



Miss Stevens

Any comments?

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From the Secretary of the Cabinet and Head of the Home Civil Service

Sir Robert Armstrong GCB CVO

Ref.A084/616

23 February 1984

Dear David,

Consultation Documents

We have been considering whether it is possible to improve the arrangements for identification and handling of Government consultation documents to meet recent criticisms from Mr Robin Maxwell-Hyslop MP and Mr Trevor Skeet MP, and from the House of Commons Library. This submission seeks the Lord Privy Seal's agreement, subject to the views of his colleagues, to the issue of some new guidance to Departments.

The immediate questions

Mr Robin Maxwell-Hyslop MP has asked the Prime Minister to issue guidance on the use of "white" and "green" papers (PQ of 17 January, Annex A; he has since written to the Prime Minister on the same subject). He has also sent the Chief Whip a memorandum on "Colour Coding of Official Publications" (Annex B).

Mr T H H Skeet MP has tabled a Question to the Prime Minister asking "if she will instruct all Ministers that when their Departments issue consultation documents they should routinely deposit on the day of issue copies of such documents in the Library". A holding answer is being given.

The Head of the Public Information Office, House of Commons, has written to the Committee of Departmental Librarians about the growing problem of consultation papers which are not "published" in the conventional sense, and which are frequently not deposited in the Library.

/Definitions

D C R Heyhoe Esq

Definitions

Mr Maxwell-Hyslop is not correct in saying that the distinctions between colours were "once absolutely clear", as the attached article published in 1977 illustrates: Annex C. We do not think that his proposals for distinguishing particular kinds of publication by the colour of the cover would be practicable. They presuppose that all Government publications can be categorised in the way he suggests. In fact they cover an almost infinite variety, from papers which are pure announcements of decisions or carriers of information to those which are pure consultation documents. The numerous consultative, discussion and background papers issued by Departments (often in typescript and with no covers green or otherwise) may invite comments by a particular date, may invite comments with no closing date, may be intended to assist discussion of a particular topic but not specifically ask for comments, or may simply provide background information; or any combination. We think it essential for Departments to continue to be able to present papers in whatever form they think Parliament and the public will find most helpful.

Saying clearly what the paper is for

Nevertheless it is true that the title and format of a paper (even a quick perusal) may not always make its purpose instantly clear. And if comments are wanted by a certain date, it is obviously necessary for this to be prominently stated. The Public Information Office suggested that every consultation paper might be accompanied by an "exploratory note", on the lines of those included in statutory instruments. This would be over-elaborate. But we think it would be reasonable to ask Departments in every case to state clearly on the first page exactly what the function of the paper is.

The House of Commons Weekly Information Bulletin

There already exists a vehicle for making known the existence of consultation documents. The Weekly Information Bulletin has since 1978 contained a section on "White Papers and Green Papers" (example at Annex D). We understand that the Bulletin is no longer losing money and that its future seems secure. It is subscribed to by all the leading public libraries, and its contents are thus available to the general public.

There are two small problems. One is that the Bulletin is not published during the Summer Recess. But the Public Information Office think it should be possible (if necessary after consultation with the Services Committee) to keep the list of official publications running in one form or another. The second point is that the definition of "Green Papers" may need to be looked at again, if in future it is to cover a rather wider range (background as well as obviously "consultative" papers), which seems desirable. But this should not present the Office with insuperable difficulties.

/Guidance

Guidance to Departments

It should be possible for the Lord Privy Seal (if he approves the idea) to issue a simple form of guidance on the lines of the attached draft. But it will be much harder to ensure that all consultation and discussion documents actually reach the Library. The present list in the Bulletin is described as:

"... both incomplete and adventitious in nature. Documents reach us by a multiplicity of routes ... there are many we never get or receive very late ... There is universal amazement if we explain that very often one part of a Department does not know another has issued a consultation paper, or that a Departmental Press Notice has referred to the issue of a paper, but without supplying an issuing officer's address, or sometimes even the title of a paper".

The best solution would probably be for each Department to have a single point of contact with the House Libraries (whether the Parliamentary Clerk or the Departmental library) and for Ministers to instruct their administrative divisions that copies of all consultation, discussion and associated papers should be sent to this point, who will then transmit them to the Libraries in accordance with the usual procedures. This, however, would raise questions of internal Departmental organisation and instructions, which not all Ministers in charge of Departments might find acceptable.

There could also be problems of selection. Some consultation papers are too trivial to rate wider circulation (eg enquiries whether a particular section of the business community finds Form x preferable to Form y). And sometimes a Department may actively not want a consultation paper to be widely known about - not because it is confidential (we are referring here only to "open" documents) but simply for economy and because they do not want to be bothered with comments from anyone but those to whom copies have been sent.

Next steps

Nevertheless, subject to the Lord Privy Seal's views we think it may be desirable to bring the problems to the notice of Departmental Ministers, and suggest broad guidelines for the handling of papers of this kind.

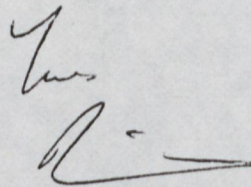
However, because Ministers in charge of Departments may see difficulties for their own organisations, the Lord Privy Seal may wish to give them the opportunity to comment on a draft before any such guidance is issued. A draft letter for this purpose is attached.

/Longer

Longer term

In the longer term, we think there is a need for more comprehensive guidance on deposit of material (not only consultation documents) in the Libraries - what should be deposited, timing, mechanics, and so on. The only existing guidance that we know of consists of one very inadequate passage in the Handbook for Parliamentary Clerks (which is not available outside Parliamentary Branches), and Private Secretary letters from the then Head of the Home Civil Service of April 1978 and March 1981 (Annex E). If the Lord Privy Seal agrees, we will explore further the practicability of such guidance and what it might contain, and will provide a draft for his consideration in due course.

I am copying this letter and attachments to Mr Flesher (No 10 Downing Street) and Miss Alison Ward (Chief Whip's Office).



