



**OFFICE OF THE ADVISORY COMMITTEE ON BUSINESS APPOINTMENTS**

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**BUSINESS APPOINTMENT APPLICATION: Kenneth Thomson CB, former Director-General for Strategy and External Affairs at the Scottish Government. Unpaid appointment with the Lammermuir Festival.**

1. Mr Thomson sought advice from the Advisory Committee on Business Appointments (the Committee) under the government's Business Appointment Rules for Former Crown Servants (the Rules) on an unpaid role he wishes to take up with Lammermuir Festival (the Festival) as a Trustee.
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 taken during Mr Thomson's time in office, alongside the information and influence he may offer the Festival. 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 Rules<sup>1</sup> 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

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<sup>1</sup> 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.

5. When considering this application, the Committee<sup>2</sup> took into account that the appointment is unpaid<sup>3</sup>. Generally, the Committee's experience is that the risks related to unpaid roles are limited. The purpose of the Rules is to protect the integrity of the government by considering the real and perceived risks associated with former Crown servants joining outside organisations. Those risks include using privileged access to contacts and information to the benefit of themselves or those they represent. The Rules also seek to mitigate the risks that individuals may make decisions or take actions in office in expectation of rewards on leaving government. These risks are significantly limited in unpaid cases due to the lack of financial gain to the individual.
6. The Lammermuir Festival has an ongoing relationship with Creative Scotland, a Non-Departmental Public Body sponsored by the Scottish Government, as a funder of the festival. Mr Thomson's last Civil Service role included oversight of advice to ministers on funding for culture, largely through grant funding to Creative Scotland. His role involved no direct, personal involvement in the framing of advice to ministers, nor in implementation of the decisions. As the role is unpaid, the risk that this role could be seen as a reward for influencing decisions or actions is inherently low.
7. As a former Director General, there are inherent risks with Mr Thomson's access to information, privileged network of contacts and his potential influence within government. The Committee agreed with the Scottish Government that the risks associated with this unpaid role are limited.

#### The Committee's advice

8. The Committee did not consider this unpaid appointment to raise any particular concerns under the government's Business Appointment Rules. The standard conditions below sufficiently mitigate the inherent risks. These seek to prevent Mr Thomson from making improper use of privileged information, contacts and influence to the unfair advantage of the organisation.
9. In accordance with the government's Business Appointment Rules, the Committee advises that this appointment with the **Lammermuir Festival** be subject to the following conditions:

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<sup>2</sup> This application for advice was considered by Isabel Doherty; Hedley Finn OBE; Dawid Konotey-Ahulu CBE DL; Michael Prescott; and The Baroness Thornton. Sarah de Gay was unavailable.

<sup>3</sup> By unpaid the Committee means that no remuneration of any kind is received for the role. Applicants must declare where it is agreed or anticipated they may receive remuneration or some other compensation at some stage in the future.

- Mr Thomson 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 Scottish Government or any of its arm's length bodies on behalf of the Lammermuir Festival (including parent companies, subsidiaries, partners and clients); nor should he make use, directly or indirectly, of his contacts in the Scottish Government and/or ministerial contacts to influence policy, secure business/funding or otherwise unfairly advantage the Lammermuir Festival (including parent companies, subsidiaries, partners and clients);
  - for two years from his last day in Crown service, he should not provide advice to the Lammermuir Festival on the terms of, or with regard to the subject matter of, a bid or contract with, or relating directly to the work of the Scottish Government or any of its arm's length bodies.
10. 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 Standards Commission for Scotland<sup>4</sup> and the lobbying register in Scotland. 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.
11. 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.
12. The Business Appointment Rules explain that the restriction on lobbying means that the former Crown servant *'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.'*

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<sup>4</sup> All Members of the Scottish Parliament are prevented from paid lobbying under the Code of Conduct for MSPs.

13. Mr Thomson must inform us as soon as he takes up this role, or if it is announced that he will do so, and we will publish this letter on our website. He must also inform us if he 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.

Yours sincerely,

Murray Hemley  
**Committee Secretariat**

## **Annex – Material Information**

### The role

1. The Lammermuir Festival (the festival) is a charity that organises a classical music festival held annually in East Lothian, Scotland. It is founded on the belief that historic architecture and beautiful landscapes create an ideal environment for experiencing great music. The festival showcases musicians and ensembles in a variety of venues, including medieval churches, grand country estates, and intimate village halls.
2. Mr Thomson wishes to take up a part-time, unpaid role as a Trustee. As a Trustee and member of the governance board, he will be responsible for promoting the organisation's work and ensuring it meets its obligations as a regulated charity. This will be done through participation in board meetings and festival activities.

### Dealings in office

3. Mr Thomson stated that he did not make any policy, regulatory or commercial decisions specific to Lammermuir Festival, and that he did not have any access to information that could grant the organisation an unfair advantage.
4. Mr Thomson also stated that his last civil service role included oversight of advice to ministers on funding for culture, largely through grant funding to Creative Scotland. He noted the festival has an ongoing relationship with Creative Scotland as a funder, but states that he had no direct, personal involvement in the framing of advice to ministers, nor in implementation of their decisions, as these matters were dealt with by teams under his management. He said that he also had little direct involvement with Creative Scotland or the wider creative arts sector, other than occasional contact related to the health of the relationship with his teams.

### Departmental assessment

5. The Scottish Government confirmed that Mr Thomosn did not make any policy, regulatory or commercial decisions specific to Lammermuir Festival.
6. The Scottish Government noted that although there is no direct relationship with Lamemermuir Festival, it has an indirect relationship with grant funding provided through Creative Scotland. The Scottish Government stated that it is not involved in funding decisions for individual organisations made by Creative Scotland.
7. The Scottish Government recommended the standard conditions.