



OFFICE OF THE ADVISORY COMMITTEE ON BUSINESS APPOINTMENTS

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BUSINESS APPOINTMENT APPLICATION FOR ADVICE: Sir Alex Chisholm KCB, former Chief Operating Officer for the Civil Service and Permanent Secretary for the Cabinet Office (previously Permanent Secretary to the Department for Business, Energy and Industrial Strategy). Paid appointment with EDF Energy UK.

1. Sir Alex 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 as Non-Executive Chair for EDF Energy UK (EDF).

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 Sir Alex's time in office, alongside the information and influence the former Chief Operating Officer for the Civil Service and Permanent Secretary for the Cabinet Office could offer a company operating in the UK's energy sector. The material information taken into consideration by the Committee is set out in the annex.

3. 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.

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 risks presented

5. EDF is one of the UK's largest energy suppliers. It is regulated by Ofgem, a non-ministerial department, and the policy for energy is owned by the Department for

¹ 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

Energy Security and Net Zero (DESNZ, previously BEIS²). Nuclear power is a key priority of government for decarbonisation and net zero; EDF is one of the biggest nuclear power companies in the UK³. There is a significant contractual relationship between EDF and government relating to the construction and delivery of two nuclear power stations: Sizewell C and Hinkley Point C.

6. Sir Alex, in his role as the Permanent Secretary at the Cabinet Office, was not responsible for energy policy, or regulatory or commercial decisions specific to EDF. These sat with DESNZ (previously BEIS) and HM Treasury (HMT). His responsibilities in his most recent central government roles overlapped with EDF and the energy sector in the following ways:

- he was part of resilience planning around energy supply (across the whole sector) during the energy crisis of the winters of 2021/2022 and 2022/2023;
- in his capacity as co-chair of the Major Projects Review Group, which reviewed initial stages of the construction of Sizewell C, providing advice agreed collectively to HMT. The minister at HMT was then responsible for making the relevant decisions on conditions which would be attached to funding already allocated in relation to this stage of construction; and
- he met with EDF in June 2020 and June 2022 as one of a number of stakeholders briefed by the company on the progress of construction work at Hinkley Point C.

Sir Alex was not responsible for decisions benefitting EDF during his time as Permanent Secretary at the Cabinet Office.

7. There is a direct overlap between the role that Sir Alex wishes to take up with EDF and his previous role as Permanent Secretary for the Department for Business, Energy & Industrial Strategy (BEIS) from July 2016 to April 2020. He was then responsible for the department for energy - but this was more than four years ago. Most notably, in 2016 his department was responsible for the decision on finalising the first Contract for Difference, with respect to EDF and the construction of Hinkley Point C. However, this was ultimately a decision for the Secretary of State and followed the 2014 approval from the European Commission and was based on terms agreed then, 10 years ago. Significantly, due to the period of time that has elapsed, the Committee⁴ did not consider Sir Alex could reasonably be seen to have influenced this decision in anticipation of an offer of work a decade later.

8. Given Sir Alex's former senior roles in government, he will have had access to a wide range of information that could potentially provide an unfair advantage to a broad range of organisations. Specifically, in relation to sensitive information that might offer EDF an unfair advantage, the Committee agreed with his former departments there are a range of mitigating factors reducing the risks:

- His responsibility for energy ceased in early 2020 when he moved to the

²<https://www.gov.uk/government/organisations/department-for-business-energy-and-industrial-strategy>

³ <https://www.nao.org.uk/wp-content/uploads/2010/01/0910215.pdf>

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; Michael Prescott; and Mike Weir. Hedley Finn OBE and Dawid Konotey-Ahulu were unavailable.

Cabinet Office. This creates a substantial gap of several years between his access to information on energy at BEIS, and his taking up this role with EDF.

- BEIS has undergone structural changes since his departure, with energy now falling to DESNZ. In the meantime, the energy market is volatile, reacting to geopolitical events and the current climate differs greatly from when Sir Alex was in post at BEIS.
- Information he had access to in the winters of 2021/2022 and 2022/2023, in relation to planning around the energy crisis, is now out of date and has since been published.
- The departments confirmed he no longer has access to commercially sensitive information.
- Sir Alex is subject to a waiting period of three months between leaving office and taking up this role to allow for a gap between his general access to information and working with EDF.

9. There are inherent risks associated with any senior official joining a commercial organisation that undoubtedly seeks to influence government, whether in respect of energy policy, or the specifics of projects it is in partnership with government to deliver, for example: Hinkley Point C and Sizewell C. Sir Alex noted EDF's significant relationship with government as part of the UK's national infrastructure. He told the Committee he did not wish to be precluded from wider policy discussions, such as at roundtables and industry events; or from meeting government where asked to do so by officials/ministers, noting the government is required to meet with EDF on occasion. In accordance with the lobbying ban that applies to all former Permanent Secretaries on leaving office for two years under the Rules, Sir Alex must avoid engaging in activity that could reasonably be seen as seeking to influence government decisions. This includes regulatory decisions made at arm's length from government, such as by Ofgem.

