



Public Administration and Constitutional Affairs Committee

Oral evidence: Advisory Committee on Business Appointments, HC 977

Tuesday 19 April 2016

Ordered by the House of Commons to be published on 19 April 2016

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Members present: Mr Bernard Jenkin (Chair), Ronnie Cowan, Oliver Dowden, Paul Flynn, Mrs Cheryl Gillan, Kelvin Hopkins, Mr David Jones, Gerald Jones, Tom Tugendhat.

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Examination of Witnesses

Witness: **Rt Hon. Baroness Angela Browning**, Chair, Advisory Committee on Business Appointments, gave evidence.

Q1 Chair: May I welcome our witness to this session for the annual review of the Advisory Committee on Business Appointments, and could I invite her to identify herself for the record, please?

Baroness Browning: Yes, thank you, Mr Jenkin. I am Baroness Browning, Angela Browning, and I chair the ACOBA committee. Sorry, did I hear you correctly? You wanted me to identify myself?

Chair: Yes, please.

Baroness Browning: Is that sufficient?

Chair: Yes, that is sufficient. Thank you very much. We have a number of questions that we want to ask briefly. If you could keep your answers pretty brief, that would help. If I feel that the questions or answers are going on a bit too long, I will pull up whoever is speaking and we will try to get on with the actual questions. I want questions from colleagues, not speeches. Tom Tugendhat.

Q2 Tom Tugendhat: Thank you. Good morning.

Baroness Browning: Good morning.

Tom Tugendhat: You have been in post for about a year now. What would you say are the main challenges affecting your remit as chair of the advisory committee?

Baroness Browning: This particular year, as you will be aware, has been an election year, and in comparison with other years when a general election took place, we had to plan in anticipation of significant changes as far as ministerial appointments were concerned. That was a challenge that the secretariat and the committee felt we should rise to because there had been criticism in previous years when elections took place.

We employed two part-time people, additional to the staff complement, for six months at the end of last year. We have seen an increase not just in ministerial applications relating to Ministers leaving office, but in civil servants. I think that is less to do with the fact that a general election took place, and more to do with cuts in the civil service and a greater churn of people leaving public office. I think our biggest challenge has been to do that as efficiently as possible.

We dealt with 123 applications from Ministers compared with 14 in the year before, which just gives you a feel of the increase in workload. From Crown servants the number of applications went up from 89 to 110. We have managed to improve the rate at which we meet the targets that we are given to process and determine these cases, and that has now gone up to 75%. We feel that the biggest challenge was to make sure we dealt with the increase in workload because of the election.

Q3 Tom Tugendhat: You are clearly very satisfied with the way you are now?

Baroness Browning: Well, when you say satisfied, who is ever satisfied with anything in life? As a new chair, I have obviously wanted to build a team. We have had three new members of the committee this year, so we have carried out interviews for three new members. Building a cohesive team of people to work together, and also discussing where within the rules that we are given we can continue to make improvements, has been part of our ongoing work as well as dealing with the workload.

Q4 Tom Tugendhat: You are arguing then that some improvement to the rules might be necessary?

Baroness Browning: Most certainly.

Q5 Tom Tugendhat: I am sure we will come on to that, but what would you consider your success in five years' time? We have another few years yet but—

Baroness Browning: I guess it is going to be a combination rather than one particular thing. Clearly, we are very conscious of the fact that there is often a lot of criticism because of the public's perception of the revolving door situation, with public servants moving into the private sector. We are also very aware, of course, that it is accepted that there should be this transfer between public sector and private sector and that people under the restraint of trade rules can go on to earn a living after they have finished their time as public servants. We have to strike a balance between the two, and that requires a lot of judgment. It also needs us to keep an eye on trends that are changing, and we have certainly noticed one or two trends changing.

Q6 Tom Tugendhat: What are those?

Baroness Browning: For example, there has been a tendency for more people to take up consultancies and, of course, each time they have a new contract they have to come back

to the committee for us to look at each new contract. But the trend towards consultancies from people retiring is on the increase. We have also noticed a trend that Ministers leaving office very often seek employment in areas or in sectors where they were previously responsible for policy. We are not only looking at that, but making changes—within the rules that we are given, I hasten to add.

Q7 Chair: How much is the credibility of ACOBA and the process you oversee one of the main challenges you face?

Baroness Browning: It is a very big challenge.

Chair: But you did not mention it in your first answer.

Baroness Browning: No, I did not because, frankly, I see it as an almost indigenous challenge that is with us all of the time. We have been subject in the last year to quite considerable press coverage, not just the committee but also many of the individuals who have applied to us in the last year or so, and that has created some quite negative publicity. What I think is interesting about it is that despite that coverage there have been very few examples found of people who have failed to apply to ACOBA in the appropriate way to seek our advice, nor have they found any significant areas where applicants have then flouted the rules or the advice that they were given.

Q8 Chair: Why is the credibility of ACOBA such a big challenge?

Baroness Browning: I suspect because there is a public view across the piece not just of ACOBA, but of people who have held public office going on and doing other things. There has been an awful lot of focus on the amount of money that people earn when they leave office, and all of that is part of the lack of confidence that I think the public has in probity in public life overall.

Q9 Tom Tugendhat: Doesn't that suggest the irrelevance of ACOBA at this point, and that people are going on to do these things and you are not advising against and yet the perception is of—

Baroness Browning: We are given rules by Government and ACOBA works within the framework of those rules. That is our remit. That is what we are asked to do. As I said at the beginning, we have to get the balance right between people having an entitlement to go and earn a living after they have finished their term of office in public service and making sure that the public can be confident that each case is looked at and that the advice we give makes sure that the rules are kept so that the public can have confidence in them.

Q10 Tom Tugendhat: Maybe a better way of putting it then is this: are the rules irrelevant?

Baroness Browning: The rules are not irrelevant, because if they were irrelevant I think all the press coverage we have had, and not just in the past year since I have taken the chair, but before that, would have identified what exactly we have done or not done that has not kept the rules or has provided individual cases where people quite clearly have usurped their position, either as civil servants or Government Ministers, for their own benefit.

Q11 Tom Tugendhat: Given that we have seen numerous occasions of suggestions in the tax area and the military area, and you have just brought up in the ministerial area, where people are perceived to have done that and you have given them advice that has been accepted, as you say, yet the public quite rightly are still concerned at the revolving door that you highlight, does it not exactly point to the fact that the rules are irrelevant, and that ACOBA is therefore irrelevant today?

Baroness Browning: Mr Tugendhat, I come back to what I said just now. If we were irrelevant, I am quite sure that in the press coverage that has been forthcoming in the last year there would have been specific allegations that individuals had flouted the rules, not sought to apply the rules, not applied to ACOBA, broke the rules or shown that they have deliberately used their term in public office to do things that quite clearly not just the public but ACOBA would be very concerned about. That evidence has not come forward.

Q12 Paul Flynn: What about the case of, say, Ed Davey—there are lots of cases—who negotiated what was described as one of the worst contracts that gave us the most expensive electricity in the world, three times the going rate, guaranteed for 35 years, a very heavily criticised contract? He has now lost his seat in the House. He has formed a consultancy and, I believe, now deals with four companies that stand to benefit from this crazy contract that he settled as a Minister. Isn't there a suspicion that his decision to sign this generous contract, which was very much against the public interest, might have been influenced by his future prospect of earning money when he left the House from these four companies he is dealing with now? That has been in the press.

Baroness Browning: I think, Mr Flynn, you have hit on something that we are very conscious of and that influences the questions we ask before we give advice to an individual. You specifically mentioned Mr Davey and you will know that in his case we have imposed on him some additional constraints, which perhaps previously the committee would not have considered. We have asked quite clear questions, such as the one you have just asked me, to his permanent Secretary; in the history of Mr Davey's activities as Secretary of State, are there concerns, or is there any evidence, that the policy he was in charge of was directed in order for later personal gain? That is quite a common question that we ask not just in his case, but in many others.

Q13 Paul Flynn: Right, but doesn't this go to the heart of the futility of the body, that you are not a watchdog; you are a pussycat without teeth or claws? If Mr Davey says, "Fine, I will be a good boy. I shan't use my insider knowledge," what can you do about it?

