



## **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 Chair at the Abbotsford Trust. 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 the Abbotsford Trust.
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 Committee<sup>1</sup> took into account this role as Chair is unpaid<sup>2</sup>. 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

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<sup>1</sup> 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.

<sup>2</sup> 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.

rewards, on leaving government. These risks are significantly limited in unpaid cases due to the lack of financial gain to the individual.

5. The Committee took into account that you did not meet with the Abbotsford Trust while in government and you did not make any specific decisions affecting the Abbotsford Trust. 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.

#### The Committee's advice

7. 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. The Committee would draw your attention to the below lobbying and contracts and bids ban that includes governments' arms' length bodies, for clarity this would include Historic Environment Scotland, the National Heritage Lottery Fund, VisitScotland and the South of Scotland Enterprise Agency.

8. Taking into account these factors, in accordance with the government's Business Appointment Rules, the Committee advises this appointment with the **Abbotsford Trust** 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 the Abbotsford Trust (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 the Abbotsford Trust (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 the Abbotsford Trust (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.

9. 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.

10. 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.

11. 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.

12. 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.

13. 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 Abbotsford Trust is a Charitable trust (a company limited by guarantee) which owns and maintains Abbotsford House and its grounds, the

home of Sir Walter Scott in the Scottish Borders. This is a significant heritage asset and tourist destination.

2. You said as Chair you will provide leadership and direction to the Board of Trustees, enabling them to fulfil their responsibilities for the overall governance and strategic direction of The Abbotsford Trust. To facilitate the development of the organisation's aims, objectives and goals in accordance with the governing document, legal and regulatory guidelines. You informed the Committee that the Board of Trustees are responsible for the overall governance and strategic direction of The Abbotsford Trust including developing its vision, mission and corporate business strategy in accordance with the governing document, legal and regulatory guidelines. The Board is also responsible for ensuring the sound legal, financial and people management of the organisation. As the Board are responsible and liable for the governance and functioning of the charity, it is accountable in varying degrees to a variety of stakeholders, including: funders, customers, members, partners, the Scotland Charity Commission and Companies House. The partnership between the Board and the Chief Executive and other senior staff is essential to the delivery of good governance, with the Board taking the lead on strategic matters and the CEO and staff responsible for the operational delivery.

3. Consistent with the significance of Abbotsford House as a heritage asset and tourist destination, you said the Trust has relationships with Historic Environment Scotland (HES), the National Heritage Lottery Fund, VisitScotland and the South of Scotland Enterprise Agency (SOSE). VisitScotland is an executive non-departmental public body of the Scottish Government. HES and SOSE are statutory bodies established respectively under the Historic Environment Scotland Act 2014 and the South of Scotland Enterprise Act 2019; their members are appointed by the Scottish Government.

4. You said these various relationships have included the provision to Abbotsford of grant funding and professional advice. You also mentioned the Minister responsible for tourism and culture in the Scottish Government has taken an interest generally in the Abbotsford Trust, for example in the context of plans to celebrate Scott's 250th anniversary this year. You said the Abbotsford Trust is aware of the need for you to seek and obtain advice from ACOBA in relation to this proposed appointment, and of the conditions which ACOBA is likely to place on your acceptance of the invitation to join as Chair. You noted a Trustee has been identified, who would be in a position to deal with any engagement which may be required with Scottish Government and any relevant Arm's Length Bodies until the expiry of any conditions placed on your appointment.

5. You also told the Committee prior to your appointment as Lord Advocate, you were an active Trustee of the Abbotsford Trust. You said your involvement arose as a result of the longstanding relationship between the Faculty of Advocates (of which you were then Dean) and the Abbotsford Trust (and the Faculty of Advocates involvement at the Abbotsford Trust following its transfer from Scott's family to the Abbotsford Trust in 2010). You said your proposed appointment as Chair now reflects a resumption of your previous interest and involvement.

## Dealings in office

6. You confirmed you did not meet with the Abbotsford Trust and made no decisions specifically affecting it. You also said there are relationships, including funding, between the Abbotsford Trust and:

- Historic Environment Scotland
- the National Heritage Lottery Fund
- VisitScotland
- the South of Scotland Enterprise Agency

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 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.

## 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 Trust that would constitute a potential conflict.

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

10. It also confirmed any sensitive information which you were aware of is subject to strict obligations of confidentiality. It said those obligations are clear and remain in place after you leave office. It noted the Lord Advocate's role is high profile and involves awareness of a wide range of highly sensitive information. However, it said given your professional and other obligations of confidentiality, the unpaid nature of this role, and your previous relationship with the Abbotsford Trust, the risk associated with the appointment appears low.

11. The Scottish Government said there is no obvious requirement for anything other than standard conditions, which it said should also apply to engagement with the four named public bodies.