Rare Access

A Report on Problems of Access to Information

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ACKNOWLEDGEMENT

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The Scottish Consumer Council also acknowledges the help given by many individuals who provided information and suggested lines of enquiry and by many public authorities which responded to requests for information.

NOTE

The Scottish Consumer Council (a committee of the National Consumer Council) was established by Government in 1975 to identify and represent the interests of Scottish Consumers and particularly the disadvantaged. The SCC keeps a watching brief on the goods and services provided by central and local government, and other public bodies as well as by commercial firms and the professions. Research is carried out into areas of consumer concern, and the SCC then presses for whatever changes are required in the law and in the provision of services to meet the needs of the consumers.
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Extract from a letter to *The Scotsman* dated 31 August 1979 by Mrs. Joan Macintosh, then Chairman of the Scottish Consumer Council:

"If I had to identify one single subject as against all others with which the Scottish Consumer Council might concern itself it would be access to information. 'Ignorance' and 'naivety' are words constantly cast by those who play the tune against those who pay the piper; but ignorance and naivety are born of lack of information. Every area of consumer frustration could be illuminated by a positive policy of providing the facts on which consumers/taxpayers/ratepayers can base sensible decisions."
Ignorance is not bliss . . .

During a period of economic recession when more and more people are beset with problems and desperately need to have access to all sorts of information which might help them through difficult times, the Scottish Consumer Council is pleased to publish this report.

Although it is basically about the problems of access to information, it throws up conclusions which, if they should be implemented, would make the acquisition of information a much simpler process. The most important conclusion costs nothing: a change in attitude by the citizen to expect information from the public authorities and by the authorities to provide such information on request.

The project lasted for two years and the research concentrated upon the public sector rather than the areas of commerce and industry. As well as publishing the report, the Scottish Consumer Council intend to print an information leaflet which will advise individuals how to go about gaining access to information. This leaflet, along with the use which will be made of the report in attempting to open up the channels of information from public authorities, should go some way in helping consumers acquire the information they need.

Esme Walker
Chairman

March 1982
Summary

1. The Scottish Consumer Council has been engaged in an examination of problems of access to information in Scotland. The main purposes of the project included establishing the facts about the kind of problems faced by consumers in seeking information, comparing the policies of bodies from whom information is sought and examining the reasons for the withholding of information.

2. Some of the early work was done by a simple approach to organisations who needed to get information from an associated organisation to fulfil their function e.g. Schools Councils in relation to Education Authorities, Community Councils in relation to Local Authorities, Local Health Councils in relation to Regional Health Authorities. Some leads came from individuals and one helpful case arose from pursuing an article on a Legal Aid problem in the Scotsman but at an early stage it became clear that the information most readily available came from professionals involved either directly or on behalf of their clients and this led into the role of legislation.

3. The project has not expressly ignored problems of access to information in the hands of commerce and industry and other private organisations but it has concentrated on the public sector. Among matters which have been looked at are:

(i) The working of the Croham Directive in Scotland. (The document which became known as the Croham Directive is a letter dated 6 July 1977 addressed by the then Head of the Home Civil Service to Heads of Departments asking them to give effect to the Government’s policy in future to publish as much as possible of the factual and analytical material used as the background to major policy studies.) The SCC has sought to use it to get information such as the responses to consultative documents for the purposes of (iii) below and has also tried to encourage the regular disclosure of the kind of information which Departments are releasing in terms of the Directive, for SCC is of the opinion that few people in Scotland know what material is available and how to get it.

(ii) The problem of how to achieve open consultation. The SCC is pursuing a line that consultation on policy requires the widest possible disclosure of views and that people invited to respond to a consultative document should have the opportunity to see and evaluate the submissions of the other parties who similarly respond.

(iii) Information for Scottish Ratepayers. The SCC has been pressing the Secretary of State and the Convention of Scottish Local Authorities to provide a Scottish equivalent to the Codes of Practice already in operation in England and Wales for the disclosure of financial and other information by local authorities to their ratepayers, particularly since a Scottish ratepayer’s rights to information about the annual accounts of a local authority are less detailed than those of a ratepayer in England and Wales.
The role of legislation. A considerable effort has been put into examining Scottish legislation dealing with the provision or restriction of information and with consultation with a view to seeking opportunities to extend enabling legislation and to ease restrictive legislation.

The experience of specific privileged groups, such as Members of Parliament and leaders of Scottish Local Authorities, in getting access to information.

The problems of those with information to give both in respect of responding to requests for access and in conveying information which they wish to get across, with some consideration of the effect on these problems of the new information technology.

4. The Scottish Consumer Council supports the principle of a Freedom of Information Act and that citizens of the UK should have a right to information. This project was however based on an assumption that such legislation was unlikely to be enacted in the near future, but that nevertheless improvements could be made in consumer access to information. The report therefore makes a number of recommendations for changes in attitudes, changes in administrative practices and changes in the law. These are:

Changes in Attitudes

(i) The individual citizen should be encouraged to expect and require information from public authorities, and such authorities should see the provision of information on request and indeed the advertising of the availability of information as part of their function, and they should state precise reasons when declining to give information.

Changes in Administrative Practice

(ii) The Scottish Office be asked to make available any background papers presented to Ministers when new policy is being determined and in the absence of such background papers a factual and analytical paper be drawn up and made available.

(iii) The Scottish Office be asked to adopt a policy of placing on a public file the submissions of those bodies who have commented on a Scottish Office consultative document; and that a statement of this policy is, as a matter of course, contained in every invitation to comment upon a consultative document.

(iv) The Scottish Office and COSLA should expedite the Scottish equivalent of the two Codes of Practice (Explaining the Local Authority Rate Bill and Local Authority Annual Accounts) under which a range of information is provided annually for their ratepayers by local authorities in England and Wales.

(v) Every Scottish Local Authority should provide for its Community Councils (a) Agendas and all of the supporting papers prior to meetings of the Local Authority and of its Committees and (b) Minutes of the decisions taken at these meetings.

Changes in the Law

(vi) The offence of disclosure of information obtained during a visit to land or premises by an Inspector of a public authority should be restricted to the disclosure, other than in the performance of his duty, of information with regard to any manufacturing process or trade secret.
(vii) There should be legislation to permit local authority inspectorates such as Consumer Protection Departments and Environmental Health Departments to maintain registers of complaints and registers of tests of goods and materials and to make these registers available for inspection on request.

(viii) The offence of disclosure without consent of information provided under compulsion by an individual or firm to a public authority should be limited by

(a) excluding from the restriction on disclosure certain basic information of public interest, and

(b) giving to a Minister or to an appropriate regulatory body discretion to determine that information may be disclosed in the public interest.
CHAPTER ONE
INTRODUCTION

The Scottish Consumer Council in 1979 appointed an Access to Information Officer with the main task of advising and assisting consumers in Scotland who find themselves disadvantaged by the unnecessary withholding of information. In so doing the Council expressed the hope that “the strength of this project will be in showing by example how greater freedom of information can work in the interests of both consumer and society at large”.

The Scottish Consumer Council is committed to support a Freedom of Information Act in this country; an Act which would promise by law a right to the citizen to have access to all information which was not by law specifically excluded. Such legislation exists in other countries. In particular the legislation in the USA and Sweden has been considered as showing the way which would be appropriate for this country. It appeared in 1979 that such legislation might be passed by the United Kingdom Parliament when the Bill presented by Mr. Clement Freud M.P. was going through the parliamentary process. That Bill was however not passed and the later attempts to bring forward a similar measure have been summarily rejected.

The present project in these circumstances is trying to show ways of making, other than by a general Freedom of Information Act, more information available to the citizen; to point the way to achieve small advances in a number of circumstances rather than the one great leap to a Freedom of Information Act; and to do so in ways which allow example as well as legislative authority to play a part.

It was the intention to look at the problems of access to information over the whole range of organisations in Scotland—Government Departments, Nationalised Industries, the National Health Service, Local Government, Private Industry and Commerce and other statutory and voluntary bodies. That has not been possible. The weight of effort has been confined to the actions of public authorities. There remains a task to be done in looking at the problems of access to information in the private sector.

And within the public sector while consideration is given to various problems the main concern is with the consumer’s need to obtain information about the making of decisions.

The Scottish Consumer Council sees this question in very general terms. Knowledge is power and lack of knowledge restricts the exercise of power by the individual citizen. Only if he is fully informed is it possible for the citizen to take the right decision himself or to judge whether or not others have taken the right decision on his behalf. And this is not simply a question of the individual’s right to know. Openness brings benefits in its train both by encouraging the participation of the citizen in public affairs and by improving the efficiency of operations which are not concealed. There are difficulties in obtaining this freedom of information. It is a fact of human nature that people value the
privilege of being party to information which is not available to others. And it is more comfortable to work behind a screen which prevents the outsider from seeing what is done and judging its success or failure.

None of the information with which this report is concerned is secret in the sense that it involves the security of the state or the privacy of individuals. We are concerned solely with information that is available for release but is not released and we consider some of the reasons why it is not made available to inquirers as readily as it ought to be.
CHAPTER TWO

GETTING AND GIVING INFORMATION

(A) The problems of those seeking information

The problems of those seeking information start with the initial inhibitions of people not knowing what information is available, where to go for it and how to go about getting it. Individuals and organisations who do not have experience of the working of large public authorities may well have little idea of what information can be obtained; and until that is known it is not easy to frame the question in such a way as to ensure that it elicits the right answer. And that still leaves the question of exactly to what part or level of the organisation should the request for information be sent.

The most obvious sources of help are the CAB, local authority information centres and independent information centres but, although such centres were not reduced in number in 1980 as happened in that period of local authority retrenchment in England and Wales, they remain too few in number and too unequally distributed to meet the needs of those in Scotland who require information and advice.

Even if the original difficulties are with help overcome that does not mean that the information sought will be forthcoming. Information may be refused because the law requires it to be withheld, or because it is necessary to protect someone's privacy, or because it is not the policy or practice to disclose such information, or because it is not available except at unreasonable cost.

And these problems do not apply only to the person who is not very knowledgeable about the working of public authorities.

Scottish M.P.’s were asked if they were satisfied with their access to information when acting for their own purposes or on behalf of a constituent. Some were dissatisfied but most felt that when they asked for information they were given it. Several of these members however expressed some reservations about the position. e.g. Donald Dewar, M.P., who observed:

"If my letter is direct to the Minister and raises more general political questions then clearly I do get and would expect to get an answer to some extent tailored to the Government’s point of view. For all that the basic facts are usually revealed and an approach of this kind very often produces information which is not otherwise available . . . ."

Norman Buchan, M.P., wrote to say:

"The real problem I think is often our ignorance as to what information we should really be going after and the secrecy of some of our institutions prevents the inquisition from even getting underway because of that ignorance."

