

PRIME MINISTER

The attached letter from Mr. Carlisle to Mr. St. John Stevas (Flag A) about the First Special Report from the Education, Science and Arts Committee needs to be dealt with urgently because Mr. Christopher Price intends to raise the question of the refusal of Government witnesses to give evidence about the consultations between the DES and the FCO on the proposal to charge overseas students full fees in the course of the Debate next Thursday on overseas students' fees.

Mr. Carlisle is proposing that the Government should take a robust line on the fundamental issue of refusing to reveal the nature and scope of inter-departmental consultations and to reassert the principle of collective Ministerial responsibility in the terms set out in the latest memorandum of guidance for officials appearing before Select Committees (see X of his letter).

Mr. St. John Stevas is being advised to reply to Mr. Carlisle agreeing with the line he proposes to take in dealing with the Select Committee's Report. I attach at Flag B the draft letter which he is being recommended to send to Mr. Carlisle.

Do you agree that the Government should stand firm on this issue, as Mr. Carlisle proposes?

Yes - very much so.
mt.
JAN.

29 May 1980

MR BIRCH

Letter from the Secretary of State for Education and Science on the
First Special Report from the Education, Science and Arts Committee

1. The Secretary of State's letter of 22 March to the Chancellor of the Duchy needs an early answer in view of the debate next Thursday, 5 June on overseas students' fees.
2. You told me that Mr Christopher Price intends to raise the question during the debate of the refusal of Government witnesses to give evidence on the consultations which ^{did or} did not take place between the Department of Education and the Foreign and Commonwealth Office, on the proposal to charge overseas students full fees. The refusal of Ministers and officials to give evidence on that subject is well precedented and is covered in the Memorandum of Guidance to Officials, which was recently promulgated (as indeed it was) in the previously circulated version.)
3. Reference was made in the Procedure Committee's report (Recommendation 62) to the provision of information about interdepartmental organisation. The recommendation itself reads "62. Select Committees should regard any refusal by Government Departments to provide information relating to Departmental or interdepartmental organisation - unless fully explained and justified to their satisfaction - as a matter of serious concern, which should be brought to the attention of the House (paragraph 7.15)".
4. Paragraph 7.15 acknowledges the long-standing convention which prevents the disclosure of the existence etc of Cabinet Committees; and the long-standing practice of Ministers to refuse to answer questions in the House about discussions between Ministers or between Ministers and their official advisers, or the proceedings of the Cabinet or Cabinet Committees. The report goes on to say "We are disturbed, however, by the extension of these conventions to all questions of Departmental or interdepartmental organisation whichwould debar members of Committees from access to information about the organisation of the Government service which is essential for any attempt properly to scrutinise the administration and expenditure of Government Departments. We recommend that Select Committees should regard any refusal to provide information of this kind - unless fully and adequately explained by Ministers and justified to the satisfaction of the Committee concerned - as a matter of serious concern, which should be brought to the attention of the House."

5. It would seem that the Education, Science and Arts Committee have taken issue, not so much on the extension of the convention, as on the "long-standing practice" of Ministers to refuse to answer about its interdepartmental discussions. They have followed the spirit of the Procedure Committee in bringing their concern to the attention of the House.

6. Recommendation 62 was not overtly discussed in the debate in June 1979. Indeed, it hardly requires discussion, since Select Committees are free to report in the sense recommended. If, however, there is a demand for discussion, it would be necessary to see whether it could be fitted in to the further debate on Procedure before the Summer Recess.

7. I attach a draft reply for the Chancellor of the Duchy to send to the Secretary of State and to Cabinet colleagues.

P J HARROP

29 May 1980

DRAFT LETTER FOR THE CHANCELLOR OF THE DUCHY OF LANCASTER TO SEND TO
THE SECRETARY OF STATE FOR EDUCATION AND SCIENCE

Thank you for your letter of 22 March about the First Special Report from the Education, Science and Arts Committee on the provision of information by Government Departments to Select Committees. I agree with you that there should be an early Government response to the Special Report, re-affirming our position. I should be grateful if you would arrange for a short draft to be circulated as soon as possible for consideration by those most immediately concerned.

The matter may, of course, be raised during the debate on the fees for overseas students. If that is the case, I think it would be right for the Minister replying to the debate to deal briefly with the point - again on the general lines set out in the Memorandum of Guidance for officials.

If there is a demand in the House for a more wide-ranging discussion of Recommendation 62, we shall have to consider how that might best be handled in the context of the outstanding recommendations of the Procedure Committee's report.

I hope to let you have a reply to your other letter about the disclosure of documents shortly.

I am copying this letter to Cabinet colleagues, to Sir Robert Armstrong and to Sir Ian Bancroft.



