



CABINET OFFICE

*From the Chancellor of the
Duchy of Lancaster*

Lord Gowrie

MANAGEMENT AND PERSONNEL OFFICE

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The Rt Hon The Viscount Whitelaw CH MC
Lord President of the Council
Privy Council Office
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26 June 1985

NPan

JK

Jim Willie,

RESPONSE TO THE FOURTH REPORT FROM THE SELECT COMMITTEE ON
THE PARLIAMENTARY COMMISSIONER FOR ADMINISTRATION

Thank you for your letter of 20 June conferring H Committee
policy approval for the Government response to the PCA Select
Committee. I have noted your point about legislation. I am
grateful to colleagues for their comments on the draft I
circulated on 23 May. These have been taken into account in
... the final text attached. The Government response will be
published on 8 July.

George Younger sought my agreement to colleagues giving NDPBs
advance warning of the Government response. I am content for
them to do so at their discretion. They will I am sure make
it clear that advance warning is being given in confidence.
It would be discourtesy to the Select Committee to allow our
response to become public before they are aware of it.

I have retained the criteria for selecting NDPBs for
extension which George Younger suggested might be omitted.
Colleagues in general were in favour of stating criteria and
without them we might find it more difficult in future to
resist extension of jurisdiction to unsuitable bodies. I
have taken Leon Brittan's point about NDPBs handling their
own PCA complaints, though using slightly different words.
In due course we shall have to offer NDPBs guidance on how to
handle complaints.

Norman Tebbit expressed concern that we might inadvertently
catch the proposed Securities and Investments Board and
Marketing of Investments Board and proposed limiting the

PCA's jurisdiction to non-departmental public bodies set up by statute. That would give rise to other problems. It would exclude bodies set up by Royal Charter, such as the Arts Council, British Council and Research Councils. In fact, however, I do not think that the criteria as currently set out would catch the prospective SIB and MIB. As I understand it, these bodies will be set up by the City and not by government. They would not, therefore, be classified as non-departmental public bodies and so would not meet the criteria.

There is a separate point about PCA's jurisdiction unrelated to extension to non-departmental public bodies which Norman might like to consider, however. Section 5(1) of the Parliamentary Commissioner Act 1967 empowers the PCA to investigate any action taken by or on behalf of a government department or other authority to which the Act applies, being action taken in the exercise of administrative functions of that department or authority. Norman may wish to take legal advice on whether functions that he delegates to the SIB and MIB would be caught by this existing provision of the 1967 Act even though the two bodies would not be caught by extension of PCA jurisdiction to non-departmental public bodies.

I am copying this letter and the final version of the Government response to the Prime Minister, members of H Committee, other Ministers in charge of departments, the Minister without Portfolio, the Paymaster General and Sir Robert Armstrong.

Y
Lms.

c/ey
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GOWRIE

**FOURTH REPORT FROM THE SELECT COMMITTEE ON THE
PARLIAMENTARY COMMISSIONER FOR ADMINISTRATION**

SESSION 1983-84

Observations by the Government

Introductory

1. This White Paper contains the Government's response to the observations and recommendations made in the Select Committee's Fourth Report for Session 1983-84 (HC 619).

Extension of PCA's Jurisdiction

2. A note on the existing jurisdiction and method of operation of the Parliamentary Commissioner for Administration (PCA) is at Appendix A. The Select Committee recommended that the jurisdiction of the PCA (or in some cases the Commissioners for Local Administration) should be extended to certain executive non-departmental public bodies (NDPBs) listed in the Appendix to their report. The Select Committee excluded from their list advisory bodies, where Ministers are responsible for the use they made of advice, and tribunals, which are subject to the scrutiny of the Council on Tribunals. They also excluded professional bodies, or those whose function is to disseminate knowledge in a particular field, and various promotion examination boards.

3. The Government has considered carefully the Select Committee's recommendation. The Select Committee has put forward no evidence of any significant maladministration by any of the bodies recommended for inclusion in the PCA's jurisdiction. Nevertheless the Government agrees that there is a case in principle for extending the PCA's jurisdiction to the actions of certain non-departmental public bodies. Potential for maladministration is not confined to Crown bodies and a number of non-departmental public bodies have functions whose impact on citizens is as significant as that of government departments. It is right that appropriate protection should be available in respect of the actions or inaction of such bodies. The Government agrees with the exclusions proposed by the Select Committee referred to in paragraph 2 above and considers that PCA jurisdiction should be extended to non-departmental public bodies which:

a. have executive or administrative functions which directly affect individual citizens or groups of citizens (including companies) and which would be within the PCA's jurisdiction if carried out by a government department; and

b. are subject to some degree of ultimate Ministerial accountability to Parliament, in that they are dependent for their financing and continued existence on Government policy (even if legislation would be needed to abolish them).

