

PO-CH/NL/0207

PART A

Part A

CONFIDENTIAL
(Circulate under cover and notify REGISTRY of movement)

Begins : 23/11/88
Ends : 19/12/88

MANAGEMENT - IN - CONFIDENCE

PO -CH /NL/0207

PART A

Chancellor's (Lawson) Papers:

THE ANDREW REVIEW OF
GOVERNMENT LEGAL
SERVICES - LAWYERS PAY

PO -CH /NL/0207

PART A

Disposal Directions: 25 Years

[Signature]

12/9/95

PERSONAL
AND
CONFIDENTIAL

FROM: C W KELLY
DATE: 23 November 1988

1. DAME ANNE MUELLER *am*
2. PAYMASTER GENERAL

cc: Chancellor
Chief Secretary
Sir Peter Middleton
Mr Anson
Mr Luce
Mrs Case
Mr G Jordan
Ms Seammen

REVIEW OF GOVERNMENT LEGAL SERVICES : PAY

Dame Anne Mueller showed you earlier the conclusions and recommendations of Sir Robert Andrew's review of the government legal services. A steering group under her chairmanship has now been set up to process the report with a remit to produce advice to a small group of Ministers under the Prime Minister's chairmanship (and including the Chancellor and Chief Secretary) by the second week of December.

2. Some of the most difficult of the recommendations to deal with, and those most eagerly awaited by lawyers themselves, are about pay. Andrew proposed substantial selective increases of up to £5,000 for Grade 5 lawyers and up to £10,000 for lawyers at Grades 2 and 3 with smaller amounts for some lawyers at Grades 6 and 7.

3. Specifically he recommended:

i. A London allowance of £2,500 a year for all lawyers in London in Grades 4 and 5. (Those at Grade 6 and 7 already have something similar).

ii. Selective increases of up to three spine points (worth between £1,000 and £1,300 each) for some lawyers in each of Grades 4 to 7, eligibility to be determined according to a new concept of job value which is intended to take into account a combination of job weight, skills and marketability.

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iii. A new London allowance of the order of £3,000 for all lawyers in London in Grades 2 and 3.

iv. Selective use of personal pay points for some lawyers at these levels according to the same kind of criteria as at lower levels and capable at the maximum of adding a further £7,000 to their salaries, making up to £10,000 in all including the London allowance.

4. The emphasis on selectivity in these proposals is clearly helpful.

5. It is less helpful that Sir Robert Andrew has given no indication about the number or type of lawyers he would expect to benefit from his selective approach over and above the new London allowances; and we have a number of reservations about his concept of job value in as much as that is supposed to take into account more than the marketability and value to the department of the individual concerned.

6. We also think that he has failed to make out a convincing case for his London allowance for Grade 2 or (except in the context of reintroduction of London Weighting to all staff at this level) for Grade 3, or for extending the selective approach to Grades 6 and 7.

7. The Attorney General, on the other hand, has already indicated that he believes that the proposals do not go anything like far enough, particularly at Grade 5 where he would like to see increases of, at the maximum, something like £10,000. We understand that this implies £5,000 or so across the board and up to a further £5,000 to be available selectively.

8. Nor, when we had a first run-over the ground with the legal permanent secretaries last week in the steering group, was it evident that they had yet come to grips with what selectivity would actually imply in management terms. When this has been discussed on previous occasions the lawyers have, on the whole, fiercely opposed it.

9. The timetable given to the steering group to process the report leaves us very little time indeed to reconcile these

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difficulties. In the circumstances we think it would be helpful if you could have an early bilateral with the Attorney to discuss them. There would be considerable advantage in doing this before the next meeting of Dame Anne Mueller's steering group on 29 November. It might perhaps be helpful if Dame Anne Mueller and the Treasury Solicitor, and perhaps myself, were there as well. But we do not want to turn it into the kind of meeting packed with lawyers to which you were subjected last time the issue of lawyers' pay was discussed.

10. The attached paper, which contains our suggested response to the pay recommendations, is intended to serve as a basis for your discussion. It is an amended version of one discussed earlier in the steering group.

11. It falls short of complete acceptance of the Andrew recommendations in a number of ways. In particular it rejects:

i. Any special treatment for Grades 2 and 3 over and above the use of the existing discretionary increments as personal pay points in appropriate cases. We have already done this for one lawyer. The scope provided by personal pay points is very substantial - up to £9,000 at Grade 2 and £6,300 at Grade 3. Grade 3 lawyers will also be eligible, alongside other Grade 3s for London weighting (currently £1,750 in Inner London) if, as expected, the TSRB recommend this in their next report.

ii. The notion that Grade 5 lawyers in receipt of the London allowance and/or selective increases should also be eligible for four performance points as well. This runs the risk of creating an impossible situation in dealing with promotions. A number of them are likely to have at least one and probably two performance points already.

iii. The notion that selective increases should also be applied to Grade 7 and, with less certainty, Grade 6. The case for this has not really been made out. On tactical grounds it may, however, be sensible to leave open the possibility that Grade 6 could be considered for selective increases at a later stage.

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12. Even so, we believe that the package as proposed is just about justifiable, though it depends upon accepting the argument that pay at Grade 5 and above is a natural influence on staff at lower grades - a point which we have contested in a TSRB context. It can also be presented as meeting the spirit, though not the letter of the Andrew recommendations at Grade 5 which was identified both in the Report and by the Attorney at an earlier stage as the key grade - and to a lesser extent Grades 2 and 3.

13. The lawyers, however, will take a different view. They will also have different expectations about the number and nature of those who can expect to benefit from the exercise of selectivity.

14. The cost of the package outlined above will depend upon the extent to which selectivity is used. But very roughly we would expect it to be of the order of £600,000. The geographical element will cost around £420,000 (excluding London Weighting for Grade 3s) which is equivalent to around 3 3/4 per cent of the pay bill. Selectivity could add around £100,000 (0.9 per cent) to this if it only applied to 10 per cent of lawyers, more if it applied to more. Though we have not yet gone into this it must be likely that those departments whose expenditure consists mainly of lawyers pay will find it very difficult if not impossible to absorb their share of it within existing running costs.

CWK
C W KELLY

enc

ANDREW REPORT : PAY

Note by the Treasury on recommendations 22, 24 and 26

Sir Robert Andrew summarises his recommendations about pay as follows:

"22. Against the background of continuing recruiting difficulties and the loss of experienced staff to better-paid jobs in the private sector, especially in London, there should be selective pay increases for government lawyers as follows:

(a) a London allowance of £2,500 a year should be incorporated in the pay of all lawyers in Grades 4 and 5 working in the London area.

(b) selective increases in the form of up to three steps on the incremental ladder should be paid to lawyers in Grades 4-7, whether in London or elsewhere, who occupy posts of special value, defined in terms of job weight, skills and marketability.

(c) lawyers in Grades 2-3 should be paid on the basis of personal pay points which would take account of both the London factor (where applicable) and the concept of job value.

24. The Foreign and Commonwealth Office, which is also experiencing losses to the private sector, should apply to lawyers in the Diplomatic Service pay improvements similar to those recommended for the Home Civil Service. Close liaison on management issues should be maintained with the Central Management Unit in the Law Officers' Department.

26. Government lawyers employed in Scotland and Northern Ireland should be eligible for the selective pay increases recommended above. The Departments concerned should consider to what extent they would benefit from more flexible grading arrangements and the various managerial measures recommended for England and Wales."

2. These proposals involve substantial increases, particularly in the pay of London lawyers at Grade 5 and above. They need to be related to experience of recruitment and retention. Comparability with pay levels outside irrespective of these factors is not government policy. Improvements made in the pay of London lawyers at Grade 6 and below earlier this year reflected the views of departments who in general (DTI dissenting) thought that the priority was not at the grades above this.

3. Annex 1, which presents the information in Chapter VI of the Andrew Report in a slightly different format, appears to bear this out. Excluding the CPS, which might be regarded as having a special set of problems, and FCO and Parliamentary Counsel there are 195 staff in post at Grade 5. Over the past 19 months there has been only one resignation. The case for the very substantial increases proposed by Andrew has therefore to rest entirely on arguments about quality, or the influence of Grade 5 salaries on Grade 6 and 7, or in recent months the possibility that some resignations have been stalled by waiting for Andrew to report. There is probably something in all these points. But it is debatable that they are as compelling as Andrew believed.

4. It is also important to remember that all lawyers in Grades 5-7 will, under the Agreement for these grades, receive an increase of 4% in April 1989; and that there will be a further settlement for Grades 5 to 7 from August 1989. This later settlement will be informed by the results of a survey, now being launched of levels of pay for relevant jobs (including lawyers) outside the public services sector.

5. Even so, the Treasury accepts that, bearing in mind inter alia the strength of the expectations aroused there is a case for going some considerable way towards meeting the spirit, if not the letter of the Andrew recommendations at Grade 5, which is identified in the report as the key grade and being prepared to do something in a selective way for Grades 2 and 3.

6. This suggests a response along the following lines.

Grades 4 and 5

(a) London allowance

7. There is no longer a London allowance as such for grades below Grade 5. There are now London lawyers pay scales (on the pay spine established under the recent flexible pay agreement for Grades 5 to 7) which are higher than for non-London lawyers. The Andrew proposal would extend this treatment to Grade 5. If London scales were two points higher than outside London this would raise pay at the maximum of the scale (where most G5 lawyers are) by £2,400 (as compared with the Andrew £2,500).

8. If a London allowance is also to be paid to the Grade 4, the amount would need to be determined taking account of the position of Grade 3 as well as Grade 5.

(b) Selective pay increases

9. In principle we welcome the concept of selectivity. But it will not be easy to manage and must be exercised against workable criteria. Andrew's concept of job value raises a number of difficulties as formulated, and he provides little guidance as to how it might be operated or to how many staff might be covered.

10. It would seem best to accept the spirit of this recommendation by building on the concept of personal pay points which already exist at more senior levels according to stringent criteria relating primarily to recruitment/retention, taking into account the value to departments of the person's experience and expertise. If this approach were acceptable to management and to staff, it ought to be possible (though not straightforward) to work out more detailed guidance along these lines fairly quickly. It would then be for departments in consultation with the new CMU (if that by then exists) to put forward cases based on these criteria to the Treasury for approval.

11. It would probably not be right to have a rigid quota. But it would be consistent with Andrew's approach, and with the evidence on recruitment and retention, to expect relatively few posts/people to meet the criteria and for such posts/people to be concentrated in few areas, notably that of supervision and regulation of financial services, [and perhaps some in the Revenue departments]. We would not expect many, if any nominations from CPS. Taking this into account, we would expect no more than about [10%] of posts/people to be selected. It would be better to make this clear from the outset to avoid raising expectations.

12. If we are to work within the grain of the existing system, the obvious mechanism is to use the four range points on the top of the Grade 5 scale (each worth between £1,200 and £1,300) as, in effect, personal pay points. In London two of these would already be taken up by the London allowance. It would therefore be

necessary to add a further point at the top of the range to make room if exceptional cases are to be given a further three points under this selective approach. Arguably this should not be necessary. Adding two personal points to the two London points would already make an additional £5,000 available, which is the figure mentioned by Andrew.

13. The position of any post/person on the range would be for discussion in each case. We do not accept that those given personal pay points should, as Andrew proposed, automatically have access to four performance points as well. That could create intolerable difficulties for the Grade 5/Grade 4/Grade 3 interface. The number of performance points if any, available would be for decision on each occasion, as the Grade 5-7 pay agreement provides.

14. We would need to give further thought to the applications of selectivity to the small number of Grade 4 lawyers in the light of specific proposals from departments.

Grades 6 and 7

15. Lawyers at these levels already receive the equivalent of a London allowance. Andrew recommends selective pay increases according to his criterion of high job value.

16. Against the background of the pay improvements made earlier this year, and the prospect of a pay negotiation informed by a levels survey next year, we do not think there is a strong case for further action now for Grade 7. The same probably applies to Grade 6. But we could perhaps leave open the possibility of reconsidering the position of Grade 6 in relation to selectivity when we are clearer about the workability of the criteria to be devised for more senior grades.

(c) Grades 2 and 3 - London Weighting

17. The TSRB are already considering the possibility of re-introducing London Weighting or something like it for Grade 3 staff (the current flat rate of £1750 a year in Inner London is payable to all grades from Grade 4 down). A higher level of

London Weighting for Grade 3 lawyers (such as the £3,000 implied by Andrew) would in our view be difficult to justify in its own terms and potentially highly repercussive.

18. The case for London Weighting for Grade 3 is partly based on it being to some extent a national grade and partly on the relationship with the pay scale of the grades below. Neither of these arguments applies with quite the same force to Grade 2. Consequently we would not favour any London Weighting or allowance for Grade 2 lawyers. But personal pay points (below) can recognise the London dimension in an unspecific way.

(d) Grades 2 and 3 - personal pay points

19. Excluding the CPS, FCO and Parliamentary Counsel there are only 24 Grade 2 lawyers and 52 Grade 3s (see Annex 2). Personal pay points already exist at these levels, and can be used for lawyers as for others. Their essence is selectivity; they can take into account the nature both of the post and of the individual filling it, on the basis of marketability and the value of the individual to the department. Thus for instance a post might require skills in the financial sector, but be filled either by a new promotee or by a person of long experience; the presumption would be that in the first case a personal pay point would be less appropriate than in the second. They can take into account, without the need to be specific, any London dimension.

20. Because they are personal, they continue to be paid if the individual moves to a less highly rated job. But the assumption would be that a department, once it was paying a premium for the individual, would continue to use him or her in areas where his or her qualities could make the most direct contribution.

21. It would be consistent with Andrew that only a minority of those at these levels should be awarded personal pay points. While awards are not publicised (because they are personal) it would be important not to raise expectations, and to indicate that only a minority of perhaps [10%] would qualify.

22. It would be necessary to give further consideration to whether performance pay could also be available to those on personal pay points.

23. The combination of London Weighting (for Grade 3) and the use of the existing discretionary increments as personal pay points for both Grade 2 and Grade 3) would at the maximum make a total of an additional £8,000 available to the most highly paid Grade 3 lawyers in London and up to £9,000 at Grade 2 - not quite as much as Andrew's £10,000, but not far away from it.

(e) FCO, Scotland and Northern Ireland

24. The Andrew Report contains very little on the position of lawyers in the FCO, in Scotland and in Northern Ireland. On the face of it, the proposal for a London allowance at Grade 5 level would apply to FCO lawyers in London alongside others. Equally, all three departments would be eligible in the same way as others to make proposals for further selective pay increases for some of their staff. But on the basis of the evidence set out in the Andrew Report the case for selective pay increases in any of these areas would not appear to be a very strong one.

(f) Running costs

25. The presumption, as always, is that any additional costs arising from these proposals would need to be accommodated within departments' existing running cost provisions over the survey years.

Conclusion

26. In sum, the proposed response to the Andrew recommendations on pay would involve:

1. Introduction of London allowance for Grade 5 lawyers in the form of two additional spine points, equivalent to around £2,400.

2. Acceptance in principle of further selective increases of up to two (or perhaps in very exceptional circumstances 3) further spine points at the maximum for a small minority of Grade 5 lawyers. The detailed criteria and the number and type of posts affected would need to be worked out in discussion with departments. We have some reservations about the Andrew concept of job value.

3. Acceptance that it would be appropriate in certain circumstances to make use of personal pay points in a selective way for some Grade 2 and Grade 3 lawyers, provision for which already exists under current arrangements.

27. This package would fall short of the full Andrew recommendations in a number of ways. In particular it would:

1. Not make selective increases available to Grade 6 and 7 as well as those in more senior grades. The scope for bringing Grade 6 within the ambit of the arrangements at a later stage could, however, be left open.

2. Not allowing those in receipt of the two spine points for London and/or additional spine points on a selected basis also to be eligible for performance points except to the extent that there was room for that within the existing range. We could, however, undertake to keep this under review also.

3. Not including any across the board London allowance for Grades 2 and 3. But Grade 3 lawyers would be expected to benefit along with other Grade 3s from the reintroduction of London Weighting at this level if that happens as a result of current TSRB deliberations.

28. If these proposals were accepted by Ministers, the unions would need to be consulted in the usual way.

29. Attached to this paper is a first shot at the kind of passage which might be included in any Government statement about the report.

23 November 1988

DRAFT PASSAGE FOR INCLUSION IN GOVERNMENT STATEMENT

The Government welcomes the report's emphasis on selectivity and accepts the case for increasing the pay of certain groups of lawyers at Grade 5 and upwards in areas where there are special difficulties [of recruitment and retention].

2. In particular, it proposes to increase the pay of Grade 5 lawyers in London by two spine points (equivalent to around £2,400) and of Grade 4 lawyers in London (to be decided.)

3. The scope for going beyond this for these grades is in the Government's view only compelling in certain special circumstances by such cases. The Government accepts the principle of selective increases over and above the new London allowances as proposed in Sir Robert Andrew's report, though it has some reservations about the particular concept of job value. The Treasury, with the CMU, will give urgent consideration to devising workable criteria for selectivity relating to recruitment and retention and the value of the individual concerned to the department. The Government expects that only a small minority [10 per cent] of lawyers will qualify on the basis of these stringent criteria. [It expects that most awards will be in the area of supervision and regulation of financial institutions].

4. The Government notes that the report recommends similar selective increases for Grade 6 and 7. The Government does not propose to bring in selective treatment for these grades now, but to keep the possibility of doing so for Grade 6 under review.

5. The Government does not propose to introduce a special London allowance at Grade 2 and Grade 3, though it notes that the TSRB is considering the reintroduction of London Weighting for Grade 3 in general. It does, however propose to respond to Recommendation 22(c) by making use of the existing arrangements for personal pay points for a small minority of Grade 2 and Grade 3 lawyers in the light of the same kind of criteria as will apply to grades below these levels.

6. The Government proposes to bring in the London payments from 1 April 1989, and other selective increases as soon as possible thereafter. The cost of these increases will be accommodated within departments' running cost provisions over the next three years.

7. [Reference to consultation with unions].

