



OFFICE OF THE ADVISORY COMMITTEE ON BUSINESS APPOINTMENTS

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The Rt Hon Steve Barclay MP
Chancellor of the Duchy of Lancaster and Minister for Cabinet Office

29 April 2022

Dear Steve

I am writing to you in my capacity as Chair of the Advisory Committee on Business Appointments (ACOBA) to bring to your attention a breach of the government's Business Appointment Rules (the Rules). This is outlined in the correspondence ACOBA has exchanged with the Cabinet Office and Mr Coats enclosed.

The Rules are set by the government, with the policy owned by the Cabinet Office. ACOBA is independent, with a remit to consider applications received under those Rules, consider the risks and advise on the conditions that should apply.

Mr Coats made an application for advice on joining the West Hertfordshire Hospitals NHS Trust (the Trust) as Chief Executive Officer. ACOBA received the application from the Cabinet Office on Thursday 6 April. Whilst considering this application, the Trust announced the appointment at a public board meeting on Friday 7 April. Failure to seek and await advice in this case was a breach of the government's Rules and the requirements set out in the Civil Service Management Code.

In the Committee's experience, the risks under the Rules in these types of appointments are usually limited. Previous advice for other public sector roles that do not overlap with an individual's responsibilities in government service, have generally been subject to a standard set of conditions preventing individuals from drawing on privileged information; and lobbying the UK government - in particular around regulatory and funding decisions

where relevant. However, it is disappointing that in this case, a breach of the Rules has resulted in possible damage to the integrity of the system.

As outlined in the correspondence, it was not Mr Coats' who made the announcement¹. On the contrary, he said he explained to the Trust that he was subject to the Rules, and that any announcement had to wait until the full process had been completed. The Trust opted not to comply with the process and did not await advice due to growing concerns they needed to provide certainty as a result of departing senior executives.

The needs of the employing organisation and the potential desire to put its needs before that of the government's processes can put applicants in a difficult position. This breach indicates a lack of clarity on the various standards of behaviour, rules and legislation reaches further than former Ministers and Crown servants. Removing ambiguity from the Rules and providing clarity on the consequences of failing to follow government's Rules is needed.

It is a matter for you to decide what appropriate action to take. However, as fault does not lie with Mr Coats, I believe it would be wrong to take any further action against the applicant in this case.

It is the Committee's policy to act transparently, including making public any failure to follow the Rules that it is made aware of.

Yours ever
Sue Pickles

The Rt Hon Lord Pickles

Copied to: Darren Tierney, Director General, Propriety and Ethics, Cabinet Office and Lord True CBE, Minister of State, Cabinet Office

Correspondence from ACOBA to Cabinet Office and Matthew Coats, DATE

¹<https://www.watfordobserver.co.uk/news/20052058.matthew-coats-appointed-new-chief-exec-west-hertfordshire-hospitals/>



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29 April 2022

I am writing to you with reference to Mr Coats' application for advice on a role with West Hertfordshire Hospitals NHS Trust, under the government's Business Appointment Rules (the Rules).

Mr Coats made an application for advice to join the West Hertfordshire Hospitals NHS Trust (the Trust) as Chief Executive Officer. ACOBA received the completed application from the Cabinet Office on Thursday 6 April. Whilst considering this application, the Trust announced the appointment at a public board meeting² on Friday 7 April.

The Rules state that new appointments / employment must not be announced, or taken up, before advice is provided. When asked for an explanation, the Cabinet Office provided a statement (annexed). It said Mr Coats had explained that any announcement must wait until the full process had been completed. The Trust opted not to comply with the Rules and did not await advice for this appointment. The Cabinet Office told ACOBA this was due to growing concerns the anonymous announcement did not create enough certainty once the Deputy Chief Executive also announced their departure³ on 5 April.

Mr Coats also wrote directly to ACOBA stating *'I'd be very grateful if you could pass on to the Committee my sincere apologies and regret that my new appointment was announced unilaterally by my prospective employer ahead of the ACOBA process being completed. I have tried to follow the process, and had informed this organisation about the process too. I'm very sorry this has happened'*.

Failure to seek and await advice before this role was announced in this case is a breach of the government's Rules and the requirement set out in the Civil Service Management Code.

²<https://www.watfordobserver.co.uk/news/20052058.matthew-coats-appointed-new-chief-exec-west-hertfordshire-hospitals/>

³<https://www.borehamwoodtimes.co.uk/news/20046093.deputy-chief-exec-helen-brown-leave-west-herts-nhs-trust/>

The Committee recognises it was not Mr Coats' who made the announcement. On the contrary, he has confirmed he told the Trust that he was subject to the Rules, and that any announcement had to wait until the full process had been completed. The Trust opted not to comply with the process and await advice. While the fault lies with the organisation, the Committee will not provide advice on this appointment.

In line with the Committee's policy of transparency, correspondence on this matter will be published on our website; and this letter will be copied to the Cabinet Office, as the owner of the Rules.

Isabella Wynn
Committee Secretariat

Annex - Statement from Mr Coats' office at the Cabinet Office

'The Trust had already announced an appointment without specifically naming Matthew Coats, however the Chair felt that this did not create enough certainty in the circumstances where the Deputy Chief Executive and CEO were both leaving. They were worried about the level of certainty they could offer at an important time for the local NHS to both medical staff within the Trust and partners in the wider health system. In addition, the Trust was worried about this leaking since inevitably a number of people at their end knew about the appointment of Matthew Coats to this role.'

Matthew explained the purpose and nature of the ACOBA process to the Trust, and directed them to the published detailed guidance. He explained that the process applied to everybody, that this was clear in the guidance, and that announcements had to wait until the full process had been completed.

The Trust Chair included this in his opening statement in the public part of the Trust Board meeting. He qualified the appointment by saying that there were still processes to be completed but was not specific about the ACOBA process.'

