The Government response to the Fifth Report of the Royal Commission on Environmental Pollution

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HER MAJESTY'S STATIONERY OFFICE
We no longer face acute air pollution in the United Kingdom but we still have significant problems, some chronic and some newly emerging. We need, therefore, to keep our systems of control under review.

The Royal Commission on Environmental Pollution performed an important service in this respect in their Report on "Air Pollution: An Integrated Approach". The Government welcome their analysis; and in particular their endorsement of the principles, first of sharing control between local authorities and a central inspectorate, and secondly of using the "best practicable means" to minimise air pollution.

The Royal Commission's most important contribution in this report, however, has been to spell out the need for a broad approach to the control of pollution, and for pollution control authorities to achieve the "best practicable environmental option". It is no good, for instance, removing pollutants from the smoke and gases discharged to air from chimneys if the waste is then discharged to a nearby river causing an even more serious problem of water pollution. The Royal Commission, accordingly, stress the need to look at certain industrial and chemical processes "in the round", and to operate controls over pollution in such a way as to achieve the best balance of environmental conditions.

The Government wholeheartedly support their view that the choice of measures to control pollution in the air, on land or in water should ensure that a reduction in pollution in one sector of the environment does not lead to an unacceptable situation in another. Our response to the Commission's Report explains why we have decided not to establish a new pollution inspectorate for this purpose. Instead we will encourage the various existing pollution control authorities responsible for clean air, rivers and the safe disposal of wastes to land or sea to work together to achieve the best practicable environmental option.

MICHAEL HESELTINE
Secretary of State for the Environment
THE GOVERNMENT RESPONSE TO THE FIFTH REPORT OF THE ROYAL COMMISSION ON ENVIRONMENTAL POLLUTION

Introduction

1. The Fifth Report of the Royal Commission on Environmental Pollution, "Air Pollution Control: An Integrated Approach" (Cmnd 6371), was published in January 1976. The Government are grateful to the Royal Commission for the thorough investigation they made of the system of air pollution control in the UK and for their many constructive recommendations for improvements in that system. It has taken a considerable time to respond to this report but this reflects the far-reaching nature of certain recommendations made in the report (some of which – as the Royal Commission themselves acknowledged – go beyond the terms of reference set for the study) and the corresponding difficulty of reaching a view of the action that should be taken.

2. Most of the 94 recommendations contained in the Royal Commission's report relate to detailed though important aspects of the arrangements for air pollution control which can conveniently be considered under a few general headings. For ease of presentation this approach is adopted in the following account of the Government's response to the report. However, it is appropriate to begin by dealing with two major issues raised in the report which are central to the Royal Commission's thinking, namely: the need for an integrated approach to pollution control and the related proposal that a new, unified pollution inspectorate should be established, based on the Alkali and Clean Air Inspectorate (ACAI); and the proposal that the Alkali Inspectorate should be removed from the Health and Safety Executive and returned to the direct control of the Department of the Environment.

3. Throughout this paper the Royal Commission recommendations are referred to in terms of the numbered listing given under paragraph 393 of their report. Appendix 2 also provides a full index.

The Integrated Approach to Pollution Control and the Proposed New Inspectorate

4. The Royal Commission recommended that a new, unified inspectorate (Her Majesty's Pollution Inspectorate or HMPI) should be set up to ensure an integrated approach to difficult industrial pollution problems at source, whether these relate to discharges to air, water or land (43 with related recommendations 44–66). Basic to the recommendation was their view that the control of air pollution in isolation – on the principle of “best practicable means” (bpm) – is likely to lead to a less than optimum solution of the total pollution control problems posed by an industrial works, since it will fail to take account of the fact that a reduction of pollution in one form may well lead to an increase of pollution in other forms. The Royal Commission argued
that the bpm concept needs to be expanded to that of "best practicable environmental option" (bpeo); the aim should be to assess the total pollution load generated by a works, having regard to interactions that occur in the control of pollution of different forms, and to arrive at the best balance in terms of emissions and discharges to all environmental media.

5. The logic of the approach to pollution control proposed by the Royal Commission is unassailable; though it is not easy to assess the real benefits that might accrue from its application. There are almost certainly cases where the optimum control of pollution from a works has not been realised because of a failure to recognise the interactions between the control of pollution in its different forms; the Royal Commission pointed to examples in their report. But there is probably not a large number of situations in which major choices exist in practice regarding the forms in which pollution arises; and there is little evidence that the present system is seriously failing in terms of achieving a sensible balance in the control of pollution of different forms.

6. Against this background, the Government are doubtful whether adoption of the approach proposed calls for substantial changes in the existing organisational arrangements for pollution control, which were introduced only in the mid-1970s, and which, in important respects, have only recently become firmly established. As the Royal Commission recognised, much can be achieved by informal co-operation between pollution control authorities. It is clearly important that these authorities – the ACAI, Her Majesty's Industrial Pollution Inspectorate (HMPI) in Scotland, the water authorities, waste disposal authorities, and environmental health authorities – should not look at problems in isolation, but should explicitly recognise that controls in one sector may impinge on those in another. This calls for close liaison, in appropriate cases, between pollution control authorities; to some extent this already happens (as indeed the Royal Commission recognised), but the Government accept that the practice needs to be extended.