RESIGNATIONS

ALL DEPARTMENTS EXCEPT CPS, FCO AND PC

	<u>1987</u>	<u>to 31.7.88</u>	<u>to 31.7.88</u> <u>per cent of SIP</u> <u>(annualised)</u>
TOTALS	47	30	4.8
BY GRADE			
1	-	-	-
2	1	-	-
3	1	1	4.5
4	1	-	-
5	1	-	-
6	7	6	3.4
SLA/7/LO	34	23	7.7

2 other resignees - no grade indicated

BY DEPARTMENT

Treasury Solicitor	8	4	4.5
LCO	9	1	1.8
MAFF	-	-	-
Crown Office (Scot)	8	9	6.1
DoE/Tp	3	1	3.9
DHSS	4	-	-
Home Office	1	1	7.3
Inland Revenue	2	3	8.9
DTI	4	1	2.6
Scottish Office	1	2	6.1
OFT	1	2	34.3
Land Registry	1	-	-
Crown Estates	-	-	-
Charity Commission	2	1	8.2
Welsh Office	1	1	12.7
Customs and Excise	2	4	8.9

COMPLEMENTS AND STAFF-IN POST

	4.1.88	31.7.88
Complement	2953.5	3010.5
Staff-in-Post	2408	2453
Shortfall	545.5 (18.5%)	557.5 (18.5%)

<u>BY GRADE</u>	<u>COMPLEMENT</u>	<u>STAFF IN POST</u>	<u>STAFF IN POST</u> <u>(LONDON ONLY)</u>	<u>SHORTFALL</u> <u>(OVERALL)</u>	<u>%</u>
1	4	4	4	-	-
2	24	22	20	2	(8.3%)
3	52	50	47	2	(3.8%)
4	21	20	8	1	(4.8%)
5	272.5	268.5	179.5	4	(1.5%)
6	476	437.5	260	39	(8.2%)
SLA/7/LO*	2161	1651	428	510	(23.6%)

* Includes Crown Prosecutors and Senior Crown Prosecutors

London only

Complement at 31.7.88 = 1142 (37.9%) SIP 946.5; Shortfall 195.5 (17.1%)

Scotland only

Complement at 31.7.88 = 329.5(10.9%) SIP 314; Shortfall 15.5 (4.7%)

Other areas

Complement at 31.7.88 = 1539 (51.2%) SIP 1192.5; Shortfall 346.5 (22.5%)

H. C. T. L. N.

19 23 NOV 1988 10 ✓

FROM: ANNE MUELLER
 DATE: 23 NOVEMBER 1988

PAYMASTER GENERAL

cc: Chancellor
 Chief Secretary
 Sir Peter Middleton
 Mr Anson
 Mr Luce
 Mrs Case
 Mr G Jordan
 Ms Seammen

Please
 PB²³/xi

REVIEW OF GOVERNMENT LEGAL SERVICES: PAY

It would be very helpful if you could have an e with the Attorney General to discuss the pay recommendations in the Andrew Report, on the basis of the paper attached to Mr Kelly's submission of 23 November. Given the strength both of the Attorney's feelings on the subject and the expectations which the Andrew Review has raised among Government lawyers, I think we will need to do all we can to accept the spirit if not the letter of the Andrew recommendations.

2. I believe the Attorney is likely to press for higher across the board increases for Government lawyers. The main aim of your meeting would be to get him to accept both the principle of selectivity and a satisfactory basis for applying it in practice. We can look again at some of the precise details if necessary in the light of your meeting.

arm

ANNE MUELLER

Ch / ~~draft~~ minute
vis. for your
signature.

Slightly amended
(factual changes +
tougher closing para)
by Chris Kelly.
Drafted so OK
whoever goes to
No 10
ought to go round ASAP
mpw.

CHANCELLOR

MEETING, NO 10, GOVERNMENT LEGAL SERVICES



FROM: MRS JULIE THORPE
DATE: 24 NOVEMBER 1988

psv

Ch
As you know, CST & PMG have now
agreed that PMG should go. Peter is
very steamed up about this & feels real
dangers AG will bulldoze through additional
concessions. He would obviously prefer you to
go, but would settle for
CST. I have warned CST's
office. *AA*

No 10 would like to hold a meeting to discuss Sir Robert Andrews' report on Government Legal Services, on Tuesday 20 December, at 11.00am.

They have invited the Lord Chancellor, the Foreign Secretary, Mr King, Mr Rifkind, Lord Cameron-the Lord Advocate and Mr Walker.

They would like both CST and you to attend but it clashes directly with the Pay Presentation which the CBI are bringing to the Treasury to show you, the CST, PMG and officials. It was difficult to fix a time for the CBI when everyone could attend, this side of Christmas.

In the circumstances would you be content for CST to go to No 10 and to hold the Pay Presentation without him?

OK

Julie

MRS JULIE THORPE

is this copy of the original?
where is the original copy?

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REVIEW OF GOVERNMENT LEGAL SERVICES: MEETING BETWEEN THE ATTORNEY GENERAL AND THE PAYMASTER GENERAL ON TUESDAY 29 NOVEMBER 1988

Present:

- Attorney General
- Paymaster General
- Dame Anne Mueller
- Mr Nursaw
- Mr Saunders
- Mr Kelly
- Mr Wiblin

PAYMASTER GENERAL	
REC.	- 6 DEC 1988
NAME	Mr Kelly
INFO	Ch/lex
	CST,
	Sir P Middleton
	Dame A Mueller

Mr G Jordan
Ms Seaman
pmg

Mr Anson
Mr Lutz
Mrs Cook

The Paymaster General said that Sir Robert Andrew having completed his study of Government Legal Services, a Steering Group of officials was now considering his recommendations. Vibrations of discord in relation to his recommendations on pay had been reported to the Paymaster. He thought that the Attorney General should have the opportunity to make representations to him.

The Attorney General replied that he was grateful for the initiative that led to the Andrew Report. He considered it to be a very valuable report. In relation to pay, the report was absolutely accurate in its analysis; it was less accurate in relation to the remedy it proposed in certain, but not all, respects. The Attorney General was particularly concerned about Grades 5 and above. At the Grade 7 and 6 level, the young lawyer was not looking only as to what he was earning at that level; he was looking ahead to his potential earnings at Grades 5 and above. He

NOTE OF MEETING
29 NOV

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noted the Treasury identification of only one resignation at Grade 5 level but of a substantial number of resignations at Grade 6. Any more resignations at that level or above would, according to Andrew, be intolerable. The Andrew Report was eagerly awaited by the Government Legal Service. Its publication was expected. The Attorney's information was that there was a significant number of lawyers at Grade 5 who were waiting to see what the report contained on pay and the Government's reactions, before deciding whether to stay in the Government service. Grade 5 lawyers did not do well at the time of the interim pay award. The opportunity given by Andrew was, in the Attorney's view, not likely to recur for some time. If the Government failed to react adequately, it would be too late to remedy the damage. Many lawyers would leave, if the disparity with salaries outside the public service was too great to be compensated for by the advantages of working in the public sector. The Government could not risk bad legal advice. It could be extremely expensive to the Government. In the Attorney's view, the Government could not afford to lose anyone more at Grades 5 and above.

The Attorney reminded the Paymaster that he had lived through the gestation and formative year of the Crown Prosecution Service. He was not prepared to undergo the experience of superintending an inadequately resourced organisation again. Andrew had made some choice observations about the CPS. His was a very fair analysis of what had gone wrong. His particular recommendations on the Crown Prosecution Service presented a certain irony; they were exactly what the Attorney had pressed for at the time of establishment of the Crown Prosecution Service. But at that time, the Attorney's colleagues had quite understandably been concerned about the pay bonanza which might come to pass on reorganisation. Ministers had foreseeably incurred

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the consequences which the Andrew Report now recognised. The CPS was now being pulled into shape. The position was even worse for the Government Legal Service; once key lawyers left, the position would not be remediable.

The Attorney continued that there was much in Chapter 8 of the report which was right. As there were so many who were apparently making their decision as to their future career dependent on Andrew, there could be no question of the Government awarding less than Andrew recommended. The damage would be immediate and irreparable. In the case of Grade 5, unfortunately Andrew had not gone far enough. At Grades 3 and 2, Andrew had got close to an adequate recommendation. The Attorney had proposed that at Grade 5 there should be a London Lawyers' Allowance of £4,800 and a further £4,800 available by way of selective pay. The Attorney recognised the knock-on effect of what he was proposing. He said that the Government would have to deal with the case of each special professional group on its merits as it arose. He understood that the Treasury had just recruited an accountant at a reported salary of £100,000.

The Paymaster General asked why Andrew should be considered to be wrong in his remedy if he was right in his analysis.

The Treasury Solicitor said that to his knowledge there were only a small number of lawyers who were openly admitting that they were awaiting Andrew with offers in their back pockets. This was, however, the moment at which City solicitors were recruiting at salaries well above Andrew. This was the time at which the cream in the Service was considering whether to leave. It was the cream who were most likely to be tempted to leave. There had to be a demonstration that the Government appreciated the value of

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lawyers. The Government had to make it possible for a lawyer with heavy family commitments to stay in the Service rather than succumb to the temptation of particularly lucrative offers from outside.

The Attorney General pointed to the key paragraphs in the Andrew Report: 8.3, 8.7, 8.8, 8.9 and particularly 8.11. The report itself acknowledged that what was recommended might not be enough. It would be so dangerous not to heed the warnings in the Report.

The Paymaster General asked whether the Attorney acknowledged that if the increases he recommended at Grade 5 were implemented, this would mean countervailing increases at Grades 3 and 2.

The Treasury Solicitor replied that the Treasury were presently proposing that at Grade 3 the only change should be the London Weighting which might be recommended by the TSRB and the use of personal pay points. This produced more pay, but not nearly on the scale recommended by Andrew. He agreed that there had to be implementation of Andrew in full to make way for the proposed Grade 5 increases.

The Paymaster General pointed out that when lawyers' pay was last considered, most Departments were emphasising the need for movement on Grade 6 and 7, and not on Grades 5 and above.

The Attorney General agreed but pointed out that that was an interim pay increase. Andrew had now identified the problem of lawyers looking ahead to Grades 5 and above.

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Mr Kelly said that Establishment Officers approached these matters from a different standpoint. Permanent Secretaries would say that lawyers and others in the Civil Service were not paid enough. But Ministers had not adopted this policy. Was there anything, he asked, which singled out lawyers? The answer to this was in the affirmative, in the light of their marketability and the importance of legal advice. This had been recognised in relation to certain senior DTI lawyers. Some Establishment Officers, he continued, had expressed horror at the size of the Andrew recommendations. They would not say that lawyers were a priority and would stress that the arguments adduced in favour of higher pay applied equally to administrators and other groups.

The Attorney responded that Andrew addressed this problem at paragraph 8.36 of his report. The entire answer lay in market forces. That was why the Government was faced with this present difficulty. Unfortunately, Andrew had not given sufficient weight to market forces at the Grade 5 level and to some extent at Grades 3 and 2. There had been very widespread Ministerial acknowledgement of the special needs of the Legal Service in response to the Law Officers' minute of March 1986.

Mr Kelly observed that there had been increases in lawyers' pay since that time.

The Attorney General responded that those increases were accepted as an interim and immediate award. He recalled that he had at that time indicated that he thought that the treatment of Grade 5s was inadequate.

Dame Anne Mueller said that at that time it had been urgent to do something at Grade 7 and 6. Andrew found the solution satisfactory. At Grade 5, Andrew had recommended a solution

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which in principle the Treasury accepted and which the Treasury hoped to be able to sell to Departments. Any doubling of the Andrew recommendation would cause great difficulty for Establishment Officers. A London Allowance of £2,400 and selective pay of the same amount was offering quite a lot to lawyers. One did not know how lawyers would react. Whatever was done this year would not be the end of the matter. There was a level survey being carried out of Grades 5 to 7 in August 1989. The Treasury would have to keep under review the reaction to the Government's implementation of Andrew.

The Attorney General said that if the patient was dying, he needed full remedial treatment. If a significant advance were not made now, the Government would be faced with another CPS experience.

Dame Anne Mueller drew a distinction between the setting up of the CPS and dealing with the existing situation in the GLS. It was not known whether lawyers were leaving at Grade 7 and 6 because of the salary levels at Grade 5.

The Treasury Solicitor said that the Government were now recruiting lawyers who would not have previously succeeded at the Boards, because of the desperate state of the GLS. No-one was being recruited from private practice who had any great experience; the disparity between rates of remuneration outside and inside the Service was too great. It was becoming increasingly difficult to make up for the loss of talented experienced lawyers. It was not good enough to replace those leaving by raw recruits.

The Attorney Generals said that Andrew had identified why lawyers were leaving the Government Service in paragraph 8.1 of his report. In paragraph 6.9 he acknowledged that the

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recruitment of lawyers was more difficult than that of administrators.

The Paymaster General said that people left the Civil Service for various reasons. It was a pity that the Andrew Report had not done more research on this question.

Dame Anne Mueller said that it was now far more common than it had been previously for people to change jobs during their career. The Government had to take account of this. It had to use all non-pay factors to make Government Service more attractive. The arguments the Treasury Solicitor had advanced in relation to quality applied equally to administrators. She recalled the same arguments being advanced 15 years ago. There was no concrete evidence that lawyers would leave if the Treasury's proposals were implemented.

The Attorney General replied that this was an unacceptably expensive solution. He could foresee a lot of resignations and replacements of lower quality. The Government had had major fights on Judicial Review. The risks of sloppy legal advice were only too apparent. He could not agree to the policy of "wait and see".

The Paymaster General asked the Attorney whether the principle of selectivity caused him difficulty.

The Attorney General replied in the negative but stressed that there had to be no quota and that the policy had to be implemented fairly.

Dame Anne Mueller suggested that the problem should be dealt with on an individual basis, assessing cases of those who might leave on their own merits.

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The Attorney General said that he could not support a policy of waiting until officials were driven to the verge of seeking other employment before tempting them, with no certainty of success, to remain. That would be wholly unfair. The Treasury Solicitor added that a London allowance of a sufficient amount might do the trick. Anything less than Andrew would destroy the confidence of lawyers in the system.

LAW OFFICERS' DEPARTMENT

2 December 1988

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FROM: C W KELLY

DATE: 12 December 1988

1. DAME ANNE MUELLER *Ann 12/12*
2. PAYMASTER GENERAL

cc: Chancellor
 Chief Secretary
 Sir Peter Middleton
 Mr Anson
 Mr Monck
 Mr Luce
 Mrs Case
 Mr Harris
 Mr Revolta
 Ms Seammen
 Mr G Jordan
 Mr Barker
 Mr Graham

LAWYERS PAY : ANDREW REPORT

This minute reports where we have got to on lawyers pay, and seeks your approval for the line we will be taking in preparing papers for the Prime Minister's meeting on 20 December to which the Chancellor and Chief Secretary have been invited.

2. Since your rather unsatisfactory meeting with the Attorney we have had further discussions with legal officials, with Establishment Officers and with Permanent Secretaries. As a result, we have modified our proposals to some extent. But they remain in principle the same as before - to implement the Andrew proposals more or less, albeit with considerable misgivings. The Attorney is still asking for a lot more. It seems inevitable that he will be putting his own paper to the Prime Minister's meeting.

Departmental views

3. The reaction of departments to the Andrew proposals and our response to them has been mixed. Some (eg the Revenue departments) regard them as generous and are worried about the repercussions on other groups of their staff, to some of whom they would give greater priority for pay increases on recruitment and retention grounds. Others (DoE, DTI and the Home Office) share the Attorney's view that the proposals are inadequate.

4. Almost all are - as anticipated - expecting considerable difficulties with the concept of selectivity either on grounds of practice, or principle, or both.

5. It would be in keeping with the Andrew recommendation that only a minority of lawyers should be eligible for selective pay treatment. But Andrew gave no indication of the number he would expect to be affected by selectivity; nor are his comments on the criteria which should be used all that helpful. The strongest case is in the area of supervision and regulation of financial institutions. It is lawyers with commercial expertise who are most marketable; and it is clear that it is the earnings of equity partners in city firms which the Attorney has most in mind when making pay comparisons.

6. But as a rough guide we have asked departments to indicate approximately what proportion of their lawyers at Grade 5 and above they would be likely to nominate for selective treatment if the Andrew proposals were accepted. The figures vary substantially. DTI have suggested about two-thirds; DoE about half; DHSS about one-third; the Home Office either all or none (probably the former); Treasury Solicitor none - but that from a distaste for the practice of selectivity and it is doubtful if he will stick to it; Crown Prosecution Service three or four posts only; Customs and Excise about 20 per cent; Inland Revenue perhaps only one post. These are first reactions, given with no knowledge of what others have said. But they suggest that it is unlikely that we would get away with selective increases for less than one-third of the 350 posts concerned. It could well be more than one half.

Our position

7. Following your meeting with the Attorney we have revised our proposals in some respects to bring them more closely into line with the Andrew recommendations. We have also put them to the legal departments without prejudice to your position in the hope that the changes would be sufficient to secure the Attorney's acquiescence. The details are set out in the annex. If implemented they would mean that at Grade 5 (the level about which the Attorney is most concerned) all lawyers in London would get an additional £2,500 on 1 April on top of the 4 per cent they are going to get then any way. Those benefiting from maximum

flexibility could get an extra £6,600. The very best Grade 5 lawyers in London could then be earning, or could aspire to earn, just short of £43,000. The best Grade 3 lawyers could be given increases of up to £6,300 and could aspire to a performance point which would take their total salary to £49,400; and the very best Grade 2 lawyers could become eligible for increases of up to £9,000 and could aspire to a performance point worth a further £3,200 which could take them up above £60,000. In the last two cases these amounts would be before adding anything that the TSRB were to recommend by way of general increases.

8. The total cost of this package would be about £1¼ million in a full year, depending upon the extent to which selectivity was used, equivalent to around 5 per cent of the pay bill.

9. These proposals still fall short of Andrew in some respects. But only for what we believe to be good management reasons. Arguably in other respects they go marginally beyond Andrew.

10. Thus:

i. We are proposing to do nothing immediately for Grades 6 and 7. At Grade 7 this is consistent with Andrew's conclusion that starting pay is not out of line with salaries outside. At Grade 6 it is partly for the same reason, partly because we have only recently made substantial increases at these levels in the last package, and partly because we think it prudent to learn to walk before we can run. We think that it would be wiser to try selectivity out first at Grade 5 before extending it to the larger numbers (450) at Grade 6. We have therefore proposed leaving it open for the time being.

ii. We have agreed the major elements of the Andrew recommendations at Grade 5. But we are proposing to restrict the number of performance points available on top of the maximum selective increases to two rather than Andrew's four. The effect of this will be to make it possible for a very good lawyer in a non-marketable job to make up through good performance much of the gap which would otherwise open up between him and his colleague in a more selectively favoured job.

iii. We are rejecting the Andrew notion of a London allowance of £3,000 for Grade 3 and Grade 2, partly because Grade 3s in London are likely to get an additional £2,000 anyway if, as we expect, this is what the TSRB recommend in their next report, partly because we believe the case for it wholly unproven. Any special London dimension can if necessary be taken into account selectively. It is helpful that Andrew does not actually mention the £3,000 London allowance in his recommendation though it is fairly clear that was what he intended from the text.

iv. Finally the amounts we are proposing to make available selectively at Grades 2 and 3 rather less than Andrew's figure of up to £10,000. (£ 9,000 and £8,300 respectively). But we are suggesting instead extending the Grade 2 and Grade 3 scales (for any one with personal pay points, not just lawyers) by a further performance point worth respectively £3,200 for Grade 2 and £2,100 for Grade 3. If this is agreed, we ought probably to clear it in some way with the TSRB.

11. Our proposals can therefore be presented as being the implementation of Andrew in all but name. It is clearly important tactically that we should do this in the paper which goes to Ministers, and in public presentation if we are to have any chance of minimising repercussions.

12. At one point the Treasury Solicitor and the DPP almost signed up to the revised package. But it proved not to be enough for the Attorney. He is also asking for:

i. An additional spine point (£1,100) for everyone at Grade 6, wherever they are, largely on the basis that they will be disappointed if they get nothing out of Andrew.

ii. £3,700, rather than £2,500 for all Grade 5s in London.

iii. A £3,000 London allowance for all Grade 3s and Grade 2s in London irrespective of anything the TSRB may recommend for Grade 3, as well as the additional performance point.

13. He will present this as a considerable watering down of his original proposals which effectively doubled most of the Andrew numbers. He will also (wrongly) claim that it is no further above Andrew than our proposals are below. If adopted his package would almost double the cost, to £2.4 million (9.8 per cent). This would be on top of anything Grade 2 and Grade 3 lawyers get next year from the TSRB and Grades 5, 6 and 7 from the long-term pay agreement, ie 4 per cent on 1 April and a further settlement on 1 August.

14. Cost is not the only consideration. We do not believe that the evidence justifies increases of this magnitude; the additional spine point for Grade 5s in London would worsen the cliff edge problem on the London boundary; and the proposals for Grades 2 and 3 are simply not justified by any special factors applying to lawyers at these levels. Moreover, our best hope of managing repercussions would be if we could say that we had stuck fairly closely to what Andrew had recommended.