Baroness Browning: We have to work within the rules we are given, as you will know.

Paul Flynn: So what can you do about it?

Baroness Browning: I think one of the main influences once we have given our advice, is that if somebody breaks that advice or flouts it, the press pick it up and publish it. I think the reputation—

Q14 Paul Flynn: How would you know that he has flouted your advice? He is not going to advertise his relationship with these four customers.

Baroness Browning: We would not. We have neither the resources, nor the remit to—

Paul Flynn: How would the press know?

Baroness Browning: Well, that I do not know. They would presumably engage in some—

Paul Flynn: But you are—

Baroness Browning: Can I just answer the previous question?

Paul Flynn: Yes.

Baroness Browning: They would engage in some form of investigative journalism, which is something that we follow with great interest because we are very keen to see, but we have no remit or no resources to police the advice that we give. That is our remit. If you are saying that we should be given that resource and that remit, it is obviously a matter that we would take very seriously.

Q15 Paul Flynn: This Committee has been suggesting for three Parliaments that your ACOBA fulfils no useful function, that you are just ornamental, and we have suggested remedies to have a statutory body set up with real teeth, with real powers. That has not been done. Is your argument that the futility should continue or do you accept what this Committee has been saying for the past 10 years?

Baroness Browning: What I am saying, Mr Flynn—I think probably I said this last time I was in front of you—is that we are given a remit with a set of rules that are drawn up by the Government.

Paul Flynn: But it is a useless remit.

Chair: Let her answer, Mr Flynn.

Baroness Browning: You may say it is a useless remit. I have read your 2012 report. I am very aware of this Committee's view that there should be a statutory committee rather than an advisory committee, but I have no power whatsoever to turn the remit that I have into a statutory one. That is a matter for the Government, and I think that, as you have already done in your report, you should put that to the Government if that is the view of the Committee.

Paul Flynn: I am sure we will.

Q16 Chair: May we just ask your advice? You have said the credibility of ACOBA and the system you oversee is one of the big challenges because of the criticism and bad publicity that is endlessly generated in the press. What is your assessment? Do you think this is going to carry on as it is, or is it going to get worse, or is it going to get better?

Baroness Browning: Mr Jenkin, I think that is a matter for the Government. As I have said, we act within a framework of rules.

Chair: I am asking for your advice. Do you think this is getting worse or getting better?

Baroness Browning: I don't know at this stage. As I have said, we have just dealt with an increased workload. We have made some changes within the parameters that we are allowed to make changes within the committee. We have begun to offer advice to the

Government on where we think the rules might be changed, but that does not include suggesting it is a statutory committee. That is not part of our remit. It is my frustration as well as, I suspect, this Committee's.

Q17 Chair: No, I understand, but if we do not know if it is going to get better or get worse—let's assume that it is going to carry on as it is—we agree that is a big challenge and, therefore, highly unsatisfactory as it is. What advice are you giving the Government about how this challenge should be addressed?

Baroness Browning: We do not have the resources to—

Chair: No, I know you don't, but what advice are you giving the Government about how this should be addressed?

Baroness Browning: I am at the end of my first year, after a year in which we have had an election. My remit, as you know, is to make sure that we keep to the rules, that we get the balance right, and where we can see areas of change within that remit I am making those suggestions to the Government. I feel that overall policy change as to how these matters should be addressed in future is something that was addressed in your 2012 report. This Committee has made a recommendation to the Government—I have read your report—and as I understand it the Government has rejected it.

Q18 Chair: So what is your advice to the Government?

Baroness Browning: My advice, Mr Jenkin, is that my committee, while it has this remit, should continue to work as best it can to get the balance right, to make sure that we are diligent in our questioning and inquiries, to make sure that the advice that we give to applicants is as close as we can get to getting the right balance between people being allowed to go out and earn a living. For example, just to open up a discussion, and this is just—

Chair: No, we like discussion, my Lady.

Baroness Browning: Very good. Just to open up a discussion, if you were to follow the advice of having a statutory committee and you were to bring in rules that precluded people, for instance, carrying out work that related to a committee for which they had previously had ministerial or senior civil service responsibility, there would be big policy considerations around that one statement. It is not something I or my committee could consider. For example, unless there was to be litigation up to the ceiling from these people against the Government at the time, there would have to be some form of financial compensation considered. I am just saying this to expand the way in which that debate would go forward. That is not something the ACOBA committee, with our remit and our resources, could possibly engage in. That is a matter, I believe, for this Committee and for the Government.

Q19 Chair: To what extent did the Government make it clear to you that you were to stay within your remit when you were appointed to this role?

Baroness Browning: Nobody actually said, "You must stay within your remit," but the rules were explained to us. I was already a committee member, so I was familiar with them. I can tell the Committee that we try to do our very best to make sure that in keeping

that balance we keep within the law. For example, there are times when we give advice to applicants where we sometimes wonder whether we have the power to do this or whether we exceeding our remit, and I will take legal advice to find out whether I have gone too far or whether I am okay.

Q20 Chair: In terms of your public role in meeting this challenge of credibility, can I assure you, my Lady, that you will have the full support of this Committee if you want to raise issues that you think the Government must consider and that you feel that they are not dealing with? That is what we expect of you.

Baroness Browning: I quite appreciate that. One of the things we have tried to do in the last year is to clarify and have greater transparency on what we really mean when we use words. I think we discussed the last time I was here that it is not helpful that across Government the term “lobbying” means different things to different people. We have written to the Cabinet Office to say that we think the terminology “lobbying” within the correspondence and the advice we give from ACOBA is something that should be changed, and perhaps the Committee would be interested in that. I had hoped to have a reply to this before I came before this Committee, but I have not had a reply.

Chair: We would be very grateful to see the reply when you receive it.

Baroness Browning: Indeed, but could I just share with the Committee, then it might give you an idea of how we are thinking on these things? We believe the rule to define lobbying could be changed as follows: “Communication with public office holders, including Ministers, special advisers, civil servants and military personnel, with a view to influencing a Government decision or policy, including competitions for contracts, awards or grants”—that is the wording that we have added into our correspondence in the last year to make it absolutely clear, because it was not clear before—“in relation to their own interests or the interests of the organisation for which they are employed or for which they are contracted or for which they hold office. For the avoidance of doubt, lobbying includes any such communication, even if it takes place in a social or other non-professional context.” That is something that we feel very strongly about.

You asked me how we ever police it. Even if it was on a statutory basis, how would you police what is said at the bar of a golf club on a Sunday lunchtime? How would you know when somebody gets out their address book—it wouldn’t be an address book now, but an iPhone—and shares the personal telephone numbers of people they have had useful contact with in the past? This whole question, whether it is ACOBA or whether it is statutory, of policing and knowing very often what is in somebody’s mind—because this is what we are dealing with—is something that would have to be explored in some depth in order to make things any clearer than what you are putting to me should be the change. I have written to the Cabinet Office on behalf of the committee about the definition of lobbying in order to get even more transparency and clarity so that applicants will know it would just not be acceptable for that information to be exchanged in a private capacity, any more than it would if they met in a professional capacity.

Chair: We are going to deal with the definition of lobbying further on and we will take this up. What you have said has been very useful and we are very grateful for that.

Baroness Browning: I will arrange for a copy of the letter that I have sent to the Cabinet Office to come to this Committee, because it covers other things. We also have made other recommendations.

Chair: We will move on for the moment.

Q21 Mrs Cheryl Gillan: Just for the record, Chairman, obviously because of my former Cabinet position I fell under the rules of ACOBA. I think that should be put on the record.

I was going to ask you about workload, Baroness Browning, but you have covered that in some of your opening remarks. I want to ask you about this natural conflict that seems to occur. It seems to me that the higher you rise up the civil service ladder, or the more senior special adviser you are, or obviously the more senior Minister that you make, you become subject to these rules and you look at them very carefully. However, there is a natural tension, isn't there, with Government, because Government want people to dip in and out of the civil service and of the consultancy world? Would you like to say what your view is on that, if you are just below that tier, you are not covered by ACOBA and you can indeed dip in and out?