7. The particular organisational solution proposed by the Royal Commission – the creation of HMPI – raises difficult questions concerning the role of this inspectorate in relation to existing authorities which are responsible for the control of discharges to water and of waste disposal to land (in England and Wales, the regional water authorities and the waste disposal authorities respectively). In the Government's view the proposal would involve a substantial increase in operational complexity by establishing another level in the control machinery. It would imply a significant extension of central control of industrial pollution and would be seen by existing authorities as tending to undermine their position in their dealings with industry by usurping an important part of their responsibilities. All in all, the Government cannot accept the view expressed by the Royal Commission that the creation of HMPI would have little impact on the existing pollution control organisation; it would, the Government believe, have a profound effect. The
Government have therefore concluded that the creation of HMPI would not be justified.

8. To sum up the Government's position on these important recommendations, the Government accept that the Royal Commission have identified a genuine problem in drawing attention to the potential transfer of pollution from one medium to another if individual pollution control authorities do not have regard to the wider implications of their decisions. The Government acknowledge also that the bpeo concept is one of considerable power and utility. However, they do not see it as calling for organisational change (though they do not rule out the possibility of such change being needed in future in the light of experience in pursuing the ideas put forward by the Royal Commission). Rather, they accept the need for a more integrated approach to the control of industrial pollution, within the existing organisational framework.

9. The Government therefore look to all pollution control authorities to take account of the principles enunciated in the Royal Commission's report, and to consider, in appropriate cases and in consultation with other pollution control authorities, whether a particular application of pollution control would be likely to conflict with the principle of achieving the best practicable environmental option. The Government will initiate discussions with representatives of the authorities concerned in order to provide a forum for discussion on the issues involved, and to establish whether implementation of the approach proposed by the Royal Commission would lead to problems in practice. Work is already in hand on identifying areas where the potential gains from a bpeo approach appear to be greatest, and this will be continued, taking account of the proposed discussions with representatives of pollution control authorities.

The Proposed Role of HMPI in Relation to the Control of Radioactive Waste Discharges

10. It is convenient to refer here to further recommendations relating to HMPI which were made by the Royal Commission in their Sixth Report, “Nuclear Power and the Environment” (Cmnd 6618). In that report (paragraphs 246, 247) the Royal Commission observed that the notion of the transferability of pollution from one form to another, and hence the need to seek the "best practicable environmental option", applied also to the control of radioactive discharges; they therefore recommended that the unified pollution inspectorate proposed in their Fifth Report should become responsible for determining and controlling all discharges of radioactivity to the environment, whether to air, water or land and that, to that end, it should incorporate the several inspectorates currently responsible for these duties. In their response (White Paper: “Nuclear Power and the Environment”, Cmnd 6820, Annex A, paragraph 2) to the Royal Commission’s Sixth Report the
then Government deferred commenting on this recommendation until a decision had been reached on the primary recommendation in the Fifth Report.

11. As the Government cannot accept the primary recommendation described in paragraph 4, the contingent recommendation necessarily falls. The legislative controls over radioactive discharges are already common to all environmental media, and are administered for any given case by a single Government Department, except for nuclear sites in England where the responsibility lies jointly with the Department of the Environment and the Ministry of Agriculture, Fisheries and Food. The principles used in controlling discharges are also uniform and are aimed at achieving the best overall solution.

Removal of the Alkali Inspectorate from the Health and Safety Executive (HSE)
12. The ACAI was transferred to the HSE in 1975, while the Royal Commission’s study was in progress. The Royal Commission considered that this move was potentially damaging to the environment; they recommended that the Inspectorate should be restored to direct control by the Department of the Environment (42).

13. While appreciating the strength of the Royal Commission’s concern on this issue, the Government cannot agree that the incorporation of the Inspectorate into the HSE has led, or will lead, to neglect of protection of the environment beyond the workplace. The responsibilities of Environment Ministers for the control of air pollution are in no way affected by this arrangement. Through the Health and Safety Commission, the HSE is answerable to these Ministers in respect of its responsibilities for the control of emissions from scheduled processes and operates within the general policies for pollution control that they establish. There is, and will continue to be, frequent contact between the Inspectorate with its experience of the practice of air pollution control and Department of the Environment (or Welsh Office) officials concerned with related policy issues. Moreover, there are positive arguments in favour of the present arrangements. There is an undeniable affinity of interest between the agencies concerned with pollution control inside and outside a works; measures taken to protect the internal environment may well react on the external environment, and vice-versa. There are general advantages to be gained in bringing together the professional groups that deal with industry within a common organisation.

14. Accordingly, the Government have decided that no change is needed in the present arrangements; the Alkali Inspectorate will remain within the HSE. The Executive have decided that its functions would be more appropriately described by naming it the Industrial Air Pollution Inspectorate. However, recognising the anxiety that exists on this question of
organisation, and that this may reflect at least in part misunderstanding of the
way that responsibilities rest between them, the Environment Departments
and the Health and Safety Commission (HSC) have agreed on the need for
the arrangements and responsibilities that relate to their air pollution control
functions to be clearly defined and to be set down in a memorandum of
understanding. A copy of this document, which has been agreed by the
parties, is at Appendix 1.

