



OFFICE OF THE ADVISORY COMMITTEE ON BUSINESS APPOINTMENTS

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May 2025

BUSINESS APPOINTMENT APPLICATION: Mr Huw William Merriman former Minister of State, Department for Transport. Paid appointment with the Rail Freight Group.

1. You approached the Advisory Committee on Business Appointments (the Committee) under the government's Business Appointment Rules for Former Ministers (the Rules) seeking advice on taking up a paid role as Consultant at the Rail Freight Group (RFG).
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 your time in office, alongside the information and influence you may offer the RFG. 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 that the RFG is the representative trade body for rail freight in the UK and it seeks to influence government on behalf of its members. The Committee has also considered the information provided by you, your former department and the RFG. It is significant that the RFG confirmed your role will be separated from its lobbying activity. The material information taken into consideration by the Committee is set out in the annex below.
4. The Committee has advised that a waiting period and a number of conditions be imposed, to mitigate the potential risks to the government associated with this appointment under the Rules; this is not an endorsement of this appointment in any other respect.
5. The Ministerial Code sets out that ministers must abide by the Committee's advice. It is an applicant's personal responsibility to manage the propriety of any appointment. Former ministers of the Crown, and Members of Parliament,

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. As a former Rail Minister with responsibility for rail freight, there is an overlap between your responsibilities in ministerial office and this role with the RFG. You met with the RFG whilst in office and had involvement in matters affecting the rail freight sector. DfT confirmed this did not amount to taking action or making decisions specific to the sector or the RFG, because:
 - no decisions were made as a result of the regulatory stakeholder meetings you had with the RFG which were focussed on understanding the sector and the impact of current policies.
 - you had sight of, but were not the minister responsible for the rail freight growth target policy decision – which was a matter for the Secretary of State.
 - the RFG receives no grants or funding; and that which is potentially accessed by its members, such as the Mode Shift Revenue Support Grants, were not your responsibility either. The Freight Minister owned the overall policy and decisions on funding allocation were made by DfT officials based on specified criteria.
7. DfT confirmed you made no policy, regulatory or commercial decisions specific to the RFG whilst in office. Therefore, whilst you had dealings with the RFG in office, no decisions impacting the organisation flowed from these dealings. As such, the Committee¹ considered the evidence that this role could reasonably be seen as a reward for decisions made or actions taken in office is limited.
8. As a former minister at DfT with specific responsibility for rail and rail freight, there is a risk, real or perceived, that you had access to sensitive information on matters affecting the rail industry that might benefit the RFG or its members. These risks are limited, because:
 - DfT is not aware of any specific information that would offer the RFG an unfair advantage, and matters you were involved in such as the rail freight growth target are in the public domain; and
 - it has been ten months since you left office, and a change of government. In that time, DfT considers the information you had access to has become irrelevant due to the change in government. It said there is no ongoing policy or investment matters from your time in office that remain sensitive or that have not moved on significantly.

¹This application for advice was considered by Isabel Doverty; Hedley Finn OBE; Sarah de Gay; Dawid Konotey-Ahulu CBE; Michael Prescott; The Baroness Thornton; and Michael Weir. Andrew Cumpsty was absent.

9. The Committee agreed that whilst there is a general overlap with your time in office and your interest in rail freight as a minister, it is hard to argue with that the current government's plans to reform rail in the UK² limit your privileged insight in this area. The risk associated with you drawing on your general knowledge, skills and experience gained in office to advise the RFG generally on matters affecting the industry are therefore limited.
10. There are significant risks associated with your contacts and influence within government, particularly as the RFG is a representative trade body that promotes the interests of its member organisations to the government. This raises a reasonable concern you could be seen to lobby the government in this role – which all former ministers are prevented from doing for two years on leaving office. You said that you will not lobby government on the RFG's behalf, noting that this work would not form part of your internally focussed role. The RFG confirmed your role would be separated from its lobbying activity, which is carried out elsewhere within the organisation.

