



DEPARTMENT OF HEALTH AND SOCIAL SECURITY

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From the Secretary of State for ~~XXXXX Services~~ Health

The Rt Hon Norman Lamont MP
 Chief Secretary to the Treasury
 HM Treasury
 Parliament Street
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*NBM will Treasury
 equal.*

05 SEP 1989

*RLB
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Dr Norman,

A COMMERCIAL APPROACH TO NHS PROPERTY

When the Health and Medicines Bill was reaching the end of its passage through Parliament last October, I wrote to John Major seeking approval for the introduction of an amendment which would provide powers enabling us to initiate or participate in property developments through limited liability companies or partnerships. When he replied he referred to the considerable potential ramifications for public expenditure control, for the view we take of what activities are appropriate to the public and private sectors respectively and the disadvantages of introducing an amendment of this nature at Lords Report Stage of the Bill. I accepted that the timetable for the introduction of an amendment of this kind was too tight. However the introduction of the NHS Bill in the next session of Parliament will provide us with an opportunity to complete the framework for the more commercial utilisation of surplus NHS land that was set in train by the Health and Medicines Act.

Under the Health and Medicines Act there is nothing to prevent a health authority from entering into a joint venture with a developer in order to maximise the return from a disposal of surplus property or share in the emerging profit. But you will remember from my letter of 10 October 1988 that I made the point that formal partnership or corporate arrangements would give us greater flexibility to adjust to changing marketing conditions and to deal with the complications and opportunities that can arise during a development process. This kind of flexibility is often not available within the confines of an agreement to sell or lease surplus land which is concluded before a development commences. Another advantage, which has been exploited by Local Government, is that with the establishment of a jointly owned company, surplus property can be identified and rationalised profitably within a given area - rather than a single site - and engage substantial

E.R.

property development and management expertise from formal partnerships with the private sector which would not otherwise be available. I understand that private sector finance might be more readily available for commercial development on this scale and health authorities would share in the development gains. The White Paper "Working for Patients" envisages this type of joint venture which is common in the private sector and should, I believe, be open to the public sector within strict criteria. Health authorities would benefit from the receipt of an initial payment for surplus land and a share in the future profits by way of dividend income or other profit share arrangement from the joint company. The health authorities interest could be disposed of once the development had been completed and the growth potential of the development realised.

As I said in my earlier letter, it is important that health authorities become involved in property development only in conjunction with experienced commercial developers upon whose probity they can be assured. I regard it as very important that any new ventures by health authorities should be secured by independent commercial and legal advice of the highest quality and I would propose not to delegate the power to set up limited liability companies or partnerships to health authorities unless we were satisfied that the appropriate safeguards had been put in place. It would be my intention to refer proposals from health authorities to establish joint ventures of the kind I have mentioned to the central group of professionals referred to in the White Paper - which will include members drawn from the private sector with property, financial and legal expertise. I would wish to take the advice of this Panel before giving my approval to the establishment of limited liability companies or legal partnerships.

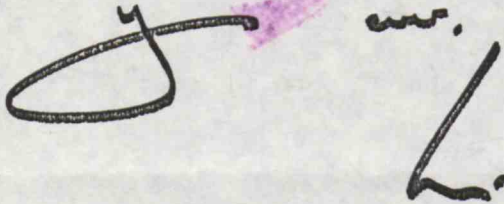
I believe this should give us sufficient control to prevent health authorities from taking ill judged and imprudent action whilst at the same time ensuring that we do not miss opportunities to see a lively and enlightened use of arrangements which have commonly been exploited in the private sector.

My objective is to do no more than to provide a new flexible facility to use surplus NHS property to the best advantage. It will still normally be the case that a straightforward sale of surplus land will be the simplest and best option to take and I confidently expect that option to be exercised in the great majority of cases. That does not mean, however, that we should close the door on other possibilities even if they are used only infrequently. I do not propose that health authorities should inject capital into commercial development schemes and I see them as investing no more than the surplus land which they have identified through their schemes of rationalisation.

E.R.

I hope that we shall be able to agree upon the inclusion of a provision in the NHS Bill subject to the safeguards I have mentioned.

I am copying this letter to the Prime Minister, other members of H Committee and Sir Robin Butler.

A handwritten signature in black ink, appearing to be 'K. Clarke', written over a pink circular stamp. The stamp contains the text 'L. 215' and is partially obscured by the signature.

KENNETH CLARKE