see letter of 22/4.
MAP has seen (NBPM).

Gov Mach

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Minister of State

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24 April 1981

Dear Mike,

NON-DEPARTMENTAL PUBLIC BODIES: A GUIDE FOR DEPARTMENTS

The attached annex was inadvertently omitted from Mr Hayhoe's minute of 22 April to the Prime Minister. I should be grateful if you would marry the two.

I am copying this letter to Private Secretaries to members of the Cabinet, Sir Robert Armstrong and Sir Derek Rayner.

Yours sincerely,

Adrian Carter

A A CARTER
Private Secretary

MAP(O/R) MS 23/4

NBPM

MAP 27/4

PRIME MINISTER

NON-DEPARTMENTAL PUBLIC BODIES: A GUIDE FOR DEPARTMENTS

Work has already begun on the revision of the draft Guide in the light of your comments set out in Mr Pattison's letter of 6 April. The annex to this minute describes in detail the way the job is being done.

2. A new introductory section will place the emphasis firmly on the control of existing bodies. The section on handling proposals for new bodies will be moved to the end of the Guide and the text as a whole will reinforce the Government's firm commitment to minimise the number of new quangos.

3. In revising the Guide, we must avoid any implication that firmer Ministerial control will restrict the proper independence of action of bodies like tribunals and the Boundaries Commission. In such cases this independence is the main or only justification for the body's continued existence. But the way the body discharges its functions - its effectiveness, efficiency and value for money - are of course legitimate areas for firm Ministerial scrutiny and supervision. The Guide was drafted with this in mind and I am checking that the message comes through clearly.

4. The Guide marks a major advance on the position we discovered on taking office. Control was weak and there was a wide diversity of practice unjustified by the differences between bodies. The main thrust now must be to ensure that all departments and bodies reach the standards of control and administration set out in the Guide.

5. Finally, I shall be considering how the Guide can be made crisper and more specific about methods of control. But there is limited scope for significant change here because - as Sir Leo Pliatzky recognised in his lessons for the future - there are such wide differences in the functions, size, finance and

organisation of the existing executive bodies, of which there are over 470. As Sir Leo found, qualifying words such as "normally", and general principles rather than specific prescriptions are often unavoidable if the guidance is to cover the whole field.

6. I will circulate a revised draft of the Guide as soon as possible. Meantime, if any colleagues who have not yet replied to my letter of 25 March have improvements to suggest, it would be very helpful if they would let me know quickly.

7. I am sending copies of this to Cabinet Ministers, Sir Robert Armstrong and Sir Derek Rayner.

BH.

BARNEY HAYHOE
22nd April 1981

ANNEX

PROPOSED ACTION ON THE PRIME MINISTER'S COMMENTS

PRIME MINISTER'S COMMENTS	PROPOSED ACTION
1. The Guide should be seen primarily as a means of getting existing practices right in respect of existing bodies. The introduction should make clear the Government's commitment to minimise the creation of new bodies. Too much emphasis on setting up new bodies (para 2 of No 10's letter).	A completely new introduction is required based on the PM's statements of 16 January and 3 December. The chapters on "handling of proposals to establish new bodies" and "miscellaneous guidance on setting up new bodies" should be moved to the end of the Guide and amalgamated. The tone of these chapters, and the Guide generally (eg para 98), will be reviewed inthe light of the PM's comment.
2. There is "a certain diffidence about the treatment of the management regime appropriate to existing non-departmental public bodies, especially but not only in the chapter dealing with the Review of NDPBs (paras 206-226)" - see para 3 of No 10's letter).	The section on periodic reviews will be revised. More generally, the Guide has to tread a tightrope between prescription and recognition of the wide variety of bodies we are dealing with. So, for example, paras 61, 75, 88, 90, 91, 99 and 123 clearly state the duty of departments and bodies to establish and operate effective financial and management controls systems. But the Guide has to draw back from specifying rigid and uniform systems (as Sir Leo Pliatzky recognised in paras 71-73 of his report) because we are dealing with over 470 widely differing executive quangos.
3. "It is important to avoid giving the impression that NDPBs are virtually untouchable once established (see, for example, paras 126 and 234) and that control exercised by and on behalf of Ministers is a matter of form rather than substance (see for example paras 207 and 215) - see para 3 of No 10's letter.	We will vet the Guide carefully with this in mind. Para 126 deals with staff allowances in bodies which are not controlled. Some of these bodies receive no Government finance at all - such as the Scottish Certificate of Education Board or Trinity House. In cases such as these, it is necessary only to ensure that allowances (eg subsistence) are not unacceptably out of line with general standards in the public service. Para 234: this para deals with provision for winding up bodies automatically after a specified period or after specified tasks are completed. It is based on one of Sir Leo Pliatzky's lessons forthe future (para 77 of his report). A reference to the programme of periodic reviews (paras 206 et seq) might usefully be added.