Procedure

15. The Ministerial group will be meeting on 20 December. It will be packed with lawyers. Apart from the Prime Minister, the Chancellor and the Chief Secretary it will include the Foreign Secretary, the Attorney General, the Secretary of State for Northern Ireland, the Secretary of State for Scotland, the Lord Chancellor and the Lord Advocate. Dame Anne Mueller will also be present. There are relatively few representatives there of the consumer interest. But the two obvious additions would be Lord Young and Mr Hurd, neither of whom are likely to be entirely helpful.

16. The meeting will have before it the report from the steering group chaired by Dame Anne Mueller. We suggest that it should be covered by a paper from the Chancellor. We will be letting him have a draft of this shortly. It seems likely that the Attorney will wish to put in a paper of some kind of his own. We shall insist that we see this in draft. Pay is likely to be the only contentious issue.

17. The original intention was to try to take decisions in time for publication of the report and an announcement of the Government's response before Christmas. It now seems likely that this will slip to the second week in January.

Conclusion

18. In formulating our response to Andrew, we have gone to the limits of what we would normally regard as justified by the evidence on recruitment and retention. We have taken into account arguments of quality, and of expectations, and the reaction of the Attorney. In so doing we have been very conscious of the risk of repercussions elsewhere in the Civil Service - both in other professional groups and with administrators.

19. We have relied on the Andrew argument that selectivity should be the key. We know that departments will find this hard to handle. But we see some advantage in implementing the principle in an important area.

20. It is clear to us, that we cannot go beyond what can convincingly be presented as, in effect, meeting the Andrew recommendations. The package we put to the Attorney's officials did that.

21. We are in the process of drafting the paper for the ministerial group. It would however be helpful to know now if you agree that we can go no further to meet the Attorney. You may feel that we have gone too far already.

CWK

C W KELLY

enc

COMPARISON OF ANDREW RECOMMENDATIONS, TREASURY PROPOSALS AND ATTORNEY'S RESPONSE

	<u>Andrew</u>	<u>Treasury proposals</u>	<u>Attorney</u>
<u>Grade 7</u>	Selective increases of up to around £2,650	Nothing	Nothing
<u>Grade 6</u>	Selective increases of up to £3,300	Leave open for time being	Either as Andrew or additional £1,100 across the board
<u>Grade 5</u>	(i) £2,500 for all in London	Agreed	£3,700 in London
	(ii) Selective increases of up to £3,700	Agreed	Agreed
	(iii) Plus full range of four performance points only	Where full selective increases paid two performance points only	Content with two points
<u>Grade 4</u>	(i) London allowance of £2,500	Agreed	Unclear
	(ii) Selective increases of three increments	Agreed in principle	Unclear
<u>Grade 3</u>	(i) London allowance of £3,000	London allowance of £2,000 likely be recommended by TSRB for Grade 3 generally	£3,000 as well as any £2,000 from TSRB (making £5,000 in all)
	(ii) Further selective increases of up £7,000	Selective increases of up to £6,300 (top of Grade 3 range) plus availability of one further performance point (worth a further £2,100)	As for Treasury
<u>Grade 2</u>	(i) London Allowance of £3,000	No specific London allowance. But selective increases of up to £9,000 (top of Grade 2 range) plus availability of one further performance point (worth a further £3,200)	London allowance of £3,000 plus Treasury proposals
	(ii) Further selective increases of up £7,000		



DEPARTMENT OF ENERGY
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From the Permanent Under-Secretary of State
Sir Peter Gregson KCB

*Mrs Case
Mr Mack
Mr Harris
Mr C. Kelly
Mr G. Jordan
Miss Seaman
Mr Barber
M. P. Russell*

Sir Robin Butler KCB CVO
Cabinet Office
70 Whitehall
LONDON
SW1A 2AS

12 December 1988

GREGSON
TO
BUTLER
12 DEC

Dear Robin

ANDREW REPORT: MACHINERY OF GOVERNMENT RECOMMENDATIONS

Thank you for sending me a copy of your letter of 8 December to Peter Middleton enclosing a draft paper on the machinery of Government implications of the Andrew Report.

You asked for views on whether, as Andrew recommended, the Treasury Solicitor should continue to provide legal services to five Departments of which the Department of Energy is one. So long as the Department of Energy remains a separate department I would prefer the present arrangement to continue. I would have no objection to putting the service on to a repayment basis, provided that the appropriate adjustment was made to our running cost provision at the time of transfer.

My main reason for taking this view, which I gave in my oral evidence to Robert Andrew, is that a small department with a fluctuating workload would face serious problems in managing its own provision of legal services, particularly bearing in mind the general problems of recruitment and retention affecting legal staff. In my experience the Treasury Solicitor has in recent

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years coped well with the difficult task of matching the staff at his disposal with the needs of the departments he has been serving in the light of his judgement of the priorities of the Government as a whole. I do not think that the proposals on co-ordinated personnel management would be an adequate substitute simply because the Treasury Solicitor would have much less flexibility in practice in redeploying the staff. I also see difficulties about a DTI/DEn pool for as long as they remain separate departments.

I am sending copies of this letter to those on the special circulation list for your letter.

Yours ever

Peter

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Mr Nursaw	Treasury Solicitor's Department
Sir Derek Oulton	LCD
Mr Green	CRS
Mr Unwin	C&E
Mr Battishill	Inland Revenue
Sir Clive Whitmore	Home Office
Mr France	DH
Mr Partridge	DSS
Sir Terence Heiser	DOE
Mr Andrews	MAFF
Sir Richard Lloyd-Jones	Welsh Office
Mr Hillhouse	Scottish Office
Sir Patrick Wright	FCO
Sir Brian Hayes	DTI
Sir Alan Bailey	DTP
Sir Michael Quinlan	MOD
Sir Peter Middleton	HMT
Sir David hancock	DES
Mr Holland	DEm
Sir John Blelloch	WIO
Mr de Waal	Parliamentary Counsel
Mr Kemp	OMCS
Mr Saunders	Law Officers' Department
Dame Anne Mueller	HMT

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ANDREW REPORT
NOTE BY
OFFICIALS

REVIEW OF GOVERNMENT LEGAL SERVICES

Report by Sir Robert Andrew, KCB

Note by Officials

14/12/88

1. The Prime Minister announced on 14 January that she had approved the appointment of Sir Robert Andrew to undertake a Review of Government Legal Services. The review originated from concerns of Ministers about the morale and efficiency of the Services, about their organisation and use, and about the quality of legal advice available. The terms of reference asked Sir Robert to make recommendations on what legal services the Government needs, how they can be provided most effectively and economically and what changes are needed in the management of legal staff so as to make best use of them.

Summary of conclusions

2. Sir Robert Andrew concludes that the Government continues to need a wide range of legal services provided to a high standard and that the need for them is likely to go on increasing. It is likely to be more cost effective for the bulk of these services to continue to be provided in-house, but departments should be given more choice whether to meet their needs in government or outside. Some of the bodies providing services to the public could usefully become executive agencies and the relocation of some work out of London would prove cost-effective.

3. Whilst eschewing radical change, the Report proposes some organisational adjustments to improve the effectiveness of legal services. No major changes are proposed in the balance of responsibilities between the central legal departments for whom the Attorney-General is the Ministerial Head and departments requiring legal services. But some detailed adjustments are proposed in the Attorney-General's departments, partly to facilitate Andrew's proposals for improved personnel management of

lawyers. A key recommendation is that the Treasury Solicitor should become Head of the Government Legal Service, including all lawyers employed in the Home Civil Service in England and Wales, and should play a more positive role in the management of the Service with the support of a new central unit.

4. Andrew concludes that there are serious problems of recruitment and retention which, against the background of a national shortage of lawyers, raise doubts about whether the quality of services can be maintained in the future. He recommends remedial action on three fronts:

a. more effort on recruitment both to publicise the opportunities offered by government service and to broaden the recruitment base. Sponsorship, articled clerk and pupillage schemes are proposed as well as greater flexibility in working arrangements to attract in particular married women and older lawyers;

b. various management changes aimed at making better use of qualified lawyers. These include centrally coordinated arrangements for the management of lawyers throughout the Service as well as steps to enhance job satisfaction (in particular an extension of rights of audience in the Crown Court), improvement in promotion prospects and better support arrangements for lawyers.

c. selective pay increases. While starting salaries compare reasonably well with the private sector, in mid-career they start to diverge. Since recruitment and retention problems are almost entirely confined to London, an extension of the London lawyers' allowance to more senior grades is proposed. More selective increases are also recommended to recognise high "job value" - a combination of job weight, skills and marketability;

5. For the Foreign and Commonwealth Office, Scotland and Northern Ireland, Andrew recommends that the flexibilities in pay and grading should also apply.

Response to the Report

6. Sir Robert Andrew's report has been considered by a group of officials under Treasury chairmanship including representatives from the Crown Prosecution Service, the Law Officers' Department, the Lord Chancellor's Department, the OMCS, and the Treasury Solicitor's Department. Other departments have been consulted on various aspects of the report.

7. The machinery of government proposals have been considered further in a separate paper being submitted to the Prime Minister by the Head of the Home Civil Service. The specific proposal that the Treasury Solicitor should become Head of the Government Legal Service should provide a firm basis for the more effective deployment of legal resources across government and help to maintain and enhance the quality of legal advice.

Personnel Management

8. More coordinated personnel management of the Government Legal Service as a whole, as recommended by Andrew, will be needed to secure the most effective deployment of lawyers across Government. At first sight this proposal appears to run counter to the general thrust of Civil Service reforms such as the Financial Management Initiative and Next Steps. But greater decentralisation and devolution of responsibility in the interest of securing more effective management of individual departments and units within Government needs to be buttressed by satisfactory cooperative arrangements to ensure that the collective interests of Government are also well served. There should be considerable benefit to the Government Legal Service as a whole from improved succession planning, better directed career management and the ability to negotiate staff transfers between departments to cope with changing priorities and fluctuating workload. Proposals modelled on the current arrangements for the Government Economic Service have been endorsed by the relevant heads of department and their legal advisers. We therefore recommend that the Treasury Solicitor be formally designated Head of the Government Legal Service and that he be supported by a small Lawyers Management Unit.

9. The proposed management unit will have a key role in taking forward Andrew's various specific recommendations for **improving personnel management** of lawyers in government. We agree that greater effort needs to be put into recruitment, that the recruitment base should be broadened, and that there should be improved training and management development as Andrew suggests. The management unit will need to work closely with the Treasury, the OMCS and the Civil Service Commission in helping departments to implement all these recommendations.

Making the Best Use of Lawyers

10. The Report also makes a number of useful recommendations aimed at making better use of lawyers. Given the continuing shortage of lawyers and their relatively high cost, it is clearly important to ensure that the members of the Government Legal Service are used to best advantage and to achieve maximum value for money. Andrew notes that the quality of legal services is best where lawyers and administrators work closely together, with the lawyers being brought into discussions at an early stage. In policy areas this is already encouraged and we recommend that Heads of Department should seek further **integration of lawyers and administrators**. There should not be two separate cultures.

11. In the wider arena, the Report recommends that **rights of audience** for both Customs lawyers and CPS prosecutors should be extended to the Crown Court. This recommendation is being considered by the Lord Chancellor in the context of his forthcoming Green Paper on the legal profession which is to be published next month.

12. Andrew also notes that much work of a legal nature can be and is already being done by administrators. It is important that the scarce skills of lawyers should not be dissipated on tasks that could equally well be done by non-qualified staff. We endorse the Report's recommendation that the Lord Chancellor's Department should undertake a **review of posts** that do not require legal qualifications but which are currently filled by lawyers. Other employing departments should also critically examine their use of lawyers.

13. We also endorse the report's conclusion that, while a considerable part of the Government's work has to be done in-house because of its special nature (eg Parliamentary drafting) or for other reasons such as security, user-departments should be ready to **contract out** work where outsiders are better qualified or better placed, or can offer a more cost-effective service. It is already Government policy to encourage contracting out where this offers the best value for money. To facilitate the search for cost effectiveness and improved accountability we recommend that the Treasury Solicitor's advisory, litigation and conveyancing services should be converted to a **repayment** basis so that the consumers can know and bear the cost of the services they demand. Current work to this end needs to be pursued vigorously.

14. Departments should also consider the **creation of agencies** where this would lead to greater efficiency. The Land Registry is already under examination.

15. The report notes that **relocation** away from central London could reduce the cost of some legal services. We recommend that this be investigated in respect of the Land Registry's Headquarters and the Treasury Solicitor's Property Division in the first instance.

Pay

16. The Andrew recommendations on pay involve making available additional amounts of up to £6,600 to lawyers at Grade 5, and £10,000 to lawyers at Grades 2 and 3, on a selective basis, and smaller amounts at more junior levels. The Treasury propose to accept these recommendations at Grades 5 and above, though for Grades 2 and 3 on a slightly different basis than Andrew proposed, and to leave open the possibility of selective increases at Grade 6 until experience is gained with the operation of selectivity at more senior levels. The details are given in Annex A.

17. These proposals have been discussed with representatives of the legal departments and other employing departments. The legal departments have made clear that to the extent that these

proposals do not meet the letter of what Andrew recommended they are unacceptable and that in relation to Grade 5 they do not go far enough. They have indicated that the Attorney General does not believe the Andrew recommendations go far enough and that he is likely to be making proposals of his own to the Ministerial group.

Implementation of the Report

18. The individual recommendations in the report are listed in the Action Plan at Annex B, which summarises our recommended response and sets what we believe to be a reasonably tight yet achievable timescale for implementation. We recommend that the Treasury in consultation with the Departments concerned should be responsible for reviewing progress in six months time.

Resource Implications

19. The cost of the pay changes amount to between £1 million and £1¼ million in a full year, depending upon the extent to which selectivity is used. This and the cost of personal promotions should be met from within Departments' overall running costs provisions in the normal way. The same applies to Departmental expenditure on measures aimed at stimulating recruitment. Relocation would entail additional expenditure in the first instance but this should be more than offset by savings in running costs in subsequent years. Additional provision would be required for the Lawyers' Management Unit: assuming 6 staff, the cost (including common services) would be about £160,000 a year. Development of a legal data base would cost a minimum of £1 million and its extension to the work of the Statutory Publications Office could add up to a further £50,000.

Publication of the Report

20. Sir Robert Andrew consulted widely, both within the Civil Service and outside, in the course of his review. The Report is likely, therefore, to attract interest within the profession. Reactions to it may not be entirely favourable: it may be seen as

not sufficiently radical, as offering little to the private sector and challenging some cherished traditions. Within the Service the review has clearly raised expectations. While there may be relief that widespread privatisation and contracting out are not recommended, there may be disappointment that more is not suggested to improve pay and career prospects. On the other hand, non-lawyers in government may resent the special treatment recommended for lawyers.

21. We consider the arguments in favour of publication outweigh those against and therefore recommend that the Report should be published by HMSO at the same time as the Government's response. This might best be in the form of a Written Answer by the Prime Minister shortly after the Christmas Recess. Copies of the Report should be made available to the trade unions prior to publication. The report should be introduced to members of the Government Legal Service in a message from the new Head of Profession outlining the Government's response.

Conclusion

22. Ministers are invited to:

- i. agree that the Treasury Solicitor should be formally designated Head of the Government Legal Service and supported by a small Lawyers Management Unit (paragraph 8);
- ii. note that the Lord Chancellor will be covering those proposals affecting rights of representation in the Courts in his forthcoming Green Paper (paragraph 11);
- iii. agree that legal services which continue to be provided centrally by the Treasury Solicitor should be on a repayment basis (paragraph 13);
- iv. consider whether the Treasury's proposed response to Andrew on pay is acceptable (paragraph 16 and Annex A);

v. endorse the other proposals for implementation contained in the Action Plan (paragraph 18 and Annex B);

vi. endorse the proposals for publication and announcement (paragraphs 20-21).

14 December 1988

REVIEW OF THE GOVERNMENT LEGAL SERVICES
REPORT BY SIR ROBERT ANDREW

ACTION PLAN

RECOMMENDATIONS

1. The greater part of the Government's legal work should continue to be done on an in-house basis; but Departments should be ready to contract work out if:
 - a. the necessary expertise does not exist in government;
 - b. government does not have the resources to do the work without undue delay; or
 - c. it is more cost-effective for the work to be done in the private sector

2. The present arrangements whereby:
 - a) advice is given by Departmental lawyers, primary legislation is drafted by Parliamentary Counsel's Office, and

COMMENTS

Accept there is no case for a material change. General policy is that departments are free to decide whether to use in-house legal services or to contract out if more cost-effective. Choice better informed if user knows and bears cost of in-house options. In some areas such appraisal not possible until Treasury Solicitor's services on repayment basis. Agency status a further option where this would facilitate more cost-effective delivery of services.

- a) Accept.

ACTION REQUIRED

Treasury Solicitor to expedite work on repayment plans.

Examination by Departments of contracting out and agency arrangements.

TIMESCALE

Feasibility to be completed during 1989, for implementation 1990-91.

Continuous.

b) litigation and conveyancing are (for the most part) handled by a central Department, should continue.

3. The Law Officers' Department and the Treasury Solicitor's Department should be merged to form an enlarged Law Officers' Department under the Attorney-General, which would also include the Office of Parliamentary Counsel, the Director of Public Prosecutions (and the Crown Prosecution Service), the Director of Public Prosecutions (Northern Ireland) and the Serious Fraud Office.

paras 5.2 - 5.7)

4. The Treasury Solicitor should become Permanent Secretary of the new Law Officers' Department. In addition to acting as principal adviser to the Law Officers and supervising work on litigation and conveyancing, he should be Head of the Government Legal Service, embracing all Home Civil Service lawyers employed in England and Wales, with responsibility for the central management of the Service. He should be assisted by a Management Board and a Central Management Unit concerned, in consultation with Departments, with the recruitment, training, career development and deployment of legal staff.

(paras 5.3, 5.10-19)

b) Accept subject to examination of contracting out to or by individual Departments.

Accept modified proposal to rename present LOD the Legal Secretariat, and call all legal depts reporting to Attorney-General the "Law Officers' Departments". Reporting lines and Accounting Officer functions remain unchanged. Ministerial responsibility for DPP(NI) and PCO remain as at present.

Accept that T.Sol should become Head of GLS, supported by a Lawyers Management Unit.

b. As 1. above

Legal Secretary to arrange new stationery etc.

Decide organisational structure and staffing of LMU. Head of LMU appointed in consultation with Central Depts. Staff in post.

b. during 1989 and subsequently

Immediate.

Agree structure by 1.2.89

Unit staffed by 1.3.89

5.
 (a) The Lord Chancellor's Department would not be affected by this organisational change, but should participate in the recommended arrangements for central management.
 (b) When the new Law Officers' Department is established the opportunity should be taken to transfer to the Lord Chancellor's Department the Statutory Publications Office.

(paras 5.8-9)

6. The Property Division of the present Treasury Solicitor's Department (which would form part of the new Law Officers' Department) should be re-located outside London.

(para 4.15)

7
 (a) The Land Registry should be constituted as an executive agency, while remaining responsible to the Lord Chancellor. The agency should be free to use receipts from registration fees to engage additional staff so that the present backlog of work can be reduced.

(b) The headquarters of the Registry (or at least the greater part of it) should be re-located outside London.

(para 4.18)

a. Accept.

b. Accept in principle.

Accept that options for relocation should be examined.

