



D
cc/BS
Can PG have
comments by
Bank Holiday w/ end
from recipients of this
and BG.

PRIME MINISTER

REGULATING LOCAL AUTHORITY INVOLVEMENT IN COMPANIES

This minute seeks your agreement and that of colleagues to proposals designed to prevent local authorities from using their involvement in companies incorporated under the Companies Act to circumvent the 'ultra vires' rule and the financial and propriety controls which apply to local authorities as such.

The Widdicombe Committee recommended that local authority controlled companies should be set up only under specific enabling legislation and that there should be safeguards affecting their articles, membership, audit and reporting arrangements. They were not able to address the complexity of the issues arising and did not present information on the extent of local authority use of companies. I therefore arranged for my officials to study the problems and to advise on any necessary measures for regulation. Under the guidance of an inter-departmental group, in which the Audit Commission and Coopers and Lybrand also took part, they have produced an agreement report. Copies have been circulated separately. A summary is at Annex A.

Out of the 405 principal local authorities in England 381 (94%) have responded to date to a questionnaire enquiring about the extent of their involvement in companies. Of these 172 reported interest in 466 companies. All types of authorities report involvement although urban authorities and counties were more involved than shire districts. Authorities controlled companies in about one third of cases. A wide variety of purposes was revealed, economic development being the most common. It is likely that there was significant under-reporting of companies used for avoidance purposes. Even taking this into account annual turnover is unlikely to exceed £200 million.

- a very large sum



Under the present law local authorities are almost completely free to use companies in pursuance of their policies, although they cannot delegate to them a discretion which they, as authorities, are required to exercise. Thus they can require a company they control to borrow outside the capital control system and to carry out functions for which they have no powers, while avoiding the normal reporting and accounting provisions which bite on authorities in their use of public funds.

The other side of the coin is that a company can be a valuable mechanism for delivering services on a businesslike basis, for preparing for privatisation or for securing private sector involvement in a joint venture. We have already required local authorities to set up airport and passenger transport companies under statute. We shall want to encourage them to set up companies in other instances, as long as it is for the right reasons.

The various pressures which we are applying to local government and most particularly the new capital control system, on which we plan to legislate next session, are bound to turn the minds of some authorities towards an even greater use of companies as an avoidance device. We have already included amendments in the Local Government Act to prevent the use of companies to get round the new competition regime. I believe therefore that early legislation is needed and that it should be introduced alongside the new capital control system.

The approach which I propose is set out in detail in the officials' report and is summarised in paragraphs 4 to 16 of Annex A. The essence of it is simple. Where a local authority controls a company it will be required to use its control to secure that the company does not do things which the authority has no power to do, that borrowing is scored against the appropriate limits set for the authority, that propriety rules are observed and that there is openness and access for the district auditor. For controlled companies there will be a distinction between 'arms length' and



'adjunct' companies, with the former being free from too much detailed interference to allow them to be as fully commercial as possible.

All other cases of involvement will be classified as minority interests and these will be allowed only in specified cases (see paragraph 7 of Annex A) with a power to add specific or general cases. There would be some restrictions on the behaviour of the authority and its members in relation to this type of involvement.

To deal with companies where local authorities have connections designed to secure influence but are not necessarily involved ('parallel companies') I propose that the authorities should be required to impose conditions on contracts, grants, licences and leases to the company which will bring them within rules on borrowing, audit, information and so forth.

One of the more difficult aspects of these proposals is the framing of the definition of what is meant by a local authority controlled company. The proposal is that it should cover all cases where either:

- (a) the local authority can exercise in its own right a majority of the votes at a company general meeting;
- (b) the local authority can decide who is to exercise a majority of the votes at a company general meeting;
- (c) a majority of such votes is controlled by a combination of (a) and (b);
- (d) the local authority can control the appointment of a majority of the directors of a company.



This is set out more fully in Appendix A to the report. I propose that there should be a power to add other cases by order if it turns out that hitherto unforeseen methods of control are devised.

I should emphasise that none of these proposals is designed to alter the Companies Acts or to create special classes of Companies Act companies. The changes would be made to local government legislation and would impinge on local authorities actions via the auditor or judicial review. On that account there are no EC implications.

The proposals would apply to existing involvement in companies and on that basis I see no need for retrospection except insofar as needed by announcements relating to the new capital control arrangements. Transitional provisions would be needed to allow divestment of minority interests which were not in a permitted category or specifically sanctioned. I may need to consider transitional provisions to require renegotiation of contracts etc involving 'parallel' companies but I would prefer to avoid this if possible.

