



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

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The Rt Hon Steve Barclay MP  
Chancellor of the Duchy of Lancaster and Minister for Cabinet Office

5 April 2022

*Dear Steve*

I am writing to you in my capacity as Chair of the Advisory Committee on Business Appointments (the Committee) to bring to your attention a breach of the Government's Business Appointment Rules (the Rules). This is outlined in the correspondence ACOBA has exchanged with the Competition and Markets Authority (CMA) enclosed.

The Rules are set by the government, with the policy owned by the Cabinet Office. The Committee is independent, with a remit to consider applications received under those Rules, consider the risks and advise on the conditions that should apply.

It was brought to the Committee's attention that Ms Gomes da Silva had taken up a role with PLMJ, a Portuguese Law Firm, without receiving advice under the Rules. As outlined in the correspondence, the CMA failed to process an application made by Ms Gomes da Silva and the applicant went ahead with the work.

Failure to seek and await advice in this case was a breach of the government's Rules and the requirements set out in the Civil Service Management Code. As you will see from our correspondence with the CMA, Ms Gomes da Silva incorrectly assumed advice was not issued due to no concerns raised. This lack of awareness of the Rules is a cause for concern. Although breaches of the Rules remain a very small proportion of the casework ACOBA sees, they are most often caused by a lack of clarity on the various processes and obligations that exist. I therefore remain

concerned that not all former Ministers and Crown servants are sufficiently clear on the various standards of behaviour, rules and legislation that are incumbent on them.

It is the Committee's policy to act transparently, including making public any failure to follow the Rules that it is made aware of. It is now a matter for you to decide what appropriate action to take.

Yours ever  
Sue Pickles

The Rt Hon Lord Pickles

Copied to: Darren Tierney, Director General, Propriety and Ethics, Cabinet Office and Lord True CBE, Minister of State, Cabinet Office

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**Correspondence from Lord Pickles to Competition and Market Authority, 5 April 2020**



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5 April 2022

I am writing to you with reference to Ms Gomes da Silva's work with PLMJ and the Competition and Market Authority's (the CMA's) associated request for the Advisory Committee on Business Appointment's advice, under the government's Business Appointment Rules (the Rules).

Ms Gomes da Silva took up a role with PLMJ, a Portuguese Law Firm as a senior adviser, in November 2021. The CMA confirmed it received the application in May 2021 but it was overlooked in error and never processed. The CMA's oversight came to light when Ms Gomes da Silva sought the Committee's advice in relation to a second, unrelated role and was told by the CMA that the initial application had not been processed.

The Rules state that new appointments / employment must not be announced, or taken up, before advice is provided. The CMA asked Ms Gomes da Silva about why she took up the role without first receiving advice. She provided a number of reasons:

- she was not aware that advice was issued in all cases and therefore assumed that no contact meant no concerns. Further, she noted there was plenty of time for concerns to be raised had there been any - as she started the new role 6 months after she left government and submitted the application for advice;
- she believed she had completed what was asked of her and was unaware there was an obligation on her to follow up; and
- *'...given the inefficiency/lack of responsiveness across a number of government departments throughout the pandemic, [she] didn't see the lack of response/follow up as unusual'*

The Rules state that no new appointments are announced, or taken up, before advice is provided. Therefore, failure to seek and await advice in this case was a breach of the government's Rules and the requirement set out in the Civil Service Management Code.

The Committee recognised there was an error by the CMA that meant the application was not processed. Applicants also have a personal responsibility to comply with the Civil Service Management Code and manage the propriety of appointments taken up after leaving government service. The Committee will therefore not provide advice on this appointment.

The Committee notes the CMA is in the process of reviewing what happened and the Committee would appreciate an update from the CMA when that is complete to understand what learning can help avoid this happening again. Please do contact the Committee's Secretariat if we can be of any assistance as part of this process. In line with the Committee's policy of transparency, correspondence on this matter will be published on our website; and this letter will be copied to the Cabinet Office, as the owner of the Rules.

Isabella Wynn  
Committee Secretariat