29 MAY 1980

Paterson ✓
MS

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The Rt Hon Nicholas Edwards MP

From The Secretary of State for Wales

29 May 1980

De Naha

SELECT COMMITTEES

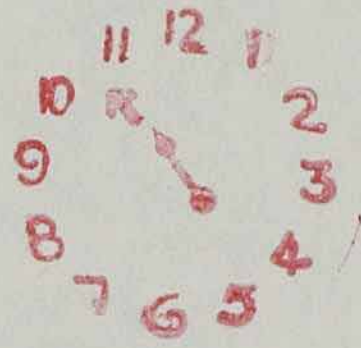
Thank you for the copy of your letter of 30 April to Willie Whitelaw with which you enclosed the draft Memorandum of Guidance for Ministers. I have no points to raise on the draft.

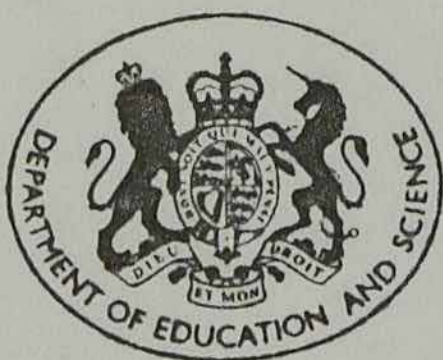
/ I am copying this letter to the recipients of yours.

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Nair

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

30 MAY 1980





ELIZABETH HOUSE,
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FROM THE SECRETARY OF STATE

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

22 May 1980

attached

You will have seen the First Special Report from the Education, Science and Arts Committee (ESAC) on the Provision of Information by Government Departments to Select Committees (HC 606), which criticises the refusal of Government Departments to reveal details of inter-departmental consultations on policy issues.

It is of course relevant that this Report appeared simultaneously with two others, one from the Education, Science and Arts Committee, the second from the Overseas Development Sub-Committee of the Foreign Affairs Committee, both dealing with the Government's decision to introduce full cost fees for Overseas Students. Both reports deplore the refusal by Ministers and officials to reveal the nature and scope of inter-departmental consultation on this matter, and the extent to which educational criteria on the one hand, or considerations relating to overseas policy on the other, entered into the process of decision-making. In their Special Report the Education, Science and Arts Committee mention this specific instance, though they seek to broaden the issue to cover all the information which is available to a Department in formulating its decisions.

You will remember that I raised with you this very question in the correspondence which I initiated on 22 February, when Dr Boyson and my officials had been invited to appear before the Overseas Development Sub-Committee. You indicated then, and it was generally agreed I think by all of us who took part in the correspondence, that Select Committees should not be given information about the background to a Government decision which might indicate the details of advice given to Ministers by their Departments or show the way in which interdepartmental discussions on policy issues took place. "Our primary objective" you wrote "must be to preserve the general principles of collective responsibility".

I am sure that this remains the real issue. The Select Committees (both of them at different times) have tried to fog this issue by quoting Recommendation 62 of the First Report from the Procedure Committee of Session 1977-78. In paragraph 7.15 of that Report, on which recommendation 62 was based, the Procedure Committee did

not call into question the longstanding practice of Ministers to refuse to answer questions in the House concerning discussions between Ministers or between Ministers and their official advisers or the proceedings of the Cabinet or Cabinet Committees. However, they went on to recommend that any extension of these conventions to "all aspects of departmental or interdepartmental organisation" should be regarded by Select Committees as a matter for serious concern which should be brought to the attention of the House. I conclude that their recommendation 62 refers exclusively to matters of organisation and structure rather than to consultation and advice. The ESAC Report seems deliberately to seek to confuse the two in the hope of adding to the pressures for greater disclosure.

This technicality may have a bearing on how we deal with the Report. What the Committee recommend is that the House be given an early opportunity to approve Recommendation 62 of the Procedure Committee's Report. If I am right this would not bite on our refusal to divulge details about the advice available to Ministers. But I myself do not think that we should try to shelter behind such a technicality. Whether or not the House debates Recommendation 62, I believe that we shall find ourselves defending the principle of collective Ministerial responsibility, and I think there would be a lot to be said for a short and speedy Government response to the Special Report which reaffirms the position most recently set out in paragraph 25(i) of the latest memorandum of guidance for officials appearing before Select Committees (Gen 80/38) - an earlier version of which was seen by the Procedure Committee and found to be unexceptionable:

"In order to preserve the collective responsibility of Ministers, the advice given to Ministers by their Departments should not be disclosed, nor should information about inter-departmental exchanges on policy issues, about the level at which decisions were taken or the manner in which a Minister has consulted his colleagues."

As you know this is not the only issue which faces us with the Select Committee. There is also the question of the disclosure of documents, and other questions may arise later. We have the choice of either replying to specific complaints as they arise (for example on this question of information about interdepartmental consultation) or waiting until we can put in a measured reply on a number of points.

I should be grateful for your views and those of my Cabinet colleagues, to whom (and to Sir Robert Armstrong and to Sir Ian Bancroft) I am sending copies of this letter.

MARK CARLISLE
Approved by the
Secretary of State
and signed in his
absence

