



OFFICE OF THE ADVISORY COMMITTEE ON BUSINESS APPOINTMENTS

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BUSINESS APPOINTMENT APPLICATION: The Rt Hon W James Wolffe QC FRSE, former Lord Advocate, Scottish Government. Appointment with the Slynn Foundation.

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 a trustee for the Slynn Foundation. The material information taken into consideration by the Committee is set out in the annex below.
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 Slynn Foundation.
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.
4. It should also be noted that in addition to the conditions imposed on this appointment under the government's Business Appointment Rules, there are separate rules in place with regard to your role as a member of the House of Commons.

The Committee's consideration

5. When considering this application, the Committee¹ took into account this role as a trustee is unpaid. Generally, the Committee's experience is that the risks related to unpaid roles are limited. The purpose of the Rules is to protect the

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

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.

6. The Committee took into account that you did not meet with the Slynn Foundation while in office and did not make any funding or policy decisions directly affecting the Slynn Foundation. Therefore, the Committee considered the risk that you could be seen to have been offered this role as a reward for decisions made, or actions taken in office, was low.
7. The Committee noted that as the former Lord Advocate there is an inherent risk you could be perceived as having access to relevant privileged information and knowledge, which could unfairly benefit the Slynn Foundation. However, the unpaid nature of this appointment limits the real and perceived risk of you making improper use of information you had access to while in office for your personal benefit and you have an ongoing duty of confidentiality.

The Committee's advice

8. The Committee did not consider this appointment raises any particular proprietary concerns under the government's Business Appointment Rules. Whilst there are inherent risks associated with your access to sensitive information and contacts, the standard conditions below, preventing you from drawing on your privileged information and using your contacts to the unfair advantage of your new employer, will sufficiently mitigate in this case.
9. Taking into account these factors, in accordance with the Government's Business Appointment Rules, the Committee advises this appointment with **the Slynn Foundation** 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 Slynn Foundation (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 of the Slynn Foundation (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 Slynn Foundation (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. 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.
11. 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.
12. 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.
13. 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.
14. 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

Annex - Material information

The role

1. You seek to join the Slynn Foundation in an unpaid, part-time role as a Trustee.

2. You said the Slynn Foundation is a UK based charity working with senior judges and justice institutions around the world to enhance the rule of law and to improve professional understanding of human rights, mediation and legal practice. You informed the Committee a central objective of the Slynn Foundation is the promotion and encouragement of education aimed at advancing the rule of law in all its aspects and the protection of human rights. The Foundation is able to give high-level impartial advice and assistance to judiciaries in other jurisdictions through its experience both in the United Kingdom and internationally. It conducts training courses, conferences and seminars; these programmes are devised in close consultation with host country authorities to assess specific needs. The Foundation is able to access its network of senior judges and other legal professionals to deliver advice and training based on their experience.
3. The website states the Foundation works to provide links between the English legal system and the legal systems internationally. It states the charity appreciates that learning from a peer provides the most effective form of training.
4. You said as a Trustee, you would have the usual responsibilities of a charity trustee in respect of the governance and activities of the Foundation. Trustees of the Slynn Foundation may take part personally in the delivery of training courses, seminars and the like provided pursuant to the Foundation's objectives; and in engagement with the judiciary and legal profession in jurisdictions in which it becomes involved.
5. You informed the Committee the Slynn Foundation engages with FCDO in relation to its work; and may respond to invitations/suggestions for projects by UK Ambassadors and High Commissioners. However you confirmed this role will not involve contact with government.

Dealings in office

6. You said you did not have any involvement with the Slynn Foundation whilst in office. You confirmed you did not have access to sensitive information relevant to the Slynn Foundation and did not meet with competitors of the Slynn Foundation.
7. You also wanted to inform the Committee that:
'I have a track record of involvement in the promotion of rule of law values and the protection of human rights. In particular, as Dean of the Faculty of Advocates (the elected leader of the Scottish bar) between 2014 and 2016, I hosted lectures and seminars on rule of law issues and used speaking and writing opportunities to promote the rule of law and the protection of fundamental rights. I was also a Council member of JUSTICE Scotland (a human rights charity working to reform the justice system) between 2014 and 2016. I have also been actively involved in international engagement with lawyers and judges from other jurisdictions, as Head of the UK Delegation to the Council of European Bars and Law Societies 2013-15, Vice-dean

and Dean of Faculty 2013-16 and Joint Chair of the International Council of Advocates and Barristers 2014-16’.

Department Assessment

8. The Scottish government confirmed the details you provided and confirmed you had no access to information that would provide an unfair advantage. But the department noted that any sensitive information you may have been aware of is subject to strict obligations of confidentiality. Those obligations are clear and remain in place after the applicant leaves their current position, stating they have no concerns with this appointment and recommended that the standard restrictions be attached.

9. The department confirmed your interest and expertise on the issues promoted by the Slynn Foundation long predates your ministerial appointment. It said in its view your skills and expertise, including your depth of knowledge of the Scottish justice system as well as wider legal and human rights matters, would be a valuable and welcome addition to the organisation. It stated the risk associated with the appointment appears low.