

AGB



ROYAL COURTS OF JUSTICE
LONDON, WC2A 2LL

01-405 7641 Extn

25 April 1986

The Rt Hon Paul Channon MP
Secretary of State for Trade and Industry
Department of Trade and Industry
1 Victoria Street
London
SW1H 0ET

Prime Minister!

Yes

Are you content that
the SIB should be a
prosecuting body, albeit
reluctantly?

Dear Secretary of State,

DKW 25/4.

FINANCIAL SERVICES BILL: STATUS AND POWERS OF THE DESIGNATED AGENCY

Thank you for your letter of the 22nd April 1986.

I found the meeting with Michael Howard most helpful. In particular, he was able to explain in more detail the extent of the control which you and your Department will retain over the functions of the Securities and Investment Board (SIB) notwithstanding that it will be a private body. I was also pleased to learn that there will be no question of the prosecution functions being discharged through the self Regulating Organisations. This latter point effectively meets my concern on the question of how consistency of approach and policy in the decision whether to prosecute would be achieved.

I adhere to my original view that ordinarily the institution of criminal proceedings ought not to be discharged on a routine basis by a private body. But Michael was able to assure me that your proposals for imposing conditions and restrictions on any prosecution function which may be transferred would ensure a considerable degree of control over the prosecution policy and procedures of the SIB. I understand that your intention would be to effect the transfer of prosecuting powers on a gradual,



possibly offence by offence, basis to the SIB after appropriate consultation. In these circumstances I do not think it would be right for me to press an objection in principle. Assessment of whether such an extension of "self regulation" to include the power to prosecute will in fact command the necessary public confidence must be a matter for your judgement. Careful presentation will be needed to ensure that the public are aware that, despite SIB's private status, it is acceptable for it to have prosecution functions because the transfer of the power to prosecute to the SIB will be subject to the safeguards mentioned above.

I mentioned specifically the need to ensure that the SIB is adequately funded for the discharge of prosecution functions - something which can be expensive. Provided the SIB is not caught by section 17(6)(d) of the Prosecution of Offences Act 1985, it may be able to recover its costs in respect of prosecutions for indictable offences out of central funds. Otherwise, it will be responsible for its own costs. In any event, it will have to bear its own costs in respect of summary offences. I mention this point because it is undesirable in principle that decisions whether to prosecute should be constrained by budgetary considerations.

What Michael was able to tell me also went a long way to meeting my anxieties as to the adequacy of the accountability aspect of these arrangements. In view of all these factors, and in particular the burden which a substantial number of enforcement prosecutions would place upon your own resources, I am not minded to press my objections further.

I am copying this letter to the Prime Minister and other recipients of your letter.

Yours sincerely
Stephen Woolley

Approved by the Attorney General and signed in his absence.

L Pres
LCO
H Sec
C of E
LPS
C DL
L Adv.
C whips
Danham
no. PCCO
→ 2/1
y
MTA

Econ Pol: Gower.

PL3