(a) Accept. Registry already exempt from gross running costs and a candidate for Agency status. Work well advanced. No bar in existing arrangements to in-year use of receipts to provide more resources.

b. Accept that options for relocation should be examined.

n/a.

b. Early study of future resource needs. Transfer of existing financial provision and staff from T.Sol. to LCD.

TSol to discuss location and timing with staff and other interested parties, including HMT.

a. Continue work by Land Registry on Agency status, together with review of current management accounting system, workload forecasting and fee-change procedures.

b. Land Registry to study practicality of relocating some HQ functions.

Management Arrangements effective from 1.4.89.

Transfer by April 1990

Discussions to be completed by 1.9.89.

Agency status from 1.9.89.

Discussions to be completed by 1.9.89.

8. There should be a broader approach to the recruitment of government lawyers, designed to attract not only qualified and experienced lawyers but also undergraduates, who should be offered financial assistance to study for their professional examinations and should then undertake articles or pupillage within the Government Legal Service.

(paras 6.16, 6.19)

9. Special efforts should also be made to attract married women into the Government Legal Service, including offers of part-time employment; and more use should be made of period appointments, secondments and the employment of older lawyers

(paras 6.22, 6.23, 6.24)

10. To facilitate recruitment a much greater effort should be made to publicise the opportunities offered by the Government Legal Service, including the variety and interest of the work. This should be one of the tasks of the Central Management Unit, in consultation with Departments and the Civil Service Commission, using as a model work done by the Ministry of Defence in recruiting fast-stream engineers and scientists, and employing specialist consultants as required.

(para 6.18)

Accept.
Sponsorship of students already possible.
Articles and pupillage schemes already being considered by departments but require further development and coordination.

Accept: already Civil Service policy.

Accept.

Departments to develop schemes in conjunction with Law Society and Bar. LMU to coordinate. HMT to agree terms and conditions and determine funding arrangements.

LMU to coordinate departmental reviews of staffing policies and report.

Lawyers Management Unit with CS Commission to review recruitment practices.

Schemes in place by 1.6.89

Report by 1.7.89

Review complete by 1.7.89

11. Departmental lawyers should be integrated into the work of the Departments they serve and involved at an early stage in all policy discussions with legal implications.

(para 7.2)

Accept.
Already government policy.

Policy to be reinforced by Heads of Department and Cabinet Office as appropriate.

Continuous.

12. While the present shortage of lawyers persists, fully qualified lawyers should only be employed in posts which require legal qualifications. There should be a review of posts in the Lord Chancellor's Department dealing with the administration of the courts and with judicial appointments to determine which posts need in future to be filled by qualified lawyers.

(paras 7.4, 7.5)

Accept.

A review by LCD, Treasury's SIED and the LMU.

Review in first half of 1989.

13. There should be a more flexible attitude to retirement, permitting lawyers to serve up to age 65, subject to satisfactory performance, individual wishes and departmental needs.

(para 7.19)

Accept. Heads of Department already have discretion up to Grade 3. Senior Open Structure cases to be considered by Head of Home CS.

Departments encouraged to use existing rules more flexibly. LMU to monitor.

Continuous

14. The complement of Parliamentary Counsel's Office should be increased to allow for the creation of an additional drafting team, so that the preparation of legislation is not held up by lack of resources.

(para 7.9)

15. More senior posts should be created in the Crown Prosecution Service to deal with specialist casework; this would help to improve the present inadequate career prospects.

(para 9.14)

16. To recognise experience and workload there should be more use of

(a) straight through grading from Crown Prosecutor to Senior Crown Prosecutor in the CPS and

(b) personal promotions from Grade 7 to Grade 6. (paras 8.23, 8.25)

17. More use should be made of existing training facilities, both in government and outside, including managerial as well as professional training.

(para 9.7)

Treasury prepared to consider a detailed case covering long-term need and other means of meeting the requirement.

Consider in conjunction with decisions on the current joint review of grading guidelines for legal posts in CPS.

a. (As for No. 15)

b. Accept subject to arrangements for personal promotions in all departments.

Accept. Civil Service College training courses for lawyers and SMDP programme are under review in order to encourage departments to make more use of them.

Parliamentary Counsel to present case.

CPS and Treasury SIED to complete current review and take consequential decisions.

a. (As for No 15)

b. Departments to submit schemes or individual cases for Treasury approval as appropriate.

LMU in consultation with OMCS to review training facilities within and outside government and issue guidance to departments. LMU to monitor attendance on training courses.

Case Part of PES 1989.

Decisions by Summer 1989

a. Decision by Summer 1989.

Continuous.

Guidance by 1.8.89.

Continuous

18.

a. More effort should be devoted by Departments, in consultation with the Central Management Unit, to enhancing the performance of lawyers by the provision of better secretarial support and the exploitation of information technology.

b. The comprehensive computerised legal data base at present being studied by a Committee should be introduced as soon as possible.

(paras 7.16-17)

19. Greater effort should be devoted to the central management of the Government Legal Service to ensure that scarce resources are deployed where they are needed most and the careers of individuals (including high-flyers) are properly planned. This should be the responsibility of the Head of the Government Legal Service, assisted by a Management Board and a Central Management Unit.

(paras 5.13-19, 9.10)

a. Accept in principle.

b. Treasury prepared to consider detailed business case.

Accept, subject to framework endorsed by Departments.

a. Encourage Departments to make use of available studies on the better use of Secretarial and other support services and to evaluate available systems.

b. Case to be presented by LCD.

Treasury Solicitor and LMU to work up detailed arrangements with departments within agreed framework.

Case presented by Mid-1989.

Arrangements in place by 1.4.89.

20. As a means of enhancing job satisfaction (and thereby improving recruitment and retention) as well as for reasons of efficiency, there should be a limited extension of rights of audience in the Crown Court to qualified lawyers in the Crown Prosecution Service and in C&E. (This recommendation will need to be considered as part of the Government's general review of the legal profession.)

(paras 7.10-15)

21. Members of the Crown Prosecution Service should be eligible for appointment as stipendiary magistrates.

(para 9.15)

22. Against the background of continuing recruiting difficulties and the loss of experienced staff to better paid jobs in the private sector, especially in London, there should be selective pay increases for government lawyers as follows:

a. A London Allowance of £2,500 a year should be incorporated in the pay of all lawyers in Grades 4 and 5 working in the London area;

(para 8.29-30)

To be considered in the context of the Lord Chancellor's forthcoming Green Paper on the legal profession.

For consideration.

Welcome emphasis on selectivity.

a. Treasury accepts.

Pursue outcome of Green Paper.

To be reconsidered by the Lord Chancellor.

a. HMT to make final recommendations to Ministers after appropriate consultations with Unions.

Green Paper Jan 1989. Legislation in 1989-90.

During January 1989

from 1.4.89

b. Selective increases in the form of up to three steps on the incremental ladder should be paid to lawyers in Grades 4-7, whether in London or elsewhere, who occupy posts of special value, defined in terms of job weight, skills and marketability;

(paras 8.24-30)

Treasury accepts relating selective increases to recruitment and retention and value of individual to Department. Keep possibility of selective treatment for Grade 6 under review.

HMT with LMU devise criteria and select posts recommended by Departments after consultation with Unions.

from 1.4.89

c. lawyers in Grades 2-3 should be paid on the basis of personal pay points which would take account of both the London factor (where applicable) and the concept of job value.

(para 8.32)

Treasury accepts use of personal pay points which can take into account London factor. TSRB are likely to recommend £2000 London Allowance for Grade 3.

c. As for b. except no consultation with Unions.

from 1.4.89

23. Ministers and the Head of the Government Legal Service should seek opportunities to emphasise the importance of the Service and to improve its status and "image".

(para 9.17)

Accept.

As appropriate.

Continuous

24.

(a) The Foreign and Commonwealth Office, which is also experiencing losses to the private sector, should apply to lawyers in the Diplomatic Service pay improvements similar to those recommended for the Home Civil Service.

a. Treasury accepts with respect to London factor. Treasury accepts principle of selective pay increases if criteria met.

HMT to consider in light of decisions for HCS.

from 1.4.89

(b) Close liaison on management issues should be maintained with the Central Management Unit in the Law Officers' Dept.

(para 10.13)

25. The Overseas Development Administration should discuss with the Law Officers' Department the possibility of the latter's taking on work now done by the FCO and Crown Agents lawyers.

(para 10.11)

26. (a) Government lawyers employed in Scotland and Northern Ireland should be eligible for the selective pay increases recommended above. (b) The Departments concerned should consider to what extent they would benefit from more flexible grading arrangements and the various managerial measures recommended for England and Wales.

(paras 11.16, 11.33)

27. The possibility of combining the Crown Solicitor's Office and the Northern Ireland Departmental Legal Service (or at least co-locating them) should be kept open.

(para 11.29)

28. Consideration should be given by the Scottish Office and the Crown Office to establishing a small management unit to facilitate exchanges of staff and the development of information technology etc.

(paras 11.11, 11.17)

b. Accept

Accept.

a. Treasury accept principle of selective pay increases if criteria met.
b. Accept.

Accept.

Accept.

ODA to discuss with T.Sol.

HMT to consider.

b. for consideration by the departments concerned.

For discussion between departments concerned.

Scottish Office and Crown Office to consider possible arrangements in consultation with Lawyers Management Unit.

Proposals by March 1989.

from 1.4.89

Decisions by mid-89.

Discussions completed by March 1989.

Arrangements in place by mid-1989.

CONFIDENTIAL



FROM: MALCOLM BUCKLER
DATE: 14 December 1988

MR C W KELLY

cc PS/Chancellor
PS/Chief Secretary
Sir Peter Middleton
Mr Anson
Dame Anne Mueller
Mr Monck
Mr Luce
Mrs Case
Mr Harris
Mr Revolta
Ms Seammen
Mr G Jordan
Mr Barker
Mr Graham

LAWYERS PAY: ANDREW REPORT

The Paymaster General was grateful for your submission of 12 December. He has, however, the following questions:

- i. what is the current pay bill? Paragraph 14 of your submission of 23 November makes £420,000 into 3¼ per cent, whereas paragraph 8 of your latest submission makes £1.4 million into 5 per cent. The denominations will be different, but how and why?
- ii. is there any way we can make our Grade 6 position more palatable to the Attorney General?
- iii. it would be most helpful if the comparative table at the back of your latest submission could be translated into actual salaries (approx).

MALCOLM BUCKLER
Private Secretary

*Contract for me - After CST
our PMG. on balance sort of
or PMG. See
A draft is mtg.*

FROM: C W KELLY
DATE: 14 December 1988

CHANCELLOR

cc: Chief Secretary
Paymaster General
Sir Peter Middleton
Mr Anson
Dame Anne Mueller
Mr Monck
Mr Luce
Mrs Case
Ms Seammes
Mr Barker
Mr Graham

Ch/ This is a bit curious. Everyone seems to be assuming you are going to the No 10 mtg but you decided not to + CST is going instead. You (+ PMG) will be at CBI pay presentation here instead. In the circumstances should CST minute? Or, since PMG is manifestly the expert on this, would you think it appropriate for him to minute (and indeed go to No 10 mtg) and CST if he wanted could pull out? n.p.w.

LAWYERS PAY : ANDREW REPORT

As promised in my submission to the Paymaster of 12 December, I attach a draft of a note from you to the Ministerial Group on the Andrew report.

2. It falls into two parts.
3. The longer attachment is the report of Dame Anne Mueller's steering group which considered the proposals as a whole and how to respond to them. It is still subject to minor titivation, including to the annex which sets out our proposals on pay.
4. In practice, the only controversial issue is likely to be pay. The first attachment, which is intended as a note from you therefore concentrates almost entirely on that. It tries to make some of the more obvious points in a fairly simple way, rather than going into a great deal of detail.
5. The Attorney will be putting in a paper of his own. We have reminded his office of the rule that papers with financial implications need to be shown to us in draft. It cannot be guaranteed that they will actually do that.

KELLY TO CX 14 DEC

C O N F I D E N T I A L

6. In any event, we know the Attorney's line quite well, since he rehearsed it at length to the Paymaster General the other day. We are preparing a detailed brief, which we will let you have for your weekend box, which attempts to deal with the points he is likely to raise. It also indicates where we might give, if it turned out that we had to.

7. Since the Ministerial meeting is on 20 December, your paper ought to be circulated before the weekend.

ck

C W KELLY

encs

ANNEXGRADES 2 AND 3

Andrew recommended that selective increases of up to £10,000 should be available to lawyers at Grades 2 and 3. He also implied in the text, though he does not explicitly refer to it in his recommendation, that £3,000 of this should be paid in the form of a special London allowance.

2. The Treasury believe that special London allowances for lawyers at these levels would be inconsistent with the nature of the senior open structure. Their understanding is, however, that the TSRB are likely to recommend a special allowance of £2,000 for all Grade 3s in their next report, due at the end of January.

3. The Treasury propose to respond to the Andrew recommendation by making greater use selectively of the existing range of discretionary increments above the normal scale maxima for Grades 2 and 3 as personal pay points, and have already agreed to this in two cases. In addition, they propose to extend the range for each grade by one additional performance point available for those given personal pay points. These additional points would be subject to the existing arrangements for discretionary increments, including the quota.

4. Compared with the Andrew recommendation of up to £10,000 the effect of these proposals would be to make available on a selective basis up to further £9,000 for Grade 2 lawyers with the additional possibility of a performance point worth a further £3,200. For Grade 3 lawyers, including the expected TSRB recommendation the additional payments available would total £8,300, with the possibility of a performance point worth another £2,100.

Grades 4 and 5

5. The Andrew recommendation for Grades 4 and 5 was for a special London allowance of £2,500 plus the availability of three additional spine points available on a selective basis. These could be worth up to some £4,100.

6. The Treasury proposes to accept these recommendations.

7. Under the terms of the Grades 5 to 7 Agreement, the number of performance points available to groups of staff benefiting from selective increases is for decision on each occasion. In the case of Grade 5 lawyers the Treasury propose to make a minimum of two points available, with the full four still available for those in receipt of the London allowance only.

8. The consequence could be to increase the salaries of some Grade 5 lawyers in London by up to £6,600, to a total of just under £43,000 with effect from 1 April, including performance pay.

Grades 6 and 7

9. Andrew proposed that selective increases of up to three spine points should also be available in certain instances to staff at Grade 6 and 7. But he also made clear that he did not think that starting salaries were much out of line with private sector counterparts.

10. The Treasury propose to leave open the possibility of selective increases at Grade 6 until greater experience is gained of how selectivity works in practice at more senior levels.

General

11. Staff at Grade 2 and 3 can expect also to benefit from the result of the TSRB review, with effect from 1 April. Staff at Grades 5 to 7 will receive 4 per cent on 1 April under the terms of the long-term pay agreement for these grades, followed by a further settlement on 1 August 1989 which is to be informed by a levels survey.

12. The effect of the proposals above is that all staff, even those on the maximum personal pay point, will still have available to them at least one further performance point. Most will have more. There is also the possibility of personal promotions.

14 December 1988

15/12/88

Ref. A088/3625

PRIME MINISTER

ANDREW REPORT: GOVERNMENT LEGAL SERVICES:
MACHINERY OF GOVERNMENT RECOMMENDATIONS

The Chancellor of the Exchequer will be circulating a paper on the proposed response to the Andrew report for the meeting of Ministers on 20 December. This minute is about Andrew's proposals concerning the Machinery of Government. These proposals have been considered by Departments and by the Attorney General, and the conclusions reached are summarised in this minute.

2. Two modifications are proposed to the structure of the legal departments reporting to the Law Officers. First, the Treasury Solicitor should assume an additional "Head of Profession" function as Head of the Government Legal Service, supported by a small Lawyers' Management Unit. These arrangements will support rather than diminish Departments' abilities to manage their own staff, and are welcomed by Departments generally.

3. Andrew also recommends that the Law Officers' Department and the Treasury Solicitor's Department be merged to form an enlarged Law Officers' Department under the Attorney General, which would also include other Departments reporting to the Attorney General. The best way to achieve the objectives of Andrew's recommendation is to rename the present Law Officers' Department the Legal Secretariat (it contains only 10 professional staff); and then to label all the Departments reporting to the Law Officers* as the "Law Officers' Departments", somewhat akin to the "Chancellor's Departments". This would help to make clear that the Treasury Solicitor/Head

*Treasury Solicitor's Department, Legal Secretariat, Crown Prosecution Service, Serious Fraud Office.

of the Government Legal Service acted with the authority of the Attorney General behind him, and would generally clarify lines of accountability in an area where this has been less than clear. I attach an outline organisation chart at Annex A showing the revised structure, which I recommend you accept.

4. While most of the main departments employ their own legal advisers, five departments (Defence, Employment, Transport, Energy, Education and Science) which only have small legal requirements are served by outposts of the Treasury Solicitor's Department, and their personnel are managed on a common basis by the Treasury Solicitor. Andrew recommends that these arrangements should be left as they are, and I recommend that you follow this advice, subject to review in a few years' time. It is however accepted that it would be right to put the Treasury Solicitor's services to Departments generally on to a repayment basis.

5. Andrew also makes three more detailed proposals:

(i) that Ministerial responsibility for Parliamentary Counsel should transfer from the OMCS to the Attorney General;

(ii) that the Attorney General should take full responsibility for the Director of Public Prosecutions (Northern Ireland), whose staff and resources are currently provided by the Secretary of State for Northern Ireland, and

(iii) that the Lord Chancellor should take over responsibility for the Statutory Publications Office (SPO) from the Treasury Solicitor;

6. On Parliamentary Counsel, there are well established arrangements for bringing the Attorney in to discussions with

Departmental Ministers on matters concerning the drafting of individual Bills, and no change in the formal responsibilities is needed on that score. But some Departments and their Ministers believe that there is no satisfactory mechanism for airing problems about the overall level of resources available to Parliamentary Counsel. The simplest way of dealing with this lacuna would be for you to invite the Lord President, who has responsibility for the legislative programme, to become involved in negotiating with the Treasury the public expenditure resources for Parliamentary Counsel; if you agree with this approach, I will clear it with Mr Luce and Mr Wakeham.

7. The proposal to give the Attorney General responsibility for the DPP (Northern Ireland) would create more management problems than it would solve. The Attorney General places no store on it and I recommend that it should be pursued no further.

8. I do however recommend that you accept the third proposal, that the Lord Chancellor should take over responsibility for the Statutory Publications Office (SPO). This would give a better fit with other existing responsibilities in the Lord Chancellor's Department, and should speed up the application of information technology to the SPO's work. The Ministers involved are content, and I suggest the transfer should take place from April 1990.

