CONFIDENTIAL

Civil Service Department
Whitehall London SW1A 2AZ
Telephone 01-273 3000

Minister of State

The Rt Hon Norman St John-Stevas MP
Chancellor of the Duchy of Lancaster
Privy Council Office
Whitehall
LONDON SW1

10 March 1980

Dear Norman

RELATIONSHIP WITH SELECT COMMITTEES: DISCLOSURE OF DOCUMENTS

I wrote to you on 20 February about the way in which we should tackle requests from Select Committees for copies of staff inspection and similar internal investigatory reports in the light of the approach which had been made to Mark Carlisle by Christopher Price, the Chairman of the Select Committee on Education and Science, for a copy of a staff inspection report on the University Grants Committee. I proposed that we should withhold documents of this kind, but offer, when asked, to put in a specially prepared memorandum which described the nature of the exercise, its scope and the action it was proposed to take as a result.

2. A number of colleagues have written expressing agreement with this approach and Mark Carlisle wrote to me on 5 March saying that he was content to proceed as I had proposed in the particular case with which he is dealing. His letter seems to imply that it would be for me to deal directly with his Select Committee if they are dissatisfied with the memorandum which he presents to them in place of a copy of the report itself. In fact, it would be surely right for us to agree collectively where necessary on a consistent approach to general issues of this kind. Then it is for individual departmental Ministers to apply that policy (giving where necessary the reasons for it) in dealing with individual Select Committees. Otherwise we will blur collective responsibility.

3. There is also a question about copies of the reports on "scrutinies" carried out in departments under the supervision of Sir Derek Rayner. I have seen your exchange of letters with Keith Joseph about the Select Committee on Industry and Trade's request to see the "scrutiny" report on regional development grant offices. I know that colleagues are already considering in a number of other cases the release of material from these reports.

4. In his evidence to the Treasury and Civil Service Select Committee on 20 February, Sir Derek Rayner made it clear that he

CONFIDENTIAL

had no personal objection to reports being made available. But he also made it clear that it is for Ministers to decide the content of what is released and its timing. He also referred to the distinction between these reports when they are still at the draft stage and when they have become the final document approved by Ministers. In readiness for that hearing, the Select Committee were shown a copy of one report (on the Inland Revenue "scrutiny"), but simply as an illustrative example of the kind of work which Sir Derek has launched. Clearly there may be an occasion on which it would also be appropriate to show the Select Committee a staff inspection report or some other document of this kind as an example of the results of the activity in question.

5. There will be cases where Ministers wish to take the initiative in releasing material from these "scrutiny" reports, particularly where the courses of action which are proposed affect outside interests and it is desirable to provide a basis for consultation with them. Moreover, as the letter of 14 January from the Prime Minister's Private Secretary (about the handling of "Rayner" projects) pointed out, there is positive advantage for us in being open about the release of material which is designed to give evidence of the way in which we are tackling the problems of making administration more efficient.

6. I believe that the guidelines which should apply to the release of "scrutiny" material are consistent with those which I suggested in my letter of 20 February for staff inspection and other internal management reports. A staff inspection report or a report by a management services' team is like a "draft" of a "scrutiny" report since at that stage the material constitutes advice to Ministers and senior management. The release of a final and edited version of a "scrutiny" report, including a note of intended action, would parallel the release of a document describing what had been examined in the course of, for example, a staff inspection and the action which was to follow it. It is, I understand, consistent with the action which Patrick Jenkin is taking over the "scrutiny" report on the payment of social security benefits.

7. What we must avoid is a situation in which we are forced to accept that Select Committees should be given, at their request, internal documents without excluding material which a Minister does not wish to release and wishes to treat as internal advice to himself. As you know, the need to re-examine some points in the draft Memorandum of Guidance for officials appearing before the Select Committee has meant that it has yet to be formally issued in its revised form. But that makes it clear that documents which constitute internal advice to Ministers will not be released and the Select Committee on Procedure did not question this.

8. In your letter of 27 February to me, you canvassed the possibility of applying the "sidelining procedure" to staff inspection and other reports of a similar nature. My own view is that it is doubtful whether Select Committees would readily accept this, or that it would be to our advantage to handle the matter in

this way. Of course confidentiality should be maintained by sidelining where the document concerned is classified (eg in the defence field) or the discussion is dealing with classified matters. But I think that we should find it very difficult to convince Committees or the House that sidelining was appropriate in the case of unclassified material dealing with matters of departmental management. Surely it would be far better for us to take up the position that we are not prepared to release on demand documents which constitute internal advice to Ministers. Instead, we are prepared in appropriate cases to provide Committees with information about action which has been taken in relation to the management of a department. This may or may not include material drawn from internal reports according to the way in which the Minister concerned considers it to be appropriate for him or officials on his behalf to give an account of the position to the Select Committee.

9. In his letter to me of 6 March, Patrick Jenkin mentions the arrangements for consulting Departmental Staff Sides on staff inspection and other reports. In my letter of 20 February, I acknowledged that this was a factor which we had to bear in mind, but we must do our best to steer a course between these conflicting requirements. We have a management obligation to consult the representatives of our staff in the internal process of forming our views on matters which affect them and Parliament should represent this. There is always a risk of leakages and unfortunate incidents as a result of these consultations and we need to exercise prudence over the way in which they are handled. At the same time, it is in the interests of the Staff Side not to abuse these consultative procedures. If they were to do so then we should need to consider them. So far as I am aware we have not had problems with leakages with this kind of document.

10. If you and other colleagues are content with the approach which I am recommending, then there is no need for us to discuss the matter. But if colleagues have any doubts about this course or the ability of Ministers to sustain it with their Select Committees, then I suggest that we should meet quickly to consider the position in H Committee. Christopher Price has tabled a PQ for answer on 19 March inviting us to review the guidelines for Government departments for the provision of evidence to Select Committees. I should therefore be grateful if any comments could reach me by close of business on Thursday, 13 March.

11. I am copying this letter to members of the Cabinet and Norman Fowler, and to Sir Robert Armstrong and Sir Derek Rayner.

Yours,

Paul

PAUL CHANNON