Baroness Browning: The changes that were made to the rules just over a year ago involving people below that level are cases that are dealt with within ministries and the ministries are now starting to publish the outcomes of those cases in the same way that ACOBA puts all the cases that are taken up on to our website so everybody can read them. Ministries have started to publish those. We welcome this. We think this transparency throughout ministries is very important. Since I became chair, I have started to do visits to permanent secretaries to talk to them to make sure that we are at one on the importance of getting questions answered, of being able to make sure that the advice we rely on from permanent secretaries and HR departments within ministries is helping us to make the right decision. I welcome the fact that those lower tiers of people, who are, as you rightly say, still subject to the same rules—and not just ACOBA rules, but very often rules within their own contracts of employment—are constrained by what they can do when they leave public office, and to make sure that that is happening.

Q22 Mrs Cheryl Gillan: From time to time Government wish to bring in people from outside to be Ministers, usually by appointing them to the House of Lords. Surely the increased scrutiny and the fact that they then fall under the same rules as elected representatives who serve as Ministers and so on is enough to put people off accepting those positions.

Baroness Browning: It may well put people off. My main concern—you will know this only too well, Mrs Gillan—when people become Ministers is the flurry around suddenly taking on a new job of that nature. Given the great bundle of briefing papers they get when they take up office, I am not sure what the chances are that they would focus on the fact that they have these rules to abide by when they eventually leave office—nobody on their first day at the Dispatch Box is thinking about the day they are going to leave. We all understand that. We have looked at that and I write to every Minister on taking up office. Apart from the bundle they get, I give them a week or two to settle in and then I write to them individually and remind them that when they do leave office they are constrained by the ACOBA rules and this is what to do when that day comes.

One of the other suggestions that we have made in my letter to the Cabinet Office, which you will see, is that the full set of rules for ACOBA is also made available to Crown servants and others in the ministerial code. It is referred to in the text of the ministerial code; it is not annexed. For example, the standards in public life is annexed in full, so we have now suggested that the ACOBA rules are annexed in full. I wrote to all serving Ministers just before the election when the House rose.

You mentioned the Lords, which is difficult. It is difficult for them because when somebody comes in, having run a multinational company or something prestigious outside and then stands at the Dispatch Box in the Lords as a Minister, I am not 100% sure that when they were asked if they would like to take that job they were told that when you give it up there are some constraints on what you can go back to or how you can go back to a job. That is why I make a point of writing to them to make sure they are aware. We have had quite a few cases where I believe people were not made aware of that and I think they should be.

Q23 Mrs Cheryl Gillan: Obviously, you must as an organisation have an idea of what your workload would be.

Baroness Browning: Yes.

Mrs Cheryl Gillan: You have a list of all the people, should they leave office and then try to take up something else. What percentage of that total constituency applies to ACOBA?

Baroness Browning: That is not a figure I have, Mrs Gillan, but I am very happy to write to you and tell you.

Mrs Cheryl Gillan: I would be grateful.

Baroness Browning: For example, we have elections coming up next month in Wales and Scotland, and we have a remit not for Northern Ireland but for Wales and Scotland. We are looking now at what possible changes there might be there, because that will affect our workload as well.

Q24 Mrs Cheryl Gillan: Something that struck me when I was reading your annual report was the dearth of women applying to your committee. Do you think that that is reflective of the fact that there is still such a lack of women in senior positions?

Baroness Browning: I had not focused on that but I will. It is not obviously part of our remit. We do get some very high-powered women applying to go on to even more high-powered jobs, which is always good to see, but I will take a look at that.

Q25 Chair: Just to be clear, Crown servants have a contract of employment that they have signed. Is that correct?

Baroness Browning: Yes.

Q26 Chair: Isn't there an obligation under their contract to observe the rules of the Advisory Committee on Business Appointments when they leave?

Baroness Browning: Yes, there is, but I believe it is within a text; it is not annexed. For example, the “Seven Principles of Public Life” is annexed to that. We have made the suggestion that the full set of rules as far as ACOBA is concerned should be annexed.

Q27 Chair: It should be an obligation of their contract to comply with those rules and to accept the advice of ACOBA?

Baroness Browning: Yes. I have asked a question. For example, the Official Secrets Act applies to many people’s contracts. I have asked how many people have subsequently, after leaving office, been prosecuted under the Official Secrets Act, just to get a feel in terms of the policing, and that is something that is statutory. It is very few because bringing the evidence in order to bring a prosecution is deemed to be very difficult.

Q28 Chair: Most contracts of employment cannot create enforceable conditions for more than two years, although the Official Secrets Act is a separate statute and applies in perpetuity.

Tom Tugendhat: Whether you have signed it or not.

Chair: Whether you have signed it or not, exactly.

Baroness Browning: Indeed.

Chair: Don’t Ministers also sign a contract of employment?

Baroness Browning: I am not sure that Ministers sign a contract of employment as such, no.

Q29 Chair: Should they be required to do so on taking up their appointment, which includes an obligation to comply with the ACOBA rules?

Baroness Browning: I do not think it is a contract of employment, Mr Jenkin. I would just like to check, because I do not think it is a contract of employment in the sense that they sign anything, but they are sent papers that advise them about the ministerial code and what is expected of them. What I would expect is for the ACOBA rules, which are mentioned in the code but textually, to be annexed to the back.

Q30 Chair: It is quite usual in the modern world for you to sign a job description that forms part of your contract. Even if there is not a contract for Ministers, they could, in fact, sign the ministerial code, which includes the obligation to comply with the ACOBA rules.

Baroness Browning: I think they do as such, but the ACOBA rules are mentioned in a couple of sentences. I would like to see it annexed in full to the back of that and I have made that recommendation on behalf of the committee.

Chair: Thank you very much. We are rather dealing with Mr Hopkins’s question 6. Is there anything you want to add on that?

Kelvin Hopkins: Not really, no. Thanks, Chair.

Chair: Then we will move on to Mr Flynn.

Q31 Paul Flynn: Can you remind us of your own position? You told us at the last session we had a year ago that you had outside interests. Can you tell us if you still have them and what your daily rate of pay is?

Baroness Browning: Yes. I do not have to give that information, I do not think, Mr Flynn, but I did volunteer it to you when I was appointed. I work in training and my daily rate of pay, depending on what I am doing, fluctuates between £300 and £800 a day.

Paul Flynn: Between £300 and £800 a day?

Baroness Browning: Yes.

Q32 Paul Flynn: The reason I ask the question is that there is an investigation going on at the moment about the fact that the reputation of parliamentarians in this House and in your House is getting deeper and deeper into the gutter and reforms are being considered. Papers have gone in about it, including suggested reforms to ACOBA. How many members of your committee have other outside interests, paid outside interests?

Baroness Browning: I think they all have outside interests.

Q33 Paul Flynn: Yes. Could I just put it to you as gently as I can, as a great admirer of the work you did in this House and sorry you are not doing something—well, you possibly are doing something equally worthwhile in the other House.

Baroness Browning: That is a bit double-sided.

Paul Flynn: Yes, I was being kind, which is uncharacteristic of me.

Baroness Browning: I appreciate it, Mr Flynn.

Paul Flynn: For the public outside who are told that austerity matters—£30 a week has been taken away from disabled people in a very severe Government cut—to be told that there is a group of people who are all supplementing their fat salaries, sometimes their private wealth, by taking jobs that pay up to £800 a day, they would regard that as possibly a problem. You yourselves, with deep tentacles in this area, are judging people like yourself; the great and the good being generous and permissive to the great and the good. That is what the committee has been doing, hasn't it?

Baroness Browning: Bearing in mind, of course, this is not a committee that reflects some other committees—we have an honorarium for carrying this out—I find it rather remarkable. If we were all earning £80,000 or £90,000 a year for sitting on this committee, I could understand you asking me that question. I think it is rather hard given the workload that we manage to criticise our honoraria—

Paul Flynn: I am not criticising. I think it was this Committee—

Baroness Browning: No. Therefore, Mr Flynn, you turn to outside earnings. I am not quite sure why. It may be for the amusing interest of the Committee to know, having voluntarily told you what my daily rate is, that before I became a Member of Parliament, which was 26 years ago, my daily rate was more than it is now. That was me not being some fat cat or working in some type of industry. It was the same as I am doing now. It was training and management consultancy. I am not somebody who has got my tentacles

deep into something. The other thing that might just amuse you is that last year I worked for two days, so that is my total income. I will let you work out whether you think it was at £300 or £800, but it is hardly something that makes me an unsuitable person to chair the ACOBA committee.