PRIME MINISTER'S COMMENTS	PROPOSED ACTION
3. (continued)	Para 207 - merely makes the point that the way that, say, the Social Services Secretary monitors the Medical Practices Committee is bound to be different from the approach the Employment Secretary adopts to the MSC. Total deletion of the para is proposed because it gives a false impression, as the PM's letter indicates, and it adds nothing of substance. Para 215 - redraft required to avoid false impression.
4. "The text should acknowledge more clearly than it does now that NDPBs exist to carry out functions on behalf of Ministers, and therefore on behalf of the taxpayers. Public bodies are funded by the public and Ministers are entitled to insist that the management regime they adopt works efficiently as well as looking good on paper". (para 4(a))	The substance of this comment could be incorporated in the proposed new introductory section. As the comment at item 2 above says, the Guide clearly states the need for departments to ensure that bodies operate effective and efficient management systems. But we must be careful to maintain the balance. For example, tribunals and the Boundary Commission must be independent in what they do - in that sense, they do not act on behalf of Ministers - but the Government must ensure that the way they do the work is effective and is not wasteful.
5. "An important part of this is to be reasonably specific about methods as well as policy objectives. In general, "broad" specifications are to be avoided, as is the implication that the Minister's requirements may be mitigated in discussing with NDPB Chairmen (paras 45, 62 and 149)" - see para 4(b) of No 10's letter.	The Guide gives specific guidance on such matters as control of expenditure, manpower, audit and so on. Examples are quoted under item 2 above. But there are over 470 executive bodies, ranging from the HSE to the Arts Council, from the CAA to the Police Complaints Board, and there are strict limits, therefore, on the extent to which the Guide can prescribe specific methods which would be generally applicable. Para 45 is expressly designed to ensure that clear objectives are established. It is important that these should be discussed with Chairmen and agreed with them so that there can be no subsequent uncertainty or dispute about what the body is required to do.

PRIME MINISTER'S COMMENTS	PROPOSED ACTION
5. (continued)	Para 62: this paragraph says that it may sometimes be preferable to provide for controls and safeguards by means other than legislation (eg as conditions of grant). Unforeseen circumstances can arise or requirements change over time. The legislative programme is heavily congested and it would often be quite wrong to delay the introduction of a new or different control until an opportunity arose to include it in a Bill. Para 149: is based on one of Sir Leo Pliatzky's "lessons for the future" and quotes in part (without attribution) from para 71 of his report. Minor amendments to the last sentence of para 149 may be desirable to avoid any implication that there is a negotation between the Accounting Officer and the Chief Officer about their respective responsibilities.
6. "Such phrases as "general answerability to Parliament" (para 61) have produced much confusion about the respective responsibilities of Ministers and NDPBs in the past. The tendency of the draft should be towards firmer Ministerial supervision in relation to both new and existing NDPBs. In defining responsibilities, notably in the chapter on the Operational Framework (paras 60-71), the draft might argue that an effective financial regime and a sensible working relationship (para 71) depend upon a satisfactory expression of the Minister's power to approve the policies and operational methods to be adopted by the NDPB; to stipulate the respective responsibilities of himself, his Department and the NDPB in specific as well as general matters; and to assess its performance". (para 4(c)).	Ministers are answerable in detail for the work of their departments. They do not have the same degree of responsibility for the day to day actions of NDPBs. Indeed, often the functions are statutorily vested in the body, not the Minister. To distinguish between Ministers' answerability for their departments from that for the NDPBs, the Guide uses the expression "general answerability". As para 81 of the Pliatzky Report says, within the framework of the lessons he suggests, "the function of securing efficiency and economy must rest with the organisation's own management, while the main responsibility for oversight of its performance lies with its sponsoring Minister and Department". The Guide, basing itself on Sir Leo's lessons for the future, sets out a framework for firmer Ministerial supervision of NDPBs. Item 2 above gives examples.

