



OFFICE OF THE ADVISORY COMMITTEE ON BUSINESS APPOINTMENTS

G/08 Ground Floor, 1 Horse Guards Road SW1A 2HQ

Telephone: 020 7271 0839

Email: acoba@acoba.gov.uk

Website: <http://acoba.independent.gov.uk>

The Rt Hon Oliver Dowden MP

Deputy Prime Minister and Chancellor of the Duchy of Lancaster, and Secretary of State in the Cabinet Office

20 July 2023

Dear Oliver

I welcome today's publication of the government's response to the Committee on Standards in Public Life, the Public Administration and Constitutional Affairs Select Committee and the report by Nigel Boardman following Greensill. The Committee has long argued that Rules require modernisation to address risks that were not envisaged when the Rules were originally drawn up. I would like to thank you and your officials for their continued constructive engagement on how this is done.

The smooth operation of this system is fundamental to ensuring the government can benefit from the interchange of skills and experience between the public, private and charitable sectors, while protecting the integrity of government.

I welcome the decision to act now whilst consultation takes place on the stronger contractual obligations for Crown servants and a new legally binding deed for ministers. Likewise the government's commitment to providing greater certainty to those joining government on what roles can be taken up on leaving office is critical. Both are important steps which allow for improvements to the system and the introduction of meaningful sanctions.

I look forward to working with the government in three key areas, set out below:

1. Setting a clear risk profile and expectations

The commitment to a new process for lower risk applications will allow limited resources to be focussed on where the real risks occur. After some minor

amendments to the Rules, inherently low risk applications such as unpaid or voluntary roles can be removed entirely from the current system and moved to a reporting basis. I would welcome the introduction of a simple digital solution here.

To enable greater movement in and out of the Civil Service and help ensure the government can benefit from skills, experience and knowledge from other sectors, I agree it is vital to manage the risks and expectations on entry. This must include a clear plan on how an individual's exit will be managed and the requirements on the individual/department to declare interests and be removed from relevant access to information and decision making at the earliest opportunity when they leave public service.

In furtherance to the government's declared aim ACOBA will:

- be clear that, from today, there is a presumption that individuals should not work in the sector for which they held regulatory or commercial responsibility. Rather than a blanket approach - there will be an exception regime for individuals and departments to demonstrate how any such proposed role could be undertaken without any reasonable cause for concerns under the Rules;
- continue to prevent individuals from taking up 'in-house' lobbying roles or joining a lobbying firm without a clear separation from its lobbying work - with commitment from the employer. Where relevant, individuals can apply for an exemption to this, for example someone whose pre-government career was in the lobbying industry and where limited risks can be demonstrated;
- continue to encourage those departments who manage exits well.

2. Introducing a sanctions regime

With regard to the proposed ministerial deed and improved contractual obligations, ACOBA's focus during consultation will be on ensuring the proposals pass the threshold of credibility. A non-statutory scheme, in order to be taken seriously, needs a meaningful sanctions regime including a financial penalty. I agree with the government that financial penalties should only be used if needed and should therefore be reserved for the most egregious and blatant breaches of the Rules.

I am also pleased to see the government has welcomed, and wishes to build on, ACOBA's use of transparency in the absence of any formal investigatory, policing or enforcement powers - when looking into the circumstances of potential breaches of the Rules or failures to follow advice when reported.

3. Increasing transparency outside of ACOBA

There is clearly work to be done to bring the current system into a new reality of contractual and legally binding restrictions for both ministers and civil servants. I welcome the government's commitment to a clear framework setting out the roles and responsibilities of those involved. Transparency is key; the updated Rules and new framework must specifically address:

- departments' responsibility to provide timely, relevant and well considered information to ACOBA alongside appropriate recommendations. This year to date, it has taken departments 2.5 weeks to provide the information required on average and can take as long as four months in some cases;
- which bodies are covered by the Rules¹;
- which individuals are covered by the Rules (for example, clarity around which Special Advisers are at ACOBA level and which below);
- where the public can find decisions made by departments and Arms' Length Bodies under the Rules;
- the role the government envisages for ACOBA in the new reality. It must set clear triggers for when ACOBA's independent advice is required in respect of those once the new contract or deed is in place;
- how consistency of the application of the Rules below ACOBA level during the transitional period will be managed; including raising awareness and capability within departments - particularly where people are working in areas of regulation and procurement.

The decision not to move the system onto a statutory footing means changes can and must be implemented quickly and incrementally. Failure to do so will strengthen the case for statutory underpinning of the Rules. Having accepted the need to reform the system and introduce sanctions, I look forward to further work with the government and seeing the detail of these proposals and a clear timeline for implementation.

In line with ACOBA's policy of transparency this correspondence will be published.

Yours ever
Ernie Pickles

The Rt Hon Lord Pickles

¹ I have enclosed the recent exchange of correspondence I had with the former Chief Executive of Ofwat which illustrates the misunderstandings that exist about who is subject to which rules and where those decisions will be made and/or published.

Copied to:Darren Tierney, Director General, Propriety and Ethics, Cabinet Office and
The Rt Hon Jeremy Quin MP, Paymaster General and Minister for Cabinet Office