The Committee's advice

11. The Committee considers the main risk here is a reasonable concern that you may offer the RFG unfair access to the government, especially as the organisation seeks to inform and therefore influence the direction of government policies. The Committee's advice is that you should have no direct engagement with the government on behalf of the RFG whilst you are subject to the Rules, to mitigate the risk that you are seen to be making improper use of your time in office to the unfair benefit of your employer/ its members. It is also relevant that the RFG confirmed you will have no involvement in the organisation's interactions with government.
12. There is also a significant overlap with the work of the RFG and your responsibilities as Rail Minister. The Committee recognised the risks here are limited given you did not make any decisions specific to the RFG nor did you have access to sensitive information that could now reasonably be considered to offer the RFG an unfair advantage. In the circumstances, the Committee considered that the ten months that have now passed provide a sufficient gap to help to mitigate the risks.
13. The remaining conditions appropriately mitigate the residual risks associated with your access to privileged information and contacts from your time in government.
14. Taking these factors into account, in accordance with the government's

²<https://labour.org.uk/wp-content/uploads/2024/04/GETTING-BRITAIN-MOVING-Labours-Plan-to-Fix-Britains-Railways.pdf>

Business Appointment Rules, the Committee's advice is this appointment with **Rail Freight Group** be subject to the following conditions:

- a waiting period of at least six months from your last day in office – now passed;
- you should not draw on (disclose or use for the benefit of yourself or the persons or organisations to which this advice refers) any privileged information available to you from your time in ministerial office;
- for two years from your last day in ministerial office, you should not become personally involved in lobbying the UK government or its arm's length bodies on behalf of Rail Freight Group (including parent companies, subsidiaries, partners and clients); nor should you make use, directly or indirectly, of your contacts in the government and/or ministerial office to influence policy, secure business/funding or otherwise unfairly advantage Rail Freight Group (including parent companies, subsidiaries, partners, clients and members);
- for two years from your last day in ministerial office you should not undertake any work with Rail Freight Group (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 or its arm's length bodies; and
- for two years from your last day in ministerial office you should not have any engagement on behalf of Rail Freight Group (including parent companies, subsidiaries, partners, clients and members) with the UK government.

15. The advice and the conditions under the government's Business Appointment Rules relate to your previous role 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' Interests³. 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.

16. 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.

³All 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.

17. 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.’*
18. You must inform us as soon as you take up this role, or if it is announced that you will do so. You must also inform us if you propose to extend or otherwise change the nature of your role as, depending on the circumstances, it may be necessary for you to make a fresh application.
19. 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.

Isabel Doverly

**Interim Chair
ACOPA**

Annex – material information

The role

1. Rail Freight Group (RFG) is the representative body for rail freight in the UK. Its members include rail freight operators, logistics companies, ports, equipment suppliers, property developers and support services, as well as retailers, construction companies and other customers.
2. According to its website, the RFG aims to increase the volume of goods moved by rail, promote rail freight in a range of environments and make the UK policy environment one which supports sustainable growth in rail freight. Its website states it *‘aims to influence policy-makers within Government, statutory bodies and the wider rail/logistics industry’* and it maintains *‘frequent dialogue with key parties such as parliamentarians, government departments, business leaders, regulators and officials.’*

3. In your paid role as Consultant, you stated you will provide a strategy to client and operator members to support private sector growth of rail freight. You said you will have no contact with government in this role.

Correspondence with the RFG

4. The RFG confirmed in writing its understanding of and agreement to comply with the Committee's advice, stating: *'in undertaking the role as consultant with RFG, Huw Merriman, will not, directly or indirectly, lobby the Government. [Maggie Simpson, Director General is] and will remain, the designated RFG employee for government interface, engagement and contact. Huw Merriman's role will therefore be separate to any engagement with government by RFG.'*

Dealings in office

5. You met with the RFG on multiple occasions at bi-monthly meetings with the RFG, its members and Network Rail. You said these meetings aimed to improve communications, stakeholder engagement and planning and no decisions were made as a result of these meetings. You said you did not have involvement in any policy, commercial or regulatory decisions nor had access to sensitive information specific to the RFG.

Departmental assessment

6. DfT was consulted in relation to this application. It provided the following information:
 - You did not make any policy or regulatory decisions specific to the RFG and although you were involved with the rail growth target policy and were sighted on submission, you were not responsible for the decision which was for the Secretary of State Mark Harper.
 - You did not make any grant or funding decisions specific to the RFG.
 - Whilst the RFG's members benefit from access to grants or funding from DfT, you were not responsible for allocation, but this was for senior officials at DfT, against a set criteria – with the policy owned by the Freight Minister.
 - You had regular engagement with the RFG at bi-monthly roundtables and whilst speaking at freight or wider rail events. DfT said no decisions were made as a result of these meetings, which were about discussing agreed policy and general stakeholder engagement with industry.
 - You do not have access to privileged information that could offer an unfair advantage to the RFG – given it has been nine months since you held post in government and there is no continued relevant ongoing

policy or investment decisions from your time in office that have not been made and published, or significantly moved on as a result of the new government's decisions.

- You did not have contact with competitors of the RFG.
7. DfT had concerns that as a representative trade body, you could use your knowledge and contacts gained in government to help influence government for the RFG.
 8. DfT recommended the standard conditions.