PRIME MINISTER'S COMMENTS	PROPOSED ACTION
6. (continued)	Paragraphs 60 and 61 of the Guide will be looked at again in the light of Mr Pattison's letter. Powers of direction are important (as para 71 of the Guide says) but powers of specific direction are inappropriate where the body must be seen to be truly independent (eg the Boundary Commission, tribunals). And as para 74 of the Pliatzky Report says, "suitable powers of direction are an appropriate safeguard, though they are no substitute for an effective financial regime and a sensible working relationship".
7. "The definition of circumstances in which financial control should be more or less detailed (paras 71, 77 and 121) should be clearer. The "50 per cent rule", as drafted, does not seem fine enough". (para4(d)(i)).	This part of the Guide is derived expressly from Sir Leo Pliatzky's recommendation (para 71 of his Report) and "Government Accounting". But as paragraph 77 of the Guide recognises, the circumstances of bodies vary so much that rigid dividing lines cannot be drawn. Departments must use their judgement, therefore, to decide whether detailed control is required where the body relies on Government funds for less than 50% of its finance.
8. "Whereas the annual scrutiny of a NDPB's financial systems seems almost oppressively frequent (para 84) - if this means analysis rather than the collection of impressions - the reference to "periodic reviews" of objectives, finance and performance (paras 84 and 212-217) is too tentative. ...the suggestion that most reviews will be cursory (para 215) does not seem appropriate. A more detailed review seems more likely to be suited to the case (para 216). But it would be helpful if more guidance were given about review methods which should be adopted than is now offered. (para 216)" - see para 4(d)(ii) of No 10's letter.	We will reconsider <u>para 84</u> with the Treasury. <u>Para 215</u> obviously gives the wrong impression and needs re-drafting. The chapter on periodic reviews is built upon para 78 of the Pliatzky Report. Fuller guidance on the subject was circulated to Ministers in Mr Channon's letter of 17 December (copied to the PM). The Guide does not, however, repeat in full the note circulated by Mr Channon because to do so would invite demands for the publication of the programme of reviews, the reports and the annual submission to the Prime Minister.

PRIME MINISTER'S COMMENTS	PROPOSED ACTION
9."The system of financial management operated by NDPBs should provide for the evaluation of new policies and of the implementation of existing policies. This may be intended to be covered by references to "an appropriate system of financial control" but should be foreshadowed in the text and dealt with more fully in Appendix 6. In this context, the reference to the responsibility of the Accounting Officer in the sponsor department to satisfy himself that his own controls are "sufficient to safeguard public funds" (para 146) seems inadequate in comparison with a possible reference to ensuring value for money" (para 4(e)).	We will consider with the Treasury - whose primary concern this is - how best these points should be reflected. Paras 90 and 91 of the Guide are relevant. Para 146 might be expanded to incorporate the substance of points from those earlier paragraphs. Paragraph 146, itself, quotes the revised Accounting Officer Memorandum recently circulated to Ministers.