There are only very minimal central Government manpower implications. Insofar as district auditors have not had access to information on the use of local authority funds by companies there will be some increase in their work and that of treasurers but the cost is likely to be negligible in relation to the totality of local authority expenditure.

I propose to publish a consultation paper in May which should enable instructions to Counsel to be completed by early July.

I hope that agreement can be given to these proposals and the proposed handling in correspondence. I should be grateful to receive approval and any comments by 3 May.



I am copying this minute and Annex A to the other members of E(LF), the Attorney General, Sir Robin Butler and First Parliamentary Counsel.

A handwritten signature in dark ink, consisting of stylized initials that appear to be "NR".

N R

15 APR 1988

CONFIDENTIAL

SUMMARY OF REPORT OF
LOCAL AUTHORITY COMPANIES STUDY

1. The basic problem with the use of companies by local authorities is that the various rules which are applied to local authorities ensure that they do not exceed their allotted role, and that they conduct their business with propriety do not apply to such companies.

2. The study includes a detailed description of the various ways in which it is possible to become involved with a company, of the existing powers of local authorities to undertake such involvement (both those specifically providing for such involvement and the more general powers which permit a local authority to become involved if it so wishes), and of the existing extent of local authority involvement. This last is based on a survey of all, English principal councils, and shows that the majority of counties, metropolitan districts and London boroughs have such involvement, but that only just less than a third of shire districts are involved. Only one-third of the interests reported appear to be sufficient to give control of the company.

3. The study notes the advantages for local authorities in using companies (clear management structure, ease of involving the private sector, separate identification of resources and results of an activity) and the various central Government initiatives which are likely to demand the use of companies by local authorities. These factors point to, on the one hand, not putting obstacles in the way of the use of companies and, on the other hand, ensuring that companies cannot be used to evade controls on local authorities.

4. The study then argues for separate treatment of three categories of involvement:

a. l.a. controlled companies (where the local authority is formally in a position to get the company to behave as it wishes): here the local authority would be required to use its powers of control to get the company to observe various rules; the definition of control would be in terms of a list of specified cases giving control, with a power to add to the list should any other arrangements of this kind be invented;

b. minority interests (where the local authority is formally involved in the company but does not have powers of control): here there would be restrictions on the type of companies in which a local authority could participate and on the behaviour of the local authority and its members with respect to the company;

c. "parallel companies" (where the local authority is not formally involved in the company but has substantial influence over the company): here the local authority would be constrained in its dealings with the company, and would be required to impose certain conditions on its contracts, grants, licences or leases to the company.

5. The study then sets out definitions of these three categories. L.A. controlled companies are defined in terms of the ability of the local authority to control a majority of votes at company general meetings or to appoint a majority of the directors. Minority interests are then defined as all other cases where local authorities control votes at company general meetings or appoint directors. Parallel companies are defined in terms of a conjunction of a significant proportion (20%) of the members or directors of the company having links with the local authority and of a majority of the company's business being linked to the local authority. These definitions are developed in detail.

6. The study then considers the ultra vires rule. It proposes that local authorities should be required, like nationalised industries, to use their powers of control over l.a. controlled companies to ensure that the companies do not do anything that the controlling authority cannot do. Exceptions are proposed to resolve a problem under the Local Authorities (Goods & Services) Act 1970 and to give the Secretary of State power to license other activities as a preparation for privatisation.

7. A list of permitted cases for holding minority interests is proposed. This would cover, public transport companies, public airport companies, companies under the Further Education Act 1985, approved housing initiatives, non-profit-making companies to provide a local facility, supported by the local authority, enterprise agencies, companies to deal with common parts of let buildings, "golden shares" to prevent changes in company constitutions, joint ventures for the development of land, statutory undertakings, and professional etc associations. There would be a further power to approve additional cases.

8. It is not necessary to consider the question of ultra vires in relation to parallel companies, as the local authority's involvement would have to be under existing powers.

