

*From the Chair*



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

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October 2024

**BUSINESS APPOINTMENT APPLICATION: The Lord Markham CBE, former Parliamentary Under Secretary of State, Department for Health and Social Care. Paid appointment with Penneys XI 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 taking up an appointment as a Non-Executive Director (NED) for Penneys XI Ltd (Penneys).
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 Penneys 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. Penneys is your company, set up to manage your family's assets and investments. You said that Penneys has a number of investments, including publicly quoted

equities and real estate. You said that as a NED you will take an active role in managing the investments. You were previously a director of Penneys before becoming a minister. Upon entering office, you resigned and the investments were put into a blind trust.<sup>1</sup>

6. You did not make any policy, regulatory or commercial decisions relevant to Penneys while in office. Therefore, the Committee<sup>2</sup> considered the risk that this role could reasonably be seen as a reward for decisions made in office is low.
7. As a minister you would have had access to a broad range of information that might be relevant to a range of companies. Whilst there is no direct overlap with your time in office, there is a risk that you could have privileged insight to issues within the healthcare sector that could impact your investment choices. There are several factors that limit this risk:
  - The Department for Health and Social Care (DHSC) is not aware of any specific information that would offer an unfair advantage, and confirmed that you had no access to commercially sensitive information.
  - You have been out of office for 3 months, which puts a gap between your access to information and your proposed role.
8. There are risks associated with your network gained within government and in any commercial businesses you dealt with in office. This role does not overlap with government's work and you said that you will not have any contact with, or undertake lobbying of, government. You will likely have a wide network from before you entered government, but there remains a risk you could be seen to unfairly draw on contacts in the private sector for investment opportunities, gained only as a result of your recent role as a minister.
9. The Committee considers it significant that you held a long career in the commercial sector prior to entering government, and you are rejoining a company and role you had prior to joining government in 2022.

### The Committee's advice

10. The Committee did not consider that this appointment raises any propriety concerns under the Rules. Whilst there are risks associated with your time in office, the Committee considers that these are mitigated by the conditions below. These

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<sup>1</sup> In a blind trust the beneficiaries have no knowledge of the trust's assets/holdings, and no right to intervene in how they are handled. The trustee, fiduciary, or person with power of attorney has full discretion over the handling of the assets.

<sup>2</sup> This application for advice was considered by Isabel Doverty; Hedley Finn OBE; Dawid Konotey-Ahulu CBE DL; The Rt Hon Lord Eric Pickles; Michael Prescott; and The Baroness Thornton. Andrew Cumpsty, Sarah de Gay, and Mike Weir were unavailable.

prevent you from drawing on privileged information, contacts and influence to the unfair advantage of your investment company.

11. In accordance with the government's Business Appointment Rules, the Committee advises this appointment with **Penneys XI 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 office;
- for two years from your last day in ministerial office, you should not become personally involved in lobbying the UK government or any of its arm's length bodies on behalf of Penneys XI Ltd (including parent companies, subsidiaries, partners and clients); nor should you make use, directly or indirectly, of your contacts in the government and/or Crown service contacts to influence policy, secure business/funding or otherwise unfairly advantage Penneys XI Ltd (including parent companies, subsidiaries, partners and clients);
- for two years from your last day in ministerial office, you should not provide advice to on or behalf of Penneys XI 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 or any of its arm's length bodies; and
- for two years from your last day in ministerial office, you should not become personally involved in lobbying contacts that you developed during your time in office in other governments and organisations for the purpose of securing business or investment for Penneys XI 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.<sup>3</sup> 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.

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<sup>3</sup> All Peers and Members of Parliament are prevented from paid lobbying under the 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 Civil Service Code or otherwise.
14. 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.'*
15. You must inform us as soon as you take up employment with this organisation, or if it is announced that you will do so. Please 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.
16. 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.

The Rt Hon Lord Pickles

## **Annex - material information**

### The role

1. Penneys XI is your company, set up to manage your family's assets. These currently consist of equity investments and real estate. You said that in your paid, part-time role as a NED you seek to take a more active role in managing the investments. You said that this role will not include any contact with government.

### Dealings in office

2. You have previously been a director of Penneys, which you resigned when you became a minister. At this time, the investments were put into a blind trust and you were given performance reports on the investments.
3. You told the Committee that you did not have any contact with Penneys in your ministerial capacity, and that you did not make any policy, regulatory or commercial decisions specific to the company.

### Departmental assessment

4. DHSC confirmed the details in your application, including that it was aware that you were receiving performance reports on your investments, and was clear that this was not part of your ministerial portfolio.
5. DHSC recommended the standard conditions.