



Cabinet Office

MANAGEMENT AND PERSONNEL OFFICE

From the Minister of State
Privy Council Office
The Rt. Hon. Richard Luce MP

Great George Street
London SW1P 3AL
Telephone 01-233 8610

The Rt Hon Viscount Whitelaw CH MC
Lord President of the Council
Cabinet Office
70 Whitehall, SW1

24 February 1986

Dear Wilke,

W 2/12

PARLIAMENTARY COMMISSIONER FOR ADMINISTRATION: SCOPE OF PROPOSED BILL

Following the meeting of Legislation Committee on 28 January, I understand that a place is likely to be found in the legislative programme for the 1986/7 Section for the PCA Bill that I proposed. I am therefore writing to you and to members of H Committee to seek policy clearance for the second aspect of the Bill, which I covered in my bid.

The main purpose of the Bill is to extend the jurisdiction of the PCA to cover specified Non-Departmental Public Bodies in response to recommendations of the Select Committee on the PCA. Grey Gowrie wrote to colleagues for policy agreement on this on 23 May 1985: colleagues were generally content and policy approval was therefore given.

The second aspect of the Bill relates to the procedures for appointment and dismissal of the PCA. In the run up to the appointment of the new PCA in 1985, it became apparent that the current legislative provisions are deficient in two respects. I propose therefore to make the following two amendments to the Parliamentary Commissioner Act, 1967:-

- (a) A provision which clearly enables the Deputy Parliamentary Commissioner and other principal officers to carry out the functions of the PCA during a temporary vacancy in the office of the PCA. Past experience indicates that it takes about six months to make a new appointment. Problems

should only arise in the event of a PCA dying whilst in office or resigning unexpectedly. But I think that these contingencies should be provided for. A six months hiatus in the office is unacceptably long, given that it currently takes about a year for the PCA to complete an investigation.

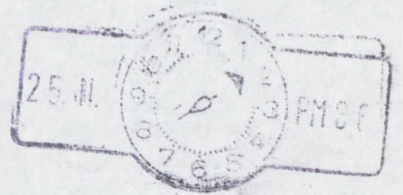
(b) A provision enabling the removal of the PCA for incapacity. We naturally hope that such circumstances do not occur. At the moment the PCA must retire in the year in which he attains 65 and he can be relieved of office at his own request. But he can only be removed by Her Majesty on Addresses from both Houses of Parliament, and it is considered that a less public procedure would be more appropriate in cases involving incapacity. There are precedents for a separate provision to deal with incapacity, notably in the Local Government Act 1974 appointing the Commissioners for Local Administration, which permits their removal by Her Majesty on grounds of incapacity.

I would not expect either of these amendments to be controversial.

I am copying this letter to the Prime Minister, to all members of H Committee, to other Ministers in charge of Departments and to Sir Robert Armstrong.

w
Rich

RICHARD LUCE





Cabinet Office

MANAGEMENT AND PERSONNEL OFFICE

From the Minister of State
Privy Council Office
The Rt. Hon. Richard Luce MP

Great George Street
London SW1P 3AL
Telephone 01-233 8610

The Hon William Waldegrave MP
Minister of State for the Environment,
Countryside and Local Government
Department of the Environment
2 Marsham Street
LONDON SW1P 3EB

28 April 1986

Dear Sir

PARLIAMENTARY COMMISSIONER FOR ADMINISTRATION - PROPOSED BILL
1986/87

WILL REQUEST IF REQUIRED

Thank you for your letter of 11 April asking whether the proposed Parliamentary Commissioner for Administration (PCA) Bill could take on nine minor and uncontroversial government commitments relating to the Commissioners for Local Administration (CLAs) in England and Wales. Your letter argues that the commitments have now been outstanding for some time and failure to include them within our legislation could create more controversy than doing so.