9. The study then considers the other controls to which local authorities are subject. In the case of l.a. controlled companies, the aim is to ensure that local authorities use their powers of control to ensure compliance with the same rules as local authorities themselves: in this way there is no improper advantage to be gained from using a controlled company, and therefore no need to prevent local authorities using this type of machinery if it is sensible to do so. Proposals are therefore developed in detail for applying

a. the new capital expenditure control rules;

b. other rules on borrowing, finance, accounts and audit;

c. rules on the personnel involved (the exclusion of those disqualified from council membership, pay of councillors, preventing employees sitting on their employing body, pecuniary interests, corruption offences);

d. other rules on the proper conduct of business (ban on party-political activity, contracts standing orders, non-commercial contract conditions, compulsory tendering, disposal of land, under used land, Local Ombudsman, rights of public access to meetings and information, limit on section 137 expenditure, Criche Down rules, National Code of Local Government Conduct);

e. proposed new rules for local authorities flowing from Widdicombe (restrictions on public political activity by senior staff, restrictions on councillors being involved in junior staff appointments).

10. Some of these developments are inappropriate for companies which are genuinely run as separate commercial undertakings. A definition is therefore developed of "arms' length companies". These would be excluded from the requirements for contracts standing orders, compulsory tendering, the local ombudsman, and access to meetings and information.

11. The main control on minority interests is the limitation on the cases in which they can be held. Some further controls are required, however, to ensure proper accounting for the local authority's interest, the possibility of questioning of the local authority's representatives on the company, exclusion (as far as possible) of those disqualified from council membership, and controls on payments to councillors, pecuniary interests, and provision of information held by representatives.

12. In the case of parallel companies it will be necessary to bring them within the new capital expenditure control system, and to require certain conditions to be imposed on borrowing, audit information and some of the controls listed in paragraphs 9(c), (d) and (e) above.

13. In order to ensure that the obligations of those who represent local authorities at company meetings are clear, and that failure to control such representatives cannot be used as a means of evading the controls, a code of procedure for these relationships is proposed.

14. As the ultimate means of enforcing the local authority's obligations to control its companies, it is proposed that it should be made clear that any payment by a local authority to a company where the local authority is in default of some obligation to exercise control should be unlawful, and should thus attract the sanctions for any unlawful local authority expenditure.

15. There are then a number of separate additional problems:

a. where several local authorities, rather than one, are involved in the company, their interests are, in general, proposed to be aggregated for the purposes of the proposed controls;

b. a system of long-term exemptions may be needed for companies such as Municipal Mutual Insurance Ltd;

c. industrial and provident societies, unlimited companies, and non-charitable trusts would also need to be brought within the net of controls;

d. controls would be needed on the investment of reserves and superannuation and charitable funds; the approach proposed is that of a code of practice, backed up by reserve powers;

e. participation in overseas companies should be prohibited except where the Secretary of State's consent is given.

16. Transitional provisions are needed for existing companies:

a. for l.a. controlled companies, few transitional provisions will be needed, since the proposal simply requires local authorities to start exercising their controls in a certain way;

b. for minority interests, there would have to be a provision for divestment where the interest was not in a permitted category and the Secretary of State was not prepared to sanction it;

c. for parallel companies, transitional provisions depend on the assessment of the risk of local authorities entering into long-term contracts or agreements before the new rules are in force in order to evade them; one possibility would be to provide for the determination of all such contracts or grants a year or so after the rules come into effect, so as in effect to force them to be renegotiated on the new basis, but this would have complications and (given that the capital expenditure of parallel companies would anyway be brought within the controls on local authority capital expenditure) the risk may not be sufficient to justify such complications).



10 DOWNING STREET
LONDON SW1A 2AA

From the Private Secretary

3 May 1988

Dear Alan,

REGULATING THE LOCAL AUTHORITY INVOLVEMENT IN COMPANIES

The Prime Minister was grateful for your Secretary of State's minute of 15 April. She has also seen the comments by the Chief Secretary, the Secretary of State for Scotland and the Chancellor of the Duchy of Lancaster. The Prime Minister is content with the broad shape of your Secretary of State's proposals. She has commented, however, that careful consideration needs to be given to the definition of what constitutes 'a controlled company' as distinct from a 'minority interest' or a 'parallel company'; in some cases the owner of substantially less than 50 per cent of the shares in a company can exercise effective control over its activities. She would be grateful if your Secretary of State could look at this point.

I am copying this letter to the Private Secretaries to members of E(LF), the Attorney General, Sir Robin Butler and the First Parliamentary Counsel.

*Yours,
Paul*

PAUL GRAY

Alan Ring, Esq.,
Department of the Environment

*file SM
cc BG*

SM

RA

PRIME MINISTER

REGULATING LOCAL AUTHORITY INVOLVEMENT IN COMPANIES

Mr. Ridley's minute of 15 April seeks agreement to a package of proposals to regulate the activity of local authority companies. He proposes to issue a consultation document early next month and to include legislative provisions in next session's Local Government Finance Bill.

