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My ref:

Your ref:

20 July 1979

Dear John

REVIEW OF CONTROLS OVER LOCAL GOVERNMENT

My Secretary of State was grateful to have your response to his letter of 17 July, and also to have replies from other colleagues.

The comments have been taken into account as far as possible in the final draft which has now gone for printing; I attach a copy. The only major alteration from the draft previously circulated is that the Secretary of State decided to omit the original paragraphs 4 and 5. He felt that it was unwise to offer such specific information in the document because it could be used immediately by the Opposition when he makes his statement to the House next week.

I am copying this to Private Secretaries of Cabinet colleagues and PS/Sir John Hunt.

Yours sincerely

Paul Bristow

P N BRISTOW
Private Secretary

John Chilcott Esq
PS/The Rt Hon William Whitelaw MP

CONTROLS OVER LOCAL GOVERNMENT

INTRODUCTION

1. The Government has announced its determination to reduce substantially the number of bureaucratic controls over local government activities. This should give local authorities more choice and flexibility and allow them to become more efficient in their use of both money and manpower.
2. A review has now been completed and a large number of controls are now proposed by the Government for repeal or substantial relaxation in legislation to be introduced shortly. In undertaking this exercise the Government has been helped considerably by the document published earlier this year by the local authority Associations.*
3. The annex to this White Paper lists nearly three hundred controls the Government intends to repeal. It also contains a number of controls where the intention is to effect a substantial relaxation. In certain other cases, for example control over local authority housing projects, some relaxation can be achieved by administrative means.

*"Review of Central Government Controls over Local Authorities" February 1979

4. The Government has been guided in this exercise by the following principles. Democratically elected local authorities are wholly responsible bodies who must be free to get on with the tasks entrusted to them by Parliament without constant interference in matters of detail by the Government of the day. On the other hand, there are certain national policies which it is the Government's duty to pursue even though they may be administered locally; for example, where by statute the responsibilities are shared between central and local government or where the Government of the day may have secured a particular mandate at a general election. It would be

inappropriate therefore to
/abandon all control over local government; to do so would
be an abdication of the Government's proper role.

5. There are a number of statutory provisions which affect the autonomy of local authorities but are not strictly controls over their activities. There are for example very many provisions which allow third parties to appeal to Ministers against local authority decisions. The Government has looked closely at the need for all these appeals to come to Ministers. It has concluded that in the majority of cases a right of appeal to Ministers is ^{generally} the most efficient way consistent with natural justice of enabling a third party to have his case heard on its merits. The courts have jurisdiction in all cases to rule on the legality of a local authority's decision and in certain specific instances to hear appeals on the merits. But to provide that appeals which at present go to Ministers should go to the courts would be time-consuming and costly.

Moreover, the courts are already heavily burdened and the legal system could probably only cope with difficulty if a whole new raft of appeals cases was directed to the courts. The possibility of setting up administrative tribunals to hear appeals has been considered. But this would be cumbersome, particularly in those areas where very few cases arise; furthermore it is not considered proper for tribunals to determine cases turning on policy issues for which Ministers are accountable to Parliament. On these grounds the simple appeal to the Minister seems to be in general the best approach and the

Government has accepted that provisions which protect third parties against the decisions of local authorities should only be withdrawn or replaced by other safeguards after careful individual review. This does not mean, however, that all provisions for appeal will be permanently retained, or reflected in future legislation. In some cases there may be procedures which can meet the need more satisfactorily, while in others the safeguard may no longer be needed.

6. In the case of default powers the very rarity of their use is argued by some to point to their abolition. The Government's conclusion, however, is that the existence of these reserve powers both underlines its ultimate responsibility to Parliament and the public, and serves to strengthen the case for a more relaxed approach to more detailed forms of control. It proposes therefore to retain default powers in largely their present form, save only where they have no practical effect.

7. In addition to the controls detailed in the Annex the Government proposes to conduct a thorough review of its role in relation to local government byelaws, which at present require the confirmation of the Secretary of State.

8. Similar principles will be followed in Scotland. The Secretary of State for Scotland proposes consultation as soon as possible with the Convention of Scottish Local Authorities

and other interested parties about Scottish controls which might be abolished forthwith, and others which might be jointly examined as candidates for abolition or relaxation. In many cases the appropriate action can be taken by order under Section 209 of the Local Government (Scotland) Act 1973.

9. The Government has already acted to reduce the volume of circulars and other communications sent to local authorities. It is now exercising a stringent control over the issue of any such papers. In addition the Government is reviewing its need for statistical information from local authorities.

10. A review is also being undertaken of the Government's control over the capital expenditure of local authorities; the Government will be putting forward proposals as soon as possible.

11. Apart from the plethora of specific controls by Government departments over the activities of local authorities, many statutory duties have been placed upon them in the past. The Government's objective is to provide councils with greater local discretion and autonomy and help them to achieve better value for money. It is therefore appropriate to review these statutory duties in the light of present circumstances.

12. The Government's aim, for local government as elsewhere in the economy, is to place responsibility where it properly belongs. The proposals in this White Paper for the removal of

controls represents a first step in this direction. Before making final decisions about the contents of legislation on this subject the Government would welcome comments about particular controls to be removed or relaxed. Any comments should be submitted to the relevant department by 15 September 1979.

20 JUL 1979