Q34 Paul Flynn: What I am suggesting to you is that we, as very greatly privileged people being legislators, have a vested interest in this and maintaining our own wealth in retirement. When we read that since the last election 25 former Ministers are taking £1 million in remuneration, again on top of other wealth they have, in areas where they worked as Ministers, there is a clear case of potential corruption here. You can do nothing to stop that. On the question of remuneration, it was this Committee—

Chair: Let her answer the question, Mr Flynn.

Paul Flynn: Let me just say on the question of remuneration that it was this Committee that recommended about 12 years ago that you should be remunerated because you were not before then. Can you tell us—

Chair: You have asked the question, Mr Flynn. Please let her answer.

Baroness Browning: I am not quite certain what the question is. I think, Mr Flynn, if I can look at what you are asking me, that what you are saying is that the people who sit on the ACOBA committee should not have any outside interests that bring remuneration. If that is what you think the profile of the committee should look like, then there would need to be a substantial change in what we get as an honorarium each, because quite clearly people do not sit on this committee for the money. Quite clearly they do not.

Paul Flynn: What I am suggesting is that your judgment is affected by the position you—

Baroness Browning: By the fact that we can earn—

Paul Flynn: Do you have any bus conductors or waitresses on the committee?

Chair: This will be your last question, Mr Flynn. You are trying the patience of the Committee.

Baroness Browning: No, but what we do have, Mr Flynn, is people like myself who have not always been a baroness, have not always been an 18-year Member of Parliament. I have scrubbed out operating theatres in my time. When you look at the profile of people, that surely is what we mean by aspiration. Do we really mean that if bus conductors, hairdressers or people like me who have scrubbed out operating theatres can start a successful business career, can become Members of Parliament, can have the pleasure of sitting in the House of Lords, that somehow if that is what happens to us in our lives we are no longer suitable? Surely that is not what this country is about.

Q35 Paul Flynn: We want people there who can act in the public interest free from accusations that they might have private interests in the atmosphere—

Baroness Browning: Mr Flynn, come on, let's lay it on the table. What would be the danger to the public interest of somebody with my background—and what I have done in my life is all in the public domain—who has pulled themselves up by their bootstraps and

achieved things in life fortunately, and I know not everybody does. Why should I then be precluded from sitting on this committee?

Q36 Paul Flynn: We are looking at the committee as a whole and what we are suggesting is if someone is going to take—

Baroness Browning: No, you are talking about me. You are talking about me. Come on, I am sitting here. Make the accusation. If you have an accusation to make, Mr Flynn, make it. You and I have known each other long enough for you to be straight with me. Tell me what it is.

Paul Flynn: I was excessively kind to you and paid tribute to your work.

Chair: I am going to move on.

Paul Flynn: I am not talking about you. I am talking about the entire committee.

Chair: Order, Mr Flynn. You may have one further question. You are trying the patience of the Committee.

Paul Flynn: I am trying your patience.

Chair: No, I think you are trying the patience of the Committee.

Baroness Browning: Can I help you?

Q37 Paul Flynn: Well, no, I doubt it very much, but let's get on to the specific cases. Former Health Secretary Andrew Lansley, Chris Huhne, Ed Davey, Owen Paterson and David Laws have all taken jobs with firms that are linked to an area they previously were involved in in their ministerial roles. Owen Paterson has a job with a company that he negotiated with as a Northern Ireland Minister. All of them were there in office doing their job, and with your committee's approval they go out to work for the same—

Chair: What is your question?

Paul Flynn: The question is this: what can you do to stop the perceived public view that this is a gravy train, a revolving door, in which they are using the knowledge they gained in their office and their contacts for their private greed?

Baroness Browning: Mr Jenkin, it is a very good and relevant question and it is one that we are very concerned about. What we have already said, and I said that there are some trends developing, is exactly what you have just described: people who have held ministerial office going into a sector for which they have had ministerial responsibility. That is certainly a trend that we see increasing all the time. One of the things we have made very clear, because we are restrained by the rules that we have to work with, is that they can expect to have waiting periods applied. We have done that. We have also said that they can expect to have longer waiting periods. In other words, before they can take up this appointment there is a longer gap before they can take it up. We do ask the very question you have just asked me of the permanent secretaries, particularly when it relates to contracts. I think you will see that in one case, for example, with Mr Davey and the Hinkley Point situation, we have said quite expressly, and put that in the public domain, that he is to have nothing to do with the Hinkley Point contract at all.

Chair: All right, moving on—

Paul Flynn: What if he does?

Chair: Mr Hopkins.

Paul Flynn: No, can we have the question?

Chair: I am sorry, Mr Flynn—

Baroness Browning: Mr Jenkin, may I just answer that? If he does, that is a real problem because I do not have any powers to bring him to court.

Paul Flynn: Exactly.

Baroness Browning: You say “exactly”. Perhaps you would like to ask me if I would like to have those powers.

Paul Flynn: Well, I am sure you would.

Baroness Browning: Yes, I would.

Paul Flynn: At the moment your committee is futile. Your committee can do nothing.

Chair: We are going to come on to that. Mr Flynn, thank you very much indeed. Mr Hopkins, a short intervention.

Q38 Kelvin Hopkins: I have one very specific question about Dave Hartnett, who was the chief executive of HMRC.

Baroness Browning: Yes, I know exactly who you mean.

Kelvin Hopkins: On his watch a number of sweetheart deals were done with the big corporates and they got away with billions that should have gone into the Treasury to help pay for the health service and so on. Subsequent to his leaving HMRC he became a tax consultant advising the very people that he was giving sweetheart deals to beforehand. What was the committee’s attitude to that and shouldn’t something much stronger be done about that sort of thing?

Baroness Browning: I agree with you, Mr Hopkins. Neither myself nor any other member of the committee was actually on the committee at the time it looked at the Hartnett case, so I cannot give a personal account of what those deliberations involved. I have to say that I share your concern.

Q39 Oliver Dowden: I should begin by declaring two interests. First, I used to work for the Prime Minister and advised him in relation to this, among many other things. Secondly, as a former special adviser, I remain subject to the Advisory Committee on Business Appointments, at least until October of this year.

I think Mr Flynn has touched on this, as has Mr Hopkins. On this question about people who used to work for HMRC then going into the private sector, it is not just the deals that they reach, it is also the knowledge that they have and understanding of what HMRC is

looking at when it looks at people's tax affairs. How do you police the exploitation of that knowledge once people get into the private sector?

Baroness Browning: This is the dilemma that I touched on just now. How do you know who says what to whom when it is a private situation? That is why we want the term “lobbying” defined to show that in private situations as well as in professional situations that knowledge—and the knowledge could be about a contract or it could just be the address book. From my days in business, although it was many years ago when everything was more hard copy—it is all electronic now—if somebody left a company—that is why many companies when they part company with a senior person say, “Go today,” because what they do not want is them taking the client base with them, taking all the contacts with them, taking something out of the computer databases. Things like that are very difficult to police. Frankly, they have to be policed within a department at the time because I think retrospectively it is very hard to know whether that sort of thing has occurred.

Q40 Oliver Dowden: Specifically, if somebody has worked for HMRC, particularly in a senior position like that, they understand how HMRC goes about conducting investigations and how it interprets very complex tax legislation. That is not so much exploiting contacts or an address book; it is actually exploiting a much more sophisticated knowledge of how tax policy and the implementation of tax policy works. Is that something that your committee considers in relation to such applications and how do you wrestle with that?

Baroness Browning: We ask the question of the Department, both the permanent secretary and HR, about their contacts with particular companies, and obviously with the companies that they are applying to, and what has gone on during their term of office that might give rise to concern. One of the most difficult things—it is a question we often ask—is whether there was anything in the way their relationship with this organisation or this company was conducted while they were a Minister that would give rise to the fact that their decision making or their relationship with them was in anticipation of what might happen after they left office, rather than while they were in office. That is a really difficult thing to pin down, but we ask the question very often if we are in any way suspicious that somebody is using knowledge of process—not just contacts, but process.

