware of any circumstances that would be relevant to your application and this advice, in the gap between receiving this advice and taking up this role, you should revert to the Committee for further advice.

9. Taking into account these factors, in accordance with the government's Business Appointment Rules, the Committee advises this appointment with the **University of Edinburgh** 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 from your time in ministerial office;
- for two years from your last day in ministerial office, you should not become personally involved in lobbying the Scottish government or its Arms' Length Bodies on behalf of University of Edinburgh (including parent companies, subsidiaries, partners and clients); nor should you make use, directly or indirectly, of your contacts in the government and/or Crown service to influence policy, secure business/funding or otherwise unfairly advantage University of Edinburgh (including parent companies, subsidiaries, partners and clients); and
- for two years from your last day in ministerial office you should not undertake any work with University of Edinburgh (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 Scottish government or its Arms' Length Bodies.

10. 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 as a member of the House of Commons.

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, the Civil Service Code 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.*" This Rule is separate and not a replacement for the Rules in the House.

13. I should be grateful if you would inform us as soon as you take up this role, or if it is announced that you 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 you had complied with the Rules and the Ministerial Code.

14. Please also inform us if you propose to extend or otherwise change the nature of your role as, depending on the circumstances, it may be necessary for you to make a fresh application.

15. 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.

The Rt Hon Lord Pickles

Rt Hon W James Wolffe QC FRSE

Annex - Material information

The role

1. You said the University of Edinburgh is an academic institution. The university is a member of a number of prestigious academic organisations, including the Russell Group, the Coimbra Group, the Universitas 21, the Una Europa, and the League of European Research Universities, a consortium of 23 leading research universities in Europe. It has the third largest endowment of any university in the United Kingdom, after the universities of Cambridge and Oxford.
2. You said you will be an Honorary Professor and the role carries no obligations, other than making yourself available, so far as in your judgment is possible, for consultation by University colleagues. You intend to undertake academic research, and this position will provide an academic “home” for that work, and to participate in academic seminars.
3. You do not expect your role to involve contact with government.

Dealings in office

4. You confirmed you had dealings with Professor David Fox, of Edinburgh University Law School, in relation to his participation in a Scottish Government Working Group which you co-chair, on the Legal Regime applicable to Crypto-assets. You also visited an exhibition at the Scottish Parliament for the Feminist Judgments Project, hosted by Professor Sharon Cowan of Edinburgh University Law School. You said you have also attended some public lectures and post-lecture dinners at Edinburgh University Law School.
5. You also informed the Committee the Crown Office and Procurator Fiscal Service (COPFS) procures pathology and toxicology services under contract, inter alia, from Glasgow University. As Lord Advocate, you had responsibility for a programme of work being undertaken by COPFS which is designed to put in place arrangements for the provision of those services which will be sustainable over the longer term. You also said you had one meeting, in your capacity as Lord Advocate, with the Principal of Glasgow University to discuss specific issues relating to the contract between the University and COPFS for the provision of toxicology services. You said you have participated in 2020 as a panellist in an on-line seminar co-sponsored by Glasgow University on the legal consequences of Brexit. You said you were also meant to have participated earlier this year as a panellist in a seminar on the legal consequences of Brexit sponsored by Kings College London, although in the end you were unable to attend that seminar.
6. You said there was a relationship between your former department, the Scottish Government, and the University as COPFS, (for which, as Lord Advocate, you were ministerially responsible) is providing practical assistance to Professor Sharon Cowan, who is undertaking a research project into the use of sexual history evidence in the Scottish courts.
7. You further told the Committee as the Scottish Government’s senior Law Officer, you were privy to legal work within the Scottish Government concerning the higher education sector (as of other sectors which are within the policy responsibilities of the Scottish Government). However, you said you are bound by

strict professional obligations of confidentiality in respect of all such work and, indeed, disclosure of your involvement (or non-involvement) in any specific matter by you or by the government would be a breach of the Law Officer Convention. You also told the Committee as Glasgow University provides pathology and toxicology services to COPFS under contract; and, as Lord Advocate, you have been privy to commercially sensitive information about that contract.

Department Assessment

8. The Scottish Government confirmed the details you provided. It said the Lord Advocate's responsibilities are wide and impact across public and private organisations. However, it is not aware of any specific decisions affecting the University that would constitute a potential conflict.

9. It confirmed it has occasional engagement with Edinburgh University Law School on research and similar matters. But it is not aware of anything that would cause a conflict from your proposed role, subject to the specific academic work that is undertaken.

10. The department also stated the Lord Advocate does not have an ultimate decision making role in Cabinet, for example affecting higher education policy or budgets. It is not aware of any contractual or commercial decisions that he would have taken affecting the University.

11. It also confirmed any sensitive information which you were aware of is subject to strict obligations of confidentiality. Those obligations are clear and remain in place after the applicant leaves their current position.

12. It did note the application is not specific about the type of academic research you will be undertaking. But it said you will be aware of any sensitivities in the choice of research topic and that this does not result in any perceived conflict.

13. The Lord Advocate's role is high profile and involves awareness of a wide range of highly sensitive information. However, given your professional and other obligations of confidentiality and the proposed nature of the engagement with the Law School, the risk associated with the appointment is low.