

# ADVISORY COMMITTEE ON BUSINESS APPOINTMENTS

16 May 2024

## **Present**

### Committee

Rt Hon Lord Pickles (Chair)  
Isabel Doverty  
Michael Prescott  
Mike Weir  
Rt Hon Baroness Jones  
Mike Weir

### Secretariat

Jess Barrow  
Cat Marshall  
Shaneez Mithani  
Maggie O'Boyle  
Kate Owen  
Hamzah Rizvi  
Dougie Thornton

## **Chair's introduction**

1. The Chair welcomed new members of the Committee and secretariat to the meeting, to discuss and agree the policy approach to a number of matters that have been raised through the casework.

## **Communications**

2. The Press Officer updated the Committee on recent press coverage.

## **Consultancies and commissions**

3. Members noted the increasing numbers of people:
- leaving government service at a younger age and before retirement and therefore a greater number of people moving in and out of government and those seeking to work after leaving office;
  - taking on multiple roles and portfolio careers; and
  - leaving to gain experience in the private sector with a view to returning to government at a later time.

4. Members discussed ACOBA's risk-based approach to consideration of applications. When applicants set up an independent consultancy, there is an unknown risk associated with future clients. This unknown risk is mitigated by requiring applicants to return for advice on each commission - at which point the risks will become known and can be considered and assessed. This is less practical or proportionate where an individual joins an advisory or consultancy firm.
5. ACOBA's approach to considering applications to work within a consulting environment:
  - i. To apply a broad limitation to the role as standard, in relation to the areas for which they held responsibility in office. By removing the element of overlap it significantly reduces the risks of a conflict arising.
  - ii. To obtain and publish written confirmation from the employer that the conditions attached can and will be adhered to. This adds credibility to an applicant's assertion a role can be done within limited parameters.
6. Members agreed transparency of clients as a key factor in mitigating the associated risks.

## **Lobbying**

7. Members discussed its approach to applying, as standard, the two-year lobbying ban specified in the Rules. It prohibits contact with government to influence decisions in favour of an individual's, or their new organisation's, interests. It does not prohibit all contact with government. The guiding principle is to prevent contact that could reasonably be perceived as improper – i.e. exploiting privileged access to make introductions; ask for meetings; or asking the government to make a decision or take account of their position on matters.
8. ACOBA's advice can modify the ban where justified – for example: to prohibit all contact with government where any contact is likely to be perceived as improper (irrespective of the individual's intentions) and to allow exceptions, such as where there is no reasonable perception that the lobbying activity is improper or where a proportionate reduction in the length of the ban is appropriate.
9. Members discussed some of the risks around lobbying that it continues to see in its casework:

### In-house lobbying

Roles within an organisation aimed at and/or responsible for influencing the decisions or actions of government on behalf of the organisation would constitute 'in-house' lobbying, which would be contrary to the lobbying ban.

### Lobbying organisations

ACOBA's experience is that there could be a perceived risk of individuals being seen to join a 'lobbying firm' where:

- The organisation's services include those aimed at influencing – through public affairs and public relations, communications, advisory

work or otherwise - where it could reasonably be considered lobbying as only part of their work.

- The organisation's main purpose is to represent the interests of others – for example trade bodies, associations and other membership bodies.

10. It would be contrary to the lobbying ban to join a firm where its main purpose is influencing, or take up a role that is involved in house lobbying. If such an application was considered, the applicant would have to be able to demonstrate how their role would be separated from that work. ACOBA's approach is to engage with employers to confirm in writing that it will be possible, and the advice and conditions will be agreed to.

### **Risks where an applicant has an ongoing role with government**

11. Members discussed ACOBA's approach to considering the risks associated with an applicant's ongoing access to government. For example, as Prime Minister's Envoy, a Tsar, an Independent Reviewer or as a Non-Executive Director on a departmental Board.

12. The Rules set out in paragraph 4 that ACOBA can '*...take into account an ongoing role that an applicant may continue to carry out on behalf of government*'. The reason for this is to consider any potential ongoing conflict that might damage the integrity of government.

13. ACOBA's approach is to seek a view from the department(s) where an applicant has an ongoing role with the government. Members agreed weight should be given the relevant department's view, as they have the responsibility for managing any potential conflicts with the ongoing role. This material information will inform its advice and will be included in any published decision letter.

### **Waiting periods**

14. Members discussed the standard waiting period of three months which applies to the most senior of applicants under the government's Business Appointment Rules (the Rules).

15. Members noted:

- the Rules mandate a minimum waiting period for those most senior members in view of their role at the highest levels of government and their access to a wide range of sensitive information.
- the Rules allow for this waiting period to be waived if ACOBA considers there to be no question of propriety or public concern arising from the appointment being taken up earlier.

16. ACOBA considers extenuating circumstances. In practice, there has only been one application in recent years, in 2017, where ACOBA waived the three-month waiting period on the basis that the extenuating circumstances described, which demonstrated an absence of risk:

[Lord Houghton of Richmond GCB CBE DL, the former Chief of the Defence Staff](#) applied to work on a project for Inter-Mediate, a charity specialising in conflict resolution. The role was time-sensitive, aimed at helping to resolve conflict in southern Thailand and in furtherance of UK diplomatic aims. Further, Lord Houghton had already been out of Crown service for two months and had left his post at the MOD some months prior.

17. Members agreed ACOBA would continue to consider extenuating circumstances on a case by case basis in line with its risk based approach.

### **Update on reform**

18. Members discussed the progress on its recommendations for reform of the Business Appointments Rules. The government announced in July 2023 their determination to bring in a 'fundamental set of reforms to modernise the system.'

19. The Deputy Prime Minister has continued to publicly commit to introducing a ministerial deed; and has told ACOBA he is determined to be ambitious to deliver reform products by this summer.

20. ACOBA has been working with officials on its recommendations, aimed at allowing the government to act quickly to deliver what the government has promised with:

- simplifications to remove certain applications;
- a framework for a truly risk based approach;
- greater clarity on what to expect and managing conflicts; and
- a greater ability to sanction in the most egregious cases.

21. Protecting the government's integrity and leading by example through transparency and accountability is at the core of good government and ACOBA continues to press the government on progress.