As you may know, the PCA Bill only has a legislative slot in the 1986/7 session on the grounds that it is short and uncontroversial. The latter condition means that the Opposition must agree to Second Reading Debate in Committee. Increasing the length of the bill would presumably not be a stumbling block, in itself, with QL and H Committees. I also agree that the amendments proposed to the CLA Legislation are uncontroversial. The problem, as I see it however, is that the pressure is now beginning to build up on other matters relating to the CLAs and these are controversial. I have in mind particularly:

- (a) recent publicity in the press about some local authorities' non-compliance with CLA findings of maladministration against them. Lord Kilmarnock has, of course, already tried to put down an

amendment on enforcement during the passage of the Local Government Act 1986. He was persuaded to withdraw this by Lord Elton on the grounds that there would be another legislative opportunity in due course (Hansard 24 February 1986, Column 924);

- (b) publication of the Select Committee on the PCA's Report on CLAs at the end of May. We understand that this will tackle the enforcement problem and the Committee is likely to suggest legislation requiring the CLAs to report to Parliament. This would obviously raise controversial questions about the relationship between central and local government. As a last resort, the report may also suggest enforcement via the Courts;
- (c) the Widdicombe Report which is due to be published in early June. We understand that its recommendations are likely to cover the enforcement problem and controversial extensions of the CLAs' jurisdiction e.g. to personnel and commercial matters.

Against this background of mounting controversy on the CLAs' future, it seems to me that there are three options.

The first option is to include CLA commitments in the PCA Bill and to try and resist any controversial amendments being put down on the grounds that these issues are an integral part of the Government's consideration of the Widdicombe Report which will involve widespread consultations and will therefore have to take place over a longer time scale. There seem to me two overriding risks with this option:

- (a) that the Opposition will not agree in these circumstances that the Bill is uncontroversial and it will therefore lose its legislative slot. The Government will thus lose what credit there is to be gained from meeting its PCA commitments (the only significant change in the PCA's jurisdiction since he was established in 1967). The DOE will not have avoided controversy on the matter because your local government bill in the 1986/7 session will provide another suitable vehicle for amendments.
- (b) even if the official Opposition in the House of Commons would be prepared to agree not to put down controversial amendments in order to secure the other aspects of the Bill, there would still be a significant risk of controversial amendments from individual MPs in the House of Commons concerned about the enforcement of CLA recommendations as well as in the House of Lords.

The second option is to include the minor CLA amendments in the Local Government Bill. It is noteworthy that the original legislation setting up the CLAs was local government legislation (the Local Government Act 1974). This option is, of course, primarily a matter for your department. As with the first option, the Government could argue against unwelcome controversial amendments on the grounds that these needed to wait for the Government's response on Widdicombe. Again, however, there is the risk this argument would not be successful.

The third option is not to include the CLA amendments in either PCA or the Local Government Bill. The risk here is that this would not stop controversial amendments being put down to either or both bills and the government could also be criticised for not meeting its non-controversial commitments.

In conclusion, there are risks involved in adopting any of the courses above. It seems to me clear, however, that using the PCA Bill as the vehicle for the CLA amendments is not a realistic option. Given the mounting pressure on the future of the CLAs, it would almost certainly make the Bill controversial and thus lose its place in the legislative programme altogether. This cannot be in the Government's, your or my department's interests.

It seems to me that it is a question of judgement which of the other two courses is adopted. This must depend in large part on what the Government decides to do about the Widdicombe Report once it has been published. I suggest therefore that once the report is available our officials should get together again to discuss the best way forward and report back to us with their conclusions and advice.

I am copying this letter to the Prime Minister, to all members of H Committee, to other Ministers in charge of Departments and to Sir Robert Armstrong.

Richard Luce

RICHARD LUCE



Cabinet Office

MANAGEMENT AND PERSONNEL OFFICE

From the Minister of State
Privy Council Office
The Rt. Hon. Richard Luce MP

Great George Street
London SW1P 3AL
Telephone 01-233 8610

The Rt Hon Malcolm Rifkind MP
Secretary of State for Scotland
Scottish Office
Whitehall
LONDON SW1A 2AU

URM

28 April 1986

Dear Malcolm

PARLIAMENTARY COMMISSIONER FOR ADMINISTRATION - SCOPE OF PROPOSED BILL

Thank you for your letter of 17 April requesting that the appointment/dismissal provisions in the proposed Parliamentary Commissioner for Administration (PCA) bill should also be extended to the Health Service Commissioner (HSC) (Scotland). *at HoP*

I agree with you that, as the PCA and HSC (Scotland) are the same man, it would be preferable for the bill to deal with both Commissioners. I also agree that if the bill amends the National Health Service Act 1977 as proposed by Barney Hayhoe (his letter of 24 March to me), it would also be appropriate to amend the National Health Service (Scotland) Act 1978 in line with the 1977 Act. I share your view that these amendments would be uncontroversial.