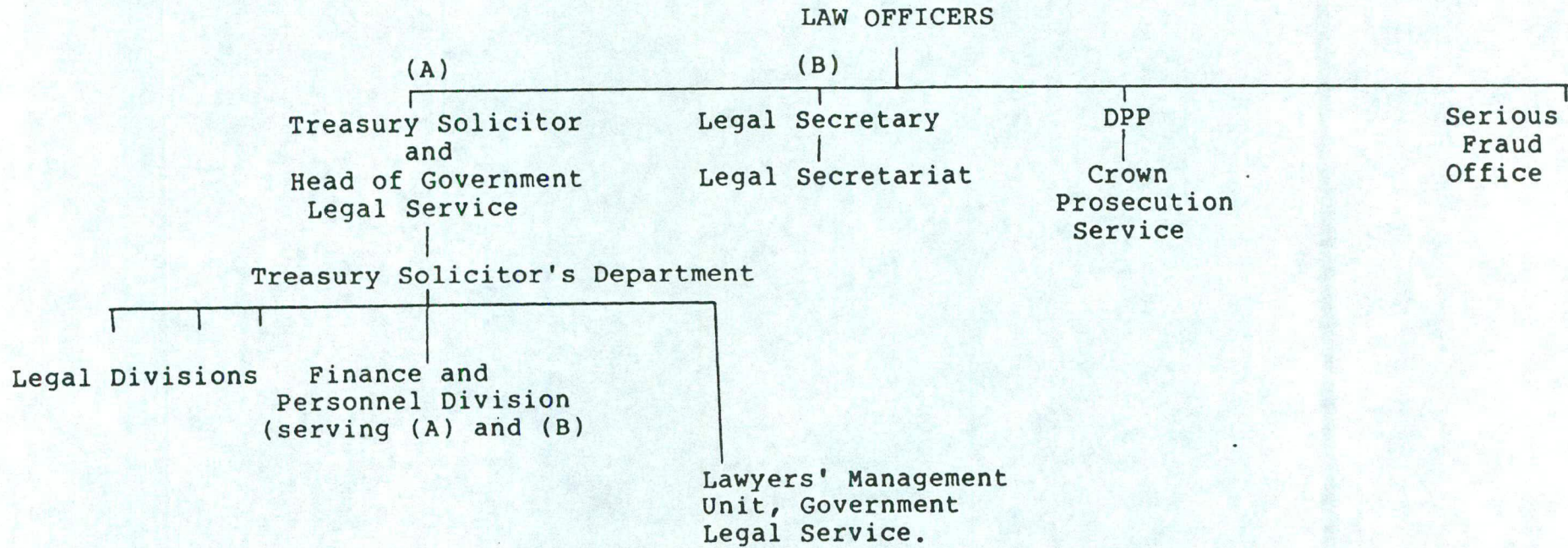
9. The Attorney General and Departments generally know of the proposals summarised in paragraphs 3-8 and are content with the solutions I have put forward above. If you agree, you might like to indicate this at the start of the Ministerial meeting on 20 December, and I attach a speaking note at Annex B which could be used for this purpose. The outcome could then be announced publicly along with the rest of the Government's response to the Andrew report when Parliament resumes after Christmas.

R.R.B.

ROBIN BUTLER

15 December 1988

OUTLINE ORGANISATION OF PROPOSED LAW OFFICERS' DEPARTMENTS



DRAFT SPEAKING NOTE FOR THE PRIME MINISTER'S USE ON 20 DECEMBER

The Andrew report contains a number of machinery of government recommendations. I have considered these on the basis of advice from the Head of the Home Civil Service: and I know that he in turn has taken soundings with the Attorney General and the other Ministers directly concerned, not all of whom are present here today.

My conclusions are that:

- (i) Under the Ministerial direction of the Attorney General, the Treasury Solicitor should become the Head of the Government Legal Service. He should assume the advisory responsibilities for personnel management of lawyers across Departments as proposed in the Andrew Report;
- (ii) The legal departments for which the Attorney General is the ministerial head should retain their existing distinct identities and responsibilities, but should in future be known collectively as "The Law Officers' Departments". The present Law Officers' Department should be renamed the Legal Secretariat.
- (iii) The Departments of Education and Science, Defence, Employment, Transport, and Energy should continue to have legal services provided by outposts of the Treasury Solicitor's Department. These outposts should be put on to a repayment basis, along with the other services to Departments provided by T.Sol. The five departments concerned would remain free to seek agreement to the establishment of in-house legal services in the light of experience with the new arrangements.

(iv) The ministerial responsibility for the Director of Public Prosecutions (Northern Ireland) should remain as it is now. The Attorney General should continue to deal at Ministerial level with matters concerning the drafting of individual Bills by the Parliamentary Counsel's Office but, in view of his concern with the legislative programme, the Lord President should become involved in discussion about the resources provided to Parliamentary Counsel.

(v) The Statutory Publications Office should be transferred to the Lord Chancellor's Department from April 1990.



OK. I will
minuttt myself!

Ch/ PMG and CST have
agreed that PMG will
go. But both are a
little nervous that
PMG will be severely
handbagged by
combination of
A-Gen (who wants
"Andrew plus") and other
Departmental Mins - who
see this as the first step
towards releasing HMT
grip on purse strings.
PEM is also v concerned
about this. Wd you in

the circ, wish to minute
yrselt, sorry you can't
attend etc - or mention
to PM in margins of
NHS or on Monday?

mpw -

→ Chris Kelly



actually I have made only footling changes. But you have some more, I think?

Treasury Chambers, Parliament Street, SW1P 3AG
01-270 3000

PRIME MINISTER

prop

REVIEW OF GOVERNMENT LEGAL SERVICES

16/12/88

... I attach a copy of the report of the review of Government Legal Services conducted by Sir Robert Andrew together with a note by officials about it. ~~As I am afraid I shall not be able to attend your meeting on this next week,~~ I thought it might be helpful if I set out my personal view in advance *of your meeting next week.*

The review has produced a number of useful recommendations designed to improve personnel management arrangements and make better use of lawyers in the Civil Service. I agree with the proposals made by officials about how we should respond to them.

Clearly the most difficult area is that of pay. Sir Robert Andrew has recommended making available on a selective basis additional amounts of up to £6,600 to lawyers at Grade 5 on top of normal Grade 5 salary levels, and of up to £10,000 to lawyers at Grades 2 and 3.

The emphasis on selectivity is helpful. But these are substantial amounts by any standards. The proposals would mean, for example, that ~~all~~ Grade 5 lawyers in London would get a pay increase on 1 April of around £3,700. Some would get up to £7,500. They will also get a further increase on 1 August under the 5-7 long-term pay agreement. The effect would be to open up a considerable differential between lawyers and other groups in the same grades.

including the 4 per cent due to them this summer



Crown Prosecution Service

I am also conscious that:

(i) the figures do not support the idea that there is a serious retention problem at these levels. In the 18 month period up to the end of last July there were only six resignations at Grade 5 and above, from the whole of the Government legal service, including the CPS. This is an annual rate of only 1.2 per cent. There were only three resignations *(excluding the CPS, which found CPS)* in the 12 months before that. At Grade 6 level the resignation rates were 3.4 per cent and 1 per cent respectively;

One still not sure about the recruitment position is clearly under the factory. The Civil Service Commission is the reason why departments are asking them to fill. But

(ii) ~~the evidence is that the recruitment position, which Andrew regarded as unfavourable, has been improving.~~ *the situation is already looking like being* 1988 ~~has been~~ a better year than 1987 and the effect of the substantial increases in pay for Grades 6 and 7 promulgated earlier this year are probably still not fully realised. The Civil Service Commission expect an increase of at ~~least~~ *around* 15 per cent in the number of Crown Prosecutors recruited in 1988 and could double the number of other lawyers. *recruited, though admit that some law has* Two competitions directed specifically to posts in Inland Revenue and the Land Registry resulted in all the vacancies being filled;

(iii) salaries for senior lawyers in the Government Legal Service ~~may~~ compare unfavourably with those earned by the best lawyers in private sector commercial firms in London. But in other areas where lawyers are employed, and outside London, the material collected by Andrew suggests a rather different picture. In any event, comparability is not a part of our policy on pay, except to the extent that it is reflected in the recruitment and retention position. And simply comparing salaries can be misleading. The nature of the job also matters.



However, I acknowledge the concerns some colleagues have expressed about quality and depth of experience; and it is possible that the ~~the~~ ^{most} recent ^{comparative} figures may be distorted if people who might otherwise have resigned are waiting to see what came out of the Andrew report. I am therefore prepared to accept the Andrew recommendations for Grade 5 and above in the way set out in the report by officials, subject to satisfactory arrangements being worked out for the application of selectivity, *and to keep the position of Grade 6 under review,*

However, increases of this order, even on a selective basis, are bound to stimulate claims for comparable treatment from other groups of staff. We will have to resist these. We are in a better position to do so to the extent that we are seen to be responding to the recommendations of a considered and published review.

Going beyond the Andrew recommendations, as I indicated that the Attorney would like to do, would in my view be unhelpful and would make our position much more difficult to defend

I am copying this memo to the Foreign Secretary, the Lord Chancellor, the Secretary of State for Northern Ireland, the Secretary of State for Scotland, the Attorney General, the Lord Advocate and Sir Robin Butler.

[N.L.]

16 December 1988

BF 19/12

FROM: P RUSSELL
DATE: 16 December 1988

- 1. MRS CASE
- 2. CHIEF SECRETARY

- cc Chancellor ✓
- Financial Secretary
- Paymaster General
- Economic Secretary
- Sir P Middleton
- Dame Anne Mueller
- Mr Anson
- Mr Monck
- Mr Kelly
- Mr Harris
- Mr Revolta
- Mr Jordan
- Mr J Barker

REVIEW OF THE GOVERNMENT LEGAL SERVICES (ANDREW REPORT)

The main paper for this meeting is a note by officials, circulated under cover of the Chancellor's paper which responds on the review of the Government Legal Services conducted by Sir Robert Andrew. The key issue is pay which is covered in the Chancellor of the Exchequer's note and on which a separate brief is provided. This note briefly covers the other issues discussed in the note by officials (and an accompanying action plan) which was prepared in a group chaired by Dame Anne Mueller. Its recommendations are acceptable and you will want to support them. It also covers the Machinery of Government proposals resulting from the Andrew report which are dealt with in a separate paper by the Head of the Home Civil Service. The Prime Minister will no doubt make her views known at the meeting.

BRIEF
OTHER
ISSUES

Machinery of Government

2. Andrew's proposal that there should be an Attorney-General's "super-department" embracing the Crown Prosecution Service, Serious Fraud Office, DPP (Northern Ireland) and Parliamentary Counsel as well as the Treasury Solicitor's and Law Officers' Departments is likely to be rejected in favour of very largely the status quo. This is welcome to the Treasury in that, in the main, it will ensure that the individual departments (such as CPS and SFO) will remain directly accountable for the control and management of their resources. Andrew also recommended that the 5

Departmental advisory divisions (Defence, Education, Energy, Employment and Transport) should continue as outposts of the Treasury Solicitor, rather than being taken fully into the relevant Department. This is acceptable, provided that - as the note recommends - accountability is improved by the latter making his services available only on a repayment basis as from 1.4.90. You may want to emphasise the importance of this point.

Personnel management

3. More positive central management of the Government's lawyers is needed to ensure the most effective use of a scarce and costly resource. The present somewhat fragmented arrangements for managing lawyers' careers compare unfavourably with those for other professional groups such as economists and accountants. The lack of a designated head of Government lawyers has hitherto contributed to this. The formal designation of the Treasury Solicitor as Head of the Government Legal Service together with the creation of a small Lawyers Management Unit should bring about better succession planning and career management as well as facilitate transfers between departments to cope with changing priorities and workloads. The Unit will also be able to co-ordinate improvements in recruitment, training and management development of Government lawyers. The Civil Service Commission have already started to make changes to their recruitment practices and these have resulted in a marked improvement in numbers recruited. The Andrew recommendations should lead to even greater improvement and help to reduce the pressure on pay. You can readily support these developments as a sound approach to obtaining better returns from the Government's investment in its own lawyers.

Making the Best Use of Lawyers

4. It was perhaps somewhat disappointing that Andrew saw so little scope for reducing the Government's dependency on its present number of lawyers (though that is in fact considerably less than other countries, particularly the United States). He does, however, remind the users of their services that the employment of outside lawyers should always be explored when a

comparable service can be achieved at no greater cost and that lawyers should not be employed on tasks that could equally well be done either by non-qualified staff or by lay people with a measure of experience and practical training. He particularly recommends that the Lord Chancellor's Department reconsiders its practices in this respect. Outside immediate departmental services, he has made useful recommendations about extending rights of audience in the Crown Court to Customs lawyers and CPS prosecutors. This will be a key element in the Lord Chancellor's Green Paper on the legal profession due to be published in January and we are reasonably confident that this particular restrictive practice of the Bar will be breached as a result, thus offering better quality work and greater job satisfaction for some Government lawyers. But it need not stop there since it would equally follow that the CPS could use non-lawyers in magistrates' courts in certain circumstances. Other possibilities for getting better value for money include the creation of agencies and a greater measure of relocation away from central London: the Land Registry is a prime candidate on both counts. Again, you can support these recommendations.

Resource Implications

5. Apart from the pay changes (which are discussed in the separate paper), the Andrew recommendations do not impose very great additional demands nor offer any immediate savings. The lawyers' management unit would cost about £150,000 a year (assuming 6 staff at Grade 5 and below) which would be money well spent. Andrew's view that the Statutory Publications Office should be transferred to the care of the Lord Chancellor's Department reflects the state of neglect that it currently suffers; something like £50,000 a year will be needed simply to make it more effective. You could accept these two small sums. But Andrew's advocacy of a legal data base shows him falling under the spell of committed enthusiasts. Although the cost is currently estimated at £1 million, we suspect that the eventual cost is more likely to be in the region of £3 million; at this

sum, the very limited number of beneficiaries may be too slight to justify the expenditure, and you will wish to warn that a detailed cost-benefit analysis would need to be presented. However, in the longer term there should be offsetting savings from extending rights of audience in the Crown court.

A handwritten signature in dark ink, appearing to read 'P Russell', with a horizontal line underneath the name.

P RUSSELL

cc Chancellor.

195
11



16 DEC 1988

CABINET OFFICE

70 Whitehall London SW1A 2AS

01-270 0101

Mrs Case
Mr Mordaunt
Mr Harris
Mr C. Kelly
Mr A. Jordan
Miss Seaman
Mr Barker
Mr P. Russell

From the Secretary of the Cabinet and Head of the Home Civil Service

Sir Robin Butler KCB CVO

Ref. A088/3629

TURNER
TO
SARGENT
16 DEC

Dear Simon,

Andrew Report: Machinery of Government Recommendations

--- I attach a copy of the minute which Sir Robin Butler has sent to the Prime Minister about Sir Robert Andrew's machinery of government recommendations, which reflects the outcome of discussion at the meeting of Permanent Secretaries on Wednesday. He has not sent the Prime Minister the paper attached to his letter of 8 December to Sir Peter Middleton.

I am copying this letter, and the attached minute, to the Private Secretaries to all those who received Sir Robin Butler's letter of 8 December to Sir Peter Middleton.

Yours sincerely,

PH Turner

P H TURNER
(Assistant Private Secretary)

Simon Sargent Esq
Treasury

56/15/1



16/12/88-

Treasury Chambers, Parliament Street, SW1P 3AG
01-270 3000

PRIME MINISTER

REVIEW OF GOVERNMENT LEGAL SERVICES

... I attach a copy of the report of the review of Government Legal Services conducted by Sir Robert Andrew together with a note by officials about it. I thought it might be helpful if I set out my personal view in advance of your meeting next week.

The review has produced a number of useful recommendations designed to improve personnel management arrangements and make better use of lawyers in the Civil Service. I agree with the proposals made by officials about how we should respond to them.

Clearly the most difficult area is that of pay. Sir Robert Andrew has recommended making available on a selective basis additional amounts of up to £6,600 to lawyers at Grade 5 on top of normal Grade 5 salary levels, and of up to £10,000 to lawyers at Grade 2 and 3.

The emphasis on selectivity is helpful. But these are substantial amounts by any standards. The proposals would mean, for example, that Grade 5 lawyers in London would get a pay increase on 1 April of around £3,700, including the 4 per cent due to them then anyway. Some could get up to £7,800. With performance pay, some Grade 5 lawyers in London could aspire to earn almost £43,000 from April. All will also get a further increase on 1 August under the 5-7 long-term pay agreement. The effect would be to open up a considerable differential between lawyers and other groups in the same grades.



I am also conscious that:

- (i) the figures do not support the idea that there is a serious retention problem at these levels. In the 18 month period up to the end of last July there were only six resignations at Grade 5 and above from the whole of the Government legal service, including the Crown Prosecution Service. This is an annual rate of only 1.2 per cent. There were only three resignations (excluding the newly formed CPS) in the 12 months before that. At Grade 6 level the resignation rates were 3.4 per cent and 1 per cent respectively;
- (ii) the recruitment position is clearly unsatisfactory. The Civil Service Commission are still not succeeding by some margin in meeting the vacancies which departments are asking them to fill. But the situation is already improving. 1988 looks like being a better year than 1987 and the effect of the substantial increases in pay for Grades 6 and 7 promulgated earlier this year are probably still not fully realised. The Civil Service Commission expect an increase of around 15 per cent in the number of Crown Prosecutors recruited in 1988 and could double the number of other lawyers recruited, though admittedly from a low base. Two competitions directed specifically to posts in Inland Revenue and the Land Registry resulted in all the vacancies being filled;
- (iii) salaries for senior lawyers in the Government Legal Service may compare unfavourably with those earned by the best lawyers in private sector commercial firms in London. But in other areas where lawyers are employed, and outside London, the material collected by Andrew suggests a rather different picture. In any event, comparability is not a part of our policy on pay, except



to the extent that it is reflected in the recruitment and retention position. And simply comparing salaries can be misleading. The nature of the job also matters.

However, I acknowledge the concerns some colleagues have expressed about quality and depth of experience; and it is possible that the most recent resignation figures may be distorted if people who might otherwise have resigned are waiting to see what came out of the Andrew report. I am therefore prepared to accept the Andrew recommendations for Grade 5 and above in the way set out in the report by officials, subject to satisfactory arrangements being worked out for the application of selectivity, and to keep the position of Grade 6 under review.

Increases of this order, even on a selective basis, are bound to stimulate claims for comparable treatment from other groups of staff. We will have to resist these. We are in a better position to do so to the extent that we are seen to be responding to the recommendations of a considered and published review. Going beyond the Andrew recommendations, as I understand that the Attorney would like us to do, would in my view be unjustified and would make our position much more difficult to defend.

I am copying this minute to the Foreign Secretary, the Lord Chancellor, the Secretary of State for Northern Ireland, the Secretary of State for Scotland, the Attorney General, the Lord Advocate and Sir Robin Butler.

A handwritten signature in dark ink, appearing to be 'N.L.'.

[N.L.]

16 December 1988

REVIEW OF GOVERNMENT LEGAL SERVICES

Report by Sir Robert Andrew, KCB

Note by Officials

1. The Prime Minister announced on 14 January that she had approved the appointment of Sir Robert Andrew to undertake a Review of Government Legal Services. The review originated from concerns of Ministers about the morale and efficiency of the Services, about their organisation and use, and about the quality of legal advice available. The terms of reference asked Sir Robert to make recommendations on what legal services the Government needs, how they can be provided most effectively and economically and what changes are needed in the management of legal staff so as to make best use of them.

Summary of conclusions

2. Sir Robert Andrew concludes that the Government continues to need a wide range of legal services provided to a high standard and that the need for them is likely to go on increasing. It is likely to be more cost effective for the bulk of these services to continue to be provided in-house, but departments should be given more choice whether to meet their needs in government or outside. Some of the bodies providing services to the public could usefully become executive agencies and the relocation of some work out of London would prove cost-effective.

3. Whilst eschewing radical change, the Report proposes some organisational adjustments to improve the effectiveness of legal services. No major changes are proposed in the balance of responsibilities between the central legal departments for whom the Attorney-General is the Ministerial Head and departments requiring legal services. But some detailed adjustments are proposed in the Attorney-General's departments, partly to facilitate Andrew's proposals for improved personnel management of lawyers. A key recommendation is that the Treasury Solicitor should become Head of the Government Legal Service, including all lawyers employed in the Home Civil Service in England and Wales, and should play a more positive role in the management of the Service with the support of a new central unit.

