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PRIME MINISTER

ABOLITION: TRADING STANDARDS AND RELATED FUNCTIONS IN METROPOLITAN COUNTIES

In my report of 3 April on the work of MISC 95, I indicated that allocation of some GLC/MCC services was still under consideration. The main service on which there is still disagreement is trading standards in the metropolitan counties. Neither MISC 95 nor the Ministers directly concerned have been able to reach a compromise. The attached note by officials sets out the background and possible approaches. (Trading Standards in London already lie with the Boroughs).

The Secretary of State for Trade and Industry and the Minister for Agriculture, Fisheries and Food believe that in order to secure consistency, quality and cost-effectiveness of enforcement of the criminal law on this subject, and the economic use of staff, trading standards should be administered on not less than a county-wide basis as a common service with a unified staff structure. They consider that the best way to achieve this is through joint boards shared with one of the services already to be covered by such arrangements. They have suggested that joint boards covering fire services and trading standards would be the most appropriate arrangement.

In my view this approach is incompatible with our abolition strategy of maximum devolution to the boroughs and districts. If we accept the case for joint boards for trading standards, we shall find it very difficult to resist it for waste disposal, planning and highways; all the significant MCC services would then be in the hands of joint boards, and there would be strong arguments for moving to multi-purpose joint boards - which would virtually re-create the upper-tier authorities. The Home Secretary agrees with my view, and, in particular, would oppose giving the function to the Fire Joint Boards.

The officials' paper suggests two other possible solutions.



The first is based on the establishment of joint technical committees. I would reluctantly accept this, given the concern about uniform standards of enforcement. However, it is not acceptable to the Secretary of State for Trade and Industry and the Minister of Agriculture, Fisheries and Food because it would not guarantee the standards of consistency, quality and cost-effectiveness which they regard as desirable.

The second is based on "statutory joint committees." The Secretary of State for Trade and Industry and the Minister of Agriculture, Fisheries and Food would reluctantly accept this. However, this option would involve giving responsibility for the functions to the committees which would employ staff and operate on a county-wide basis. Such committees would be indistinguishable from our proposed joint boards. For that reason I oppose this solution - as I would any solution which would give these functions to a body other than the districts.

I am planning to issue a detailed statement on the reallocation of GLC/MCC functions before the Recess and we must include in it a clear indication of our intentions on trading standards. It would therefore be helpful if you would convene a meeting of the Ministers most closely concerned to resolve this issue.

I am sending copies of this minute to the other members of MISC 95, to the Minister of Agriculture, Fisheries and Food and to Sir Robert Armstrong.

PJ.

P J

10 July 1984

ABOLITION : TRADING STANDARDS AND RELATED FUNCTIONS

1. This note considers the arrangements for trading standards, and related functions, following the abolition of the metropolitan county councils. It does not deal with the situation in London, where responsibility already rests with the boroughs.

2. A list of the legislation enforced by the trading standards service (Approx. 1,000 staff and 1% of MCC expenditure) is at Annex A. For the majority of these, DTI are the sponsoring department; for the rest (representing about 25% of the activities of the trading standards departments), responsibility rests with MAFF, DTp and DEM.

BACKGROUND

3. "Streamlining the Cities" proposed that trading standards and related functions should be devolved to the districts, but recognised the need for them to take steps to ensure consistent standards of enforcement and to make appropriate arrangements for sharing equipment and specialist staff. This was one of the functions on which the White Paper indicated there would be direct consultations on the proposals. No detailed consultation paper was issued on this service. The large majority of the responses to this part of the White Paper proposals were against devolution to the districts. Broadly :

- (a) bodies representative of industry, commerce and consumers (including the CBI and the British Retailers Association) argued that some means should be found of administering these services on a county-wide basis. Professional bodies also followed this line;

(b) those district councils opposing abolition in principle naturally opposed this aspect of devolution to the districts;

(c) other district councils were in favour.