15. As the Royal Commission has recognised, differences have developed
over the years to meet the particular needs in Scotland for the control of
environmental pollution. HMIPI already has, therefore, a wider range of
duties than those of the Alkali Inspectorate. In addition to exercising the
same air pollution control function as ACAI they also control all aspects of
the disposal of radioactive waste and have certain advisory responsibilities in
relation to water pollution and waste disposal. HMIPI was not transferred to
HSE and remains within the Scottish Development Department, exercising
the air pollution control function under an agency agreement with HSC and
HSE. The Government consider that the Inspectorate should continue to
operate on this basis.

Central or Local Control
16. The Royal Commission recommended:
   i. that control of industrial air pollution should continue to be shared
      between local authorities and a central inspectorate (8);
   ii. that unless there are grounds for control by the central inspectorate,
      local authorities should control all those works that lie within their
      technical competence (17);
   iii. that the existing divisions between scheduled and unscheduled
       processes (ie between those controlled by the central inspectorate and
       those that are not) should be examined to see whether there is scope for
       change (18);
   iv. that decisions on the scheduling and descheduling of classes of works
       or of individual works should continue to be taken by the Secretary of
       State for the Environment, after wide consultation (16); and that when a
       particular works or class of works is scheduled or descheduled its status
       should not be reconsidered for a minimum specified period (19).

17. The Government welcome the Royal Commission's conclusion that the
present system, whereby the control of air pollution is shared between local
authorities and a central inspectorate, should continue. The central inspector-
ate can, and does, provide a capacity for determining the best practicable
means for controlling difficult problems of industrial air pollution on a
consistent, national basis. But the Government agree with the Royal
Commission that controls should be exercised by the central inspectorate only
where there are clear advantages to be gained; local authorities should
continue to control the majority of processes.
18. The Health and Safety Commission has already set out proposals for amendments to the existing division between scheduled and unscheduled processes; a consultative document was issued and detailed discussions have been held with local authority associations and with representatives of the industries concerned. In the light of these discussions further amendments are being made to the original proposals; and the Commission will shortly be submitting proposals for change to the Secretary of State for the Environment and his colleagues in Scotland and Wales. Regulations on this matter made under the Health and Safety at Work etc Act 1974 remain the responsibility of these Secretaries of State.

19. Normally only classes of works will be scheduled or descheduled. In normal circumstances a decision to schedule or deschedule a class of works would not be reconsidered for several years. The provisions of the Health and Safety at Work Act do, however, enable transfer of individual premises between different enforcement authorities where there is a good case for treating an individual works in this way. This may offer a suitable way of meeting any particularly difficult cases.

20. The Royal Commission noted that many industrial works include both scheduled and non-scheduled processes, so that the Alkali Inspectorate and the local authority are involved in control at the same works. It is clear that such dual control can work effectively only if there is full co-operation and informed liaison between the central inspectorate and local authorities, both at the local level and nationally. The HSC and its Executive are determined to maintain and develop this co-operation.

The Principles of Control

21. The Royal Commission recommended:
   i. that control of industrial emissions should continue to be based on the principle of the “best practicable means” rather than uniform, statutorily enforceable emission standards (9, 10);
   ii. that there should be new, comprehensive legislation to cover all aspects of industrial air pollution which would extend the application of the bpm principle to all industrial discharges to air; that the legislation should include a power to limit or ban the discharge of any specified pollutant; and that “fume” should be controlled (20);
   iii. that the Government should issue advice to local authorities on the determination of bpm for the more difficult non-registered processes (23); and that provision should be made for appeal where a local authority and a firm cannot agree on bpm (24).

22. The Government welcome the Royal Commission’s conclusion that the bpm system remains consistent with the realities of pollution control and that the control of industrial emissions should continue to be based on this
principle. And the Government agree with the Royal Commission that control by the imposition of uniform, statutory emission standards would not generally be appropriate. It is recognised, however, that the bpm principle may need to be extended into the wider concept of “best practicable environmental option” (see paragraph 4 above); and that the application of bpm must take account of constraints that may be imposed by air quality standards (see paragraph 27).

23. The Government recognise that control on the basis of bpm requirements can at present be applied fully in a flexible way only by the Inspectorates. The Government accept that there are some processes for which it would be desirable to provide for similar local authority control, although they consider that this may not be appropriate for all processes.

24. Other factors have arisen since the Royal Commission’s report which have a bearing on the need to review air pollution control legislation. The introduction of air quality standards raises the question of controls that may be needed to implement these standards. In this context, the report of the Commission on Energy and the Environment, “Coal and the Environment”, has drawn attention to problems that may arise in future through changes in the pattern of fuel use.