4. Andrew concludes that there are serious problems of recruitment and retention which, against the background of a national shortage of lawyers, raise doubts about whether the quality of services can be maintained in the future. He recommends remedial action on three fronts:

a. more effort on recruitment both to publicise the opportunities offered by government service and to broaden the recruitment base. Sponsorship, articulated clerk and pupillage schemes are proposed as well as greater flexibility in working arrangements to attract in particular married women and older lawyers;

b. various management changes aimed at making better use of qualified lawyers. These include centrally coordinated arrangements for the management of lawyers throughout the Service as well as steps to enhance job satisfaction (in particular an extension of rights of audience in the Crown Court), improvement in promotion prospects and better support arrangements for lawyers.

c. selective pay increases. While starting salaries compare reasonably well with the private sector, in mid-career they start to diverge. Since recruitment and retention problems are almost entirely confined to London, an extension of the London lawyers' allowance to more senior grades is proposed. More selective increases are also recommended to recognise high "job value" - a combination of job weight, skills and marketability;

5. For the Foreign and Commonwealth Office, Scotland and Northern Ireland, Andrew recommends that the flexibilities in pay and grading should also apply.

Response to the Report

6. Sir Robert Andrew's report has been considered by a group of officials under Treasury chairmanship including representatives from the Crown Prosecution Service, the Law Officers' Department, the Lord Chancellor's Department, the OMCS, and the Treasury Solicitor's Department. Other departments have been consulted on various aspects of the report.

7. The machinery of government proposals have been considered further in a separate paper being submitted to the Prime Minister by the Head of the Home Civil Service. The specific proposal that the Treasury Solicitor should become Head of the Government Legal Service should provide a firm basis for the more effective deployment of legal resources across government and help to maintain and enhance the quality of legal advice.

Personnel Management

8. More coordinated personnel management of the Government Legal Service as a whole, as recommended by Andrew, will be needed to secure the most effective deployment of lawyers across Government. At first sight this proposal appears to run counter to the general thrust of Civil Service reforms such as the Financial Management Initiative and Next Steps. But greater decentralisation and devolution of responsibility in the interest of securing more effective management of individual departments and units within Government needs to be buttressed by satisfactory cooperative arrangements to ensure that the collective interests of Government are also well served. There should be considerable benefit to the Government Legal Service as a whole from improved succession planning, better directed career management and the ability to negotiate staff transfers between departments to cope with changing priorities and fluctuating workload. Proposals modelled on the current arrangements for the Government Economic Service have been endorsed by the relevant heads of department and their legal advisers. We therefore recommend that the Treasury Solicitor be formally designated Head of the Government Legal Service and that he be supported by a small Lawyers Management Unit.

9. The proposed management unit will have a key role in taking forward Andrew's various specific recommendations for **improving personnel management** of lawyers in government. We agree that greater effort needs to be put into recruitment, that the recruitment base should be broadened, and that there should be improved training and management development as Andrew suggests. The management unit will need to work closely with the Treasury, the OMCS and the Civil Service Commission in helping departments to implement all these recommendations.

Making the Best Use of Lawyers

10. The Report also makes a number of useful recommendations aimed at making better use of lawyers. Given the continuing shortage of lawyers and their relatively high cost, it is clearly important to ensure that the members of the Government Legal Service are used to best advantage and to achieve maximum value for money. Andrew notes that the quality of legal services is best where lawyers and administrators work closely together, with the lawyers being brought into discussions at an early stage. In policy areas this is already encouraged and we recommend that Heads of Department should seek further **integration of lawyers and administrators**. There should not be two separate cultures.

11. In the wider arena, the Report recommends that **rights of audience** for both Customs lawyers and CPS prosecutors should be extended to the Crown Court. This recommendation is being considered by the Lord Chancellor in the context of his forthcoming Green Paper on the legal profession which is to be published next month.

12. Andrew also notes that much work of a legal nature can be and is already being done by administrators. It is important that the scarce skills of lawyers should not be dissipated on tasks that could equally well be done by non-qualified staff. We endorse the Report's recommendation that the Lord Chancellor's Department should undertake a **review of posts** that do not require legal qualifications but which are currently filled by lawyers. Other employing departments should also critically examine their use of lawyers.

13. We also endorse the report's conclusion that, while a considerable part of the Government's work has to be done in-house because of its special nature (eg Parliamentary drafting) or for other reasons such as security, user-departments should be ready to **contract out** work where outsiders are better qualified or better placed, or can offer a more cost-effective service. It is already Government policy to encourage contracting out where this offers the best value for money. To facilitate the search for cost effectiveness and improved accountability we recommend that the Treasury Solicitor's advisory, litigation and conveyancing services should be converted to a **repayment** basis so that the consumers can know and bear the cost of the services they demand. Current work to this end needs to be pursued vigorously.

14. Departments should also consider the creation of agencies where this would lead to greater efficiency. The Land Registry is already under examination.

15. The report notes that relocation away from central London could reduce the cost of some legal services. We recommend that this be investigated in respect of the Land Registry's Headquarters and the Treasury Solicitor's Property Division in the first instance.

Pay

16. The Andrew recommendations on pay involve making available additional amounts of up to £6,600 to lawyers at Grade 5, and £10,000 to lawyers at Grades 2 and 3, on a selective basis, and smaller amounts at more junior levels. The Treasury propose to accept these recommendations at Grades 5 and above, though for Grades 2 and 3 on a slightly different basis than Andrew proposed, and to leave open the possibility of selective increases at Grade 6 until experience is gained with the operation of selectivity at more senior levels. The details are given in Annex A.

17. These proposals have been discussed with representatives of the legal departments and other employing departments. The legal departments have made clear that to the extent that these proposals do not meet the letter of what Andrew recommended they are unacceptable and that in relation to Grade 5 they do not go far enough. They have indicated that the Attorney General does not believe the Andrew recommendations go far enough and that he is likely to be making proposals of his own to the Ministerial group.

Implementation of the Report

18. The individual recommendations in the report are listed in the Action Plan at Annex B, which summarises our recommended response and sets what we believe to be a reasonably tight yet achievable timescale for implementation. We recommend that the Treasury in consultation with the Departments concerned should be responsible for reviewing progress in six months time.

Resource Implications

19. The cost of the pay changes amounts to between £1 million and £1½ million in a full year, depending upon the extent to which selectivity is used. This and the cost of personal promotions should be met from within Departments' overall running costs provisions in the normal way. The same applies to Departmental expenditure on measures aimed at stimulating recruitment. Relocation would entail additional expenditure in the first instance but this should be more than offset by savings in running costs in subsequent years. Additional provision would be required for the Lawyers' Management Unit: assuming 6 staff, the cost (including common services) would be about £160,000 a year. Development of a legal data base would cost a minimum of £1 million. LCD believe that up to £50,000 will need to be spent to make the Statutory Publications Office more effective.

Publication of the Report

20. Sir Robert Andrew consulted widely, both within the Civil Service and outside, in the course of his review. The Report is likely, therefore, to attract interest within the profession. Reactions to it may not be entirely favourable: it may be seen as not sufficiently radical, as offering little to the private sector and challenging some cherished traditions. Within the Service the review has clearly raised expectations. While there may be relief that widespread privatisation and contracting out are not recommended, there may be disappointment that more is not suggested to improve pay and career prospects. On the other hand, non-lawyers in government may resent the special treatment recommended for lawyers.

21. We consider the arguments in favour of publication outweigh those against and therefore recommend that the Report should be published by HMSO at the same time as the Government's response. This might best be in the form of a Written Answer by the Prime Minister shortly after the Christmas Recess. Copies of the Report should be made available to the trade unions prior to publication. The report should be introduced to members of the Government Legal Service in a message from the new Head of Profession outlining the Government's response.

Conclusion

22. Ministers are invited to:

i. agree that the Treasury Solicitor should be formally designated Head of the Government Legal Service and supported by a small Lawyers Management Unit (paragraph 8);

ii. note that the Lord Chancellor will be covering those proposals affecting rights of representation in the Courts in his forthcoming Green Paper (paragraph 11);

iii. agree that legal services which continue to be provided centrally by the Treasury Solicitor should be on a repayment basis (paragraph 13);

iv. consider whether the Treasury's proposed response to Andrew on pay is acceptable (paragraph 16 and Annex A);

v. endorse the other proposals for implementation contained in the Action Plan (paragraph 18 and Annex B);

vi. endorse the proposals for publication and announcement (paragraphs 20-21).

15 December 1988

LAWYERS PAYGRADES 2 AND 3

Andrew recommended that selective increases of up to £10,000 should be available to lawyers at Grades 2 and 3. He also implied in the text, though he does not explicitly refer to it in his recommendation, that £3,000 of this should be paid in the form of a special London allowance.

2. The Treasury believe that special London allowances for lawyers at these levels would be inconsistent with the nature of the senior open structure. Their understanding is, however, that the TSRB are likely to recommend a special allowance of £2,000 for all Grade 3s in their next report, due at the end of January.

3. The Treasury propose to respond to the Andrew recommendation by making greater use selectively of the existing range of discretionary increments above the normal scale maxima for Grades 2 and 3 as personal pay points, and have already agreed to this in two cases. In addition, they propose to extend the range for each grade by one additional performance point available for those given personal pay points. These additional points would be subject to the existing arrangements for discretionary increments, including the quota.

4. Compared with the Andrew recommendation of up to £10,000 the effect of these proposals would be to make available on a selective basis up to £9,000 for Grade 2 lawyers with the additional possibility of a performance point worth a further £3,200. For Grade 3 lawyers, including the expected TSRB recommendation the additional payments available would total £8,300, with the possibility of a performance point worth another £2,100.

Grades 4 and 5

5. The Andrew recommendation for Grades 4 and 5 was for a special London allowance of £2,500 plus the availability of three additional spine points available on a selective basis. These could be worth up to some £4,100.

6. The Treasury proposes to accept these recommendations.

7. Under the terms of the Grades 5 to 7 Agreement, the number of performance points available to groups of staff benefiting from selective increases is for decision on each occasion. In the case of Grade 5 lawyers the Treasury propose to make a minimum of two points available, with the full four still available for those in receipt of the London allowance only.

8. The consequence could be to increase the salaries of some Grade 5 lawyers in London by around £6,600, with a maximum salary of just under £43,000 (including Inner London weighting) with effect from 1 April, including performance pay.

Grades 6 and 7

9. Andrew proposed that selective increases of up to three spine points should also be available in certain instances to staff at Grade 6 and 7. But he also made clear that he did not think that starting salaries were much out of line with private sector counterparts.

10. The Treasury propose to leave open the possibility of selective increases at Grade 6 until greater experience is gained of how selectivity works in practice at more senior levels.

General

11. Staff at Grade 2 and 3 can expect also to benefit from the result of the TSRB review, with effect from 1 April. Staff at Grades 5 to 7 will receive 4 per cent on 1 April under the terms of the long-term pay agreement for these grades, followed by a further settlement on 1 August 1989 which is to be informed by a levels survey.

12. The effect of the proposals above is that all staff, even those on the maximum personal pay point, will still have available to them at least one further performance point. Most will have more. There is also the possibility of personal promotions.

15 December 1988

REVIEW OF THE GOVERNMENT LEGAL SERVICES
REPORT BY SIR ROBERT ANDREW

ANNEX B

ACTION PLAN

RECOMMENDATIONS

COMMENTS

ACTION REQUIRED

TIMESCALE

1. The greater part of the Government's legal work should continue to be done on an in-house basis; but Departments should be ready to contract work out if:

Accept there is no case for a material change. General policy is that departments are free to decide whether to use in-house legal services or to contract out if more cost-effective. Choice better informed if user knows and bears cost of in-house options. In some areas such appraisal not possible until Treasury Solicitor's services on repayment basis. Agency status a further option where this would facilitate more cost-effective delivery of services.

Treasury Solicitor to expedite work on repayment plans.

Feasibility to be completed during 1989, for implementation 1990-91.

(a) the necessary expertise does not exist in government;

(b) government does not have the resources to do the work without undue delay; or

(c) it is more cost-effective for the work to be done in the private sector

Examination by Departments of contracting out and agency arrangements.

Continuous.

2. The present arrangements whereby:

(a) Accept.

(a) advice is given by Departmental lawyers, primary legislation is drafted by Parliamentary Counsel's Office, and

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(b) litigation and conveyancing are (for the most part) handled by a central Department, should continue.

(b) Accept subject to examination of contracting out to or by individual Departments.

(b) As 1. above

(b) during 1989 and subsequently

3. The Law Officers' Department and the Treasury Solicitor's Department should be merged to form an enlarged Law Officers' Department under the Attorney-General, which would also include the Office of Parliamentary Counsel, the Director of Public Prosecutions (and the Crown Prosecution Service), the Director of Public Prosecutions (Northern Ireland) and the Serious Fraud Office.

Accept modified proposal to rename present LOD the Legal Secretariat, and call all legal depts reporting to Attorney-General the "Law Officers' Departments". Reporting lines and Accounting Officer functions remain unchanged. Ministerial responsibility for DPP(NI) and PCO remain as at present.

Legal Secretary to arrange new stationery etc.

Immediate.

(paras 5.2 - 5.7)

4. The Treasury Solicitor should become Permanent Secretary of the new Law Officers' Department. In addition to acting as principal adviser to the Law Officers and supervising work on litigation and conveyancing, he should be Head of the Government Legal Service, embracing all Home Civil Service lawyers employed in England and Wales, with responsibility for the central management of the Service. He should be assisted by a Management Board and a Central Management Unit concerned, in consultation with Departments, with the recruitment, training, career development and deployment of legal staff.

Accept that T.Sol should become Head of GLS, supported by a Lawyers Management Unit.

Decide organisational structure and staffing of LMU. Head of LMU appointed in consultation with Central Depts. Staff in post.

Agree structure by 1.2.89
Unit staffed by 1.3.89

(paras 5.3, 5.10-19)

5.
 (a) The Lord Chancellor's Department would not be affected by this organisational change, but should participate in the recommended arrangements for central management.

(b) When the new Law Officers' Department is established the opportunity should be taken to transfer to the Lord Chancellor's Department the Statutory Publications Office.

(paras 5.8-9)

6. The Property Division of the present Treasury Solicitor's Department (which would form part of the new Law Officers' Department) should be re-located outside London.

(para 4.15)

7
 (a) The Land Registry should be constituted as an executive agency, while remaining responsible to the Lord Chancellor. The agency should be free to use receipts from registration fees to engage additional staff so that the present backlog of work can be reduced.

(b) The headquarters of the Registry (or at least the greater part of it) should be re-located outside London.

(para 4.18)

(a) Accept.

(b) Accept in principle.

Accept that options for relocation should be examined.

(a) Accept. Registry already exempt from gross running costs and a candidate for Agency status. Work well advanced. No bar in existing arrangements to in-year use of receipts to provide more resources.

(b) Accept that options for relocation should be examined.

n/a.

(b) Early study of future resource needs. Transfer of existing financial provision and staff from T.Sol. to LCD.

TSol to discuss location and timing with staff and other interested parties, including HMT.

(a) Continue work by Land Registry on Agency status, together with review of current management accounting system, workload forecasting and fee-change procedures.
 (b) Land Registry to study practicality of relocating some HQ functions.

Management Arrangements effective from 1.4.89.

Transfer by April 1990

Discussions to be completed by 1.9.89.

Agency status from 1.9.89.

Discussions to be completed by 1.9.89.

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8. There should be a broader approach to the recruitment of government lawyers, designed to attract not only qualified and experienced lawyers but also undergraduates, who should be offered financial assistance to study for their professional examinations and should then undertake articles or pupillage within the Government Legal Service.

(paras 6.16, 6.19)

9. Special efforts should also be made to attract married women into the Government Legal Service, including offers of part-time employment; and more use should be made of period appointments, secondments and the employment of older lawyers

(paras 6.22, 6.23, 6.24)

10. To facilitate recruitment a much greater effort should be made to publicise the opportunities offered by the Government Legal Service, including the variety and interest of the work. This should be one of the tasks of the Central Management Unit, in consultation with Departments and the Civil Service Commission, using as a model work done by the Ministry of Defence in recruiting fast-stream engineers and scientists, and employing specialist consultants as required.

(para 6.18)

Accept.
Sponsorship of students already possible.
Articles and pupillage schemes already being considered by departments but require further development and coordination.

Accept: already Civil Service policy.

Accept.

Departments to develop schemes in conjunction with Law Society and Bar. LMU to coordinate. HMT to agree terms and conditions and determine funding arrangements.

LMU to coordinate departmental reviews of staffing policies and report.

Lawyers Management Unit with CS Commission to review recruitment practices.

Schemes in place by 1.6.89

Report by 1.7.89

Review complete by 1.7.89

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11. Departmental lawyers should be integrated into the work of the Departments they serve and involved at an early stage in all policy discussions with legal implications.

(para 7.2)

Accept.
Already government policy.

Policy to be reinforced by Heads of Department and Cabinet Office as appropriate.

Continuous.

12. While the present shortage of lawyers persists, fully qualified lawyers should only be employed in posts which require legal qualifications. There should be a review of posts in the Lord Chancellor's Department dealing with the administration of the courts and with judicial appointments to determine which posts need in future to be filled by qualified lawyers.

(paras 7.4, 7.5)

Accept.

A review by LCD, Treasury's SIED and the LMU.

Review in first half of 1989.

13. There should be a more flexible attitude to retirement, permitting lawyers to serve up to age 65, subject to satisfactory performance, individual wishes and departmental needs.

(para 7.19)

Accept. Heads of Department already have discretion up to Grade 3. Senior Open Structure cases to be considered by Head of Home CS.

Departments encouraged to use existing rules more flexibly. LMU to monitor.

Continuous

14. The complement of Parliamentary Counsel's Office should be increased to allow for the creation of an additional drafting team, so that the preparation of legislation is not held up by lack of resources.

(para 7.9)

15. More senior posts should be created in the Crown Prosecution Service to deal with specialist casework; this would help to improve the present inadequate career prospects.

(para 9.14)

16. To recognise experience and workload there should be more use of

(a) straight through grading from Crown Prosecutor to Senior Crown Prosecutor in the CPS and

(b) personal promotions from Grade 7 to Grade 6. (paras 8.23, 8.25)

17. More use should be made of existing training facilities, both in government and outside, including managerial as well as professional training.

(para 9.7)

Treasury prepared to consider a detailed case covering long-term need and other means of meeting the requirement.

Consider in conjunction with decisions on the current joint review of grading guidelines for legal posts in CPS.

(a) (As for No. 15)

(b) Accept subject to arrangements for personal promotions in all departments.

Accept. Civil Service College training courses for lawyers and SMDP programme are under review in order to encourage departments to make more use of them.

Parliamentary Counsel to present case.

CPS and Treasury SIED to complete current review and take consequential decisions.

(a) (As for No 15)

(b) Departments to submit schemes or individual cases for Treasury approval as appropriate.

LMU in consultation with OMCS to review training facilities within and outside government and issue guidance to departments. LMU to monitor attendance on training courses.

Case part of PES 1989.

Decisions by Summer 1989

(a) Decision by Summer 1989.

Continuous.

Guidance by 1.8.89.

Continuous

18.

(a) More effort should be devoted by Departments, in consultation with the Central Management Unit, to enhancing the performance of lawyers by the provision of better secretarial support and the exploitation of information technology.

(b) The comprehensive computerised legal data base at present being studied by a Committee should be introduced as soon as possible.

(paras 7.16-17)

19. Greater effort should be devoted to the central management of the Government Legal Service to ensure that scarce resources are deployed where they are needed most and the careers of individuals (including high-flyers) are properly planned. This should be the responsibility of the Head of the Government Legal Service, assisted by a Management Board and a Central Management Unit.