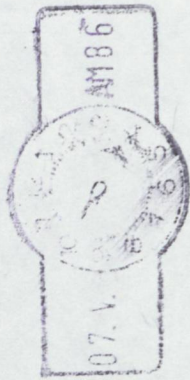
As with Barney Hayhoe's proposals, I am content to include your proposals in the bill subject to the Lord President's agreement and to the bill's legislative slot not thereby being prejudiced. To shorten correspondence on this matter, I am also taking this opportunity to ask the Lord President if he could consider your and Barney Hayhoe's proposals from a QL stance as well as for policy clearance.

I am copying this letter to the Prime Minister, to all members of H and QL Committee, to other ministers in charge of departments and to Sir Robert Armstrong.

Rifkind

RICHARD LUCE

PARLIAMENT Registration 214.





SCOTTISH OFFICE
WHITEHALL, LONDON SW1A 2AU

The Rt Hon Richard Luce MP
Minister of State
Privy Council Office
Great George Street
LONDON
SW1P 3AL

17 April 1986

Dear Richard,

PARLIAMENTARY COMMISSIONER FOR ADMINISTRATION
SCOPE OF PROPOSED BILL

Having seen a copy of Barney Hayhoe's letter of 26 March about H Committee clearance of the proposed PCA Bill I am writing to seek agreement to corresponding amendments to the NHS (Scotland) Act 1978, to keep the provisions for the offices of PCA and HSC (Scotland) in line.

The holder of the PCA and HSC posts is also HSC for Scotland.

I also endorse the two further points mentioned by Barney Hayhoe, which would necessitate changes in the NHS (Scotland) Act 1978 to enable the HSC (Scotland) to send a privileged copy of the report of his investigation to members of Parliament who submit cases to him and to clarify the time limit within which a Health Board may itself refer matters to the HSC.

I would not expect either of these amendments to be controversial.

I am copying this letter to the Prime Minister, to all members of H Committee, to other Ministers in charge of Departments and to Sir Robert Armstrong.

*Yours ever,
Malcolm Rifkind*

MALCOLM RIFKIND

Parliament; Legislation #14



CEB

Treasury Chambers, Parliament Street, SW1P 3AG

The Rt Hon Malcolm Rifkind MP
Secretary of State for Scotland
Scottish Office
Dover House
Whitehall
London
SW1

NBM

24 April 1986

Dear Malcolm,

PARLIAMENTARY COMMISSIONER FOR ADMINISTRATION: SCOPE OF PROPOSED BILL

Thank you for sending me a copy of your letter of 17 April to Richard Luce.

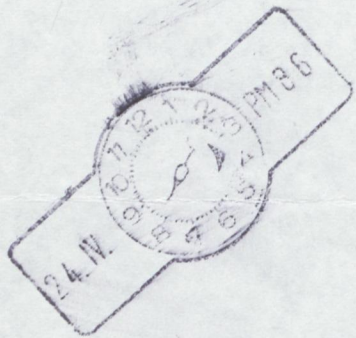
I am content with your proposed amendments and note that none of them will have any resource implications.

I am copying this letter to the Prime Minister, members of H Committee, other Ministers in charge of Departments and Sir Robert Armstrong.

Yours etc,

JOHN MacGREGOR

Parliament: Legislation PE14





Cabinet Office

MANAGEMENT AND PERSONNEL OFFICE

From the Minister of State
Privy Council Office
The Rt. Hon. Richard Luce MP

Barney Hayhoe Esq MP
Minister for Health
Department of Health and Social Security
Alexander Fleming House
Elephant and Castle
LONDON SE1 6BY

10 April 1986

Mr. Hayhoe
will request of me

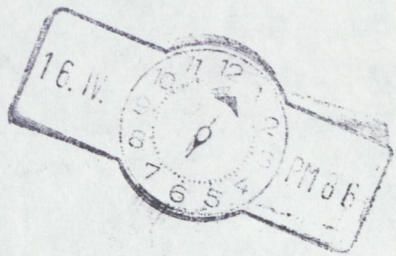
Thank you for your letter of 24 March seeking policy clearance from H Committee for the extension of the proposed bill on the Parliamentary Commissioner for Administration (PCA), to certain matters relating to the Health Service Commissioners (HSCs) for England and Wales.