4. MISC 95 considered the matter again in March. The Secretary of State for Trade and Industry's paper (MISC 95 (84)11) proposed giving the functions to the fire joint boards to avoid increasing the number of joint boards. The Minister for Agriculture supported this view. DOE and Home Office Ministers were opposed to it as contrary to abolition strategy and because the functions were unrelated to those of the fire joint boards. It was agreed that the Ministers concerned should consider urgently other options.

VIEWS OF DEPARTMENTS

5. DTI and MAFF (supported by the CBI and British Retailers Association) believe these services should be administered on a county-wide basis as a common service with a unified staff structure because:

- (a) the core function which trading standards departments carry out is enforcement of criminal law; industry and commerce need as much consistency in interpretation of the law and enforcement policy as is possible;
- (b) industry and commerce also have a strong interest in the quality of law enforcement in this area; and
- (c) the necessary expertise of staff and the provision of appropriate equipment and facilities can be provided

more cost-effectively in wider groupings.

6. DOE take the view that these requirements are incompatible with abolition strategy. They believe that the proposals in the White Paper should stand and the functions should be devolved to the districts, although they would be content to see some statutory backing for arrangements for voluntary cooperation between districts. The main reasons adduced by DOE for not having these functions administered by a county-level body are:-

- (i) it would involve an increase in the number of functions which are not being devolved to districts;
- (ii) if the case for doing this for trading standards were accepted it would be very difficult to avoid conceding other similar treatment for three substantial functions which are going to the districts - waste disposal (albeit with a reserve power to establish statutory joint arrangements), planning and highways - where arguments for a single county-wide body have been advanced (also by the CBI); and
- (iii) the argument about the costs is not decisive. The case for abolition rests on the overall effect of removing a whole tier of local government rather than on a service-by-service analysis of cost-effectiveness.

POSSIBLE APPROACHES

8. At the Ministerial meeting on 22 May it was agreed that, without prejudice to the previously expressed preferences of the Secretary of State for Trade and Industry and of the Secretary of State for the Environment, officials should explore whether a satisfactory solution could be found by including in the Abolition Bill a statutory obligation to establish joint technical committees for consultation between districts.

9. A possible solution based on joint technical committees in each metropolitan county is set out at annex B. DOE consider that this is the maximum which could be conceded to joint committees consistent with devolution to the districts. They acknowledge however, that such arrangements would not guarantee a county-wide service with unified staffing. DOE point out that it would be open to DTI to build up the role of such committees by using them as a channel of communication on matters within their terms of reference, but DTI consider this would not be practicable, while the statutory responsibility rests with districts. They and MAFF consider that these arrangements amount to little more than relying on voluntary agreements which experience in London has already shown do not last.

10. The minimum arrangements which DTI and MAFF are prepared to accept are set out at annex C. DOE consider that the "statutory joint committees" contain all the essential elements of joint boards and are therefore indistinguishable from that option. In particular, the "statutory joint committees" would:

- be corporate bodies and they (not the districts) would be responsible for the functions;
- employ staff and own property;
- have power to require the districts to provide finance.

DOE therefore oppose the proposal for "statutory joint committees".

CONCLUSION

11. There are four main options for trading standards and related functions:

- devolution to districts, as proposed in Cmnd 9063 and favoured by DOE;
- devolution to districts, but with joint technical committees along the lines set out at annex B;
- county-wide "statutory joint committees" as set out at annex C;
- shared joint board arrangements with the Fire Services, as favoured by DTI and MAFF.