One thing I would just say to you, and this is very much a personal thing—I cannot honestly say it is a matter I have discussed with the committee but just on a personal basis—is that, as a Minister, I was always very cautious of whom I supped with, if I had a professional relationship with them. People who accept hospitality, whether it is just the dinner and then the business is talked over dinner or whether it is tickets to Wimbledon or whatever, I think is an area that we should look at in public life, particularly with Ministers and civil servants. Frankly, a lot of people already have a personal code of ethics that says, “I will not do that”, but I would welcome that being looked at.

Q41 Oliver Dowden: There are some areas, for example in relation to people who worked for HMRC and then went to work in an advisory capacity, or simply somebody who worked in the Ministry of Defence and then worked in defence procurement, that are so toxic in terms of the public's perception of them that maybe we should look at absolute bans for a period of time rather than conditions being applied?

Baroness Browning: We do look at that. We are now looking at absolute bans. Well, when I say “absolute bans”, what do you say, banning them from working in a sector?

Oliver Dowden: Yes. For example, if you work for HMRC banning you from working for a tax advisory or consultancy firm, full stop, for a period of time; maybe it is two or five years or something like that.

Baroness Browning: I do not have the power to do that. What we are doing as a committee—and we have made this known—is that people who are going into a sector for which they were responsible can expect a period applied before they can take up the appointment. The length of that period is also something that we can flex on. We like to keep some flexibility but we are constrained. But that is something we have already started to do.

Q42 Oliver Dowden: You say you do not have those powers. Are there further powers you would like from the Government to be able to do that and, if so, what specific powers are they?

Baroness Browning: There are, and we are going to make them known to the Government. As I say, we have written this letter, to which I am awaiting a reply, but the committee does look. Last year we had a half-day away day. I can reassure you that we did not have to pay for the room—we did have free tea and coffee, but I brought the cakes—so there was no additional cost, and nobody charged expenses to get there. We have another one in June this year, and one of the issues that we shall be looking at, as well as our own governance of our committee, is this very issue of people going into the same sector. It is a trend that is developing. I think a lot of it is because these people very often are younger than they were before. People are sort of churned from one job to another, and if they are young and they have the expenditure of mortgages and things like that, clearly they are aspirationally seeking well-paid jobs to substitute the job they have had.

Q43 Oliver Dowden: Related to this—as the Chair said we would come on to this—there is this question of the definition of lobbying. Perhaps you could repeat your understanding of what lobbying is. The conventional view of lobbying is to make representations to a Minister or an official, but you suggested that you had a slightly broader understanding of what amounted to lobbying.

Baroness Browning: We did, because we have been concerned. When you say “representations to Ministers”, what are we talking about? The rules refer quite specifically to representations on policy and on contract, but what about this question of social or non-professional representations. Mr Jenkin, one of the first Departments I went to see was the MoD. I went to see the permanent secretary at the MoD. There is, of course, a second committee at the MoD that scrutinises all these cases that come from the MoD before ACOBA considers them, and we have met with that committee as well. Mr Hopkins will know this only too well. I sat on the Public Accounts Committee for many years, so I am very conscious of the difficulties with procurement in the MoD. They are long contracts and in some cases you could say that when somebody has been out of office for two years what knowledge they have is pretty out of date. In defence that is not the case. These are long contracts, subcontracts are let years later and all of that.

But I had heard as a rumour—it was only a rumour—that in the MoD when staff left they retained their departmental passes. I wanted to go in there because I thought, “If this is how

things are happening, no wonder people who have left have access.” I have to say that I was very impressed with the permanent secretary. He may have already gone to the Foreign Office now, but when I saw him I was very impressed. He said he put a stop to that. It was the case. In every Department I visit now I ask the permanent secretary, “When your staff leave, do they retain their departmental passes?” Nobody has said yes to me yet.

Oliver Dowden: What further needs to be done in relation to the definition of—

Q44 Chair: Sorry, before we just move on, are you telling the Committee that it used to be the practice in the MoD that people who had left could retain their MoD pass and move in and out of the building unchecked?

Baroness Browning: So I believe, absolutely.

Q45 Chair: What do you think that says about the attitude of the senior leadership in the MoD at the time?

Baroness Browning: Mr Jenkin, that has changed.

Q46 Chair: It may have changed now, but what does it say about the attitude then? Isn't that part of the real challenge to make sure that people have the right attitudes?

Baroness Browning: It is, and I see that as part of my role, Mr Jenkin, not only of course to make people aware across ministries of the rules and the way in which we go about our business, but also to ask those sorts of questions when I go.

Q47 Chair: When was this practice stopped?

Tom Tugendhat: I can speak very specifically about the 10 years—

Chair: Would you like to take the witness stand? Do you know when this practice—

Baroness Browning: I don't know the date exactly but the permanent secretary assured me, because I think he was brought in to sort some of those problems out. I was also told—I was very impressed by this—that when staff meet former senior military people who are now retired, if the military person becomes engaged in a conversation that could be seen to be lobbying, the staff are instructed to ask in what capacity the question is being asked of them. I was very impressed with that, and we are talking about a Department where there has been bad publicity in the past. I feel that from my point of view, on behalf of ACOBA, going round to permanent secretaries and just touching base with them periodically does help us to get a view of how things operate within their Departments. It also reminds them that they are playing their part in this whole process.

Chair: I will come back to Oliver but Tom wanted to intervene.

Q48 Tom Tugendhat: I can merely state that during the time I worked in the Ministry of Defence from 2009 it was not the case that senior military officials kept their passes in any way at all. I know this because I used to organise conferences for the Chief of the General Staff and the Chief of the Defence Staff, and officials and military officers had to

be signed in and signed out. I don't know what Jon Thompson is claiming to have cured, but I think he may have found a cure to a problem that wasn't there.

Baroness Browning: Well, he assured me that that was not the case.

Tom Tugendhat: I know Jon Thompson. I am sure he assured you that his successes were legion.

Baroness Browning: Are you saying I should not have believed what he said?

Tom Tugendhat: Mr Thompson is a very successful advocate of his own case.

Chair: All right. Well, we won't go there anymore but can I—

Baroness Browning: I would hate to think that any permanent secretary has not told me the truth.

Q49 Chair: Can I just make the point that we have made in our submission to the revision of the code of parliamentary standards, the code of conduct for Members of Parliament, which is that there is a distinction to be made between a code of conduct that is about attitudes and principles and the enforcement of actual rules. How helpful would it be, from your point of view, to separate these two things: that there are certain standards of behaviour and values that you wish people to demonstrate in their conduct with regard to business appointments but then there are a set of rules that you expect them to comply with, and you don't necessarily adjudicate each of those two bodies of words in the same way?

Baroness Browning: I would very much like to see what you have submitted, if that is possible.

Chair: It is not our property at the moment; it is the property of the Committee we have submitted it to, which I expect they will publish in due course. As soon as it is published, we will apprise you.

Baroness Browning: Do you know when that is being published, Mr Jenkin?

Chair: I'm afraid we don't.

Baroness Browning: I was merely thinking that if it is published before our half-day away day in June, it might be something we would wish to consider at that meeting.

Chair: Thank you. I would be very flattered.

Q50 Oliver Dowden: On the lobbying point—it is interesting what you are saying—do you think there are two sides to this: the conduct that is expected of serving officials, Ministers and civil servants vis-à-vis their interaction with former colleagues; and then what is expected of those colleagues when they go into the private sector and what we define as lobbying? I wonder whether you could address both those points.

Baroness Browning: Yes. I think the clearer one can be in the use of words on what we think lobbying means is very important. Of course, lobbying occurs in different contexts across Government and there is a slight variation in each definition, which is very unhelpful.

Q51 Oliver Dowden: How do you define lobbying?

Baroness Browning: This is why we have asked the Cabinet Office—

Chair: You went into it earlier. We don't need you to go on.

Baroness Browning: No, that is what I read earlier.

Q52 Oliver Dowden: Do you think that is a sufficiently broad definition?

Baroness Browning: It is an improvement on the definition we have at the moment.

Q53 Oliver Dowden: Do you think you could go further then?