The Policy Unit note of 28 April advises you to support the proposals. They are also supported by the Chief Secretary, Mr. Rifkind and Mr. Clarke.

Content with Mr. Ridley's package?

Yes - As far as it goes.

Recd.

In some cases 26% of the shares will effectively control particular activities of a company. 45%

Would almost certainly control

it unless the 51% were specifically held by one or two other people who tend to act together.

PAUL GRAY
29 April 1988

EL3CSJ

mt

PRIME MINISTER28 April 1988REGULATING LOCAL AUTHORITY INVOLVEMENT IN COMPANIES

WITH PC ?

Nicholas Ridley has minuted you with new proposals for regulating the activity of local authority companies. Hitherto, the activities of such companies have been unregulated and local authorities have been able to set them up both for sensible and sound reasons and to get round Government controls. For example, the GLC set up a number of companies called SATMAN to carry on some of its functions after abolition.

Nicholas Ridley's minute identifies three different types of local authority relationship with companies and proposes measures to tackle each of them as follows:

- Where a local authority controls a company it will be required to exercise that control to ensure that the company does nothing that the local authority itself is not allowed to do.
- Local authorities are to be allowed to have minority interests only in companies of specified types - for example public transport companies and enterprise agencies.
- Local authorities may also exercise influence over companies in which they have no interest either because those companies do a substantial amount of their business with the local authority or because a significant number of members or directors of in the company have some association with the local authority (eg they may be employees of a financial adviser to the local authority).

*Depth of Control?
In some cases - only 20% of the shares*

RESTRICTED

In this case, regulation will bite on the local authority's relation with such companies.

These recommendations are based on a report prepared by DoE, Treasury and other officials, Coopers & Lybrand and the Audit Commission. It appears to be a thorough examination of the issues involved and to have reached sound and comprehensive conclusions. We recommend that you agree to Nicholas Ridley's proposal to issue a consultation document early next month and prepare instructions to Counsel for the Local Government Finance Bill due in the next session.

Conclusion

Hitherto local authority companies have not been subject to regulation. Local authorities have been able to use such companies both for desirable ends and to avoid Government controls. Nicholas Ridley's proposals are a sensible approach to bringing such companies within local authority law so as to remove the scope for abuse whilst ensuring that local authorities can continue to act through companies where this is sensible.

Peter Stredder

PETER STREDDER

LOCAL GOVÈ Pt 35 April 188

Relations

RESTRICTED



cc BG

Treasury Chambers, Parliament Street, SW1P 3AG

The Rt Hon Nicholas Ridley MP AMICE
Secretary of State for the Environment
Department of the Environment
2 Marsham Street
London
SW1P 3EB

28 April 1988

*Dear Nick,***REGULATING LOCAL AUTHORITY INVOLVEMENT IN COMPANIES**

Thank you for sending me a copy of your minute to the Prime Minister seeking agreement to your proposals for controlling local authority companies. *1100*

I support your proposals which are designed to stop local authorities using companies to evade the constraints on local authority activities. I welcome the steps proposed to bring LA companies within the scope of our controls on local authority capital spending and borrowing. We will need to take account of this extension of our public expenditure controls in the 1989 Survey and I hope your officials will be able to collect adequate information on the extent of this activity before then.

I am copying this letter to the other members of E(LF), the Attorney General and Sir Robin Butler.

*Yours Ever,
John***JOHN MAJOR**

LOCAL GOVT : Belawan PT35

28.N
F
MSB



SCOTTISH OFFICE
WHITEHALL, LONDON SW1A 2AU

The Rt Hon Nicholas Ridley AMICE MP
Secretary of State for the Environment
Department of the Environment
2 Marsham Street
LONDON

28 April 1988

Dear Nick,

FILE WITH P.S.

REGULATING LOCAL AUTHORITY INVOLVEMENT IN COMPANIES

I was interested to see your minute of 15 April to the Prime Minister setting out your proposals for regulating local authority involvement in companies. Although my Department was not represented on the inter-departmental group and the survey undertaken of local authority involvement in companies did not cover Scotland, my officials have been kept informed of the Group's thinking.