(R P Hatfield)
Private Secretary

(Answered by the Prime Minister on Tuesday 17 January 1984)

UNSTARRED Mr Robin Maxwell-Hyslop: To ask the Prime Minister, NO. 215 whether she will issue guidance to Ministers that documents announcing Government policy should be in the form of White Papers and that documents inviting comment before policy is finally determined should be identifiable as such by being issued in green covers; and whether she will further give guidance that in the latter case, the final date for representations to be considered should always be clearly stated.

The circumstances in which it is appropriate for Government proposals to be issued in the form of a "White Paper", or alternatively of a "Green Paper", cannot be precisely distinguished in every case. White Papers frequently attract comment, and indeed debate in this House. However, where representations from the general public are invited by a particular date, that date is of course given in the document.

26th January 1984

URGENT



HOUSE OF COMMONS
LONDON SW1A 0AA

A Memorandum on Colour Coding of Official Publications

The purpose of distinctive colours on official papers is (a) so that the purpose of the document concerned may be discerned immediately, and (b) so that documents of a similar character can be grouped logically in a library, for ease of location and identification.

The custom in this matter during the 23 years that I have been in the House of Commons was once absolutely clear and therefore useful. But the position has degenerated into one of meaningless chaos, as if a child had thrown a match into a box of fireworks, which then proceeded to display themselves erratically.

The traditional colour code, which should be resumed without delay, is as follows:-

1. White. This is the proper colour for a White Paper, which has two distinct functions: (a) To declare Government policy, once that has been decided at the highest level. (b) To give an account, on the Government's authority, of an event or series of events of significant public importance.
2. Blue. This is the proper colour for the cover of a Report from a Committee of a House of Parliament, together with material published under the authority of that Committee.
3. Red. This is employed for the cover of a Report by a non-Parliamentary body appointed by Government and required to report its findings on the problem or events into which it was set up to enquire and report. For instance, The Layfield Report into Local Authority Finance, or the Armitage Report into "Lorries, People, and The Environment".
4. Green. This colour is employed for a Consultation Document and is meant to alert the reader to the fact that a considered response is solicited. Without exception when consultation is invited the final date for submissions, and the name and address to which submissions should be sent must always be stated, and should preferably be stated in a uniform location in all such green papers.



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Other exotic colours should only be used if the document concerned falls into none of these categories, and should not be used in an undisciplined manner, but consistently to create a new, recognisable category of document.

The colour of the cover should extend to the spine of the book so that it is visible when the book is in a bookcase. (For example Armitage is red on its spine, but the Report of the Royal Commission on the Constitution, though red on its face is white on its spine).

The prime example of how not to use colour coding is the Department of Trade & Industry document called "Regional Industrial Policy" issued in December 1983. It embodies four examples of chaos and offence against the above rules: (1) Though a Consultation Document, it is in a blue cover. (2) Though inviting a response, it gives no date by which a response must be received. (3) The invitation to respond at all appears only on page 7, apart from which it is not apparent at all that it is a Consultation Document. (4) Its ~~the~~ spine is white and bears no title, making it particularly difficult to find when put in a book case.

It ought to be possible for a competent Government to restore order to the currently prevailing chaos in this matter.

'POLITICAL QUARTERLY' Vol 48 No 1.
(January-March 1977)

GREY PAPERS

GRANT JORDAN

ONE can revamp the old joke and ask, "What are Green or White but seldom Red (read)?" The answer is, of course, "governmental publications". Such documents are frequently referred to as Green Papers or White Papers and such labels are part of the common currency of our conversation. However, in practice it is very difficult to define these terms and one finds that in much of governmental publishing the colour of the covers of the document is less significant than the greyness over the meaning attached to the various forms of publication. One believes that one knows the difference between White Papers, Green Papers and their kin, but under close examination they often tend to merge to a uniform grey.

"Modern" White Papers

"A White Paper", according to Harold Wilson speaking in Parliament on May 13, 1969, "indicates the broad lines of legislation the Government intend to introduce and, very often, of executive action that will be taken." Mr. Wilson thus deftly conveyed the most widely accepted current meaning of the term White Paper: it is a document stating governmental intentions and precedes legislation. In fact the White Paper is now almost part of our legislative process: major legislation "requires" its anticipatory White Paper as much as its formal parliamentary stages.

Yet this meaning of White Paper is less clear than one first expects. White Papers normally indicate their status only in passing in the text and there is doubt about the aptness of the White Paper label for certain papers. Though the recent (Cmnd. 6440) *Cash Limits on Public Expenditure* casually indicates in passing (para. 3) that it is a White Paper, (Cmnd. 6445) *Future of the Crown Agents* and (Cmnd. 6344) *The Development of National Giro* do not appear to call themselves White Papers—but they would nonetheless appear to be relatively unambiguous examples of the genre. On the other hand, a specimen such as (Cmnd. 4683) *Better Services for the Mentally Handicapped*, published in 1971, seemed conspicuously to avoid calling itself a White Paper and repeatedly termed itself a "paper", but this did not prevent it from being commonly regarded

* The author is Lecturer in Public Administration at the University of Aberdeen. Thanks are due to Miss Diana Marshallsey, Asst. Librarian, Parliamentary Papers, The Library, University of Southampton, for her considerable assistance.

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as a White Paper and indeed it was the subject of a parliamentary debate on a motion which welcomed "the recent White Paper".

White Paper is not a technically precise label. The situation would be comparatively straightforward if a White Paper was always and only a statement of early legislative intentions—in the fashion of *A National Water Policy*, which was followed by the Water Act (1945), or *The Development of the National Giro*, which was followed by the Post Office (Banking Services) Bill (1976)—but an example such as *Better Services for the Mentally Handicapped* did not precede legislation. Such a paper is perhaps more for the information of the House than relating to a particular piece of anticipated legislation. The Treasury publication on *Official Publications* produced in 1958 (reprinted 1963) and intended as a guide for civil servants to official publications, actually implies this informational role as their definition of White Paper:

"The term 'White Paper' has today no precise significance and is often used by Members of Parliament and the Press to refer indiscriminately to parliamentary and non-parliamentary publications. Perhaps its most common use is when a Member asks a Minister to produce a White Paper for the information of the House; if the request is granted the resultant document will usually be a Command Paper" (para. 3).