I agree that as the HSC for England and Wales are the same man as the PCA, it is difficult to revise the appointment and dismissal provisions for one commissioner without extending the provisions to the others. I also agree that if the bill is to include the HSCs, it would be sensible to make the two further minor amendments you have proposed to the National Health Service Act 1977. I share your view that these amendments would be uncontroversial. Indeed, they should earn the Government some credit as they will be popular with MPs generally and with the Select Committee on the PCA and HSCs in particular - the Select Committee has been pressing for the amendments for some time.

Subject to the Lord President's agreement and as long as the bill's legislative slot is not prejudiced, I would therefore be content to include your proposals within the PCA bill.

I am copying this letter to the Prime Minister, to all members of H Committee, to other Ministers in charge of departments and to Sir Robert Armstrong.

RICHARD LUCE





Treasury Chambers, Parliament Street, SW1P 3AG

The Rt Hon Barney Hayhoe MP
Minister for Health
Department of Health and Social Security
Alexander Fleming House
Elephant and Castle
London
SE1 6BY

NBM

4m
4 April 1986

Dear Barney,

**PARLIAMENTARY COMMISSIONER FOR ADMINISTRATION:
SCOPE OF PROPOSED BILL**

Thank you for sending me a copy of your letter of 26 March to Richard Luce.

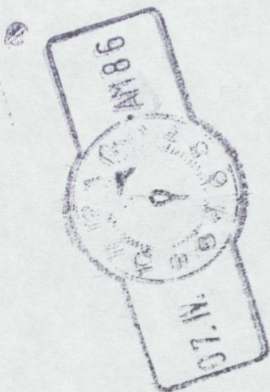
I am content with your proposed amendments and note that none of them will have any resource implications.

Copies of this letter go to the Prime Minister, members of H Committee, other Ministers in charge of Departments, and Sir Robert Armstrong.

To us,
John

JOHN MacGREGOR

Parliament;
Legislation
PE 14





CCBG

DEPARTMENT OF HEALTH AND SOCIAL SECURITY
Alexander Fleming House, Elephant & Castle, London SE1 6BY
Telephone 01-407 5522

From the Minister for Health

The Rt Hon Richard Luce MP
Minister of State
Privy Council Office

26 March 1986

W
27/3

PARLIAMENTARY COMMISSIONER FOR ADMINISTRATION:
SCOPE OF PROPOSED BILL

I have seen a copy of your letter of 24 February to members of H Committee seeking policy clearance for the aspects of the proposed PCA Bill related to the appointment and dismissal of the PCA.

I am content with the proposal but wished to raise with you the possibility of extending the Bill further to make related amendments to the provisions for appointment and dismissal of the Health Service Commissioner and two other non-controversial amendments to his powers. As you will know the legislation governing the appointment of the HSC (the National Health Service Act 1977) is modelled on the PCA Act and therefore contains the same deficiencies regarding appointment and dismissal. As the HSC and the PCA are the same man it would clearly be undesirable to have the relevant provisions out of step for the two offices. I believe there are no practical obstacles to this and should therefore like, through this letter, to seek clearance from members of H Committee to including amendments to the NHS Act 1977 in the PCA Bill to keep the appointment and dismissal provisions for the offices of the PCA and HSC in line.