4. As the Select Committee has recognised, the functions of non-departmental public bodies vary significantly. Extension of PCA jurisdiction needs to take account of this diversity. The Government considers that it would be inappropriate to bring within the PCA's jurisdiction bodies whose direct impact on individuals is insignificant.

Charities

5. The Select Committee proposed to exclude non-departmental public bodies which are charities, on the grounds that these are subject to the authority of the Charity Commissioners. The Government has some sympathy with this view but considers that a hard and fast exclusion might give rise to anomalies, in that one body which had charitable status would be excluded while a very similar body which did not have such status would be included in PCA jurisdiction. Moreover, the Charity Commissioners' remit does not extend to Scotland. The Government has therefore concluded that charities should be considered for inclusion within PCA jurisdiction on the same basis as other NDPBs.

Levy Funded Bodies

6. The Select Committee discussed the position of levy funded non-departmental public bodies, and expressed the hope that when these were set up in future they would be brought within PCA jurisdiction. The Government considers that it would be inconsistent to distinguish between existing and future levy-funded bodies. It proposes, therefore, to bring within PCA jurisdiction both existing and new bodies funded by statutory levy when they satisfy the criteria in paragraph 3.

Nationalised Industries

7. The Select Committee left the nationalised industries out of their deliberations and made no recommendations save with respect to the Civil Aviation Authority. The Government considers that nationalised industries should be subject to commercial disciplines appropriate to trading organisations. They are in no

sense a part of the administrative apparatus of government. In a number of cases there are also consumer councils specifically to represent the interests of consumers. Accordingly the Government does not consider that nationalised industries should be brought within PCA jurisdiction.

NDPBs with Commercial Functions

8. The Select Committee noted that a number of non-departmental public bodies operate in a commercial or contractual manner, but suggested that complaints relating other than to the ultimate commercial decisions of such bodies might be subject to PCA examination. The Select Committee appears to have underestimated the extent to which the procedures operated by such bodies as well as the decisions they reach are a response to commercial considerations. Several public bodies have been set up to operate at arm's length from government in order to enable them to operate in an entrepreneurial way. Their activities are more analogous to those of nationalised industries than to those of government departments. The Government considers that NDPBs whose functions are exclusively or predominantly commercial in character should not be brought within PCA jurisdiction.

Extension of Jurisdiction

9. The Government proposes to introduce legislation in due course to amend the Parliamentary Commissioner Act 1967 to allow the PCA to investigate actions which are not taken on behalf of the Crown, so as to allow the bodies listed in Appendix B to this White Paper to be added to Schedule 2 of the Act. Appendix B excludes certain bodies which were included in the Appendix to the Select Committee's report. The reasons for their exclusion are set out in Appendix C.

10. The Select Committee has proposed that all the functions of the Commission for the New Towns, New Town Development Corporations and Urban Development Corporations should be brought within the purview of the Commissioners for Local Administration (CLAs). The Government agrees that the functions of these bodies should come within the purview of an "Ombudsman".

11. It would not, however, be appropriate for the CLAs to have jurisdiction where the Secretary of State is actively and directly involved in the functions of these bodies. For this reason, the Government considers that the PCA should assume general jurisdiction over these bodies. There should, however, be exceptions to this principle in areas where the Secretary of State does not have an immediate locus and where the activities of the bodies are akin to those of local government. These areas are:

- a. for New Town bodies, the housing functions which will ultimately become the responsibility of district councils;
- b. for Urban Development Corporations, the development control functions which correspond closely to those of local authorities.

The Government recognises that the precise definition of the proposed split jurisdiction between the PCA and CLAs and its implications will require careful consideration. It intends to consult all the Commissioners before finalising arrangements.

Enforcement of PCA Judgements

11. The Government has noted and accepts the Select Committee's view in paragraph 16 of their report that there is no need for Ministerial powers to order bodies whose day to day actions are not subject to Ministerial control to comply with PCA judgements. The Select Committee recognised that dismissal of a body's Chairman as a means of securing compliance with PCA judgements would be a sledgehammer but suggested that financial sanctions might be applied. While the Government considers withholding of funds is not to be undertaken lightly, it believes that the authority of the PCA should prove sufficient to secure an appropriate remedy.

