

Prime Minister⁽²⁾

To note

AT 23/2

W.0151

21 February 1984

MR ANDREW TURNBULL, No 10

RESEARCH COUNCIL CHARTERS

1. The Prime Minister took a meeting on 19 October to discuss proposals from the Secretary of State for Education and Science for maintaining the strength of the science base. Your note of that meeting said that, in the course of reviewing research policy, I should investigate the Charters of research bodies. The point in question at the meeting was the extent to which the Secretary of State is empowered to direct Research Councils' activities. I have now taken advice on the legal status of the Research Council charters in relation to that of the Science and Technology Act 1965, and on the interpretation of relevant parts of the Act. Because of the clear-cut nature of the advice, I have not felt it necessary at this stage to go for independent legal advice outside Whitehall.

2. The Charters themselves assign to the Secretary of State powers in the following areas - the appointment of chairmen and members of Councils; the numbers of staff employed; and the terms of appointment of Council and committee members, and of Council employees (details are included at Annex 1). But more significantly, the Science and Technology Act 1965 states (Section 2(1)):

"The Secretary of State may, out of monies provided by Parliament, pay to any of the Research Councils such sums in respect of the expenses of the Council as he may with the consent of the Treasury determine, and so far as relates to the use and expenditure of sums so paid the Council shall act in accordance with such directions as may from time to time be given to it by the Secretary of State".
(My underlining)

3. The advice of the Legal Branch of the Department of Education and Science (DES) on the interpretation of the above statement is that the Secretary of State's power of direction is wide, limiting his power to

impose conditions of grant in only two respects:

(i) he cannot give directions relating to those activities of the Research Councils that are not financed out of the grant-in-aid;

(ii) he cannot direct a Council to do something which it has no power to do under its Royal Charter.

4. The Councils' powers under their Charters are limited by the objects for which the Councils are established and incorporated. These objects (set out in Annex 2) are, however, very widely drawn - eg 'to carry out research and development in science and technology', 'the organisation and development of agricultural and food research'. The second constraint in 3 above hardly therefore imposes any practical limitation on what directions the Secretary of State might give. Furthermore a Council must comply with any direction by the Secretary of State requiring it to "take over from, or transfer to, any Research Council or Government Department the responsibility for any activities in relation to scientific research" (Science and Technology Act 1965, Section 3(6)).

5. In legal terms, therefore, the Secretary of State enjoys wide powers of direction. But these powers need to be viewed in the context of Government policy. The general basis of policy for the conduct of Government-financed R & D is stated in the review of the Rothschild arrangements for funding research ("Review of the Framework for Government Research and Development, Cmnd 5046", Cmnd 7499) as follows:

a. research which is not undertaken with direct application in mind, but for the purpose of advancing knowledge, is the responsibility of the scientific community. The community itself decides how the available funds should be spent in the light of its best judgement on what research is most likely to lead to fruitful discoveries, having regard to existing knowledge and scientific capability;

b. other R & D is promoted by each Government Department

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in its own area on the scale and pattern which it judges to be most appropriate to the formulation and pursuit of its policies.

For the first of these two categories, the Secretary of State for Education and Science is responsible for making resources available directly to the universities, Research Councils and also to other bodies who have broad responsibility for supporting research mainly fundamental over a wide field. R & D in areas falling within Departmental responsibilities is supported in accordance with priorities set by Departmental Ministers, and the responsibility for funding areas of R & D which cross the boundaries between Research Councils or Departments are determined by agreement between the bodies concerned.

6. My conclusion is that it is Government policy, not the Research Councils' Charters that determines the nature and scope of the Councils' research programmes. Successive Governments have determined that the grants-in-aid to the Research Councils should be one of the two main sources of public sector support for UK fundamental research (the other being the UGC block grant). Nevertheless, on occasion, Secretaries of State have influenced the balance of activity, most recently with information technology and the expansion of Antarctic research.

7. I am copying this minute to Miss C E Hodkinson (DES) and other recipients of your letter of 19 October.

RBN

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Chief Scientific Adviser

The powers of the Secretary of State described in the
Research Council Charters

The following powers of the Secretary of State are defined in the Charters of the Agricultural and Food Research Council (AFRC), Economic and Social Research Council (ESRC), Medical Research Council (MRC), Natural Environment Research Council (NERC) and Science and Engineering Research Council (SERC):

- a. He appoints the Chairmen and most of the members of the Councils, within the following constraints:

- i. For all Councils except the ESRC a certain proportion of the members should be appointed for their qualifications in science or technology. (For MRC 3/4 out of a total of from 14-18; for NERC 2/3 out of 13-19; for SERC 2/3 out of 14-18; for AFRC at least 6 out of 18-21).

