



**OFFICE OF THE ADVISORY COMMITTEE ON BUSINESS APPOINTMENTS**

G/7 Ground Floor, 1 Horse Guards Road SW1A 2HQ

Telephone: 020 7271 0839

Email: [acoba@acoba.gov.uk](mailto:acoba@acoba.gov.uk)

Website: <http://www.gov.uk/acoba>

July 2022

**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 KPMG.**

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 KPMG as an Associate Partner. 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 KPMG.
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 Rules<sup>1</sup> 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

---

<sup>1</sup> 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.

5. The Committee<sup>2</sup> noted the Ministry of Justice (MOJ) held contracts with KPMG which were awarded through the Crown Commercial Service<sup>3</sup>. When Mr Driver was Chief Financial Officer he had strategic oversight, to approve the amount of money that was being spent. The department confirmed he did not mandate or recommend the use of any particular consulting firm or supplier. Mr Driver had no direct contact with KPMG, though he held progress reviews with his team to check on contractor performance. KPMG could not have been said to have benefited from Mr Driver's involvement here, given it was chosen from the framework agreement with the Crown Commercial Service. The Committee is satisfied there is no evidence this role was offered as a reward for decisions made or actions taken in office.
6. This appointment has a general overlap with Mr Driver's time in office in respect of his knowledge of government and the focus of his work with KPMG on its government practice. 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 KPMG an unfair advantage:
  - This role is focused internationally and Mr Driver will not be working on KPMG's UK government practice.
  - He is prevented from drawing on privileged information from his time in office and has an ongoing duty of confidentiality.
  - MOJ and the Department for Health and Social Care (DHSC) have no concerns in respect of his access to information.
  - 8 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. KPMG'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 considered this would be somewhat mitigated given this role is limited to working internationally and outside of KPMG's UK government practice. 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

8. The Committee determined the inherent risks identified in this application can be appropriately mitigated by the standard conditions, as outlined below. These make it clear Mr Driver cannot make use of his access to information or influence gained from his time in Crown service to the unfair advantage of KPMG or its clients.
9. As KPMG's clients are unknown, the Committee considered it necessary to

---

<sup>2</sup> 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.

<sup>3</sup> Crown Commercial Service uses collective purchasing power to help the UK public sector save money when buying common goods and services.

impose a further condition. This makes it clear that in working with KPMG, 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).

10. The Committee advises, under the government's Business Appointment Rules, that Mr Driver's appointment with **KPMG** 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 become personally involved in lobbying the UK government or any of its arm's length bodies on behalf of KPMG (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 KPMG (including parent companies, subsidiaries, partners and clients);
- for two years from his last day in Crown service, he should not provide advice to KPMG (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 KPMG (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.

11. 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.

12. 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.

13. 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*'.
14. 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.
15. 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.
16. 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 KPMG as an Associate Partner.
2. Mr Driver said the purpose of the role is to act as a subject matter expert to KPMG's Global Government business. Although the employment contract would be with the UK firm, he said the role will be based exclusively overseas - working with some of KPMG's largest practices outside of the UK, including KPMG KSA (with the proposed initial work taking place in Saudi Arabia), KPMG Canada and KPMG India. Mr Driver said the role will involve providing advice and insight on public finances and accounting, global justice systems and public sector reform. He said the advice will support business development meetings, proposition and proposal development and project delivery.
3. Mr Driver said he will have no contact with the UK government in this role.

## Dealings in office

4. Mr Driver said KPMG is a supplier of consulting, business and audit services to MOJ and DWP. Whilst Chief Financial Officer at MOJ, he said his team, at director or deputy director level, had performance reviews with KPMG. Mr Driver stated he did not have contact with KPMG and noted his role was strategic. Mr Driver would have monthly or quarterly meetings (depending on the supplier and situation) with his team to discuss progress and performance. He also said he had no prior contact with KPMG's Global Government network, including the KPMG member firms of KPMG KSA, KPMG Canada and KPMG India.
5. As Chief Financial Officer Mr Driver had responsibility for MOJ's finances, so as a result would have had involvement in commercial and contracts decisions. However, Mr Driver confirmed he did not decide who was chosen for contracts or funding. Instead his role was limited to signing off the amount of money that was being spent.
6. MOJ confirmed it has awarded work to KPMG via a Crown Commercial Service framework contract, and as such is a company the Cabinet Office has already approved to hold contracts with government. However, the department noted KPMG's decision to not enter into new business with the government via the Cabinet Office as a result of recent regulatory findings (<https://www.ft.com/content/73e293cd-ce80-4294-967b-97f3a4882a38>). MOJ said it will sign no new contracts with KPMG until it is advised it can do so by the Cabinet Office.

## Department Assessment

7. Both MOJ and DHSC confirmed the details Mr Driver provided.
8. During Mr Driver's term as Chief Financial Officer, MOJ said he was Chair of the Investment Committee, and the approver for consulting business cases across the department. The department said his role was '*...one of challenge and approval of consultancy business cases*' and noted he '*..did not mandate or recommend the use of any particular consulting firm*' - this is because the work was awarded under Crown Commercial Service let framework agreements. MOJ said there was separation of duties across the business / commercial and finance processes.
9. MOJ noted that as a result of his Chief Financial Officer role, Mr Driver '*...would have had visibility of pricing/business case information for work awarded to both KPMG and their competitors*'. The department also said Mr Driver would have been aware of where consultants were being used across the department and the associated rates, but stated the passage of time reduces this. Mr Driver left his role as Chief Financial Officer in April 2020 and left MOJ in January 2021
10. Both MOJ and DHSC said they have no concerns about this appointment and recommended the standard conditions.