One does find self-proclaimed White Papers of this informational type—for example (Cmnd. 4214) *People in Prison* (1969), which began by stating, "The purpose of this White Paper is to increase public understanding and knowledge of the prison service of England and Wales . . .". However, if one recognises the "informational White Paper" then the category does appear very open and many Annual Reports, Returns, and general statements can be included. In practice one would not be likely to refer to a document "for the information of the House" as a White Paper unless it provided the subject-matter of a debate. One finds that even a paper such as *A Background Paper to Water Re-Organisation in England and Wales*, H.M.S.O. (1973), which claimed its function was "to assist Parliament in considering the Bill" (p. 5), is not regarded as a White Paper. The conventions about what are or are not White Papers are such that unless a paper actually uses the term, there is often considerable doubt about whether the label is appropriate.

"Traditional" White Papers

Both the pre-legislative and informational uses of White Papers can be fairly easily discovered in post-war documents, but I have not come across the use of the term in a governmental document before

Who was responsible for production of this is anyone's responsibility for keeping up to date

then (though one can, of course, find documents performing such tasks). This is far from proving that the term was not used in such senses pre-war, but it does seem that general acceptance of it is comparatively recent. The traditional meaning of the term White Paper is quite different and derived from printing practice. If a Parliamentary Paper was of sufficient thickness to require a protective cover, it was customary to give it one of blue paper. Thus Blue Paper was the term evolved to describe substantial documents, such as the typical report of the fecund Select Committees of Victorian times. The term White Paper came to be applied to any document so slight as not to require such a blue binding. This traditional definition has in fact survived even into our more recent guides to Parliament. For example, in their *Encyclopedia of Parliament* (revised edition, 1972) N. Wilding and P. Laundy define a White Paper as a colloquial term for a government report, statement of policy or similar document which is not of sufficient thickness to require the stout blue covers which would transform it into a Blue Book. Such an interpretation makes odd reading of that well-known document (Cmnd. 6393) *Public Expenditure to 1979-80*: if one opens its protective blue covers one finds that it begins, "The White Paper sets out the Government's plans for public expenditure . . .". If one assumes the traditional definition of a White Paper, this is not a reassuringly accurate start to the document.

White Paper as a Command Paper

The Treasury guide to official publications (cited above) suggested that a White Paper would usually be a Command Paper. This is certainly a characteristic of "modern" White Papers—since the Command Paper is the form in which governmental pre-legislative or informational statements are published and presented to Parliament (as these statements are produced without Parliament, they are in the Parliamentary Papers series only through the constitutional fiction of a "Command from Her Majesty").

The authoritative *Abraham & Hawtreys Parliamentary Dictionary* combines the older and newer meanings of White Paper by invoking the Command Paper characteristic: "Government publications of all kinds, presented to Parliament are known as White Papers. The distinction between white and blue papers is related to the length of the document since a stiff blue cover is used for the bulkier sort. The term is associated with such command papers . . . as are not of sufficient size to need a blue cover." This

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¹ Cmnd. 5548-5648 inclusive. Does not total to 100 as two was not available for inspection.

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is not a very satisfactory definition as in the older sense determined by length, there seemed to be no restriction to the effect that only Command Papers were involved and in the newer sense far from all government papers presented to Parliament are White Papers.

In the past few years an average of around 275 Command Papers have been presented and an examination of the first 100 papers issued in the 1974 Session revealed that none fitted what perhaps is regarded as the typical form of a pre-legislative statement and only two had the "self assumed status" of White Paper:

Cmnd. 5565. Annual Review of Agriculture 1974.

Cmnd. 5580. Loans from the National Loans Fund 1974-75.

The weekly listing in the *Review of Parliament* (and Parliamentary Digest) referred to a further document as a White Paper—i.e. Cmnd. 5593 which was the publication of a speech on the renegotiation of the terms of entry into the EEC which Mr. Callaghan had given to the Council of Ministers in Luxembourg. A few others of the 100 are arguably of White Paper status—for example (Cmnd. 5610) *Defence Expenditure* (Government Observations on the Sixth, Seventh and Eighth Reports from the Expenditure Committee). Certain observations—such as Cmnd. 5536—call themselves White Papers, but others do not and no firm convention seems to have arisen in connection with such documents.

Our examination of these 100 Command Papers thus demonstrated two main points:

- (a) That very few Command Papers are White Papers in the modern sense—but that most are committee reports, Returns, reports of inquiries, state papers and the like.
- (b) That in reality it is difficult to recognise a White Paper as very few fit the conventions in "pure" form and unless the papers resolve matters by "self proclamation", the position is likely to be ambiguous.

Judged against the traditional (almost moribund) sense, 76 of the papers were traditional White Papers (i.e. had covers of the same paper as the rest of the document); 23 were traditional Blue Papers in that they had stiffer covers.¹ But of the Blue Papers, 15 had blue, 3 had buff, 3 had red, 1 had green and 1 had grey covers! The blue convention is certainly eroded.

¹ Cmnd. 5548-5648 inclusive (No. 5642 not issued).

Does not total to 100 as two Command Numbers had more than one volume and four was not available for inspection.

Other Uses

The term White Paper has then changed and is unclear. We have discussed the main meanings but, more technically, note should also be taken of the so-called Blue Paper. This is the collective label for the House of Commons Order Paper, Votes & Proceedings & Division Lists produced overnight for issue the next day and are so called because certain items are printed on Blue Paper. Until late 1940 there was a later reprint of the Blue Paper relating to the current day's sitting which incorporated formal alterations by the authorities of the House and corrections to printers' errors. This reprint was again known as the White Paper. Note should also be taken of the so-called White Book which is the list of members elected to the House and delivered to the Clerk Assistant by the Clerk of the Crown on the first day of a new Parliament.