(paras 5.13-19, 9.10)

(a) Accept in principle.

(b) Treasury prepared to consider detailed business case.

Accept, subject to framework endorsed by Departments.

(a) Encourage Departments to make use of available studies on the better use of Secretarial and other support services and to evaluate available systems.

(b) Case to be presented by LCD.

Treasury Solicitor and LMU to work up detailed arrangements with departments within agreed framework.

Case presented by Mid-1989.

Arrangements in place by 1.4.89.

20. As a means of enhancing job satisfaction (and thereby improving recruitment and retention) as well as for reasons of efficiency, there should be a limited extension of rights of audience in the Crown Court to qualified lawyers in the Crown Prosecution Service and in C&E. (This recommendation will need to be considered as part of the Government's general review of the legal profession.)

(paras 7.10-15)

21. Members of the Crown Prosecution Service should be eligible for appointment as stipendiary magistrates.

(para 9.15)

22. Against the background of continuing recruiting difficulties and the loss of experienced staff to better paid jobs in the private sector, especially in London, there should be selective pay increases for government lawyers as follows:

(a) A London Allowance of £2,500 a year should be incorporated in the pay of all lawyers in Grades 4 and 5 working in the London area;

(para 8.29-30)

To be considered in the context of the Lord Chancellor's forthcoming Green Paper on the legal profession.

For consideration.

Welcome emphasis on selectivity.

(a) Treasury accepts.

Pursue outcome of Green Paper.

To be reconsidered by the Lord Chancellor.

(a) HMT to make final recommendations to Ministers after appropriate consultations with Unions.

Green Paper Jan 1989. Legislation in 1989-90.

During January 1989

from 1.4.89

(b) Selective increases in the form of up to three steps on the incremental ladder should be paid to lawyers in Grades 4-7, whether in London or elsewhere, who occupy posts of special value, defined in terms of job weight, skills and marketability;

(paras 8.24-30)

(b) Treasury accepts relating selective increases to recruitment and retention and value of individual to Department. Keep possibility of selective treatment for Grade 6 under review.

(b) HMT with LMU devise criteria and select posts recommended by Departments after consultation with Unions.

from 1.4.89

(c) lawyers in Grades 2-3 should be paid on the basis of personal pay points which would take account of both the London factor (where applicable) and the concept of job value.

(para 8.32)

(c) Treasury accepts use of personal pay points which can take into account London factor. TSRB are likely to recommend £2000 London Allowance for Grade 3.

(c) As for (b) except no consultation with Unions.

from 1.4.89

23. Ministers and the Head of the Government Legal Service should seek opportunities to emphasise the importance of the Service and to improve its status and "image".

(para 9.17)

Accept.

As appropriate.

Continuous

24.

(a) The Foreign and Commonwealth Office, which is also experiencing losses to the private sector, should apply to lawyers in the Diplomatic Service pay improvements similar to those recommended for the Home Civil Service.

(a) Treasury accepts with respect to London factor. Treasury accepts principle of selective pay increases if criteria met.

(a) HMT to consider in light of decisions for HCS.

from 1.4.89

(b) Close liaison on management issues should be maintained with the Central Management Unit in the Law Officers' Dept.

(para 10.13)

25. The Overseas Development Administration should discuss with the Law Officers' Department the possibility of the latter's taking on work now done by the FCO and Crown Agents lawyers.

(para 10.11)

26. (a) Government lawyers employed in Scotland and Northern Ireland should be eligible for the selective pay increases recommended above. (b) The Departments concerned should consider to what extent they would benefit from more flexible grading arrangements and the various managerial measures recommended for England and Wales.

(paras 11.16, 11.33)

27. The possibility of combining the Crown Solicitor's Office and the Northern Ireland Departmental Legal Service (or at least co-locating them) should be kept open.

(para 11.29)

28. Consideration should be given by the Scottish Office and the Crown Office to establishing a small management unit to facilitate exchanges of staff and the development of information technology etc.

(paras 11.11, 11.17)

(b) Accept

Accept.

(a) Treasury accept principle of selective pay increases if criteria met.
(b) Accept.

Accept.

Accept.

ODA to discuss cost effective arrangements with T.Sol.

(a) HMT to consider.

(b) for consideration by the departments concerned.

For discussion between departments concerned.

Scottish Office and Crown Office to consider possible arrangements in consultation with Lawyers Management Unit.

Proposals by March 1989.

from 1.4.89

Decisions by mid-89.

Discussions completed by March 1989.

Arrangements in place by mid-1989.

15.12.88

16/12/88.



CH/EXCHEQUER	
REC. #	16 DEC 1988
ACTION	MR KELLY ✓ 16/12
COPIES TO	CST, PM G SIR P MIDDLETON MR ARSON, DAME A. MUELLER MR MONCK, MR LUCE MRS CASE, MR SEAMEN MR BARKER, MR GRAHAM MR ROCCERS - IR MRS STRACHAN - C+E

PRIME MINISTER

Looks as if a counter-minute is needed: not PAM 16/12/88

ANDREW REPORT : PAY

On 7 April 1987, my predecessor and I sent to you a minute relating to the adequacy of resources available to the Law Officers in which we expressed our view that "our experience leads us now to be gravely concerned for the state of morale in the Government Legal Service, and accordingly for its future efficiency. It is a matter of great anxiety to us that the present prospects of a strong and effective Government Legal Service are so poor". Many colleagues wrote in support of these views at the time, one commenting that "it seems to me that we ignore the Law Officers' unusually trenchant comments at our mounting peril".

AHG TO PM 16 DEC

2. In the light of this correspondence, the Government decided to commission the Andrew Review. The Treasury also made an improvement, as an interim measure, to the pay of Grade 5, 6 and 7 lawyers. At the time I recorded my doubts about the treatment of Grade 5s and emphasised that the measure must be regarded as interim pending the outcome of Andrew.

3. Chapter 8 of Andrew's Report accurately and comprehensively analyses the very worrying situation in the Government Legal Service. I would draw to your attention paragraphs 8.3, 8.7, 8.8, and 8.9. Particular importance attaches to paragraph 8.11, which I set out in full below:

"8.11. It is possible to interpret the recruitment and wastage figures in Chapter VI to indicate that the problem is confined to the lower grades and that it will be resolved by the pay increases already announced for the civil service as a whole. I believe that this view is too complacent; that it underestimates the strength of the competition (which is greater for lawyers than for civil servants generally) and that it misunderstands the nature of the pay problem. We are concerned with quality as well as



numbers and I believe that ambitious young lawyers considering a career look beyond starting salaries. Certainly, most of the young lawyers I met in the Government Legal Service were more worried about future prospects and rewards than about present rates of pay. The able lawyer who resigns from Grade 6 or Grade 7 does not do so simply because he is dissatisfied with his present salary, but because he knows that even if he is promoted the salaries of the higher grades will still compare very unfavourably with what is on offer elsewhere. Moreover, although the losses from the senior grades have so far been small in number, they are proportionately higher than in the civil service generally and are of critical importance. The level of experience of those from whom the most senior posts must be filled has already fallen and the loss of even a few more lawyers from key positions could create a situation in which it became very difficult for the Government to carry on its business. Consequently I believe that the pay problem must be looked at across the board, in the knowledge that the rapid increase in private sector salaries in London means that the gap is widening. It is not yet clear what effect this year's pay increases will have on recruitment; but it seems most unlikely that they will check mid-career wastage. It would be dangerous to delay remedial action until the situation has deteriorated further."

I fully endorse this conclusion.

4. It would, in my view, be very dangerous and, indeed very expensive, to ignore these warnings. Poor legal advice can have devastating consequences for the Government.

5. There are lessons to be learned from the gestation and formative years of the Crown Prosecution Service. Andrew in paragraphs 9.11 and 9.12 very fairly analyses what went wrong. At the time of the formation of the CPS, we were understandably concerned about the effect on pay of the reorganisation. But we foreseeably incurred the consequences which the Andrew Report so vividly described. We must not make the same error with the Government Legal Service.



6. The Andrew Report is anxiously awaited by those in the Government Legal Service. I have little doubt that there are many who are awaiting its publication before deciding whether to accept lucrative offers from the private sector. I accept, of course, that we cannot match the salaries that are being offered outside the public service. We must, however, if we are to retain lawyers within the Service and attract the right quality of recruits, offer them salaries which, taken with the advantages of working in the public sector, are sufficient to attract and keep them. Andrew points out clearly the scale of the disparity of salaries, particularly in London, inside and outside the Government service, a disparity which increases markedly as the lawyer achieves more experience.

7. Since Andrew reported, there has been one general recruiting round for the Government Legal Service. The results of this round are alarming. 38 vacancies were advertised; of the 43 applicants seen by the Board only 19 were thought to be worth offers of employment. Of these, 4 were for posts outside London. Those offered London posts were mostly at the lower end of the scale of ability. Only one could be described as a possible high-flyer (he had also had an offer from the FCO which he is likely to accept.)

8. Having read Andrew's analysis of the situation in Chapter 8, I was frankly surprised and disappointed in his proposals in paragraphs 8.21 - 8.37. Yet the Treasury proposals fall short of the Andrew proposals. I believe that the proposals will be viewed similarly by the Government Legal Service. I have no doubt whatsoever that, if the Government reacted to these proposals by offering less than is recommended, there would be a large number of resignations and recruitment would become even more difficult.

9. I believe that we must implement the Andrew recommendations in full (except at Grade 7 where I accept the Treasury view), and at Grade 5, we should improve upon them, namely to the extent of the addition of one spine point for all London lawyers. This is the crucial career grade. An offer of £2,500 (equivalent to about two spine points) to all London lawyers at Grade 5



as an allowance falls, I have to say, seriously short of the minimum needed. I also regard the TSRB likely recommendations for all Grade 3s in London as not relevant for the purpose of implementing the Andrew recommendations. My own detailed proposals I set out in the Annex to this minute.

10. I cannot give you any assurance that the Andrew recommendations enhanced by the amendments I propose will be sufficient to recruit and retain the lawyers we need. They might not. Andrew himself recognises that his proposals might not be adequate in paragraph 8.36. I have, however, had regard to the wider concerns expressed to me by the Treasury, in being prepared to adopt this formulation as the minimum that I could agree to.

11. I accept that the effect of these proposals will be to create a gap between the pay of lawyers and other groups and that this may lead to problems on other fronts. Andrew dealt with this concern at paragraph 8.36 of his Report. I firmly believe that it would not be right to hold down lawyers' pay, with the consequences I have illustrated, to meet this concern. That would not be to secure value for money.

12. I am copying this minute to the Foreign Secretary, the Chancellor of the Exchequer, the Lord Chancellor, the Secretary of State for Northern Ireland, the Secretary of State for Scotland, the Chief Secretary, the Lord Advocate and to Sir Robin Butler.

A. M.

16 December 1988

ANNEXGrade 7

I accept that there is no need for the selective increases of up to three spine points (recommended by Andrew) provided that detailed proposals on flexible promotion to Grade 6 are acceptable.

Grade 6

I endorse the Andrew recommendation (3 steps on spine on a selective basis). If this recommendation is regarded as being unworkable, I propose one additional step on the spine for all London lawyers. It is not acceptable to leave open the possibility of selective increases at Grade 6 until greater experience is gained of how selectivity works in practice at more senior levels.

Grades 5/4

Andrew proposed a special London allowance of £2,500 (about two spine points) plus the availability on a selective basis of three additional spine points and the full range of four performance points. I propose a special London allowance equivalent to three additional spine points, three selective spine points and two performance points added to the top of the range (where full selective increases are paid).

Grades 3/2

Andrew implies a London allowance of £3,000 and selective increases on top, up to a total of £10,000. I endorse this proposal. I consider that the London allowance of £3,000 should be available, irrespective of any special allowance for all Grade 3s, recommended by the TSRB in their next Report. I accept that the selective pay awards should be implemented by the use of personal pay points. One additional performance point should be added, available for those given personal pay points.

The selective pay scheme and use of personal pay points must, to be effective, be operated fairly and genuinely. There must not be an expectation that only a small number will qualify.

bf 19/12

FROM: C W KELLY

DATE: 16 December 1988

PAYMASTER GENERAL

cc: Chancellor
Chief Secretary
Sir Peter Middleton
Mr Anson
Dame Anne Mueller
Mr Monck
Mr Luce
Mrs Case
Ms Seammen
Mr Barker
Mr GrahamMr Rogers - IR
Mrs Strachan - C&E

PRIME MINISTER'S MEETING ON ANDREW REPORT : PAY

You are attending the Prime Minister's meeting on 20 December to discuss the Andrew report. The others present will be the Foreign Secretary, the Lord Chancellor, the Secretary of State for Northern Ireland, the Secretary of State for Scotland, the Attorney General, the Lord Advocate and Sir Robin Butler.

2. This brief is concerned solely with pay, with is likely to be the main if not the only issue seriously discussed. Separate briefing is being provided on the rest of the report.

3. The relevant papers are the Chancellor's minute to the Prime Minister, paragraphs 16 and 17 of the report of Dame Anne Mueller's steering group, the annex on pay attached to it and the Attorney General's minute.

4. The comparative tables attached summarise Andrew's proposals, our response and the Attorney's position.

5. Your objective at the meeting is, of course, to secure agreement to our proposals or, failing that, to effect a compromise which goes beyond them only to the extent of an additional spine point for Grade 6 lawyers in London (see later).

The best chance of doing so is to present our package as being one which responds fully to the Andrew recommendations in all important respects, though not necessarily meeting them to the letter. We hope that the Prime Minister is being briefed to be sympathetic to this. But she may have the need to do something for Grade 6 put into her mind as a possible compromise; and we cannot, of course, rule out her feeling that it is a good time to be nice to the Attorney. The Attorney, per contra, will be trying to create the impression that our proposals fall well short of Andrew (not true) and that his go only a little beyond it (not really true either).

Line to take

6. I am sure that it would be tactically wrong to give any impression that you took the Attorney's concerns lightly or were complacent about the recruitment and retention position. I suggest that the line to take could be along the following lines:

- You share the Attorney's concern about the importance of ensuring that we have adequate pay rates to recruit and retain able lawyers of the kind we require in the Government Legal Service. It was for that reason that you were happy to see Andrew set up. It is also for that reason that you are prepared to accept his recommendations in the way set out in the annex to the paper by officials.
- The Attorney would like to go further. You understand his position and respect his anxieties. But you do not think that that would be justified by the facts. You are disappointed that he is prepared to accept Andrew's analysis, but not his conclusions.
- We have made some substantial increases since March 1987 in the pay of lawyers at Grade 6 and 7 - 16 per cent at Grade 6 and 22 per cent at Grade 7. On top of that, we have made available four performance points in October under the 5-7 agreement. The full effects of this are still coming through.

- You can not claim that the current recruitment position of lawyers could be described as satisfactory. But the fact is that it is already improving. 15 per cent more lawyers in the Crown Prosecution Service in 1988, perhaps double the number of other lawyers (though admittedly from a low base). Several small competitions, including one for one of the Chancellor's own departments, have filled all their vacancies with reserves, which perhaps shows what can be done with directly targeted recruitment.
- Concern has also been expressed about retention and the effect on depth of experience. Again you recognise the problem in some departments and do not want to underplay it. But it is possible to exaggerate the extent of the problem by focusing on a few well-publicised cases, some of which reflect past mistakes. The overall figures quoted in the Chancellor's minute showed that the total resignation rate at Grade 5 and above, even including the Crown Prosecution Service, has only been 1.2 per cent in the 18 months up to July, with only three resignations in total in the 12 months before that. Some of these no doubt went for reasons which had little to do with pay.
- You know that the Attorney takes the view that there are a number of lawyers waiting to see what Andrew produces before deciding whether or not to go elsewhere. But that can only have been a factor since last January; there would have to be quite a few such resignations before the overall resignation rate was brought up significantly; and there is no reason why lawyers should be disappointed by the amounts coming out of Andrew. Certainly that was the view that Andrew himself has taken after careful examination.
- The size of the increases proposed by Andrew, and accepted by the Treasury, should not be underestimated. Taken together with what was due to happen then anyway, all Grade 5 lawyers in London at the maximum of their scale will get a pay increase on 1 April of around

£3,700 (12.2 per cent) on top of the 7.7 per cent they received last year. Some could get up to £7,800 then. This, together with performance pay (which a number of them might already have), could take their salary to almost £43,000. And this before the further increase they can expect on 1 August under the 5-7 long-term pay agreement.

- Even this, of course, falls short of the kind of salaries which could be expected by equity partners in city firms. But it would compare not at all unfavourably with the kind of figures for other kinds of lawyers collected by Andrew and set out in the annex to Chapter VIII of his report, even allowing for some increases since then. In any event, comparability is not part of our policy on pay, except to the extent that it is reflected in recruitment and retention, and simply comparing salaries can be misleading. The nature of the job also matters. The TSRB think in terms of a notion of a public sector discount. There is no reason why that should not apply to lawyers as to others at senior levels.
- You realise that some might have some reservations about the extent to which the Treasury is prepared to allow selectivity to operate. You can only say that you do not approach this on a priori grounds. We are not proposing a rigid quota. We intended that each department's proposals should be looked at on their merits. On the basis of the information so far available, you would be surprised if less than about one-quarter of all lawyers were affected by it. It could be more. In some departments it almost certainly would be. In others considerably less.
- You also have to be concerned about management. You welcome the emphasis on selectivity. But you do not underestimate the difficulty of applying it, which is why we have proposed not doing so immediately for Grade 6 but undertaken instead to keep their position under review.

- Finally there is the impact on the rest of the Civil Service to consider. There are a fair number of other groups, some of them equally valuable to Government, who will feel seriously disadvantaged by the generous treatment being afforded to lawyers, alongside whom in many instances they have to work. The Attorney's proposals would make this kind of problem even greater.

- They would also increase the risk of damagingly repercussive claims. The ease with which we can resist repercussions will be considerably strengthened if we can claim that what we were doing on this occasion is to respond to the recommendations of a carefully considered report, and weakened to the extent that we went beyond this.

7. You will obviously want to consider how many of these points to use in any initial statement and how many to keep back for later use.

The Attorney's views

8. The Attorney is determined to seize the opportunity created by Andrew substantially to increase lawyers' pay in London and elsewhere, almost irrespective of any implications for pay policy or of any management considerations. We have managed to reach agreement with his officials on most of the points in the proposals. But he is still asking on top for:

- i. An additional spine point in London for Grade 6 (worth around £1,100).

- ii. Three rather than two spine points in London for Grade 5 and

- iii. a London allowance of £3,000 for Grades 2 and 3 irrespective of (ie on top of) anything the TSRB may recommend for Grade 3.

He will also want assurances that selectivity will be operated generously.

9. He will say that he has been pressing the case for better pay since March 1986. All pay increases since then have in his view been "interim" pending Andrew. The gap between Civil Service and private sector salaries is too large, and at least one recent survey has suggested that it has increased even since Andrew reported; work pressures on Civil Service lawyers are increasing; there is a shortage of experience; and further resignations or recruitment failures will mean he cannot guarantee the Government will receive a proper legal service. There have already been some further resignations since Andrew reported; and he knows of a number of others who are only waiting for Andrew before deciding whether to go as well. He will go on to say that he is not prepared to oversee for the Government Legal Service a repeat of the difficulties with the Crown Prosecution Service. The main problem with the Treasury proposals in his view is that they do not go far enough to address the London factor.