Harry Ewing, M.P., also wrote, observing:

"As a last resort people do approach their MPs . . . in nearly all cases the information could and should have been given direct to the individual on request."

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Donald Stewart, M.P., wrote:

"It is certainly the case that the lack of information to which the public is entitled is a serious failure of democracy insofar as it prevents decisions being made on the basis of available information. I have found this to be the case even for a Member of Parliament . . . ."

Albert McQuarrie, M.P., wrote:

"This is something which at present is receiving the attention of a number of Members of Parliament, including myself, as we are not satisfied that certain information which is not confidential is available to organisations and members of the public."

Robert Maclean, M.P., wrote:

"I must say that I am frequently approached by members of the public seeking information, both from public authorities and from private and commercial concerns . . . . My general experience is that Members of Parliament are able to open doors which are frequently closed to the public at large."

(B) The policies of those with information to give

Most organisations of any size, whether like a nationalised industry they supply one product to those who choose to buy it or like the Scottish Office they control a whole range of services for the general body of citizens, have policies for giving information to those for whom they provide services. Such policies include (a) putting across information which the organisation wishes its consumers to have and (b) responding to requests for information from its consumers. Often those who provide information for an organisation also provide its public relations. These duties are not necessarily incompatible but they do affect the way in which information is given. The Scottish Information Office for example provides information in various forms about legislation passing through parliament. In the case of a recent Scottish Act, the Tenants Rights (Scotland) Act 1980, it has provided a great deal of information about that part of the Act which enables a tenant to buy his council house which is a policy which the Government wishes to see succeed. It has given almost no information about other parts of the Act such as Public Sector tenants' security of tenure and right to a written lease, the requirement that public Housing Authorities must publish their rules for the admission to any housing list, and the new provision in the Private Sector for short tenancies. Again Strathclyde Regional Council in the Spring 1981 issue of its Report to Ratepayers presents the cuts in grant which the Government has imposed upon the Regional Council in an explanation and justification of the Council's opposition to the Government decision.

Whether or not to provide information may therefore be determined by the organisation's own view of the importance of the information to itself or of the importance of the information to the consumer. It may equally be decided by the nature of the rights or obligations of the particular matter. For example, a new law on public authority housing may be thought to require a detailed leaflet of explanation because of the importance and widespread effect of the legislation which incorporates rights and obligations between a consumer and a public authority. A new law on divorce may be thought not to need the same kind of provision because it will affect fewer people and the rights and obligations are between individuals. The Scottish Office also takes the view
that legislation should be explained only if it can be assumed that the consumer already understands the effect of the original act.

Government Departments and many public authorities use the Press, TV and Radio to explain to the public what they wish them to know either by Ministers or members of the organisation giving interviews or by the briefing of journalists or by paid advertising in the press. But providing information to the consumer is mostly done by leaflet. Ceefax and Oracle and Prestel are likely to become part of this system of provision of information by public authorities and other organisations when there are sufficient terminals available.

This part of the provision of information is within the power of the information provider. He determines what information he wishes his consumers to have and he also decides on the form in which he will present it; and his decisions are governed by his own priorities, and the amount of money available and the demands on staff. It is a management operation in support of a management objective. So Government Departments issue leaflets on all kinds of matters, Public Authorities issue annual reports and Local Authorities issue newsheets all with the purpose of conveying information which the provider wishes the consumer to have or thinks he should have. The consumer may unnecessarily be deprived of information because the provider is deciding what to provide.

The second part of the provision of information raises a separate issue. Many people who go to the offices of a Government Department or a nationalised industry or a local authority or to a CAB or information centre wish standard information which is available. Such people could be for example the single parent anxious for advice about how best to arrange payment of a heavy fuel bill, the elderly lady who wonders if she qualifies for some welfare benefit, the young man who wants to know his chances of getting on to the list for a municipal house, or the businessman who wants to know if there are any planning proposals which might at some time in the future affect his business premises. These are all important to the individuals but will normally be easily answered once the enquirer has got to the right information point because these are the kinds of questions that the appropriate authority has prepared itself to answer. The point of difficulty arises when the question is one which the authority has not organised itself to answer.

It is here that information which would be of benefit to the consumer is unnecessarily withheld, sometimes, as will be discussed in Chapter 4, because of restrictive legislation, but often by administrative practice which may be the result of a carefully considered policy decision but equally may be a matter of continuing to do what is said always to have been done.

There are limitations on the ability of any public authority to disclose information. Among these are:

* Restrictive Legislation
  There may be a law which forbids the disclosure of particular information.

* Commercial Services
  Authorities cannot in their own business interests disclose information about commercial negotiations until they are completed and approved.

* The Privacy of Individuals
  There is a need to protect the privacy of individuals by not disclosing to third parties personal information held in an authority’s records.

* Professional Ethics
  Members of the staff of a public body
may, quite apart from the terms of their employment, be inhibited by their professional ethics from disclosing certain kinds of information.

Problems of Timing
For example a local authority attracting new industry may be asked to withhold particulars of an incoming firm until that firm has completed its arrangements and advised its own employees.

And above those specific factors there is always a limit on the amount of money available to provide information services and the level of service which is possible will be determined by that limit.

These are overt factors. They can be recognised and may each justify in particular circumstances the withholding of information.

There can however be covert factors at work which may be less readily acknowledged because they are less easy to justify. These may vary in different kinds of organisations but they include:

Unwillingness to permit the release of information which it is thought may embarrass or be used to attack the authority.

The belief that because of the highly skilled nature of the organisation it is not appropriate to provide information to the public about its decisions except to tell them what it has decided.

The difficulty which professional staff in organisations have in disclosing information which may reflect unfavourably on others in that organisation.

It is the nature of such matters that they are invariably concealed behind a general statement that it is not the practice of the organisation to disclose the information sought, but these are important factors which colour the climate of opinion in the organisation. Whatever the formal policy may be, the climate of opinion will largely determine whether the administrative practice in an organisation is geared towards openness of information or not.

A number of individual cases have been examined.
Case 1

Case 1 is a matter of public knowledge for the protagonists carried forward their argument in the correspondence columns of The Scotsman newspaper. The Scottish Consumer Council pursued with the Law Society of Scotland the issue of access to information which arose.

The Scotsman of 24 March 1980 carried an article about a dispute between Mr. Colin Elder and the Law Society of Scotland. Mr. Elder, a student, sought legal aid in December 1974 to obtain access to the child of his marriage in response to his wife's action of divorce. He was assessed for a contribution of £7.50 later reassessed at £3 towards the costs of his action. In June 1975 he sought legal aid again to enable him to commence proceedings to enforce his right of access. On this occasion since his circumstances had changed his contribution for the second action was assessed at £136 and his contribution for the first action was reassessed at £242. He challenged these figures and there followed a series of alterations to these assessments. All the assessments were made by the Supplementary Benefits Commission but payment was required by the Law Society of Scotland who ultimately sued Mr. Elder for a total sum of £299.50. When the case came to court Mr. Elder continued to challenge the arithmetic and asked to see the statement of his income on which the assessments finally sued for were made. According to the article in The Scotsman the request was met by a statement from the Law Society's representative in court that "this information is never given out".

The Scottish Consumer Council pursued with the Law Society of Scotland the information issue, asking why it was the Society's policy that "this information is never given out" and if the Society proposed to continue with such a policy. The Society was asked what possible justification there could be for denying to anyone who is required to make a contribution under the Legal Aid Scheme the opportunity to see the statement of his financial position which had been used to determine his contribution.

The Law Society of Scotland replied in due course that in the particular case of Mr. Elder it could not tell from its records whether it refused to give this information or not but that as a matter of principle it would if called upon by the assisted person provide this information to him.

This case was followed up to seek the reasons for what appeared to be an arbitrary practice to withhold information. It was thought that the Law Society of Scotland might be acting thus because of some requirement of the Supplementary Benefits Commission but the Commission advised that this was not so. The Law Society of Scotland in its response made no reference at all to what its practice in such cases had been in the past.

The lesson is therefore the need to challenge any refusal of information which purports to be made in terms of some general policy or administrative practice in such terms as "this information is never given out".
Case 2

Case 2 is also a matter of public knowledge since there was considerable press coverage of the problems which two local health councils had with their Health Board.

Duty to Consult?

1. Local Health Councils were set up "to represent the interests of the public in the health service in the area or district for which they have been established". In NHS Circular 1974 (GEN) 90 the Scottish Home and Health Department gave guidance *inter alia* as follows:

"PROVISION OF INFORMATION
7. It will be essential for the Health Board to keep the Local Health Councils fully informed about the provision of health services in the Board's area and about the Board's policies and plans. Regulations will lay upon Health Boards the duty to provide councils in their areas with any information about the planning and operation of the health service in the area of the Board which the councils reasonably require to carry out their functions. It is hoped that Health Boards will give information freely and will respond promptly to requests for information, explanations and access . . . .

. . . . CONSULTATION
9. Health Boards will be required to consult local health councils on any substantial changes in the health services affecting the community in a council's district. Health Boards will also be empowered to consult local health councils on any other matter on which they consider consultation necessary or desirable. Information about plans for development of the health services and, in particular, about any important variations in services affecting the public, such as a significant change in the location of a service, the extension or curtailment of existing services, should be given freely to the health council. It is most important that local health councils should be brought in at the formative stages. The council should also be given a formal opportunity to comment on major proposals affecting the community before they are put to the Health Board for final approval and the local health council's views should be considered before the proposals are approved . . . ."

2. Two local health councils in the area of Argyll and Clyde Health Board have recently required information and consultation when faced with decisions of the Health Board affecting the services provided for the public in their districts. This was their experience:

CASE A — DUMBARTON COTTAGE HOSPITAL

Dumbarton District Local Health Council received in October 1979 the minutes of meetings of the Argyll and Clyde Health Board held in September 1979. In the minutes of a meeting of the Policy and Resource Allocation Committee of the Board held on 12 September 1979 there was reference to consideration being given to the future of Dumbarton Cottage Hospital. It was noted that a further report was to be given when more information was available and options had been identified. The Local Health Council wrote to the
District Executive Group of the Board referring to this minute and asking to be consulted if change of use or closure of the Cottage Hospital was being considered. The District Executive Group replied on 31 October 1979 explaining that a consultant would shortly be retiring and that the opportunity was being taken to review surgical services in the District, but stating that if there was to be any proposal to alter the services provided in the Cottage Hospital the District Executive Group would consult the Local Health Council.

The Local Health Council next heard unofficially that the Policy and Resource Allocation Committee had at a meeting on 9 January 1980 made recommendations which meant the withdrawal of services from the Cottage Hospital. It assumed that these would not become final until ratified at a meeting of the Area Health Board on 27 February 1980 but on 14 January it received a letter from the District Executive Group which said it had been agreed to stop the intake of gynaecological patients, that the remainder of the hospital then became non-viable and that outpatient and casualty provision there would also cease and would be provided elsewhere.