In a sense, of course, it is unimportant what is, or is not, given the White Paper label since we are merely observing the casual use of an informal label—but it is nonetheless interesting to note the variations in use. It is unfortunate that the term has no more official standing—there is, for example, no published list of White Papers—although it is such a prevalent descriptive term. For example, one might be aware that there was a White Paper on Industrial Relations in 1969, but using the H.M.S.O. Annual List one has to go to "Industrial" in the index then be referred to "Industrial Relations Policy" (p. 1155) and then recognise on that page the official title *In Place of Strife*. Now this is hardly an onerous intellectual task, but it does seem perverse not to use in the official listings the best-known feature of a document (*i.e.* that it is a White Paper). Unless the issuing department includes the term White Paper on the title page then it would not appear in H.M.S.O. lists—and even if it did appear it would be unlikely to appear in the index.

Thus two—conflicting—complaints have been made so far. First, there is doubt about what is or is not a White Paper. Secondly, when we know a document is a White Paper it does not help us locate it.

More important than these points, however, is the question of the significance of the issuing of a White Paper. We have so far assumed that in issuing a White Paper the Government was attempting to further the development of policy in some manner. One can reasonably guess that in the study of the evolution of a piece of legislation, that a White Paper would be a key document—and that is why one has drawn attention to the unsatisfactory loose use of the

term. However, there important documents do not a

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This is hardly a total unorthodox publication announce the decision i available while leaving D.O.E., other departm

Whatever the reason demonstrate the advice (mentioned above) that ing the form in which This arbitrariness does ance in circular form. finding a copy in a l Parliamentary Paper. Library, for example, is documents are obtained parliamentary publicat parliamentary publicati library acquisitions. Sor lists but others may onl can be "picked up" o of the media.

Circulars do have th the kind of problems t

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term. However, there is also a real problem of access if the important documents do not appear as White Papers.

The Circular

In the case of the reorganisation of water and sewerage services in England and Wales, the Government pre-legislative proposals were not published as a White Paper but as an explanatory memorandum appended to a circular (92/71)—a Non-Parliamentary publication. The official responsible for the Bill has claimed (in discussion) that a White Paper was not issued because of the brevity of the statement (18 pages). Had this explanation been convincing, it would have represented another twist to the White Paper definition saga—where a White Paper is now a *lengthy* policy statement—but one suspects that the real explanation lay elsewhere. By publishing as a circular the Government attempted to keep the proposed policy in the realm of technical rather than political discussion. Publication as just one of the flood of circulars (D.O.E. alone published 188 in 1973/74) implied that it was a matter of interest only to the initiated.

This is hardly a totally convincing explanation—and perhaps the unorthodox publication also meant that the D.O.E. was able to announce the decision in principle to pursue the most radical option available while leaving certain issues to be resolved between the D.O.E., other departments and outside interests.

Whatever the reason for not issuing a White Paper, it does demonstrate the advice in the official guide on official publications (mentioned above) that “there are no hard and fast rules concerning the form in which a document should be promulgated . . .”. This arbitrariness does have practical consequences and the appearance in circular form does mean that the chances of physically finding a copy in a library are much reduced compared with a Parliamentary Paper. The practice at Aberdeen King's College Library, for example, is to secure all Parliamentary Papers, but other documents are obtained only at the initiative of the staff. Thus non-parliamentary publications are not found with the collection of parliamentary publications but are catalogued and located with other library acquisitions. Some circulars do find their way into H.M.S.O. lists but others may only go direct to local authorities and here they can be “picked up” only when, by chance, they hit the headlines of the media.

Circulars do have the (limited) merit of consistency. One knows the kind of problems to expect in attempting to trace them. With

other publications there is the added complication that one does not know the nature of the beast that is being hunted.

Green Paper

Green Papers do at first sight have a certain coherence in aim, consistency in appearance, and have been firmly defined by governmental spokesmen. According to Mr. Wilson in *The Labour Government 1964-70: A Personal Record* (p. 380):

"A White Paper is essentially a statement of Government policy in such terms that a withdrawal or major amendments, following consultations or public debate, tends to be regarded as a humiliating withdrawal. A Green Paper represents the best that the Government can propose on a given issue, but, remaining uncommitted, it is able without loss of face to leave its final decision open until it has been able to consider public reaction to it."

Thus the official rationale is something as follows:

Question: What is the difference between a Green Paper and a White Paper?

Answer: A Green Paper is a White Paper that isn't ripe yet.

A more cynical explanation was developed to account for the first example of the species—*The Development Areas: A Proposal for a Regional Employment Premium* (1967). *The Times* of April 5, 1967, suggested the Government's flexibility on the subject actually stemmed from the fact that the Treasury and the D.E.A. had been unable to agree and a statement was needed in connection with the Budget.² However, the more flattering explanation of more participatory policy-making has been generally accepted and John Pemberton's³ article on Green Papers concludes that "... White Papers continue to announce firm government policy for implementation. Green Papers announce tentative proposals for discussion." He comments that in order to distinguish them the new publications have been given a distinctive appearance—a green cover. To date (June 1976) 29 publications in green covers have been the vehicle for preliminary governmental thoughts,⁴ but certainly not all documents in green covers of that shade have been Green Papers (e.g. Cmnd. 5045, *Cymru: Wales*). Michael Stewart, who was generally

² Cited in A. Silkin, "Green Papers and Changing Methods of Consultation in British Government", *Public Administration*, Vol. 51, Winter 1973.

³ John E. Pemberton, "Government Green Papers", *Library World*, Vol. LXXI, No. 830, August 1969.

⁴ From the list maintained by Miss Marshallsey at Southampton University Library. This list excludes Cmnd. 560—being a Northern Ireland Command Paper—but includes subsequent Consultative Documents in green covers.