Baroness Browning: Possibly. I would just like to bank this one first, frankly.

Q54 Chair: The advice that you give to your colleagues in your new employment so that they can behave more effectively, to what extent is that indirect lobbying?

Baroness Browning: It is indirect lobbying.

Q55 Chair: “Here is the person to talk to. This is how you should approach him. I cannot be involved because I am restricted, but this is how I would do it if I were you.” Isn't that lobbying?

Baroness Browning: It is. That is indirect lobbying and we do from time to time, depending on the circumstance, refer the individual to their contact and what they advise other people in the organisation they are going to.

Q56 Oliver Dowden: On the second point, do you think that individual Departments should be doing more to educate Ministers and employees about what are and are not acceptable interactions with former colleagues?

Baroness Browning: Yes, I do believe that is the case. I think a lot more can be done, but I do understand that ACOBA has a role in this. When I go to these Departments, what I am doing is not just raising the issue of whether there are any problems; it is not only to talk through how in practice people can be made aware of the rules, but it is the ethics of the Department and the ethics of Government, and that is very important.

Q57 Oliver Dowden: Do you think we should be producing some sort of guidance on giving presentations to those Departments?

Baroness Browning: We have no resource or remit to do such a thing at the moment.

Q58 Oliver Dowden: Is that something you would like to extend?

Baroness Browning: I am quite sure that if that was put to the committee it would be very interested in reviewing it.

Q59 Chair: Thank you for that. I am coming to Mr Cowan in just a second, but to what extent are Ministers and officials obliged to notify their command chain or their

management when they are approached and they feel they are being lobbied? Isn't that one of the other safeguards that should exist?

Baroness Browning: It is. That is why I mentioned that point that the MoD permanent secretary said to me: that if they felt that former chiefs of staff were lobbying them, whether it happens to be at a regimental dinner or in the Ministry for some reason, they should be very clear that they are being lobbied. Whether they then ask for that to be reported back to somebody, I am not sure, but certainly I would expect them to do so, frankly, in their own self-interest, because if something comes of that it is rather important that they have noted it.

Q60 Ronnie Cowan: Much of what I was going to say has been covered by your wonderful exchange with Mr Flynn, which I have to say I thoroughly enjoyed. Too many people coming before this Committee appear on time and say absolutely nothing. I thought it was very refreshing and very honest of you.

Baroness Browning: It will be in his next book.

Ronnie Cowan: Which obviously I will buy. I will add it to my signed, personal copies. But for my benefit, just to go back over this slightly, the committee is made up of eight people?

Baroness Browning: Yes.

Ronnie Cowan: Three women and five men, so we are getting towards some sort of gender balance there.

Baroness Browning: Yes.

Ronnie Cowan: Is that an improving situation? Historically, it is—

Baroness Browning: I haven't looked historically. I joined the committee a year ago and I am not aware of the historical composition of the committee. Mrs Gillan raised this question of women as applicants and we would certainly hope to have gender balance in the committee.

Q61 Ronnie Cowan: Three of the members are in the House of Lords?

Baroness Browning: Yes, they are. Three of them are political appointments of course. The Conservative, Labour and Liberal Democrat parties appoint a member. I was the appointed Conservative member, but when I applied for the chair I went through a selection process.

Q62 Ronnie Cowan: Why isn't there an SNP member?

Baroness Browning: That is a very good question.

Ronnie Cowan: Nobody has asked me.

Baroness Browning: It is a question frequently asked in the House of Lords, Mr Chairman.

Q63 Ronnie Cowan: These are paid positions?

Baroness Browning: We are paid honoraria. The members of the committee, the seven other members, for one to two days' work a month are paid £3,000 a year. As chair, for two to three days a month, I am paid £8,000 a year.

Ronnie Cowan: For one to two days a week?

Baroness Browning: A month.

Ronnie Cowan: A month?

Baroness Browning: Yes. I would say that is pretty—

Q64 Ronnie Cowan: But in 2014-15 you advised on 49 appointments for former Ministers and 89 appointments for former Crown servants. That is 138 appointments. That seems quite a tight schedule to me.

Baroness Browning: Well, we work very hard. Of course, we also deal with freedom of information requests. That is another part of the work that I do as chair. Are you saying we are not good value for money?

Q65 Ronnie Cowan: I am wondering if you can give value for money on that sort of timescale. That is an awful lot of appointments in a very short working life.

Baroness Browning: It is, but we have a secretariat to assist us.

Q66 Ronnie Cowan: But I have been critical in the past of people being rubber stamped for jobs and I am wondering if you are just doing the same thing.

Baroness Browning: Absolutely not.

Q67 Chair: Those numbers do not include the applications you consider and then the appointments that are not taken up.

Baroness Browning: No, we consider far more than that. That is quite right, Mr Jenkin. There will be more than that because the numbers that we put on our website are the numbers of appointments taken up. There are others that we consider that are not taken up for various reasons. I hope some of them find that our advisers advise them that perhaps they don't want to go down this route, but we would not put it quite as crudely as that.

Q68 Chair: Do you think you could publish on your website—as they say, no names, no pack drill—how many approaches you have had and how many appointments you have advised on that have not subsequently been taken up?

Baroness Browning: Do you mean without saying why they weren't taken up?

Chair: Exactly, just so that we have a better idea of your workload.

Baroness Browning: We could certainly look at that. Yes, certainly, I will take that back with me.

Chair: Thank you.

Q69 Ronnie Cowan: I am looking at the progress of the committee. As society has changed, what do you think you can do to change the makeup of that committee to better reflect the society today?

Baroness Browning: Apart from the political appointments for the three parties, the other five vacancies are publicly advertised and go through the formal recruitment process, so there is no reason why we cannot—

Q70 Ronnie Cowan: For my benefit, what is the formal recruitment process?

Baroness Browning: These are vacancies that are advertised on the Cabinet Office websites and anybody can apply for them and, of course, people who are looking for public appointments very often have their names listed with the Public Appointments Commissioner.

Q71 Ronnie Cowan: I seem to have a groundhog day here. They are advertised on the Cabinet website?

Baroness Browning: Yes.

Ronnie Cowan: And is that it?

Baroness Browning: Yes.

Ronnie Cowan: It is not exactly reaching out to the community at large, is it?

Baroness Browning: I am not aware that, for example, there has been any newspaper advertising of the vacancy, but it will be on the Public Appointments vacancy list, which very often people seeking to take up a public appointment will be looking at. It is the Cabinet Office rather than the ACOBA committee that is responsible for the recruitment, so although I would quite likely sit on the panel that interviews, it is the Cabinet Office that recruits.

Chair: It is back to the conversation we had last week.

Ronnie Cowan: Yes.

Q72 Mr David Jones: By the way, I should declare that I am presently subject to the ACOBA regime. Lady Browning, you mentioned in response to Mrs Gillan that you have a broad idea of how many individuals are at any one time subject to the ACOBA regime. Is that right?

Baroness Browning: Yes. The rules apply for two years after leaving office. People come and go as they go through that two-year period, so we publish every case on the website that is taken up. You can see on the ACOBA website exactly who is subject to that ruling.

Q73 Mr David Jones: But you are a reactive committee; you only react in response to applications that are made to you.

Baroness Browning: Yes.

Mr David Jones: To what extent can you say with confidence that everybody who is subject to the ACOBA regime has made a proper declaration, has sought the advice of your committee and has not simply ignored it and gone straight into employment?

Baroness Browning: Well, we can't. We have recently, as a result of a press piece, identified one person who failed to apply. That was Lord Foster. I sent him a letter to advise that we did realise that he had taken up an appointment without coming to us. He apologised profusely for it but, none the less, I still thought it was important for us to put that on the website, because it is a marker for others that if they don't they are likely to get adverse publicity.

Q74 Mr David Jones: In reality it is simply a rap on the knuckles, isn't it? It is no more than that.

Baroness Browning: It would depend on their perception. It would depend, first of all, on what the applicant's perception is of the ensuing publicity that they might be subject to, bearing in mind that politicians learn to develop a thick skin with adverse publicity. But once you are out in the commercial world it is a reflection not just on you, but on the company or organisation you have been recruited by. I think there is an awareness among applicants that once they are no longer within this Westminster bubble, the reputational issues of publicity will fall not just on them, but very often on either their clients or the company or organisation employing them. I have to say, from the conversations we have with those employers, that they do not want anything that is going to reflect badly on them as an organisation. I think that is understandable. So they are very cautious.

