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Secretary of State for Industry

17 July 1980

Rt Hon James Prior MP  
Secretary of State for Employment  
Department of Employment  
Caxton House  
Tothill Street  
London SW1

Dear Secretary of State

CODES OF PRACTICE ON PICKETING AND THE CLOSED SHOP

Thank you for sending me a copy of your minute of 2 July to the Prime Minister inviting comments on the draft Codes of Practice. I apologize for just missing your deadline.

Covering Paper for Closed Shop Code

2 It seems unnecessary to volunteer a view on the impracticality of banning the closed shop (the last sentence of paragraph 5 of the draft). There is a case once the Employment Bill is out of the way for using the Green Paper to test public reaction on a range of possible further measures on industrial relations, including further limitations on the closed shop in the medium or long term. While I appreciate that you may take some convincing on the wisdom of this, I hope that we can agree that the Code of Practice, coming as it does in the interlude between Royal Assent of the Bill and the Green Paper, could remain silent on this. I therefore propose that the last sentence of paragraph 5 is deleted, and that the next paragraph begins -

"What the Employment Act does is ....."

Code of Practice on Closed Shop

3 I welcome the strong statements in the draft, especially on contractual clauses enforcing union membership (paragraph 38) and on pre-entry closed shops (paragraph 45). But such references are no substitute for thoroughly airing in the Green Paper the whole issue of possible further substantial changes in the law.

Paragraph 27

4 I note that here and elsewhere the Code recommends that unions comply with relevant TUC guidance and rules. While I appreciate the reasons for this, I wonder whether a statutory accolade in such broad terms is not a little risky in view of the TUC's hostility to

/the ...



the Employment Bill. Future TUC guidance may be at variance with the objectives of the closed shop provisions of the Bill.

Paragraph 33 (f)

5 The Code could give a stronger nudge towards unions' employing independent bodies to conduct ballots and publish results. This would be a good habit for unions to acquire although I appreciate that the Act does not require this and that there may be occasions when it is unwarranted (e.g. if only a small number of employees are involved).

6 I think this part of the Code should take into account the new Clause in the Bill requiring employers to provide a place for a ballot if requested to do so.

Paragraph 42

7 It would be helpful if we recommended a minimum frequency (say, every 5 years) for the regular reviews of closed shops.

Paragraph 51

8 In line 3 the word 'considerable' could be deleted. It is unreasonable to expect an individual to defer his statutory rights in any circumstances.

Code of Practice on Picketing

9 I have no comments on this document. However, in view of the widespread popular confusion about the laws relating to picketing it might be desirable for the Government to produce in parallel to the Code a simple 'child's guide' to the law which e.g. could be handed to those organising demonstrations of this kind. The Code itself - as a legal document - cannot serve this function too, although as far as it can be, the draft is clear enough. Among other things such a leaflet might counter any politically motivated 'guidance' issued by others.

10 I am sending copies of this letter to the Prime Minister and to the other recipients of yours.

*Yours sincerely*

*I. Elliman*

KEITH JOSEPH  
(approved by the Secretary of  
State and signed in his  
absence)

21 JUL 1980