Referral and Handling of Complaints

12. The Government has noted and accepts the Select Committee's view in paragraph 18 of its report that the method of referral to the PCA of complaints against non-departmental public bodies should be the usual one, through a Member of Parliament. It considers that NDPBs themselves, rather than their sponsor departments, should respond to the PCA on any complaints against them, through their own principal officer.

THE ROLE OF THE PARLIAMENTARY COMMISSIONER FOR ADMINISTRATION (PCA)

The Parliamentary Commissioner for Administration investigates complaints referred to him by Members of Parliament from members of the public who claim to have suffered injustice as a result of 'maladministration' by central government departments and certain other authorities. Separate "ombudsman" arrangements apply to the National Health Service and to local authorities.

What constitutes maladministration is not defined in the legislation governing PCA's activity (the Parliamentary Commissioner Act 1967). Before pursuing a complaint PCA will satisfy himself that it relates to a body and area of activity which is within his jurisdiction, that there is some evidence from which it may reasonably be inferred that there has been administrative fault, that there is an apparent link between the alleged maladministration and the personal injustice that the complainant claims to have suffered, and that there is some prospect of his intervention leading to a worthwhile remedy for the complainant or some benefit to the public at large. Examples of maladministration which may give rise to injustice are undue delay in dealing with a case, failure to follow prescribed procedures or a misapplication of rules.

With certain exceptions, PCA may investigate any action taken in the exercise of a department's administrative functions. He may not question the merits of discretionary decisions taken without maladministration. Nor may he conduct investigations into matters where legal remedies exist, unless in the circumstances of a particular case he considers it unreasonable to expect the complainant to resort to such remedies. The 1967 Act gives PCA ultimate discretion to initiate, continue or discontinue an investigation.

Certain areas of administrative activity, listed in Schedule 3 to the Parliamentary Commissioner Act 1967, are at present outside PCA's jurisdiction. Some of these relate to the conduct of foreign affairs. Other significant exclusions include:

- a. civil and criminal proceedings;
- b. "personnel" matters; and

- c. matters relating to contractual or other commercial transactions (other than those concerning the compulsory acquisition of land or the disposal of land acquired compulsorily.)

The bodies subject to investigation by the PCA are listed in Schedule 2 to the Parliamentary Commissioner Act 1967. This at present extends only to central government departments and a few other authorities whose functions are exercised on behalf of the Crown. Most non-departmental public bodies are thus excluded from PCA's jurisdiction.

NON-DEPARTMENTAL PUBLIC BODIES
TO WHICH IT IS PROPOSED TO EXTEND PCA JURISDICTION

Ministry of Agriculture, Fisheries and Food

Agricultural Training Board
Agricultural Wages Committees (England)

Office of Arts and Libraries

Arts Council of Great Britain
British Film Institute
British Library
Crafts Council
Museums and Galleries Commission
Registrar of Public Lending Right

Department of Education and Science

Central Bureau for Educational Visits and Exchanges
Agricultural and Food Research Council
Economic and Social Research Council
Medical Research Council
Natural Environment Research Council
Science and Engineering Research Council

Department of Employment

Industrial Training Boards

Department of the Environment

Countryside Commission
Council for Small Industries in Rural Areas
Development Commission
Historic Buildings and Monuments Commission
Housing Corporation
New Town Development Corporations
Commission for the New Towns
London Docklands Development Corporation
Merseyside Development Corporation
National Heritage Memorial Fund
Nature Conservancy Council
Sports Council

Foreign and Commonwealth Office

British Council

Department of Health and Social Security

Central Council for Education and Training in Social Work
Medical Practices Committee

Home Office

Commission for Racial Equality
Equal Opportunities Commission

Scottish Office

Countryside Commission for Scotland
Crofters Commission
Edinburgh New Town Conservation Committee
Highlands and Islands Development Board
New Town Development Corporations
Red Deer Commission
Scottish Medical Practices Committee
Scottish Sports Council
Scottish Tourist Board

Department of Trade and Industry

Co-operative Development Agency
English Tourist Board

Department of Transport

The Trinity House of Deptford Strond (in its capacity as a
General Lighthouse Authority)

The Commissioners of Northern Lighthouses

Welsh Office

Agricultural Wages Committees
Cwmbran Development Corporation
Development Board for Rural Wales
Sports Council for Wales
Wales Tourist Board

NON-DEPARTMENTAL PUBLIC BODIES LISTED BY THE SELECT COMMITTEE WHICH
ARE EXCLUDED FROM APPENDIX B

Sea Fish Industry Authority

In awarding grants the Authority is acting on behalf of Ministers responsible for fisheries in the exercise of their administrative functions. In the Government's views these functions are, by virtue of section 5 of the Parliamentary Commissioner Act, already within the jurisdiction of the PCA. Specifically to extend PCA jurisdiction to the Authority itself is therefore unnecessary.

