OFFICE OF THE ADVISORY COMMITTEE ON BUSINESS APPOINTMENTS
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November 2021

BUSINESS APPOINTMENT APPLICATION: Paul Madden CMG, former Ambassador to Japan, Independent Consultancy - Kawauso Ltd.

1. Mr Madden 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 his proposal to establish an independent consultancy, Kawauso Ltd. The material information taken into consideration by the Committee is set out in the below 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 Madden's time in service, alongside the information and influence a former Crown servant may offer his consultancy and its future clients.

3. The Committee considered whether this appointment was unsuitable given that in Mr Madden's former role as Ambassador to Japan, he had broad access to information regarding diplomatic affairs. However, the Committee must also consider the information provided by the departments. 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 consultancy for a former Ambassador to Japan in any other respect.

4. The Rules set out that Crown servants must abide by the Committee's advice[1]. 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.

<u>The Committee's Consideration</u>

Consultancy

[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

5. When considering Mr Madden's application to set up Kawauso Ltd, the Committee[2] took into account that he proposes to set up a consultancy which is broadly defined as advising companies working internationally, either Asian companies working in the UK or British companies doing business in Asia Pacific, particularly Japan, Australia and Singapore. The advice will focus on; the international business scene and his understanding of the politics of different countries and of relevant thematic areas like climate change and trade policy. Mr Madden also noted his skills in speaking Japanese and interpreting British business and political culture will also likely be used. The Committee considered the broad nature of the consultancy to raise potential risks.

6. The Committee recognised it would not be improper for Mr Madden to operate a consultancy which draws on generic skills and experience he gained from his time in government. However, there are risks that arise under the government's Business Appointment Rules, where work is related to his time in office. Given his role as the former Ambassador to Japan, he will have had oversight of a wide range of information and policy that may provide an unfair advantage to a broad range of organisations. There are also risks attached with his access to contacts within government and his potential to offer unfair influence.

7. The Committee would remind Mr Madden that he must not draw on privileged insight from his time in office, generally or more specifically - for example around geopolitics and general information about diplomatic affairs - which the Committee noted he might be seen to have insight into. It is important to note that alongside the Committee's advice, Mr Madden is bound by the Official Secrets Act and an ongoing duty of confidentiality. In addition, the Committee notes that seven months have passed since he was in service, putting some space between his access to government and his starting this consultancy.

8. The Committee considered it was possible to mitigate the general risks presented in this application by imposing conditions on the consultancy itself, including the standard condition which prevents individuals' from drawing on privileged information. Further conditions below include a ban on lobbying the UK government and a restriction on providing advice on the terms of, a bid or contract relating directly to the work of the UK government, to mitigate the potential for unfair advantage to his clients if they apply for contracts or funding from the government.

9. The Committee also noted that as the former Ambassador to Japan, there is a risk associated with his influence and extensive contacts in other governments as a result of his time in Crown service. Therefore the Committee would draw Mr Madden's attention to the below restriction that makes it clear he should not use contacts he has developed as a result of his time in post for the purpose of securing business for any company or organisation.

Future commissions

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

10. Mr Madden will need to seek advice from the Committee for each commission he wishes to accept. Whether the conditions set out below can sufficiently mitigate the risks presented by any future commission he proposes to take up will depend on the specific details of each piece of work.

11. Given the broadly defined nature of Mr Madden's consultancy, the Committee wanted to make it clear that applications where there is a connection between his former responsibilities and the area he is looking to work in outside government, will be more likely to give rise to risks under the Rules and any such application will need close scrutiny. For example, should Mr Madden seek to provide advice on matters where he had insight or access to sensitive information in office, conditions alone may not be sufficient to mitigate the risks presented. The Committee will therefore need to carefully consider the suitability of this work, and may advise that a further waiting period is required. Where conditions and a suitable waiting period cannot appropriately mitigate the risks, the Committee may advise the work is unsuitable[3] to take up within the two years the Rules apply. The Committee will consider such risks on a case by case basis.

12. The Committee also advises that when seeking work and/or commissions, he should adhere to the conditions below.

13. The Committee's advice, under the Government's Business Appointment Rules, that this appointment, to Mr Madden to establish an **Independent Consultancy, Kawauso Ltd,** should 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 those he advises under his independent consultancy (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 contacts to influence policy, secure business/funding or otherwise unfairly advantage those he advises under his independent consultancy (including parent companies, subsidiaries, partners and clients);

- for two years from his last day in Crown service, he should not provide advice to on behalf of those he advises under his independent consultancy (including parent companies, subsidiaries, partners and clients) 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 or any of its Arm's Length Bodies;

[3] Should an applicant subsequently take up or announce this work ACOBA will publish relevant information.

- for two years from his last day in Crown service, he should not become personally involved in lobbying contacts he has developed during his time in office and in other governments and organisations for the purpose of securing business for any company or organisation (including parent companies, subsidiaries and partners); and

- for two years from his last day in Crown service, before accepting any commissions for his independent consultancy and or/before extending or otherwise changing the nature of his commissions, he should seek advice from the Committee. The Committee will decide whether each commission is consistent with the terms of the consultancy and consider any relevant factors under the Business Appointment Rules.

14. 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.

15. 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."*

16. I should be grateful if you would inform us as soon as Mr Madden takes up employment with this organisation, or if it is announced that Mr Madden 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 Mr Madden complied with the Rules.

17. Please also inform us if Mr Madden 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.

18. 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,

Isabella Wynn
Committee Secretariat

Annex - Material information

1. Mr Madden said the consultancy, Kawauso Ltd, will be advising companies working internationally, either Asian companies working in the UK or British companies doing business in Asia Pacific, particularly Japan, Australia and Singapore. The advice will focussed on:
    - the international business scene
    - his understanding of the politics of different countries and of relevant thematic areas like climate change and trade policy.

    Mr Madden also noted his skills in speaking Japanese and interpreting British business and political culture will also likely be used.

2. The Foreign, Commonwealth and Development Office (FCDO) provided its views on this application. The FCDO confirmed it had no concerns with the setting up of this consultancy and recommended the standard conditions apply.