

CCB



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26 August 1986

Prime Minister

Dear David,

MEAT 22/8

ROSKILL

at ACP

Thank you for your letter of 31 July indicating the Prime Minister's agreement with the proposal that the Serious Fraud Office (SFO) should have a power to order the production of documents where it thinks it is right to do so, and that it should be an offence to refuse to answer its questions. You have asked what constraints there will be on the powers of the SFO in these respects and what checks there will be to prevent abuse.

We have considered these questions with the Law Officers' Department, the Director of Public Prosecutions and the Department of Trade and Industry, who will be concerned with the establishment of the SFO. Our view is that, as these powers will be modelled on those which are already available to the Secretary of State for Trade and Industry under the Companies Act 1985, the safeguards should be similar to those on the exercise of these powers by DTI officials. The Attorney General will be accountable to Parliament for the manner in which the SFO carries out its investigations, including the exercise of its powers. If a person against whom the powers were directed felt that their exercise was ultra vires it would be open to him to challenge them in the Divisional Court by means of an application for judicial review and, if an individual believes that he has suffered loss or damage as a consequence of the wrongful exercise by the SFO of its powers, he will be able to sue for damages in the civil courts. It will also be the case that members of the SFO will be civil servants and therefore subject to civil service disciplinary procedures for improper behaviour or the abuse of their position.

I am copying this letter to the recipients of yours.

yours

Clare

MS C PELHAM

David Norgrove, Esq.,

ECON POL: GOWER PT 3.