Community Industry

CI is a voluntary body with which the Department of Employment has a contractual arrangement to provide work experience for disadvantaged young people. CI's relationships with citizens are exclusively contractual or personnel ones and so outside PCA Jurisdiction.

Remploy

Remploy is a trading company with no executive or administrative functions other than contractual and personnel relationships.

Wages Councils

Agricultural Wages Board for England and Wales

Scottish Agricultural Wages Board

These bodies decide on minimum wages and other terms and conditions of employment. The bodies' decisions are in their nature discretionary. Such potential for maladministration as exists relates to the administrative and executive functions of the staff who support them. These staff are civil servants employed by the Department of Employment, MAFF and the Scottish Office and as such are already subject to PCA jurisdiction.

British Board of Agreement

The Board's relationship with manufacturers whose products it assesses at their request, with a view to award of an agreement certificate, is a contractual one and so outside PCA jurisdiction.

Attendance Allowance Board

The Board exercises the quasi-judicial function of deciding the medical conditions for receipt of attendance allowance. The Board has no administrative functions, these being exercised by DHSS staff and so already within PCA jurisdiction.

Occupational Pensions Board

The Board exercises a quasi-judicial function in determining whether occupational pension schemes may be certified as "contracted-out". In conducting formal hearings of appeals against these determinations it is subject to the oversight of the Council on Tribunals.

Criminal Injuries Compensation Board

The Board is a quasi-judicial tribunal and its administrative procedures form part of the judicial process of considering and determining applications for compensation. The Government has undertaken to put the scheme administered by the Board onto a statutory basis and proposals are being prepared. It is intended that the Board, when made statutory, will be under the supervision of the Council on Tribunals.

Scottish Special Housing Association

The Secretary of State for Scotland has already announced that the functions of the Association are to be brought within the purview of the Commissioner for Local Administration in Scotland, together with the housing functions of the Scottish New Town Development Corporations.

British Technology Group

Scottish Development Agency

Welsh Development Agency

The components of the BTG, the National Enterprise Board and the National Research and Development Corporation, operate exclusively commercially, exercising discretionary judgments. The Agencies perform a range of functions concerning economic development and environmental improvement; they pursue these functions by means of an integrated entrepreneurial approach, promoting and responding to commercial opportunities on the basis of discretionary judgments, operating wherever possible in partnership with the private sector. These bodies' procedures are responsive to commercial considerations and it would inhibit their effectiveness to subject them to standards of administrative procedure appropriate to government departments or other regulatory agencies.

Civil Aviation Authority

The CAA is a nationalised industry. Its air navigation and air traffic control services are trading activities run on nationalised industry lines and in relation to these activities the CAA should be treated on the same basis as other nationalised industries. In addition the CAA does have regulatory activities but these are subject to scrutiny by the Council on Tribunals.

Post Office Users Consumer Council

Post Office Users Councils of Scotland and Wales

The functions of these bodies are similar to those of other nationalised industry consumer councils excluded from the Select Committee's list. They have no executive or administrative functions which directly affect citizens.

Monopolies and Mergers Commission

The MMC's function is to advise Ministers on matters within its terms of reference. It has no executive or administrative functions. Its findings are published in full and open to judicial review.

I have reflected on the Point of Order put to me after Prime Minister's Questions last Thursday.

The difficult task imposed on Mr Speaker is to balance the diverse and urgent claims of Members - Backbench and Frontbench and of nearly a dozen Parties.

In its wisdom, not for years, but for centuries, the House has advised its Speaker not to give reasons for the exercise of his discretion.

When Speakers have departed from this apparently cold discipline in answer to Points of Order (as I did on Thursday) they often find themselves on the spur of the moment stating what are not and cannot be rules, but must necessarily be instantaneous judgements.

It has been and is the fervent hope of successive Speakers that the sum total of their decisions will be accepted as fair and reasonable by the House which elected them to the Office of Speaker.

(Mr Speaker does not debate the exercise of his discretion)

25th June 1985



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Oddi wrth Ysgrifennydd Gwladol Cymru

The Rt Hon Nicholas Edwards MP

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From The Secretary of State for Wales

25th June 1985

**RESPONSE TO THE FOURTH REPORT FROM THE SELECT COMMITTEE ON THE
PARLIAMENTARY COMMISSIONER FOR ADMINISTRATION (PCA)**

Thank you for copying to me your letter of 23 May to Willie Whitelaw, to which you attached a draft response to the Select Committee Report on the PCA's recommendation for extension of the PCA's jurisdiction to non-departmental public bodies.

