

PRIME MINISTER

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~~Await advice~~
from Dr Nicholson

THE EXPLOITATION OF RESEARCH COUNCIL FUNDED INVENTIONS

1. Following your announcement of the removal of BTG's monopoly right to the exploitation of Research Council funded inventions my Department has had extensive discussions with the Research Councils, other Departments concerned, the CVCP, and others (including Dr Nicholson) about the new arrangements. I am now in a position to make a more detailed policy statement to give effect to them; but thought that I should first make sure that you are content with the substance of what I propose.

2. A draft statement is enclosed. As I see it we have two main aims: to make researchers supported by Councils more aware of the importance of exploiting their findings wherever possible, and bring them closer to industry and commerce; and to encourage development of the ways in which exploitation happens in the private and in the public sectors, both directly by enterprises and through intermediaries such as venture capitalists.

3. I wondered if we should just have a free for all, allowing every researcher to do as he or she saw fit. Somewhat reluctantly, I think not - at least not yet. Public money is involved and there are statutory and other legal requirements to accommodate. Many researchers do not have the skills to pursue exploitation themselves; the incentive to develop such skills needs time and encouragement to grow. We must also ensure that as far as possible benefits from the commercial application of discoveries accrue to the UK not to foreign competitors.

4. Nevertheless our aim, so far as the researcher is concerned, must be for us to clarify and devolve responsibility

as fully as possible, and with it incentive. I believe the arrangements I propose will do this, and will allow for growth and development.

5. That is the picture too, I understand, so far as the interested enterprisers are concerned. I think that it is fair to say that, partly as a result of our own policies, partly as a result of Councils' efforts, the last few years have seen a growing awareness in industry and commerce of the benefits of collaborating with universities and Research Councils. And venture capitalists such as Prutec, Cogent and New Technology Enterprises are now increasingly approaching universities. I think that this is all to the good; I believe that the new arrangements will add momentum.

6. The more important part of my proposals are those concerning the universities. I see the Councils' invitation to them to say whether they wish to take responsibility for exploitation as a crucial step and one they should have time to take in a considered way. It will open up new markets for venture capital and other private sector initiatives. I intend to give it wide publicity. I hope that in due course all universities will respond positively. I cannot tell them how to run their internal affairs; but I would take every opportunity to stress that we are expecting minimal bureaucracy, and speedy competent mechanisms. We must see that the arrangements help, not hinder, the enthusiastic researcher with a good product or commercial idea to get it into UK industry or commerce.

7. There is room to do better too for Councils' in-house work. Again we must devolve responsibility and reduce central controls to the minimum, consonant with the principles of the FMI. I hope that it will prove possible to abolish delegated authority controls here; and my officials are talking to their opposite numbers in the Treasury. I also want to see more private sector money going to reinforce what we are doing for science; hence the importance I attach to Councils' retaining earnings from their in-house inventions.

8. I believe that their officials will be able to commend my proposals to Norman Tebbit and Peter Rees; and I hope that you will feel able to endorse them, thus enabling me to make an announcement as soon as possible after the recess, and the Councils to approach the universities. I judge that they should have up to three months to respond; and that the new arrangements could come into effect rapidly thereafter.

9. I am copying this minute and enclosure to Norman Tebbit and Peter Rees, and to Dr Nicholson and Sir Robert Armstrong.

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POLICY STATEMENT BY THE SECRETARY OF STATE FOR EDUCATION AND SCIENCE

THE EXPLOITATION OF RESEARCH COUNCIL FUNDED INVENTIONS

Still
correct?

1. The Government wishes to encourage the fullest possible industrial and commercial application of UK scientific and technological discoveries, for the maximum benefit of the UK economy. This year we shall spend, through the Grants-in-Aid to the five Research Councils, some £530M on civil scientific research and as I informed the House on 12 November, we have decided to make an additional £11M available in 1985/86, over and above our previous plans, in recognition of the long-term importance of research for the country. Following the Prime Minister's announcement of the ending of the right of first refusal hitherto held by the British Technology Group (National Research Development Corporation) for the exploitation of research funded from the Science Budget through the Research Councils, my Department has had extensive discussions with the Councils and others concerned; and I am now able to announce the main features of the new arrangements.