Your proposals clearly chime in well with those for the new local authority borrowing control system in England and Wales and are made more necessary by their creation in the next Parliamentary session. While I endorse the broad thrust of your proposals, the position in Scotland, particularly on local authority capital control, is as you know different. As has been agreed, there is no need for any major change in the Scottish system and authorities will have no greater incentive in the future than in the past to use companies to try and avoid my capital control rules. I am not aware of any particular problems caused in Scotland by local authority involvement in companies and, as you acknowledge, companies can in fact be used very positively. Though we have not carried out a survey similar to yours, my impression is that the use of companies is neither as widespread nor as worrying as in England where some well publicised abuses, coupled with an inadequate capital control system, lay behind the work of your group.

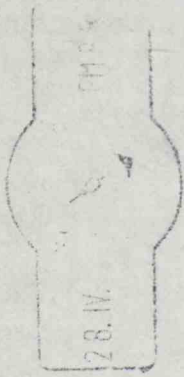
Nevertheless, I agree that the potential for some abuse is there and in particular that we should seek to prevent local authorities from using involvement in companies as a means of doing things they would otherwise have no power to do. In Scotland, given the different circumstances, I would propose to make some enquiries about the current extent of local authority use of companies and then to frame proposals in the same general direction as yours but taking account of the tighter capital control mechanism already in force here. Because of the different background it may not be possible for me to proceed exactly in parallel with you or in quite the same terms as your consultation process or Bill. But, subject to the views of colleagues, I am content for you to proceed as you propose and suggest that our officials keep each other mutually informed of progress.

HMP11914

I am copying this letter to the other members of E(LF), the Attorney General, the Lord Advocate, Sir Robin Butler and first Parliamentary Counsel.

Yours ever,
Malcolm

MALCOLM RIFKIND



LOCAL COVE RELATIONS Pt 35



NBM

ca/bk

RLU

6/8

Treasury Chambers, Parliament Street, SW1P 3AG

The Rt Hon Malcolm Rifkind MP
Secretary of State for Scotland
Scottish Office
Dover House
London
SW1A 2AU

JH. May 1988

Dear Malcolm,

REGULATING LOCAL AUTHORITY INVOLVEMENT IN COMPANIES

Thank you for sending me a copy of your letter of 28 April to Nicholas Ridley. *at Har*

I am glad to see that you intend enquiries being made about the extent of local authority use of companies and framing proposals similar to Nicholas Ridley's. I would also wish that your officials keep in touch with mine on progress.

I am copying this letter to other members of E(LF), Patrick Mayhew, Kenny Cameron, Robin Butler and First Parliamentary Counsel.

Yours Ever,
John

JOHN MAJOR

LOCAL Gov't: Relations
Pt 35



dti

the department for Enterprise

The Rt. Hon. Kenneth Clarke QC MP
Chancellor of the Duchy of Lancaster and
Minister of Trade and Industry

Rt Hon Nicholas Ridley MP
Secretary of State
Department of the Environment
2 Marsham Street
LONDON
SW1P 3EB

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Our ref

Your ref

Date 29 April 1988

D. R.

REGULATING LOCAL AUTHORITY INVOLVEMENT IN COMPANIES *file with PG*

Thank you for sending me a copy of your minute to the Prime Minister on this subject. I agree with its contents, though would like to make the following points.

First, this is a matter for Local Authority legislation, and is intended to have no effect on Company law - as, indeed, you state in your minute. To avoid public confusion this would be worth stressing in any press releases, pointing out that a new class of company (a "Local Authority Controlled Company") is not being created.

Second, given the very complex nature of Companies legislation, care will be needed to ensure that the detailed proposals on Local Authority Controlled Companies remain in harmony with existing legislation. Close contact between our Departments will, no doubt, be maintained at official level to prevent any problems arising. In particular, I would be grateful if DTI could be contacted before any consultative document is issued.

I am sending this to recipients of your minute.

Kenneth Clarke

KENNETH CLARKE

AP3ACO

LOCAL [redacted] Relations Pt 35



CEB6

B



DEPARTMENT OF TRANSPORT
2 MARSHAM STREET LONDON SW1P 3EB

My ref:

Your ref:

The Rt Hon Nicholas Ridley MP
Secretary of State for the Environment
Department of the Environment
2 Marsham Street
LONDON
SW1P 3EB

file with PC

29 APR 1988

Dear Nicky,

PCG
4/5

REGULATING LOCAL AUTHORITY INVOLVEMENT IN COMPANIES

PP2

I strongly support your proposals. They will bring those companies which genuinely can be run on a commercial basis into line with the position of local authority Public Transport and Airport Companies under the 1985 and 1986 Acts respectively and prevent the use of companies to evade proper control and accountability.

file with PC

See file below at flap X

You draw attention to the value of local authority companies as a step towards privatisation of suitable activities. Public Transport Companies are clearly in this position and facilitating privatisation where feasible would be a logical extension of the coverage of the Bill you propose. I would like to propose therefore, that its coverage should be extended to include the legislative proposals I made on 19 February. You will recall that no room could be found in the programme for a public transport bill containing these highly desirable provisions. The required provisions should be relatively simple and the indications are that privatisation of local authority bus companies would be strongly welcomed by the Government's supporters as a feature of the bill you are now proposing.