There was considerable public opposition to the decisions to close the Cottage Hospital. A petition was circulated, a public meeting convened and a fighting fund started. The local health council tried to obtain interim interdict in the Sheriff Court but on advice withdrew that action and pursued an action of Reduction in the Court of Session. When that case called in court on 11 February the parties through counsel agreed certain undertakings whereby the Board undertook to consult the local health council before taking decisions on the future services at Dumbarton Cot-
tage Hospital, and to provide the information reasonably required by the council and meantime to maintain services at certain agreed levels. The council undertook to specify the information required by them by 18 February. And both parties undertook to ensure the completion of the consultation process by 27 February, 1980.

The local health council asked for and got information and then met the Board on 25 February when it made representations against the closure of the hospital. The Policy and Resource Allocation Committee met on 27 February and recommended closure and its proposals were approved later the same day by the Health Board. The services have since been withdrawn from Dumbarton Cottage Hospital.

CASE B — INVERCLYDE ROYAL HOSPITAL

Inverclyde Royal Hospital is a new district hospital in Greenock replacing 6 former separate hospitals. The former hospitals provided 486 acute beds and the new hospital could provide about the same number. Late in 1976 it became known to the local health council that the Area Health Board was considering opening the new hospital with 350 acute beds.

The local health council called a meeting of many interested parties including representatives of the Scottish Home and Health Department and of the Argyll and Clyde Health Board and as a result of that meeting it was agreed by the Health Board that it would open the new hospital with a compromise provision of 426 beds to be reduced over some 3 to 4 years. There was an assumption that that reduction would be accompanied by an expansion of community services. It was also clearly understood that the number of beds
would be reviewed urgently if the Board found that it could not afford the running costs of these beds.

The new hospital opened in July 1979. In November and December 1979 the local health council received letters from the Area Health Board which referred to difficulties in keeping expenditure within approved levels. On 24 December 1979 a letter dated 21 December was received from the Board. This explained in more urgent terms the Board's financial problems, stated that possible action included reduction in staff and reduction of staffed beds at Inverclyde Royal Hospital and asked for the local health council's comments by 9 January 1980. Because of the Christmas and New Year holidays the local health council was unable to bring all members to a meeting until 8 January when it was agreed to write to the Area Health Board deploiring the proposal to reduce the number of beds, stating that the local health council was not in a position to give reasoned comments because of the lack of communication and information from the Board, asking for such information and further asking that the Board should not take a decision until this information was given to the Council and it had time to consult other parties about it. A reply dated 10 January 1980 acknowledged the letter from the local health council, said that it had been submitted on 9 January to the Policy and Resource Allocation Committee and then proceeded to detail the decisions taken to be implemented as soon as possible. These included the closure of one floor of Inverclyde Royal Hospital containing 72 beds.

These two cases illustrate the importance of the climate of opinion in an organisation. They involve the Argyll and Clyde Health Board which at the time was under very considerable pressure because it did not have enough money to maintain as it would wish all its commitments. It found it necessary to take a number of decisions to reduce expenditure and to make these decisions effective quickly. The effects of these decisions were clearly such that the Board should, in terms of guidance issued by the Scottish Home and Health Department, provide information and consult the appropriate Local Health Councils. The Board would no doubt claim that in these cases it complied with the guidance to inform and consult but from the point of view of the Local Health Councils information is of little value if it is given only after the Board has closed its options by deciding what decision has to be made.

These cases are also in the area where those required to take the executive decisions and bear the responsibility may well find it burdensome to suffer the delays inevitable in informing and consulting bodies who have considerable interest in but no responsibility for the decisions which are being made. It is perhaps not unexpected that in its response to the Secretary of State's consultative paper on the "Structure and Management of the N.H.S. in Scotland" Argyll and Clyde Health Board would like Local Health Councils abolished.
Case 3

Strathclyde Regional Council and the South of Scotland Electricity Board.

This case was raised with the Scottish Consumer Council by Mr. Colin Ross, a Community Worker member of the Strathclyde Social Work Area Team in Castlemilk, Glasgow. Mr. Ross, who was undertaking research into the Department's level of involvement with cases of fuel debt, had in October and November 1979 sought information about the number of disconnections of electricity over the 6 months period October 1978 to March 1979 (a) in Glasgow and (b) in Castlemilk. The enquiry was directed to the Glasgow/Clyde Area of the SSEB and to the Electricity Consultative Council for the South of Scotland District and later to the Public Relations Department of the SSEB.

The Glasgow/Clyde Area asked if the research was being conducted under the auspices of the Divisional Director of Social Work or not and provided information of the number of consumers who before disconnection had notified the Board of financial hardship and had their cases referred to the DHSS or SWD during the six months to 30 September 1979. The Consultative Council replied that it did not have the detailed information on disconnections requested. The Public Relations Department sent a copy of a Board statement dated 10 May 1979 dealing with disconnections in the whole of the Board's area during the year to 31 March 1979 and in the covering letter said that basically the answer to the question is that 13,773 disconnections were made by the Board in the year to 31 March 1979—a very small proportion of the 1,575,681 consumers.

The Scottish Consumer Council took up the issue with Glasgow/Clyde Area at Mr. Ross's request, stating that neither the Area nor the Public Relations Department had answered Mr. Ross's question and asking if there was any reason for this specific information not being made available to him, qualified by such comment as the Area might choose to make. The Glasgow/Clyde Area replied by telephone that since Mr. Ross had not replied stating whether or not he was working under the auspices of the Divisional Director of Social Work and since there was an arrangement between the Board and the Director of Social Work for the provision of this kind of information they were not prepared to provide any further information to Mr. Ross.

The Scottish Consumer Council then pursued the matter with Mr. Robert Winter, Divisional Director of Social Work for the Glasgow Division, who confirmed the existence of a liaison arrangement with SSEB. He in turn sought the disconnection figures but was told that this information could not be given although it was suggested that the information might be given to the Chairman of Strathclyde Regional Council Social Work Committee if he wrote to the Area Manager. The Social Work Department had early in 1980 sought the co-operation of the SSEB in an effort to mount a pilot operation to help people in certain areas of the city of Glasgow whose electricity was cut off or was going to be cut off. (A similar arrangement was being suggested to the Scottish Gas Board). The Department had prepared a letter offering information and advice. It asked the SSEB either to give a list of names of consumers whose electricity supply was disconnected or about to be disconnected or alternatively to issue to those consumers the letter prepared by the Department. SSEB felt unable to do
either since they considered that such action would be a breach of confidence between the Board and their consumers.

After these issues were taken up by the Chairman of the Social Work Committee, the Department was given figures of disconnections and information of hardcore long-term disconnections enabling the pilot scheme to go ahead.

The whole question of the policies which public utilities follow in disconnecting their service from a consumer who does not pay his bills is a matter of public comment. It would be understandable if SSEB’s response to a request for figures of disconnections broken down to a very local level was coloured by the belief that this could be sensitive information which might be sought for the purpose of attacking the Board’s disconnection policy. Whether or not that is a factor in the Board’s general attitude it was clearly reasonable for the Board to insist that a particular query from an “unauthorised” employee of Strathclyde Regional Council should be routed through their liaison procedure which the Board had agreed with the Regional Council.

What is disappointing about this case is that the information was still withheld when the approach was made in terms of the agreement by an authorised employee of the Regional Council, although it was later provided in response to a request from the Convener of the Region’s Social Work Committee.

It is unfortunate that cases of this kind occur where information which is ultimately provided seems for no very obvious reason to be withheld at an earlier stage.
Case 4

The Electricity Consultative Council for the North of Scotland and for the South of Scotland issue separate Annual Reports. Their reports for 1980/81 issued in July 1981 mention among other items of interest the growth of issue of prepayment meters. The North of Scotland report details the numbers of such meters issued in the quarter reported in December 1975, the quarter reported in December 1977 and the 3 month period to 24 October 1980. The South of Scotland report does not give any figures.

The Scottish Consumer Council wrote to the Secretaries of both Councils asking the North Council if it could add to the statistics by saying how many consumers in the Board’s area were using prepayment meters at say October 1980 and asking the South Council if it could provide that information plus the figures for 1975, 1977 and 1980 equivalent to those contained in the report of the North Council.

The Secretary of the Consultative Council for the South of Scotland, after asking and being told why the Scottish Consumer Council sought this information, replied that the details about prepayment meters were given to his Council by the Board in confidence and could not be released without the Board’s consent. He kindly volunteered to seek that consent but no further information was received.

The North of Scotland Consultative Council did not reply to the request for the number of consumers using prepayment meters at October 1980.

This is one of the cases where it is difficult to understand why information is withheld. It is a matter of public interest that, despite the various other methods open to consumers to ease the burden of fuel bills, increasing numbers of consumers are asking for prepayment meters and receiving them. It is surprising that the North of Scotland Consultative Council should give detailed figures showing the increase in this demand over certain periods but not feel able to give the total number at October 1980. It is even more surprising that its neighbouring Council for the South of Scotland is apparently prevented from giving the detailed figures of the growth in the provision of prepayment meters when that information is volunteered by the North Council in its Annual Report.
CHAPTER THREE

INFORMATION AT THE POINT OF DECISION MAKING

The most interesting issue in the provision of information in the public sector is at the point of decision making. Unless the consumer of services is adequately informed at this point he is unable himself to take the right decision or to judge whether or not others are taking the right decisions on his behalf.

In this context consideration is now given to the way in which Government Departments in Scotland respond to the Croham Directive, to the need for open consultation, to the acting of local authorities and to one specific case involving the British Broadcasting Corporation.

Extract from Written Answers to Questions — Hansard, 16 June 1981 — 306:
Croham Directive

Q 38 Mr. George asked the Prime Minister if she is satisfied with the working of the Croham Directive. The Prime Minister: We are committed to making available as much information as possible and are doing so. Our policy therefore incorporates and goes rather wider than the Croham Directive.

(A) The Croham Directive

A letter dated 6 July from Sir Douglas Allen, GCB, Head of the Home Civil Service, to Heads of Departments explained how it was proposed to carry out what was intended to mark a real change of policy towards disclosure of official information. A copy of this letter which is now known as the Croham Directive forms Appendix 1 to this chapter (page ??). A monitoring exercise of the first two years’ experience of the working of the directive in all United Kingdom departments has been carried out for the Outer Circle Policy unit. ("A Consumer’s Guide to Open Government", OCPU).

The Scottish Consumer Council has looked at the working of the Croham Directive in Scotland in respect of two issues (a) what information can a citizen get under the directive and (b) how does he know what is available.