25. The Government have therefore decided that a comprehensive review of air pollution control legislation shall be undertaken. It is envisaged that a consultation document will be issued discussing options for effective powers that could be made available as necessary to either the central inspectorate or local authorities. The review will need to take account of the existing provisions under the Health and Safety at Work Act for local authorities to act on behalf of the HSC for certain types of enforcement duties. The document would also deal with the implementation of air quality standards and the framing of more general emission controls, including wider control of fume emission. The need for central advice to local authorities on bpm, and the question of provision for appeal in circumstances where a local authority and a firm could not reach agreement on bpm, are matters that will require consideration in the context of the review.

Air Quality Guidelines or Standards

26. The Royal Commission recommended:

   i. that more specific attention should be paid to air quality; that statutory standards of air quality would be unenforceable and should not be adopted; but that the Government should establish air quality guidelines for certain pollutants expressed as a band rather than a single figure (11–14);
   ii. that local authorities should adopt air quality targets using these guidelines (15).
27. The Government accept the need to direct attention to air quality as well as to the control of emissions and they acknowledge the strength of the arguments advanced by the Royal Commission in favour of a flexible approach, based on guideline "bands", rather than the adoption of fixed standards. It is apparent, however, that in this area there have been major developments since the time of the Royal Commission's report, to which the Commission's thinking has contributed; there is, in particular, the agreement reached on the EC Directive (80/779/EEC) on sulphur dioxide and suspended particulates. More recently agreement was reached on a Directive relating to lead in air. A similar approach will no doubt be adopted towards other pollutants considered by the EC in the future.

28. The smoke and sulphur dioxide Directive embraces both air quality limit values and guide values. The Directive is mainly concerned with limit values, these being maximum concentrations measured over various periods which must not be exceeded. Time is to be allowed to take the measures that may be necessary to bring about any required reduction in concentrations. The limit values are binding and should ensure a uniform approach throughout the Community. However, the problems of assessment and enforcement to which the Royal Commission pointed remain to be fully examined.

29. The Government's approach to the implementation of the limit values specified in the Directive is set out in Department of the Environment Circular 11/81 (Welsh Office Circular 18/81; Scottish Development Department Circular 40/81). Areas where there is a risk that the limits may be exceeded are being identified; the elements of tolerance implicit in this analysis constitute, in effect, a recognition of the Royal Commission's views on the difficulties that are inherent in the use of rigid air quality standards.

30. The Directive also contains lower, non-mandatory, guide values and the Government's approach to these is also set out in the Circulars referred to above; local authorities are enjoined to note the guide values as long-term goals. The Government consider that in present circumstances it would be difficult to justify the setting of targets below the limit values which would call for increased expenditure on pollution control. However, where levels are already well below these values the aim should be so far as practicable to preserve them.

The Setting of BPM: Consultation: Consents

31. The Royal Commission recommended:
   i. that there should be wide participation in the determination of bpm both at national and local levels (21, 22);
   ii. that a system of “consents” should be substituted for the present “registration” of scheduled works (25-31).

32. The Government agree that consultation is desirable when bpm is being
determined for a class of works or an individual works. The Alkali Inspectorate does now consult more widely; the views of Environment Departments, professional officers of local government management and unions are sought when notes on bpm are being drafted. At local level, the Inspectorate’s requirements for individual works are copied to the local authorities concerned. There are broadly similar arrangements in Scotland.

33. The Government are not convinced that there are significant advantages in a procedure based on detailed consents with legal force as compared with the present arrangements. The consent procedure would imply greater rigidity of control against the more flexible response to operational experience of the present system. It would also entail the employment of more staff in Government and industry. The HSC proposes nevertheless to keep under review the procedures used by the Alkali Inspectorate for registration and prior approval and changes can be made by Regulations under the Health and Safety at Work Act.

34. What the Government consider more important than the detailed procedures is to give local authorities, and local interests, full information about what the Alkali Inspectorate is requiring. Arrangements have been made to give details to the local authority affected by an individual works. The HSE are intent on improving the flow of information about what they are requiring and copies of relevant documents, including the bpm for a works, are now made available. The Government believe that the objectives of the Royal Commission’s proposals can thus be met without sacrificing the valuable flexibility of the present system.

Enforcement
35. The Royal Commission recommended:
   i. that an aggressive prosecution policy would not be desirable, but where breaches of requirements are frequent or severe, prosecution should follow automatically (35);
   ii. that more effective inspection of registered works can be achieved by greater co-operation between the Alkali Inspectorate and local authorities, who should assist each other in detecting breaches and in prosecutions. Environmental Health Officers should have a clear right to enter any works where they believe the consent conditions are being breached and to report their findings to the Alkali Inspectorate; when a firm has been notified of a breach of requirements the fact should be made public. Complaints about registered works should normally be made via local authorities, who should be able to inspect such works; these authorities should receive periodic reports from the Inspectorate on the performance of registered works in their areas. Alkali Inspectors and local authorities should make more inspections outside office hours (32, 33, 36, 37, 39 and 40);
36. The purpose of enforcement action is to ensure that firms comply with the requirements of the pollution control legislation. The HSC has issued guidance to the HSE and to other enforcement authorities under the Health and Safety at Work Act, about the methods to be used in securing compliance. This calls for a graded response, ranging from giving advice, to asking for specific action, to the issue of notices, and in the last resort prosecution. This policy, which appears to be in line with the Royal Commission's view, is applied by the Alkali Inspectorate as by other parts of HSE.