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credited with the "invention" of Green Papers as Minister responsible for the first on the regional employment premium, described their function to the House on April 5, 1967, as initiating public discussion while policy is still at the formative stage. By this score not all self-styled Green Papers have been "real" Green Papers. Arthur Silkin's examination of the first 10 so-called Green Papers indicated that: "Five of these followed the pattern of the first Green Paper in inviting public discussion while policy was still at the formative stage, one was a hybrid document which contained some firm government decisions and some proposals on which comments were requested before a final decision about policy would be reached, one consisted of definite government proposals . . . and the remaining two were essentially information documents".

One limitation on the use of Green Papers as a constructive improvement on the White Paper system is that on some subjects the Government cannot afford to be seen without a firm policy: its political virility is at stake. This phenomenon was well exhibited during a parliamentary exchange in 1969 when a Tory backbencher suggested to Mr. Wilson that the *In Place of Strife* White Paper should have been a Green Paper—since it was, of course, not pursued after "consultations". Mr. Wilson retorted: "I think it would have been regarded as an act of cowardice . . . if, after Donovan, all we produced was a Green Paper". (May 13, 1969, col. 1219.) In the case of the White Papers on Devolution—(Cmnd. 5732) *Democracy and Devolution* (September 1974) and (Cmnd. 6348) *Our Changing Democracy* (November 1975)—both could easily have been reconciled with Green Paper status and at a meeting in Aberdeen in February 1976 the Minister responsible proposed that we should discuss a draft "Green Act" before the issue was finally put to Parliament. But had the Government published in Green Paper form, it could have implied hesitancy and the decision to issue in White Paper form had more to do with public relations than any precise concept of the appropriate role of a White or Green Paper.

In Parliament on May 13, 1969, Mr. Wilson suggested a formula that might remove the apparent paradox of "consultative White Papers". He said that even with a White Paper, "Many of the details of the legislation [our emphasis] should be a matter for consultation". But in practice it is difficult to agree that (say) the Green Paper (Cmnd. 4621) *Value Added Tax* led to fundamental rather than detailed consultation.

While the distinction between Green and White Papers is blurred by "consultative White Papers", it is also perhaps blurred by

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"White-Green Papers"—where firm decisions have been taken but the current vogue for "participation" means that the proposals get a better reception in (apparently) tentative form.

Despite their superficial uniformity and despite the fact that they have been in use less than 10 years, Green Papers are no more coherent a category than White Papers. As with the circular, there may be a difficulty in obtaining a Green Paper and the situation is made more complex by the fact that one does not readily know where to look. Up to date they have been published as follows:

	<i>Cmnd.</i>	<i>Non-Parl.</i>	<i>Total</i>
1967-1970 Sept.	1	11	12
1970 Oct.—	14	3	17
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			29
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Other Papers

However, the category of Green Papers is far more unsatisfactory than is even suggested by noting a few "Green Papers" which have been published as White Papers, a few "White Papers" that have been published as Green Papers and an inconsistency in the classification in publication. Arthur Silkin writing in 1971 was unable to discern much difference in function between Green Papers, Consultative Documents and Consultation Papers and since then the situation has, if anything, deteriorated. For example, Silkin noted one example of a Consultative Document which "not only looks like a Green Paper, but like Green Papers and unlike other Consultative Documents was both published by H.M.S.O. and presented to Parliament as a Command Paper". (Actually a Northern Ireland production.) In 1971 he felt able to treat this as an extraordinary Consultative Document but now one finds so many exceptions that the Green Paper has lost its credibility as a distinctive mode of presentation of policy to aid public participation.

We have had since a further three of the cross-bred Consultative Document—Green Papers:

- Cmnd. 5247. Pay and Price Code.
- Cmnd. 5297. Control of Firearms in Great Britain.
- Cmnd. 6398. Consumer Safety.

A simple distinction between Green Papers and Consultative Documents is further undermined by a creation such as *Patent Law Reform* (a Consultative Document)—again in green covers—but a non-parliamentary publication (1975).

Worse even than publisher, "label" functional distinction. Mr. Stewart's public discussion but the expressed purpose of Consumer Safety was: "their views". The Code, stated that: statement of the Government in the light of consultation of further consideration similar to Mr. Wilson.

In contrast, the *Law Reform* is distributed like a White Paper! (Cmnd. 6000) *Patent Law Reform* Banks Committee. Details in separate form.

The putative role of Consultative Documents which are appearing in appearance of Documents on Subjects (DCCP November 1971) *Services* (H.M.S.O.) in this case that the *Services* Document on Health is suspiciously like a White Paper.

Other "consultative" paper on *Future Work* discussion—*The Future*. While it has been suggested due to reasons of policy, the papers is mysterious.

Up to this point the Silkin argues that Consultative Documents only in name then all the foregoing while to borrow Silkin's apply it instead to the Papers which are issued.

GREY PAPERS

Worse even than the confusion resulting from permutations of publisher, "label" and series is the fact that there is (by now) no functional distinction between the papers. We have already mentioned Mr. Stewart's neat description of a Green Paper as inviting public discussion while policy is still at the formative stage, but the expressed purpose of the Consultative Document on Consumer Safety was: "to afford all interests an opportunity to express their views". The Consultative Document, *The Pay and Price Code*, stated that: "it does not at this stage represent a definitive statement of the Government's views since it is open to alteration in the light of consultation, of the views expressed in Parliament and of further consideration by the Government". This sounds strangely similar to Mr. Wilson's definition of a Green Paper (quoted above).

In contrast, the green-covered Consultative Document on *Patent Law Reform* is distinguished by the fact that it reads remarkably like a White Paper! The document supplemented the White Paper (Cmnd. 6000) *Patent Law Reform* and set out in detail the Government's proposals for implementing the recommendations of the Banks Committee. One fails to see the reason for publishing the details in separate form.

The putative role of Green Papers has been usurped by Consultative Documents which do not even make the pretence of masquerading in appearance as Green Papers. Thus one gets Consultative Documents on subjects such as *The Regulation of Estate Agency* (DCCP November 1975); *Priorities for Health and Personal Social Services* (H.M.S.O. 1976). It is symptomatic of the inconsistency in this case that the Scottish equivalent of this DHSS Consultative Document on Health and Personal Social Services came out looking suspiciously like a White Paper—but with no Command number.

