



Foreign and Commonwealth Office

London SW1A 2AH

15 May 1986

Dear Claire,

Strasbourg - Proofing

Thank you for your letter of 1 May, enclosing a draft Private Secretary letter from No 10 to accompany the proposed guidance note from the Cabinet Office.

FCO Legal Advisers have been in touch with Richard Gardiner (Law Officers' Department). They have agreed a redraft of the Private Secretary letter (copy enclosed) and some amendments to the guidance notice. These are:

Paragraph 1, line 1 - delete "signatory of" and substitute "party to";

Paragraph 4 - expand as follows:

"Settlement of Strasbourg Cases

4. Where applications to Strasbourg have been referred to the Government and there is a serious risk of an adverse finding by the Commission or Court, Departments should also consider the possibility of friendly settlement if this seems likely to offer a less damaging outcome. The Convention expressly provides for settlement to be considered after the Commission's decision on admissibility, but cases can also be terminated on the basis of a friendly settlement before or after that stage, including during proceedings before the Court."

I am copying this letter and enclosure to the recipients of yours.

Yours Sincerely,  
Colin Budd

(C R Budd)  
Private Secretary

Ms C Pelham  
Home Office



DRAFT: minute/letter/teleletter/despatch/note

TYPE: Draft/Final 1+

FROM: PS to PM

Reference

DEPARTMENT:

TEL. NO:

SECURITY CLASSIFICATION

TO: To accompany Cabinet Office guidance on Strasbourg proofing

Your Reference

- Top Secret
- Secret
- Confidential
- Restricted
- Unclassified

Copies to:

PRIVACY MARKING

SUBJECT: STRASBOURG - PROOFING

.....In Confidence

Since the UK is a party to the European <sup>Convention</sup> ~~Court~~ of Human Rights it is necessary to ensure so far as possible that any proposed domestic measures affecting our law, procedures, and practices, should be compatible with our obligations under that Convention. Ministers have decided that the best way of securing this is to set up a routine procedure under which new proposals, whether legislative or administrative, which might have implications for human rights are considered from the point of view of their compatibility with our ECHR obligations in the light of the case law of the Commission and Court of Human Rights.

CAVEAT.....

The attached guidance from the Cabinet Office sets out the procedure to be followed by Departments when first considering proposals, and later when submitting any measure for collective Ministerial approval, where these proposals might have a bearing on human rights. It also stresses the desirability of making more use of the opportunities for friendly settlement of cases brought against the Government in Strasbourg where

Enclosures—flag(s).....

/there



there is serious risk of an adverse finding by the Commission or Court; and that they should consider whether action is needed on existing measures where there is a danger of an adverse finding in Strasbourg which will affect them.

It is recognised that one cannot predict with complete confidence how the Convention would be interpreted in relation to a given measure, and that there are likely to be cases where policy needs outweigh the risk of an adverse finding. But Ministers attach particular importance to the full recognition within Whitehall of the need for these procedures, and would be grateful if the attached circular of guidance could be brought to the attention of all policy and legal branches of your Department.



Euro. Pol: Human Rights.  
Nov '80

