



Australian Government

Department of the Prime Minister and Cabinet

SECRETARY

DR MARTIN PARKINSON AC PSM

The Hon Scott Morrison MP
Prime Minister
Parliament House
CANBERRA ACT 2600

Dear Prime Minister

On 3 July 2019, you requested my advice under clause 7.4 of the *Statement of Ministerial Standards* (the Standards) in relation to the application of the Standards to former Ministers. Your request is at Attachment A. I understand this advice will be considered by the Governance Committee of Cabinet.

I note that my advice is in relation to the former Minister for Defence, the Hon Christopher Pyne, and the former Minister for Foreign Affairs, the Hon Julie Bishop. I will provide you with further advice in relation to the other matters raised in your letter in due course.

I understand that your request relates to the announcement that Mr Pyne has accepted a contract with the consultancy firm EY, and that Ms Bishop has accepted a role as a Non-Executive Director with Palladium. In forming my advice, I have reviewed the public statement made by Mr Pyne on his contact with EY, media commentary about the positions taken by Mr Pyne and Ms Bishop, and I have spoken to both of the former Ministers.

Statement of Ministerial Standards

The post-ministerial employment clause (clause 2.25 of the Standards) for former Ministers, in its current form, has been in the Standards, and its previous editions, since December 2007.

Clause 2.25 of the Standards provide:

“Ministers are required to undertake that, for an eighteen month period after ceasing to be a Minister, they will not lobby, advocate or have business meetings with members of the government, parliament, public service or defence force on any matters on which they have had official dealings as Minister in their last eighteen months in office. Ministers are also required to undertake that, on leaving office, they will not take personal advantage of information to which they have had access as a Minister, where that information is not generally available to the public.”

Information acquired as a Minister and used post their ministerial position

Ministers gain experience, knowledge and information about a variety of subject matters in the course of their duties and through the normal decision-making processes of government.

It is not reasonable to think that former Ministers can or will “forget” all information or knowledge gained by them in the course of their ministerial roles. Nor, in my view, can the experience a Minister gains from fulfilling that role be extinguished when they undertake a role after leaving the Parliament.

In this regard, a distinction should be drawn between experience a person gains through being a Minister and specific knowledge they acquire through performing the role. It is the latter which is pertinent to the Standards.

Notwithstanding this, former Ministers should take care to not divulge the deliberations of the Cabinet or the confidential briefing provided to them by the public service in order to gain benefit for themselves or another party post their ministerial position.

Mr Pyne

Following media reports that Mr Pyne would provide strategic advice to EY, on 29 June 2019, Mr Pyne issued a statement regarding the Standards. For completeness, I set out his statement in full below:

“I know my responsibilities under the Code and I will abide by them. No one has been able to point to any instance of a breach of the Code. Asserting something does not make it fact.

The Ministerial Code of Conduct sets out the responsibilities for a former Minister as follows:

2.25. Ministers are required to undertake that, for an eighteen month period after ceasing to be a Minister, they will not lobby, advocate or have business meetings with members of the government, parliament, public service or defence force on any matters on which they have had official dealings as Minister in their last eighteen months in office. Ministers are also required to undertake that, on leaving office, they will not take personal advantage of

information to which they have had access as a Minister, where that information is generally available to the public.

The clause has two elements – a commitment not to lobby or have business meetings with members of the government, public service or defence force on defence matters with which a Minister has had official dealings in the last eighteen months and to not take personal advantage of information to which the Minister has had access, but is otherwise not generally available to the public.

I have not taken personal advantage of information I received as a Minister in the Defence portfolio that is not otherwise publicly available. I have not lobbied or had business meetings with any members of the government, public service or defence force on any matters on which I have had official dealings as a Minister in the last eighteen months.

The providing of occasional high-level strategic advice does not require lobbying, advocating or undertaking any activity back into government nor providing or using any information a former Minister may have learnt as a Minister that is not generally available to the public.

For example, in the defence portfolio, the major policy decisions of the government are contained in the publicly released Integrated Investment Plan, the Defence White Paper, the Defence Industry Policy Statement, the Naval Shipbuilding Plan, the Defence Exports Strategy, the Defence Industry Sovereign Priorities, the Skills and Workforce Discussion Paper, as well as myriad keynote speeches and Media Releases from the Prime Minister, Defence Ministers, Defence Industry Ministers and Foreign Ministers. All of that information is freely available to the public. Giving advice about those policies does not require using information that a former Minister has learnt that is not generally available to the public.

Of course, I have twenty six years of experience of the Parliament and politics, experience in the Health, Ageing, Education, Industry Innovation and Science portfolios and as Leader of the House that gives me knowledge of government and politics and how it works that is valuable in the post political world. Having that knowledge does not breach the Code.

I intend to ensure that anyone I provide advice to has rigorous processes and procedures in place to ensure I am not put in a position where the Ministerial Code of Conduct might be breached.”

Media articles on Mr Pyne’s employment with EY have quoted a spokesperson from the advisory company. On 27 June 2019, the *Australian Financial Review* (AFR) provided the following quotes from an EY spokeswoman:

“...established a relationship with Christopher Pyne to provide occasional high-level strategic advice”.

"This does not involve Mr Pyne undertaking any activity back into government nor providing or using any information he may have received as a Minister,".

