

From the Chair



OFFICE OF THE ADVISORY COMMITTEE ON BUSINESS APPOINTMENTS

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BUSINESS APPOINTMENT APPLICATION: The Lord Markham CBE, former Parliamentary Under Secretary of State, Department for Health and Social Care. Paid appointment with Express Test Investments Ltd.

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 returning to Express Test Investments Ltd (Express Test) as a Non-Executive Director.
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 Express Test as a former minister. The material information taken into consideration by the Committee is set out in the annex below.
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 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

5. You were previously co-founder of Express Test prior to becoming minister, retaining a shareholding in the company during your time in office. You are now seeking to rejoin as a Non-Executive Director. The Department for Health and Social Care (DHSC) confirmed your interests were closely monitored and you were not involved in any policy, regulatory or commercial decisions specific to Express Test while in office. Therefore, the Committee¹ considered the risk that this role could reasonably be seen as a reward for decisions made in office is low.
6. As a former minister, you will have had access to general sensitive information that could benefit many organisations operating in the healthcare sector, including Express Test. DHSC noted that you would have had an understanding of the landscape DHSC and the National Health Service (NHS) regarding its funding envelopes for diagnostic and testing capabilities. The department did not consider this information to confer an unfair advantage as it believes the Spending Review under the current administration will render any access to information you may have regarding funding to be out of date. It is also significant that the Autumn Budget will provide public knowledge of the government's directives on departmental spend and budgets for DHSC/NHS.
7. As with any former minister, there are inherent risks associated with your contacts and influence within government and the potential for Express Test to gain unfair access or influence as a result. The lobbying ban that applies to all former ministers for two years from leaving office prevents you from seeking to influence any government department on behalf of Express Test.
8. Your role in developing Express Test's commercial strategy, may seek to draw on contacts in the private sector only gained as a result of your role as a minister. The Committee also recognised your background in a similar area before joining government and that you will likely have a network from this experience that you can also draw upon.

The Committee's advice

9. The Committee determined the risks identified can be appropriately mitigated by the conditions below. These make it clear that you cannot make use of privileged information, contacts or influence gained from your time in ministerial office to the unfair advantage of Express Test.
10. Additionally, the Committee imposed a restriction on lobbying contacts you made during your time in office in other governments and organisations

¹ This application for advice was considered by Sarah de Gay; Isabel Doherty; Hedley Finn OBE; The Rt Hon Lord Eric Pickles; Michael Prescott; The Baroness Thornton; and Mike Weir. Andrew Cumpsty and David Konotey-Ahulu CBE DL were unavailable.

outside of the UK government for the purpose of securing business for Express Test.

11. The Committee advises, under the government's Business Appointment Rules, that your appointment with **Express Test Investment Ltd** be subject to the following conditions:

- 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 service;
- for two years from your last day in ministerial office, you should not become personally involved in lobbying government or any of its arm's length bodies (including the NHS) on behalf of Express Test Investments Ltd (including parent companies, subsidiaries, partners and clients); nor should you make use, directly or indirectly, of your contacts in government and/or ministerial office to influence policy, secure business/funding or otherwise unfairly advantage Express Test Investments Ltd (including parent companies, subsidiaries, partners and clients);
- for two years from your last day in ministerial office, you should not provide advice to Express Test Investments Ltd (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 and its arm's length bodies (including the NHS);
- for two years from your last day in ministerial office, you should not become personally involved in lobbying contacts you developed during your time in office in other governments and organisations for the purpose of securing business for Express Test Investments Ltd.

12. 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' Interests.² You are reminded that as a Member of the House of Lords you are prevented from any paid lobbying under the House of Lords Code of Conduct. 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.

² 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 your 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.

13. 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.
14. The Business Appointment Rules explain that the restriction on lobbying means that you '*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.*'
15. You must inform us as soon as you take up employment with this organisation(s), or if it is announced that you will do so. Please 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.
16. 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.

The Rt Hon Lord Pickles

Annex – Material Information

The role

1. According to its website, Express Test is a health diagnostics and screening company, designed to improve global health and wellness outcomes. You stated Express Test performed COVID testing to the private sector and now provides health screening, diagnostic, and staff medical checks to private sector companies such as Mercedes and DP World Tour. It is a part of Cignost Diagnostics.
2. You stated that in your paid role as Non-Executive Director you will be involved in developing the strategy, particularly on the commercial side and agreeing the budget for the company.

3. You added that you were a co-founder of Express Test and retained shares during your time in office. You explained that you attempted to dispose of your shareholding in Express Test during your time as a minister, but this was unsuccessful. You added you were in close contact with both the DHSC Permanent Secretary and the Independent Adviser on Ministers' Interests during this time to ensure that your ministerial duties, responsibilities and the information you had access to, did not conflict in any way with Express Test or provide them any potential advantage.
4. You confirmed your role will not involve contact with, or lobbying of, government.

Dealings in office

5. You advised the Committee that you did not meet with, nor were you involved in any policy, regulatory or commercial decisions, nor did you possess sensitive information specific to Express Test.

Departmental assessment

6. DHSC confirmed the details you provided, stating:
 - a. You were not involved in decisions specific to Express Test. It stated that policy responsibility for health testing and diagnostics was closely monitored given your ongoing interests with Express Test as a shareholder. The department stated you were involved in the AI screening programme and made decisions in this area – which the department believes is not the area in which Express Test operates.
 - b. Express Test does not have a relationship with DHSC.
 - c. It did not have concerns relating to your access to sensitive information specific to Express Test. It stated you were briefed across all areas of the department and as minister with responsibility for finance and commercial matters, you had a good handle on the wider landscape and direction of travel across DHSC. The department clarified that:
 - The majority of the useful information would be understanding funding envelopes the department has for diagnostic and testing capabilities, which is limited to the remainder of the 2024 - 2025 financial year.
 - The department stated that given the change of government administration and the Autumn spending review for setting departmental budgets from 2024/2025 onwards, any information you may possess regarding the previous funding envelopes is out of date and has lost its relevance.

7. DHSC did not have concerns with the appointment, and recommended the standard conditions (including the NHS).