

PRIME MINISTER

THE EXPLOITATION OF RESEARCH COUNCIL FUNDED INVENTIONS

1. You asked me to reconsider my proposals for the arrangements to succeed the NRDC monopoly, to go further in the direction of devolving rights in research to the individual researcher; Mr Turnbull's letter to Miss Hodgkinson on 10 January records this. I have done so; and now resubmit the revised policy statement following, for your approval. Subject to your agreement I would aim to publish this shortly after Parliament returns from the Easter recess.

2. I find that at least two or three universities already have some arrangements on the lines you envisage. Because Council grants relate contractually to a university, not to an individual researcher, the extension to the researcher will need to be pursued through the university and within the framework of its general arrangements. Informal consultations by my officials confirm that universities are likely to welcome this extension.

3. There are two matters of accountability for which we must give clear and unequivocal policy cover. First, universities have been somewhat uncertain about using UGC money for activities to promote exploitation and liaison with industry, such as the appointment of liaison staff or the purchase of expertise. Paragraph 10 of my statement is intended to reassure them that we regard such infrastructure expenditure as consonant with the role of a university and an acceptable use of UGC funds.

4. Secondly, in moving from a monopoly situation to one of probably great variety and widely distributed responsibilities there may be greater risk than under the old arrangements that some good discoveries may be lost or under-exploited. We just cannot be certain. I believe that as things develop we shall get more and better exploitation through greater opportunity and motivation. But we owe it to the research constituency to recognise this risk, and to affirm our policy none the less robustly, against possible PAC criticism. I seek to do this in paragraph 13.



5. You will also note that I propose that the NRDC monopoly should end from the date of my statement, to restore some of the momentum and enthusiasm for this change. This may mean we have a somewhat untidy few months while universities are developing their ideas and submitting their arrangements for approval - but I think the risk worthwhile.

6. Peter Brooke has pointed out that the new freedom for universities will be a golden opportunity for existing private institutions to move into this area, or for a new one to be established, with national benefit. I therefore intend to make the announcement widely known, especially to City institutions; and thought it right to copy this submission to the Chancellor of the Exchequer and the Governor of the Bank of England; also to Norman Tebbit, Peter Rees, Sir Robert Armstrong and Sir Robin Nicholson.

KJ.

29 March 1985



POLICY STATEMENT BY THE SECRETARY OF STATE FOR EDUCATION AND  
SCIENCE

**THE EXPLOITATION OF RESEARCH COUNCIL FUNDED INVENTIONS**

1. The Government wants to encourage the fullest possible industrial and commercial application of UK scientific and technological discoveries for the maximum benefit of the UK economy. In 1985-86 we shall spend, through the Grants-in-Aid to the five Research Councils, some £560M on civil scientific research; and, in recognition of the long term importance of research for the country, the Government's recently published expenditure plans for the years 1985-86 to 1987-88 make additional provision, compared with earlier plans, of some £18M in all over the three years for the enhancement of equipment in carefully selected university centres of high quality research and some £27M for the Science Budget to assist the Research Councils in restructuring and redeployment and to fund more research grants of highest quality.

2. Following the Prime Minister's announcement of the ending of the right of first refusal held by the British Technology Group for the exploitation of Government-funded research, with the aim of enlarging opportunities for exploitation especially for scientists who want to exploit their own work, the Department has had extensive discussions with the Councils and others concerned. I am now able to announce the main features of the new arrangements.

3. The Government's overall aims in the new arrangements are to increase the exploitation of research funded by the Councils, for the maximum benefit of the UK economy; to strengthen and improve exploitation, through freer competition between exploiting agencies in the public and private sectors and in other ways; therefore, to place responsibility and initiative for exploitation as fully as possible on researchers, their institutions and the Councils, consistent with their legal responsibilities; and to increase the incentive for researchers and their establishments by enabling them and the work that they do to benefit



from increased exploitation. We want researchers to be alert to the possibilities for exploitation of their work; to see and share in the benefits of exploitation both for their own establishments and more widely in the national interest; to have access to arrangements for exploitation as simple and effective as practicable; and, where it is appropriate and they wish to do so, to have the opportunity to pursue exploitation themselves.

4. This statement mainly concerns universities. I envisage that the same principles should apply for local authority institutions of higher education, and appropriate parallel arrangements be developed in due course.

5. For the research they support in universities the Councils - who between them are currently funding some 6,900 research projects of total value of £360M - would, I understand, wish the rights and responsibilities for exploitation to rest with the institution in receipt of grant, where the university wishes to hold them, and where the Councils are satisfied that adequate arrangements and procedures exist for identifying and pursuing potentially exploitable results. On behalf of these Councils and with their agreement, the Chairman of the SERC will shortly be writing to Vice-Chancellors to propose this transfer and to invite them to state their university's wishes.

6. It will be open to universities to propose what arrangements best suit their circumstances. In considering these I hope universities will seek to give the fullest opportunity and scope for researchers themselves, where they wish to do so, to assume responsibility for exploiting their own findings and ideas, with commensurate share in the benefits. I envisage that the opportunity to exploit would thus in the first place rest with the researcher, on the understanding that he or she would take active steps to exploit the ideas, in ways consistent with the Government's policy aims and within the framework of the university's agreed arrangements. These arrangements will need to have regard to the university's terms and conditions of service; and, because public funds are involved, the university should share in royalties and provision should be made for periodic reporting. I hope that universities will encourage researchers to exploit discoveries themselves and will provide guidance



and help for those who wish to do so. Where a researcher nevertheless chose not to take on the rights and responsibilities for the exploitation of his discoveries, these would revert to the university.