First on point (b) Mrs. Joan Macintosh, the then Chairman of the Scottish Consumer Council, wrote to the Secretary of State for Scotland on 16 June 1980 drawing to his attention the fact that many reasonably well informed people in Scotland were quite unaware of what was available under Croham and how to get it and suggesting some notification in the Scottish press from time to time explaining what kind of background papers are available.

Although the Secretary of State’s response was encouraging, the Scottish Office later wrote (in a letter of 20 January 1981) rejecting the proposal that it should from time to time tell the public through the Scottish press what material was being made available in terms of the Croham Directive. In that
letter the Scottish Office made these comments:

"The then Prime Minister announced in Parliament on November 24, 1976, that it would be the Government's policy to publish as much as possible of the factual and analytical material used as background to major policy studies. The announcement did not suggest the regular publication of a bibliography by Departments . . . . The main channel of communication between the Secretary of State and the media is, of course, Scottish Information Office. It is their responsibility to ensure that all material published by the Government—and in specific terms by the Scottish Office—is given the widest publicity as it becomes available . . . . On the basis of what already happens, we do not see a need for any formalised list."

These comments are perhaps surprising when placed alongside the last two sentences of paragraph 3 of Sir Douglas Allen's letter (the Croham Directive). These two sentences say this:

"In some cases it may be preferable simply to publicise the existence of certain material which would be made available to anyone who asked. Consideration should also be given to the issue of bibliographies or digests so that interested parties are advised what material is available."

But in view of the terms of the letter a request was sent to the Director of the Scottish Information Office asking for a list of all the documents made available by the Scottish Departments since May 1979 (i.e. the date covered by the monitoring in the OCPU report). A reply from the Scottish Office offered instead a copy of the Scottish Office Publications list for 1979 and the promise of the 1980 volume when published. This is a most useful document bringing together a list of the publications of the Scottish Office in the year 1979, with HMSO and departmental publications, and also a list of annual reports by public bodies associated with the Scottish Office. There is however little if anything in it which is published because of the Croham Directive. It remains extremely difficult for anyone to know what is available.

On point (a) (what information can be obtained?) approaches have been made to two Scottish Departments who had issued consultative papers, the Scottish Home and Health Department in respect of its consultative document on the Structure and Management of the National Health Service in Scotland and the Scottish Education Department in respect of its consultative document on the powers and procedures of children's hearings. Both of these were matters of public concern. The first approach in each case was a request to see the submissions of those who responded to the consultation paper. The Scottish Home and Health Department refused to make these available "in view of the long-standing practice in all Government Departments not to make these (i.e. official files) available to general enquirers"", but it did provide an excerpt from a Departmental working paper which summarised the comments received on the consultative document. This is a most useful document. While it does not purport to be a comprehensive analysis of all responses to the consultative document it does provide good information about the views expressed on the major issues. In some instances it is dealing in numbers or generalities but for example on the still outstanding matter of the future of local health councils it goes into sufficient detail for us to know which Area Boards favour their retention as they are, which favour their retention but reduced in number and which wish them to be abolished. And generally it gives the balance of
opinion on each issue expressed by the various levels of the NHS, the professions, the Trade Unions, and where appropriate of interested parties outside the service. This appears to be the kind of material which ought to be available in terms of the Croham Directive.

Rather different material has been obtained from the Scottish Education Department. That Department refused to give access to the submissions in answer to its consultation paper on the powers and procedures of children's hearings without the authors' consent but issued to us a list of all the individuals and organisations who had made comments and offered assistance where a person who had made a submission was unable to provide a copy of that submission while having no objection to it being seen. But the Department did provide copies of tabulated lists showing the weight of opinion expressed by the various bodies who responded to the consultative document.

The consumer without adequate information of the kind which is sought under the Croham Directive has great difficulty in applying any critical thought to Government decisions. A simple example arises from the announcement of the Government decisions on the consultative document on the powers and procedures of children's hearings. In his statement made in answer to a Parliamentary Question on 19 May 1981 the Secretary of State for Scotland, covering a large number of issues in what inevitably had to be fairly general terms, said that he had considered carefully the replies to his consultative document and was not proceeding with two of the proposals in it. These were the proposals (first) that hearings might have power to impose fines upon the parents of children who committed crimes and (second) that parents might be required to find caution for the good behaviour of their children, that is that they should lodge a sum of money as security which would be returned at a future date if the children did behave but might be forfeited if the children offended. He explained that the weight of opinion of those who replied to his consultative document was heavily against both of these changes. We have the benefit of the Scottish Education Department's tabulated lists of the opinions expressed on these two matters by those who responded to the consultative document. These state that, looking only at those individuals and organisations who sent in views firmly for or against these proposals, in the case of the proposal that children's hearings have a power to fine parents, those who were against that proposal outnumbered those in favour of it by about 9 to 1. In the case of the proposal that hearings should have a power to require parents to find caution for the good behaviour of their children, those against the proposal outnumbered those in favour by about 2½ to 1. There is a considerable difference in the weight of opinion against those two proposals but that is not the impression that one gets from the terms of the official statement. Faced only with the statement the concerned citizen might well decide that neither of those proposals was worthy of a second thought. Provided with the above arithmetic and preferably with a background paper which detailed and analysed the results of the consultation the citizen might well feel that the question of caution merited some further informed public debate.

In both of these cases after consultation the Secretary of State for Scotland has taken certain policy decisions but deferred others. The provision in terms of the Croham Directive of adequate background material would help the consumer not only to look critically at the decisions already taken but also to see how best to influence those decisions still to be taken.
RECOMMENDATION:
That the Scottish Office be asked to make available any background papers presented to Ministers when new policy is being determined and in the absence of such background papers a factual and analytical paper be drawn up and made available.

Appendix
The Croham Directive
THE CIVIL SERVICE DEPARTMENT
WHITEHALL, LONDON SW1A 2AZ
6 July 1977
Sir Douglas Allen, GCB,
Head of the Home Civil Service
Dear Head of Department,
DISCLOSURE OF OFFICIAL INFORMATION
During the Debate on the Address on 24 November last, the Prime Minister announced that it would be the Government’s policy in future to publish as much as possible of the factual and analytical material used as the background to major policy studies. A copy of the relevant part of the Prime Minister’s speech is attached. I am writing in terms which the Prime Minister has specifically approved to let you know how his statement affects present practice and to ask you to ensure that your Department gives effect to it. You may wish to let your Minister see this guidance, drawing particular attention to paragraph 10.

2. The change may seem simply to be one of degree and timing. But it is intended to mark a real change of policy, even if the initial step is modest. In the past it has normally been assumed that background material relating to policy studies and reports would not be published unless the responsible Minister or Ministers decided otherwise. Henceforth the working assump-

3. In effect, what is proposed is an increase in the already considerable amount of material put out by Departments. The additional material will mainly consist of deliberate presentations in the later stages of discussion and development of new policy. Some of these will probably, as now, take the form of Green Papers. Some may have kindred form, like the recent Orange Paper on Transport. While most material will be released on the initiative of the Department, probably through HMSO, some of lesser importance, or of interest to a limited audience, may well be put out through other means such as publication in magazines or in response to specific requests in the same way that a good deal of unpublished material is already made available to bona fide researchers. In some cases it may be preferable simply to publicise the existence of certain material which would be made available to anyone who asked. Consideration should also be given to the issue of bibliographies or digests so that interested parties are advised what material is available.

4. In adopting the working assumption described in paragraph 2 above for policy studies, including PARs, the normal aim will be to publicise as much as possible of the background material subject to Ministerial decision once they have seen the study and reached their conclusions on it. When Ministers decide what announcement they wish
to make, therefore, they will also wish to consider whether and in what form the factual and analytical material may be published, since there may, as the Prime Minister made clear in his statement, be circumstances in which Ministers will not wish to disclose such material.

5. It is not the intention to depart from the present practice of not disclosing PARs nor identifying them publicly; any question of releasing PAR material in circumstances not covered by a Ministerial decision should be referred to the Treasury.

6. In his November statement the Prime Minister said that it was the Government's wish to keep to a minimum the cost to public funds of the new initiative on disclosure. One inhibition to the publication of background material in the past has been that it has often been incorporated in submissions to Ministers which could not be published in their entirety. Re-writing material specially for publication is wasteful and expensive in staff time. Therefore when policy studies are being undertaken in future, the background material should as far as possible be written in a form which would permit it to be published separately, with the minimum of alteration, once a Ministerial decision to do so has been taken. It will generally assist Ministers to reach their decisions on publications if they can see an identifiable separate part of the report appropriately written for this purpose.

7. The form and way in which material is released will have to be considered on each occasion. The cost of any extra printing, or publishing, falls under present arrangements on the HMSO Vote, and HMSO is of course affected by the current restrictions on public expenditure in the same way as other Departments. HMSO is also responsible for deciding what prices should be charged for published material. You should ensure that discussions with HMSO are initiated at the earliest possible opportunity on any proposal which will add to expenditure. The following particular considerations should also be borne in mind:

i. Great care should be taken to keep costs to a minimum. If copies are to be run off in advance of demand, the quantity should be carefully and prudently assessed, to avoid waste rather than to offer instant response. (But of course, there is a countervailing need to aim where appropriate for the economics of longer reproduction runs. The right balance here may be difficult and decisions should not be left to too low a level).

ii. In general, double printing should be avoided, e.g. the published form of the material should be the same as that used internally (and the same print).

iii. There should be a charge for all material, at a price set by HMSO for each item, to include all aspects of reproduction and handling, but not of course any of the costs of the primary study itself.

iv. As regards Crown Copyright, attention is drawn to CSD General Notice GEN 75/76 dated 12 August 1975 (and corrigendum of 8 October 1976).

8. The Government's decision on this question is in a form which should not involve substantial additional work but which could all too easily be lost to view. There are many who would have wanted the Government to go much further (on the lines of the formidably burdensome Freedom of Information Act in the USA). Our prospects of being able to avoid such an expensive development here could well depend on whether we can show that the Prime
Minister's statement had reality and results. So I ask all of you to keep this question of publicising material well on your check-list of action in any significant areas of policy formulation, even at Divisional level; and to encourage your Ministers to take an interest in the question.

9. Since the Prime Minister may well be asked what effect his announcement has had on the amount of information made available, I should be grateful if you could arrange to have some kind of record kept of the relevant items made available by your Department. Where the material is of an unusual kind, or of a variety not usually made available in the past, it would be useful if a copy could be sent to CSD. In cases where it has been decided not to publish material which might be expected to be of considerable public interest, I suggest that the reasons should be briefly recorded.