I agree with your view that there are no defensible grounds for resisting extension, and with the general way you propose to proceed, which appears to give us a firm grip over the basis for extension and its implementation. I feel I must, however, add the following observations in relation to two of the bodies for which I am responsible.

DEVELOPMENT BOARD FOR RURAL WALES

The position of the DBRW has similarities to that of New Town Development Corporations. It acts in place of a New Town Development Corporation in respect of Newtown, Powys. There is room therefore for a similar interaction between the PCA and the Commissioner for Local Administration (CLA) in their dealings with the DBRW to the split of jurisdiction which you envisage for New Town Development Corporations.

While plans have yet to be finalised, the expectation is that the housing stock at Newtown, Powys will transfer from the DBRW to the district council once development as a new town has reached the end of its course. By analogy, these functions would fall to the CLA.

In addition, the DBRW has a housing function outside Newtown, Powys. It constructs houses for key and incoming workers when the normal local provision is assessed to be insufficient to meet their needs. There are at

/present no arrangements ...

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present no arrangements for the very small number of these houses to transfer to local authority ownership and it is probable that they will remain with the DBRW even after transfer arrangements have been made for Newtown houses. Despite this, for consistency of approach, it would seem appropriate for the CLA to cover this housing function as well.

The other functions of the DBRW would then, subject to the normal constraints such as for cases involving commercial judgement, fall to the PCA.

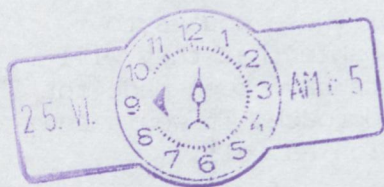
WELSH DEVELOPMENT AGENCY

The omission of the WDA from the list of those bodies to which the PCA's jurisdiction is to be extended may appear anomalous. If the PCA could be relied upon to interpret the PCA Act in a way which left the majority of functions (ie the commercial ones) outside his jurisdiction, I would favour inclusion of the WDA among those bodies to which jurisdiction might be extended. However, it seems that we cannot be guaranteed that the PCA will draw such a narrow interpretation of his remit. I therefore agree to it not being included in the list for extension. This may draw criticism of the response, but the WDA's investment function in particular must be related strictly to commercial judgement.

Finally, it seems to me that once you have obtained agreement to the draft response, thought will have to be given to the detail of how complaints are to be handled. Clearly these matters will raise more general issues about the relationship between central government and the NDPBs and will need careful study.

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

J. C.
N. W.



H/C Procedure: Perfection
PE7



PRIVY COUNCIL OFFICE
WHITEHALL, LONDON SW1A 2AT

20 June 1985

Dear Jerry

W 2/6

**RESPONSE TO THE FOURTH REPORT FROM THE SELECT COMMITTEE
ON THE PARLIAMENTARY COMMISSIONER FOR ADMINISTRATION**

Thank you for your letter of 23 May proposing to bring within PCA and CLA jurisdiction a number of non-departmental public bodies which do not have Crown status.

I see that Quintin Hailsham, Tom King and, subject to some redrafting, Patrick Jenkin are content, and understand that Michael Jopling, Keith Joseph, Norman Fowler and Nicholas Edwards are too. Peter Rees makes the point that resource implications will have to be absorbed within existing allocations. You will in addition need to take account of Leon Brittan's, Norman Tebbit's, Douglas Hurd's and Nicholas Ridley's objections to the inclusion of particular bodies - not least the Civil Aviation Authority and the Police Complaints Board and its northern Irish equivalent - and of George Younger's wish to notify the bodies concerned before any announcement is made. Subject to those provisos, you may take it that you have policy approval from H Committee for your proposed response to Select Committee's report. I am also content that you should say that the Government proposes to introduce legislation in due course; you will of course appreciate that this will have to be bid for in the normal way and no promise can be made about timing. We must accept the risk that Private Member legislation might be introduced meanwhile.

I am sending copies of this letter to the Prime Minister, the members of H Committee, other Ministers in charge of departments, the Minister without Portfolio, the Paymaster General and Sir Robert Armstrong.