Other "consultative publications" have included a discussion paper on *Future World Trends* (H.M.S.O. 1976), and a paper for discussion—*The Future of Northern Ireland* (H.M.S.O. 1972). While it has been suggested that the latter was not a Green Paper due to reasons of political delicacy, the rationale for other discussion papers is mysterious.

Up to this point the issue of Consultation Papers has been avoided. Silkin argues that Consultation Papers differ from Consultative Documents only in name and since it is difficult to dissent from that then all the foregoing also applies to them. But it might be worthwhile to borrow Silkin's definition of a Consultative Document and apply it instead to the Consultation Paper, i.e. "... unlike Green Papers which are issued by H.M.S.O. and can be purchased in the

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normal way (Consultation Papers) are issued by the departments concerned and tend to be given limited distribution". In fact most of the more important so-called Consultative Documents issued by departments could be regarded as mislabelled Consultation Papers. Since the process for locating an H.M.S.O. publication is different from a departmental one, it would be useful if (what exists as a tendency) could be codified into a custom and Consultative Documents issued by H.M.S.O. and Consultation Papers were issued by departments.

But even that would not solve the (old) problem of function because the fact that a paper has been issued by a department has not prevented it being of substance. For example, in the course of the evolution of policy on water reorganisation the so-called Consultation Papers actually exhibited many different traits—information, intimation, consultation, etc.—and often one paper performed different roles and indeed simultaneously different roles for different audiences. Thus the Consultation Paper on the *Future Organisation of Land Drainage* (issued by M.A.F.F. September 15, 1972) went through the motions of consultation (and did fulfil a consultative role for certain marginal interests) but its main role was to record the fact that the D.O.E. had finally yielded to the pressures of M.A.F.F. and outside groups. For the N.F.U. or the C.L.A. it was confirmation of the outcome of negotiations, for other groups it was the intimation of the Government's legislative intentions on land drainage—a quasi-White Paper.

Conclusion

This note has sought to describe the case of labels such as White Paper, Green Paper, etc., and has indicated that there are no rigid conventions. There is often no exact relationship between the function performed by a paper and the label allocated to it. The status of a document very often tells us more about the tactical situation the Minister faces than its contents. Interpretation of the reasons behind the form of publication can be fascinating, but there is a very practical ramification to this baroque confusion. As far as librarians, researchers and the interested public are concerned it does matter if a policy is promulgated via a circular, a Consultative Document or a White Paper. It matters because parliamentary publications do tend to be more widely available and furthermore the recording of Consultative Documents, Consultation Papers and the like is not as accurate as it could be. An important paper such as the Consultative

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Document on the Industrial Relations Bill (which bears a fairly strong resemblance to *In Place of Strife*) appeared on a Daily List as being available free from employment offices, but did not appear in the 1970 H.M.S.O. Annual Catalogue. Not all of the Consultation Papers on water were recorded in the relevant D.O.E. listings. There has been no enforcement of Treasury Circular 3/54 whereby departments were enjoined to deposit specified categories in the British (Museum) Library. A cavalier spirit towards the printing presses seems to have been adopted and one readily comes across productions such as a Consultative Document on *Equal Opportunities for Men and Women* which the Aberdeen University Library noted in a press cutting and (eventually) located in the local employment office or the *Benefits of North Sea Oil*; a paper published by the Scottish Office at the request of the Oil Development Council for Scotland.

With parliamentary papers we have evolved a meticulous system for monitoring the minutiae of parliamentary business, but major decisions are no longer (or at least not only) made in the House and our system of recording and cataloguing the documents which pass between the Government and extra-parliamentary decision-makers is inadequate. This difficulty in locating such material has two aspects. On the one hand, there is the deliberate conscious attempt to minimise publicity and keep policy-making as a private exercise between Whitehall and its cohorts of interest groups. Consider the strange episode in Standing Committee D on April 3, 1973, when in discussion of the Water Bill the Opposition attempted to get access to a "heads of agreement" drawn up between the local authority associations and the D.O.E. covering the allocation of certain sewerage functions to district councils. Denis Howell for the Opposition quite fairly made the point that: "When the public want to know in future what is to be done should a conflict . . . arise, they must look not at (the Bill) but at some heads of agreement which in the privacy of his Ministry, the Minister is drawing up". For the Government Eldon Griffiths attempted to claim that the document did not exist, while his colleague, Mr. Page, explained that he was anxious that the committee should see it—but that the permission of the local authority associations was required. The whole matter was made somewhat farcical when—after 3½ hours of heated discussion—it was discovered that the document in question had been published in full in *The Surveyor* three weeks previously!

These negotiations between the D.O.E. and the Associations had been completed without anyone troubling to inform the M.P.s who

(in the words of one of them) were, "acting as advocates" for the local authorities.

Thus, on the one hand there is the point that policy-making in Britain tends to be carried on in specialised circles. Consultation is consultation within these small communities and other (wider) involvement is not encouraged, it is considered sufficient that those interested see the papers. On the other hand, this note has been mainly concerned with what is more the accidental foreclosure of discussion. But documents which are difficult to trace are as effectively private as those deliberately labelled such.

While one cannot easily do much about the former point, the latter could be remedied by a more considered use of terms. The Under-Secretary in charge of the introduction of V.A.T. has described⁵ how the V.A.T. Green Paper (Cmnd. 4621) was evolved: "We duly studied previous Green Papers . . . to see what literary style was deemed suitable and whether ours ought to be 'presented to Parliament by the Chancellor of the Exchequer by Command of Her Majesty' or simply 'published by Her Majesty's Customs & Excise'". This pragmatic spirit in such matters is surely precisely the cause of much confusion and some clear principles ought to be evolved.

However, although one might look forward to more consistency in the use of labels, problems would remain for the user. Significant policy initiatives can be made by a ministerial statement in the House or even in an informal, off-the-record piece of ministerial kite-flying. These can functionally replace a Green Paper, a circular, a consultation paper or even a White Paper.