Q75 Mr David Jones: I have no doubt there is truth in that, but it could equally be the case that neither the applicant nor the employer really cares. Frankly, simply publishing someone's name and naming and shaming does not amount to a deterrent in every case, does it?

Baroness Browning: There is no evidence, Mr Jones, that there are dozens of these people out there. As I say, we have had only two in the last year. The one I mentioned was Lord Foster and that was as a result of press coverage. We had another one for a civil servant where there were genuine extenuating circumstances. It wasn't that somebody was just shrugging their shoulders at the rules; they had personal issues that distracted them from doing it.

Q76 Mr David Jones: However, that is why I raised with you the issue of how many individuals at any one time were subject potentially to the ACOBA regime. The fact is that someone has to draw his or her own circumstances to your attention. You are not a policing operation, are you?

Baroness Browning: No, we are not, and of course when the rules were changed just over a year ago, as a result of the Cabinet Office changing the rules, we said we would no longer deal with out-of-time applications. There are some of those on our website that you will see. I have looked at those. There are not a huge number of them, but when you look at the substance of them and why people made retrospective applications, it is very often because all of a sudden the press has picked up the fact that they have a job, or the people they have gone to have announced it when in fact they have failed to come through

ACOPA. There are not a huge number of them but the committee did decide that, none the less, the letter that we then sent to them would be put into the public domain.

Q77 Mr David Jones: In response to Mr Flynn's questions about the revolving door syndrome, to which you said there was a trend developing of Ministers moving from their public life into sectors they have dealt with as Ministers, you said that you would like further powers. What sorts of powers do you think would be helpful to you and your committee to deal with that syndrome?

Baroness Browning: One of the things that would be very helpful would be if the rules were amended to give us more flexibility. I have described to the Committee how we have already taken the decision and made public that we will put waiting periods in where people are going back into those sectors. The length of that waiting period will depend on the circumstance of the individual case. I would like to see how that goes, because it is something we have only just started to do.

What precise powers we would have would depend on whether the Cabinet Office is minded to make quite substantial changes to the rules. One of the other things we have done—this is another trend that has developed—is that it was becoming not common practice but not unknown that when somebody leaves ministerial office they retain a link to Government and Government Departments by being asked to take up positions as tsars or envoys, very often for specific countries abroad. We have now added a question to our questionnaire asking the applicant whether they have been appointed to one of those roles, because you can see that anybody who is minded to side-line the rules could do quite a bit of mischief by using their role as a tsar or envoy, when in fact it might be helpful to the work that they were doing in their application for paid employment. So we ask the question: have you been appointed as a tsar or envoy? We also make it clear in our letters to them that if, for example, they are a tsar or envoy that should not have any conflict of interest with the paid employment that we are giving advice on.

Q78 Mrs Cheryl Gillan: Plenty of people are now appointed as trade envoys to countries but have never been Ministers at all.

Baroness Browning: Yes, that is right. It wouldn't apply to them. They would not come under our jurisdiction.

Q79 Mrs Cheryl Gillan: In fact, they ought to come under your jurisdiction by virtue of the fact that they are representing the Government and they are treated as a Government official when they go abroad to that country.

Baroness Browning: I understand why you say that, but we have no remit for them at all. It took us a while to find out who these envoys and tsars were, because there was no definitive list. I now have one and I am being updated on it. But it is a point about things that are changing and emerging where you can see that conflicts of interest could arise.

Q80 Mrs Cheryl Gillan: Of course, you can extend that then to arm's length bodies because that is an extension of Government and it is a way of Government Ministers passing responsibility down. For example, HS2 Ltd or the Infrastructure Planning Commission are really organs of Government and surely that should apply to senior members of those organisations as well.

Baroness Browning: Certainly it does apply to Government agencies and of course—

Mrs Cheryl Gillan: These are not agencies, are they? They are arm's length bodies. They are actually beyond that.

Baroness Browning: Yes. It also applies, of course, to people taking up non-paid positions and positions in the charitable and third sector. They are still required to submit an application to ACOBA.

Q81 Chair: Arm's length bodies are covered. Would that cover HS2?

Baroness Browning: That I don't know. Yet again, Mrs Gillan, I am going to have to write to you about HS2. I don't know how that would be perceived, but I will check that out.

Chair: You will write to us about that?

Baroness Browning: I will write to you about that.

Q82 Mrs Cheryl Gillan: Can I just add and also about the Infrastructure Commission as well?

Chair: That is an arm's length body and that is what we covered.

Baroness Browning: Yes.

Q83 Mrs Cheryl Gillan: I want to make sure that the senior appointments and people there are subject to the same rules as well.

Baroness Browning: Yes, I believe they would be.

Q84 Oliver Dowden: I was going to add something mischievous. Do you think Select Committee Chairmen should be subject to it? I don't think of this Committee so much, but the Chair of the Health Select Committee, for example—

Chair: Or Defence.

Oliver Dowden: Or the Defence Select Committee. They have quite a considerable amount of influence over the sector.

Baroness Browning: That is true. I was quite interested in the last Parliament, for example, to see the statement put out by James Arbuthnot when he stood down as Chair of the Defence Select Committee, on the grounds that he would be retiring from Parliament and intended to take up commercial positions. I thought that was a very honourable thing for him to do, because he did not have to do it. I thought at the time that that is what ethics in public life is about. It is actually what is up here, in the individual's mind, and their own sense of values, that come into play, and I think that is rather good.

Q85 Oliver Dowden: Do you think that is perhaps a better way of addressing it?

Baroness Browning: Mr Dowden, I don't think I am here to advise on Select Committee Chairmen. It is not part of my remit, mercifully.

Q86 Mr David Jones: Lady Browning, would you say that your committee commanded extensive public confidence?

Baroness Browning: I doubt that many members of the public even know we exist, quite frankly.

Q87 Mr David Jones: Isn't that in itself worrying?

Baroness Browning: Well, is it?

Mr David Jones: Yes.

Baroness Browning: Please don't suggest we should have a Twitter feed. I really think that would be going a step too far.

Mr David Jones: This Committee has a Twitter feed.

Baroness Browning: Well, good for you. I would just say this, though, in all seriousness: we took rather seriously the comment made in this Committee's 2012 report that our deliberations—what we did, how we were structured and how we worked—were opaque. I think that was the word used, Mr Jenkin, in your Committee's report. Since then we have done a lot to make sure we are a lot more transparent. For example—and this started not when I was chair but under Lord Lang, my predecessor—we have put all our casework of people taking up cases on to the website. Our own website has been moved into the Government website. That was a bit of a challenge, but I can assure you that a lot of work has been done by the secretariat to make sure that the website provides the information as clearly as it can to anybody who wants to look at it.

Of course we publish the minutes of our committee meetings—four a year—and we have tried to do all we can to be as transparent as possible. Anybody who has an interest in us can access that information as quickly and as easily as possible. Whether you think I should take a bandwagon round the country to say to the people in the country, "Look, this is the committee that sits in London. This is what we do"—I think they probably have enough people going out and about at the moment telling them all sorts of things to not want—

Mr David Jones: I wasn't going to suggest that.

Baroness Browning: Thank goodness.

Q88 Mr David Jones: But yours is an advisory committee. Frankly, don't you feel that what the public would seek, ultimately, as a committee that does have powers of sanction and is therefore a statutory committee—and you are well aware of what this Committee's predecessor has previously recommended—

Baroness Browning: I think we have come full circle from where we started this discussion this morning, because if you want a committee that has sanctions that prevent people from taking up a job on a statutory basis, then it is a matter of going to the Government and taking the case to the Cabinet Office. Our role is to get the balance right between people who at the moment have the right to go out and seek employment—and I would just flag up that the profile of the people we are dealing with primarily is in the younger age group, so people with several working years ahead of them. We are not just

talking about people who are retiring in their 60s. Whatever solution is found to your problem, not only would you have to take into account people who felt they were deprived of earning a living, having served in public service and whether what you put in its place would put people off taking up public service at all, but also where the finance was coming from. Almost certainly there would need to be some financial infilling if you were going to prohibit people from earning a living. That is not the remit of my committee.