[Handwritten signature]
[Handwritten signature]

The Rt Hon Lord Gowrie



NORTHERN IRELAND OFFICE
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LONDON SW1A 2AZ

SECRETARY OF STATE
FOR
NORTHERN IRELAND

The Rt Hon The Earl of Gowrie PC
Chancellor of the Duchy of Lancaster
Cabinet Office
Management and Personnel Office
Great George Street
LONDON
SW1P 3AL

NSM

19th June 1985

Dear Lord Gowrie,

RESPONSE TO THE FOURTH REPORT FROM THE SELECT COMMITTEE ON THE
PARLIAMENTARY COMMISSIONER FOR ADMINISTRATION

Thank you for sending me a copy of your letter of 23 May to
Willie Whitelaw. *see P46*

The jurisdiction of the Northern Ireland Parliamentary Commissioner
for Administration is already somewhat wider than that of the GB
Commissioner and I will in due course be considering the implications
for Northern Ireland of the decision to extend the PCA's jurisdiction
in GB.

As far as the Police Complaints Board for Northern Ireland is concerned,
I am content for it to be treated on the same basis as the Police
Complaints Authority. If it were to come within the remit of the
PCA I agree that as this is a reserved matter it would be more
appropriate for the Westminster rather than the Northern Ireland
PCA. But I note that in his letter of 11 June, Leon Brittan argues
that the Police Complaints Authority should remain outside the scope
of the PCA's jurisdiction. I agree with him, and would not want the
PCA to "second-guess" the substantive judgement of the new Police
Complaints Board in Northern Ireland.

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

Yours Sincerely
NDWan
Private Secretary

for DH
(Approved by the Secretary of
State and signed in his
absence in Belfast)

PARLIAMENT : H/C Procedure : Pt 7.



2 MARSHAM STREET
LONDON SW1P 3EB
01-212 3434

My ref:

Your ref:

16 June 1985

Dear Lord Gowrie

RESPONSE TO THE FOURTH REPORT FROM THE SELECT COMMITTEE ON THE
PARLIAMENTARY COMMISSIONER FOR ADMINISTRATION

Thank you for copying to me your letter of 23 May to Willie Whitelaw covering a draft Government response to the report of the Select Committee on the PCA about extending the PCA's jurisdiction to various non-Departmental Public Bodies.

I accept your view that on balance this extension is worth putting into effect. It must be our hope that it will not place undue burdens on the bodies concerned; their position will need to be kept under review. I note that your draft response does not mention any significant expansion of the PCA's staffing.

A number of NDPB's for which my Department is responsible are included in Appendix B to the draft response. I am content for these extensions to be made, and have no general comments on the terms of the response. I would however suggest a redrafting of paragraph 10 as in the Annex to this letter. No change of substance is involved in this text which I understand has been agreed at official level with the Scottish and Welsh Offices.

Copies of this letter go to Willie Whitelaw and the other recipients of your letter.

Yours sincerely

P. Jenkin

PATRICK JENKIN

*Approved by the Secretary of State
and signed in his absence.*

Lord Gowrie

PROPOSED REVISION OF PARAGRAPH 10 OF DRAFT GOVERNMENT RESPONSE

The Select Committee has proposed that all the functions of the Commission for the New Towns, New Town Development Corporations and Urban Development Corporations should be brought within the purview of the Commissions for Local Administration. The Government agrees that the functions of these bodies should come within the purview of an "ombudsman".

It would not, however, be appropriate for the local ombudsman to have jurisdiction where the Secretary of State is actively and directly involved in the functions of these particular bodies. For that reason, the Government considers that the PCA should assume general jurisdiction in respect of these bodies. There should, however, be exceptions to this principle in areas where the Secretary of State does not have an immediate locus and where the activities of the bodies are already akin to those discharged by local government. These areas are:

- (a) for New Town bodies, the housing functions of which will ultimately become the responsibility of district councils;
- (b) for Urban Development Corporations, the development control function which correspond closely to those discharged by local authorities.

The Government recognises that the precise definition of the proposed split jurisdiction between the PCA and CLAs and the resulting implications will require careful consideration. They intend to consult all the Commissioners before finalising arrangements.

H/C Procedure + Select

Committees: Parliament

~~PE6~~ 7



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The Lord Gowrie
Chancellor of the Duchy of Lancaster
Minister for the Arts
Cabinet Office
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NB

12 June 1985

Dear Guy,

Re 6

You wrote to the Lord President of the Council on 23 May setting out the Government's proposed response to the Select Committee's fourth report on the Parliamentary Commissioner for Administration (PCA). I am sorry not to have replied until now but we have been giving close consideration to the position of Industrial Training Boards in the light of your proposals.