7. Whether the discovery is exploited by the university or by the researcher it would be open to them to retain the rights themselves, to set up a limited company for the purpose, or to negotiate terms for transfer of the rights and responsibilities for exploitation to intermediaries such as private sector organisations or to the BTG. Or they may choose to enter into direct agreements with industrial and commercial companies for the exploitation of individual discoveries, seeking such professional or other services as they need; or conclude agreements with the private sector intermediaries to undertake this on their behalf.

8. The Government does not wish to prescribe the means of exploitation; but it will want to be satisfied that there are considered arrangements governing exploitation by the university or by individual researchers, to safeguard the public interest in the monies involved while maximising the possibility that good inventions will be identified, assessed, protected and exploited.

9. Universities will be invited to submit an account of their proposed arrangements for the exploitation of inventions to the SERC which will arrange for them to be considered in consultation with the other Councils, the CVCP, the UGC and with the Department of Education and Science, the Department of Trade and Industry, and HM Treasury. When arrangements are agreed and in place Councils would thereafter regard the university as fully responsible; and would wish to receive a brief annual report from each institution on the working of the arrangements in respect of their grants and contracts, including information on income earned. Any proposed major changes in the agreed arrangements will be subject to the same process of consideration and approval. I shall also be asking the Councils, in conjunction with other interested bodies, generally to review the overall arrangements when sufficient experience has been gained of their



operation, perhaps after three years.

10. It would be for the university or the researcher to negotiate exploitation terms. Universities will be able to retain their share of royalties and receipts in full without loss of general or specific grants. I hope that they will see fit to use them to strengthen and improve their research capability, its further exploitation, and related infrastructure. Where a university chooses to establish such necessary infrastructure, the Government would regard related expenditure as a proper use of an institution's resources, in recognition of the role of universities and other institutions of higher education in collaborating with industry and promoting exploitation.

11. I am asking each Council to amend its conditions of grant to accommodate the new arrangements; and am inviting them to consider the scope for developing their own policies for exploitation of inventions originating in their own Units and Institutes on similar lines, so as to provide the maximum involvement of researchers and their establishments where appropriate, having regard to Councils' financial and legal responsibilities and to the efficient use of a Council's experience and expertise. The present delegated authority controls governing Councils' involvement in commercial enterprises will be phased out as soon as each Council is ready to take on its responsibilities fully. They will be able to retain earnings from exploitation of their in-house inventions without loss of Grant-in-Aid. When sufficient experience has been gained the Department will wish to review the workings of the new arrangements with the Councils.

12. The intention of these changes is to benefit the UK; and it is important that the exploitation of our scientific and technological discoveries should whenever possible be done by UK companies. This aim will be borne in mind when considering proposals from universities for the new arrangements. There may be circumstances where a foreign company or a subsidiary of such a company is the best choice, whether as an intermediary or for the negotiated transfer of rights. Where a university



or researcher is considering using such a company or subsidiary for all of their discoveries, or all discoveries in a particular discipline or field, the university's arrangements should provide for the Department of Trade and Industry to be consulted at an early stage. The Department of Trade and Industry will also be ready to advise in particular cases and I hope that universities and researchers will consult them freely. The annual reports which universities make should record any agreement for exploitation made with an overseas company or a subsidiary.

13. There is a nice balance to be struck between the free flow of information on which the health of science so critically depends and the need to protect new inventions if they are to be fully exploited to the benefit of the UK. A balance is also required between the freedom and motivation of the researcher to pursue exploitation, the efficient use of negotiating and other commercial skills to secure the best terms, and the legal responsibilities of Councils, universities and their employees. In seeking to give the individual researcher greater scope and opportunity to exploit their inventions there is a possibility that in particular instances exploitation will be less than optimal. But the Government believes that it is right to incur this risk to secure the gains that will come from giving researchers and their institutions more responsibility and more incentive. It is confident that the scientific community, through consultation between the Councils and the universities, will be able to work out satisfactory arrangements that will meet the Government's aims.

14. The new arrangements will take effect from today and will apply to all discoveries made hereafter whether funded by Councils' current or future grants and contracts. There will necessarily be a transitional period, which I hope will last no more than six months, while universities are considering their arrangements and agreeing them with the Councils as described above. The Research Councils have agreed that, during this time, a university with a proposal for exploitation should in the first instance consult the Council responsible for the grant; Councils will be informing their grant holders accordingly.



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FROM PETER LAISTER  
CHAIRMAN & CHIEF EXECUTIVE

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28th March, 1985.

The Rt. Hon. Margaret Thatcher, PC, MP,  
10 Downing Street,  
LONDON, S.W.1.

*Dear Prime Minister,*

I was extremely interested to receive your letter of March 19th and to read of the new initiative being introduced by the Government to increase the output of engineering and technology graduates. This company would certainly wish to play its part in supporting this very essential programme.

I am therefore looking forward to attending the meeting on Tuesday, May 21st, and your office was duly advised.

*Yours sincerely*

*P. Laister*

PL/JSO.