2. The Government's overall aims in the new arrangements are to increase the exploitation of research funded by the Councils, for the maximum benefit of the UK economy: to strengthen and improve exploitation arrangements, through freer competition between exploiting agencies in the public and private sectors and in other ways; and, therefore, to place responsibility, initiative and incentive for exploitation as fully as possible on the Councils, researchers and their institutions, consistent with their legal responsibilities.

We want researchers to be aware of the possibilities of their work, to see the benefits of exploitation both for their own establishments and more widely in the national interest, and to have access to arrangements for exploitation as simple and effective as practicable.

3. I am inviting each Council formally to define and promulgate its proposed policy and practice having regard to these overall aims; to take into account, where appropriate, any potential for exploitation in their decisions on funding research; and to amend their conditions

of grant and related arrangements so as to encourage this.

4. For the research they support in universities the Councils - who between them are currently funding some 6,900 research projects of total value of £360M - will, I understand, wish to transfer the rights and responsibilities for exploitation to the institution in receipt of grant, where the university wishes to accept them, and where the Councils are satisfied that adequate arrangements and procedures exist for identifying and pursuing potentially exploitable results. On behalf of these Councils and with their agreement, the Chairman of the SERC will shortly be writing to Vice-Chancellors to propose this transfer and invite them to state their University's wishes.

5. It will be open to universities to propose what arrangements best suit their circumstances. For example they may wish to negotiate terms for transfer of both the rights and responsibilities for exploitation to intermediaries such as private sector organisations or to the BTG (NRDC); or they may wish to retain the rights themselves. In this latter case they may enter into direct arrangements with industrial or commercial companies for the exploitation of individual discoveries, seeking such professional or other services as they need; or conclude agreements with private sector intermediaries to undertake this on their behalf. An institution may wish to make different arrangements for different types of discoveries.

6. Universities' proposals will be considered by the SERC in consultation with the other Councils, the CVCP, the UGC and with my Department and the Department of Trade and Industry. Councils will seek to satisfy themselves as to the likely efficacy of the arrangements. When arrangements are agreed and in place Councils would thereafter regard transfer as effected; and would wish to receive a brief annual report from each institution on the working of the arrangements in respect of their grants and contracts, including information on income earned. The Councils would wish to review any major changes which a university wished to make in its agreed arrangements.

7. It would be for the university to negotiate exploitation terms. Universities will be able to retain receipts in full without loss of general or specific grants. I hope that they will see fit to use

them to strengthen and improve their research capability and its further exploitation. I think it would be appropriate for the Councils, in conjunction with other interested bodies, to review the arrangements when sufficient experience has been gained of their operation, perhaps after three years.

8. I understand that Councils intend that the arrangements for the use of their new freedom and responsibility for the exploitation of inventions originating in their own Units and Institutes should provide for the maximum involvement of researchers and their establishments having regard to Councils' financial and legal responsibilities and the efficient use of a Council's experience and expertise. The present delegated authority controls governing their involvement in commercial enterprises will be phased out as soon as each Council is ready to take on its responsibilities fully. They will be able to retain earnings from exploitation of their in-house inventions without loss of Grant-in-Aid. When sufficient experience has been gained the Department will wish to review the workings of the new arrangements with the Councils.

9. The intention of these changes is to benefit the UK; and it is important that the exploitation of our scientific and technological discoveries should as far as possible be done by UK companies. This aim will be borne in mind when considering proposals from universities for the new arrangements. There may be circumstances where a foreign company or a subsidiary of such a company is the best choice, whether as an intermediary or for the negotiated transfer of rights. Where a university is considering using such a company or subsidiary for all of their discoveries, or all discoveries in a particular discipline or field, I should be grateful if they would consult the Department of Trade and Industry at an early stage. The Department of Trade and Industry will also be ready to advise in particular cases and I would hope that universities will consult them freely. The Annual Reports which universities make should record any agreement for exploitation made with an overseas company or a subsidiary.

10. I recognise that there is a nice balance to be struck between the free flow of information on which the health of science so critically depends and the need to protect new inventions if they are to be fully exploited to the benefit of the UK. A balance is also

required between the freedom and motivation of the researcher to pursue exploitation, the efficient use of negotiating and other commercial skills to secure the best terms, and the legal responsibilities of Councils and universities. I am confident that the scientific community, through consultation between the Councils and the universities, will be able to work out agreed arrangements that will meet the Government's aims.

11. It is my intention that the new arrangements should take effect as soon as possible. I will make a further announcement when the Councils' consultations are complete.