



PRIME MINISTER

POWERS OF ENTRY

You asked me to go ahead with further investigation of the powers of entry to which the National Federation of Self Employed (NFSE) objected and to consult with the organisations representing small firms on the powers most felt to be onerous. I have had a series of meetings and now report:-

The NFSE have a basic objection to all powers of entry which they regard as an intrusion into the liberty of the individual. However after considerable discussion with me they are now prepared to accept that all but 11 of the 252 powers they originally listed are necessary. The remaining 11 powers cover a wide range of subjects from the welfare of farm animals to the inspection of gas meters and have no common link. These remaining 11 powers have been reviewed by a Minister in each Department concerned earlier this year. I have therefore written to the NFSE suggesting that if after further consideration they wish to sustain their objections they should pursue them direct with the relevant Ministers at their Departments. This in itself may cause the NFSE to have second thoughts about some of the powers to which they object since in general their case has been poorly thought



through and rests mainly on a gut reaction against the concept of Government interference.

My consultations with the other organisations representing small firms have made it clear that the administration of certain regulations affecting the workplace - particularly those which give inspectors discretion in the interpretation of broad principles - cause most concern. In particular Health and Safety, Building Control and Fire Regulations as mentioned in my earlier minute. All these areas are now under review, largely in an endeavour to reduce the constraint which they can impose on industry and commerce. The problems experienced by small firms are generally no different from those of larger firms, but the effects may be much more serious given their lack of money to pay for changes demanded and their lack of time, know-how and weak position in negotiations with inspectors and their regulatory agencies. The present state of play on each of these reviews is described in the Annex to this minute.

You will be pleased to learn that since the list of powers at Annex C of my report on 1 August was compiled, Giles Shaw has indicated to me that three of his Northern Ireland powers have been revoked. It appears that the existence of this list is itself provoking a continuing awareness - with beneficial effect.



The next stage, subject to your agreement, is for Ministers collectively to consider the recommendations arising from my report on 1 August.

Although the NFSE are not aware of the enormously longer list of powers of entry we have unearthed I believe my consultations with them have done much to defuse the issue. In the light of this I have given further consideration to the earlier recommendations. In doing so I have in mind the urgent need to cut government spending and consequently not to impose additional demands on staff resources.

Accordingly I recommend that

- 1 The law officers should be asked to scrutinise any future proposed power of entry.
- 2 The proposed review of powers of entry in relation to CPO should not be proceeded with.
- 3 The recommendation that a "Code of Practice" be drawn up, should be held in suspense pending the enquiries of the Keith Committee into Revenue and Customs enforcement procedures. If the Committee reported a need for codified safeguards on entry into business premises, I believe the same or a matching code should then be drawn up by Law Officers in relation to other powers of entry.



As you will appreciate it is in the area of Revenue and Customs and Excise that greatest public anxiety and resentment exist [this ~~was~~ specifically excluded from my co-ordination remit.]

I am sending copies of this report to Members of Cabinet, the Minister of Transport, the Solicitor General and Lord Advocate, and the Secretary of the Cabinet.

D M

25 November 1980



ANNEX

REGULATIONS AFFECTING THE WORKPLACE

a Health and Safety

Recommendations by the Central Policy Review Staff are being pursued by an official group under the chairmanship of Patrick Mayhew.

b Building Control

Proposals to simplify the building control system put forward by the Secretary of State for the Environment have been generally supported by the professions and industry. Detailed arrangements remain to be decided in relation to public and private law, criminal liability and indemnity but Ministers have agreed to the proposals in principle and the detailed consideration is already going ahead.

The particular problem of multiple controls (ie the interest of several enforcement authorities in each building) will be raised in a forthcoming Green Paper by the Department of the Environment on the Review of the Building Control System. DoE will be seeking further evidence on the nature of the problem as well as views on improving the current system. A preliminary examination suggests there is scope for better co-ordination, (indeed the avoidance of different requirements



in respect of the same item!) although combining the enforcement functions of several agencies into one, acting on behalf of others, raises complex problems.

c Fire Regulations

The Home Office published a Green Paper earlier this year entitled "Future Fire Policy". This paper recognises that the extensive development of fire protection legislation has placed a growing financial burden on both the public and private sectors of the economy without any consequent reduction in the number of fires or in fire losses. The Green Paper concludes therefore that a more selective approach is needed to provide the right balance between adequate fire protection and equally legitimate competing demands on limited financial resources. The consultation period on the Green Paper ended on 31 October.

PRIME MINISTER

Powers of Entry

Here is David Mitchell's report on his further investigation, following his initial report (at flag A). His work has been valuable in identifying existing powers of entry, and focussing Ministers' attention on them. He has also managed to convince the National Federation of Self-Employed that most of the powers of entry are required.

He has now revised his recommendations, mainly to meet your fear that expensive new work would be commissioned with little worthwhile product.