10. The greater publicising of material can hardly fail to add to the cost—that of responding to the additional direct correspondence to which it may well give rise. In a Service operating under tight resource constraints, it may not always be possible to afford to give to such additional correspondence the kind of full and studied replies to which we have long been accustomed within the sort of timescale that has hitherto been customary. Nevertheless, Departments must do their best in these matters, and should inform a correspondent if the timescale for a reply is likely to be longer than normal.

11. I am copying this to Heads of Departments as on the attached list.

Yours sincerely,
(Sgd.) Douglas Allen

(B) Open Consultation

The foregoing issues were chosen to test the working of the Croham Directive in Scotland because they dealt with policy decisions arrived at, as many are, after a process of consultation. The Scottish Consumer Council is concerned that consultation should be carried out in as open a manner as possible and has been considering how this might be done. It has commended the Civil Aviation Authority for its efforts in opening its consultation process.

That authority is now required to consult with representatives of the industry before determining new policies. When the Authority had received submissions from interested parties as part of its Policy Consultation for 1980 it wrote to all those who had submitted comments listing the names of those from whom submissions had been received and showing which submissions had been placed in a public file which all other respondents could consult. The comments placed in the file were those of respondents who had stated without qualification that they did not object to other parties seeing their submissions. The Scottish Consumer Council, one of the parties which had made submissions, was disappointed to find from the Authority's letter that of 64 submissions 43 would be available on the public file but the other 21 would not. It was noticed that organisations of the same kind appeared to have expressed different views on disclosure.

To test the position the Scottish Consumer Council wrote to all of the 21 organisations explaining its concern about the need for information on matters of public interest to be as fully
available as possible and inviting each of them to exchange submissions with it. After that approach was made 4 of the 21 organisations agreed to their submission being placed on the Civil Aviation Authority’s public file and 14 others willingly exchanged their submissions with the Scottish Consumer Council which was therefore able to see the views of 61 of the 64 organisations.

The Scottish Consumer Council is encouraged by this outcome, particularly in a consultation about the regulation of a highly competitive industry where the bodies submitting comments represented a number of diverse interests. It confirms the Council in its view that much information of value to the consumer is withheld unnecessarily, even unwittingly, because administrative practices do not sufficiently encourage disclosure as the norm. The Council has therefore suggested to the Civil Aviation Authority that on its next policy consultation it goes one step further and incorporates in the invitation to contribute to the consultation a statement that it intends to place on a public file, available to all the other respondents, all submissions except where an organisation states that its comments are not to be so disclosed.

This form of disclosure of information can be of general application. It is administratively simple and cheap and it does tilt the balance of the consultative process towards openness. Disclosure through the public file becomes the norm and only those who are not willing to have their comments placed on the public file need to take active steps in the matter of disclosure.

In Scotland it is within the Scottish Office that such a change of practice would be of most benefit to consumers.

RECOMMENDATION:
That the Scottish Office be asked to adopt a policy of placing on a public file the submissions of those bodies who have commented on a Scottish Office consultative document; and that a statement of this policy is, as a matter of course, contained in every invitation to comment upon a consultative document.

(C) Local Authorities

A representative group of Regional, Island and District Councils was asked for details of the provisions made for informing the public. The general response stressed that there was an openness of operation, that Agendas and background papers were circulated to the press in advance of meetings and Minutes of Decisions were available in libraries after meetings. There were variations in the amount of information circulated to such bodies as Community Councils. In some cases the Agenda and all of the supporting papers went to each Community Council before a meeting. In others only the Agenda and supporting material limited to the Community Council’s local interest (e.g. a list of planning applications in the Community Council’s area) would be sent. Invariably Community Councils received the Minutes or a Digest of Decisions after the Meeting cycle. Some but not all authorities also produced leaflets about aspects of their work and a regular news sheet.

The Regional Councils in the group, but not the District Councils, would provide for a ratepayer attending a committee meeting and asking for the information all of the background reports in the hands of the elected members at that
meeting except such documents as were marked confidential.

Three of the Regional Councils would provide the background papers at the meeting. The fourth would make the papers available only after the decisions of the committee had been approved at the following meeting of the Regional Council.

This level of provision at the point of decision making is good and all local authorities should be encouraged to follow the practice of those who make such provision.

But there are other less happy standards of information provision by local authorities.

The ratepayer's right of access to the accounts of his local authority is more limited in Scotland than in England and Wales. The Scottish ratepayer has access only to the abstract of accounts in terms of section 101 (1) of the Local Government (Scotland) Act 1973 whereas the ratepayer in England and Wales has the right under section 159 (1) of the Local Government Act 1972 to inspect all books, deeds, contracts, bills, vouchers and receipts relating to the accounts. The Secretary of State for Scotland was asked by the Scottish Consumer Council in June 1980 to consider amending the Scottish provision to bring it into line with the English and Welsh one. The Secretary of State has replied that he does not propose to do so but has drawn attention to the powers of the Controller of Audit in Scotland to assist ratepayers. The Controller of Audit has confirmed to the Scottish Consumer Council that he is ready to use his considerable powers to assist ratepayers. The Council hopes that this fact will become more widely known.

The Scottish Consumer Council has also been pressing the Scottish Office and COSLA to bring forward as quickly as possible a draft of a Scottish equivalent of the two Codes of Practice operative in England and Wales—Explaining the Local Authority Rate Bill, HMSO, 1980, and Local Authority Annual Reports, HMSO, 1981. These Codes provide for the provision to the ratepayers of much detailed financial and other information about the functioning of their local authorities. It is understood that the work of producing a Code for Scottish local authorities is in hand but that it will not be available until some time in 1982.

Meantime as the attached letter by T. A. S. Russell in The Scotsman of 10 August 1981 complains this kind of information is not available to ratepayers even at a time of very important decisions as those being taken by Lothian Regional Council when faced with reductions in their Rate Support Grant imposed by the Secretary of State under the new powers made available to him in the Local Government (Miscellaneous Provisions) (Scotland) Act 1981 where he is satisfied that a local authority's expenditure plans are excessive and unreasonable.

RECOMMENDATION:

(i) That the Scottish Office and the Convention of Scottish Local Authorities should expedite the Scottish equivalent of the two Codes of Practice (Explaining the Local Authority Rate Bill and Local Authority Annual Accounts) under which a range of information is provided annually for their ratepayers by local authorities in England and Wales.

(ii) That every Scottish Local Authority should provide for its Community Councils (a) Agendas and all of the supporting papers prior to meetings of the Local Authority and of its committees and (b) Minutes of the decisions taken at these meetings.
Information wanted to judge Lothian's conduct

21 Ainslie Place,
Edinburgh,
August 6, 1981

Sir, — Whilst Councillor Tom Williams is reported to be convinced that Mr Younger will see reason “once he is aware of the details of East Lothian’s case” the rest of us might well wonder why these “details” are so hard to come by.

Until May, I was an elected member of a local authority whose overall budget, and in particular its education budget, was very similar indeed to that of Lothian. In a spirit of reason, and not one of dogma, I have naturally been interested to try to find out why my local authority, in this case an English one, had been “good boys” with a rate increase of 3 per cent last year, whilst Lothian are in such trouble with the Government, following a rate increase of 50 per cent.

It is not at all difficult to obtain the “details” from my previous authority: the budget is available at any time in all public libraries; and any further information required is supplied free of charge to anyone who cares to telephone. Getting information from Lothian, however, is like getting blood out of the proverbial stone.

Having obtained a copy of the revenue budget (“We do not usually make these available”), I found that this document is virtually useless to anyone who wishes to try to understand its composition. Response from the region on the telephone, although always courteous, is likewise invariably accompanied by the remark, “We are not really supposed to be giving this information away.”

I am prompted to write to you, sir, not because my investigations show that my previous education authority was serving a population of 26 per cent greater than that of Lothian on a budget only 2 per cent greater, nor because primary education in Lothian costs 9½ per cent more per pupil, and secondary education 20 per cent more per pupil; nor yet because Lothian spends nearly ten times more on nursery education, which is a non-statutory requirement.

I am only too aware how my critics would castigate me for failing to appreciate the “differences” between local authorities and their needs. I cannot even tell Lothian that my previous authority is contemplating the loss of 1,400 teachers over the next five years because of falling school rolls (in an increasing population), because, I suppose, it is just faintly possible that school rolls in Lothian are not doing so, even though the population is far smaller and dropping like a stone.

No, the reason I write to you is the sense of amazement, almost of horror, at the way Lothian Region, in effect, withholds information on which any sane judgment of their conduct must be based. The budget statement hard enough to obtain, gives no information whatsoever about the numbers of people employed, the size of the client groups, the trend in both of these over recent years, and the expected trend in the future.

Still worse, there is no information about the price base used — one is left to assume that the estimates of cost include allowances for inflation between the date of composition of the budget this time last year, and the end of the financial year, then some 18 months distant. There is no information whatsoever about the capital programme, although the budget talks of “committed growth,” an insidious local authority euphemism for “things which we have started and which we are unable to stop.”

Going further, the way in which this type of information is not made available to the public, amounts, in my view, not only to an insult to their intelligence, but also to an infringement of the spirit, if not the letter, of Section 197 of the Local Government (Scotland) Act.

There ought to be on deposit in every public library a full statement not only of the amounts of money which an institution the size of Lothian Region spends each year, but also of the reasoning behind its composition. There should be easy access to the number of employees, where they work, what they are paid, and what they do.

There should be estimates of the sizes of the client groups in education, social services, etc., so that an ordinary mortal can form a view of the task facing the authority. There should be details of the proposed capital programmes, not only in the current year, and in future years, but also of the effects in revenue terms of the current and future budgets.

Let no-one tell me this is impossible, because in other local authorities in the United Kingdom, it is standard practice.

If something like this had been done, then perhaps Councillor Williams and the Labour Group might not feel so aggrieved that no-one understands “the details of their case.” We might also be spared the Punch and Judy show now developing before a bemused electorate.

T. A. S. Russell.
(D) The BBC

The case of the cuts in service required of BBC Scotland which were matters of public discussion in the period February to April 1980 shows clearly the extent to which a public corporation does not accept that those who are both the consumers and the financial providers of public services should be consulted about and associated with decisions taken on their behalf.

The BBC proposals for cuts in services were leaked to the Glasgow Herald who printed on page 1 of their issue of 27 February 1980 an article by Murray Ritchie which said that the Scottish Symphony Orchestra would go and went on:

"By disbanding the SSO Mr. Pat Ramsay, BBC Scotland Controller, can save the Corporation about £600,000 a year. That saves him more than half of the £1 million he needs to save and it is expected the balance of £400,000 will be made by drastic cuts in much of BBC Scotland Schools and Educational programmes."

Again on page 1 of the Glasgow Herald of 28 February Murray Ritchie reported:

"The Broadcasting Council for Scotland met yesterday but declined to fight for a reprieve ... it is understood that Mr. Ramsay's controversial proposals were given the Council's reluctant backing."

