



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

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

October 2023

BUSINESS APPOINTMENT APPLICATION: Joanna Whittington, former Director General, Energy and Security for Department for Business, Energy & Industrial Strategy. Paid appointment with SGN¹.

1. Ms Whittington 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 she wishes to take up with SGN.
2. The purpose of the Rules is to protect the integrity of the government. The Committee has considered the risks associated with the actions and decisions made during Ms Whittington's time in office, alongside the information and influence a former Director General at the Department for Business, Energy & Industrial Strategy² may offer SGN. The material information taken into consideration by the Committee is set out in the annex.
3. The Committee considered whether this appointment was unsuitable given Ms Whittington's former role as Director General with responsibility for energy security, but the Committee must also consider the information provided by the Department about her specific dealings with this employer and the sector. 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
4. The Committee's advice is not an endorsement of the appointment - it imposes a number of conditions to mitigate the potential risks to the government associated with the appointment under the Rules.

¹ Scotland Gas Networks <https://www.sgn.co.uk/legal-information>

² Following the recent Machinery of Government Changes, Ms Whittington's former role as Director General, Energy and Security now sits with the Department for Energy Security and Net Zero (DESNZ).

5. The Rules set out that Crown servants must abide by the Committee's advice³. 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 risks presented

6. Ms Whittington did meet with SGN in her capacity as Director General, limited to roundtables and other stakeholder events with other companies operating in the energy sector. Whilst there is an overlap with her responsibilities in office working on energy security, the department advised that she made no decisions specific to SGN and no commercial relationship exists with SGN. There is no evidence she made decisions or took actions in office in expectation of this role.
7. Ms Whittington will have had significant knowledge of privileged material in relation to carbon capture, hydrogen, gas exploration and production as well as energy infrastructure and security policy. Given SGN's involvement in gas distribution as the network provider, there is a risk Ms Whittington could offer SGN an advantage over its competitors due to her access to sensitive information
8. The Committee⁴ agrees with the department there are a number of mitigating factors that help reduce the risks associated with her access to information. Most notably the department considers she no longer has access to information that would be sufficiently up to date because of the nine months that has passed since she was in office. As a result the department confirmed:
 - The vast majority of policy she was involved in has been announced and detailed information has been put in the public domain through
 - i. The publication of the [Energy White Paper](#)
 - ii. Publication of [the British Energy Security Strategy](#)
 - iii. Publication of the [Prime Minister's 10 Point Plan for a Green Industrial Revolution](#).
 - iv. [The Powering Up Britain](#) publications
 - v. Publication of the government action plan for [Energy National Policy Statements](#) reform
 - vi. Announcements on carbon capture and storage including via the spring budget and the shortlisted projects eligible for funding
 - vii. Publication of the [Hydrogen Strategy Update to the Market: August 2023](#).
 - viii. Publication of the [Consultation on hydrogen T&S](#) and the response.
 - Some of the work has moved on significantly from when Ms Whittington last had access to information, meaning she has no insight into the latest information. Most relevant is that whilst the strategy for gas distribution was published; the detailed work taking this forward has only begun since her departure. She therefore has no insight into this.

³ Which apply by virtue of the Civil Service Management Code, The Code of Conduct for Special Advisers, The King's Regulations and the Diplomatic Service Code

⁴ This application for advice was considered by Andrew Cumpsty; Isabel Doverty; Sarah de Gay; The Rt Hon Baroness Jones of Whitchurch; The Rt Hon Lord Eric Pickles; and Mike Weir.