37. The HSE decided some time ago that in England and Wales the Alkali Inspectorate should notify the local authority where an infraction notice is issued in respect of a registered works, and this meets the Royal Commission's recommendation. This is part of the effort to develop the Inspectorate's relations with the local authorities. If a local authority so desires, the Inspector will attend a meeting to discuss his work, and local problems. He will also provide written reports on particular matters if so requested. It is better to make arrangements which suit individual areas rather than to have a formal and uniform scheme for contacts.

38. The Royal Commission were concerned to maximise co-operation between the Inspectorates and local authority officers on securing compliance. This is certainly also the desire of HSE who encourage their Inspectors to co-operate closely with Environmental Health Officers in their areas. Local authorities are already frequently used as a channel for complaints about registered works. And Environmental Health Officers already have power to enter any works, including a registered works, whenever they suspect a nuisance; no further powers seem to be needed. The Government also accept in principle the Royal Commission's recommendation about the need for after-hours inspection in some instances.

39. The Government accept that the question of whether Environmental Health Officers could be appointed as agents of the Alkali Inspectorate is one that should be examined in the context of the general review referred to above (paragraph 25), as one aspect of the general question of the links, formal and informal, between the central and local controlling authorities.

40. On the question of publication of data on emissions, Part IV of the Control of Pollution Act 1974 and Part I of the Health and Safety at Work etc
Act 1974 already provides for this, subject to restrictions in relation to “trade secrets”.

41. As regards “Crown Exemption”, the Crown is bound by the provisions of the Health and Safety at Work Act and when Regulations are made under that Act they will (unless there is a specific exemption eg for reasons of national security) apply to Government Departments as to other bodies. (The only difference is that the Crown cannot be prosecuted for breaches of requirements.) The Government accept that their installations should conform to the requirements of health, safety and pollution control.

**Domestic Smoke Control**

42. The Royal Commission recommended:
   i. that decisions on where smoke control is needed should continue to be made by local authorities - assisted, however, by guidelines to be drawn up for the purpose by the Government (4, 5);
   ii. that to speed up the procedure for making smoke control orders, objections should normally be dealt with by the written representations procedure, that local authorities should always explain to those affected the need for smoke control and what it entails and that sulphur content should be taken into account in considering the approval of fuels for use in smoke control areas (1-3);
   iii. that the Government should consider whether to lend or hire monitoring equipment to local authorities to help them assess the need for smoke control (6).

43. The Government agree that decisions on where smoke control is needed should continue to be made by local authorities and have taken action in line with these recommendations of the Royal Commission. Smoke control order procedures have been simplified under the Local Government, Planning and Land Act 1980 as part of the Government’s general drive to streamline administrative procedures. The statutory requirement for the Secretary of State to confirm smoke control orders has been removed, thus placing the onus for decision firmly with the local authorities. Other changes have been made to the administrative control of Exchequer contribution to grants. Simpler methods of dealing with objections have been introduced. The revised procedures are set out fully in Department of the Environment Circular 11/81 (Welsh Office Circular 18/81; Scottish Development Department Circular 40/81) which also provides a framework of overall priorities based on the EC Directive on smoke and sulphur dioxide. The Circular reminds authorities of the need to explain smoke controls to those affected.

44. Sulphur content is already considered in approving fuels for use in smoke control areas; this is the more necessary in view of the requirements imposed by the EC Directive (see paragraph 27). Where local authorities need
monitoring equipment to help assess the need for smoke control, Warren Spring Laboratory and, in Scotland, the Scottish Development Department can help to a limited degree informally. No evidence of any general need, however, has been found.

**Monitoring and Research**

45. The Royal Commission recommended:
   i. that the Department of the Environment should assume formal responsibility for the National Air Pollution Survey; that local authorities and industry should continue to undertake the regular monitoring of air quality and emissions, making the information available publicly where appropriate. Controlling authorities should carry out more tests themselves (67–69, 71);
   ii. that the Department of the Environment should consider whether its scientific advice and the arrangements for research are adequate (in particular, assessment of biological and other effects of pollutants in low concentrations and the study and use of modelling techniques). The need for research relating to the control of non-registered processes should be considered (70, 72–74);
   iii. that the Department of the Environment should initiate a study of the effectiveness of different countries' systems of air pollution control, possibly through an international organisation (7).

46. The Government accept the Royal Commission's recommendations about monitoring. The Department of the Environment has formal responsibility for the National Air Pollution Survey (now called the UK Monitoring Networks for Smoke and Sulphur Dioxide); the coverage of the survey has been reviewed generally and in the light of the EC Directive on smoke and sulphur dioxide. Local authorities should continue to monitor for their own local needs and can seek advice from the Warren Spring Laboratory where necessary. Industry is already encouraged to publish the results of its own monitoring whenever possible.