The proposals when officially released included the disbandment of the BBC Scottish Symphony Orchestra and a 25% cut in the current year in the budget of £300,000 of the Scottish School broadcasting service, followed by a cut of the remaining 75% in 1981 unless the Government footed the bill.

There was widespread criticism in Scotland of the proposals to disband the BBC Scottish Symphony Orchestra and to reduce the Scottish School broadcasting service.

The BBC's justification for their cuts in Scotland was that they had no reasonable alternative. It was not possible in Scotland, as it apparently was in Wales and Northern Ireland, to make the necessary savings by a limited cut across the board. If only the BBC had a licence fee equivalent to 12p per day instead of the present level of 10p per day there would have been no need for these cuts.

In addition to criticism of the BBC proposals there was criticism of the fact that these changes were not the subject of adequate information and consultation. The BBC prides itself on its accountability to the public.

The BBC Handbook 1980 includes the following in the Annual Report for the year 1978–79:

p. 38 under the heading Public Accountability

"The BBC's concern to keep in touch with the public and to demonstrate its belief in the concept of accountability continued and expanded during the year in the course of a total of 17 public meetings in England, Scotland, Wales and Northern Ireland.

By far the largest volume of comment in the form of nearly 11,000 letters and many thousands of phone calls concerned the wavelength changes introduced in November 1978. The subjects of complaint included ... the irritation of finding Radio 3 and Radio 4 vhf occupied by educational programmes ... ."

p. 39 under the heading Advisory Bodies.

"The Government White Paper on Broadcasting (Cmd 7294) said of the advisory bodies that 'the Board of Governors consider, and the
Government agrees, that these committees have worked well and that they should continue as an integral part of BBC broadcasting in this country.”

There are in all 57 such bodies. Among the Scottish Committees are:

School Broadcasting Council for Scotland, Professor B. T. Ruthven, Chairman.

Scottish Music Advisory Committee, Professor lan Sneddon, Chairman.

Nevertheless, among the many comments on the proposals were those:

(i) Professor lan Sneddon, Chairman of the BBC Scottish Music Advisory Committee — “I can tell you that the Scottish Music Advisory Committee of the BBC has not been consulted about this.” Murray Ritchie’s article Glasgow Herald 27 February.

(ii) Professor Baillie T. Ruthven, Chairman of the School Broadcasting Council for Scotland — (It is) “reprehensible that this action should be proposed in Scotland alone without prior consultation with the Council”. Scotsman 5 March

(iii) Kay Carmichael, former member of the Broadcasting Council for Scotland, referring to the lack of information and consultation called for a special programme to inform viewers and listeners of the problems, the options considered and the justifications for the proposals finally adopted. Scotsman 8 March.

(iv) Alex Main of the Centre for Educational Practice, University of Strathclyde and a member of the School Broadcasting Council for Scotland, referring to an article by Mr. Patrick Ramsay in The Scotsman of 8 March — “he has not consulted his own educational officers about the effect on classroom teaching. He has not sought advice from the School Broadcasting Council”. Scotsman 14 March.

The BBC’s reply to this criticism was to insist that its Scottish Advisory Committees had no right to be consulted in advance of such decisions. Clearly it did not consider that it was under any obligation to consult its consumers at large.

The BBC’s attitude seemed to be that the role of the consumer in this matter was solely to ensure adequate resources for the BBC.

The economic argument was repeatedly presented at the level of the daily rate of the individual licence fee necessary—12 pence per day in place of the existing 10 pence per day. But there was no serious effort made to explain to the individual licence holder why BBC Scotland was preparing these particular cuts and what options had been considered and rejected in favour of the cuts now proposed.

It was reported that at a Press Conference on 28 February Dr. Roger Young, BBC National Governor for Scotland, equated the disbanding of the BBC Scottish Symphony Orchestra with the stopping of all religious, agricultural and Gaelic programmes, but this was not followed up.

Mr. Patrick Ramsay, Controller of BBC Scotland, in a reasoned article in The Scotsman of 8 March, after a week of critical public comment on the cuts, succinctly explained that the BBC position was that “the BBC could no longer alone sustain the patronage of music and schools broadcasting” and was acting on “the premise that it is reasonable for alternative public fun-
ning to be given for these parts of their operation”.
In another article, in The Scotsman of 15 March, Mr. James L. Wetherhead, a
member of the Broadcasting Council for
Scotland, answered criticism of the
Council thus:
“It is also being suggested that we
are not truly representative of the
wishes of the Scottish people. Do
those who take that view really want
us to quote audience research figures
for serious music and other cultural
programmes in Scotland, as com-
pared with what they call mindless
rubbish?”

Even when representatives of the BBC
were called to speak to the cuts before
the House of Commons Committee on
Scottish Affairs on 2 April, after much
of the public discussion was over but
before the final decisions were approved
by the Board of Governors, little was
said about the options considered and
rejected. The Committee did however
elicit some fresh information.

A memorandum submitted to the Com-
mittee by the BBC which accompanied
detailed financial statements included
the following comments:
“We are wary at the same time that
consultation may become straight
lobbying and that, in circumstances
where cuts do have to be made, the
survivors can be those with the
loudest voices.”
“We are aware nevertheless of the
limits that there have been to the
public presentation of BBC
Scotland’s case.”

The first of these is an excuse for failure
to consult. The second appears to ex-
press regret that the public has not been
convinced of the rightness of the deci-
sions taken by the BBC rather than
regret that the public has not been in-
formed of the facts and permitted to ex-
press its views before these decisions
were taken.

The Committee by its questions elicited
among other information these three
points:

First that the BBC had for a con-
siderable time before the
1980 cuts been concerned
about the need to reduce
the burden of its direct
financial support for or-
chestras.

Second that Patrick Ramsay, the
Controller for Scotland, was
aware that certain music in-
terests in the BBC con-
sidered that the standard of
the BBC Scottish Sym-
phony Orchestra was not as
high as that of certain other
BBC orchestras and that
this influenced his views on
the cuts which he should
recommend as the most
suitable for Scotland.

Third that the representatives of
the Broadcasting Council for
Scotland insisted, despite Mr. Ramsay’s com-
ments, that they took their
decision to disband the
Symphony Orchestra solely
on financial grounds and
were not influenced at all by
any opinion about the or-
chestra’s professional stan-
dards.

This was a complex case and no doubt
the original proposals of BBC Scotland
were part of a sophisticated tactical
battle. In the event the BBC Scottish
Symphony Orchestra was saved and
the Scottish Radio Orchestra was axed
as a result of an agreement with the
Musicians Union made at UK level and
the requirement for savings in the
Scottish School Broadcasting Service
was deferred. But the problem of infor-
mation and consultation remains.
A great public Corporation in the business of communication, when faced with the need to make cuts in services, determined to make cuts which would very considerably affect the musical and educational life of Scotland without appearing to accept that it had any obligation to inform and consult its consumers.

It did not even provide the programme called for by Kay Carmichael to put its case for the decisions which it had decided to take, whereas one would have hoped that these problems would have been aired in a number of programmes to inform the consumer of the difficulties, and of the possible options, and to allow different views to be expressed on these options before the final decisions were taken.
CHAPTER FOUR

RESTRICTIVE LEGISLATION

There follows in the NOTE to this chapter a detailed examination of legislation which makes it a criminal offence to disclose official information. A list prepared by the Home Office as part of a reply by the Minister of State to a Parliamentary Question on 10 March 1980 detailed some 89 Acts of Parliament of this kind. These Acts range over a wide field. Some deal with what most people think of as official secrets, for example the statutes which prohibit a member of the Royal Navy, the Army or the Royal Air Force from disclosing information useful to an enemy. Others deal with the protection of commercial interests, for example an Act which prevents an officer of the Post Office from disclosing information which he obtains while providing data processing services for a customer. Others seek to protect individual privacy like the Act which forbids the disclosure of the fact that a person has been convicted of some criminal offence if that offence took place sufficiently long ago to be now considered spent.

This paper concentrates on two groups of statutes.

The first group deals with information obtained by Inspectors of all kinds who visit premises in the course of their duty. The basic provision of this group of Acts is to make it an offence for such an Inspector to disclose information which he has obtained during such a visit with regard to any manufacturing process or trade secret unless he discloses that information in the performance of his duty. There is every justification for this provision insofar as it is designed to prevent an Inspector from harming a commercial company by disclosing details of manufacturing processes or trade secrets which might benefit a competitor. It is less obvious that an Inspector who comes upon information about processes which might for example cause pollution or endanger health or safety should not be able to draw these matters to the attention of some other enforcement agency. Further, some of the Acts of Parliament in this group go beyond the basic restriction and make it an offence for an Inspector to disclose any information obtained during an inspection of premises unless in the course of his duty. Legislation of this kind not only prevents an Inspector from disclosing information which by no stretch of imagination could adversely affect the commercial operations of a firm but it creates a feeling among Inspectors that the only sure way of keeping on the right side of the law is not to disclose information. Case A (page 38) and Case B (page 39) indicate some of the difficulties which arise for Inspectors. The result is that information which might in the public interest be passed on to some other agency or which might be helpful to an individual citizen will be withheld because of the Inspector’s concern that by disclosure he may be committing an offence.

The second group deals with cases where the law requires a person or an organisation to provide information to a government department or other public body. The acts make it a criminal offence for anyone to disclose information provided in this way except with the consent of the person or organisation who provided the information. Case C (page 40) is an example of the difficulties which can then be experienced.

The Scottish Consumer Council makes recommendations on page 35 to ease the restrictions imposed by both of these groups of Acts.
NOTE on Restrictive Legislation.

1. In reply to a Parliamentary Question the Minister of State at the Home Office on 10 March 1980 provided a list of statutes other than Section 2 of the Official Secrets Act 1911 containing provisions which make it a criminal offence to disclose official information.

The list, which forms Appendix A, contains 89 Acts of which 31 have been enacted since the Franks Committee reported on these statutory provisions in Appendix V of its report; and since 10 March 1980 the Competition Act 1980 has been added to the statutes restricting disclosure of information, the Industry Act 1980 has repealed Section 33 of the Industry Act 1975, the Water (Scotland) Act 1980 has repealed the provision in Section 72 of the now wholly repealed Water (Scotland) Act 1946, and the Civil Aviation Act 1980 has amended the provisions in Section 36 of the Civil Aviation Act 1971.

2. These statutes are not all of the same nature.

(i) One group deals with matters which are secret, for example the Army Act 1955, the Air Force Act 1955 and the Naval Discipline Act 1957 which prohibit disclosure of information useful to an enemy, and the European Communities Act 1972 which makes it an offence for anyone to disclose classified information obtained through duties or dealings with any Euratom institution or installation.