Q89 Chair: You are talking about what they call gardening leave.

Baroness Browning: Yes. Well, even more so if it was on a statutory basis. Bearing in mind that if company A offers a former Permanent Secretary or former Secretary of State a job and they are prevented from doing it and that is legally challenged, it is almost certain that that company, if they really wants that person, will put the money up to fight that in a court. If you are going to make substantial changes you have to take into account, around the perimeter of what we have been discussing this morning, what that might look like in practice and what the attendant costs would be.

Chair: Thank you. That is very useful. We have some questions that have not been asked. I think they have been covered, but I am very happy to let colleagues ask any supplementaries.

Q90 Paul Flynn: Can I say that the result of the work of your committee, and your predecessor's, is the situation that a newspaper journalist told me, that 70% of the former senior civil servants at the Inland Revenue are now working in jobs that were affected by their previous ones—they are virtually all working in the tasks of tax evasion and tax avoidance. That is the reality, in spite of all your good intentions. There are other examples of this where the revolving door is still spinning out of control. If you were on Twitter you might have noticed the public response to this Committee is very much thanking us for the questions we are asking. The public are outraged at what they see as a potential source of corruption of people using their knowledge in this way—70% of former civil servants. Are you happy with that?

Baroness Browning: No, I think I have already explained, Mr Flynn, that I am not happy with it. I have explained that we have identified this trend of people going into sectors for which they had responsibility, and we are increasing the powers we have, such as setting time limits before they can take up appointments and so on. But all I can do is use the powers I have. I think we have had this discussion a couple of times and touched on it during today's deliberations, and that is if we really feel that people should be prohibited from working in a sector for which they have had responsibility that is a major change. It is not something on which my committee can say yes or no; it is a matter for Government. It is not that we don't think about this matter. First of all, define your sector. You would need to be quite vigilant, even if you set the sector on which people were prohibited from going, to make sure that there were not ways round that. When you look at big companies that have different sectors, there would be possibilities of people recruiting people into one sector in the certain knowledge that when the time limit was up they would move them to another sector. That may be acceptable. I don't know.

Q91 Paul Flynn: This Committee has had an interesting few weeks. I think we were all shocked last week to hear the greatly respected Sir David Normington say that he was

approached once a month, either by 10 Downing Street, the Prime Minister or other Ministers, in order to give Tory party donors and former MPs preference for top jobs. It is a shocking thing to say. We had a debate about it last week. We have had the cases of Jack Straw, Malcolm Rifkind and Tim Yeo, who appear to have broken the rules on parliamentary conduct in the most egregious way. There was one decision taken by the House, and you have a problem in your House. The person in charge of standards in your House has now left the House. He was presumably—

Chair: Ask the question, Mr Flynn.

Paul Flynn: I am saying, aren't you concerned that the inadequacies of the powers you have are leading Parliament into deeper disrepute?

Baroness Browning: I think the cases you have mentioned are not matters that ACOBA would have looked at, at all. When you say "aren't I concerned," of course I am concerned. That is why I am doing this job. But I have to say to you that nobody has ever approached me to try to influence the outcome of an ACOBA decision and if at any time I thought for one minute that any member of my committee was being leaned on in that way, I would deal with it tout de suite.

Q92 Paul Flynn: I have one brief, final question. It is about the Lord Foster question in Bath. A lady called Rachel Davies, who works for Transparency International, said that ACOBA's only recourse in this case was a mildly-worded letter, and she describes that as "farcical". She said, "The revolving door is a corruption time-bomb at the heart of British politics". Isn't she absolutely right?

Baroness Browning: Lord Foster did not keep the rules and we wrote to him. We decided to write to him to tell him that we were aware of it. There is nothing in my rules that says I have to write to these people, but we felt, "Yes, we are going to write to him and put that in the public domain" so that the people who did not read the particular newspaper that published the fact that he had not kept the rules could read it on the ACOBA website as well. I think, Mr Flynn, you seem to be taking the view that I may not be concerned. I can assure you that I am very concerned.

Paul Flynn: But your committee is impotent. We have been saying this for 12 years. It is still true.

Chair: You have made that point, Mr Flynn.

Baroness Browning: I hear what you say. I hope you hear what I say.

Q93 Mrs Cheryl Gillan: What I want to ask you as a postscript is this: how do practices and procedures and your rules of engagement as a committee sit alongside the law on restrictive covenants in employment contracts? There are only certain terms and conditions that can be imposed on senior individuals that would restrict their future commercial activities. I wonder whether our practices had recently been looked at by an employment lawyer and whether we are fully able to enforce them, particularly if they ended up being adjudicated in the courts.

Baroness Browning: There is always the possibility that we would get legal challenge. I have to say we would not wish for that, but if that is what happened that would be what happened. I think there needs to be a more holistic view. I think, both within the

ministerial code and within the contracts of employment, which will be various across Ministries with senior civil servants, it would be very helpful if we could get some harmonisation of terms and conditions of employment that, if broken after people leave, would of course be the responsibility of the Government, the Department concerned. In the same way that Mr Flynn is concerned about our powers in ACOBA to take action when we find people have broken or flouted the rules, I am not sure how active Government Departments are in pursuing that, not at all.

Q94 Mrs Cheryl Gillan: Basically, the bottom line of this is that it is an area that is still very fluid and rather woolly. It needs tightening up and we need some clear rules of engagement. Anybody getting to a certain level in the civil service or becoming a Minister really needs to have all that pointed out to them upfront and it needs to be able to stand up in court.

Baroness Browning: That is absolutely right. I would be quite definitive. When somebody takes up appointment, whether it is a Minister—and we all know the difficulties when the Prime Minister has a new Cabinet to form and so on. I cannot believe that this takes up a lot of time in the discussion that takes place between the Prime Minister and Secretaries of State.

Mrs Cheryl Gillan: It doesn't.

Baroness Browning: But I do believe that upfront—because it is only fair to the individual—people should be told, “If you take this public office, or if you are going into a position where you are going to be promoted to this or that, these are the conditions when you leave office. Sign here.”

Mrs Cheryl Gillan: Thank you.

Q95 Chair: Are there any thoughts you would like to leave us with about what we should look out for in the development of ACOBA over the next 12 months?

Baroness Browning: Yes. We want to continue to see how we deal with the trend of people moving out of office into a sector for which they formerly had responsibility. We have already started on that but it is something that is on our watch list. We also want to make sure that we can engage more fully with the Cabinet Office when we have suggestions to make to them for changes. I am going to send you the letter, Mr Jenkin, so that the Committee can see it. We would welcome more regular contact with the Cabinet Office so that we don't just have changes to the rules every three or four years. I think this should be a rolling programme. I think as trends develop we should be able to respond more quickly to them, but clearly we need Cabinet Office co-operation on that. That is something I shall be talking to them about in the coming year.

Q96 Chair: How much would it help for you to report to this Committee more often?

Baroness Browning: I am very happy to report to this Committee more often. It might be helpful if at the same time I write to the Cabinet Office with proposed changes I copy you in, rather than waiting for them to reply to me first. I am not suggesting for one minute that this Committee is necessarily going to agree with all of our suggestions to the Cabinet Office, but if you were able to row in behind us and add your weight to it we would find that incredibly helpful.

Q97 Chair: I think we would be interested in examining what proposals you were making and, as briefly and quickly as possible, giving you the support that we thought was appropriate.

Baroness Browning: We would welcome that very much, Mr Jenkin.

Q98 Chair: Can I ask on a question about your resource base?

Baroness Browning: Yes.

Chair: ACOBA is supported by a very small secretariat. To what extent is the limitation on your resources affecting your ability to undertake your role?

Baroness Browning: Not at all. We had very constructive and sensible conversations in the run-up to the election because we realised that the last half of last year was likely to be very busy. As I have mentioned, we were able to have access to two extra people for six months, which helped us with the peak of the applications. We are currently looking at what might transpire after the Welsh and Scottish elections. I am very happy with the quality of the secretariat that supports us. They are extremely good people. I have no complaints at all.

Chair: Thank you very much.

