



OFFICE OF THE ADVISORY COMMITTEE ON BUSINESS APPOINTMENTS

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BUSINESS APPOINTMENT APPLICATION: Michael Driver CB, former Chief Financial Officer and Acting Permanent Secretary at the Ministry of Justice and Senior Responsible Owner, Borders Programme at the Department for Health and Social Care. Paid appointment with Curshaw Limited.

1. Mr Driver 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 he wishes to take up with Curshaw Limited (Curshaw) as an Associate Director. The material information taken into consideration by the Committee is set out in the 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 Mr Driver's time in office, alongside the information and influence a former Crown servant may offer Curshaw.
3. 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 Crown servant in any other respect.
4. The Rules¹ set out that Crown servants must abide by the Committee's advice. 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 risk presented

5. Whilst Curshaw has a relationship with government, the Committee² noted it does not have a relationship with the Ministry of Justice (MOJ) or the Department for Health and Social Care (DHSC). Mr Driver did not meet with Curshaw whilst in government and did not make any decisions specific to the company. The Committee therefore

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.

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

considered the risk this appointment could reasonably be perceived as a reward for decisions or actions taken in office is low.

6. The Committee noted there are three aspects to Mr Driver's role with Curshaw, and considered the main risk in this application was his proposition to advise Curshaw on government business. The Committee noted MOJ's comments that he will have access to government's private finance initiative (PFI) deals and, as the former Head of the Government Finance Function (until August 2020), considered he would have had significant insight into MOJ and government's financial strategy and commitments. As such, Mr Driver's proposed role to advise how private finance and private companies can help address some of government's main challenges significantly overlaps with his time in office. There are a number of mitigating factors that help to reduce the risks associated with his access to information and insight that may be seen to offer Curshaw an unfair advantage:
 - He is prevented from drawing on privileged information from his time in office and has an ongoing duty of confidentiality.
 - MOJ confirmed PFI data and processes that Mr Driver may be aware of from his employment with MOJ is now in the public domain.
 - MOJ and DHSC have no concerns in respect of his access to information.
 - 9 months have passed since he left Crown service, reducing the likelihood that any privileged information he had access to is sufficiently up-to-date or particularly useful.
7. Given this role's focus on future government infrastructure and private finance, there remains a risk Mr Driver could offer an unfair advantage to Curshaw, as it may provide unfair insight into commercial opportunities within government. The Committee considered risks under the Rules would likely arise should he advise on matters related to Curshaw's work with government.
8. More generally, the Committee noted that given his former roles within government, there is a risk his influence and contacts could be perceived to assist Curshaw unfairly, especially as Curshaw has a contractual relationship with government.
9. However, the Committee considered it significant that Curshaw wrote to confirm it '*...understands and respects the work of ACOBA*'. The company said it '*...can confirm that Mike Driver's duties will explicitly not involve lobbying on behalf of [its] clients and [it] will put in place appropriate measures in order to ensure that any restrictions, conditions and limitations that are placed upon Mike by ACOBA as a condition of employment are applied in full within [its] organisation*'. Curshaw said it is '*...aware that Mike's personal values and integrity would also ensure that he properly follows any restrictions placed on him by ACOBA*'.
10. Curshaw's clients are unknown and there is a risk Mr Driver may be asked to advise clients who were affected by matters that relate to areas he had direct involvement in, or in respect of clients he had a relationship with whilst in Crown service. The Committee would remind Mr Driver that it would be a breach of the Rules to amend the role as described without first seeking and awaiting further advice from the Committee.

The Committee's advice

11. Given the risks associated with Mr Driver's responsibilities in office and the relationship between government and Curshaw, the Committee considered he should be prevented from advising the company on any work it does with the government as a whole. The Committee noted Mr Driver and Curshaw's acceptance of this condition

and commitment to abide by it.