- ii. In the case of the MRC, NERC and SERC not more than 4 members should be appointed by the DES Secretary of State on the nomination of such Ministers as the Secretary of State shall determine; for the AFRC it is specified that 4 members shall be appointed by the Minister of Agriculture, Fisheries and Food, and that not more than 2 members be appointed by the Secretary of State for Scotland.

- iii. In the case of any member being appointed on account of his qualifications in science and technology, the Secretary of State

should consult the President of the Royal Society.

- iv. In the case of the AFRC, before appointing a Chairman the Secretary of State should consult the Council; in the case of the MRC, consultation with the Council is required in respect of appointments of the Chairman, Deputy Chairman and scientific members of the Council.

- b. With the approval of the Minister for the Civil Service, the Secretary of State determines the remuneration, allowances, pensions, gratuities or compensation of Council members, and the remuneration and allowances of Committee members appointed by the Council.

- c. The Councils need the approval of the Secretary of State (and in the case of the AFRC of the President of the Royal Society) to appoint a Secretary. The Secretary of State's approval, together with that for the Minister for the Civil Service is also required for the numbers of other officers and other persons employed. As with Council and Committee members, the approval of the Secretary of State and the Minister for the Civil Service is required for the levels of remuneration, pensions etc of the Councils' employees.

The objects for which the Councils are established and incorporated

The objects for which the Councils are established and incorporated, as defined by their Charters, are as follows:

AFRC

- a. the organisation and development of agricultural and food research;
- b. the establishment or development of institutions or departments of institutions for investigation and research relating to the advancement of agriculture or the production and processing of food;
- c. the making of grants for such investigation and research.

ESRC

- a. to encourage and support by any means research in the social sciences by any other person or body;
- b. without prejudice to the foregoing paragraph, to provide and operate services for common use in carrying on such research;
- c. to carry out research in the social sciences;
- d. to make grants for students for post-graduate instruction in the social sciences;

- e. to provide advice and disseminate knowledge concerning the social sciences.

MRC

The objects for which the MRC is established are stated in the Council's current Charter to be the purposes for which a Committee of the Privy Council was appointed by Order in Council dated 11 March 1920. That Order did not however specify the objects of the MRC.

The Charter granted to the MRC by Order in Council dated 25 March 1920, gave as its prime purpose to 'secure the continued performance of the duties heretofore performed by the Medical Research Committee'; the Medical Research Committee was established in 1913 to administer funds provided for medical research under the terms of the National Insurance Act 1911. This lack of precise definition appears to have been deliberately intended to leave the Council with the flexibility to adapt to the country's changing needs and circumstances. From the first report of the Medical Research Committee, covering 1914-15, it is clear that administrative flexibility was seen from the outset as a positive virtue - the 'general scheme' approved by the Minister begins with the words 'The object of the research is the extension of medical knowledge with the view of increasing our powers of preserving health and preventing or combating disease. But otherwise than that this is to be the guiding aim, the actual field of research is not limited...'. Insofar as the objects of the MRC have ever been formally stated and approved, it was in this 'general scheme' as approved by the responsible Minister in November 1913.

NERC

NERC

- a. to encourage and support by any means research by any person or body in the earth sciences and ecology in particular (without prejudice to the foregoing) in geology, meteorology, seismology, geo-magnetism, hydrology, oceanography, forestry, nature conservation, fisheries or marine and freshwater biology;
- b. to carry out research in any field aforesaid;
- c. without prejudice to paragraph a. above, to provide and operate ships, equipment or other facilities for common use in research in any field aforesaid by universities, technical colleges or other institutions or persons engaged in research;
- d. to provide advice and disseminate knowledge in any field aforesaid;
- e. to make grants for post-graduate instructions in subjects related to the Councils activities.

SERC

- a. to carry out research and development in science and technology;
- b. to encourage and support by any means research and development in science and technology by any other person or body;
- c. without prejudice to the foregoing paragraph, to provide and operate equipment for other facilities for common use in research and development in science and technology in universities, technical colleges or other institutions or persons engaged in research;

d. to make grants for post-graduate instructions in science and technology;

e. to disseminate knowledge in science and technology.

The SERC Charter states that `science` includes the social sciences.

SCIENCE + TECH: Maintaining the strength
of the Science Base
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