I am pleased to see that the proposed response takes on board the reservations my officials expressed about the suggestion that PCA jurisdiction should be extended to cover the National Dock Labour Board, Remploy, Community Industry and the Wages Councils. I am quite sure that it is right to exclude these bodies from PCA jurisdiction and fully support the proposed response in that respect.

As you may know, we have also had some reservations about the extension of jurisdiction to Industrial Training Boards since they are self-financing and no public money is involved in their administration. They also have very adequate mechanisms for ensuring that grievances and complaints are properly dealt with. However, I recognise that their exclusion would be inconsistent with the overall criteria for extension of PCA jurisdiction which you have embodied in the proposed response. Given that the additional administrative burdens imposed by extension of jurisdiction are likely to be small in the case of the Boards, I am prepared to accept their proposed inclusion and can therefore agree to your overall proposals.

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

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PARLIAMENT: H/C Procedure: Pt 7.



DEPARTMENT OF TRADE AND INDUSTRY

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Secretary of State for Trade and Industry

12 June 1985

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The Chancellor of the Duchy of
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NBM
L

D. Gwy,

RESPONSE TO THE FOURTH REPORT FROM THE SELECT COMMITTEE
ON THE PARLIAMENTARY COMMISSIONER FOR ADMINISTRATION

with TP?

Further to my letter of 4 June it occurs to us that the criteria which you have suggested run the risk of catching the Securities and Investments Board and the Marketing of Investments Board.

2 As you will recall we announced in our White Paper on Financial Services in the United Kingdom last January a new and constitutionally novel system of regulation which can most simply be described as "self-regulation within a statutory framework". If Parliament agrees the necessary legislation to be introduced next Session and, if I so decide, I will delegate my regulatory powers to a private sector body or bodies which the City will set up. Our White Paper explains the rationale behind this in detail but it is crucial that regulation be speedy and flexible with significant practitioner involvement. I consider that, to allow the PCA jurisdiction over SIB and MIB, runs too great a risk of the City withdrawing its support for these bodies. In those circumstances we would be left with the alternative of regulation by a statutory commission or by my Department, both of which we have considered and rejected in favour of self-regulation within a statutory framework.

3 In order to achieve the exclusion of SIB and MIB from the PCA's jurisdiction I suggest that you add to the criteria in paragraph 3 of your draft Observations by the Government the requirement that PCA jurisdiction should be extended to non-Departmental public bodies set up by statute.

JH1CKO



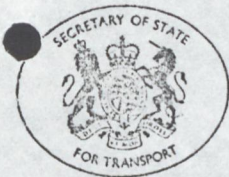
4 I am copying this letter to the Prime Minister, Members of H Committee, other Ministers in charge of Departments and Sir Robert Armstrong.

ef. ev.
Norman

NORMAN TEBBIT

JH1CKO

PARLIAMENT: H/C Procedure: Pt 7.



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Great George Street
LONDON SW1P 3AL

11 June 1985

N
n/b

Dear Sir

RESPONSE TO THE FOURTH REPORT FROM THE SELECT COMMITTEE ON
THE PARLIAMENTARY COMMISSIONER FOR ADMINISTRATION

Thank you for copying to me your letter of 23 May to
Willie Whitelaw.

see Pt 6

My Department's interest in this report largely turns on the response to be made in respect of the Civil Aviation Authority. I am quite sure that the Authority should not be brought within jurisdiction and that, if there is legislation on this question, we should strongly resist any attempt to bring this extension about.

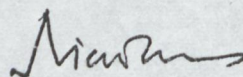
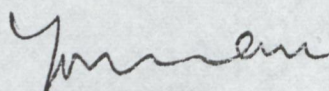
I am otherwise generally content with the line to be taken and the terms of the response. I have a point to make however on the inclusion of "General Lighthouse Authorities" in Appendix B of the response. This term embraces the Commissioners of Irish Lights and there are obvious practical difficulties to extending the PCA's jurisdiction to that body; I would therefore propose that the following entry should be substituted:

"The Trinity House of Deptford Strond (in its capacity
as a General Lighthouse Authority)

The Commissioners of Northern Lighthouses"

Finally, as regards the nature of legislation, if there were to be any question of these changes being made by a Private Member's Bill, we would need to keep a close and watchful eye on the position of the nationalised industries generally and the Civil Aviation Authority in particular.

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



NICHOLAS RIDLEY

PARLIAMENT : HIC Procedure;
Pt 7.