I am copying this letter to the other members of E(LF), the Attorney General, Sir Robin Butler and First Parliamentary Counsel.

[Handwritten signature]

PAUL CHANNON

[Handwritten signature: Paul]

Lillian Galt: Relations

1935



abl



Caxton House Tothill Street London SW1H 9NF

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*NBIM
REC 6
4/5*

The Rt Hon Nicholas Ridley AMICE MP
Secretary of State for the Environment
Department of the Environment
2 Marsham Street
LONDON
SW1P 3EB

April 30

Nick

REGULATING LOCAL AUTHORITY INVOLVEMENT IN COMPANIES

file with PL

You wrote to the Prime Minister on 15 April seeking agreement for your proposals for controlling the involvement of local authorities in companies.

I am glad to see that your proposals leave local authorities free to involve themselves in companies where this is done for a worthwhile purpose and not to evade controls on their activities and spending. I agree that new legislation is needed and that your proposals will prevent further abuse.

I am copying this letter to the Prime Minister, other members of E(LF), the Attorney General, Sir Robin Butler and first Parliamentary Counsel.

You

NORMAN FOWLER

LOCAL GOV'T: Relations
Pt 15



cc B/F

Y SWYDDFA GYMREIG
GWYDYR HOUSE
WHITEHALL LONDON SW1A 2ER

Tel. 01-270 3000 (Switsfwrdd)
01-270 (Llinell Union)

Oddi wrth Ysgrifennydd Gwladol Cymru



WELSH OFFICE
GWYDYR HOUSE
WHITEHALL LONDON SW1A 2ER
Tel. 01-270 3000 (Switchboard)
01-270 (Direct Line)

From The Secretary of State for Wales

The Rt Hon Peter Walker MBE MP

3rd May 1988

R. B/F 1 week.

CT/4258/88

REC 6
4/5

File with P. 9.

Dear Secretary of State

Thank you for sending me a copy of your minute dated 15 April to the Prime Minister about the involvement of local authorities in companies.

While we in Wales have no evidence that local authorities have abused their ability to become involved in companies, I would agree that we need to obviate any possibility of such abuse in the future, and I am content with the line you are proposing to take.

I would propose to consult in Wales in parallel with the exercise in England, and I am asking officials here to contact yours to make the necessary arrangements.

/ I am copying this letter to the other members of E(LF), the Attorney General, Sir Robin Butler and First Parliamentary Counsel.

Yours sincerely

N. Ridley

Approved by the Secretary of State
and signed in his absence

The Rt Hon Nicholas Ridley MP
Secretary of State for the Environment

Local Govt Pt 35

Relations between central and
local government



RESTRICTED



ELIZABETH HOUSE
YORK ROAD
LONDON SE1 7PH
01-934 9000

D

CC BG

The Rt Hon Nicholas Ridley MP
Secretary of State for the
Environment
2 Marsham Street
LONDON SW1P 3EB

~~SECRET~~
NBPM

REC6

9/5

9 May 1988

Jim Mid,

Flag

Thank you for sending me a copy of your minute of 15 April to the Prime Minister about regulating local authority involvement in companies, and the enclosed interdepartmental report.

The report seeks to recognise that companies established by maintained further education colleges to exploit commercially their education and research activities are of the kind where the full rigour of general controls should not apply: hence their inclusion in the "minority interest" section. I welcome this, but because such companies are established under the Companies Act and not - as the report incorrectly states - under the Further Education Act 1985, and we have so little information about the constitution of such companies, I remain concerned that they may be caught by the definition of controlled companies. The Further Education Act 1985 already provides a framework for regulating the activities of such companies, in particular to ensure that they are not able to compete unfairly with the private sector.

I hope therefore that, whatever the precise constitution of companies formed by FE colleges within the framework of the 1985 Act, you will be prepared to agree that they should be excluded from the new legislation to apply to controlled companies.

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

Tom [unclear] [unclear]

RESTRICTED

LOCAL GOVT
Relatives pt 35