10. Sir Alex's role as Non-Executive Chair will include internal discussions about EDF's strategies and deliverables, but he stated it will not involve lobbying government, nor negotiating on specific commercial or funding decisions, which would be matters for the executive. The Committee considered the framework which is already in place for such contact between government and EDF/the EDF Chair is material to limiting the risk of unfair advantage. In the circumstances, the contact described by Sir Alex in paragraph 9 above would be in keeping with the lobbying ban as it could not reasonably be described as lobbying or improper use of his contacts and influence from his time in office

11. It is not Sir Alex's intention to influence government policy or work on commercial and funding matters. However, there remains a risk that EDF will be seen to benefit from Sir Alex's potential influence and that the company may wish to make use of his network within government. The Committee therefore considered it important to seek confirmation from EDF that Sir Alex's role would be consistent with the Rules and the Committee's advice.

12. EDF has told the Committee it understands and respects the conditions set out in this advice and confirmed it will support Sir Alex in adhering to the conditions.

EDF said it would ensure Sir Alex is not involved in lobbying, in negotiating future contracts, nor in advising on the terms in bids to government for future contracts or funding. Further, it would incorporate the conditions set out in this advice into its own internal governance arrangements.

The Committee's advice

13. For the reasons set out above, the Committee considered the risks associated with his access to information are limited, following a three month waiting period and in light of the conditions applied below. The most significant risk in his case is that he could be seen to potentially offer unfair access to and influence within government. Sir Alex has set out to the Committee his intention to fully comply with the lobbying ban that applies under the Rules. The Committee considered that given the significant interest EDF has in the UK government's policy, regulatory and funding decisions, it was necessary for EDF to confirm compliance with the advice. The Committee accepted the employer's confirmation that it will abide by the conditions placed on Sir Alex below, and will put in place appropriate measures to adhere to these.

14. The Committee determined the risks identified in this application can be appropriately mitigated by the conditions below. These seek to prevent him from making improper use of his privileged access to information, contacts and influence from his time in office, alongside his ongoing duty of confidentiality and other provisions.

15. The Committee's advice in accordance with the government's Business Appointment Rules is that Sir Alex's role with **EDF Energy UK** be subject to the below conditions:

- a waiting period of three months from his last day in Crown service on 13 April 2024;
- 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 is permitted to report to government and its arm's length bodies on the activities of EDF Energy UK; and enter into discussions/meetings with the UK government or its arm's length bodies where it is at their request. However, he should not become personally involved in lobbying the UK government on behalf of EDF Energy UK (including parent companies, subsidiaries, partners and clients); nor should he make use, directly or indirectly, of his contacts in the government and/or Crown service to influence policy, secure business/funding or otherwise unfairly advantage EDF Energy UK (including parent companies, its subsidiaries, partners and or clients); and
- for two years from his last day in Crown service he can draw on his skills and experience to advise EDF Energy UK on its internal strategy and proposals relating to already agreed government contracts; however, he should not

undertake any work with EDF Energy UK (including parent companies, subsidiaries, partners and clients) that involves advising on the terms of bids to secure governmental funding/contracts.

16. The advice and the conditions under the government's Business Appointment Rules relate to Sir Alex's previous roles in government only; they are separate from rules administered by other bodies such as the Office of the Registrar of Consultant Lobbyists, the Parliamentary Commissioner for Standards and the Registrar of Lords' Interests⁵. 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.

17. 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/Civil Service Code or otherwise.

18. 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.*"

19. Sir Alex must inform us as soon as he takes up this work or if it is announced that he will do so. Similarly, he must inform us if he proposes to extend or otherwise change his role with the organisation as depending on the circumstances, it might be necessary for him to seek fresh advice.

20. Once this appointment has been publicly announced or taken up, we will publish this letter on the Committee's website.

Jess Barrow
Committee Secretariat

Annex- material information

The role

1. EDF is an energy supplier of electricity and gas in the UK and is part of the international EDF Group (which is owned by the French state). Energy suppliers are regulated by the UK government, with DESNZ as the

⁵ All Peers and Members of Parliament are prevented from paid lobbying under the House of Commons Code of Conduct and the Code of Conduct for Members of the House of Lords. Advice on obligations under the Code can be sought from the Parliamentary Commissioners for Standards, in the case of MPs, or the Registrar of Lords' Interests, in the case of peers.

responsible department (formerly BEIS and Sir Alex's former department). There have been significant government interventions in energy supply and markets during the recent energy crisis. The sector also plays a significant part in government resilience and security planning. The UK government policy is that British nuclear power is a particular focus of its decarbonisation and net zero priorities. EDF is closing down certain key nuclear stations in coming years, and constructing a nuclear power plant at Hinkley Point, and in partnership with government to develop a further plant at Sizewell subject to final investment decision.