47. The Department of the Environment has reviewed its arrangements for obtaining scientific advice on air pollution matters. Such advice is provided by scientists within the Department (who are now fully integrated with the administrators dealing with the subject), by the Inspectorates, and by scientists engaged on research under contract to the Department, especially those within the well-established expert groups at the Warren Spring Laboratory and at AERE Harwell. The advice available, especially from the expert groups, stems from knowledge acquired through research and hence reflects the extent and direction of the research programme; some reductions in that programme have been forced by the general constraints on public expenditure. These constraints have sharpened the need to keep priorities for research under review in relation to changing needs; at present the
Department is re-assessing its programme in the light of the developing importance of the 'acid rain' issue. The Department also keeps closely in touch with relevant research being carried out by industry and universities. So far as advice on human health aspects is concerned, the Department has a well-established liaison with the DHSS medical advisers on air pollution matters. The DHSS Air and Soil Committee has undertaken work on biological assessment and there is close working liaison with them on such subjects as sulphur dioxide, fluoride and nitrogen oxide emissions. Additionally, the Department maintains a close interest in the research which the Agricultural Departments sponsor into the low level effects of atmospheric contaminants on crop yields and freshwater fisheries.

48. The Government are satisfied that adequate resources have been put into the study and use of modelling techniques. The use of these techniques has become well established in the study of the distribution of pollutants around sources (for example the Forth Valley study sponsored by the Scottish Development Department, and the programme sponsored by the Department of the Environment at Warren Spring Laboratory to determine areas of the United Kingdom where there might be a risk of breaching the limit values of smoke and sulphur dioxide specified in the EC Directive). Increasing use is being made of modelling in the study of such problems as the long-range transport of air pollutants, the formation and transport of 'acid rain' and photoxidants, the significance of motor vehicle emissions in and around urban areas, and the effects of emissions of chlorofluorocarbons and other substances on the stratospheric ozone layer. The Department of the Environment has completed its general study of the co-ordination of pollution research and has not found it necessary to make any changes to its existing arrangements. However, following the review of the division between scheduled and unscheduled processes (see paragraph 18) the Government will discuss with the local authority associations the need for any further research into the processes for which they are responsible.

49. As regards comparative studies of systems of air pollution control abroad, the Government consider that such a study by the UK alone would not justify the effort required. The effectiveness of a control system can be gauged by comparing the air quality with the total costs of achieving it. While information on legislation and methods of enforcement may be available from other countries, few data are yet available on which a meaningful comparison of air quality can be based and information on the costs of pollution controls incurred by control authorities and industry is limited. Nevertheless, the Department of the Environment has supported work by the OECD which will provide some of the information the Royal Commission thought desirable.

Planning
50. The Royal Commission recommended:

i. that local authorities (in liaison as necessary with other authorities to
establish appropriate expertise) should draw up pollution policies and
draw up pollution policies and
embody them in structure and local plans: the Government should issue
suitable guidance to local authorities; a specific requirement should be
laid on local authorities to take account of the need to conserve and
improve the environment (75, 76 and 83);
ii. that there should be consultation between planning and pollution
control authorities on relevant planning applications; consultation with
the central inspectorate should be mandatory on applications relating to
registrable works (79–81);
iii. that “zonal” concepts should be developed: the Government should
consider “buffer zones” around heavily polluting industries; the central
inspectorate should designate zones around registered works in which
consultation with them should be mandatory; local authorities should
consider determining the total pollution capacity for a site against which
applications for development could be cumulatively assessed (77, 78 and
82);
iv. that proposers of certain major developments should provide the
planning authority with an assessment of the total pollution effects of
those developments; that the Government should consider the possibility
of providing for technical consensus to be reached before a public inquiry
is opened (84, 85 and 86);
v. that the Government should issue guidance to planning authorities on
pollution questions, taking account of the Royal Commission’s recom-
endations (94);
vi. that planning authorities should not attempt to control emissions
through the imposition of planning conditions: their sanction against a
development unacceptable on pollution grounds should be the refusal of
planning permission; that certain amendments to the planning system be
considered in relation, in particular, to certain changes of use and to
action which local authorities could take to close an existing works or to
revoke an outline planning permission because of changes likely to lead to
increased pollution, and to their liability for compensation in such
circumstances (87–93).

51. The Government recognise that as public expectations of environmental
quality continue to rise, the contribution that the planning system can make in
the control, and anticipation, of pollution problems will become increasingly
important. The Government therefore accept the Royal Commission’s view
that pollution policies have a justifiable place in planning and should be
embodied in both structure and local plans. The Government will take this
into account in its forthcoming revision of advice to local authorities in the
Memorandum on Structure and Local Plans. The Government agree on the
need for local authorities to establish appropriate expertise; liaison with
neighbouring authorities is commended as a matter of good practice. While it
is clearly important that proper account is taken of environmental protection,
the Government do not consider that a specific requirement laid on local
authorities is necessary. In this context it should be noted that both structure and local plans are required to contain policies and proposals for the improvement of the physical environment (Sections 7(3) and 11(3) Town and Country Planning Act 1971, and Sections 5(3) and 9(3) of the Town and Country Planning (Scotland) Act 1972).