10. In response you can repeat some of the points from your opening remarks. You can also say that:

- No one is asking the Attorney to preside over another CPS. The problems of setting up the CPS (of which there is more than one version) were unique. It is quite wrong to draw an analogy with the rest of the Government Legal Service. Attention has been focused early enough on the GLS (by Andrew) to avoid any repeat of the CPS experience.
- You also know of one Grade 5 resignation since last July. But there is no reason to think that this in any way falsifies the broad picture shown by the comprehensive statistics you have quoted. (It is probably not wise to refer to the fact that the Treasury Solicitor said at your meeting with the Attorney that, unlike the Attorney, he did not himself know of any other lawyers contemplating resignation unless Andrew came up with the goods).
- The Attorney has referred to the "alarming" results of the one general recruiting round for the GLS since Andrew reported - 38 vacancies and only 19 offers. What he has not taken into account are the other recruiting exercises in the same November/December period - DTI

12 vacancies, 9 offers; Land Registry 21 vacancies, 21 offers; FCO 3 vacancies, 3 offers (2 reserves); Customs 10 vacancies, 7 offers. In total there were 59 offers in this period against 83 vacancies.

- The additional amounts proposed by Andrew are very substantial. There is no reason to think that many in the Government Legal Service will be disappointed by the results. They would have to be pretty unrealistic if they were.
- It is wrong to expect pay to solve all the difficulties. Better management also has an essential role to play, as have other things which could be done to increase status, such as Andrew's comments on rights of audience. It will also be important to implement Andrew's other recommendations eg contracting out when appropriate, and relocation.
- Just as the Attorney is worried about lawyers, so you are worried about the implications of what he is proposing for the rest of the open structure, particularly the Senior Open Structure. If we were to do more than Andrew we would be put in a pretty indefensible position.

11. On the Attorney's specific proposals you can say:

- You are not opposed in principle to applying selectivity at Grade 6 if it can be justified. The Chancellor has indicated that he is prepared to keep this under review. But Andrew himself did not appear to attach a great deal of importance to this aspect of his proposals; selectivity is going to be difficult to manage initially and we should learn to walk before we try to run; and this grade did relatively well out of the last round of increases. There is also the possibility of personal promotions open to them (as to others). The Attorney's alternative proposal of an additional spine point in London has a certain logic about it. But it would be relatively expensive (because not selective inside London) and you do not think that it is really justified by the circumstances.

- At Grade 5 the Treasury proposals fully meet what Andrew proposed on London and on selectivity. It is very difficult to see the case for going further than this. In particular an additional spine point for London, making a total London payment including London Weighting of around £5,350, would increase an already substantial cliff-edge problem on the boundary.

- (If the point is raised: the idea of limiting those at Grade 5 with two spine points for London and full selectivity to two rather than four performance points is not meanness. It is for good management reasons. It will mean that those not in marketable areas will still be able to get almost as much pay as those who are if they perform well).

- Contrary to the implications in his minute the Attorney's proposals at Grade 3 would also involve going well beyond Andrew. Compared with Andrew's £10,000, the Treasury's proposals would involve making up to £12,200 available at Grade 2 and £10,400 at Grade 3, admittedly with a performance bar for the last point and anticipating the TSRB report at Grade 3. The Attorney wants £3,000 for London on top of that. Special London allowances for lawyers at these levels would be inconsistent with the nature of the Senior Open Structure, and it is worth noting that Andrew did not actually mention them in his recommendation 22(c) which referred only to personal pay points, which is what Treasury is proposing. Where appropriate, these can recognise the London factor indirectly and more discreetly. Nor could Andrew have known that the TSRB were expected to recommend a London allowance for all Grade 3s, probably of £2,000. (NB: there is a potential problem of timing here, in that the TSRB report is unlikely to be published until at least a month after we will be publishing Andrew).

Other Ministers' position

12. We know that the Attorney has been lobbying some of his colleagues. As a result, though Mr Rifkind ought to be concerned about the differentials which will open up if too much cash is put

into London, we cannot be sure that he will speak up against the Attorney. The Lord Chancellor will be briefed to support him strongly, even though the management problems are likely to be greatest in his own department because of the way in which lawyers and administrators work together there. The views of the Foreign Secretary are not known. But he is, of course, a lawyer himself and the Foreign Office are seldom slow to climb on the band wagon where more pay is concerned. You could therefore very easily find yourself in a small minority.

Possible fallback

13. We have briefly discussed already the possibility of a compromise. In my view the least objectionable of the Attorney's proposals to accept would be his idea of an additional spine point for Grade 6 in London. The case for it is not made out. But by doing something for Grade 6, even if it was not exactly what he has recommended, we would bolster our claim that what we are doing was implementing Andrew. There may also be a certain amount of mileage in a little bit of reassurance about the way in which we propose to operate selectivity. At the moment he has it in his mind that we are expecting to operate a quota of 10 per cent. In practice we almost bound to have to concede substantially more than that.

Procedure

14. There is one point on procedure I ought to bring to your attention, though you do not necessarily need to refer to it at the meeting. Ministers cannot take absolutely firm decisions about pay, or at least should not be seen to take absolutely firm decisions, because there are some further hoops to jump through. The proposal to add an additional performance point at the top of the scales for Grades 2 and 3 will at least have to be mentioned to the TSRB; and we are obliged by the terms of the Grades 5-7 Agreement to discuss what we intend doing at these levels with the unions, even if in practice we do not pay much attention to anything they may say to us about them.

15. I apologise for the length of this submission. I was left with a feeling that we had provided you with insufficient ammunition last time we sent you in against the Attorney. I wanted to be sure we gave you a full magazine this time.

16. One final point worth bearing in mind is that Treasury Ministers are quite substantial employers of lawyers themselves. The two Revenue departments between them have a complement of around 140. Neither of them want to go further than the Treasury is proposing.

CWK

C W KELLY

COMPARISON OF ANDREW RECOMMENDATIONS, TREASURY PROPOSALS AND ATTORNEY'S RESPONSE

	<u>Andrew</u>	<u>Treasury proposals</u>	<u>Attorney</u>
<u>Grade 7</u>	Selective increases of around £2,650	Nothing	Nothing
<u>Grade 6</u>	Selective increases of around £3,300	Leave open for time being	Either as Andrew or additional £1,100 in London
<u>Grade 5</u>	(i) £2,500 for all in London	Agreed	£3,700 in London
	(ii) Selective increases of around £3,700	Agreed	Agreed
	(iii) Plus full range of four performance points	Where full selective increases paid two performance points only	Content with two points
<u>Grade 4</u>	(i) London allowance of £2,500	Agreed	Unclear
	(ii) Selective increases of three increments	Agreed in principle	Unclear
<u>Grade 3</u>	(i) London allowance of £3,000	London allowance of £2,000 likely be recommended by TSRB for Grade 3 generally	£3,000 <u>as well as</u> any £2,000 from TSRB (making £5,000 in all)
	(ii) Further selective increases of up £7,000	Selective increases of up to £6,300 (top of Grade 3 range) <u>plus</u> availability of one further performance point (worth a further £2,100)	As for Treasury
<u>Grade 2</u>	(i) London Allowance of £3,000	No specific London allowance. But selective increases of up to £9,000 (top of Grade 2 range) <u>plus</u> availability of one further performance point (worth a further £3,200)	London allowance of £3,000 <u>plus</u> Treasury proposals
	(ii) Further selective increases of up £7,000		

LAWYERS PAY IN LONDON : ANDREW REVIEW

<u>Grades</u>	<u>ANDREW</u>		<u>TREASURY</u>		<u>ATTORNEY</u>		
	<u>Maximum</u> <u>£</u>	<u>Maximum plus</u> <u>Performance pay</u> <u>£</u>	<u>Maximum</u> <u>£</u>	<u>Maximum plus</u> <u>Performance pay</u> <u>£</u>	<u>Maximum</u> <u>£</u>	<u>Maximum plus</u> <u>Performance pay</u> <u>£</u>	
7	28,170	32,830	24,685	29,280	As for Treasury		
6	32,830	38,210	29,280	34,095	either 30,425 or Andrew	35,415	
5	38,210	44,475	38,210	41,225	39,690	42,820	
4	£2,500 London allowance and 3 selective increments						
3	-	49,000	-	47,300	49,400	50,300	52,400
2	-	58,000	-	57,000	60,200	60,000	63,200

NOTE:

Grade 5 to 7 April 1989 rates excluding Inner London Weighting.

Grades 2 and 3 October 1988 rates; to be reviewed in April 1989.

Maximum salary represents full use of selective increases; smaller selective increases leaves more room for performance increments.



CH/EXCHEQUER	
REC.	19 DEC 1988
ACTION	MR HULL
COPIES TO	CST, PM O SIR P MIDDLETON MR ANDREW, DAVE A. MUELLER MR MONCK, MR LUCE MRS CASE, MS SEAMON MR BARKER, MR GRAHAM MR ROBERTS - IR MRS STRAHAN - CTE

✓19/12

19/12/88.

PRIME MINISTER

THE ANDREW REPORT

I understand that you will shortly be discussing with a number of colleagues the recommendations of the Andrew Report on the Government Legal Service.

The Home Office has only a small number of lawyers, but they play a key role in the support my Department gives to me and my Ministerial colleagues here. They are thinly stretched. Nearly 25% of the complement is vacant. We are simply failing to attract good quality lawyers at Grade 7 here, despite the interesting work which we have to offer and the continuous effort which the Home Office and the Civil Service Commission put into recruitment. The main reason for this failure is that our rates of pay at both Grade 7 level and higher are not competitive. If pay, throughout the Grades, continues to be unattractive to the able lawyer, today's 25% shortfall of staff will quickly worsen and in a few years' time the Home Office will be in serious difficulties.

Andrew's recommendations on pay (as well as on the management of the Legal Service more generally) offer the opportunity to do something about recruitment and retention, and I hope that it will be grasped. I understand that at Grade 5 level and above the Treasury are ready to agree to increases in pay rates which are virtually the same as those proposed by Andrew. Andrew recommended that these increases should be awarded selectively. That is in line with the policy on Civil Service pay generally, and I welcome that.

HURD
TO
PM
19 DEC

2.

But if the proposed increases are to have any effect on the staffing problems I have referred to above, it is essential that the selective approach is applied reasonably generously. The Treasury's instincts, which I understand, will be to confine the increases to as small a minority as possible. I do not believe that such an approach will make much impact on the problem. I hope that you and our colleagues will decide that, while each case will need to be considered on its merits, the presumption should be in favour of awarding increases rather than the reverse.

I understand that the Treasury are proposing to do nothing about pay at Grade 6 and 7 levels, whereas Andrew recommended selective increases of £2,650 - £3,300. As I have explained above, it is precisely at the Grade 7 level that the Home Office's problems arise. If we cannot attract recruits, our difficulties will soon deepen. I hope, therefore, that your meeting will agree to adopt Andrew's proposals for these Grades.

I am sending copies of this minute to the Lord Chancellor, the Foreign & Commonwealth Secretary, the Chancellor of the Exchequer, the Lord Advocate, the Chief Secretary, the Northern Ireland Secretary, the Scottish Secretary and Sir Robin Butler.

Douglas Hurd

19 December 1988

19/12/88.

MANAGEMENT IN CONFIDENCE

PRIME MINISTER

CH/EXCHEQUE	
REC.	19 DEC 1988
ACTION	MR KELLY ✓ 19/12
COPIES TO	CST, PM G. SIR P MIDDLETON MR ANDREW, DAMEA MUELLER, MR MOULT, MR LUCE, MRS CASE, MS SEAMEN, MR BARKER, MR GRAHAM MR ROGERS - IR MRS STRACHAN - CTE

The Andrew enquiry has naturally raised expectations; now that we have Sir Robert Andrew's report, I agree with the Attorney General that it is vital that the Government's response to what he recommends should be seen as fully adequate by those concerned. Several of my senior lawyers are known to have been hanging on to await the Government's response to Andrew, although they have received very attractive offers from the private sector. I therefore support the specific proposals made to your group by the Attorney General.

YOUNG
TO
PM
19 DEC

I know that some Departments are concerned about selective increases for lawyers having repercussions on the retention of able non-lawyers, both other specialists and generalists. I do not think that this applies to lawyers; they are an obvious specialist grade and there can be no spillover.

I regard the Andrew proposals for selectivity, essentially on the grounds of the relative marketability of individuals, as themselves breaking useful new ground in the development of flexible pay. I welcome them. Above all we must not hamstring ourselves with a meanly presented approach to their use, or quotas, which would prevent us from achieving our objectives.



the department for Enterprise

MANAGEMENT IN CONFIDENCE

I am copying this minute to the Ministers attending your meeting.

N.R.T.U.

D Y

(approved by the Secretary
of State and signed in his
absence)

19 December 1988

Department of Trade and Industry

Ch/this did not arrive until after you had gone to OD. It

FROM: C W KELLY

may have been too late to

DATE: 19 December 1988

CHANCELLOR

send, tho' if you are content we could sign off in your name.

cc: Chief Secretary
Paymaster General
Sir Peter Middleton
Mr Anson
Dame Anne Mueller
Mr Monck
Mr Luce
Mrs Case
Ms Seammen
Mr Barker
Mr Graham

KELLY TO CX DRAFT MIN TO ATT GEN 19 DEC

OK

map

LAWYERS PAY

I attach a draft minute responding to the Attorney's of 16 December.

2. I have suggested concentrating on knocking down the Attorney's contention that our proposals somehow fall short of Andrew and making clear that his own exceed Andrew in two important respects (not only one as he claims).

3. You should know however of two potential weaknesses in our position at Grades 2 and 3.

4. The first is that we only get up above Andrew's figure of £10,000 at Grade 3 by taking into account the £2,000 which the TSRB are expected to recommend for all Grade 3s in their next report. We are as confident as we can be, on the basis of what the Secretariat have told us, that this what they will recommend; and it is more or less what we invited them to say. But it is not yet in the bag, and their recommendations will not publicly become available until mid to end February, well after we have to publish Andrew and announce our response to it. There is therefore going to be an awkward presentational point which we shall have to find a way round.

5. The Attorney will say that anything the TSRB may recommend for Grade 3 generally is irrelevant to processing Andrew. This is clearly ludicrous. Andrew based his recommendations on a view about relative rates of pay between lawyers in the Civil Service and lawyers in the private sector and between lawyers in London and the rest. If the TSRB £2,000 had been in payment already, the differentials would have been reduced accordingly. Andrew could not have taken account of it because he knew nothing of it.

6. Second, we have made some play of the fact that Andrew did not actually refer specifically to the idea of a £3,000 London allowance for Grades 2 and 3 in his relevant recommendation (recommendation 22(c)). But this is a little disingenuous on our part. The text suggests that this is probably what he meant.

7. It would be possible to extend the draft minute by countering the Attorney's statistics on the dismissal outcome of the last general recruitment round by reference to the results of the much more successful specific competitions detailed in paragraph 10 of my minute of 16 December. I suspect, however, that these statistics may have a more powerful effect if deployed at the meeting rather than before.

8. It is helpful that the only Minister not attending the meeting who has so far written in (the Home Secretary) implicitly endorses our line on Grades 5 and above, though he does want us to do something at Grades 6 and 7.

9. Our view is that the case for doing more at these levels, over and above what was done earlier in the year and whose full effects have probably not yet come through, is a weak one. But we could, if necessary, live with an additional spine point for London at Grade 6; and doing that would have the advantage of making it look even more as if we were responding to the spirit of Andrew across the board.

10. Even the Attorney is prepared to accept our proposal not to introduce selective increases for Grade 7. But in his minute he makes that subject to the proviso that what he describes as the detailed proposals on personal promotion to Grade 6 are implemented. Personal promotion is already available, and we

agree that more use should be made of it. We are not, however, prepared to agree the almost automatic promotion after 5 years from Grade 7 to Grade 6 that Andrew recommends, based apparently on a misunderstanding. Personal promotion should be awarded to lawyers on the same basis as they are to other groups. We should not allow the Attorney to think we are going to do something special fo them.

SS Duggins
fw
C W KELLY

enc

DRAFT MINUTE

FROM: CHANCELLOR
TO: PRIME MINISTER

LAWYERS PAY

I have seen the Attorney General's minute to you of 16 December.

2. I share his concern that we should have pay rates adequate to recruit and retain able lawyers of the kind we require in the Government Legal Service. That is why I am prepared to accept the Andrew recommendations on pay in the way set out in the note by officials. I am disappointed that the Attorney accepts Sir Robert Andrew's analysis, but not his conclusions.

3. In no significant respect do my proposals for the pay of lawyers at Grade 5 and above - the key grades - fall short of Andrew's recommendations. The Attorney's proposals, on the other hand, go further than Andrew in two important respects.

4. For Grades 4 and 5, Andrew recommended selective increases of £5,000 a year. He proposed that this should be achieved through a London allowance of £2,500 and further selective increases in the form of up to three spine points. In total this actually adds up to £6,600. I am prepared to accept this.

5. For Grades 2 and 3 he proposed selective increases of up to £10,000. I am prepared to accept this also. The proposals I have made would make available on a selective basis a total of up to £10,400 at Grade 3 and £12,200 at Grade 2 including one point for performance.

6. The Attorney General wants to go beyond Andrew by increasing the London allowance for Grade 5 to around £3,700. This would increase the total amount available at these levels to £8,000, more than half as much again as Andrew's £5,000.

7. He also wants at Grade 2 and 3 both to implement my own proposals and to pay on top of that an across the board London allowance of £3,000. I regard such an allowance, which it is worth noting that Andrew did not actually mention specifically in his recommendations, as totally inappropriate to the nature of the Senior Open Structure. It is also unnecessary. Personal pay points used in the way I have proposed can take account of any special London dimension where necessary without the divisiveness and deadweight cost of a general allowance paid to all.

8. I doubt that implementing Andrew's recommendations in the way proposed would be regarded as disappointing by the vast majority of government lawyers.

9. On the other hand, if we were to go beyond Andrew as the Attorney has proposed, I would be very worried about the consequences in management terms for other groups of civil servants at these senior levels. By doing more than Andrew's recommendations we would be knocking away one of our main props in explaining what we were doing and why we were doing it. We would also, of course, be adding significantly to the cost.

10. I am copying this minute to the Foreign Secretary, the Lord Chancellor, the Secretary of State for Northern Ireland, the Secretary of State for Scotland, the Attorney General, the Lord Advocate and Sir Robin Butler.

NIGEL LAWSON



19/12/88.

Govt 5
Ass Sec 4
6 salary £43,000
(with pension)
+ Ann
CPS
Govt law source.

Ch/

Pay have given us the following numbers

Grades	Treasury		Attorney General	
	Max (no selectivity)	Max plus performance pay	Max (no sel)	Max plus pp
5	20.9	30.5	25.6	35.5
3	21.3	26.7	29.0	34.4
2	18.8	25.4	25.0	31.7



PS/PMG*

cc PS/Chief Secretary
 Sir P Middleton
 Mr Anson
 Dame A Mueller
 Mr Monck
 Mr Luce
 Mr C W Kelly
 Mrs Case
 Ms Seammen
 Mr Barker
 Mr Graham

19/12/88

Treasury Chambers, Parliament Street,
 01-270 3000

PRIME MINISTER

LAWYERS' PAY

*Ch/ NB letters you
 have not seen
 before from Messrs Hurd + Young
 behind.*

Mr Rogers - IR
 Mrs Strachan - C&E

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I am copying this minute to the Foreign Secretary, the Lord Chancellor, the Secretary of State for Northern Ireland, the Secretary of State for Scotland, the Attorney General, the Lord Advocate and Sir Robin Butler.

Muir Wallace

pp [N.L.]

(Approved by the Chancellor
and signed in his absence.)

19 December 1988