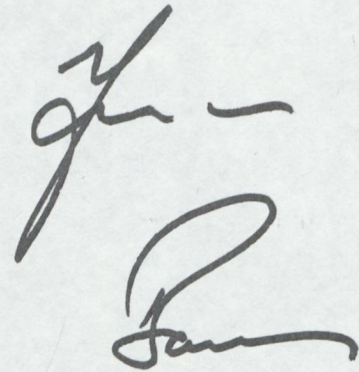
If this is agreed, I should like to seek policy clearance for two further minor amendments. The first would be an amendment to section 119 of the NHS Act 1977 to enable the HSC to send a privileged copy of the report of his investigation to Members of Parliament who submit cases to him. MPs voiced considerable concern when the HSC discontinued his former practice of sending copies of final reports to MPs involved with a case, on the grounds that the report would not be privileged in such circumstances. The Select Committee on the PCA and the HSC feel strongly that MPs should be able to receive reports and would welcome an amendment to the NHS Act to allow this. We have undertaken to amend the legislation when a suitable opportunity arises.

E. R.

The second amendment would be to extend the time limit within which health authorities in England and Wales may themselves refer matters to the HSC from 3 months to one year (section 117 of the NHS Act 1977). This amendment was suggested by the HSC in his 1984-85 Annual Report and endorsed by the Select Committee on the PCA. It would bring the time limit for health authorities in England and Wales into line with that for Scotland. It would also align with reference to the PCA. (Section 6(3) by the PCA Act 1967.)

I would not expect either of these amendments to be controversial.

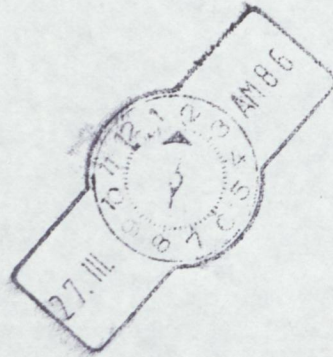
I am copying this letter to the Prime Minister, [Willie Whitelaw], to all members of H Committee, to other Ministers in charge of Departments and to Sir Robert Armstrong.

A handwritten signature in black ink, appearing to read 'Barney Hayhoe', written in a cursive style. The signature is located in the lower right quadrant of the page.

BARNEY HAYHOE

PARLIAMENT
LEGISLATIVE

PT 14





CMB

Treasury Chambers, Parliament Street, SW1P 3AG

The Rt Hon Richard Luce MP
Minister of State
Privy Council Office
Whitehall
London
SW1

NBPM

17th March 1986

Dear Richard,

PARLIAMENTARY COMMISSIONER FOR ADMINISTRATION: SCOPE
OF PROPOSED BILL

Thank you for sending me a copy of your letter of 24 February
to Willie Whitelaw.

I am content with your proposals as they stand and
note that neither of your amendments will have any resource
implications.

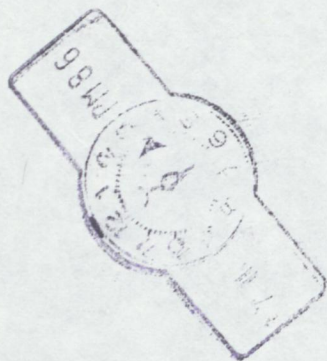
Copies of this letter go to the Prime Minister, members
of H, other Ministers in charge of departments and
Sir Robert Armstrong.

John MacGregor

JOHN MacGREGOR

PARLIAMENT,

Legislation PE 14.





PRIVY COUNCIL OFFICE
WHITEHALL, LONDON SW1A 2AT

14 March 1986

Dear Minister

PARLIAMENTARY COMMISSIONER FOR ADMINISTRATION:
SCOPE FOR PROPOSED BILL

You wrote to me on 24 February seeking H Committee policy approval for two aspects of this Bill which Cabinet has agreed should have a place in the uncontroversial category of the legislative programme for the 1986/87 Session.

No member of the Committee has objected to your proposals and you may therefore take it you have the Committee's agreement to proceed as you propose. I note that you do not expect either of them to be controversial. I do not question this judgement but I should emphasise that allocating the Bill a place in the uncontroversial category of the programme does mean that the Bill can be introduced only if agreement is forthcoming from the Opposition that it is suitable for Second Reading Committee procedure.

I am sending a copy of this letter to the Prime Minister, the members of H Committee, and Sir Robert Armstrong.

Yours Sincerely
R Lawrence

(Approved by the Lord President
and signed in his absence)

The Rt Hon Richard Luce MP

PARLIAMENT
LEGISLATION

PT 14