SCOTTISH OFFICE
WHITEHALL, LONDON SW1A 2AU

The Rt Hon Lord Gowrie
Chancellor of the Duchy of Lancaster
Cabinet Office
Great George Street
LONDON
SW1P 3AL

NSM
// June 1985

Dear Grey,

RESPONSE TO SELECT COMMITTEE ON PCA

Thank you for copying to me your letter of 23 May to Willie Whitelaw.

I am content with the principle of extending the PCA's remit to NDPB's with executive or administrative functions.

I am generally content with the lines of your draft response to the Select Committee's Report. I think however it would be imprudent to set out broad criteria, as in paragraph 3, which might bind the Government unduly in future consideration of particular NDPBs. I suggest that paragraph should end with the words "paragraph 2 above" so that each NDPB would be judged on its merits.

Further the draft response deals incorrectly with the Scottish Special Housing Association. We have already announced that the Association should, with the housing functions of the new towns, be brought within the remit of the Scottish Commissioner for Local Administration. The SSHA should therefore be deleted from the list of bodies to which it is proposed to extend PCA jurisdiction (Appendix B to the response), and added to Appendix C. The terms of the reference in Appendix C might be:-

'Scottish Special Housing Association

The Secretary of State for Scotland has already announced that the functions of this body are to be brought within the purview of the Commissioner for Local Administration in Scotland, together with the housing functions of the Scottish New Town Development Corporations.'

I should also point out that the Criminal Injuries Compensation Board is a Great Britain body for which I share responsibility with the Home Secretary (and meet 20% of the cost).

Finally, I suggest that it would be courteous for us to advise these bodies of what we intend shortly before making an announcement; and I seek your agreement to doing this for those bodies within my responsibility.

I am copying to recipients of your letter.

Yours very,

C. W. C.

PARLIAMENT: H/C Procedure: Pt 7.



was sent

~~changed~~



Treasury Chambers, Parliament Street, SW1P 3AG

Rt Hon Earl of Gowrie
Chancellor of the Duchy
of Lancaster
70 Whitehall
London SW1A 2AS

6 June 1985

Dear Guy

**RESPONSE TO THE FOURTH REPORT FROM THE SELECT COMMITTEE ON
THE PARLIAMENTARY COMMISSIONER FOR ADMINISTRATION**

Thank you for sending me a copy of your letter of 23 May to Willie Whitelaw. I have also seen Norman Tebbit's letter of 5 June.

I agree that we should support the recommendations of the Fourth Report in principle. The precise list of inclusions and exclusions is primarily a matter for colleagues responsible for the bodies concerned, and I have no comments at this stage. I am also content with your proposal not to have a firm exclusion on charities.

The resource implications of the proposals are obviously small (though I have seen no estimates for the PCA itself). I would expect them to be absorbed within existing allocations.

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

Peter Rees

PETER REES

6 JUN 1985



HOUSE OF LORDS,
LONDON SW1A 0PW

6 June 1985

N 57

My dear Grey.

RESPONSE TO THE FOURTH REPORT FROM THE SELECT COMMITTEE ON
THE PARLIAMENTARY COMMISSIONER FOR ADMINISTRATION

I have seen your letter of 23rd May and am content with the approach you recommend. I note that your proposals will not affect any of the bodies for which I am responsible.

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

Yrs:

From: THE RT. HON. LORD HAILSHAM
OF ST. MARYLEBONE, CH., -FRS, DCL.

The Right Honourable the
Earl of Gowrie
Chancellor of the Duchy of Lancaster
Management & Personnel Office
Great George Street
London
SW1P 3AL

7 JUN 1985

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DEPARTMENT OF TRADE AND INDUSTRY

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TELEPHONE DIRECT LINE 01-215
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Secretary of State for Trade and Industry

5 June 1985

Earl of Gowrie PC
Chancellor of the Duchy of Lancaster
Cabinet Office
Management and Personnel Office
Great George Street
LONDON
SW1P 3AL

D. Gray,

RESPONSE TO THE FOURTH REPORT FROM THE SELECT COMMITTEE ON THE
PARLIAMENTARY COMMISSIONER FOR ADMINISTRATION

Thank you for copying to me your letter of 23 May to Willie Whitelaw. I agree with your view that we should make a positive response and that we should set out coherent and comprehensible criteria for determining which bodies are to come within the PCA's remit. The criteria which you suggest in paragraph 3 of the draft response are acceptable to me, as is the inclusion of the Co-operative Development Agency and the English Tourist Board in the list of bodies.

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

ef. mem,
Norman

NORMAN TEBBIT

JH2ATD

Parliament; Procedure . Pt. 6 .

6 JUN 1985