(ii) Another group deals with matters of personal privacy, for example the Rehabilitation of Offenders Act 1974 which prohibits the unauthorised disclosure of a spent conviction, and the Post Office Act 1969 preventing the disclosure of information obtained by a person in course of providing for another data processing services.

(iii) A further group, which includes the Sex Discrimination Act 1975 and the Race Relations Act 1976, deals with information given by any person to the appropriate Commission in connection with a formal investigation by the Commission.

3. This paper is concerned with the remaining statutes which fall broadly into two groups.

(i) The first makes it an offence to disclose information obtained by an Inspector from a visit to premises with regard to any manufacturing process or trade secret unless disclosure is in the performance of his duty, and includes the following statutes:

- Water Act 1945
- Water (Scotland) Act 1946
- Civil Defence Act 1948
- Radioactive Substances Act 1948
- Prevention of Damage by Pests Act 1949
- Food and Drugs Act 1955
- Food & Drugs (Scotland) Act 1956*
- Clean Air Act 1956*
- Offices Act 1960
- Radioactive Substances Act 1960
- Flood Prevention (Scotland) Act 1961
- Factories Act 1961
- Offices, Shops & Railway Premises Act 1961
- Water Resources Act 1963
- Weights & Measures Act 1963
- Agriculture & Horticulture Act 1964
- Medicines Act 1968*
- Sewerage (Scotland) Act 1968
- Trade Descriptions Act 1968*
- Transport (London) Act 1969
- Agriculture Act 1970*
- Highways Act 1971
- Town & Country Planning Act 1971
Town & Country Planning (Scotland), Act 1972
Slaughterhouses Act 1974
Control of Pollution Act 1974*
Health & Safety at Work Etc. Act 1974*
Biological Standards Act 1975
Weights & Measures Act 1979

The asterisked statutes incorporate variations on the normal provision:
The Clean Air Act 1956 permits disclosure of information about any manufacturing process or trade secret if the consent of the person carrying on the business is given and the Control of Pollution Act 1974 permits disclosure relative to any trade secret if consent is given or if disclosure is made in terms of Regulations to a prescribed person.
The Medicines Act 1968 extends the restriction to any information obtained or furnished in pursuance of the Act.
The Trade Description Act 1968 and the Agriculture Act 1970 extend the restriction to any information obtained unless for the performance by him or any other person of functions under the Act.
The Health & Safety at Work Etc. Act 1974 prohibits a person from disclosing any information obtained except for the purpose of his functions, or legal proceedings or with consent but requires an inspector "in circumstances in which it is necessary to do so" to give the workpeople in any premises, or their representatives, such factual information about the premises and also such information about action which he has taken or proposes to take as will keep them adequately informed about matters affecting their health, safety and welfare.

(ii) The second restricts the disclosure of information which undertakings are required to provide unless with the consent of the person carrying on the undertaking, and includes the following statutes:
Agriculture Act 1947
Industrial Organisation & Development Act 1947
Statistics of Trade Act 1947
Cinematograph Films Act 1957
Agricultural Marketing Act 1958
Public Health Act 1961
Rivers (Prevention of Pollution) Act 1961
Harbours Act 1964
Industrial Training Act 1964
Cereals Marketing Act 1965
Highlands & Islands Development (Scotland) Act 1965
Rivers (Prevention of Pollution) (Scotland) Act 1965
Agriculture Act 1967
Companies Act 1967
Iron & Steel Act 1967
Legal Aid (Scotland) Act 1967
Sea Fish Industry Act 1970
Civil Aviation Act 1971
Employment Agencies Act 1973
Counter-Inflation Act 1973
Fair Trading Act 1973
Consumer Credit Act 1974
Legal Aid Act 1974
Supply Powers Act 1975
Iron & Steel Act 1975
Industry Act 1975
Restrictive Trade Practices Act 1976
Consumer Safety Act 1978
Estate Agents Act 1979
Agricultural Statistics Act 1979
Banking Act 1979

These Acts permit disclosure of information with the consent of the person from whom the information was obtained, and also permit disclosure in a number of other circumstances which vary from statute to statute but include disclosure without consent
(a) of statistical information in the form of a summary of similar information so framed as to prevent the identification of the particulars relating to any individual business.
(b) by the decision of or in accordance with the directions of a minister.
(c) to a minister or officers of his department or to members or officers of a statutory authority.
(d) for facilitating the performance of any functions under the Act.

Several of these Acts contain particular conditions which are of interest.
The Civil Aviation Act 1971 as amended by the Civil Aviation Act 1980 prohibits the disclosure of information which relates to a particular person without his consent unless
(A) The Civil Aviation Authority, after affording that person an opportunity to make representations and considering such representations, determines that the information may be disclosed, or
(B) where the person is dead or a body corporate has ceased to exist or neither can be found the Authority determines that the information may be disclosed.
(C) The Authority determines that the information is of the same kind as other information which it has, after considering representations, already decided may be disclosed.

The Agricultural Statistics Act 1979 prohibits the disclosure of information relating to any particular land or business without the consent of the person furnishing the information and every other person who is owner or occupier of the land on whose interests may be affected unless inter alia
if the disclosure is confined to situation, extent, number and kind of livestock, character of land, and name and address of owner and occupier, it may be given to any person to whom the appropriate minister considers that the disclosure is required in the public interest.

The Counter-Inflation Act 1973 permits disclosure inter alia in the case of information obtained by a person acting on behalf of a local weights and measures authority, to any officer of that authority.

4. The purpose of this group of statutes is explained thus in the FRANKS Report at paragraph 2 of Appendix V

2. All but one of these provisions are related to statutory requirements for citizens of firms to surrender a degree of personal or business privacy, either by providing specified information or by allowing the inspection of land or premises. The obligation to comply with these statutory requirements is usually backed by criminal sanctions. In return, many statutes give the citizen or firm an assurance that the information thus coming into the hands of the authorities will be specifically safeguarded, by providing criminal penalties for those who disclose it unlawfully. (The Post Office Act 1969 is an exception in that it covers information not given under legal compulsion).

The penalties for unlawful disclosure of information vary but in most cases they range from a lower scale of a fine not exceeding £50 or imprisonment not exceeding 3 months or both in the case of a Summary conviction to a higher scale of a period of up to 2 years imprisonment or a fine or both in the case of conviction on indictment.

5. Looking first at the acts which restrict the disclosure of information obtained by an Inspector (Clause 3(i) above) we are considering statutes which in the first instance prohibit the disclosure of information relating to any manufacturing process or trade secret except in the performance of the

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Inspector’s duty. The need to ensure that a business does not suffer from the disclosure of its methods or secrets to competitors is self-evident. What is not so clear-cut is whether an Inspector should also be prevented from drawing to the attention of other enforcement agencies processes which, say, cause pollution or endanger health or safety if these are not matters covered by the statute under which he is in the premises.

But more important is the extension of the restriction as in the Trade Descriptions Act 1968 to cover not only information relating to manufacturing processes and trade secrets but also “any information obtained”. In effect this imports into the sphere of what an Inspector sees or learns the condition which previously controlled only the other basic group of statutes, those which dealt with information provided under legal compulsion by an individual firm.

The Consumer Protection Department of Strathclyde Regional Council is concerned at the effect of those Acts which restrict disclosure of any information obtained by an Inspector as against information relating to manufacturing processes and trade secrets. The most important of these is the Trades Descriptions Act 1968 under which the Department carried out 3,265 inspections in the year 1979/80.

What concerns the Department is the effect of this extension of the legislation in this way. The Department for example considers that:

1. An investigation under the Trade Descriptions Act who obtains information about some offence or other matter which he thinks ought to be looked at by some other enforcement agency, say the Police or an Environmental Health Department, will, if he passes on that information be in breach of the Act.

2. If a citizen complains and the Department starts to investigate the circumstances of that complaint under the Trade Descriptions Act, it cannot then pass to the complainer information for example of the trader’s response to the investigation or the result of any tests made for the Department on the goods complained of.

There remains for the consumer the further problem that legislation which restricts the disclosure of information in this way creates a climate of opinion in which the normal thing to do is to withhold information. So even where it is not against the law information may still not be given.

Cases A and B illustrate this in respect of a Trading Standards Department of a Regional Council and in respect of the Environmental Health Department of a District Council.

Alternatively information may be given only after prosecution and often long after an offence was committed. Time is important in this. In the Report for 1979–80 Strathclyde Regional Council for the first time gave names and addresses and other details of persons prosecuted during the year. But some of the offences then reported had taken place up to 18 months previously, businesses and premises had changed hands, and this well intentioned disclosure created some difficulties for the department and for successors of the persons prosecuted and presumably this time lag was one of the reasons for this part of the Report receiving little cover from the national Scottish newspapers.

6. Looking to the second category of Acts, those which in essence prevent the disclosure of information which has been provided to a Government department or other body under compulsion except with the consent of the person
providing the information (Clause 3(ii) above) the important issue is that, if consent is nor forthcoming, there is in most cases little discretion to anyone to permit disclosure however unlikely it is that disclosure of particular information could harm the individual or firm which provided it. Case C explains some of the problems arising from this kind of legislation.

RECOMMENDATION:

(i) The offence of disclosure of information obtained during a visit to land or premises by an Inspector of a public authority should be restricted to the disclosure, other than in the performance of his duty, of information with regard to any manufacturing process or trade secret.

(ii) There should be legislation to permit local authority inspectorates such as Consumer Protection Departments and Environmental Health Departments to maintain registers of complaints and registers of tests of goods and materials and make these registers available for inspection on request.

(iii) The offence of disclosure without consent of information provided under compulsion by an individual or firm to a public authority should be limited by

(a) excluding from the restriction on disclosure certain basic information of public interest. (The Agricultural Statistics Act 1979 goes some way towards this end).