- Some of the work she was involved in (published or not) is not of specific relevance to the company. For example work on gas production but not distribution; work on nuclear energy; or her role on the Board of OPRED.
 - The work that the department considered was of most relevance (relating to hydrogen) fell to another team outside Ms Whittington's area of responsibility. The department noted she would have had some awareness of this work whilst in office. However, the substantial amount of work had been done since she left office, including some of the publications above, significantly limits the risk Ms Whittington has sufficiently up to date or privileged insight from her time in office.
9. As Director General Energy and Security, Ms Whittington will have gained contacts within the UK government. As such there is a risk her network and influence gained in office might be used to assist SGN unfairly, especially as the organisation has a clear interest in energy and security policy and is regulated by Ofgem. As SGN is a stakeholder, Ms Whittington noted that the government may contact her. Where the government initiates such contact, she would not be precluded from engaging (for example, roundtable discussions, requests for information or to take part in consultation etc).
10. Ms Whittington has confirmed she will not lobby the government, in keeping with the lobbying ban that applies to all former Crown servants on leaving office - which also applies to Ofgem. It is also relevant that Ofgem has a set and transparent framework for its decision making, limiting any potential for undue influence.

The Committee's advice

11. The overlap between Ms Whittington's responsibilities in office does present real and perceived risks. The Committee recognised the opportunity to offer an unfair advantage is limited, given information she worked on and had access to is no longer sufficiently up to date. The Committee determined that a waiting period would be appropriate, but agreed with the department that the nine months that have already passed since her access to information and decision making is appropriate to mitigate the risks.
12. Given the regulatory relationship between SGN and Ofgem the Committee wished to draw Ms Whittington's attention to the lobbying ban below. In particular, though the Committee is satisfied that any contact at the request of the government, including Ofgem, would be in keeping with the lobbying ban- Ms Whittington must be careful to ensure that no contact could reasonably be perceived as paid lobbying on SGN's behalf.
13. Taking into account these factors, in accordance with the government's Business Appointment Rules, the Committee's advice is this appointment with **SGN** be subject to the following conditions:
- she should not draw on (disclose or use for the benefit of herself 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 her last day in Crown service, she should not become personally involved in lobbying the UK government on behalf of SGN (including parent companies, subsidiaries, partners and clients); nor should she make use, directly or indirectly, of her contacts in the Government and/or Crown service to influence policy, secure business/funding or otherwise unfairly advantage SGN (including parent companies, subsidiaries, partners and clients); and
 - for two years from her last day in Crown service she should not undertake any work with SGN (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 UK government.
14. The advice and the conditions under the government's Business Appointment Rules relate to an applicant's previous role 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 Ministerial 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." This Rule is separate and not a replacement for the Rules in the house
 17. Ms Whittington must inform us as soon as he takes up employment with this organisation(s), or if it is announced that he will do so. Ms Whittington must also inform us if she proposes to extend or otherwise change the nature of her role as, depending on the circumstances, it may be necessary for her to make a fresh application.
 18. Once the appointment(s) 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,

Isabella Wynn
Committee Secretariat

Annex - Material information

The role

1. Ms Whittington said SGN is a Gas distribution in England, Scotland and Northern Ireland. The website states it manages natural and green gas distribution networks in Scotland and in the south of England. As of 2014/15 SGN operates more than 44,000 miles of pipes. It states it looks after all the pipes underground.
2. Ms Whittinton said she will be a non-executive director of SGN sitting on the main board and the subcommittees responsible for health and safety, remuneration and SESG (stakeholders, environment, social and governance). She stated her responsibilities would include:
 - Providing leadership to SGN within a framework of prudent and effective controls which enable risk to be appropriately assessed and managed
 - Setting the company's strategic aims, ensuring that the necessary financial and human resources are in place to meet objectives, and review management performance
 - Contributing sector expertise, and using technical and operational knowledge to constructively challenge and contribute to the development of strategy
 - Scrutinising the performance of SGN's executive management and objectives, and monitoring the reporting of performance; act as a critical friend, challenging and coaching as necessary
 - Being satisfied that SGN's financial information is accurate and that financial controls and systems of risk management are robust and defensible
 - Being satisfied that SGN is compliant with its legal and regulatory obligations and diligently performing its duties
 - Using best endeavours to promote, protect, develop and extend SGN's business
3. Ms Whittington said her role would not involve lobbying the government but stated she may be at events where the government is also present and may attend meetings where the government has requested her presence.