Post Script

Loose informal use of labels is almost inevitable. It is often instructive as when, for example, in a radio interview in March the General Secretary of the Labour Party referred to the latest White Paper on devolution as a "consultative document". But although in this instance the original "mislabelling" was no doubt deliberate, one feels that in many cases no thought seems to have been given to the form of publication. One can appreciate why the media referred to the Consultation Document (*sic*) on Transport Policy (2 vols., H.M.S.O., 1976) as a Green Paper—despite the fact that it had conspicuously orange covers. The convention seems to be arising

⁵ See Dorothy Johnstone, *A Tax Shall be Charged*, Civil Service Studies No. 1, 1975, p. 23.

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GREY PAPERS

that any publication claiming to be consultative rather than a statement of firm policy is a "Green Paper". One can less readily understand the reasoning behind the use of yet another category (*i.e.* consultation document) or why such an important step in policy-making for transport should fail to appear as a Command Paper where the wider public might have reasonable access to it.

One often hears the view that we are controlled by a bureaucracy but if the word has any precise meaning it is surely something like a hierarchy of officials bound together by rules. Even the limited exercise of looking at these various publications reveals that the main characteristic of the British system is its lack of rules. Our system progresses with a constant resort to expediency.

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Public Affairs Studies No. 1, 1975,

*NOTE: The European Draft Instrument COM (83)638 (above), first appeared in Bulletin No.13 but was wrongly numbered as COM (83)631.

NOTE: Further information available from the London Office of the European Communities Commission at 8, Storey's Gate, London SW1P 3AP (Tel: 01-222 8122). Members may obtain copies of documents from the Vote Office by reference to the weekly yellow demand form, quoting the numbers in brackets.

(House of Commons
Weekly Information
Bulletin,
w/e 24 December 1983)

WHITE PAPERS AND GREEN PAPERS RECEIVED SINCE THE LAST BULLETIN

White Papers

None

Policy Document

21.12 A Policy for Overseas Students: the Government's Response to the Overseas Students' Trust Study. Copies from the Foreign and Commonwealth Office, Whitehall, London SW1.

Green Papers

16.12 Inquiry into Provision for Retirement: Consultation Letter on Portable Pensions. Copies from Mr Nick Montagu, Room 52, Hannibal House, Elephant and Castle, London SE1 6TE. (Comments by 30 January 1984).

20.12 Intellectual Property Rights and Innovation, Cmnd 9117 (010191170X) £4.65.

20.12 Regional Industrial Policy: Some Economic Issues. Copies (price £3.00 post free) from the Department of Trade and Industry, Headquarters Library, Room LG37, 1 Victoria Street, London SW1H 0ET. (No date given).

NOTE

White Papers are issued by the Government as statements of policy; and often set out proposals for legislative changes, which may be debated before a Bill is introduced. Government responses to Select Committee reports, which are occasionally regarded as White Papers, are omitted from this section. Some White Papers may invite comments.

Green Papers, which is a term here used to include also all consultative and discussion documents reaching our office, set out for discussion proposals which are still at a formative stage.

Papers to which an ISBN and price are appended are normally available through HMSO. For others, application should be made to the Department concerned.



CIVIL SERVICE DEPARTMENT

WHITEHALL LONDON SW1A 2AZ

Telephone Direct line 01 273 5400

Switchboard 01 273 3000

*Sir Ian Dancroft KCB**Head of the Home Civil Service*

11th April 1978

Dear Private Secretary

cc - Mr Willis
Mr Russell —
Miss Dickinson + PPS

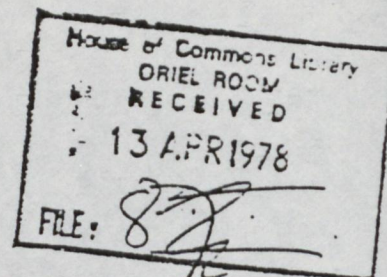
DEPOSIT OF PAPERS IN THE HOUSE OF COMMONS LIBRARY

It has recently become evident that there are some differences in Departments' understanding about the availability of papers deposited by Ministers in the House of Commons Library. The purpose of this letter is to clarify the position for the future.

Unless material is specially designated, the Librarian of the House of Commons will make material deposited in the Library freely available on request to all users of the Library (who may include Members' secretaries and research assistants). If any papers are intended to be seen only by Members of Parliament they should be clearly designated "RESTRICTED TO MEMBERS". It is expected that the great majority of deposited documents need not be subject to any restriction and can be made available to all users.

Where deposited material is marked "RESTRICTED TO MEMBERS", Library staff will ensure that it is given only to Members themselves, but thereafter they are not in a position to circumscribe the use that Members may make of such material, beyond drawing attention to any Departmental restriction on the document. The Librarian is bound by a Speaker's ruling in March 1969 to make all material reaching the Library available to all Members. No material marked TOP SECRET, SECRET, or CONFIDENTIAL by the originating Department should in any circumstances be deposited in the Library.

As to mechanics, all papers which are sent further to Answers to Parliamentary Questions or Statements, or which a Minister orders to be placed in the Library, etc, should be sent to the Deposited Papers Clerk, Oriel Room, House of Commons Library, SW1A 0AA (superceding any previous arrangements). When material is deposited in connection with an Answer to a Parliamentary Question or Statement, the covering note should either refer to the relevant Question or Statement, or include a copy of it. The envelopes containing such material should be clearly marked "MATERIAL FOR DEPOSIT IN THE HOUSE OF COMMONS LIBRARY".



Perhaps I could ask you to arrange for this advice to be put into effect straight away.

I am copying this letter to Private Secretaries to Permanent Secretaries Heads of Departments on the attached list.