(b) giving to a Minister or to an appropriate regulatory body discretion to determine that information may be disclosed in the public interest. (The Civil Aviation Act 1971 as amended in 1980 is a precedent for this).
APPENDIX A

PROVISIONS MAKING IT A CRIMINAL OFFENCE TO DISCLOSE OFFICIAL INFORMATION

Census Act 1920, section 8(2)
Coal Act 1938, section 53
Essential Commodity Reserves Act 1938, section 11(3)
Population (Statistics) Act 1938, section 4(2)
War Damage Act 1943, section 118
Water Act 1945, section 48
Water (Scotland) Act 1946, section 72(6)
Atomic Energy Act 1946, sections 11 & 13
Coal Industry Nationalisation Act 1946, sections 56 & 57
Agriculture Act 1947, section 81
Cotton (Centralised Buying) Act 1947, section 23(2)
Industrial Organisation and Development Act 1947, section 5
Statistics of Trade Act 1947, section 9
Civil Defence Act 1948, section 4(4)
Cotton Spinning (Re-equipment Subsidy) Act 1948, section 4
Monopolies and Restrictive Practices (Inquiry and Control) Act 1948, section 17
Radioactive Substances Act 1948, section 7
Prevention of Damage by Pests Act 1949, section 22(5)
Food and Drugs Act 1955, sections 5(3) & 100(5)
Army Act 1955, section 60
Air Force Act 1955, section 60
Food and Drugs (Scotland) Act 1956, sections 5 & 36
Clean Air Act 1956, section 26
Naval Discipline Act 1957, section 34
Cinematograph Films Act 1957, section 5
Agricultural Marketing Act 1958, section 47
Offices Act 1960, section 9

Radioactive Substances Act 1960, section 13(3)
Flood Prevention (Scotland) Act 1961, section 34
Covent Garden Market Act 1961, section 32
Factories Act 1961, section 154
Rivers (Prevention of Pollution) Act 1961, section 12
Offices, Shops and Railway Premises Act 1963, section 59
Water Resources Act 1963, section 112
Weights and Measures Act 1963, section 48
Agricultural and Horticulture Act 1964, section 13
Harbours Act 1964, section 46
Industrial Training Act 1964, section 6
Cereals Marketing Act 1965, section 17
Gas Act 1965, Schedule 6, paragraph 9
Highlands and Islands Development (Scotland) Act 1965, section 12
Rivers (Prevention of Pollution) (Scotland) Act 1965, section 11
Abortion Act 1967, section 21(1)
Agriculture Act 1967, sections 24 & 55
Companies Act 1967, section 111
Iron and Steel Act 1967, section 43
Legal Aid (Scotland) Act 1967, section 18(2) & (4)
Medicines Act 1968, section 118
Sewerage (Scotland) Act 1968, section 50
Trade Descriptions Act 1968, section 28
Post Office Act 1969, section 65
Transport (London) Act 1969, section 36
Agriculture Act 1970, sections 21, 33 & 108
Sea Fish Industry Act 1970, sections 14(1) & 42
Civil Aviation Act 1971, section 36, as
amended by the Civil Aviation Act 1978, Schedule 1, paragraph 6(9)
Fire Precautions Act 1971, section 21
Highways Act 1971, section 67(4)
Town and Country Planning Act 1971, section 281(3)
Legal Advice and Assistance Act 1972, section 6(1)
European Communities Act 1972, section 11(2)
Harbours (Loans) Act 1972, section 2
Town and Country Planning (Scotland) Act 1972, section 266
Employment Agencies Act 1973, section 9
Counter-Inflation Act 1973, Schedule 4, paragraph 4 as amended by Price Commission Act 1977, Schedule 2, paragraph 9
Fair Trading Act 1973, section 133
Consumer Credit Act 1974, section 174
Merchant Shipping Act 1974, section 14(8) as amended by Merchant Shipping Act 1979, section 40(1)(b)
Slaughterhouses Act 1974, section 20(4)
Control of Pollution Act 1974, section 94
Legal Aid Act 1974, section 22
Rehabilitation of Offenders Act 1974, section 9
Health and Safety at Work Etc. Act 1974, section 28
Biological Standards Act 1975, section 5
Sex Discrimination Act 1975, section 61(2)
Supply Powers Act 1975, sections 5 & 6
Iron and Steel Act 1975, section 33
Industry Act 1975, section 33
Race Relations Act 1976, section 52(2)
Energy Act 1976, section 18(2) and Schedule 2, paragraph 7
Restrictive Trade Practices Act 1976, section 41(3)
Rent (Agriculture) Act 1976, section 30
Aircraft and Shipbuilding Industries Act 1977, section 52
Consumer Safety Act 1978, section 4(3)
Transport Act 1978, section 11(2)
Estate Agents Act 1979, section 10
Weights and Measures Act 1979, section 12
Agricultural Statistics Act 1979, sections 3 & 4
Banking Act 1979, sections 19 & 20
Case A

Strathclyde Consumer Protection Department was asked what the response would be if a consumer addressed to one of its Consumer Advice Centres the following question:

"I am interested in installing double glazing. I notice that, among a large number of national firms, there is one local firm advertising this service. I would like to use this local firm if it is satisfactory. Can you tell me if you have had any complaints about this firm's work? If there have been complaints are they few or many compared to your experience of other firms offering the same service?"

The reply was that the Centre would not give that information.

This was a question designed to obtain factual information without involving the Department in expressing opinions or criticisms of individual firms. It deals with a type of service which many people are using, which usually involves a householder in considerable expenditure and where it is very important to the consumer that he does not make a mistake in the choice of firm to do the work. It is exactly the type of case in which he needs to know if the agencies which exist to protect consumers are in possession of information which would help him to make a safe decision in employing a firm to carry out double glazing. It is not unlawful for a Trading Standards Department to make available this kind of information asked for in the question. But the climate of opinion in such departments is against becoming involved in such matters.
or Companies within the Region. The basic information about each factory was as follows:

1. Company name
2. Establishment address
3. Postcode
4. Telephone number
5. Industrial classification
6. Employment
7. Ownership.

Much of the information is available but not from one source and not up to date but the fact that the team were unable to obtain information from some official sources required them to build up their register bit by bit from many sources. Starting with Trade Directories and newspapers they proceeded by way of the Scottish Council Lists of Manufacturing Industry and the Business Statistics Office Classified List of Manufacturing Businesses to Telephone and Postcode Directories and Yellow Pages and to the Valuation Roll, Town Planning Register and Building

... refused VAT registration for Customs & Excise. Post Office particulars of connections and disconnections were not made available on grounds of confidentiality and although access was available to Fire Brigade Records of fire certificates for factories, these did not show the numbers of people employed.

The certificate does specify an "occupant load factor" and Fire Inspectors who check from time to time that the conditions of the certificate are being adhered to will have information about the numbers employed. The Inspectors are, of course, prohibited by Section 21 of the Fire Precautions Act 1971 from disclosing such information.

Case C

A team from the Department of Town Planning of Duncan of Jordanstone College of Art in Dundee started in September 1979 to construct an establishment based manufacturing register for the Tayside Region of Scotland. They were faced with the immediate problem that the information available to the team was incomplete and not up to date when they sought to obtain a list of mover firms in manufacturing industry (i.e., firms moving into the Region, expanding in situ, opening a branch plant, transferring operations, etc.) and finally checked their information as best they could by inviting those firms known to them to complete a questionnaire. From the sources available to them they found difficulty in getting accurate information about industrial classification and figures for employment.

Although working closely with Tayside Regional Council they could not, because of the Statistics of Trade Act 1947, get information which the Regional Council had from the Annual Census of Employment (ACE). They refused Factory Inspectorate data.
There is attached a draft leaflet which might help people who need information from public authorities but who do not know how best to go about obtaining it.

(1) Find the point of information
(2) Try an Information or Advice Centre
(3) Ask for help
(4) Write clearly
(5) Follow up replies
(6) Seek further help

See inside for more information

A leaflet of advice for people seeking information
FINDING OUT FOR YOURSELF
A leaflet of advice for people seeking information

Find the point of information
Information may be contained on documents you receive such as rates demands or fuel bills. You may however need to go to . . .

An Information or Advice Centre
These are most likely to be a Citizen’s Advice Bureau (CAB), a local authority information centre or a public library. Some towns also have Independent Advice Centres and country areas may have some form of advice service. You may be able to obtain the information you want either from the staff or in leaflets provided. If not, the staff will be able to tell you what to do.

People who work in Information and Advice Centres know how public authorities work and can advise you about dealing with them:
— Whether it is better to write or call in person
— Whether you can make an appointment
— If your problem will be dealt with locally or by headquarters.

They may tell you that you need information of a special kind, for example that you need legal advice. If you decide to seek such specialised information they will advise you how best to find it.

You may now have to proceed by . . .

Writing letters
If you expect a speedy reply, make sure that
• the letter is addressed to the correct department of the right organisation
• you state clearly what information you are looking for
• you say if you are acting on behalf of others, e.g. a community group
• you write well in advance of the date when you need the information and ask for a reply if possible by that date
• your own particulars are included fully and clearly
• you keep a copy.

Receiving the reply
• if an answer takes a long time send a reminder with the date and subject of your letter
• if you receive a full reply write a letter of thanks
• if your enquiry is only partially answered—ask for the rest of the information
• if you are refused information ask why the information is withheld.

There may be a reason
Information may not be available because
• it would be against the law to give it out or it might interfere with other people’s privacy
• it may not be the policy of the organisation to disclose this information
• it may be available or could not be made available except at unreasonable cost.

If you are not satisfied with the explanation you should say so and you should seek practical help to take the matter further.

Helping you to find out
It may be possible for some other individual or organisation to obtain information which is not readily available to you. If your problem is with
(1) your local authority—ask your local councillor to look into it for you.
(2) a nationalised industry—ask the appropriate Consultative Council.
(3) a government department—ask your Member of Parliament.
(4) any other organisation—ask your Member of Parliament.

These helpers will give advice as to whether you should accept a position which you think unsatisfactory or pursue it further. If the withholding of information from you should be thought to amount to maladministration your Councillor or your M.P. will be your route to

The Ombudsman
The Ombudsman will investigate issues of maladministration by public authorities.
MEMBERS OF SCOTTISH CONSUMER COUNCIL
(as at 31st March 1982)

Mrs. ESME WALKER:  Founder member Edinburgh Consumer Group, former CAB volunteer.
     Chairman

Professor TOM CARBERY:  Member Broadcasting Complaints Commission, Former Chairman Transport Users' Consultative Committee for Scotland.
     Vice-Chairman

Mr. RONALD DUFF:  Former Chairman Edinburgh Citizens Advice Bureau.

Mrs. RITA FINLAYSON:  Member Transport Users' Consultative Committee for Scotland, Secretary of Local community association.

Mrs. SHEENA GOOLD:  Member WRVS, Greater Glasgow Health Board.

Mr. COLIN HOPE:  Member Transport Users' Consultative Committee for Scotland, Local Electricity Consultative Committee, Member of Council of Insurance Ombudsman Bureau.

Mrs. BARBARA KELLY:  Member of SWRI, Local Health Council, Committee of Dumfries Action Centre.

Mr. R. A. McCREADIE:  Chairman Scottish Legal Action Group, Former Editor SCOLAG Bulletin.

Mrs. MARY McKELVIE:  Chairman of School Council, Member of Scottish Liaison Committee of Meat and Livestock Commission, Member of UK Consumers Liaison Committee of Potato Marketing Board.

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Mrs. MAEVE ROBERTSON:  CAB volunteer, Consumer affairs broadcaster.

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