12. Ministers are invited to consider these options.

LEGISLATION ENFORCED BY TRADING STANDARDS DEPARTMENTS

WEIGHTS AND MEASURES ACTS 1963, 1976 AND 1979

AGRICULTURAL PRODUCE (GRADING AND MARKING) ACTS 1928 AND 1931

FOOD AND DRUGS ACT 1955

FARM AND GARDEN CHEMICALS ACT 1967

MEDICINES ACT 1968

AGRICULTURE ACT 1970

FABRICS MISDESCRIPTION ACT 1913

TRADING REPRESENTATIONS (DISABLED PERSONS) ACTS 1958 AND 1972

MOCK AUCTIONS ACT 1961

TRADING STAMPS ACT 1964

TRADE DESCRIPTIONS ACTS 1968 AND 1972

DEVELOPMENT OF TOURISM ACT 1969

UNSOLICITED GOODS AND SERVICES ACTS 1971 AND 1975

FAIR TRADING ACT 1973

HALLMARKING ACT 1973

CONSUMER CREDIT ACT 1974

ADVERTISEMENT (HIRE PURCHASE) ACT 1967

PRICES ACT 1974 AND 1975

ESTATE AGENTS ACT 1979

BRITISH TELECOMMUNICATIONS ACT 1981

ENERGY CONSERVATION ACT 1981

CONSUMER PROTECTION ACTS 1961 AND 1971

CONSUMER SAFETY ACT 1978

ROAD TRAFFIC ACTS 1972 AND 1974

ROAD TRAFFIC (FOREIGN VEHICLES) ACT 1972

CONTROL OF POLLUTION ACT 1974

HEALTH AND SAFETY AT WORK ACT 1974

ANIMAL HEALTH ACT 1981

GREATER MANCHESTER COUNCIL AND 20 SHIRE COUNTIES ALSO ENFORCE:

PETROLEUM (CONSOLIDATION) ACT 1928

PETROLEUM (TRANSFER OF LICENCES) ACT 1936

PUBLIC HEALTH ACT 1961

A STATUTORY JOINT TECHNICAL COMMITTEE ARRANGEMENT FOR TRADING STANDARDS
ADMINISTRATION

CONSTITUTION

1. The Bill would give the trading standards and related functions to the districts and require the districts in each metropolitan county to set up a joint committee.

2. The Bill would specify that these joint committees would have responsibility for seeking:

(a) to ensure that all district councils within their area adopted common levels of enforcement activity, and common interpretation of statutes for both advice and prosecution work;

(b) the maintenance or development of physical facilities (such as testing stations and laboratory services) for trading standards activities on a shared basis for the district councils within their area;

(c) a co-ordinated approach to the staffing of the service within their area; and

(d) arrangements for the costs of the facilities at (b) and the staff at (c) to be met by the districts and for those costs to be shared equitably.

3. The Bill would provide for the joint committees to comprise members nominated by the district councils in their area. Following the general requirement for local authority committees and joint committees at least two-thirds of the members would have to be elected representatives.

COVERAGE

4. The legislation which would be covered by these arrangements would be that shown in Annex A which includes responsibilities of DTI, MAFF and, to some extent DTp and DEm.

5. The formal "weights and measures authority", "food and drugs authority"

etc referred to in the legislation would become the district councils.

6. The formal transfer of existing land, premises and equipment would be to the district council in which they are currently located.

7. In exercising their functions and in organising and using facilities districts would be bound by any joint arrangements agreed between them, following the carrying out by the joint committee of its functions, as long as those arrangements subsisted.

STATUTORY JOINT COMMITTEE ARRANGEMENT FOR TRADING STANDARDS

CONSTITUTION

1. The Bill would require a joint committee to be set up within each metropolitan area to be the statutory authority responsible for trading standards in the area.

2. The Bill would specify that each joint committee:-
 - (a) would be a legal entity and would be vested with the powers to appoint staff and to hold property

 - (b) would comprise members nominated by the district councils in the area from their elected representatives

 - (c) would be responsible for arranging for its costs to be met by pro-rata contributions from district councils in its area.

COVERAGE

3. The legislation which would be covered by these arrangements would be that shown in Annex A which includes responsibilities of DTI, MAFF and, to some extent DTp and DEu. The formal "weights and measures authority", "food and drugs authority" etc referred to in the listed legislation would become the joint committee.

4. Formal transfer of existing land, premises and equipment would be to the joint committee.