52. The Government agree about the importance of consultation between planning and pollution control authorities in appropriate cases. However, while the Government believe that the Inspectorates should always be consulted about significant development involving a registered works (either where developments are proposed at such a works or where other, substantial, developments are proposed in the surrounding area) they do not consider it necessary that such consultation should be made mandatory.

53. Proposals in local plans may be used to segregate noisy or polluting industry from residential use by intervening areas of open use. In the Government's view this is a better and more practicable answer to the problem than a buffer zone policy; the problems created by such a policy (which were recognised by the Royal Commission) would be likely to outweigh the benefits. There are similar practical difficulties which make it undesirable, in the Government's view, to define a precise zone around a registered works within which all the effects that warrant consultation could be confined, although, as indicated above, the Government accept that where developments are proposed in the vicinity of a registered works consultation with the Alkali Inspectorate is highly desirable. Application of the concept of a total pollution capacity for a site will be stimulated by the adoption of air quality standards. In those areas where there is a risk of exceeding the standards, the effect of changing emissions on air quality is being studied by Warren Spring Laboratory and others using modelling techniques. These techniques have been and will continue to be used to indicate at what stage further developments in a particular area are likely to cause pollutant concentrations to exceed a quality standard, and they will therefore play an increasingly important role in air quality management.

54. Environmental assessments are made already of certain major developments where their use is worthwhile in the circumstances, relevant to the decision and necessary to the total evaluation of the project. For England and Wales planning authorities' powers to obtain information from developers are contained in Article 5 of the Town and Country Planning General Development Order 1977 and for Scotland in Article 8 of the Town and Country Planning (General Development) (Scotland) Order 1981. There is no doubt that planning authorities have the powers to acquire all the information a developer can provide. It is the Government's policy to encourage pre-inquiry meetings on major developments in order to explore what consensus is possible on technical and other matters.
55. On the question of the imposition of planning conditions to control pollution, it is the view of the Department of the Environment, supported generally by the Courts, that planning conditions should not be used to duplicate specific controls which already exist under pollution or other legislation. But where there are no such specific controls, it will continue to be appropriate to consider the use of planning controls to ensure that, where necessary, new development incorporates features which will make it acceptable from a pollution point of view in the proposed location. The Government consider that the use of the planning system to deal with the two types of change of use quoted by the Royal Commission would not be appropriate, and see severe practical difficulties in limiting the planning permission for an extension to an existing polluting works in the ways suggested by the Royal Commission.

56. The question of whether local planning authorities might be held responsible for circumstances leading to closures in England and Wales resulting from High Court decisions, under Section 100 of the Public Health Act 1936, and the related question of whether local authorities should be liable for compensation in proportion to any such responsibility, have arisen in the current review of the law on statutory nuisance. The Government will consider these matters further and announce a decision in due course. The Government agree that local authorities should consider the wider implications of any proposed action that might result in the closure of a works and consult the affected bodies such as management, unions, suppliers, customers, public sector etc. Finally, on the question of whether compensation should be payable when outline planning permission is revoked because changes in the developer’s proposals are likely to lead to increased pollution, the Government see no reason to distinguish this type of case from other similar cases where compensation is already payable.

57. The Royal Commission commented favourably on a draft circular on planning and clean air which was under consideration at the time of their study and urged that this work should be carried forward. This initiative was overtaken by subsequent events, in particular the need to take account of the implications for planning policies of air quality standards. The question of how planning can assist in meeting the standards laid down in the EC Directive on smoke and sulphur dioxide is dealt with in Department of the Environment Circular 11/81 (Welsh Office Circular 18/81; Scottish Development Department Circular 40/81). The need for further advice to planning authorities on pollution issues will be kept under review.
APPENDIX 1

MEMORANDUM OF UNDERSTANDING BETWEEN ENVIRONMENT DEPARTMENTS AND THE HEALTH AND SAFETY COMMISSION AND EXECUTIVE OF THEIR FUNCTIONS IN RELATION TO THE CONTROL OF INDUSTRIAL AIR POLLUTION

Formal Arrangements
1. The Health and Safety Commission will continue to be responsible to the Environment Ministers* in respect of their responsibilities for the control of air pollution from certain industrial processes† under the Health and Safety at Work etc Act 1974 [the 1974 Act] and other relevant legislation.

2. The Health and Safety Executive will carry out their responsibilities under the relevant legislation in respect of industrial air pollution in the light of general policies of pollution control established by Environment Ministers.

3. The Health and Safety Commission shall, each year, present to the Environment Ministers its plans for carrying out its responsibilities in relation to industrial air pollution. The Environment Ministers may, in consultation with the Secretary of State for Employment and other Ministers concerned, approve those plans with or without modification: and the Commission and the Executive will act in accordance with the plans approved by Ministers. The plans shall include:
   
   a statement of the resources (manpower and other) which are to be devoted to the control of industrial air pollution, including an account of how these resources will be deployed on the various tasks to be undertaken;
   
   the number of scheduled processes controlled under existing legislation;
   
   a description of any new initiatives contemplated for the control of industrial air pollution;
   
   a description of any proposals for change in relevant legislation which the Commission has under consideration;
   
   a statement of the extent to which resources provided for the control of industrial air pollution will be used on work outside this field, and of the nature of such work (see paragraph 6).