The most sensitive area remains that of Inland Revenue and Customs and Excise. There is still independent Treasury work in hand on this.

If you are content with David Mitchell's conclusions in respect of the powers within his remit, you may feel that no collective discussion is necessary at this stage. Would you like to endorse his conclusions, subject to any comments which colleagues may choose to make?

*Agreed
not*

MA

4 December 1980



Home Affairs

Ref. A03699

MR. PATTISON

MAJ

Powers of Entry

You asked for advice on how the minute from Mr. Mitchell to the Prime Minister dated 25th November about Powers of Entry, and the main report which he circulated on 1st August, should now be handled.

2. The study was originated by the Prime Minister following the publication of a booklet by the National Federation of Self Employed (NFSE). In August Mr. Mitchell reported that careful scrutiny had identified a relatively small number of powers of entry that could be abolished or limited, but that most were necessary for backing up essential functions of Government. Since August he has apparently convinced the NFSE that this is so, and has persuaded them to withdraw their objections to all but 11 powers; these may yet be reduced further, when the NFSE take them up with individual Departments.

3. I understand that Mr. Mitchell's proposal in his minute for collective Ministerial discussion related to the suggestion in your earlier minute of 11th August, and that he does not think that additional discussion now would produce a different outcome to the review.

4. Thus the question of handling depends primarily on whether the Prime Minister feels that enough has been done, and that the outcome after the latest consultations with the NFSE is satisfactory. If the Prime Minister wished to give this review a further stimulus, it would probably need to involve all senior colleagues in Cabinet. If on the other hand she was reasonably content with the conclusions so far, Mr. Mitchell's revised recommendations in his minute of 25th November seem to minimise the risk of abortive work by basing the idea of a "Code of Practice" on the outcome of the wider review which the Keith Committee is conducting of Revenue and Customs enforcement, though it may be some time before that work is completed.



5. If the Prime Minister decides against a Cabinet discussion, the Mitchell recommendations might be accepted in correspondence, subject to any contrary views expressed by Cabinet colleagues, to all of whom it was copied.

[Handwritten signature]
For (D.J. Wright)

1st December, 1980

PRIME MINISTER

David Mitchell reported on Ministers' review of powers of entry in August - papers at Flag A. You asked him to continue his consultations, and you expressed some concern that some of the recommendations might involve much work for little return.

Here is his further report. The revised recommendations, starting on page 3, are a little more modest than the early proposals (page 6 of Flag A), but there is no significant increase in the number of powers abandoned.

Would you like Mr. Mitchell's report to be discussed at either E or Cabinet before final decisions are taken?

M. A. PATTISON

26 November 1980



Home Affairs

10 DOWNING STREET

From the Private Secretary

8 December 1980

Dear Anthony

The Prime Minister has read Mr. Mitchell's minute of 25 November, reporting his further investigation of powers of entry.

She is most grateful to Ministers for the work which has been done, and especially to Mr. Mitchell for his perseverance with the NFSE.

She is pleased to see that the revised recommendations have been designed to minimise the commissioning of expensive further work which might produce limited results. She is satisfied that the recommendations as they now stand will offer a helpful check on future powers of entry. At this stage, she does not see a need for collective discussion, although the work which has been done might need to be considered further alongside the work in hand on the Inland Revenue and Customs and Excise when that is completed.

Subject to any comments from colleagues, the Prime Minister would now like Ministers to proceed as recommended in Mr. Mitchell's minute.

I am sending copies of this letter to the Private Secretaries of members of the Cabinet including the Minister of Transport, the Legal Secretary, the Private Secretary to the Lord Advocate and David Wright (Cabinet Office).

Yours ever

Mike Palmer

A.C.S. Willis, Esq.,
Department of Industry.

VUB



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✓ MFD

16 DEC 1980

The Home Secretary has seen Mr. Mitchell's minute of 25th November to the Prime Minister about powers of entry and Mike Pattison's letter of 8th December conveying the Prime Minister's approval, subject to any comments that Ministers may wish to make, to matters proceeding as recommended in Mr. Mitchell's minute.

The Home Secretary is particularly interested in the first recommendation that the law officers should be asked to scrutinise any future proposed power of entry. He himself has a continuing interest in all legislative proposals concerning such powers as part of his general responsibilities for the criminal law. The Home Office scrutinises such proposals in the context of the powers of the police; and on a number of occasions has questioned the need for a proposed power of entry which if exercised by the police would appear to constitute an unjustifiable infringement of privacy. The Home Secretary is perfectly content with the course of action proposed in the recommendation but thought it right that his own interest should be registered.

It may also be of interest to mention that the consultation period on the Green Paper "Future Fire Policy" mentioned in the Annex to Mr. Mitchell's minute has now been extended until the end of the year.

I am sending copies of this to Mike Pattison and the recipients of his letter.

S. W. BOYS SMITH

A. C. S. Willis Esq.