Dealings in office

4. Ms Whittington said the work that is most relevant to SGN and its future, which is hydrogen and hydrogen networks, was the responsibility of the DG Net Zero, Industry and Buildings not her (as DG Energy and Security).
5. She said as a result of SGN's interest in hydrogen - an important part of the government's strategy, albeit not her responsibility. She noted she was aware of the policy trajectory this was superseded by the publication of the Hydrogen Strategy Update to the Market in August 2023. She said the department has published an enormous amount of work since she left in December 2022.

6. As a result of the company's interest in hydrogen, it is also indirectly interested in and supportive of the development of carbon capture and storage technology - work that she led. She said this information is highlighted in the British Energy Security Strategy which was published in April 2022 and builds on the work of the Energy White Paper and the Prime Minister's 10 Point Plan for a Green Industrial Revolution - both published documents which set out the focus of her work on nuclear, renewables, carbon capture, electricity networks and reform of the electricity system.
7. She said she also led work to increase domestic production of oil and gas but this did not include gas distribution. Further, she said work in all these policy areas has been superseded by the publication of Powering Up Britain in April 2023 alongside a number of other documents and decisions which were published at the same time - including decisions on next steps for carbon capture and storage.
8. She said from time to time, she gave speeches to the energy industry and hosted and attended roundtables. It may be the case that employees from SGN were present at those meetings but confirmed she had no direct contact with the company although she infrequently met the Energy Networks Association of which SGN is a member and IGEM (the Institution of Gas Engineers and Managers).
9. Ms Whittington noted SGN is an important part of the UK energy system and colleagues within her team would have engaged with the company from time to time as a stakeholder. This would have been to discuss operational incidents as they occurred on their networks and to discuss the future of the business in a decarbonised world.
10. Ms Whittington noted she had meetings with other parts of the gas industry including the Gas System Operator and the Gas Transmission network. But stated these businesses are not competitors of SGN. She said she had no direct contact with any of the other gas distribution businesses.

Department Assessment

11. BEIS confirmed the details provided by Ms Whittington and said it has a stakeholder relationship with SGN and engages with SGN (and all other gas distribution network companies) on an ad-hoc basis to discuss relevant policy issues.
12. The department stated Ms Whittington engaged with the sector as a whole and not individual companies - it is therefore less likely that they've had access to commercially valuable or sensitive information relating to specific competitors.
13. BEIS stated the focus of her work was on nuclear, renewables, carbon capture, electricity networks and reform of the electricity system as well as oil and gas exploration and production, energy infrastructure consenting and energy

security/resilience. Her work was focussed/ captured by the British Energy Security Strategy which was published in April 2022 and builds on the work of the Energy White Paper and the Prime Minister's 10 Point Plan for a Green Industrial Revolution. The department noted the time that has passed since she was in office (9 months) has meant a vast majority of policy she was involved in has been announced and detailed information has been put in the public domain through

- a. The publication of the [Energy White Paper](#)
- b. Publication of [the British Energy Security Strategy](#)
- c. Publication of the [Prime Minister's 10 Point Plan for a Green Industrial Revolution](#).
- d. [The Powering Up Britain](#) publications
- e. Publication of the government action plan for [Energy National Policy Statements](#) reform
- f. Announcements on carbon capture and storage including via the spring budget and the shortlisted projects eligible for funding
- g. Publication of the [Hydrogen Strategy Update to the Market: August 2023](#).
- h. Publication of the [Consultation on hydrogen T&S](#) and the response.

14. It further noted Ms Whittington's work has moved on significantly from when she last had access to information, meaning she has no insight into the latest information. Most relevant is that whilst the strategy for gas distribution was published; the detailed work taking this forward has only begun since her departure.

15. The Department considers that there is no conflict of interest subject to restrictions to manage conflict and recommended the standard conditions.