4. The Secretary of State’s powers to make regulations under the 1974 Act on the control of the emission into the atmosphere of noxious or offensive substances from prescribed classes of premises will continue to be exercised by the Environment Ministers. The HSC will seek the consent of the

* The Secretary of State for the Environment, or for Wales and, as appropriate, for Scotland.
† ie those premises prescribed for the purposes of Section 1(1)(d) of the 1974 Act.
Environment Ministers before approving any codes of practice under the 1974 Act relating to the control of industrial air pollution. The Commission and the Executive will seek the views of the Environment Departments at the earliest stage when such proposals are being developed.

5. The HSE will maintain an “Inspectorate” ie a specific group of inspectors possessing appropriate qualifications so as to carry out adequately the Executive’s functions in relation to the control of industrial air pollution. The Executive will appoint – after consultation with the Environment Departments – a Chief Industrial Air Pollution Inspector (CIAPI) who will be responsible for the work of these inspectors. The CIAPI will be a member of the Management Board of HSE. The Executive will consult the Environment Departments before making any significant changes in the way in which work on the industrial air pollution is organised or carried out.

6. The knowledge and experience of Industrial Air Pollution Inspectors may be used in dealing with any specialist problems for which HSE are responsible so long as this does not interfere with the proper carrying out of their primary function.

7. The HSE will provide Industrial Air Pollution Inspectors with any scientific and laboratory services needed for the control of industrial air pollution. Any of the resources of HSE will be available on request to Industrial Air Pollution Inspectors to assist them in their work.

8. The HSE will publish regular reports covering their work in relation to industrial air pollution. The Environment Departments will be consulted about the frequency and form of such reports.

9. The HSE will, after consultation with the Department of the Environment, locate the CIAPI and his HQ staff in such a way as to facilitate rapid, convenient and regular contacts with the officials of the Department of the Environment concerned with industrial air pollution.

General Relations with Environment Departments
10. The HSE will arrange for the CIAPI and his staff to be available to give technical and professional advice to the Environment Departments in relation to any pollution control matters whether or not they are within the formal responsibilities of HSE. Other parts of HSE will contribute to such advice as necessary.

11. The CIAPI and Industrial Air Pollution Inspectors will continue to give information and advice on request to local authorities on matters relating to local authority responsibilities for the control of industrial air pollution.
12. In determining what constitutes the best practicable means of controlling emissions to air from scheduled processes, either for a particular plant or for an industry, the CI API will take full account of any general policies on pollution control adopted by the Environment Departments including any air quality standards or guidelines. He will consult the Environment Departments before issuing any Notes on bpm. He will keep the Environment Departments informed about major issues concerning control at individual works.

13. The Environment Departments will consult HSE on any general policy on pollution control that may directly or indirectly affect HSE responsibilities for the control of industrial air pollution. Such consultation will normally be with CI API and his staff but may involve other parts of HSE.

14. Environment Ministers will continue to answer in Parliament for the actions of HSE and its staff in relation to the control of industrial air pollution. The Environment Departments will consult HSE on any questions and correspondence and HSE will provide any information required.

Scotland
15. The Industrial Pollution Inspectorate for Scotland will carry out under an agency agreement similar functions to those described for the Industrial Air Pollution Inspectorate.
This response to the 5th Report also refers (in paragraphs 10 and 11) to recommendations which were made by the Royal Commission in their 6th Report “Nuclear Power and the Environment” (Cmnd 6618)
This is the eighteenth in a series of official papers to be published for the Department of the Environment on various aspects of pollution.

Titles published to date are:

4. Controlling Pollution (1975)
5. Chlorofluorocarbons and their Effect on Stratospheric Ozone (1976)
6. The Separation of Oil from Water for North Sea Oil Operations (1976)
7. Effects of Airborne Sulphur Compounds on Forests and Freshwaters (1976)
8. Accidental Oil Pollution of the Sea (1976)
9. Pollution Control in Great Britain: How it Works (2nd Ed)(1978)
11. Environmental Standards (1977)
12. Lead in Drinking Water (1977)
14. Lead Pollution in Birmingham (1978)
16. The United Kingdom Environment 1979: Progress of Pollution Control (1979)

This series is complemented by a series of Pollution Reports which provide information on pollution matters which may be of more limited public interest or which is not yet in a form which would merit publication as a Pollution Paper.

The titles already published in the Pollution Report series are:

4. Digest of Environmental Pollution Statistics No 1 (HMSO, 1978)
5. Glossary of Air Pollution Terms: Air Pollution Monitoring Management Group (HMSO, 1979)
7. Digest of Environmental Pollution Statistics No 2 (HMSO, 1980)
9. Digest of Environmental Pollution and Water Statistics No 3 (HMSO, 1980)
13. Digest of Environmental Pollution and Water Statistics No 4 (HMSO, 1982)