"Mr Pyne has made clear that he is totally aware of his obligations under the Ministerial Code of Conduct and is committed to adhering to them."

"EY has rigorous processes and procedures to ensure it does not put Mr Pyne in a position where the Ministerial Code of Conduct might be breached and is committed to ensuring that these are followed."

The EY spokeswoman made a later statement to the AFR on 27 June 2019:

"He will not be lobbying or meeting with public sector MPs, public service or defence in his EY role..."

To gather more information on Mr Pyne's situation, I spoke to him on 11 July 2019.

Mr Pyne advised me that EY is a client of GC Advisory, which is a public affairs, strategic communications advisory company co-owned by Mr Pyne and Mr Adam Howard (Mr Pyne's former Chief of Staff). EY has contracted GC Advisory for a six month period and Mr Pyne expects his involvement with EY to be limited to two days a month over that period.

Mr Pyne advises that he has made it clear to EY that he cannot lobby or meet Ministers in the Defence portfolio or officials from the Department of Defence or the ADF. Mr Pyne also advises that EY is aware that he can only give advice on issues in the public domain.

Mr Pyne also mentioned to me that he has written to EY, and had conversations with the company's partners, regarding the constraints of the Standards and the limitations of the advice he can provide as a former Minister. Mr Pyne indicated that his communication with EY reflects his public statement on this matter.

On the basis of the information available to me, it is not evident that Mr Pyne has disclosed defence related information that is not in the public domain for his personal benefit. Further, there is no evidence to suggest that Mr Pyne has lobbied, advocated or had business meetings with members of the Government, parliament, public service or defence force that relate to the matters he dealt with as a Minister in the defence portfolio.

I am satisfied that Mr Pyne is plainly aware of his obligations under the Standards, and that he is aware he cannot use the information known only to him because of his ministerial roles to the benefit of himself or EY. Based on the conversation I had with Mr Pyne, I consider he has put in place mechanisms to ensure that, whilst his engagement with EY will appropriately draw on his 26 year experience as a parliamentarian, he will not impart direct or specific knowledge known to him only by virtue of his ministerial position.

Ms Bishop

Unlike Mr Pyne, Ms Bishop has not provided a full public statement on her appointment to the Board of Directors of Palladium or how she proposes to deal with any potential conflicts with her previous role as Minister for Foreign Affairs.

Palladium is a global investment and consultancy group that seeks to build working relationships with governments, corporations and investors, to work together with communities and civil society. Palladium describes itself as an implementer of international development programs. The company works in over 90 countries in a range of sectors. Palladium focuses on aid and development, and assists NGOs and governments to promote social and economic development.

Media commentary on Ms Bishop's appointment to the Board of Palladium indicates that the organisation has taken on a percentage of Australian aid programs following the Government's decision to outsource certain aid programs. On 4 July 2019, *The Guardian* reported that "[r]oughly one-quarter of Australia's total aid spending was outsourced to private firms in 2016/17. That money was shared largely between 10 of the 192 foreign aid contractors. Palladium won 53 aid contracts – the third highest of any firm – worth \$99m or 2.8% of the Australia's entire aid spend."

The AFR quoted Ms Bishop as saying "I am obviously aware of the obligations of the ministerial guidelines and I am entirely confident that I am and will remain compliant with them." The AFR also quoted Palladium saying "...Bishop brings a network of global contacts, long-standing public service experience, and background in driving innovation both in international development as well as for domestic social development issues."

It seems likely that Ms Bishop's knowledge about Australian government policies regarding aid and development, and her contacts with international leaders, will be utilised by, and benefit, Palladium. Indeed, Palladium's statement suggests that this experience was a key basis for Ms Bishop's appointment. I note that Ms Bishop is one of five Australians on the Board of Palladium, which also includes one member from the United Kingdom and one from the United States.

To gather more information on Ms Bishop's situation, I spoke to her on 11 July 2019.

Ms Bishop indicated to me that she did not have any contact with Palladium in the five years that she was Minister for Foreign Affairs. Moreover, Ms Bishop has not been a Minister for almost 12 months – a period in which certain elements of the Aid program have been re-cast.

Ms Bishop advised me that she is aware of her obligations under the Standards and has shared the Standards with Palladium and informed the company of her obligations. Ms Bishop mentioned she has not been to a Board meeting yet, and she expects that Palladium's focus will be on projects that are in the United States and the United Kingdom.

Ms Bishop has indicated that Palladium does not expect her to engage on any Australian based projects. Further, Ms Bishop advised that her position as a normal Non-Executive Director on the Board would not extend to Palladium's tendering processes for projects, lobbying or other activities beyond the role of a Non-Executive Director.

I am satisfied that Ms Bishop is cognisant of her obligations under the Standards and is aware that the information known to her as a former Minister for Foreign Affairs cannot be used to the benefit of herself or Palladium. Ms Bishop has assured me that she will comply with the Standards.

Conclusion

While there are certain actions available to you when considering the conduct of a current serving Minister, and a possible breach of the Standards, there are no specific actions that can be taken by you in relation to former Ministers once they have left the Parliament.

On the basis of the information available at this time, I have no grounds to believe that either Mr Pyne or Ms Bishop have breached the Standards.

Yours sincerely

19 July 2019