2. Sir Alex wishes to take on a part-time, paid role with EDF as its Non-Executive Chair. Sir Alex said that he would be responsible for:
 - chairing meetings of the Board
 - overseeing governance and assurance
 - contributing to the strategy of the company
 - advising, challenging and supporting the executive
 - engaging with other parts of EDF, other energy companies and key stakeholders
3. Sir Alex said that he will not engage in lobbying in his role with EDF. However, his role will involve contact with government as it has interests in the energy sector and needs to consult industry from time to time. Sir Alex noted there is already contact between the chairs of the major energy providers and government; and given its work to deliver nuclear energy through major infrastructure projects, this is part of the normal course of business for a Chair. As such, Sir Alex wishes to be able to take part in communications with government on some matters - for example, roundtable discussions, meetings with ministers and discussions on common interests in nuclear energy.
4. Sir Alex said he will not take up the role until his three month waiting period has passed; his waiting period started from this last day in Crown service on 13 April 2024.

Correspondence with EDF

5. EDF was contacted by ACOBA about adherence with its advice and EDF provided the following confirmation:

'EDF has an established framework for managing its relations with government, utilising relevant members of the executive, notably (but not limited to) the Chief Executive and the Chief Financial Officer. The company will help to ensure the non-executive Chair engages with government in the ways permitted by the Acoba guidance, so that he is not personally involved in lobbying, in negotiating future contracts, nor in advising on the terms in bids to government for future contracts or funding.'

EDF understands and respects the conditions set by ACOBA and confirms that it will support Sir Alex in adhering with the conditions. It

will incorporate the conditions into its own internal governance arrangements.

Dealings in office

6. In Sir Alex's role at the Cabinet Office, he was not responsible for energy policy/regulation and made no policy or regulatory decisions specific to EDF. Sir Alex did have some involvement in energy more widely:
 - Planning for government's response to the energy crisis in the winters of 2021/2022 and 2022/2023;
 - The governance process to review initial stages of the construction of Sizewell C. He said advice was made as part of a collective review by the Major Projects Group and the decision was for the Chief Secretary of the Treasury about the conditions attached to funding, rather than decision on whether to fund.
 - He had some exposure to governance and updates around the energy sector, including the progress of Hinkley Point C and Sizewell C which are major infrastructure projects being delivered by EDF.
 - He met with EDF whilst at the Cabinet Office in June 2020 and June 2022 as one of a number of stakeholders briefed by the company on the progress of construction work at Hinkley Point C.
 - Sir Alex said whilst he had some exposure to matters related to government priorities in the energy sector at the Cabinet Office, he was not responsible for funding/commercial or policy/regulatory decisions which sat with DESNZ (and BEIS before that) and relevant ministers.

7. Previously, in his role at BEIS, Sir Alex was the most senior civil servant at the energy department - but he noted this was more than four years ago. Sir Alex said that in September 2016, as Permanent Secretary, he was involved in the decision to proceed with the construction of a nuclear power station. Officials in his department (led by the Director General for Energy Security and their various teams) advised the Secretary of State on a decision to offer a Contract for Difference with respect to Hinkley Point C. (The Low Carbon Contracts for Difference scheme was established in 2014 to support the UK's journey to Net Zero). Further, this followed three years of negotiations which began prior to his time at BEIS and the terms of this agreement were originally set in 2014, 10 years ago (<https://www.world-nuclear-news.org/np-hinkley-point-c-contract-terms-08101401.html>)

8. Sir Alex acknowledged he would have had access to a range of sensitive information but said it was extremely unlikely that any of the information he had access to would be of unfair benefit to EDF today, as this was over four years ago. Policy will have moved on or is now in the public domain.

Departmental assessment

9. The Cabinet Office, DESNZ and specifically the Major Projects Review Group within the Cabinet Office were consulted during the departmental consideration of this application.
10. The Cabinet Office noted that in 2009, EDF bought a controlling share in 'British Energy' from the UK government, making it one of the biggest nuclear power companies in the UK⁶. According to its website, it produces 16.1% of the UK's electricity and 32.4% of the UK's low carbon energy⁷.
11. The departments said that in his role at the Cabinet Office, Sir Alex:
 - was not responsible for energy policy/regulation - this is the responsibility of DESNZ (and before that BEIS);
 - did not make any commercial decisions relating to EDF;
 - did not have access to commercially sensitive information related to the energy market;
 - was involved in a high level review of the early stage of EDF's Sizewell C nuclear plant construction, providing collective advice to HMT on suitable conditions to attach to funding authorisation (not a decision to award funding) - the decision was subsequently made by the Chief Secretary to the Treasury;
 - had limited involvement in energy when planning for government's response to the energy crisis in the winters of 21/22 and 22/23. This information is now in the public domain- published by the National Grid in the relevant years and is no longer up to date.
12. The departments said that whilst Sir Alex was responsible for policy, regulatory and commercial decisions relating to the energy sector whilst at BEIS, this is now significantly out of date given the passage of over four years.
13. The Cabinet Office noted that there is a risk that a former senior official working for EDF could be perceived to have influence on discussions regarding an increase in government funding for Hinkley Point C. It noted the conditions prevent him from being involved in such discussions. The departments recommended standard conditions and a waiting period of three months which applies as a standard condition at Sir Alex's grade.

⁶ <https://www.nao.org.uk/wp-content/uploads/2010/01/0910215.pdf>

⁷ <https://www.EDFenergy.com/zero-carbon>