12. The Committee determined the remaining inherent risks identified in this application can be appropriately mitigated by the standard conditions, as outlined below. To address the risk associated with Curshaw's unknown clients, the Committee considered it necessary to impose a further condition. This makes it clear that in working with the company, he should not advise on work with regard to any policy he had specific involvement in or responsibility for in his recent time in government (as Chief Financial Officer and Acting Permanent Secretary at MOJ, or as Senior Responsible Owner, Borders Programme at DHSC).
13. The Committee advises, under the government's Business Appointment Rules, that Mr Driver's appointment with Curshaw Limited be subject to the following conditions:
 - he should not draw on (disclose or use for the benefit of himself or the persons or organisations to which this advice refers) any privileged information available to him from his time in Crown service;
 - for two years from his last day in Crown service, he should not be involved in Curshaw Limited's UK government business.
 - for two years from his last day in Crown service, he should not become personally involved in lobbying the UK government or any of its arm's length bodies on behalf of Curshaw Limited (including parent companies, subsidiaries, partners and clients); nor should he make use, directly or indirectly, of his contacts in government and/or Crown service to influence policy, secure business/funding or otherwise unfairly advantage Curshaw Limited (including parent companies, subsidiaries, partners and clients);
 - for two years from his last day in Crown service, he should not provide advice to Curshaw Limited (including parent companies, subsidiaries, partners and clients) on the terms of, or with regard to the subject matter of, a bid or contract with, or relating directly to the work of the UK government or any of its arm's length bodies; and
 - for two years from his last day in Crown service, he should not advise Curshaw Limited (including parent companies, subsidiaries, partners and clients) on work with regard to any policy he had specific involvement in or responsibility for as Senior Responsible Owner, Borders Programme at the Department for Health and Social Care, Acting Permanent Secretary or Chief Financial Officer at the Ministry of Justice, or where he had a relationship with the company or organisation during his time in these roles.
14. The advice and the conditions under the government's Business Appointment Rules relate to Mr Driver's previous roles in government only; they are separate to rules administered by other bodies such as the Office of the Registrar of Consultant Lobbyists or the Parliamentary Commissioner for Standards. It is an applicant's personal responsibility to understand any other rules and regulations they may be subject to in parallel with this Committee's advice.
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 Civil Service 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*'.
17. Please inform us as soon as Mr Driver takes up employment with this organisation, or if it is announced that he will do so, by emailing the office at the above address. 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 Mr Driver has complied with the Rules.
18. Please also inform us if he proposes to extend or otherwise change the nature of his role as, depending on the circumstances, it may be necessary for him to make a fresh application.
19. 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.

Yours Sincerely,

William Young
Committee Secretariat

Annex - Material information

The role

1. Mr Driver said he has been offered a paid, part-time appointment with Curshaw as an Associate Director.
2. Mr Driver said he would advise Curshaw on the following areas.
 - Future Government Infrastructure and Private Finance - Mr Driver said Curshaw is working with investors to develop a distinct market-leading position on the future role of private finance and private sector expertise in addressing the following government challenges:
 - Future Asset & Infrastructure Funding
 - Decarbonisation
 - Levelling Up
 - Smarter Working.
 - Curshaw Branding - Mr Driver said he would help Curshaw re-brand to become a unique market offering. He said tasks may include:
 - re-branding consultation
 - new web content
 - bid and marketing collateral
 - acting as a '*critical friend*'

- providing counsel on commercial, contractual and pricing strategies
- overt subject matter expertise.
- Mr Driver said the general activities of his role may also include:
 - engagement with clients as a representative of Curshaw
 - working with Curshaw to help clients develop and deliver their strategy
 - the authoring/critiquing of ad hoc opinion pieces
 - guest blog-posts and/or podcasts
 - occasional guest chairing of industry discussion forums that Curshaw may host.

Mr Driver said he would not have contact with government in this role, nor would he lobby ministers or civil servants.

3. Mr Driver was approached by ACOBA regarding the possible issues his proposed role to advise how private finance and private companies can help address some of government's main challenges. He said he '*...take[s] [his] responsibilities in relation to ACOBA conditions very seriously; [he] spent [his] whole career in the Civil Service and would never do anything to damage [his] reputation or that of the Civil Service*'. Mr Driver confirmed he would not work on this aspect of Curshaw's business.

Dealings in office

4. Mr Driver advised the Committee he did not meet with Curshaw whilst in office. He said he did not have involvement in any policy development or decisions that would have been specific to the company, and held no commercial or contractual responsibilities relating to it. He said he did not meet with competitors of the company, nor did he have access to sensitive information regarding these competitors.

Department Assessment

5. Both MOJ and DHSC confirmed the details Mr Driver provided.
6. MOJ said '*Curshaw is a supplier to HMG but Commercial have confirmed that there are no existing contracts with MOJ, nor are there any known plans for future contracts*'.
7. MOJ said '*As one of the most heavily outsourced government departments [it has] a large number of PFI deals in place which Mike would be aware of (at a strategic level)*'. The department said Mr Driver would also have gained insight of '*...PFI negotiation strategy, the role of the treasury team and the plan under finance functional leadership*'. MOJ confirmed that '*...most of the data and processes that Mr Driver may be aware of from his employment with MoJ is in the public domain*'.
8. Both MOJ and DHSC said they have no concerns about this appointment and recommended the standard conditions.