Yours sincerely

John Hobson

J HOBSON
Private Secretary



CIVIL SERVICE DEPARTMENT
WHITEHALL LONDON SW1A 2AZ

cc D. Menhennet

Telephone 01 273 5400

*Sir Ian Bancroft G.C.B.
Head of the Home Civil Service*

Dear Private Secretary

10 March 1981

DEPOSIT OF PAPERS IN THE HOUSE OF COMMONS LIBRARY

My predecessor but one wrote to Private Secretaries on 11 April 1978 setting out the arrangements to be used thenceforth for the deposit of papers in the House of Commons Library. I understand that these arrangements function smoothly and to the satisfaction of the House of Commons Library. They have requested however that an additional procedure should be arranged now that the House of Commons Library has a branch in the Norman Shaw "North" Building at some distance from the Main Library.

Departments are asked to provide one copy of each Deposited Paper to the Branch Library in addition to those copies supplied to the Main Library. This extra copy of each Deposited Paper should be supplied, together with a copy of any covering letter to:

The Deposited Papers Clerk
Branch Library of the House of Commons
Room 5/19 Norman Shaw [North]
Victoria Embankment
LONDON SW1A 2JF

The Library appreciates that occasionally such deposited material might be available only in a unique copy, or that it might be too bulky for duplication; in such instances, the one copy must continue to be sent to the Main Library since this will continue to be the principal place of deposit.

Perhaps I could ask you to arrange for this additional procedure to be put into effect straightaway.

I am writing similarly to Private Secretaries to Permanent Secretary Heads of Departments.

*Yours sincerely,
Jeremy Colman*

JEREMY COLMAN
Private Secretary

DRAFT LETTER FROM THE LORD PRIVY SEAL TO
MINISTERS IN CHARGE OF DEPARTMENTS

Consultation Documents

For some years there have been complaints about the non-availability of consultation documents issued by Departments, and queries about the exact status of particular papers. The problems have been compounded by two factors. First, there appears to have been a significant increase in consultations with the public or sections of it - which of course is in itself entirely commendable. The second is that, because of increased printing costs, the growing tendency is to use less formal methods of communication, such as circulated typescripts, in place of "publications" in the conventional sense. These more ephemeral documents are often not deposited in the House Libraries, and Members are unaware of their existence. The issue has been brought to a head by two recent Parliamentary Questions.

I therefore have it in mind to write to you and our other colleagues on the lines of the attached draft. Before doing so, however, I should like to be sure that it will not cause Departments any significant difficulties.

The guidance is in very broad terms, and the procedures suggested are already generally used in the case of major consultative exercises. But the less widely publicised exercises seem to be falling through the net rather too often, and Members are feeling that information is being withheld from them unnecessarily.

I should be grateful for views. Having in mind that the two Members who have raised this have been given holding replies, it would be very helpful if I could have your comments by 8 March. I am copying this letter to all Ministers in charge of Departments, to Willie Whitelaw in view of his interest in the presentation of Government information, and to Sir Robert Armstrong.

DRAFT LETTER FROM THE LORD PRIVY SEAL TO
MINISTERS IN CHARGE OF DEPARTMENTS

Consultation Documents

There have recently been pleas from Members of Parliament and others for more help in identifying, and obtaining access to, consultation papers issued by Departments. There is no problem with HMSO publications. But the less formal consultation papers, especially if they are not "published" in the conventional sense, are often not deposited in the House Libraries. The status of such papers is not always instantly clear, and if observations are specifically invited this does not invariably appear at the outset. Whether or not Members themselves wish to offer observations, they should be in a position to know that particular issues are the subject of current consultations. (I am of course referring only to open consultations, not to those which are necessarily confidential.)

I think it would be fruitless to try to define consultation papers. It is a very broad category (even White Papers may invite observations). But any document which is intended to assist discussion of a particular

issue might be regarded as coming under this heading, even if it is primarily factual. What matters most is that there should never be any doubt what the function of a particular paper is, and what form of response is invited.

I should be very grateful if colleagues could ensure that, whenever a paper of this kind is issued, from any part of their Departments - and particularly if it is issued simply in typescript or letter form - it should state clearly on the first page what its purpose is. If observations are specifically invited, it should make immediately clear to whom they should be sent and by what date (if there is a closing date). Many papers, of course, do this already. But it would be very helpful to Members if it were the invariable practice.

The other side of the coin is that copies of such papers should be sent to the House Libraries, using the normal procedures for deposit of papers which do not have to be "laid"; the covering envelopes should be marked "Consultation Document". This should be done on the day of issue. There is already a section in the House of Commons Weekly

Information Bulletin (headed "Green Papers" but in fact covering a much wider range than those which are literally "green") where they can be listed for Members' information.

Some consultation papers, I know, are of such narrow interest that deposit could not reasonably be regarded as necessary, even for information. But I must leave the selection to the good judgment of Departments. In general, the presumption should be that any paper with a "consultative" flavour should be deposited unless it is self-evidently of no interest to any except those whom it directly addresses.

In any case of difficulty, my office will be glad to advise.



PRIVY COUNCIL OFFICE
WHITEHALL, LONDON SW1A 2AT

29 February 1984

Dear Richard,

Thank you for your letter of 23 February, with enclosures.

It seems to me that what is important here is that Departments should be reminded that certain "consultation papers" may well be of concern to Parliament even though they do not easily fit into the categories usually described as White or Green. Departments should therefore be sure to consider when issuing any Consultation document whether it would be appropriate for topics to be placed in the Libraries of both Houses.

This seems to me to be entirely uncontroversial, and I think that your draft adequately covers the ground. I believe, however, that this sort of detailed instruction may be more appropriate as a "Dear Private Secretary" letter than one from the Lord Privy Seal to his colleagues, who are unlikely to have the time to exercise any real supervision over the manner in which their Departments respond. Subject to any comments you or copy addressees may have, I therefore suggest that the draft might, suitably amended, be sent by the MPO to the Parliamentary Clerks of all Government Departments. It would tie in reasonably well with the guidance to Parliamentary Clerks for which the MPO is already responsible.

I am copying this to Tim Flesher, Alison Ward and (with the previous papers) John Salveson.

Yours truly,

David

D C R HEYHOE
Private Secretary

Richard Hatfield Esq
PS/Sir Robert Armstrong

29 FEB 1984

